

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

ORAL ARGUMENT REQUESTED

Docket No. 9408

**RESPONDENT INTUIT INC.'S OPPOSITION
TO COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. LEGAL STANDARD	3
III. ARGUMENT	4
A. Material Factual Disputes Preclude Summary Decision	4
1. Complaint Counsel’s Contention That Intuit’s Ads Conveyed That TurboTax Is Free For Everyone Is Not Supported By Evidence	5
a. Intuit’s Ads Do Not Support Complaint Counsel’s Desired Inference That They Conveyed That All Consumers Can File For Free Using TurboTax	5
b. Professor Novemsky’s Survey Evidence Is Untested, Unreliable, And Irrelevant, And The Few Unrelated Consumer Complaints Establish Nothing	7
2. Substantial Evidence Shows That Intuit’s Free Edition Marketing Was Neither False Nor Misleading To Reasonable Consumers	10
a. Free Edition Is Free.....	10
b. Free Edition Ads Clearly Disclosed Eligibility Limitations	11
c. The TurboTax Website Clearly Discloses Free Edition’s Eligibility Limitations.....	16
d. Survey and Customer Satisfaction Evidence Shows That Reasonable Consumers Were Not Deceived	19
e. Reasonable Consumers Understand That Free Edition Has Qualifications	20
f. Intuit’s Price Disclosures Prevent A Finding Of Deception.....	22
3. Complaint Counsel Have Not Established Materiality	23
B. Prospective Relief Is Not Warranted	25
C. Summary Decision Is Unavailable Because Intuit Has Asserted Meritorious Affirmative Defenses That Complaint Counsel Have Not Addressed.....	28
D. Summary Decision Would Violate The APA.....	31
IV. CONCLUSION.....	32

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Antoniou v. SEC</i> , 877 F.2d 721 (8th Cir. 1989)	28
<i>Archie v. Pop Warner Little Scholars, Inc.</i> , 2021 WL 4130082 (9th Cir. Sept. 10, 2021)	9
<i>Bator v. Hawai'i</i> , 39 F.3d 1021 (9th Cir. 1994)	4
<i>Beaty v. Ford Motor Co.</i> , 854 F. App'x 845 (9th Cir. 2021)	19
<i>Benco Dental Supply Co.</i> , 2019 WL 5419393 (F.T.C. Oct. 15, 2019).....	25
<i>Book-of-the-Month Club</i> , 48 F.T.C. 1297 (1952).....	24
<i>Borg-Warner Corp. v. FTC</i> , 746 F.2d 108 (2d Cir. 1984).....	25, 27
<i>Castagnola v. Hewlett-Packard Co.</i> , 2012 WL 2159385 (N.D. Cal. June 13, 2012).....	13, 16
<i>Cinderella Career & Finishing Sch., Inc. v. FTC</i> , 425 F.2d 583 (D.C. Cir. 1970)	6, 28, 29
<i>FTC v. Commerce Planet, Inc.</i> , 878 F. Supp. 2d 1048 (C.D. Cal. 2012)	24
<i>FTC v. Cyberspace.Com LLC</i> , 453 F.3d 1196 (9th Cir. 2006)	11
<i>Davis v. HSBC Bank Nev., N.A.</i> , 691 F.3d 1152 (9th Cir. 2012)	17, 20
<i>FTC v. DirecTV</i> , 2018 WL 3911196 (N.D. Cal. Aug. 16, 2018)	13, 20, 22
<i>Dixon v. United States</i> , 548 U.S. 1 (2006).....	28
<i>Dohrmann v. Intuit Inc.</i> , 823 F. App'x 482 (9th Cir. 2020)	16

<i>Ebner v. Fresh, Inc.</i> , 838 F.3d 958 (9th Cir. 2016)	14, 20, 21
<i>Encyclopaedia Britannica, Inc.</i> , 87 F.T.C. 421 (1976).....	23
<i>Estrella-Rosales v. Taco Bell Corp.</i> , 2020 WL 1685617 (D.N.J. Apr. 7, 2020)	13, 15
<i>FTC v. Facebook</i> , Case No. 1:20-cv-03589 (Apr. 7, 2021), ECF No. 59	21
<i>Fanning v. FTC</i> , 821 F.3d 164 (1st Cir. 2016).....	7
<i>Fast Food Workers Comm. v. NLRB</i> , 31 F.4th 807 (D.C. Cir. 2022).....	28
<i>FTC v. Fleetcor Techs., Inc.</i> , 2022 WL 3273286 (N.D. Ga. Aug. 9, 2022)	6, 7
<i>Fontenot v. Upjohn Co.</i> , 780 F.2d 1190 (5th Cir. 1986)	4
<i>Freeman v. Time, Inc.</i> , 68 F.3d 285 (9th Cir. 1995)	17
<i>Goodman v. FTC</i> , 244 F.2d 584 (9th Cir. 1957)	6
<i>Grolier, Inc.</i> , 99 F.T.C. 379 (1982).....	23
<i>United States v. H&R Block, Inc.</i> , 833 F. Supp. 2d 36 (D.D.C. 2011)	21
<i>Hamdi v. Rumsfeld</i> , 542 U.S. 507 (2004).....	3, 30
<i>Harris v. Las Vegas Sands L.L.C.</i> , 2013 WL 5291142 (C.D. Cal. Aug. 16, 2013).....	22, 23
<i>Hayes v. Easterday</i> , 879 F. Supp. 2d 449 (E.D. Pa. 2012)	1
<i>Health Research Laboratories, LLC</i> , 2021 WL 5711355 (F.T.C. Nov. 19, 2021)	8, 10, 30
<i>HomeAdvisor</i> 2022 WL 3500430 (F.T.C. Aug. 2, 2022)	5

<i>Houghton v. South</i> , 965 F.2d 1532 (9th Cir. 1992)	4
<i>Humphrey’s Executor v. United States</i> , 295 U.S. 602 (1935).....	31
<i>Washington v. Hyatt Hotels Corp.</i> , 2020 WL 3058118 (N.D. Ill. June 9, 2020)	22, 23
<i>Impax Labs.</i> , 2017 WL 5171124 (F.T.C. Oct. 27, 2017).....	30
<i>FTC v. Infinity Grp. Servs.</i> , 2009 WL 10670551 (C.D. Cal. Oct. 1, 2009).....	11
<i>Int’l Assoc. of Conf. Interpreters</i> , 1995 WL 17003141 (F.T.C. Nov. 29, 1995)	4
<i>Int’l Harvester Co.</i> , 1984 WL 565290 (F.T.C. Dec. 21, 1984).....	23
<i>InteliClear, LLC v. ETC Glob. Holdings, Inc.</i> , 978 F.3d 653 (9th Cir. 2020)	30
<i>Jarkesy v. SEC</i> , 34 F. 4th 446 (5th Cir. 2022)	30, 31
<i>Jerk, LLC</i> , 2015 WL 1518891 (F.T.C. Mar. 13, 2015).....	7
<i>FTC v. Johnson</i> , 96 F. Supp. 3d 1110 (D. Nev. 2015).....	17, 24
<i>M2 Software, Inc. v. Madacy Ent.</i> , 421 F.3d 1073 (9th Cir. 2015)	9
<i>Metro. Wash. Chapter, Associated Builders & Contractors, Inc. v. District of Columbia</i> , 2021 WL 6196989 (D.D.C. Dec. 30, 2021).....	28
<i>Mueller v. CBS, Inc.</i> , 200 F.R.D. 242 (W.D. Pa. 2001)	8
<i>Natural Organics, Inc.</i> , 2001 WL 1478367 (F.T.C. Jan. 30, 2001).....	6, 10
<i>Nelson v. City of Davis</i> , 571 F.3d 924 (9th Cir. 2009)	4
<i>FTC v. Neovi, Inc.</i> , 598 F. Supp. 2d 1104 (S.D. Cal. 2008).....	27

<i>Polygram Holding, Inc.</i> , 2002 WL 31433923 (F.T.C. Feb. 26, 2002)	3
<i>POM Wonderful LLC</i> , 155 F.T.C. 1 (2013).....	7, 10
<i>Removatron Int’l Corp. v. FTC</i> , 884 F.2d 1489 (1st Cir. 1989).....	12, 13
<i>Resort Car Rental System, Inc. v. FTC</i> , 518 F.2d 962 (9th Cir. 1975)	23
<i>FTC v. Ruberoid Co.</i> , 343 U.S. 470 (1952).....	25
<i>Sapper v. Lenco Blade, Inc.</i> , 704 F.2d 1069 (9th Cir. 1983)	24
<i>Seila Law LLC v. CFPB</i> , 140 S. Ct. 2183 (2020).....	31
<i>Standard Oil Co. of Cal. v. FTC</i> , 577 F.2d 653 (9th Cir. 1978)	26
<i>FTC v. Stefanchik</i> , 559 F.3d 924 (9th Cir. 2009)	7
<i>Stivers v. Pierce</i> , 71 F.3d 732 (9th Cir. 1995)	29
<i>Telebrands Corp.</i> , 140 F.T.C. 278 (2005).....	19
<i>Thompson Med. Co., Inc.</i> , 104 F.T.C. 648	10
<i>Tolan v. Cotton</i> , 572 U.S. 650 (2014).....	6
<i>Trans Union Corp. v. FTC</i> , 81 F.3d 228 (D.C. Cir. 1996).....	3, 29
<i>TRW, Inc. v. FTC</i> , 647 F.2d 942 (9th Cir. 1981)	25, 26
<i>Vizcarra v. Unilever U.S., Inc.</i> , 339 F.R.D. 530 (N.D. Cal. 2021).....	9
<i>Williams v. Pennsylvania</i> , 579 U.S. 1 (2016).....	3, 30

<i>FTC v. Willms</i> , 2011 WL 4103542 (W.D. Wash. Sept. 13, 2011).....	17
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Statutes and Rules

5 U.S.C. §552a(e)(3).....	9
5 U.S.C. §556(d).....	32
15 U.S.C. §41.....	31
15 U.S.C. §45(b).....	25, 28
16 C.F.R. §3.24(a)(2).....	3, 24
16 C.F.R. §251.1(b)(1).....	21

Other Authorities

<i>Comm’n Enf’t Pol’y Statement in Regard to Clear and Conspicuous Disclosure in Television Advert.</i> (Oct. 21, 1970).....	12
<i>FTC Statement on Deception</i> 103 F.T.C. 174 (1984).....	4, 12, 20, 22

STATEMENT REGARDING ORAL ARGUMENT

Respondent respectfully requests that the Commission hear oral argument before issuing a ruling on Complaint Counsel's motion for summary decision. The parties have submitted detailed briefs and statements of fact accompanied by hundreds of exhibits. Oral argument is likely to assist the Commission in clarifying points of disagreement or confusion in this complex record and in deciding the legal issues presented.

I. INTRODUCTION

Complaint Counsel fail to meet their burden to establish through undisputed facts that Intuit's ads for the free version of its software deceived consumers by conveying that all TurboTax products may be used for free *by everyone*. When presented with this same theory, in a substantively identical motion, a federal district court observed that "nobody thinks" that TurboTax Free Edition is free for everyone. RX 73 at 17:5. This motion is brought on a nearly identical evidentiary record to the motion for preliminary injunction that was denied, and Complaint Counsel's burden here is substantially greater. The evidence presented by Complaint Counsel is sparse, consisting of historical advertisements that will never be run again and do not say what Complaint Counsel contend they say, a flawed survey of consumers who were not shown the ads in question, and a small number of often unrelated consumer complaints. Complaint Counsel otherwise ask for inferences (which at this stage must be made in Intuit's favor) that are not only disputed, but in many instances directly refuted by Intuit's competing evidence. "[T]he presence of at least one material factual dispute necessitates the denial of summary judgment." *Hayes v. Easterday*, 879 F. Supp. 2d 449, 453 n.2 (E.D. Pa. 2012). Here, no fewer than 95 of Complaint Counsel's 134 "facts" are genuinely disputed, and Intuit offers pages of additional facts, expert declarations, and consumer testing establishing that consumers were not deceived.

- Complaint Counsel offer no admissible evidence—let alone undisputed evidence—supporting their fundamental premise: that Intuit's ads conveyed that all TurboTax products may be used for free *by everyone*. Intuit offers evidence directly at odds with this contention, including the ads themselves, consumer testing, and customer satisfaction data.

- Complaint Counsel disregard that TurboTax Free Edition is a legitimately free product that consumers used to file more than 40 million tax returns for free over the last three years. Intuit’s “free” advertisements were only for TurboTax Free Edition.
- Complaint Counsel’s principal evidence that the ads were deceptive is a survey rife with flaws, including, most obviously, that participants were not even shown the challenged ads. Intuit has not had the opportunity to depose that expert.
- Complaint Counsel assert that the ads’ disclosures are deficient, but that is a factual determination inappropriate for summary decision, and the evidence reflects that Intuit’s disclosures exceeded the requirements in case law and the FTC’s own guidance.
- There is substantial evidence—including scientific survey evidence, customer-satisfaction metrics, industry practice, and the ads themselves—demonstrating that reasonable consumers were not deceived.

Complaint Counsel’s request for a cease-and-desist order must also be rejected because the Commission is authorized to issue such orders only where there exists a cognizable danger of future misconduct. No such danger exists here. Intuit entered into a settlement agreement with the chief law enforcement officers of all 50 states and the District of Columbia, which expressly prohibits the type of misconduct alleged here. Despite the settlement agreement, Complaint Counsel rely solely on historical ads, without attaching or even acknowledging the additional disclosures that now must and already do accompany Intuit’s marketing of Free Edition as a result of that settlement. The reality is that there is no risk of deception from any current or future ads, and thus nothing to remedy.

Finally, although a divided Commission voted out the underlying administrative complaint, Complaint Counsel ask the Commissioners to immediately act “as both accuser and adjudicator,” *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016), and enter summary decision before Intuit takes discovery or has “a fair opportunity to rebut the Government’s factual assertions before a neutral decisionmaker,” *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004). Complaint Counsel go so far as to request summary decision without even mentioning Intuit’s affirmative defenses. Ironically, if the Commission were to enter judgment before Intuit has an opportunity to develop and present its case, that would itself support Intuit’s affirmative defense that the Commission prejudged this case. Granting Complaint Counsel’s motion before the case even begins would signal to the public that no respondent can receive a fair hearing in Part 3. The Commission should not send that message.

The motion should be denied.

II. LEGAL STANDARD

Under Commission Rule of Practice 3.24(a)(2), summary decision is appropriate only when “there is no genuine issue as to any material fact.” 16 C.F.R. §3.24(a)(2). This standard is “virtually identical to the provisions of Fed. R. Civ. P. 56, governing summary judgment in the federal courts.” *Polygram Holding, Inc.*, 2002 WL 31433923, at *1 (F.T.C. Feb. 26, 2002). Thus, as the moving party, Complaint Counsel “bear[] the initial burden of identifying evidence that demonstrates the absence of *any* genuine issue of material fact.” *Id.* (emphasis added); *see also Trans Union Corp. v. FTC*, 81 F.3d 228, 230 (D.C. Cir. 1996) (existence of disputed fact “requires reversal” of summary decision). All “inferences to be drawn from the underlying facts must be viewed in the light most favorable” to Intuit as the nonmovant. *Polygram Holding*, 2002 WL 31433923, at *1. And because Complaint Counsel “bear[] the burden of proof at trial, [they] must come forward with evidence which would entitle [them] to a directed verdict if the

evidence went uncontroverted at trial,” *Houghton v. South*, 965 F.2d 1532, 1536 (9th Cir. 1992), and “establish beyond peradventure *all* of the essential elements of the claim,” *Fontenot v. Upjohn Co.*, 780 F.2d 1190, 1194 (5th Cir. 1986).

Moreover, the decisionmaker “may not make credibility determinations or weigh conflicting evidence.” *Bator v. Hawai’i*, 39 F.3d 1021, 1026 (9th Cir. 1994). Accordingly, when the nonmovant provides affidavits, expert testimony, or other evidence that contradicts the movant’s evidence, that creates a genuine issue of disputed fact, *Nelson v. City of Davis*, 571 F.3d 924, 929 (9th Cir. 2009), and “summary decision [is] inappropriate,” *Int’l Assoc. of Conf. Interpreters*, 1995 WL 17003141, at *1 (F.T.C. Nov. 29, 1995).

III. ARGUMENT

A. Material Factual Disputes Preclude Summary Decision

Complaint Counsel do not come close to meeting their burden of establishing, through *undisputed evidence*, that Intuit made “a representation ... that is likely to mislead” when “considered from the perspective of [a] reasonable consumer” and that is “material.” *FTC Statement on Deception*, 103 F.T.C. 174, 175 (1984). Complaint Counsel’s motion rests largely on three predicates: (1) that Intuit’s ads conveyed that TurboTax was free *for everyone*, (2) that Intuit’s disclosures were insufficient to disclose Free Edition’s qualifications, and (3) that reasonable consumers were deceived by Intuit’s marketing into thinking that all consumers could file for free with TurboTax. Part III.A.1 below examines the paucity of Complaint Counsel’s evidence. Part III.A.2 sets forth the overwhelming evidence that refutes Complaint Counsel’s assertions, and which, at the very least, creates disputed issues of fact precluding summary decision. Finally, Part III.A.3 separately examines Complaint Counsel’s failure to meet their burden to establish materiality.

As a general matter, Complaint Counsel incorrectly assert that this case is like others where the Commission or courts granted summary decision in favor of deceptive-advertising claims. Instead, this case is closer to *HomeAdvisor* (and other cases) where the Commission has denied premature summary decision motions. *See* 2022 WL 3500430 (F.T.C. Aug. 2, 2022). There, complaint counsel relied on facts unsupported by evidence, and HomeAdvisor offered competing evidence disputing those facts. And although HomeAdvisor had deposed several of complaint counsel's declarants, it had not had a full opportunity to conduct discovery. Here, Complaint Counsel has similarly offered unsupported and disputed facts, and Intuit has been unable to conduct *any* discovery, rendering summary decision all the more improper.

1. Complaint Counsel's Contention That Intuit's Ads Conveyed That TurboTax Is Free For Everyone Is Not Supported By Evidence

Complaint Counsel's motion fails to provide evidentiary support for the proposition that Intuit's ads convey that *all* consumers can file their taxes for free using TurboTax. *E.g.*, Mot. 1, 17-18. The evidence proffered by Complaint Counsel boils down to the ads themselves, a flawed survey from Professor Novemsky, and a relatively small number of (often unrelated) consumer complaints. Before even turning to Intuit's contrary evidence, Complaint Counsel's motion must be rejected because they failed to meet their burden.

a. *Intuit's Ads Do Not Support Complaint Counsel's Desired Inference That They Conveyed That All Consumers Can File For Free Using TurboTax*

Complaint Counsel maintain that "[t]he primary evidence of what representations an advertisement conveys to reasonable consumers is the advertisement itself." Mot. 1 (quoting *Telebrands Corp.*, 140 F.T.C. 278, 290 (2005), *aff'd*, 457 F.3d 354 (4th Cir. 2006)). But on their face, Intuit's ads conveyed that the Free Edition product is free and that it serves the needs of consumers with "simple returns" only. *See* Intuit SOF ¶¶17-20. Complaint Counsel themselves acknowledge as much. *E.g.*, Compl. Counsel's SOF ¶¶25-44, 48-60, 100-102, 105-108, 111-

112, 114-117. Yet they nevertheless seek an inference that the ads somehow created an impression that the entire suite of TurboTax products—Deluxe, Premier, and Self-Employed—were free for everyone.¹ As the federal court found in denying the FTC’s motion for preliminary injunction, that inference is not supported by a review of the ads, *see* RX 73 at 17:3-5, and on this motion all “reasonable inferences” must be drawn in Intuit’s favor, *Tolan v. Cotton*, 572 U.S. 650, 660 (2014).²

Summary decision is inappropriate here because “[t]he meaning of advertisements to the public” is a “question[] of fact.” *Goodman v. FTC*, 244 F.2d 584, 600 n.35 (9th Cir. 1957); *accord Cinderella Career & Finishing Sch., Inc. v. FTC*, 425 F.2d 583, 592 (D.C. Cir. 1970). *Natural Organics, Inc.*, 2001 WL 1478367 (F.T.C. Jan. 30, 2001), is instructive. There, the ALJ took note of “the absence of clear language in the exhibits expressly stating what [c]omplaint [c]ounsel assert[ed] the exhibits state[d]” and the principle that “summary decision is improper where ‘various inferences can be drawn.’” *Id.* at *2. He concluded that “[w]hether the ads may be reasonably interpreted as making” the statements complaint counsel said they did was “a genuine dispute.” *Id.*³

The cases on which Complaint Counsel rely to argue that the Commission can issue a decision now, based primarily or even solely on the ads, are inapposite. For example, in *FTC v.*

¹ Indeed, Complaint Counsel’s “transcripts” of the ads are often inaccurate and disputed. *See, e.g.*, Intuit Response to SOF ¶¶51, 56, 58, 111. In addition, Complaint Counsel repeatedly ignore the text of the ads and instead ask the Commission to draw improper factual inferences in their favor. *E.g.*, Mot. 17-18, 21-22, 25-33 (asking for inferences that Intuit’s ads conveyed that TurboTax was free for all consumers, that Intuit’s ads were deceptive to reasonable consumers, and that Intuit’s disclosures were deficient). Such inferences are improper at this stage, particularly given the competing evidence offered by Intuit, discussed in the next section.

² Numerous independent, neutral arbitrators have likewise rejected this theory. *See* Gringer Decl. ¶15.

³ The ALJ further concluded that “a summary decision before [r]espondents have had adequate time for discovery” was “not warranted.” *Id.*

Fleetcor Techs., Inc., 2022 WL 3273286 (N.D. Ga. Aug. 9, 2022), the court found that summary judgment was appropriate because the FTC “presented detailed evidence from a wide variety of sources,” including “an outpouring of customer complaints,” while the defendant “fail[ed] to present *any* responsive evidence” to create a genuine factual dispute. *Id.* at *1, *50 (emphasis added). Likewise, in *Jerk, LLC*, 2015 WL 1518891 (F.T.C. Mar. 13, 2015), the respondents had “clearly conveyed” the allegedly deceptive messages, and “neither Respondent ha[d] raised any genuine issue of disputed fact as to whether [they] made the representation alleged.” *Id.* at *10. The First Circuit affirmed because the ads never contradicted the implied false message, meaning “[t]he *only* information” available to consumers supported the deceptive message. *Fanning v. FTC*, 821 F.3d 164, 172 (1st Cir. 2016) (emphasis added). Similarly, in *FTC v. Stefanchik*, 559 F.3d 924 (9th Cir. 2009), summary judgment was appropriate because the defendants “offered no competent affirmative evidence of their own.” *Id.* at 929. And the other cases cited (at Mot. 18) were not even decided on summary decision. Here, in contrast, the ads did not convey—let alone *clearly* convey—the message that TurboTax is free for everyone—and they undisputedly contained disclosures contradicting that message. Intuit also genuinely disputes the *majority* of “facts” offered by the Commission and the numerous inferences upon which Complaint Counsel rely. Summary disposition is thus improper.

b. *Professor Novemsky’s Survey Evidence Is Untested, Unreliable, And Irrelevant, And The Few Unrelated Consumer Complaints Establish Nothing*

In addition to the ads themselves, the Commission must also consider extrinsic evidence, including consumer surveys, offered by the parties. *POM Wonderful LLC*, 155 F.T.C. 1, 14 (2013). The survey offered by Complaint Counsel was undertaken by Professor Novemsky. *See* Mot. 19-20, 29 n.28; Compl. Counsel’s SOF ¶133. That survey lends no support to Complaint Counsel’s argument.

As an initial matter, the motion must be denied because Intuit has not yet had an opportunity to depose Professor Novemsky to test his methodologies and opinions. *See Health Rsch. Lab'ys, LLC*, 2021 WL 5711355, at *6 (F.T.C. Nov. 19, 2021) (denying summary decision because additional discovery was required to “allow [respondents] an opportunity to contest the disputed issues”); *Mueller v. CBS, Inc.*, 200 F.R.D. 242, 245-246 (W.D. Pa. 2001) (finding summary judgment “premature” because the “Defendant ha[d] not yet deposed” plaintiffs’ experts).

Even without discovery, it is *already* clear that the survey is fatally flawed. Most obviously, Professor Novemsky did not show anyone the challenged Intuit ads, and therefore the survey cannot be used to draw conclusions about them. *See* Hauser Decl. ¶¶30-33. Novemsky’s excuse for failing to do so—that “[p]reliminary testing revealed that most consumers had existing beliefs about their ability to file for free using TurboTax, which indicate[d] that consumers have been exposed to Intuit’s marketing already,” GX 313 ¶8—is an acknowledgement that consumers have preexisting personal knowledge about their qualifications for Free Edition, which itself undermines the inference that consumers were deceived by the ads. Moreover, Complaint Counsel withheld the results of Professor Novemsky’s “preliminary testing.” On this motion, where all inferences must be drawn in Intuit’s favor, the only conclusion that can be drawn from the failure to show the ads after preliminary testing is that the testing showed that doing so would generate survey results that contradict the deception claim.

After shutting down his “preliminary testing,” Professor Novemsky designed his subsequent survey to generate the desired results. For example, he revealed to participants after the survey that their responses would be used to support the FTC’s deceptive-advertising claims against Intuit, and he allowed participants to delete their submissions once they learned of that

purpose. Hauser Decl. ¶54.⁴ It stands to reason that those who opted out would be particularly likely to disagree with that purpose. As the FTC itself has stated, such disclosures “inadvertently create bias in the consumers’ decision to participate,” which in turn “effectively nullif[ies] the survey.” Intuit Response to SOF ¶133.

Given these (and other) flaws, *see* Hauser Decl. ¶¶34-67, Professor Novemsky’s survey is not competent evidence, and its failure to follow generally accepted principles or a sound methodology would compel its exclusion at trial. *See M2 Software, Inc. v. Madacy Ent.*, 421 F.3d 1073, 1087 (9th Cir. 2015). Inadmissible expert opinion, even at the summary decision phase, is no evidence at all. *See Archie v. Pop Warner Little Scholars, Inc.*, 2021 WL 4130082, at *2 (9th Cir. Sept. 10, 2021) (mem. opinion).

The only other evidence offered in support of Complaint Counsel’s assertion that Intuit conveyed that TurboTax is free for everyone is the fact that some consumers filed complaints about Intuit. *See* Mot. 20; Compl. Counsel SOF ¶132. But even Complaint Counsel do not assert that all those complaints are relevant to its claim (they are not, *see* Intuit Response to SOF ¶132). In any event, the import of those complaints is disputed. Those complaints represent a miniscule proportion of TurboTax customers, compared to the significant number of consumers who have rated TurboTax highly. *See* Intuit SOF ¶¶75-76. And the overall number of complaints filed against Intuit is consistent with those filed against benchmark companies, demonstrating that Intuit’s customers were not deceived. *See* Golder Decl. §IV.B.

⁴ Complaint Counsel have argued that this method was required under the Privacy Act, 5 U.S.C. §552a(e)(3). Whether the Privacy Act applies in this context is questionable, but even if it did apply, it did not require a disclosure *after* consumers had completed the survey and could reflect on the consequences of their responses. Nor did it require disclosing that the survey was sought in connection with the investigation of a specific company, Intuit.

2. Substantial Evidence Shows That Intuit's Free Edition Marketing Was Neither False Nor Misleading To Reasonable Consumers

“Whether a[n] ... advertisement is likely to mislead is generally a question of fact,” *Vizcarra v. Unilever U.S., Inc.*, 339 F.R.D. 530, 548 (N.D. Cal. 2021), and when the nonmoving party presents evidence creating “a genuine dispute” as to the effect of ads on reasonable consumers, summary decision cannot be granted, *Nat. Organics*, 2001 WL 1478367, at *2. The Commission has made clear that it *must* consider extrinsic evidence about an ad's meaning when such evidence is introduced by a party. *POM Wonderful*, 155 F.T.C. at 14. Set forth below is a summary discussion of the myriad evidence refuting, and certainly disputing, Complaint Counsel's unsupported deception claim.

a. *Free Edition Is Free*

Complaint Counsel contend without support that characterizing Free Edition as “free” is “false” or without “reasonable basis.” Mot. 20. The evidence shows that Free Edition is a legitimately free product used by millions of taxpayers every year. Roughly 58 million people are eligible to use the product to file their taxes completely for free. Intuit SOF ¶2. Between Tax Years 2016 and 2020, nearly 70 million returns were filed for free using Free Edition. *Id.* ¶¶6-10. All told, roughly *one in five* taxpayers who file using any online service do so for free using Free Edition. *See id.* ¶11. And the vast majority of people who begin the tax-preparation process with Free Edition end up using that product to file for free. *See id.* ¶62. To state the obvious, “claims are not deceptive if the messages they convey to reasonable consumers are accurate.” *Thompson Med. Co., Inc.*, 104 F.T.C. 648, §IV.1 (1984).

That not everyone qualifies for Free Edition does not render Intuit's “free” marketing false or without reasonable basis—and certainly not “as a matter of law,” as required here, *Health Rsch. Lab'ys*, 2021 WL 5711355, at *6. Complaint Counsel effectively concede as much by characterizing the TurboTax-branded product formerly offered through the IRS Free File

program as “truly free,” even though that product, like Free Edition, had eligibility limitations. *See* Compl. ¶¶61, 65, 68-70.

The fact that Free Edition is in fact free renders much of Complaint Counsel’s evidence unremarkable. Complaint Counsel, for instance, repeatedly cite a former Intuit executive’s statement on a podcast that Free Edition ads sought “to really let people know this [product] was free.” Mot. 10-11, 24; *see also* Mot. 21 (“Intuit intended for consumers to believe that ‘free’ meant ‘free.’”). Because those statements regarded only Free Edition (which is free) and not all TurboTax products, *see* Compl. Counsel’s SOF ¶134, those statements evince an intent to convey accurate information.

b. *Free Edition Ads Clearly Disclosed Eligibility Limitations*

Complaint Counsel concede that Intuit’s past Free Edition video ads contained disclosures. *E.g.*, Compl. Counsel’s SOF ¶¶25-44, 48-60, 100-102. “[T]he sufficiency and prominence of ... disclaimers” is an issue of fact to be resolved before deciding deceptive-advertising claims. *FTC v. Infinity Grp. Servs.*, 2009 WL 10670551, at *5 (C.D. Cal. Oct. 1, 2009). The central question is whether the “net impression” of Intuit’s ads, including the disclosures therein, deceived customers into believing *everyone* could file for free using Free Edition. *See FTC v. Cyberspace.Com LLC*, 453 F.3d 1196, 1200 (9th Cir. 2006); Mot. 18, 27.

Complaint Counsel ignore that any future Free Edition ads will include updated disclosures. *See infra* III.B. Those unaddressed disclosures, in addition to rendering any cease-and-desist order inappropriate, necessitate further fact development and thus preclude summary decision.

Moreover, as already discussed, Complaint Counsel’s only evidence—aside from their own *ipse dixit* that Intuit’s prior disclosures were “insufficient,” Mot. 25—is Professor

Novemsky’s unreliable and inadmissible expert opinion, Mot. 29 n.28; *see supra* Section

III.A.1.b. Intuit’s evidence that its disclosures were more than adequate is set forth below.

That evidence begins, of course, with the ads themselves. Since Tax Year 2019, Free Edition video ads have featured a text disclosure stating that “TurboTax Free Edition is for simple U.S. returns only” and inviting consumers to “See if you qualify at turbotax.com.” Intuit SOF ¶¶22-26; *see also* Compl. ¶33; Mot. 27. Substantially similar disclosures were included in all of the Free Edition video ads identified by Complaint Counsel, going as far back as 2015. *See* Intuit SOF ¶¶27-28; Compl. Counsel SOF ¶¶26, 29, 32, 34, 37, 50, 52, 55, 57, 59, 102, 106, 108, 112, 115, 117. Intuit’s recent video ads, moreover, also included an audio disclosure informing consumers that they could “see details at turbotax.com.” Intuit SOF ¶24.

These disclosures were “sufficiently prominent” to ensure that the advertisements left “an accurate impression.” *Removatron Int’l Corp. v. FTC*, 884 F.2d 1489, 1497 (1st Cir. 1989). Complaint Counsel protest that the disclosures were deficient because they were “in faint type and a font color similar to the background color,” were “disproportionately small and not readable,” and appeared “for just a few seconds,” Mot. 28-29. But those arguments highlight the fact-bound nature of Complaint Counsel’s arguments, which cannot be resolved at summary decision. For example, while Complaint Counsel claim that the disclosures were “in faint type and a font color similar to the background color,” Mot. 28, a factfinder examining the disclosures could (and, Intuit submits, would) find that they in fact “readily contrast[ed] with the background,” *Comm’n Enf’t Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advert.* §I.C (Oct. 21, 1970), and that there was nothing to “direct consumers’ attention away from the qualifying disclosures,” *FTC Statement on Deception*, 103 F.T.C. at 180. In fact, the length and prominence of Intuit’s disclosures, including the font size and whether the disclosures were clearly contrasted on the screen, were comparable or superior to other

benchmark companies’ disclosures. *See* Golder Decl. §V(A)(3). And courts have found disclosures adequate even where the text was “smaller than most of the text in the advertisement,” *FTC v. DirecTV*, 2018 WL 3911196, at *8 (N.D. Cal. Aug. 16, 2018); *see also* *Castagnola v. Hewlett-Packard Co.*, 2012 WL 2159385, at *10 (N.D. Cal. June 13, 2012) (concluding that disclosures were sufficient even though they appeared in a smaller font than the rest of the promotion), or appeared only “in the closing seconds of the commercial” and “toward the bottom of the screen,” *Estrella-Rosales v. Taco Bell Corp.*, 2020 WL 1685617, at *2 (D.N.J. Apr. 7, 2020). Finally, Complaint Counsel’s suggestion that the relevant disclosures appeared “in writing only” (Mot. 27) is also wrong. *See* Intuit SOF ¶¶23-24.

Intuit’s video disclosures were also “sufficiently ... unambiguous” to ensure that the ads left “an accurate impression.” *Removatron*, 884 F.2d at 1497. The disclosures informed consumers that: (1) there is a “Free Edition,” which itself indicates there are paid and free versions of TurboTax (which is reinforced by Intuit’s ads for TurboTax’s paid products);⁵ (2) there are qualifications to use Free Edition, such that not everyone will qualify; (3) the qualifications are tied to the complexity of a consumer’s tax returns; and (4) further information about those requirements is available online.

Complaint Counsel next argue that Intuit’s disclosures are inadequate because “[w]hat ‘simple’ means is subject to Intuit’s reinterpretation nearly every tax season.” Mot. 29. But whether or not consumers understand the precise meaning of “simple return,” the disclosure clearly conveys that not *all* consumers can use Free Edition. That is enough to disprove—or, if nothing else, create a factual question concerning—Complaint Counsel’s theory that Intuit’s ads mislead consumers into believing TurboTax is free for everyone. In any event, the evidence

⁵ *See* RX 85 (defining “edition” as “one of the forms in which something is presented”).

contradicts Complaint Counsel’s unsupported assertion that the term “simple tax returns” is unclear. Intuit uses “simple” in an ordinary sense, conveying that complex tax returns—i.e., returns that require additional schedules and forms—are not covered. Intuit SOF ¶¶79-80. Intuit’s consumer testing of the phrase “simple returns” shows that participants responded “about the clarity of the term and appreciating TurboTax showing that right up at the very beginning of the process.” *Id.* ¶87; *see also id.* ¶¶79-89. Moreover, the IRS, Government Accountability Office, and California’s Franchise Tax Board have all used the same terminology to describe tax returns that require only a single form without additional schedules. *See id.* ¶¶81-83. Complaint Counsel do not suggest that these government agencies were engaged in deception when they did so. And Intuit’s major competitors tie eligibility for free tax filing to the simplicity of one’s returns. *See* Intuit SOF ¶84. Thus, a reasonable consumer would have an understanding of “simple returns,” further precluding summary decision. *See Ebner v. Fresh, Inc.*, 838 F.3d 958, 965 (9th Cir. 2016) (explaining that a “reasonable consumer understands” concepts that “are commonplace in the [relevant] market”).

Likewise, Complaint Counsel’s contention that Intuit changed the meaning of “simple returns” at its “sole discretion,” Mot. 30, is refuted (or at least disputed) by the evidence. Until Tax Year 2018, Intuit consistently defined “simple return” as a return filed using only IRS tax form 1040-EZ or 1040-A. *See* Intuit SOF ¶¶3, 39. Only because the IRS eliminated those forms in 2018 was Intuit forced to adjust its definition of the term. *See* Intuit Response to SOF ¶8. Since Tax Year 2019, Intuit has defined “simple return” to include a return filed on Form 1040 with no schedules, consistent with the IRS’s own usage. *See id.*

Finally, Complaint Counsel claim that Intuit needed more comprehensive disclosures, essentially listing all or most of Free Edition’s qualifications. *See* Mot. 27-28 & n.24. That amount of information would be unhelpful to consumers and discourage free filing. Intuit SOF

¶¶88-89. And the ads’ unmistakable message that qualifications exist, and the invitation to “[s]ee if you qualify at turbotax.com,” adhered to common television-ad practices. As Dartmouth Professor Peter Golder explains, television ads routinely function “to direct potential customers to a place, such as a website, where they can get more information.” Golder Decl.

¶60. Reasonable consumers accordingly do not expect all relevant disclosures for a product to be detailed in a television ad. *See id.* ¶¶69-70. Case law confirms that television disclosures need not be (and cannot reasonably be) 100% thorough in all respects. *See, e.g., Estrella-Rosales*, 2020 WL 1685617, at *2-3, 6 (disclosure that fast-food promotion was available “[a]t participating locations for a limited time” and that “[p]rices may vary” was “consistent with ‘the norm of reasonable business practice’” in television advertising and sufficient to put reasonable consumers on notice). And referring consumers to Intuit’s website for further information is especially reasonable here because consumers *must* visit the website (or the TurboTax app) to use Free Edition. *See* Intuit SOF ¶32.

Complaint Counsel also criticize a handful of Intuit’s “paid search engine results” and “ads on social media.” Mot. 12-13. Those ads—like Intuit’s video ads—marketed Free Edition and included disclosures and thus were not deceptive. Complaint Counsel are wrong that Intuit’s paid search engine results made “free” claims “without any qualification whatsoever.” Mot. 25. As Complaint Counsel’s screenshots show, the ads stated that “Over 50 Million Americans Can File With TurboTax® Free Edition,” Mot. 12; Compl. Counsel’s SOF ¶83-84, thus making plain that the claim pertained to Free Edition only and that most Americans do not qualify for Free Edition. Indeed, the disclosure that was made is precisely the kind that Complaint Counsel appear to seek in their proposed order.

c. *The TurboTax Website Clearly Discloses Free Edition's Eligibility Limitations*

Regardless of whether (and where) consumers first view an ad, they must visit the TurboTax website or app to use Free Edition. *See* Intuit SOF ¶32. On the website (or the app), consumers encountered numerous clear and conspicuous disclosures of Free Edition's qualifications, which, at a minimum preclude summary decision. And Intuit recently updated its website disclosures to comply with the state AG settlement.

Intuit's disclosures complied with the FTC's own ".com Disclosures" guidelines for online advertising. According to those guidelines, the factors that determine whether an online disclosure is clear and conspicuous include "the placement of the disclosure in the advertisement and its proximity to the claim it is qualifying; the prominence of the disclosure; whether the disclosure is unavoidable; ... and whether the language of the disclosure is understandable to the intended audience." RX 96 at 7. Case law reflects the same considerations. *See Castagnola*, 2012 WL 2159385, at *9-10; *cf. Dohrmann v. Intuit Inc.*, 823 F. App'x 482, 484 (9th Cir. 2020).⁶

Here, evidence indicates that Intuit's website disclosures adhered to the FTC's guidelines and case law. Intuit's website disclosures were both clear and prominent. Intuit SOF ¶¶33-59. As such, Free Edition promotions on the TurboTax homepage were accompanied, in close proximity, by a color-contrasted, hyperlinked disclosure stating, "For simple tax returns only," "see why it's free," or similar language. *See* Intuit SOF ¶¶36-40; *see also* Compl. ¶¶37, 40, 42. When consumers clicked on the hyperlinked disclosures, a pop-up screen informed them that

⁶ Apparently in response to Intuit making this point, the Commission has indicated that the .com Disclosure guidelines need to be updated, RX 100, and goes so far as to suggest that companies are acting improperly when they cite the Commission's own guidance. That is a truly remarkable position. Intuit complied with the available guidance and cannot be held to some contrary and yet-unannounced standard.

“[a] simple tax return is Form 1040 only” and provided a detailed explanation of the situations Free Edition covers. *See* Intuit SOF ¶¶37-38, 40.

The TurboTax website’s “Products & Pricing” page—which is viewed by all new TurboTax customers, *see* Intuit SOF ¶¶42-44—also included several color-contrasted, hyperlinked disclosures stating that Free Edition is for simple returns only, *see id.* ¶45. Moreover, every page of the TurboTax website includes a dropdown field providing “Important offer details and disclosures” that includes yet *another* disclosure that Free Edition has qualifications and again explains what those qualifications are. *See id.* ¶55. The TurboTax website also includes blog posts and FAQs describing Free Edition’s eligibility criteria. *See id.* ¶¶57-58.

The TurboTax website was also recently updated with further improved disclosures to comply with the state AG settlement. As of August 2022, among other changes, the TurboTax website includes a new webpage displaying the material qualifications to use Free Edition and updated disclosures that “Not all taxpayers qualify” to use Free Edition, and a clear link where consumers can “See if [they] qualify.” *See id.* ¶¶48-54. And *every* TurboTax webpage that references Free Edition now displays all its material qualifications, without requiring consumers to click a link. *Id.* ¶55.

Case law shows that ads bearing such repeated disclosures are, as a matter of law, *not* deceptive. *See Freeman v. Time, Inc.*, 68 F.3d 285, 287, 289 (9th Cir. 1995); *Davis v. HSBC Bank Nev., N.A.*, 691 F.3d 1152, 1162 (9th Cir. 2012). Indeed, that new TurboTax customers could not even begin their returns without encountering the disclosures on the Products & Pricing page, *see* Intuit SOF ¶¶42-43, refutes any notion that Intuit hid the disclosures. The cases cited by Complaint Counsel are remarkably far afield from the facts here, underscoring the weakness of their argument. *See FTC v. Johnson*, 96 F. Supp. 3d 1110, 1126, 1140 (D. Nev.

2015) (disclosure appeared not on the website’s “landing page,” nor on its “intermediary page,” but only “at the bottom of the order page,” which was the “third and final stage” of the website); *FTC v. Willms*, 2011 WL 4103542, at *6 (W.D. Wash. Sept. 13, 2011) (disclosure did not appear “until the user lands on the sixth page” of the website).

Complaint Counsel also incorrectly claim that Intuit’s use of hyperlinked disclosures violates the FTC’s “.com Disclosures” guidelines. Mot. 31. But the guidelines state only that “[d]isclosures that are an *integral part of a claim* or inseparable from it should not be communicated through a hyperlink.” *Id.* Here, the integral information—that Free Edition has qualifications—is communicated by the hyperlinked text itself: “For simple returns only,” and now “see if you qualify.” *See* Intuit SOF ¶¶36, 38, 46-48, 50, 53. These hyperlinked disclosures are thus plainly distinguishable from an “asterisk or other symbol” that itself conveys no information. Mot. 23. In fact, Intuit’s hyperlinked disclosures closely resemble the examples of acceptable hyperlinked disclosures in the “.com Disclosures” guidelines. *See* RX 96 at A-8.

Finally, Complaint Counsel are simply wrong that consumers were required to enter personal information on the TurboTax website before they were told whether they qualify for Free Edition. *See* Mot. 32. As discussed, the TurboTax ads and website repeatedly disclosed Free Edition’s qualifications *before* a consumer entered any personal information. *See* Intuit SOF ¶¶33, 42-43, 59. Accordingly, most TurboTax customers (80% in Tax Year 2019) never encountered an upgrade screen because they began in the product appropriate for them after seeing those disclosures and additional information about the TurboTax products. *See id.* ¶¶60-61. And even when consumers not eligible for Free Edition began in that product (again, after Free Edition’s qualifications were repeatedly disclosed), Intuit informed those consumers that they were ineligible at the earliest possible stage, before they had spent substantial time entering information. *See id.* ¶64.

d. *Survey and Customer Satisfaction Evidence Shows That Reasonable Consumers Were Not Deceived*

Survey evidence further refutes Complaint Counsel’s assertions that consumers were deceived by Intuit’s Free Edition marketing or, at a minimum, creates a factual dispute. *See Beaty v. Ford Motor Co.*, 854 F. App’x 845, 848 (9th Cir. 2021) (holding that plaintiffs’ “competing expert report presented sufficient rebuttal evidence to create a triable issue of fact”).

For example, Dr. John Hauser, a professor of marketing at MIT, conducted a survey establishing that consumers do not rely on Intuit’s ads and website alone, but also conduct substantial research when selecting a tax-preparation provider, and thus are likely to find third-party websites discussing Free Edition’s eligibility limitations. Hauser Decl. ¶¶69-77. The survey also shows that consumers are comfortable switching between tax-preparation providers and that, as a result, consumers’ decisions to use TurboTax reflect customer satisfaction, not lock-in or deception. *Id.* ¶¶85-89; *see also* Intuit SOF ¶¶108-115.

A separate survey by Rebecca Kirk Fair—an expert whom the FTC has used on multiple occasions—buttresses those conclusions. Her survey confirms that consumers often research tax-preparation options and do not feel locked in to using a paid TurboTax product, even after starting in Free Edition. Kirk Fair Decl. ¶¶26-32; *see* Hauser Decl. ¶¶90-94. If consumers felt deceived, they would be expected to make different tax-filing choices depending on how much information they were provided about alternatives on TurboTax upgrade screens. Kirk Fair Decl. ¶¶23-25; *see* Hauser Decl. ¶92. But Kirk Fair found “no material difference in consumers’ selection of an upgrade to Paid TurboTax products” when consumers were shown modified versions of TurboTax upgrade screens with additional or reduced information about other filing options. *See* Hauser Decl. ¶92. That immaterial difference (2-4%) is significant, as the FTC has long recognized that customer-confusion rates below 10% are strong evidence that there was no deception. *See, e.g., Telebrands*, 140 F.T.C. at 291, 320-21 (finding a 3.9% misunderstanding

rate not to indicate deception). Consumers’ survey responses to Kirk Fair’s open-ended questions likewise indicate that consumers understand that they have other tax filing options, including free alternatives. *See* Hauser Decl. ¶93.

TurboTax’s high customer-satisfaction scores further contradict, or at least create a factual dispute regarding, any claim of deception. *See DirecTV*, 2018 WL 3911196, at *18. TurboTax consistently enjoys industry-leading customer-satisfaction rates. *See* Intuit SOF ¶¶71-73. In *DirecTV*, the court relied in part on DirecTV’s NPS of 34—lower than Intuit’s—to conclude that the evidence did “not support a finding that the company violated the FTC Act.” 2018 WL 3911196, at *18 & n.17. Put simply, if consumers expected to file for free using a TurboTax paid product, and were ultimately forced to pay, they would almost certainly not be satisfied customers. It is far more likely that consumers understood Intuit’s advertising and never formed an expectation of “free for all” like Complaint Counsel suggest.

High customer-retention rates, and a business’s desire to retain customers, similarly suggest that a business has not behaved deceptively. *See FTC Statement on Deception*, 103 F.T.C. at 181. That further undercuts Complaint Counsel’s theory here. *See* Intuit SOF ¶¶67-70. Retaining customers is a critical component of Intuit’s business model. *See* Intuit Response to SOF ¶¶5, 134(a). And Intuit’s efforts in this regard are manifest: Despite low switching costs for consumers, Intuit maintains an industry-leading overall customer-retention rate (including its paying customers) of approximately 80%. *See* Intuit SOF ¶¶67-70. That rate is highest, moreover, among *paying* customers, *see id.* ¶69, demonstrating that those not eligible for Free Edition do not end up feeling deceived by TurboTax.

e. *Reasonable Consumers Understand That Free Edition Has Qualifications*

Whether an ad is misleading is “judged by [its] effect ... on a reasonable consumer.” *Davis*, 691 F.3d at 1161-62. The reasonable-consumer inquiry is informed by common practice

in the relevant market, *see Ebner*, 838 F.3d at 965-967—an as-yet-unresolved factual question as to which Complaint Counsel and Intuit have divergent views.

Complaint Counsel argue that reasonable consumers expect tax-preparation companies to offer a product that is free for all tax situations, *see* Mot. 21, relying on a single example of a product that almost no one uses or has heard of (“Cash App Taxes”), *see* Intuit SOF ¶¶96. But that assertion must be weighed against the fact that *the major players* in the industry use the same business model as TurboTax. *See id.* ¶¶95. The business model that Intuit and its competitors use is common, *id.* ¶¶92, and “an entrenched part of the [online tax preparation] market,” *United States v. H&R Block, Inc.*, 833 F. Supp. 2d 36, 46-48 (D.D.C. 2011). The evidence thus suggests that reasonable consumers are familiar with Intuit’s business model and do not expect that Free Edition covers all tax situations. *See* Intuit SOF ¶¶91-92. Complaint Counsel’s references to different products and services—“Google, Facebook, streaming audio and video content by YouTube and Spotify, online games,” Mot. 22—are entirely immaterial. For one thing, the FTC elsewhere contends that Facebook is not “truly” free, *see* FTC Opposition to Motion to Dismiss at 11, *FTC v. Facebook*, Case No. 1:20-cv-03589 (Apr. 7, 2021), ECF No. 59, and in any event, none offer online tax preparation. “The proper context” for assessing what reasonable consumers understand is limited to the relevant market, *Ebner*, 838 F.3d at 967, which here is the market for tax preparation products.

Moreover, reasonable consumers in this industry are skeptical of “free” claims because they understand that for-profit companies need to make money. *See* Intuit SOF ¶¶93-94. The FTC’s own “free” guidelines make this point clear, explaining that the “public understands” that free offers are usually coupled with the *requirement* to purchase paid products. 16 C.F.R. §251.1(b)(1). Thus, instead of “vindicat[ing]” the Free Guides, Mot. 34-35, Complaint Counsel’s motion seeks to disregard a key tenet of free marketing. Consumers also research

products like TurboTax before using them, *see* Intuit SOF ¶¶99-100, and even minimal research would reveal Free Edition’s scope, *see id.* ¶101.

f. *Intuit’s Price Disclosures Prevent A Finding Of Deception*

Complaint Counsel concede that consumers learn of any costs “prior to purchasing a paid version of TurboTax.” Mot. 33. That undisputed fact supports (or even compels) a finding of no deception. *See Washington v. Hyatt Hotels Corp.*, 2020 WL 3058118, at *5 (N.D. Ill. June 9, 2020) (dismissing deceptive-advertising claim where resort fees were not disclosed in advertising but were disclosed during online booking process); *Harris v. Las Vegas Sands L.L.C.*, 2013 WL 5291142, at *2, *5-6 (C.D. Cal. Aug. 16, 2013) (similar).

Complaint Counsel argue otherwise, contending that Intuit’s representations before the point of sale are “[m]isleading door openers.” Mot. 33. Putting aside that Intuit’s representations are not misleading, that contention fails for multiple reasons. Most important for present purposes is that whether the “door-opener” concept applies is a fact-intensive question, and whether point-of-sale disclaimers are sufficient “depends on the circumstances.” *FTC Statement on Deception*, 103 F.T.C. at 180 n.37. Simply put, whether the ads were deceptive door-openers cannot be summarily decided at this stage.

Complaint Counsel’s argument also runs headlong into *DirecTV*. There, the court rejected the FTC’s deceptive-advertising claim and held that the “deceptive door opener” theory was “inapplicable” because (1) “nothing in [the challenged advertisements] contradict[ed] the true terms of DIRECTV’s provision of services” and (2) “for a complex product like subscription satellite television services, a reasonable consumer would understand the limitations of how information is presented in a [space-constrained ad].” *DirecTV*, 2018 WL 3911196, at *15. The same reasoning applies here. Nothing in the challenged ads contradicts the “true terms” of Intuit’s offer (namely, that Free Edition is free for taxpayers with simple returns). And for a

complex product like tax-preparation software, reasonable consumers understand the limitations of space-constrained ads and know to look for more detailed information. *See* Intuit SOF ¶¶90-98.

The authorities cited by Complaint Counsel reveal yet another reason why the “door opener” concept does not apply, let alone as a “matter of law.” Mot. 33. In those cases, a *literal* door had to be opened. For example, *Resort Car Rental Sys., Inc. v. FTC*, 518 F.2d 962 (9th Cir. 1975), involved a misleading slogan that persuaded consumers to travel and visit a brick-and-mortar rental-car facility. And the cited decisions involved door-to-door salesmen who used deception “to gain entrance into prospects’ homes.” *Encyclopaedia Britannica, Inc.*, 87 F.T.C. 421, 496 (1976); *see also Grolier, Inc.*, 99 F.T.C. 379, 383 (1982). In contrast, courts have held that point-of-sale disclosures in the online context are adequate. *See Hyatt Hotels Corp.*, 2020 WL 3058118, at *5; *Las Vegas Sands*, 2013 WL 5291142, at *2, *5-6. Accordingly, the undisputed point-of-sale disclosures here do not support deception.

3. Complaint Counsel Have Not Established Materiality

Complaint Counsel do not put forth *any* evidence on materiality—i.e., that the alleged misrepresentations were likely to affect a reasonable consumer’s purchasing decision or conduct regarding TurboTax. *Int’l Harvester Co.*, 1984 WL 565290, at *86-87 (F.T.C. Dec. 21, 1984). Instead, Complaint Counsel baldly assert that “an advertising claim that TurboTax is ‘free’ is a claim about the *cost* of TurboTax” and is therefore “presumptively material.” Mot. 22 n.23. That premise, even if true, is of little relevance here because TurboTax Free Edition *is free*. Thus, even if Intuit did make misrepresentations (and it did not, *supra* Part III.A.1), those misrepresentations would not be about Free Edition’s cost; they would be about Free Edition’s qualifications. Judge Breyer explained this very point at the hearing on Complaint Counsel’s

Motion for Preliminary Injunction. RX 73 at 16:25-17:5. Complaint Counsel make no showing whatsoever that such misrepresentations are, in all cases, material *as a matter of law*.

Complaint Counsel's cited authority is easily distinguishable. For example, in *Book-of-the-Month Club*, 48 F.T.C. 1297, 1299 (1952), a misrepresentation that a product was "free" was material because the product was not actually free; rather, consumers had to either "assume the obligation to purchase at least four books ... over a period of a year," or subsequently "make payment for the so-called 'free' book." *See also FTC v. Johnson*, 96 F. Supp. 3d 1110, 1146 (D. Nev. 2015) (finding misrepresentation material because it made consumers "belie[ve] that they were making a one-time payment of a small shipping and handling or download fee for an otherwise free product"); *FTC v. Commerce Planet, Inc.*, 878 F. Supp. 2d 1048, 1068 (C.D. Cal. 2012) (similar). Each of these situations is a far cry from the facts here—where the product at issue actually is free, and anyone mistaken about their eligibility would be informed before paying.

And even if Complaint Counsel were entitled to a "presumption," presumptions are definitionally rebuttable. *See, e.g., Sapper v. Lenco Blade, Inc.*, 704 F.2d 1069, 1072 (9th Cir. 1983). As noted, most users who *began* using Free Edition also *finished* in Free Edition, *see* Intuit SOF ¶62—leading to the inference (which must be made at this summary stage) that any supposed misrepresentation about eligibility qualifications did *not* affect consumer conduct. The Kirk Fair survey also indicates that consumers choose to upgrade to paid TurboTax products at similar rates irrespective of how much information they are provided about free alternatives—suggesting that upgrade choices are driven by something other than deception. *See* Kirk Fair Decl. ¶13; Hauser Decl. ¶92. And TurboTax has high customer-satisfaction scores and above-average customer retention, *see* Intuit SOF ¶¶67-78 the exact opposite of what one would expect

if consumers had been misled about their eligibility for Free Edition. At the very least, this evidence raises “genuine issue[s]” for trial. 16 C.F.R. §3.24(a)(2).

B. Prospective Relief Is Not Warranted

The Commission is authorized to order only that a respondent “cease and desist from ... [an] act or practice” found to be “prohibited by” Section 5 of the Act. 15 U.S.C. §45(b). Such orders “are not intended to impose criminal punishment or exact compensatory damages for past acts, but to prevent illegal practices in the future.” *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952). Thus, to issue a cease-and-desist order, Complaint Counsel has “the burden” to establish that ““there exists some *cognizable danger* of recurrent violation, something more than the mere possibility”” of a future violation. *TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981) (emphasis added); *see also, e.g., Borg-Warner Corp. v. FTC*, 746 F.2d 108, 110-11 (2d Cir. 1984); *Benco Dental Supply Co.*, 2019 WL 5419393, at *75 (F.T.C. Oct. 15, 2019).

Complaint Counsel do not make the requisite showing, and it is not close. Complaint Counsel’s motion focuses almost entirely on advertisements that aired years ago—including ads from 2015 and 2016. *See* Mot. 1-2, 8-9. There is no recognition that Intuit has substantially altered, and improved, its advertisements over the years, *see* Intuit SOF ¶¶29, 47, and recently did so again (and will continue to do so) to comply with a comprehensive settlement agreement between Intuit and all 50 states and the District of Columbia entered on May 4 of this year. Intuit highlighted for Complaint Counsel the changes it has already made to its marketing as a result of the settlement, *see* Gringer Decl. ¶18, Intuit SOF ¶¶48-55, and the settlement dictates further changes that will be implemented in the coming months, *see* Intuit SOF ¶¶128-129. Ordinarily, a company’s ongoing advertising practices are the centerpiece of arguments necessitating injunctive relief. Here, Complaint Counsel fail to even mention Intuit’s current marketing practices.

The historical advertisements and practices that Complaint Counsel argue were deceptive and seek to enjoin are already prohibited by a binding and enforceable agreement with the chief law enforcement officers of every state. *See* Intuit SOF ¶¶125-129. In effect, the settlement—approved and enforceable by a California court—has already provided the injunctive relief Complaint Counsel claim is necessary. It provides powerful “assurances of future compliance” with the FTC Act and eliminates any “cognizable danger” of future violations. *TRW*, 647 F.2d at 954.

For the present cease-and-desist proceeding to make any sense, it should be focused only on whatever specific deceptive conduct Complaint Counsel contend is still happening despite the comprehensive agreement already in place. The parties could then marshal evidence showing whether or not those specific practices are deceptive. For example, survey evidence, directed at that specific practice, ad, or disclosure, could be obtained, and the Commission could decide whether a cease-and-desist order is necessary to stop it. Instead, the entirety of this injunctive case is about historical practices that Intuit has already agreed will not be repeated.

Complaint Counsel’s failure to identify a current deceptive practice that allegedly needs to be fixed is not only inexplicable, but also flies in the face of the requirement that any “remedy selected by the Commission must have a ‘reasonable relation to the unlawful practices *found to exist.*’” *Standard Oil Co. of Cal. v. FTC*, 577 F.2d 653, 662 (9th Cir. 1978) (emphasis added). The existing settlement already addresses the specific conduct identified by the complaint and all reasonably related conduct. That conduct no longer exists. Thus, any relief related to Intuit’s advertising not already addressed by the settlement is too far afield from the complaint to be “reasonably related” to the deceptive advertising alleged to have occurred. *See id.* at 662-663 (instructing FTC to modify “exceptionally broad” orders that went “far beyond elimination of the

specific misrepresentations which were made and also beyond what in fairness could be deemed necessary to deter future unlawful conduct”).

Complaint Counsel’s inability to identify a current deceptive practice involving TurboTax has not deterred them from going even further, arguing that Intuit should be subjected to a sweeping cease-and-desist order covering “free” claims related to any product—i.e., not just TurboTax—premised on the FTC’s “fencing in” authority. Mot. 35. But Complaint Counsel make no allegations (and offer no evidence) concerning any other products. And their hypothesis that Intuit *might* make “free” claims for other “products or services it offers,” *id.*, is exactly the sort of “conjectural speculation” about “recurrent violation that ... [is] not sufficient to justify equitable relief against a terminated violation,” *Borg-Warner*, 746 F.2d at 111.

Complaint Counsel’s requested relief is also unworkably vague. They demand that Intuit be enjoined from representing that its product is “free” unless the product is “Free to all consumers” or “[a]ll the terms, conditions and obligations ... are set forth Clearly and Conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood.” Proposed Order 5. Such a provision would leave Intuit with virtually no guidance as to what “terms, conditions and obligations” must be disclosed, or how. *Id.* This lack of specificity is fatal. *See FTC v. Neovi, Inc.*, 598 F. Supp. 2d 1104, 1118 (S.D. Cal. 2008) (rejecting injunction “since it is unspecific and overly vague”), *aff’d*, 2010 WL 2365956 (9th Cir. June 15, 2010).

Finally, it appears that what Complaint Counsel wants is for Intuit to effectively cease any advertising of Free Edition—a product that benefits millions of taxpayers each year. If that is the aim, they should just say so, and it should be rejected as unreasonable, especially given the requirements already imposed by the settlement. Free Edition is a legitimately free product for those who qualify, and roughly 14 million consumers use Free Edition to file their taxes for free

every year. *See* Intuit SOF ¶¶6-10. With the changes that have been made (and will be made) pursuant to the settlement with the 50 state and District of Columbia attorneys general, no consumer could even plausibly be confused as to the qualifications surrounding the free offer. It is not in the “interest of the public,” 15 U.S.C. §45(b), to obstruct Intuit’s ability to advertise its genuinely free product or consumers’ ability to reap the benefits from free tax filing.

C. Summary Decision Is Unavailable Because Intuit Has Asserted Meritorious Affirmative Defenses That Complaint Counsel Have Not Addressed

Summary decision is further inappropriate because Intuit has asserted meritorious—or at least disputed—affirmative defenses which, even if the Commission believed that Intuit had violated the FTC Act, would excuse the conduct. *See Dixon v. United States*, 548 U.S. 1, 8 (2006). Complaint Counsel has not moved to strike these defenses; rather, as in *HomeAdvisor*, Complaint Counsel improperly ask the Commission to sidestep Intuit’s yet unaddressed affirmative defenses. Granting summary decision before Intuit has had an opportunity to develop and litigate its affirmative defenses would deny the right to “a law which hears before it condemns, which proceeds not arbitrarily or capriciously, but upon inquiry.” *Metro. Wash. Chapter, Associated Builders & Contractors, Inc. v. District of Columbia*, 2021 WL 6196989, at *7 (D.D.C. Dec. 30, 2021).

Taking just one of those defenses, the Due Process Clause prohibits an agency from “adjudg[ing] the facts as well as the law of a particular case in advance of hearing it.” *Fast Food Workers Comm. v. NLRB*, 31 F.4th 807, 815 (D.C. Cir. 2022), *see* Answer 25 (Sixth Defense). To determine whether due process is violated, courts ask “whether a disinterested observer may conclude that the agency has in some measure” prejudged the case. *Fast Food Workers*, 31 F.4th at 815; *accord Antoniu v. SEC*, 877 F.2d 721, 726 (8th Cir. 1989); *Cinderella Career and Finishing Schs., Inc. v. FTC*, 425 F.2d 583, 589-591 (D.C. Cir. 1970). Here, some Commissioners’ comments and actions could lead a disinterested observer to conclude that the

Commission prejudged the case. For example, while the Part 3 “wall” was up and the Commission was required to play the role of neutral adjudicator, Chair Khan tweeted about Intuit’s “deceptive TurboTax ‘free’ filing campaign” and the need for an “immediate halt to Intuit’s deceptive ads.” RX 102. Chair Khan similarly emphasized during an interview (again, while the Part 3 wall was up) the importance of “act[ing] in a more timely manner” to “stop[] [Intuit’s] law-breaking,” referred to Intuit’s ads as an example of “law-breaking,” and stressed the need to “get ... relief [against Intuit] ahead of Tax Day.” RX 103 at 6. These statements create the appearance that the Commission prejudged the facts of the case.

That appearance of prejudgment would be deepened if the Commission were to grant summary decision now on the same record they relied on to issue the complaint, as it would indicate that the outcome of this case “move[s] in predestined grooves.” *Cinderella*, 425 F.2d at 590; *see also Trans Union Corp.*, 81 F.3d at 230 (describing Commission’s findings as “especially vulnerable ... because the Commission reached its decision under ‘summary decision’ procedures”). At a minimum, whether the Commission prejudged this case raises a critical factual dispute that cannot be resolved at summary decision, especially before Intuit can obtain discovery. *See Stivers v. Pierce*, 71 F.3d 732, 746 (9th Cir. 1995) (reversing grant of summary judgment because evidence of bias created “issue of fact” as to tribunal’s impartiality).

Intuit’s other constitutional affirmative defenses likewise preclude summary decision.

First, summary decision is unavailable because the FTC’s procedures (or lack thereof) violate due process. Complaint Counsel have had years to develop a factual record in support of their motion, including through discovery from Intuit and third parties and investigational hearings. Intuit SOF ¶¶118-123. By contrast, Intuit has not had any opportunity to obtain discovery or depose the declarants on which Complaint Counsel rely. *Id.* ¶124. To the extent the Commission believes that a cease-and-desist order could conceivably be justified, it should deny

the motion, allow discovery to proceed, and “await development [of] a more definitive presentation of the context in which [these] issues arise.” *Impax Labs.*, 2017 WL 5171124, at *10 (F.T.C. Oct. 27, 2017); *see also InteliClear, LLC v. ETC Glob. Holdings, Inc.*, 978 F.3d 653, 663-664 (9th Cir. 2020) (district court’s grant of summary judgment was “premature and did not fairly permit development of the issues for resolution” where “no discovery ha[d] been conducted”). Indeed, that is the Commission’s usual practice. *See, e.g., Health Rsch. Lab’ys*, 2021 WL 5711355, at *6.

More broadly, the FTC’s structure and procedures are constitutionally infirm. Due process requires “a fair opportunity to rebut the Government’s factual assertions before a neutral decisionmaker.” *Hamdi*, 542 U.S. at 533; *see also* U.S. Const. amend. V. “[A]n unconstitutional potential for bias” inevitably exists “when the same person serves as both accuser and adjudicator in a case.” *Williams*, 579 U.S. at 8. The FTC Act violates these longstanding principles by authorizing an administrative hearing in which the FTC simultaneously acts as prosecutor, judge, jury, and appellate court. Given that structure, it is unsurprising that once Commissioners vote out a complaint, acting as a plaintiff, they then vindicate that position with their ultimate decision, acting as a judge, in *every* single case. *See* RX 101 at 6. Such a process is incompatible with basic tenets of due process. *See Hamdi*, 542 U.S. at 533.

Second, the FTC’s plenary authority to assign cases to administrative courts constitutes an unconstitutional delegation of legislative power. Giving an agency the option of pursuing claims either in court or administratively is a “delegation of legislative power.” *Jarkesy v. SEC*, 34 F. 4th 446, 462 (5th Cir. 2022). Indeed, by empowering the FTC to proceed either before a federal court or an administrative tribunal, Congress “effectively gave the [FTC] the power to decide which defendants should receive *certain legal processes*.” *Id.* That is particularly true since the FTC lost in federal court and contravened its own historical practices in returning this

matter to adjudication. It cannot be that the FTC gets to keep trying to bring the same failed theories until it finds a favorable forum. Moreover, Congress has not provided the FTC with an intelligible principle by which to exercise its legislative authority. “Congress has said nothing at all” regarding how the FTC should exercise its “exclusive authority and absolute discretion to decide whether to bring ... enforcement actions within the agency instead of in an Article III court.” *Id.* That grant of broad legislative authority violates the non-delegation doctrine.

Third, the FTC’s structure contravenes separation-of-powers principles. Commissioners are shielded from at-will Presidential removal. *See* 15 U.S.C. §41. Although the Supreme Court upheld that removal structure in *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), the Supreme Court in *Seila Law* signaled a retreat from *Humphrey’s Executor*, and two Justices reasoned that *Humphrey’s Executor* “poses a direct threat to our constitutional structure” and urged its overruling, *Seila Law LLC v. CFPB*, 140 S. Ct. 2183, 2211-2212 (2020) (Thomas, J., dissenting).⁷

D. Summary Decision Would Violate The APA

Finally, Complaint Counsel’s motion must be denied because a grant of summary decision to Complaint Counsel here would violate the Administrative Procedure Act. The APA provides that a “sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party” and that “[a] party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.” 5 U.S.C.

⁷ Whatever questions linger about the constitutionality of the FTC’s structure as a whole, there is little doubt that the agency’s structure unconstitutionally insulates ALJs from removal. Indeed, the Fifth Circuit recently held that SEC ALJs—who are afforded the same removal protections as FTC ALJs—were unconstitutionally insulated from executive oversight. *Jarkesy*, 34 F.4th at 464. Intuit preserves its argument that the FTC’s administrative proceeding is unconstitutional for that reason.

§556(d). Section 556(d) identifies three exceptions for when an agency may prohibit oral evidence and instead require only written evidence: “[1] rule making or [2] determining claims for money or benefits or [3] applications for initial licenses ..., when a party will not be prejudiced.” The imposition of a cease-and-desist order is not one of the enumerated exceptions, meaning that an oral, rather than written, hearing is required. Thus, Intuit has an absolute right to present oral testimony at a hearing, to cross-examine witnesses—here, cross-examination of Ms. Shiller and Mr. Novemsky is potentially critical—and to obtain a decision based on the “whole record.” Platt, *Is Administrative Summary Judgment Unlawful?*, 44 Harv. J.L. & Pub. Pol’y 239, 259-260 (2021). The summary decision process contravenes those statutory rights.

IV. CONCLUSION

The Commission should deny Complaint Counsel’s motion for summary decision.

Dated: August 30, 2022

Respectfully submitted,

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**RESPONDENT INTUIT INC.'S STATEMENT OF MATERIAL FACTS AS TO WHICH
THERE EXISTS A GENUINE ISSUE FOR TRIAL**

Pursuant to Rule 3.24 of the Commission's Rules of Practice, Respondent Intuit Inc. submits, in support of its opposition to Complaint Counsel's motion for Summary Decision, responses to Complaint Counsel's statement of material facts ("SOF") (Part I), and its own separate and concise statement of material facts that present genuine issues for trial (Part II).

**PART I: RESPONDENT'S RESPONSE TO COMPLAINT COUNSEL'S
STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS
NO GENUINE ISSUE FOR TRIAL**

Pursuant to Rule 3.24, Intuit responds to each of Complaint Counsel's assertions of undisputed material facts, and in doing so, establishes that there are numerous material factual issues as to which there is a genuine issue for trial.

General Responses And Objections

1. Intuit's objections herein shall not waive or prejudice any further objections it may later assert. The failure to make a particular objection in a given response should not be construed

as a waiver of that objection. Intuit reserves the right to supplement, amend, or qualify these objections.

2. Intuit reserves the right to introduce evidence and testimony at the hearing to controvert each fact set forth in Complaint Counsel's SOF even if Intuit does not contest that fact for the purposes of Intuit's present opposition to Complaint Counsel's Motion for Summary Decision.

3. Intuit objects to Complaint Counsel's purported statements of fact that rely on the declaration of Diana F. Shiller (the "Shiller Declaration"). Intuit has not had an opportunity to depose Ms. Shiller to test the statements in her declaration, including the accuracy, completeness, or reliability of the screenshots, images, and videos she captured. *See* 16 C.F.R. § 3.24(a)(3); *see also, e.g., Popoalii v. Corr. Med. Servs.*, 512 F.3d 488, 498-99 (8th Cir. 2008) (affirming district court's grant of motion to strike expert report in the context of summary judgment where "defendants had no opportunity to depose" the witness "before close of discovery"); *Cruz v. Bristol Myers Squibb Co. PR, Inc.*, 777 F. Supp. 2d 321, 327 (D.P.R. 2011) (plaintiff's conduct, which prevented defendants from having the opportunity to depose plaintiff's proposed witness, created "obvious" prejudice to defendant, thereby requiring that witness' expert report be struck from summary judgment record); *Malibu Media LLC v. Doe*, 2016 WL 464045, at *12 (N.D. Ill. Feb. 8, 2016) (portions of witness declaration struck where opposing party "had no opportunity to depose [the witness] on the basis for his statements"); *Mueller v. CBS, Inc.*, 200 F.R.D. 242, 245-246 (W.D. Pa. 2001) (holding that summary judgment was "premature" because "Defendant has

not yet deposed the ... experts on whose analyses Plaintiffs rely almost exclusively in their arguments for summary judgment”).¹

4. Intuit objects to Complaint Counsel’s SOFs that rely on screenshots of webpages on the TurboTax website provided in the Shiller Declaration. The screenshots in the Shiller Declaration purport to be pages on Intuit’s website dating back to 2021, or, in some instances digital archives from a third-party website, the Wayback Machine, dating back three years. However, the TurboTax website is not static, and certain pages of the website may appear differently to individual consumers.² Accordingly, Ms. Shiller has not established, and would be unable to establish, whether consumers visiting the TurboTax websites would have seen the screens captured in the screenshots or the proportion of consumers who would have seen those screens.³ *See, e.g., My Health, Inc. v. Gen. Elec. Co.*, 2015 WL 9474293, at *4 (W.D. Wis. Dec. 28, 2015) (“[The defendant’s] website is not the equivalent of single document unequivocally identified and cited in a complaint. A website, particularly a complex one like [the defendant’s], is a dynamic collection of documents and data that changes over time.”); *see also, e.g., Specht v. Google Inc.*, 747 F.3d 929, 933 (7th Cir. 2014) (use of “screenshots of certain [at-issue] websites as they supposedly appeared” in the past “required authentication by someone with personal knowledge of reliability of the archive service from which the screenshots were retrieved”); *United States v. Bansal*, 663 F.3d 634, 667-668 (3d Cir. 2011) (authentication of website screenshot

¹ *See also Inteliclear, LLC v. ETC Glob. Holdings, Inc.*, 978 F.3d 653, 663-664 (9th Cir. 2020) (holding that district court’s grant of summary judgment “was precipitous, premature and did not fairly permit development of the issues for resolution” where “no discovery ha[d] been conducted” and “nonmoving party ha[d] not had the opportunity to discover information that [was] essential to its opposition”).

² *See* Declaration of Cathleen Ryan in Support of Intuit’s Opposition to Complaint Counsel’s Motion for Summary Decision (“Ryan Decl.”) ¶ 31.

³ *Id.*

required “call[ing] a witness to testify about how the Wayback Machine website works and how reliable its contents are,” as well to “compare[] the screenshots with previously authenticated and admitted images from [the at-issue] website and concluded, based upon her personal knowledge, that the screenshots were authentic”); *Disney Enters., Inc. v. Sarelli*, 322 F. Supp. 3d 413, 443 (S.D.N.Y. 2018) (“The screenshots and videos [taken from the Internet Archive], however, have not been properly authenticated and are submitted to this Court through an attorney declaration, which claims in boilerplate fashion that it is ‘based upon the attorney’s personal knowledge of matters detailed therein.’ Such evidence is not admissible and cannot be considered in deciding the instant motions for summary judgment.” (alterations omitted)). As such, any representations that a screenshot shows what other consumers would have seen are unsupported, lack foundation, and should be disregarded as unreliable. *See* 16 C.F.R. § 3.24(a)(3); 16 C.F.R. § 3.43(b).

5. Intuit objects to Complaint Counsel’s SOFs that rely on screenshots of third-party webpages provided in the Shiller Declaration and representations concerning whether certain ads were displayed on social media platforms and other websites. Social media and other websites are not static, and Intuit’s ads may appear differently to individual consumers depending on the circumstances.⁴ Accordingly, Ms. Shiller has not established, and would be unable to establish, whether consumers visiting a website would have seen the screenshots reflected in her declaration or the proportion of consumers who would have seen those screenshots.⁵ *See, e.g., In re MyFord Touch Consumer Litig.*, 2016 WL 7734558, at *21-22 (N.D. Cal. Sept. 14, 2016) (finding any presumption of consumer reliance on allegedly misleading advertisements to be inappropriate, especially where there was a dearth of evidence “as to the proportion of the class that likely saw

⁴ *Id.* ¶¶ 21-22.

⁵ *Id.*

or were exposed to the [defendant's] website, thus failing to establish that the campaign was 'pervasive'" and where there was "no evidence about the size, reach, or scope" of the defendant's print advertising campaign); *Ehret v. Uber Techs., Inc.*, 148 F. Supp. 3d 884, 900-901 (N.D. Cal. 2015) (finding insufficient evidence of exposure to an alleged misrepresentation on defendant's website, noting that "[j]ust because the information was available on the website does not necessarily imply that visitors would likely have seen it, especially when there was a good deal of other information on the website"); *see also, e.g., La Force v. GoSmith, Inc.*, 2017 WL 9938681, at *3 (N.D. Cal. Dec. 12, 2017) (explaining that the use of website screenshots requires a qualified person to "describ[e] the process by which the webpage was retrieved"; and holding that even where counsel's declaration included the date, device, and browser used to obtain the webpage, the screenshots were not adequately authenticated because the declaration did not state that counsel had retrieved the images). Moreover, the Shiller Declaration has not established Ms. Shiller's familiarity with "Facebook's Ad Library" or whether she qualified to present reliable evidence obtained from that library and other similar resources. As such, any representations that a screenshot shows what other consumers would have seen are unsupported, lacks foundation, and should be disregarded as unreliable. *See* 16 C.F.R. § 3.24(a)(3); 16 C.F.R. § 3.43(b).

6. Intuit objects to Complaint Counsel's SOFs that rely on screenshots of third-party search engines Google and Bing provided in the Shiller Declaration. The screenshots in the Shiller Declaration purport to be the results from specific searches she conducted on particular days. However, online search results are not static and consumers may receive different search results depending on the circumstances surrounding the search.⁶ Accordingly, Ms. Shiller has not established, and is unable to establish, what portion of consumers visiting the search engine

⁶ *See* RX 86; RX 87.

webpages would have seen the screen captured in the screenshots.⁷ *See, e.g., Hearts on Fire Co., LLC v. Blue Nile, Inc.*, 603 F. Supp. 2d 274, 278 (D. Mass. 2009) (describing the process for the display of search engine results, and explaining how a search engine “generates a list of web addresses, called a ‘search results list,’ that may be relevant to the computer user’s interests based on the searched-for word or phrase, and explaining that “[s]earch engines use complex algorithms to search their databases and determine which web addresses will appear in the search results list”); *see also, e.g., Ehret*, 148 F. Supp. 3d at 900-901. As such, any representations that a screenshot shows what other consumers would have seen are unsupported, lacks foundation, and should be disregarded as unreliable. *See* 16 C.F.R. § 3.24(a)(3); 16 C.F.R. § 3.43(b).

7. Intuit objects to Complaint Counsel’s SOFs that rely on downloaded images, content, or third-party videos from third-party websites such as YouTube, iSpot.TV and AdAge.com provided in the Shiller Declaration. Ms. Shiller has not established, and is unable to establish, that the images or videos obtained from third-party websites are accurate reproductions of the ads that aired on television or in other media. *See United States v. Condry*, 2021 WL 5756385, at *2 (N.D. Okla. Dec. 3, 2021) (a party seeking to introduce a video into evidence must “adequately lay[] a foundation of its authenticity, accuracy, and trustworthiness”). And Ms. Shiller relies on secondhand information from YouTube about how many views the “Dance Workout” commercial received on the TurboTax YouTube Channel without any representation that she verified the accuracy of that information (or that she has would be able to do so). Ms. Shiller also relies on secondhand information from an unidentified paralegal without providing any explanation about how Ms. Shiller verified the information provided, or if she made any attempt to do so at all. *See, e.g., GX 342 ¶ 117* (“On January 11, 2021, an FTC paralegal went to

⁷ *See id.*

tiktok.com and searched for ‘TurboTax’ and saw an approximately 26-second video with the caption, ‘What it feels like to file for [sic] taxes for free, aka the TurboTax #FreeFreeDance.’); *id.* ¶¶ 169-70 (“On April 8, 2022, a paralegal with the FTC emailed me TurboTax ads she saw on reddit.com. Below are two partial ads that an FTC paralegal saw on April 7, 2022. Below is a partial TurboTax ad that an FTC paralegal saw on April 8, 2022.”). As such, any representations that an image or video shows what consumers would have seen are unsupported, lack foundation, and should be disregarded as unreliable. *See* 16 C.F.R. § 3.24(a)(3); 16 C.F.R. § 3.43(b).

8. Intuit objects to Complaint Counsel’s SOFs purporting to provide a transcription of Intuit’s ads relying on the Shiller Declaration. Ms. Shiller provides no explanation of how she drafted those transcripts or the editorial decisions she made. Moreover, Ms. Shiller is unable to attest to the proper form of those transcriptions, including punctuation and formatting, that impact how an ad is understood. *See, e.g., United States v. Murray*, 988 F.2d 518, 526 (5th Cir. 1993) (emphasizing that a court should be “especially careful” when permitting transcripts of recordings to be entered into evidence); *United States v. Howard*, 80 F.3d 1194, 1198 (7th Cir. 1996) (warning against the “danger ... that the jury ultimately will ignore the real evidence of who said what -- the tape itself -- and rely solely on the transcript”). The authoritative transcription of any ad would be captured in the script used to create the ad. By failing to reference or even acknowledge those scripts, Ms. Shiller and Complaint Counsel have failed to offer reliable evidence of the ads’ transcription. The transcripts also exclude context from the ads, including visual information, that impacts how the ad is understood.

9. Intuit objects to Complaint Counsel’s SOFs that purport to provide data about how many times Intuit’s ads ran over a specific period of time and the markets in which they ran. Ms. Shiller purports to represent how many times an ad appeared on television networks between

specific time frames. For support, she references data from an “ad monitoring service,” which is neither identified nor described. She also provides no explanation of how the ad monitoring service obtained the data, what the ad monitoring service did to ensure the data’s accuracy, or what she did to ensure the data’s accuracy upon receiving it from the ad monitoring service. In short, she provides no indication whatsoever of the data’s reliability. Moreover, she provides no explanation for what the data actually means. For instance, she repeatedly represents that the ad appeared in certain state and national television networks as shown on charts she created using the “ad monitoring service data.” But she does not explain how she determined or categorized the “National/Local” markets identified in those charts, nor does she explain the different versions of the ads that are reflected in those charts. It is unclear, for instance, how the “Everything is Free/Legalese: Crossword” ad differs from the “Free Your Taxes 2: Crossword” ad, and whether those differences have a material impact on Complaint Counsel’s arguments. GX 342 ¶ 45. And other headers provided in the chart provide even less clarity about what ad is being discussed, for example, “No Title Assigned - #20562875.” GX 342 ¶ 61. *See, e.g., United States v. Lemire*, 720 F.2d 1327, 1346-1349 (D.C. Cir. 1983) (recognizing the “obvious dangers posed by summarization of evidence” and emphasizing that the defendant’s challenge to the personal knowledge of the summary witness was not an issue because the witness “had carefully reviewed the charts and ensured that they reflected information contained in documents *already in evidence*” (emphasis added)). As such, any representations about how many times an ad aired and the markets in which it aired are unsupported, lack foundation, and should be disregarded as unreliable. *See* 16 C.F.R. § 3.24(a)(3); 16 C.F.R. § 3.43(b).

10. For the reasons articulated both above and below, there are genuine issues of material fact that remain to be decided at the hearing.

Specific Responses and Objections⁸

Intuit incorporates its General Objections into each Response and makes the following specific objections:

Intuit does not dispute Complaint Counsel's SOF ¶¶ 1, 2, 3, 6, 9, 10, 13, 14, 16, 18, 19, 20, 21, 22, 23, 24, 30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 48, 50, 52, 55, 57, 59, 62, 64, 68, 71, and 77. The remainder of the SOF are disputed.

4. [REDACTED]
that involves, in part, growing Intuit's customer base by offering free services to consumers
 (Answer ¶¶ 9–10.) [REDACTED]

Response to SOF ¶ 4: Disputed and immaterial. Intuit does not [REDACTED]

[REDACTED] that involves [REDACTED]

Nor does Intuit [REDACTED]

⁸ The numbered paragraphs in this section repeat Complaint Counsel's SOF followed by Intuit's response to each paragraph that Intuit disputes. The headings from Complaint Counsel's SOF have been omitted because those do not constitute proposed statements of undisputed facts and accordingly do not require any response.

⁹ GX 155 at 41:1-13; GX 150 at 250:19-252:5.

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The evidence offered by Complaint Counsel at GX 291 does not support the stated fact. To the contrary, GX 291 actually says —it does not assert or even imply .¹² Complaint Counsel actually makes the same point in the very next statement of fact.

Finally, Intuit’s practices regarding add-on products are not relevant to the FTC’s claim because the Complaint does not allege that Intuit deceived consumers by selling add-on products and services that are not online tax-preparation services. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

5. *further involves “brand loyalty,” or retention of consumers who previously filed their taxes for free in a free version of TurboTax returning to TurboTax in subsequent years when they are no longer eligible for the free version, and paying Intuit for a paid version of TurboTax. (See {*

¹⁰ GX 152 at 124:17-23.

¹¹ GX 152 at 128:25-129:3.

¹² GX 291.

[REDACTED] *GX 342 (Shiller Dec.) (hereafter, “Shiller Dec.”) ¶ 188 (“We hope that, over time, as our customers with simple returns need more capabilities as their financial situations change (for example owning a home, having a child, managing investments), they have loved our products and services so much that they will choose our paid TurboTax offerings to prepare and file their returns.”)*

Response to SOF ¶ 5: Disputed in part. Intuit disputes Paragraph 5 to the extent that it implies that Intuit’s strategy to build “brand loyalty” and retain consumers amounts to deceptive conduct. Intuit offers a free product, and if customers who use Free Edition later develop more complex financial situations and need filing software with additional capabilities, Intuit *hopes* that they will remember the good experiences they had with TurboTax and choose to use TurboTax’s paid offerings instead of competing offerings.¹³

Since customer retention is a critical component of Intuit’s business model, the company has an incentive to accurately inform its customers about Free Edition’s eligibility requirements and get customers started in the product that best suits their needs.¹⁴ Indeed, Intuit has long maintained a strategy of retaining its current customers. [REDACTED]

[REDACTED].¹⁵ [REDACTED]

[REDACTED]

[REDACTED]¹⁶

¹³ GX 156 at 89:21-24 and 118:13-19; *see also* GX 152 at 125:5-14.

¹⁴ GX 152 at 128:25-129:3; RX 40 at INTUIT-FFA-FTC-000422217.

¹⁵ *See* GX 152 at 124:17-23, 128:25-129:3; RX 40 at INTUIT-FFA-FTC-000422217; *see also*, e.g., RX 41 at 3 [REDACTED]).

¹⁶ RX 42 at INTUIT-FFA-FTC-000043570; *see also* RX 43 at INTUIT-FFA-FTC-000118753, GX 152 at 128:25-129:3.

Intuit's efforts to ensure that consumers start in the appropriate product have been successful. Most consumers—[REDACTED]—who start their taxes in Free Edition ultimately file their taxes for free with Free Edition.¹⁷

Intuit further disputes Paragraph 5 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁸

7. TurboTax Free Edition is available only to consumers with “simple” tax returns, as defined by Intuit. (Answer ¶¶ 14–18.) Other consumers must upgrade to paid versions of TurboTax to file their taxes with TurboTax. (See, e.g., GX 261 (showing TY 2020 screenshot for consumers reporting self-employment income and listing “Deluxe” for \$49 and “Self-Employed” for \$99); GX 275 (telling consumers wishing to claim the educator expenses deduction in TY 2021 they can “claim this credit by upgrading to TurboTax Deluxe” for \$39).)

Response to SOF ¶ 7: Disputed in part. Intuit disputes that Free Edition is available only to consumers with “simple” tax returns, *as defined by Intuit*. For one thing, Intuit uses the federal government's own definition of “simple returns.”¹⁹ In addition, eligibility for Free Edition has extended beyond this definition in certain years.²⁰ And active-duty members of the military can file for free using any TurboTax product.²¹

Intuit also disputes that consumers who do not qualify for Free Edition *must* upgrade to “paid versions” of TurboTax to file their taxes with TurboTax. [REDACTED]

¹⁷ See RX 65; GX 295 at INTUIT-FFA-FTC-000003255863 [REDACTED];

RX 37 at INTUIT-FFA-FTC-000316307 ([REDACTED]);

Golder Decl. ¶ 123.

¹⁸ See General Objections ¶ 3.

¹⁹ Ryan Decl. ¶ 11; GX 155 at 50:14-16; RX 77; RX 78 at 14.

²⁰ RX 21.

²¹ RX 2.

.22

23 And of course, taxpayers are free to choose any number of options to prepare their taxes—no one is “required” to use TurboTax and Intuit does not represent otherwise.

To help consumers get into the product right for their tax situation, Intuit’s “Products & Pricing” page includes a simple tool (the “SKU selector”) that enables customers to receive a recommendation for the product that is most likely to meet their needs.²⁴ As the potential customer clicks on tiles, the software updates its recommendations, which appear in the bottom panel of the Products and Pricing Page.²⁵ For example, if a taxpayer indicates that they rent their home, have a job with W-2 income, and have children or dependents, the tool recommends Free Edition, while disclosing clearly and conspicuously that TurboTax Free Edition is “For simple tax returns only.”²⁶

²² See, e.g., RX 42 at INTUIT-FFA-FTC-000043570 ([REDACTED] ; RX 37 at INTUIT-FFA-FTC-000316307 ([REDACTED] ; RX 47 at INTUIT-FFA-FTC-000419509 ([REDACTED] ; RX 51 at 13 ([REDACTED]); RX 48 at slide 100 ([REDACTED]).

²³ GX 152 at 66:23-67:8; see also RX 42 at INTUIT-FFA-FTC-000043570 ([REDACTED] ; RX 37 INTUIT-FFA-FTC-000316307 ([REDACTED] ; RX 47 at INTUIT-FFA-FTC-000419509 ([REDACTED]); RX 51 at 13 ([REDACTED] ; RX 48 at 100 [REDACTED]).

²⁴ RX 9.

²⁵ RX 10; RX 11; RX12; Golder Decl. ¶¶ 118-119.

²⁶ RX 10; Golder Decl. ¶¶ 118-119 & Fig. 13.

If a taxpayer selects that they “own a home” or “donated over \$300 to charity,” the tool suggests TurboTax Deluxe.²⁷ And if a taxpayer selects that they “sold stock, crypto, or own rental property,” the tool recommends TurboTax Premier.²⁸ If a consumer upgrades to a paid product after starting in Free Edition, it is likely that the consumer either (1) did not use the SKU selector on the TurboTax.com Products & Pricing page, (2) did not select accurate information concerning their tax situation on the SKU selector (either purposefully or because they were unaware of their tax situation), or (3) ignored the recommendation generated by their selections.²⁹ Some third-party reviewers like the New York Times’ Wirecutter expressly recommend that consumers start their tax returns using Free Edition, regardless of their tax situation—meaning that some consumers begin to complete their taxes using Free Edition even if they understand that they likely do not qualify.³⁰

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]³¹ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]³² [REDACTED]

²⁷ RX 11.

²⁸ RX 12; Golder Decl. ¶ 119.

²⁹ Ryan Decl. ¶ 49; Golder Decl. ¶ 117.

³⁰ RX 80.

³¹ GX 155 at 213:7-15.

³² *See, e.g.*, GX 152 at 129:4-13.

[REDACTED]

[REDACTED]

[REDACTED]³³ [REDACTED]

[REDACTED]³⁴

In addition, Intuit regularly runs promotions that allow consumers who do not have “simple tax returns” to use Intuit’s tax-preparation software for free or at a reduced price.³⁵ For example, customers can use coupons or discount codes to use TurboTax products free of charge.³⁶

Finally, Intuit disputes Paragraph 7 because it relies on screenshots from Intuit’s website (GX 261 and GX 275) that are not identified in any declaration supporting Complaint Counsel’s motion or otherwise authenticated. As such, those exhibits cannot be relied upon.³⁷

8. Intuit’s definition of “simple tax return” has changed over time. (See Compl. ¶¶ 15–17; Answer ¶¶ 15–17; Shiller Dec. ¶¶ 127, 197.)

Response to SOF ¶ 8: Disputed in part and immaterial. Intuit disputes Paragraph 8 because Intuit defines, and has always defined, “simple tax return” as the ability to file on the simplest individual tax form the IRS has available.³⁸ Before Tax Year 2018, Intuit defined a “simple tax return” as a return that could be filed using a 1040A or 1040EZ tax form.³⁹ In Tax Year 2018, the IRS changed its forms following the enactment of the Tax Cuts and Jobs Act of

³³ RX 65 at 35-37.

³⁴ See, e.g., RX 43 at INTUIT-FFA-FTC-000118753.

³⁵ See, e.g., RX 1 at INTUIT-FFA-FTC-000483177-78.

³⁶ See Ryan Decl. ¶ 13.

³⁷ See General Objections ¶ 4.

³⁸ GX 155 at 50:14-16.

³⁹ RX 23 at INTUIT-FFA-FTC-000023722 (screenshot of homepage with disclosure stating, “Forms 1040EZ/1040A, limited time only. Returns must be filed before offer ends.”).

2017, eliminating IRS Forms 1040A and 1040EZ.⁴⁰ When this change occurred, the simplest tax return filing became a Form 1040 with no attached schedules.⁴¹ Thus, following this change, including in Tax Years 2019, 2020, and 2021, Intuit has defined a simple tax return as a return that could be filed on a Form 1040 with no attached schedules.⁴²

Other changes in Free Edition eligibility are not tied to changes in the definition of “simple returns.” In Tax Year 2020, for instance, Intuit expanded Free Edition’s eligibility beyond those with “simple returns” to benefit consumers who needed to report unemployment income during the unprecedented COVID-19 pandemic. Consumers who filed on a Form 1040 with no attached schedules except to claim unemployment income were eligible for Free Edition.⁴³ In Tax Year 2021, as the impacts from the COVID-19 pandemic subsided, Intuit again used the Free Edition eligibility criteria used in Tax Year 2019.⁴⁴ In all three years, however, a simple return continued to be defined as one filed on Form 1040 with no attached schedules.⁴⁵

Moreover, Intuit’s consistent definition of “simple” is an industry-standard term. The IRS, Government Accountability Office, and California’s Franchise Tax Board have all used the same terminology to describe tax returns that require only a single form without additional schedules.⁴⁶ As the recent GAO report explains, the “IRS classifies a return as simple, intermediate, or complex based on which, if any, schedules are attached,” and “[s]imple returns are without any schedules.”⁴⁷

⁴⁰ GX 155 at 50:19-22.

⁴¹ RX 81; GX 155 at 50:19-22.

⁴² GX 155 at 50:14-22, *id.* at 198:16-20; RX 49 at INTUIT-FFA-FTC-000066958-59.

⁴³ RX 64.

⁴⁴ RX 3.

⁴⁵ GX 155 at 50:14-22, *id.* at 198:16-20.

⁴⁶ RX 77; RX 78 at 14; RX 79.

⁴⁷ RX 78 at 14.

And Intuit's major competitors likewise all tie eligibility for free tax filing to the simplicity of one's returns.⁴⁸

Intuit further disputes Paragraph 8 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁴⁹

In any event, the statement in Paragraph 8 is immaterial because Complaint Counsel's theory is that Intuit's ads misled consumers to believe that TurboTax is free for *everyone*, i.e., for *all* tax returns. Whatever "for simple tax returns only" means to a reasonable consumer (and Complaint Counsel fail to offer any evidence about what a reasonable consumer understands it to mean), it plainly does not mean *all* tax returns and no reasonable consumer could or does believe that *every taxpayer* has a simple return. Whether Intuit consistently defined "simple tax return" is thus not relevant to Complaint Counsel's theory of deception. *See* 16 C.F.R. § 3.43 ("Irrelevant, immaterial, and unreliable evidence shall be excluded.").

11. In 2021, when consumers filed their taxes for TY 2020, Intuit defined a "simple" tax return as one that can be filed on a Form 1040, with no attached schedules, except to claim unemployment income.

Response to SOF ¶ 11: Disputed and immaterial. Intuit disputes Paragraph 11 because its definition of "simple" tax return was unchanged in Tax Year 2020. Instead, Intuit expanded Free Edition eligibility to include taxpayers who claimed unemployment income.⁵⁰ That other tax situations, such as unemployment income, were covered by Free Edition did not alter the definition of simple returns.

⁴⁸ Golder Decl. ¶ 68 & Figs. 4, 7; *see also, e.g.*, RX 82; RX 83.

⁴⁹ *See* General Objections ¶ 3.

⁵⁰ *See supra* Respondent's Response To Complaint Counsel's Statement Of Material Facts As To Which There Is No Genuine Issue For Trial ("Intuit Response to SOF") ¶ 8.

Moreover, whether Intuit consistently defined “simple tax return” is not relevant to Complaint Counsel’s theory that Intuit’s ads misled consumers to believe TurboTax is free for all tax returns.⁵¹

12. In 2022, when consumers filed their tax for TY 2021, Intuit defined a “simple” tax return as one that can be filed on a Form 1040, with certain attached schedules to cover distinct tax situations, including student loan interest. (See Answer ¶ 18; Shiller Dec. ¶ 197 (“A simple tax return is Form 1040 only. Situations covered by TurboTax Free Edition . . . [1.] W-2 income[, 2.] Limited interest and dividend income reported on a 1099-INT or 1099-DIV[, 3.] Claiming the standard deduction[, 4.] Earned Income Tax Credit (EIC)[, 5.] Child tax credits[, 6.] Student Loan Interest deduction[.] Situations not covered by TurboTax Free Edition . . . [1.] Itemized deductions[, 2.] Unemployment income reported on a 1099-G[, 3.] Business or 1099-NEC income[, 4.] Stock sales[, 5.] Rental property income[, 6.] Credits, deductions and income reported on schedules 1-3”).) Reporting unemployment income is not one of those tax situations. (Shiller Dec. ¶ 197.)

Response to SOF ¶ 12: Disputed in part and immaterial. Intuit disputes Paragraph 12 because in Tax Year 2021, Intuit defined simple tax returns as those that could be filed using IRS Form 1040 with no attached schedules.⁵² That other tax situations were covered by Free Edition does not alter the definition of simple returns.

Intuit further disputes Paragraph 12 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁵³ However, it is telling that Ms. Shiller has copied the definition of “simple return” from the TurboTax website, demonstrating that the definition thereof is easy to find for reasonable consumers.

Moreover, whether Intuit consistently defined “simple tax return” is not relevant to Complaint Counsel’s theory that Intuit’s ads misled consumers to believe TurboTax is free for all tax returns.⁵⁴


⁵¹ See *supra* Intuit Response to SOF ¶ 8.

⁵² See *supra* Intuit Response to SOF ¶ 8.

⁵³ See General Objections ¶ 3.

⁵⁴ See *supra* Intuit Response to SOF ¶ 8.

15. *Most consumers cannot file for free with TurboTax. (See Shiller Dec. ¶¶ 215-17 (calculating based on IRS-reported data, that, in TY 2018, 69.54% of returns filed were not “Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached”) & GX 336; Shiller Dec. ¶¶ 215, 218-19 (calculating, based on IRS-reported data, that, in TY 2019, 63.43% of returns filed were not “Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached”) & GX 337;*



Response to SOF ¶ 15: Disputed. Intuit disputes Paragraph 15 because Complaint Counsel incorrectly includes all consumers in the United States in its assertion about “most consumers,” when many consumers would not even consider filing using an online-tax-preparation product and therefore should not be included in that calculation. *See 1983 FTC Policy Statement on Deception*, 103 F.T.C. 110, 174 (1984) (“A representation does not become ‘false and deceptive’ merely because it will be unreasonably misunderstood by an insignificant and unrepresentative segment of the class of persons to whom the representation is addressed.” (quoting *In re Heinz W. Kirchner*, 63 F.T.C. 1282, 1290 (1963))). For example, of the 167.9 million individual tax returns filed in the United States in Tax Year 2020, 83.9 million (approximately 50%) were prepared and electronically filed by a paid tax professional, and 16.8 million (approximately 10%) were self-prepared on paper, whereas only 67.2 million (approximately 40%) were self-prepared using an online tax-preparation software program.⁵⁵ Complaint Counsel’s broad population-wide percentages do not account for the possibility that people with more complex tax situations are more likely to file using a paid tax professional. In fact, a substantial percentage of the 67.2 million online filers do in fact file for free with TurboTax.⁵⁶

⁵⁵ RX 84 at 2. The latter figure includes both people who filed using commercial tax solutions (62.5 million) as well as people who filed using products donated to the Free File Program (4.7 million). *Id.*

⁵⁶ RX 106.

Intuit further disputes Paragraph 15 to the extent it suggests that the only consumers who file for free using TurboTax are those who qualify for TurboTax Free Edition. For example, beginning with Tax Year 2019, any enlisted member of the Armed Forces is eligible to use *any* of Intuit’s online do-it-yourself commercial products completely for free.⁵⁷ In addition, Intuit regularly runs promotions that allow consumers who do not have “simple tax returns” to use Intuit’s tax-preparation software for free or at a reduced price.⁵⁸ Customers can also use coupons or discount codes to use TurboTax products free of charge.⁵⁹

Intuit further disputes Paragraph 15 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁶⁰

⁵⁷ See *supra* Intuit Response to SOF ¶ 7; see also Ryan Decl. ¶ 14.

⁵⁸ See *supra* Intuit Response to SOF ¶ 7.

⁵⁹ See *supra* Intuit Response to SOF ¶ 7.

⁶⁰ See General Objections ¶ 3.

17. *Intuit has promoted TurboTax through advertising campaigns that represent that consumers can file for free using TurboTax. (See, e.g., GX 321 at 0:51–0:56 (“Okay, so maybe that’s not exactly how it went down, but you can file on TurboTax for absolutely nothing.”); {GX 300 at 0:26 (“That’s right. TurboTax Free is free. Free, free free free.”)}; Shiller Dec. ¶ 117 (“What it feels like to file your taxes for free, aka the TurboTax #FreeFreeDance”).*

Response to SOF ¶ 17: Disputed in part. Intuit disputes that Intuit has promoted TurboTax by advertising that *all* consumers can “file for free using TurboTax.” Instead, Intuit has advertised that *some* consumers can file for free using TurboTax Free Edition.⁶¹ That product is free. Intuit’s ads do not convey—and have never conveyed—that TurboTax products other than Free Edition are available to consumers for free or that everyone may use TurboTax Free Edition.⁶² Furthermore, TurboTax does not charge a standalone fee for tax filing for any of its products or services.⁶³ TurboTax’s paid products charge for the service of preparing each consumer’s taxes.⁶⁴

Further, Intuit’s Free Edition ads disclose Free Edition’s qualifications, communicating that all consumers do not qualify to use Free Edition.⁶⁵ [REDACTED]

[REDACTED]⁶⁶

Intuit’s Free Edition ads clearly and conspicuously disclose that Free Edition is available for

⁶¹ GX 156 at 130:18-19; *see also id.* at 110:16-20; *see, e.g.,* RX 15; RX 16; RX 17; RX 18; GX 324-325; GX 328-331; GX 334; GX 345-351.

⁶² *See infra* note 65-73; *see also* Golder Decl. ¶ 56 (“[I]n my opinion, Intuit’s advertisements did not communicate that TurboTax was free for everyone or all tax situations”).

⁶³ Ryan Decl. ¶ 17.

⁶⁴ *Id.*

⁶⁵ GX 152 at 48:22-49:5; GX 156 at 135:4-10; *id.* at 133:13-134:3; *see also* Golder Decl. ¶ 56; *see, e.g.,* RX 15; RX 16; RX 17; RX 18; GX 324-325; GX 328-331; GX 334; GX 345-351.

⁶⁶ GX 156 at 133:13-134:3 ([REDACTED]; GX 150 127:25-128:8

[REDACTED]; GX 155 at 213:3-15

consumers with “simple tax returns only” (or included similar disclosure language).⁶⁷ For instance, in Tax Year 2021, Intuit’s television ads for Free Edition included a text disclosure stating that “TurboTax Free Edition is for simple U.S. returns only” and inviting consumers to “See if you qualify at turbotax.com.”⁶⁸ The ad’s audio concluded by stating, “That’s right, TurboTax *Free Edition* is free.”⁶⁹ It also directed consumers to “see details at turbotax.com.”⁷⁰ The eligibility disclosures were set out in white font on a dark blue background without accompanying images that might distract the viewer.⁷¹ In prior years, Intuit’s ads included similar disclosures.⁷²

Intuit’s online advertising similarly does not advertise that TurboTax is free for everyone—it advertises that Free Edition is free.⁷³ Intuit’s online advertising for TurboTax Free Edition clearly and conspicuously disclosed that Free Edition is available for consumers with “simple tax returns only” (or included similar disclosure language) on the face of the advertisement.⁷⁴

Free Edition promotions on the TurboTax homepage were accompanied, in close proximity, by a color-contrasted, hyperlinked disclosure stating that Free Edition was for “simple tax returns only.”⁷⁵ Consumers who clicked the hyperlinked disclosure saw a pop-up screen stating, “A simple tax return is Form 1040 only,” and listing the situations covered (and not

⁶⁷ *See id.*

⁶⁸ Ryan Decl. ¶ 19.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*; *see also* Golder Decl. ¶ 86.

⁷² *See, e.g.*, RX 29 at INTUIT-FFA-FTC-000528230 (“Lawyer” advertisement official transcript stating, “Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.”); RX 15; RX 16; RX 17; RX 18; GX 324-325; GX 328-331; GX 334; GX 345-351.

⁷³ RX 15; RX 16; RX 17; RX 18; GX 324-325; GX 328-331; GX 334; GX 345-351.

⁷⁴ Ryan Decl. ¶ 18, 27.

⁷⁵ Ryan Decl. ¶ 30; Compl. ¶ 42.

covered) by TurboTax Free Edition.⁷⁶ Earlier versions of the homepage likewise disclosed, in close proximity to Free Edition promotions, that Free Edition covered “simple tax returns,” and included a color-contrasted, hyperlinked disclosure stating: “See why it’s free.”⁷⁷ And the “Products & Pricing” page on the TurboTax website has at all relevant times contained at least one (and usually many) color-contrasted, hyperlinked disclosure stating that Free Edition is for simple returns only.⁷⁸ Every page of the TurboTax website also includes a dropdown field providing “Important offer details and disclosures” that includes yet *another* disclosure that Free Edition is for simple tax returns only and again explains what that phrase means.⁷⁹ The TurboTax website also includes blog posts and FAQs describing Free Edition’s eligibility criteria.⁸⁰ Further, Intuit’s website only continues to enhance the clarity of the Free Edition qualifications, having recently been updated with additional disclosures, including a new landing page that includes—not behind a hyperlink—all qualifications for Free Edition.⁸¹

Moreover, Intuit disputes Paragraph 17 insofar as it implies that Intuit’s TurboTax advertising campaigns *only* advertise the Free Edition product. That is false. Intuit frequently advertises its other products and features, including TurboTax Live.⁸² [REDACTED]

⁷⁶ RX 3.

⁷⁷ Compl. ¶¶ 37, 40.

⁷⁸ *See, e.g.*, RX 9.

⁷⁹ *See, e.g.*, RX 7; RX 6.

⁸⁰ *See, e.g.*, RX 64; RX 63.

⁸¹ RX 5.

⁸² *See, e.g.*, RX 27 at INTUIT-FFA-FTC-000054707 ([REDACTED]); *see also* GX 155 at 168:19-25 [REDACTED].


.⁸³

Intuit disputes Paragraph 17 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website (namely, GX 323), and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁸⁴ Intuit further disputes Paragraph 17 because, as described in the General Objections incorporated herein, the transcription provided for GX 300 is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁸⁵ However, Intuit does not dispute that a true and correct copy of the 30-second “Lawyer” ad is at GX 300.

Intuit also disputes Paragraph 17 because Complaint Counsel has failed to identify the “FTC paralegal” mentioned in Paragraph 117 of the Shiller Declaration, to describe the process used to capture the screenshots included, or to confirm the reliability of those images. And Intuit disputes Paragraph 17 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller (or the unnamed paralegal) to test the reliability of her statements.⁸⁶

⁸³ See RX 28.

⁸⁴ See General Objections ¶¶ 7-8.

⁸⁵ See General Objections ¶ 8.

⁸⁶ See General Objections ¶ 3.

25. A true and correct copy of the 2015 TurboTax Super Bowl ad, “Boston Tea Party,” is at GX 321. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 24):

[commotion, music, and shouting]

FIRST REVOLUTIONARY: No taxation without represent . . .

FIRST BRITISH SOLDIER: Yes, yes, we hear you on the tax thing.

SECOND BRITISH SOLDIER: But what if it were free to file your taxes?

SECOND REVOLUTIONARY: Like, free free?

SECOND BRITISH SOLDIER: Yes, yes. You’d pay nothing. Not a thing. No thing.

THIRD REVOLUTIONARY: Well alright then! [music]

FOURTH REVOLUTIONARY: Alright then!

THIRD BRITISH SOLDIER: Cheers!

WOMAN: Alright then.

FOURTH BRITISH SOLDIER: Alright then.

GEORGE WASHINGTON: Alright then. Back it up!

VOICEOVER: Okay, so maybe that’s not exactly how it went down, but you can file on TurboTax for absolutely nothing. Intuit TurboTax. It’s amazing what you’re capable of.”

Response to SOF ¶ 25: Disputed. Intuit disputes Paragraph 25 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁸⁷ Intuit further disputes Paragraph 25 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁸⁸

26. *A disclaimer shown at 0:56 in the ad reads, “TurboTax Federal Free Edition is for simple U.S. returns only. Offer may end without notice. See offer details at TurboTax.com. Screen image simulated.” (GX 321 at 0:56.)*

Response to SOF ¶ 26: Disputed in part. Intuit does not dispute that the ad in question included a *disclosure* providing, “TurboTax Federal Free Edition is for simple U.S. returns only. Offer may end without notice. See offer details at TurboTax.com. Screen image simulated.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 26, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website.⁸⁹

27. *This ad aired during the 2015 Super Bowl game. (Shiller Dec. ¶¶ 21-22.)*

Response to SOF ¶ 27: Disputed. Intuit disputes Paragraph 27 because, as described in the General Objections incorporated herein, it relies solely on the Shiller Declaration and Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁹⁰ It is also unclear what Complaint Counsel means by the “2015 Super Bowl game” or what it means that the ad aired “during” the game.

28. *A true and correct copy of the 2016 TurboTax Super Bowl ad, “Never a Sellout” is at GX 323. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 28):*

INTERVIEWER: Sir Anthony Hopkins, every actor at some point considers selling out.

SIR ANTHONY HOPKINS: I would never tarnish my name by selling you something. Now, if I were to tell you to go to turbotax.com, it’s because TurboTax Absolute Zero lets you file your taxes for free.

⁸⁷ See General Objections ¶¶ 7-8.

⁸⁸ See General Objections ¶ 3.

⁸⁹ See General Objections ¶¶ 7-8.

⁹⁰ See General Objections ¶ 3.

INTERVIEWER: You're . . . you're not selling anything.

HOPKINS: It's free. There's nothing to sell. Come here, TurboTax.com. [dog jumps on his lap]. Such a good girl, TurboTax.com.

Response to SOF ¶ 28: Disputed. Intuit disputes Paragraph 28 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁹¹ The transcription provided is unreliable, for instance, because it ignores critical context from the add, including visual cues in the form of a teacup and slippers with textual information (this is the key aspect of the ad).⁹² Intuit further disputes Paragraph 28 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁹³

29. The disclaimer shown at 0:18 in the ad says, "Screen simulated. TurboTax Federal Free Edition is for simple US returns only. Offer may end without notice. See offer details at TurboTax.com." (GX 323 at 0:18.)

Response to SOF ¶ 29: Disputed in part. Intuit does not dispute that the ad in question included a disclosure stating, "Screen simulated. TurboTax Federal Free Edition is for simple US returns only. Offer may end without notice. See offer details at TurboTax.com." Complaint Counsel, however, does not state what a "disclaimer" is, or what is being "disclaimed," and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 29, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website.⁹⁴

⁹¹ See General Objections ¶¶ 7-8.

⁹² See General Objections ¶ 8.

⁹³ See General Objections ¶ 3.

⁹⁴ See General Objections ¶¶ 7-8.

31. *"{A true and correct copy of the 15-second "Fish" ad is at GX 325. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 32):*

[swordfish screaming]

MAN: At least your taxes are free. [all three men laugh]

VOICE OVER: Intuit TurboTax.}"

Response to SOF ¶ 31: Disputed in part. Intuit disputes Paragraph 31 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁹⁵ Intuit further disputes Paragraph 31 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁹⁶ However, Intuit does not dispute that a true and correct copy of the 15-second "Fish" ad is at GX 325.

33. *{A true and correct copy of the 30-second "Fish" ad is at GX 324. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 30):*

[grunting]

MAN IMPALED BY SWORDFISH: [swordfish screaming] Aww, man. My lucky shirt.

MAN WITH FISHING POLE: At least your taxes are free.

MAN CARRYING BEVERAGES: [seeing man impaled by swordfish] What happened?

MAN WITH FISHING POLE: It's his lucky shirt

MAN CARRYING BEVERAGES: Well, with TurboTax AbsoluteZero, at least your taxes are free.

MAN WITH FISHING POLE: That's what I said!

[all three men laugh] VOICEOVER: Intuit TurboTax.}"

⁹⁵ See General Objections ¶ 8.

⁹⁶ See General Objections ¶ 3.

Response to SOF ¶ 33: Disputed in part. Intuit disputes Paragraph 33 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.⁹⁷ Intuit further disputes Paragraph 33 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.⁹⁸ However, Intuit does not dispute that a true and correct copy of the 30-second “Fish” ad is at GX 324.

42. *{The “Baby” ad aired between January 7, 2018, and January 26, 2018. (GX 60 at 7.)}*

Response to SOF ¶ 42: Disputed. GX 60 at 7 makes no mention of a “Baby” ad, and as such, Complaint Counsel have not offered support for Paragraph 42.

45. *During TY 2018, the TurboTax home page included the following visual (Shiller Dec. ¶ 79): [image omitted]*

Response to SOF ¶ 45: Disputed. Intuit disputes Paragraph 45 because, as described in the General Objections incorporated herein, the screenshot of the webpage provided is unreliable.⁹⁹ Intuit further disputes Paragraph 45 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁰⁰

46. *During TY 2018, the TurboTax home page included the following visual (Shiller Dec. ¶ 79): [image omitted]*

Response to SOF ¶ 46: Disputed. Intuit disputes Paragraph 46 because, as described in the General Objections incorporated herein, the screenshot of the webpage provided is

⁹⁷ See General Objections ¶ 8.

⁹⁸ See General Objections ¶ 3.

⁹⁹ See General Objections ¶ 4.

¹⁰⁰ See General Objections ¶ 3.

unreliable.¹⁰¹ Intuit further disputes Paragraph 46 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁰²

47. *In TY 2018, clicking on the hyperlinked text “See why it’s free” in the images at paragraphs 45 and 46 above caused the following pop-up to appear (Shiller Dec. ¶ 80): [image omitted]*

Response to SOF ¶ 47: Disputed in part. Intuit admits that clicking on the hyperlinked text “See why it’s free” on the TurboTax website caused a pop-up to appear detailing the tax situations covered by TurboTax Free Edition. Intuit disputes Paragraph 47 because, as described in the General Objections incorporated herein, the screenshot of the webpage provided is unreliable.¹⁰³ Intuit further disputes Paragraph 47 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁰⁴

49. *{A true and correct copy of the 60-second “Lawyer” ad is at GX 328. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 56):*

LAWYER: Free free free free free free free free free free. Free free. Free free free free. Free free free. Free free free free free. Free free free free free free free.

SECOND LAWYER: Free! Free!

JUDGE: Free free. Free.

LAWYER: Free free free. Free free free free free free free free free free. Free free free free free free free! Free free free free free. Free free free free. Free free free free free free!

JUROR: (applauding) Free.

OTHER JURORS: Free. Free. Free. Free. Free. [gavel] UNIDENTIFIED VOICES: Free free free.

VOICEOVER: That’s right. TurboTax Free is free. Free, free free free.}

¹⁰¹ See General Objections ¶ 4.

¹⁰² See General Objections ¶ 3.

¹⁰³ See General Objections ¶ 4.

¹⁰⁴ See General Objections ¶ 3.

Response to SOF ¶ 49: Disputed in part. Intuit disputes Paragraph 49 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.¹⁰⁵ Intuit also disputes Paragraph 49 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁰⁶ However, Intuit does not dispute that a true and correct copy of the 60-second “Lawyer” ad is at GX 328.

51. {A true and correct copy of the 30-second “Lawyer” ad is at GX 329. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 59):

LAWYER: Free free free free free free free free free. Free free free. Free free free. Free free free free free. Free free free free free free free free free. Free free free free free free!

JUROR: (applauding) Free!

OTHER JURORS: Free. Free. [gavel] Free. UNIDENTIFIED VOICES: Free free free.

VOICEOVER: That’s right. TurboTax Free is free. Free, free free free.}

Response to SOF ¶ 51: Disputed in part. Intuit disputes Paragraph 51 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.¹⁰⁷ The actual script of this advertisement differs from the transcription offered in Paragraph 51.¹⁰⁸ Intuit further disputes Paragraph 51 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her

¹⁰⁵ See General Objections ¶ 8.

¹⁰⁶ See General Objections ¶ 3.

¹⁰⁷ See General Objections ¶ 8.

¹⁰⁸ See RX 29 at INTUIT-FFA-FTC-000528230.

statements.¹⁰⁹ However, Intuit does not dispute that a true and correct copy of the 60-second “Lawyer” ad is at GX 329.

53. The “Lawyer” ads appeared throughout the United States at least 2,115 times on at least 124 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 60-61.)

Response to SOF ¶ 53: Disputed. Intuit disputes Paragraph 53 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹¹⁰ Intuit further disputes Paragraph 53 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹¹¹

54. {A true and correct copy of a 30-second “Movie Credits” (“Credits Commercial”) ad is at GX 299. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 64):

[music plays]

MAN: Free. Free free free. [explosion]

[music plays]

VOICEOVER: That’s right. TurboTax Free is free. Free, free free free.}

Response to SOF ¶ 54: Disputed in part. Intuit disputes Paragraph 54 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as

¹⁰⁹ *See* General Objections ¶ 3.

¹¹⁰ *See* General Objections ¶ 9.

¹¹¹ *See* General Objections ¶ 3.

well as audio information.¹¹² Intuit further disputes Paragraph 54 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹¹³ However, Intuit does not dispute that a true and correct copy of the 60-second “Movie Credits” ad is at GX 299.

56. {A true and correct copy of a 30-second “Movie Credits” ad is at GX 330. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 66):

[music plays]

MAN: Free. Free free free. [explosion]

[music plays]

VOICEOVER: That’s right. TurboTax Free is free. Free, free free free.}

Response to SOF ¶ 56: Disputed in part. Intuit disputes Paragraph 56 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.¹¹⁴ The actual script of this advertisement differs from the transcription offered in Paragraph 56.¹¹⁵ Intuit further disputes Paragraph 56 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹¹⁶ However, Intuit does not dispute that a true and correct copy of the 60-second “Movie Credits” ad is at GX 330.

¹¹² See General Objections ¶ 8.

¹¹³ See General Objections ¶ 3.

¹¹⁴ See General Objections ¶ 8.

¹¹⁵ See RX 30 at INTUIT-FFA-FTC-000528233.

¹¹⁶ See General Objections ¶ 3.

58. *{A true and correct copy of the 15-second “Movie Credits” ad is at GX 331. The following is a true and correct transcription of the words spoken in the ad (Shiller Dec. ¶ 68):*

[music plays]

MAN: Free. Free free free. [explosion, music plays]

VOICEOVER: That’s right. TurboTax Free is free. Free, free free free.}

Response to SOF ¶ 58: Disputed in part. Intuit disputes Paragraph 58 because, as described in the General Objections incorporated herein, the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.¹¹⁷ The actual script of this advertisement differs from the transcription offered in Paragraph 56.¹¹⁸ Intuit further disputes Paragraph 56 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹¹⁹ However, Intuit does not dispute that a true and correct copy of the 60-second “Movie Credits” ad is at GX 331.

60. *The “Movie Credits” ads appeared throughout the United States at least 4,651 times on at least 195 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 69-70.)*

Response to SOF ¶ 60: Disputed. Intuit disputes Paragraph 60 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹²⁰ Intuit further disputes Paragraph 60 insofar as it relies on the

¹¹⁷ *See* General Objections ¶ 8.

¹¹⁸ *See* RX 31 at INTUIT-FFA-FTC-000528234.

¹¹⁹ *See* General Objections ¶ 3.

¹²⁰ *See* General Objections ¶ 9.

Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹²¹

61. {A true and correct copy of the 30-second “Game Show” (“Investigational Hearing Video Exhibit”) ad is at GX 59. In this ad, the word “free” is repeated over 40 times.}

Response to SOF ¶ 61: Disputed. Intuit disputes Paragraph 61 because it relies on a video obtained from an unnamed source, is unauthenticated, and as a result is unreliable. Intuit further disputes Paragraph 61 because the summary of the ad lacks context and is itself unreliable.¹²²

63. The “Game Show” ads appeared throughout the United States at least 5,858 times on at least 140 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 54-55.)

Response to SOF ¶ 63: Disputed. Intuit disputes Paragraph 63 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹²³ Intuit further disputes Paragraph 63 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹²⁴

¹²¹ *See* General Objections ¶ 3.

¹²² *See* General Objections ¶¶ 3, 7.

¹²³ *See* General Objections ¶ 9.

¹²⁴ *See* General Objections ¶ 3.

65. *The “Court Reporter” ad appeared throughout the United States at least 1,358 times on at least 112 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 40-41.)*

Response to SOF ¶ 65: Disputed. Intuit disputes Paragraph 65 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹²⁵ Intuit further disputes Paragraph 65 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹²⁶

66. *A true and correct copy of the 15-second “Crossword” ad is at GX 326.*

Response to SOF ¶ 66: Disputed. Intuit disputes Paragraph 66 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website.¹²⁷

67. *The “Crossword” ad appeared throughout the United States at least 1,187 times on at least 55 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 45-46.)*

Response to SOF ¶ 67: Disputed. Intuit disputes Paragraph 67 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹²⁸ Intuit further disputes Paragraph 67 insofar as it relies on the

¹²⁵ *See* General Objections ¶ 9.

¹²⁶ *See* General Objections ¶ 3.

¹²⁷ *See* General Objections ¶ 7.

¹²⁸ *See* General Objections ¶ 9.

Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹²⁹

69. A true and correct copy of the 30-second “Big Kick” ad is at GX 327.

Response to SOF ¶ 69: Disputed. Intuit disputes Paragraph 69 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website.¹³⁰

70. The Football/“Big Kick” ads appeared throughout the United States at least 2,811 times on at least 139 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 49-50.)

Response to SOF ¶ 70: Disputed. Intuit disputes Paragraph 70 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹³¹ Intuit further disputes Paragraph 70 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹³²

72. A true and correct copy of the 15- second “Spelling Bee” ad is at GX 332.

Response to SOF ¶ 72: Disputed. Intuit disputes Paragraph 72 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website.¹³³

¹²⁹ *See* General Objections ¶ 3.

¹³⁰ *See* General Objections ¶ 7.

¹³¹ *See* General Objections ¶ 9.

¹³² *See* General Objections ¶ 3.

¹³³ *See* General Objections ¶ 7.

73. *The “Spelling Bee” ads appeared throughout the United States at least 5,141 times on at least 313 television networks between November 1, 2018, and April 18, 2019. (Shiller Dec. ¶¶ 74-75.)*

Response to SOF ¶ 73: Disputed. Intuit disputes Paragraph 73 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹³⁴ Intuit further disputes Paragraph 73 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹³⁵

74. [REDACTED]

Response to SOF ¶ 74: Disputed. Intuit disputes Paragraph 74 because the so-called “[REDACTED]” being referenced does not stand for the offered proposition that the ad conveyed that consumers who were not eligible for Free Edition could nonetheless file for free. The paragraph takes the “[REDACTED]” entirely out of its context. [REDACTED]

[REDACTED] 136

[REDACTED] 137 [REDACTED]

¹³⁴ *See* General Objections ¶ 9.

¹³⁵ *See* General Objections ¶ 3.

¹³⁶ GX 340 at INTUIT-FFA-FTC-000169649.

¹³⁷ *Id.*

[REDACTED]

[REDACTED]

[REDACTED]¹³⁸

[REDACTED]

[REDACTED]¹³⁹ [REDACTED]

[REDACTED]¹⁴⁰

Consumers understand that companies like Intuit cannot and do not provide free products to all consumers.¹⁴¹ Indeed, consumers understand that for-profit companies need to make money, and thus consumers are likely to conduct research before committing to using products advertised as free.¹⁴² And consumers are familiar with tiered pricing models, both in the tax preparation industry and in other industries.¹⁴³

Intuit further disputes Paragraph 74 because the cited exhibit provides insufficient context concerning the “[REDACTED]” discussed to establish the meaning of its results or its accuracy and reliability. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹³⁸ *Id.* at INTUIT-FFA-FTC-000169659.

¹³⁹ RX 33 at INTUIT-FFA-FTC-000139032.

¹⁴⁰ *Id.*; *see also* Golder Decl. ¶ 65 (noting that consumers “often demonstrate skepticism when faced with ‘free’ product claims”); RX 34 at INTUIT-FFA-FTC-000549950.

¹⁴¹ *See* Golder Decl. ¶¶ 64-70; *see also* RX 33 at INTUIT-FFA-FTC-000139031-32; RX 34 at INTUIT-FFA-FTC-000549950.

¹⁴² Golder Decl. ¶ 65.

¹⁴³ *Id.* ¶ 98 (noting that other online tax preparation providers and industries such as TV and Internet providers offer tiered pricing models).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁴⁴ Including more detailed disclosures early in the buying process could be confusing for some consumers, generate less attention and interest, and ultimately result in fewer people filing for free.¹⁴⁵

75. During TY 2019, the TurboTax home page included the following visual (Shiller Dec. ¶ 95): [image omitted]

Response to SOF ¶ 75: Disputed. Intuit disputes Paragraph 75 because, as described in the General Objections incorporated herein, the screenshot of the webpage provided is unreliable.¹⁴⁶ Intuit further disputes Paragraph 75 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁴⁷

76. Clicking on the orange “File for \$0” brought consumers to a screen to create an account and linked the Terms and Privacy Policy. (Shiller Dec. ¶ 97.)

Response to SOF ¶ 76: Disputed. Intuit disputes Paragraph 76 because clicking on the orange “File for \$0” button did not bring consumers to a screen to create an account or link to the Terms and Privacy Policy in any tax year.¹⁴⁸ Intuit further disputes Paragraph 76 because, as described in the General Objections incorporated herein, Ms. Shiller has not established, and would be unable to establish, whether consumers visiting the TurboTax websites would have seen

¹⁴⁴ GX 155 58:5-11; RX 44 at INTUIT-FFA-FTC-000117681.

¹⁴⁵ Golder Decl. ¶ 73 (“It certainly would not make sense or be an effective communication in a 30-second ad to read the list of tax forms and schedules included or not included in Free Edition.”); *see also* GX 155 at 209:7-210:7.

¹⁴⁶ *See* General Objections ¶ 4.

¹⁴⁷ *See* General Objections ¶ 3.

¹⁴⁸ *See* RX 26.

the screens captured in the screenshots or the proportion of consumers who would have seen those screens.¹⁴⁹ Intuit also disputes Paragraph 76 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁵⁰

78. The “Court Reporter” ad appeared throughout the United States at least 1,502 times on at least 126 television networks between November 1, 2019, and July 15, 2020. (Shiller Dec. ¶¶ 84-85.)

Response to SOF ¶ 78: Disputed. Intuit disputes Paragraph 78 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁵¹ Intuit further disputes Paragraph 78 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁵²

79. The “Crossword” ad appeared throughout the United States at least 3,195 times on at least 327 television networks between November 1, 2019, and July 15, 2020. (Shiller Dec. ¶¶ 86-87.)

Response to SOF ¶ 79: Disputed. Intuit disputes Paragraph 79 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁵³ Intuit further disputes Paragraph 79 insofar as it relies on the

¹⁴⁹ *See* General Objections ¶ 4.

¹⁵⁰ *See* General Objections ¶ 3.

¹⁵¹ *See* General Objections ¶ 9.

¹⁵² *See* General Objections ¶ 3.

¹⁵³ *See* General Objections ¶ 9.

Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁵⁴

80. The “Game Show” ads appeared throughout the United States at least 4,656 times on at least 214 television networks between November 1, 2019, and July 15, 2020. (Shiller Dec. ¶¶ 88-89.)

Response to SOF ¶ 80: Disputed. Intuit disputes Paragraph 80 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁵⁵ Intuit further disputes Paragraph 80 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁵⁶

81. The “Movie Credits” ads appeared throughout the United States at least 6,216 times on 721 at least television networks between November 1, 2019, and July 15, 2020. (Shiller Dec. ¶¶ 90-91.)

Response to SOF ¶ 81: Disputed. Intuit disputes Paragraph 81 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁵⁷ Intuit further disputes Paragraph 81 insofar as it relies on the

¹⁵⁴ *See* General Objections ¶ 3.

¹⁵⁵ *See* General Objections ¶ 9.

¹⁵⁶ *See* General Objections ¶ 3.

¹⁵⁷ *See* General Objections ¶ 9.

Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁵⁸

82. *The “Spelling Bee” ads appeared throughout the United States at least 2,618 times on at least 322 television networks between November 1, 2019, and July 15, 2020. (Shiller Dec. ¶¶ 92-93.)*

Response to SOF ¶ 82: Disputed. Intuit disputes Paragraph 82 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁵⁹ Intuit further disputes Paragraph 82 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁶⁰

83. *In TY 2019, Intuit placed an ad on the Google results page for the search term “free file taxes ONLINE.” (Shiller Dec. ¶ 99.)*

Response to SOF ¶ 83: Disputed and immaterial. Intuit disputes Paragraph 83 because Intuit does not place advertisements on the results pages for internet search engines. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.¹⁶¹ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.¹⁶² Intuit also disputes Paragraph 83 because it implies that all consumers who searched for the term, “free file taxes ONLINE,” saw this advertisement. When a

¹⁵⁸ *See* General Objections ¶ 3.

¹⁵⁹ *See* General Objections ¶ 9.

¹⁶⁰ *See* General Objections ¶ 3.

¹⁶¹ *See* RX 66 at 61:23-64:19, 125:10-130:6.

¹⁶² Ryan Decl. ¶ 23.

consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer's search results page.¹⁶³ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.¹⁶⁴ Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.¹⁶⁵

Intuit further disputes Paragraph 83 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁶⁶

In any event, the statement in Paragraph 83 is immaterial because whether Intuit bid on certain search terms to place a TurboTax advertisement on Google is not relevant to whether the advertisement itself misled consumers. *See* 16 C.F.R. § 3.43 ("Irrelevant, immaterial, and unreliable evidence shall be excluded."). To the contrary, the appearance of paid advertisements for other free tax preparation options in search results provided consumers with additional and relevant free options. As the FTC has explained, search advertising is "especially valuable to internet users because a user can quickly and easily navigate between the search engine results page and the websites of several different advertisers."¹⁶⁷ Moreover, Intuit placing "a TurboTax ad"—as asserted in Paragraph 83—is not relevant to whether Intuit's *free* advertising was deceptive.

¹⁶³ RX 66 at 62:1-9.

¹⁶⁴ RX 86.

¹⁶⁵ *See* General Objections ¶ 6.

¹⁶⁶ *See* General Objections ¶ 3.

¹⁶⁷ RX 105 at 2.

84. *In TY 2019, Intuit placed a TurboTax ad on the Google results page for the search term “free file.” (Shiller Dec. ¶ 101.)*

Response to SOF ¶ 84: Disputed and immaterial. Intuit disputes Paragraph 84 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.¹⁶⁸ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.¹⁶⁹ Intuit also disputes Paragraph 84 because it implies that all consumers who searched for the term, “free file,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.¹⁷⁰ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.¹⁷¹ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.¹⁷²

Intuit further disputes Paragraph 84 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁷³

Paragraph 84 is also immaterial because whether Intuit bid on certain search terms to place a TurboTax advertisement on Google is not relevant to whether the advertisement itself misled

¹⁶⁸ See RX 66 at 61:23-64:19, 125:10-130:6.

¹⁶⁹ Ryan Decl. ¶ 23.

¹⁷⁰ RX 66 at 62:1-9.

¹⁷¹ RX 86.

¹⁷² See General Objections ¶ 6.

¹⁷³ See General Objections ¶ 3.

consumers.¹⁷⁴ Moreover, Intuit placing “a TurboTax ad”—as asserted in Paragraph 84—is not relevant to whether Intuit’s *free* advertising was deceptive.

85. *During TY 2020, the TurboTax home page included the following advertisement (Shiller Dec. ¶ 125): [image omitted]*

Response to SOF ¶ 85: Disputed. Intuit disputes Paragraph 85 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.¹⁷⁵ Intuit further disputes Paragraph 85 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁷⁶

86. *In TY 2020, clicking on the hyperlinked text “simple tax returns” in the image at paragraph 85 above caused the following pop-up to appear (Shiller Dec. ¶ 127): [image omitted]*

Response to SOF ¶ 86: Disputed in part. Intuit does not dispute that the TurboTax website included the disclosure, “For simple tax returns only,” when referencing TurboTax Free Edition and that clicking the hyperlinked text “simple tax returns” caused a pop-up to appear stating, “You can file with TurboTax Free Edition if you have a simple tax return,” and detailing the tax situations covered by TurboTax Free Edition. Intuit otherwise disputes Paragraph 86 because, as described in the General Objections incorporated herein, the screenshot of the webpage provided is unreliable.¹⁷⁷ Intuit further disputes Paragraph 86 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁷⁸

¹⁷⁴ *See supra* Intuit Response to SOF ¶ 83.

¹⁷⁵ *See* General Objections ¶ 4.

¹⁷⁶ *See* General Objections ¶ 3.

¹⁷⁷ *See* General Objections ¶ 4.

¹⁷⁸ *See* General Objections ¶ 3.

87. *Intuit aired “Auctioneer” ads depicting a cattle auction throughout the United States at least 8,281 times on at least 670 television networks between November 1, 2020, and May 17, 2021. (Shiller Dec. ¶¶ 106-07.)*

Response to SOF ¶ 87: Disputed. Intuit disputes Paragraph 87 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁷⁹ Intuit further disputes Paragraph 87 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁸⁰

88. *Intuit aired “Dance Workout” ads depicting a group exercise class throughout the United States at least 9,909 times on 714 television networks between November 1, 2020, and May 17, 2021. (Shiller Dec. ¶¶ 109-10.)*

Response to SOF ¶ 88: Disputed. Intuit disputes Paragraph 88 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁸¹ Intuit further disputes Paragraph 88 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁸²

¹⁷⁹ *See* General Objections ¶ 9.

¹⁸⁰ *See* General Objections ¶ 3.

¹⁸¹ *See* General Objections ¶ 9.

¹⁸² *See* General Objections ¶ 3.

89. *Intuit aired “Dog Show” ads depicting a dog show throughout the United States at least 10,435 times on 685 television networks between November 1, 2020, and May 17, 2021. (Shiller Dec. ¶¶ 112-13.)*

Response to SOF ¶ 89: Disputed. Intuit disputes Paragraph 89 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.¹⁸³ Intuit further disputes Paragraph 89 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁸⁴

90. *The following ad was active on Facebook on February 11, 2021 (Shiller Dec. ¶ 114): [image omitted]*

Response to SOF ¶ 90: Disputed and immaterial. Intuit disputes Paragraph 90 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.¹⁸⁵ Intuit also disputes Paragraph 90 because Ms. Shiller has not established, and would be unable to establish, whether consumers visiting Facebook would have seen the screens captured in the screenshots or the proportion of consumers who would have seen those screens on the date in question or any other date.¹⁸⁶ Intuit further disputes Paragraph 90 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of

¹⁸³ *See* General Objections ¶ 9.

¹⁸⁴ *See* General Objections ¶ 3.

¹⁸⁵ *See* General Objections ¶ 5.

¹⁸⁶ *See* General Objections ¶ 5.

her statements.¹⁸⁷ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.¹⁸⁸

In any event, the statement in Paragraph 90 is immaterial because whether an ad was “active” on a single date over eighteen months ago is not relevant to whether Intuit’s advertisements misled consumers into believing that TurboTax is free for *all* tax returns or whether relief is needed going forward. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

91. A version of the “Dance Workout” ad was also active on Facebook on February 11, 2021 (Shiller Dec. ¶ 116): [image omitted]

Response to SOF ¶ 91: Disputed and immaterial. Intuit disputes Paragraph 91 because as described in the General Objections incorporated herein, the screenshot provided is unreliable.¹⁸⁹ Intuit also disputes Paragraph 91 because, as described in the General Objections incorporated herein, Ms. Shiller has not established, and would be unable to establish, whether consumers visiting Facebook would have seen the screens captured in the screenshots or the proportion of consumers who would have seen those screens on the date in question or any other date.¹⁹⁰ Intuit further disputes Paragraph 91 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁹¹ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.¹⁹²

¹⁸⁷ *See* General Objections ¶ 3.

¹⁸⁸ *See* General Objections ¶ 5.

¹⁸⁹ *See* General Objections ¶ 5.

¹⁹⁰ *See* General Objections ¶ 5.

¹⁹¹ *See* General Objections ¶ 3.

¹⁹² *See* General Objections ¶ 5.

In any event, the statement in Paragraph 91 is immaterial because whether an ad was “active” on a single date over eighteen months ago is not relevant to whether Intuit’s advertisements misled consumers into believing that TurboTax is free for *all* tax returns or whether relief is needed going forward. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

92. A TurboTax ad was active on TikTok on January 11, 2021 (Shiller Dec. ¶ 117): [image omitted]

Response to SOF ¶ 92: Disputed and immaterial. Intuit disputes Paragraph 92 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.¹⁹³ Intuit also disputes Paragraph 92 because Complaint Counsel has failed to adequately identify the “FTC paralegal” mentioned in Paragraph 117 of the Shiller Declaration, to describe the process used to capture the screenshots included, or to confirm the reliability of those images. Intuit further disputes Paragraph 92 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.¹⁹⁴ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.¹⁹⁵

In any event, the statement in Paragraph 92 is immaterial because whether an ad was “active” on a single date over eighteen months ago is not relevant to whether Intuit’s advertisements misled consumers into believing that TurboTax is free for *all* tax returns or whether relief is needed going forward. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).


¹⁹³ *See* General Objections ¶ 5.

¹⁹⁴ *See* General Objections ¶ 3.

¹⁹⁵ *See* General Objections ¶ 5.

93. *In TY 2020, Intuit placed a TurboTax ad on the Bing results page for the search term “Turbo tax free file program” (Shiller Dec. ¶ 118): [image omitted]*

Response to SOF ¶ 93: Disputed and immaterial. Intuit disputes Paragraph 93 because

 Intuit also disputes Paragraph 93 because it does not place advertisements on the results pages for internet search engines. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements may appear in the search engine results pages.¹⁹⁷ Intuit then bids on those key words and, Bing, not Intuit, subsequently places the ads on the result page to be viewed by certain consumers.¹⁹⁸ Moreover, Intuit disputes Paragraph 93 because it implies that all consumers who searched for the term, “Turbo tax free file program,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.¹⁹⁹ Whether a consumer views a paid search advertisement on Bing depends on other various factors, including how many other companies have bid on those terms.²⁰⁰ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁰¹

Intuit further disputes Paragraph 93 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁰²

¹⁹⁶ Ryan Decl. ¶ 26.

¹⁹⁷ See RX 66 at 61:23-64:19, 125:10-130:6 (explaining how Intuit works with paid search agencies).

¹⁹⁸ Ryan Decl. ¶ 23.

¹⁹⁹ RX 66 at 62:1-9.

²⁰⁰ RX 87.

²⁰¹ See General Objections ¶ 6.

²⁰² See General Objections ¶ 3.

In any event, the statement in Paragraph 93 is immaterial because whether Intuit bid on certain search terms to place a TurboTax advertisement on Bing is not relevant to whether the advertisement itself misled consumers into believing that TurboTax is free for *all* tax returns. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).²⁰³ Moreover, Intuit placing “a TurboTax ad”—as asserted in Paragraph 93—is not relevant to whether Intuit’s *free* advertising was deceptive.

94. In TY 2020, Intuit placed a TurboTax ad on the Google results page search term “filing taxes” (Shiller Dec. ¶ 119): [image omitted]

Response to SOF ¶ 94: Disputed and immaterial. Intuit disputes Paragraph 94 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.²⁰⁴ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.²⁰⁵ Intuit also disputes Paragraph 94 because it implies that all consumers who searched for the term, “filing taxes,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.²⁰⁶ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and

²⁰³ *See supra* Intuit Response to SOF ¶ 83.

²⁰⁴ *See* RX 66 at 61:23-64:19, 125:10-130:6.

²⁰⁵ Ryan Decl. ¶ 23.

²⁰⁶ RX 66 at 62:1-9.

the overall quality of the ad campaign, as determined by Google.²⁰⁷ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁰⁸

Intuit further disputes Paragraph 94 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁰⁹

In any event, the statement in Paragraph 94 is immaterial because whether Intuit bid on certain search terms to place a TurboTax advertisement on Google is not relevant to whether the advertisement itself misled consumers into believing that TurboTax is free for *all* tax returns. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).²¹⁰ Moreover, Intuit placing “a TurboTax ad”—as asserted in Paragraph 94—is not relevant to whether Intuit’s *free* TurboTax advertising was deceptive.

95. In TY 2020, Intuit placed a TurboTax ad on the Google results page for the search term “IRS taxes for free” (Shiller Dec. ¶ 121): [image omitted]

Response to SOF ¶ 95: Disputed and immaterial. Intuit disputes Paragraph 95 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.²¹¹ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.²¹² Intuit also disputes Paragraph 95 because it implies that all consumers who searched for the term, “IRS taxes

²⁰⁷ RX 86.

²⁰⁸ *See* General Objections ¶ 6.

²⁰⁹ *See* General Objections ¶ 3.

²¹⁰ *See supra* Intuit Response to SOF ¶ 83.

²¹¹ *See* RX 66 at 61:23-64:19, 125:10-130:6.

²¹² Ryan Decl. ¶ 23.

for free,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.²¹³ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.²¹⁴ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²¹⁵

Intuit further disputes Paragraph 95 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²¹⁶

In any event, the statement in Paragraph 95 is immaterial because whether Intuit bid on certain search terms to place a TurboTax advertisement on Google is not relevant to whether the advertisement itself misled consumers into believing that TurboTax is free for *all* tax returns. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).²¹⁷ Moreover, Intuit placing “a TurboTax ad”—as asserted in Paragraph 95—is not relevant to whether Intuit’s *free* TurboTax advertising was deceptive.

96. During TY 2021, the TurboTax home page included the following visual (Shiller Dec. ¶ 187): [image omitted]

Response to SOF ¶ 96: Disputed. Intuit disputes Paragraph 96 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²¹⁸ Intuit further

²¹³ RX 66 at 62:1-9.

²¹⁴ RX 86.

²¹⁵ *See* General Objections ¶ 6.

²¹⁶ *See* General Objections ¶ 3.

²¹⁷ *See supra* Intuit Response to SOF ¶ 83.

²¹⁸ *See* General Objections ¶ 4.

disputes Paragraph 96 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²¹⁹

97. In TY 2021, clicking on the hyperlinked text “simple tax returns” in the image at paragraph 96 above caused the following pop-up to appear (Shiller Dec. ¶ 188): [image omitted]

Response to SOF ¶ 97: Disputed in part. Intuit does not dispute that the TurboTax website included the disclosure, “For simple tax returns only,” and that clicking the hyperlinked text “simple tax returns” caused a pop-up to appear stating, “You can file with TurboTax Free Edition ... if you have a simple tax return,” “A simple tax return is Form 1040 only,” and detailing the tax situations covered by TurboTax Free Edition. Intuit otherwise disputes Paragraph 97 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²²⁰ Intuit further disputes Paragraph 97 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²²¹

98. On April 18, 2022, the TurboTax home page displayed the following visual (Shiller Dec. ¶ 189): [image omitted]

Response to SOF ¶ 98: Disputed. Intuit disputes Paragraph 98 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²²² Intuit further disputes Paragraph 98 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²²³

²¹⁹ See General Objections ¶ 3.

²²⁰ See General Objections ¶ 4.

²²¹ See General Objections ¶ 3.

²²² See General Objections ¶ 4.

²²³ See General Objections ¶ 3.

99. In TY 2021, the “Products & Pricing” screen appeared as follows (Shiller Dec. ¶ 181):
[image omitted]

Response to SOF ¶ 99: Disputed. Intuit disputes Paragraph 99 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²²⁴ Intuit also disputes Paragraph 99 because it has not been adequately established what the “widget” is that is referenced in Paragraph 181 of the Shiller Declaration or where on the TurboTax website the visual was displayed. Intuit further disputes Paragraph 99 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²²⁵

100. A true and correct copy of the 30-second “Auctioneer” ad that aired in 2021 is at GX 200. The following is a true and correct transcription of the words spoken in the “Auctioneer” ad (Shiller Dec. ¶ 132):

AUCTIONEER: And free, and free, and free, and free, and free. Now a bidder and free! Now give me another bidder and free and a free here and a free free free a free free free. Now a bidder and free! Now give me another bidder and free, and a free free free. And free, and free here, and free there, and free free and free. Make it Free. Free!

VOICEOVER: That’s right. TurboTax Free Edition is Free. See details at TurboTax.com.

Response to SOF ¶ 100: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating, “TurboTax Free Edition is Free. See details at TurboTax.com.” Intuit otherwise disputes Paragraph 100 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²²⁶ The actual script of this advertisement differs from the transcription offered in Paragraph 100.²²⁷ Intuit further disputes Paragraph 100 insofar as it

²²⁴ See General Objections ¶ 4.

²²⁵ See General Objections ¶ 3.

²²⁶ See General Objections ¶¶ 7-8.

²²⁷ RX 32 at 5, 17.

relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²²⁸

101. A true and correct copy of the 15-second “Auctioneer” ad that aired in TY 2021 is at GX 202. A true and correct copy of screenshots of GX 202 taken at three- minute intervals is at GX 203. The following is a true and correct transcription of the words spoken in the “Auctioneer” ad (Shiller Dec. ¶ 130):

AUCTIONEER: And free, and free, and free, and free, and free. Now a bidder and free! Now give me another bidder and free and a free here and a free free free a free free free. Now a bidder and free! Now give me another bidder and free, and a free free free. And free, and free here, and free there, and free free and free. Make it Free. Free!

VOICEOVER: That’s right. TurboTax Free Edition is Free. See details at TurboTax.com.

Response to SOF ¶ 101: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating, “TurboTax *Free Edition* is Free. See details at TurboTax.com.” Intuit otherwise disputes Paragraph 101 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²²⁹ The actual script of this advertisement differs from the transcription offered in Paragraph 101.²³⁰ Intuit further disputes Paragraph 101 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²³¹

²²⁸ See General Objections ¶ 3.

²²⁹ See General Objections ¶¶ 7-8.

²³⁰ RX 32 at 6, 18.

²³¹ See General Objections ¶ 3.

102. The disclaimer shown at the end of the ad reads, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” (GX 203.)

Response to SOF ¶ 102: Disputed in part. Intuit does not dispute that the ad in question included a *disclosure* providing, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 102, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²³²

103. The “Auctioneer” ads appeared throughout the United States at least 1,876 times on at least 86 television networks between November 1, 2021, and April 18, 2022. (Shiller Dec. ¶¶ 133-34.)

Response to SOF ¶ 103: Disputed. Intuit disputes Paragraph 103 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.²³³ Intuit further disputes Paragraph 103 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²³⁴

²³² *See* General Objections ¶¶ 7-8.

²³³ *See* General Objections ¶ 9.

²³⁴ *See* General Objections ¶ 3.

104. As of March 28, 2022, the 30-second version of the “Auctioneer” ad (GX 200) had more than 5.6 million views on YouTube. (Shiller Dec. ¶ 129.)

Response to SOF ¶ 104: Disputed. Intuit disputes Paragraph 104 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements, and Intuit lacks knowledge of whether the information reported on YouTube about “views” is accurate or otherwise reflects the number of people who actually viewed the ad, whether in full or in part.²³⁵

105. A true and correct copy of the 30-second “Dance Workout” ad is at GX 206. The following is a true and correct transcription of the words spoken in GX 206 (Shiller Dec. ¶ 138):

DANCE WORKOUT INSTRUCTOR: And free! Free, free. And free, and free. And freeeeeeeeee. And free, and free, and free, and free, and free. And free. And free, free. And free.

VOICEOVER: That’s right, TurboTax Free Edition is free. See details at TurboTax.com.

Response to SOF ¶ 105: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating, “TurboTax *Free Edition* is Free. See details at TurboTax.com.” Intuit otherwise disputes Paragraph 105 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²³⁶ The actual script of this advertisement differs from the transcription offered in Paragraph 105.²³⁷ Intuit further disputes Paragraph 105 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²³⁸

²³⁵ See General Objections ¶¶ 3, 9.

²³⁶ See General Objections ¶¶ 7-8.

²³⁷ RX 32 at 9, 20.

²³⁸ See General Objections ¶ 3.

106. The disclaimer shown at the end of the ad reads, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” (GX 206 at 0:34.)

Response to SOF ¶ 106: Disputed in part. Intuit does not dispute that the ad in question included a disclosure providing, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 106, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable.²³⁹

107. A true and correct copy of the 15-second “Dance Workout” ad is at GX 208. The following is a true and correct transcription of the words spoken in GX 208 (Shiller Dec. ¶ 136):

DANCE WORKOUT INSTRUCTOR: Free! And free! And free! And free! Free. And free, and free. Free free. And free, and free, and free, and free, and free.

VOICEOVER: That’s right, TurboTax Free Edition is free. See details at TurboTax.com.

Response to SOF ¶ 107: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating, “TurboTax Free Edition is Free. See details at TurboTax.com.” Intuit otherwise disputes Paragraph 107 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁴⁰ The actual script of this advertisement differs from the transcription offered in Paragraph 107.²⁴¹ Intuit further disputes Paragraph 107 insofar as it

²³⁹ See General Objections ¶¶ 7-8.

²⁴⁰ See General Objections ¶¶ 7-8.

²⁴¹ RX 32 at 10, 21.

relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁴²

108. The disclaimer shown at the end of the ad reads, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” (GX 209.)

Response to SOF ¶ 108: Disputed in part. Intuit does not dispute that the ad in question included a disclosure providing, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 108, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁴³

109. The “Dance Workout” ads appeared throughout the United States at least 7,988 times on at least 623 television networks between November 1, 2021, and April 18, 2022. (Shiller Dec. ¶¶ 139-40.)

Response to SOF ¶ 109: Disputed. Intuit disputes Paragraph 109 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.²⁴⁴ Intuit further disputes Paragraph 109 insofar as it

²⁴² *See* General Objections ¶ 3.

²⁴³ *See* General Objections ¶¶ 7-8.

²⁴⁴ *See* General Objections ¶ 9.

relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁴⁵

110. As of March 28, 2022, the 30-second version of the “Dance Workout” ad (GX 206)) had been viewed more than 11.3 million times on YouTube. (Shiller Dec. ¶ 135.)

Response to SOF ¶ 110: Disputed. Intuit disputes Paragraph 110 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements, and Intuit lacks knowledge of whether the information reported on YouTube about “views” is accurate or otherwise reflects the number of people who actually viewed the ad, whether in full or in part.²⁴⁶

111. A true and correct copy of the 15-second “Dog Show” ad is at GX 204. The following is a true and correct transcription of the words spoken in the “Dog Show” ad (Shiller Dec. ¶ 143.):

DOG SHOW JUDGE: Free (pointing at Dog 1), free (pointing at Dog 2), Free! (pointing at winning Dog 3).

WINNING DOG HANDLER: Free! Free! (shrieking excitedly)

VOICEOVER: That’s right, TurboTax Free Edition is free. See details at TurboTax.com.

Response to SOF ¶ 111: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating, “TurboTax *Free Edition* is free. See details at TurboTax.com.” Intuit otherwise disputes Paragraph 111 because it improperly and unreliably characterizes the ad, describing a portion of the ad as “shrieking excitedly,” which was not said or otherwise done in the ad and numbers the dogs in a way not communicated in the ad itself. Intuit further disputes Paragraph 111 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it

²⁴⁵ See General Objections ¶ 3.

²⁴⁶ See General Objections ¶¶ 3, 9.

does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁴⁷ The actual script of this advertisement differs from the transcription offered in Paragraph 111.²⁴⁸ And Intuit disputes Paragraph 111 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁴⁹

112. The disclaimer shown at the end of the ad reads, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” (GX 205.)

Response to SOF ¶ 112: Disputed in part. Intuit does not dispute that the ad in question included a disclosure providing, “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit otherwise disputes Paragraph 112, including the time reference, because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as audio as visual information.²⁵⁰

113. The “Dog Show” ads appeared throughout the United States at least 4,559 times on at least 499 television networks between November 1, 2021, and April 18, 2022. (See Shiller Dec. ¶¶ 144-45.)

Response to SOF ¶ 113: Disputed. Intuit disputes Paragraph 113 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms.

²⁴⁷ *See* General Objections ¶¶ 7-8.

²⁴⁸ RX 32 at 13, 23.

²⁴⁹ *See* General Objections ¶ 3.

²⁵⁰ *See* General Objections ¶¶ 7-8.

Shiller's representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.²⁵¹ Intuit further disputes Paragraph 113 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁵²

114. A true and correct copy of the 14-second "Steven/Spit Take" ad is at GX 307. The following is a true and correct transcription of the words spoken in the 14-second "Steven/Spit Take" ad (Shiller Dec. ¶ 149.):

VOICEOVER: "Steven, did you know that a TurboTax Live expert can do your simple tax return for you?"

Steven: "Umm"

VOICEOVER: "For free. It is true. For limited time TurboTax is free for simple returns even when an expert files for you."

Response to SOF ¶ 114: Disputed in part. Intuit does not dispute that the ad in question included a voiceover stating that "TurboTax is free for simple returns." Intuit otherwise disputes Paragraph 114 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁵³ Intuit further disputes Paragraph 114 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁵⁴

²⁵¹ See General Objections ¶ 9.

²⁵² See General Objections ¶ 3.

²⁵³ See General Objections ¶¶ 7-8.

²⁵⁴ See General Objections ¶ 3.

115. Wording in the middle of screen shown at the end of the ad reads, “Intuit TurboTax Live. File FREE, even when an expert files for you.” The disclaimer at the bottom of the screen reads, “For simple tax returns only. See if you qualify at turbotax.com. Must file by 3/31 for free offer. Offer subject to change.” (GX 308.)

Response to SOF ¶ 115: Disputed in part. Intuit does not dispute that the ad in question included a disclosure providing, “For simple tax returns only. See if you qualify at turbotax.com. Must file by 3/31 for free offer. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit also does not dispute that the ad stated that it was for the “Intuit TurboTax Live” product, and that the offer would allow consumers to “file free, even when an expert files for you.” Intuit otherwise disputes Paragraph 115, including the time reference, because, as described in the General Objections incorporated herein, it relies on unreliable screenshots, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁵⁵

116. A true and correct copy of the 28-second “Steven/Spit Take” ad is at GX 309. The following is a true and correct transcription of the words spoken in the 28-second “Steven/Spit Take” ad (Shiller Dec. ¶ 153):

VOICEOVER: “Steven, did you know that TurboTax is free no matter how you want to file?”

Steven: “I don’t believe that.”

VOICEOVER: “It’s true. Anyone with a simple tax return can get help from an expert, for free.”

Steven: “That can’t be true.”

VOICEOVER: “It is and with TurboTax Live our experts will even do your taxes for you for free.”

²⁵⁵ See General Objections ¶¶ 7-8.

Other man: “Honestly, that sounds amazing.”

VOICEOVER: “For a limited time TurboTax is free for simple returns no matter how you file.”

Response to SOF ¶ 116: Disputed in part. Intuit does not dispute that the ad in question included a voiceover that repeatedly referenced that the free offer was only for “simple tax returns.” Intuit otherwise disputes Paragraph 116 because, as described in the General Objections incorporated herein, it relies on a video obtained from a third-party website, and the transcription provided is unreliable because it does not accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁵⁶ Intuit further disputes Paragraph 116 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁵⁷

117. Wording in the middle of screen shown at the end of the ad reads, “Intuit TurboTax Live.” The disclaimer at the bottom of the screen reads, “For simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer subject to change.” (GX 310.)”

Response to SOF ¶ 117: Disputed in part. Intuit does not dispute that the ad in question included a disclosure providing, “For simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer subject to change.” Complaint Counsel, however, does not state what a “disclaimer” is, or what is being “disclaimed,” and Intuit disputes that the representation at issue is one that needs to be disclaimed. Intuit also does not dispute that the ad stated that it was for the “Intuit TurboTax Live” product. Intuit otherwise disputes Paragraph 117, including the time reference, because, as described in the General Objections incorporated herein, it relies on unreliable screenshots, and the transcription provided is unreliable because it does not

²⁵⁶ See General Objections ¶¶ 7-8.

²⁵⁷ See General Objections ¶ 3.

accurately convey the meaning of the advertising, which includes visual as well as audio information.²⁵⁸

118. The “Steven/Spit Take” ads appeared throughout the United States at least 13,341 times on at least 637 television networks between November 1, 2021, and April 18, 2022. (Shiller Dec. ¶¶ 154-55.) In addition, the ad ran during the live broadcast of the Oscars on March 27, 2022. (Evans Dec. ¶ 7.)

Response to SOF ¶ 118: Disputed. Intuit disputes Paragraph 118 because it is not supported by reliable evidence. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). As described in the General Objections incorporated herein, Ms. Shiller’s representations about when, where, and how frequently advertisements aired are unsupported, unexplained, and unreliable.²⁵⁹ Intuit further disputes Paragraph 118 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁶⁰ Mr. Evans also fails to adequately identify the advertisement he observed or attest that GX 307 and 308 are accurate copies of the same ad.²⁶¹ Intuit has also not had the opportunity to depose Mr. Evans to test the reliability of his statements.

119. On March 27, 2022, Intuit displayed a TurboTax ad on Facebook that said, “America’s #1 Free Tax Prep Provider,” with a 10-second video and a screen stating, “FREE \$0 \$0 \$0.” (Shiller Dec. ¶ 159): [image omitted]

Response to SOF ¶ 119: Disputed. Intuit disputes Paragraph 119 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²⁶² Intuit also disputes Paragraph 119 because Ms. Shiller has not established, and would be unable to establish, whether consumers visiting Facebook would have seen the screen captured in the screenshot or

²⁵⁸ *See* General Objections ¶¶ 7-8.

²⁵⁹ *See* General Objections ¶ 9.

²⁶⁰ *See* General Objections ¶ 3.

²⁶¹ *See* GX 343 ¶ 7.

²⁶² *See* General Objections ¶ 5.

the proportion of consumers who would have seen that screen.²⁶³ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁶⁴ Intuit further disputes Paragraph 119 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁶⁵

120. The ad referenced in paragraph 119 above was still displayed on Facebook on April 18, 2022. (Shiller Dec. ¶ 160).

Response to SOF ¶ 120: Disputed and immaterial. Intuit disputes Paragraph 120 because, as described in the General Objections incorporated herein, the screenshot provided in Paragraph 119 is unreliable.²⁶⁶ Intuit also disputes Paragraph 120 because Ms. Shiller has not established, and would be unable to establish, whether consumers visiting Facebook would have seen the screen captured in the screenshots in Paragraph 119 or the proportion of consumers who would have seen that screen.²⁶⁷ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁶⁸ Moreover, Ms. Shiller fails to explain how she determined that an advertisement was “still displayed” based on information collected from Facebook’s Ad Library, which reflects historical advertisements. Intuit further disputes Paragraph 120 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁶⁹

²⁶³ See General Objections ¶ 5.

²⁶⁴ See General Objections ¶ 5.

²⁶⁵ See General Objections ¶ 3.

²⁶⁶ See General Objections ¶ 5.

²⁶⁷ See General Objections ¶ 5.

²⁶⁸ See General Objections ¶ 5.

²⁶⁹ See General Objections ¶ 3.

In any event, the statement in Paragraph 120 is immaterial because whether this advertisement continued to run through April 18, 2022 is not relevant to whether the advertisement misled consumers into believing that TurboTax is free for *all* tax returns. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

121. On March 30, 2022, the following two ads were displayed on the Apple News application (Shiller Dec. ¶ 161): [image omitted]

Response to SOF ¶ 121: Disputed. Intuit disputes Paragraph 121 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²⁷⁰ Specifically, Ms. Shiller has failed to describe the process used to capture the screenshots included, to confirm the reliability of those images, or to identify where the images were displayed on the Apple News application. Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.²⁷¹ Intuit further disputes Paragraph 121 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁷²

122. The ads referenced in paragraph 121 above appeared repeatedly on the Apple News application between March 20 and April 18, 2022. (Shiller Dec. ¶ 162.)

Response to SOF ¶ 122: Disputed. Intuit disputes Paragraph 122 because, as described in the General Objections incorporated herein, the screenshot provided in Paragraph 121 is unreliable.²⁷³ Specifically, Ms. Shiller has failed to describe the process used to capture the screenshots included, to confirm the reliability of those images, to identify where the images were displayed on the Apple News application, or to explain what it means for an ad to “appear

²⁷⁰ *See* General Objections ¶ 5.

²⁷¹ *See* General Objections ¶ 5.

²⁷² *See* General Objections ¶ 3.

²⁷³ *See* General Objections ¶ 5.

repeatedly.” Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.²⁷⁴ Intuit further disputes Paragraph 122 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁷⁵

123. On April 7, 2022, Intuit displayed the following TurboTax ads on Reddit (Shiller Dec. ¶ 169): [image omitted]

Response to SOF ¶ 123: Disputed. Intuit disputes Paragraph 123 because, as described in the General Objections incorporated herein, the screenshots provided are unreliable.²⁷⁶ Intuit also disputes Paragraph 123 because Complaint Counsel has failed to identify the “FTC paralegal” mentioned in Paragraph 169 of the Shiller Declaration, to describe the process used to capture the screenshots included, to confirm the reliability of those images, or to identify where the images were displayed on Reddit. Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.²⁷⁷ Intuit further disputes Paragraph 123 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁷⁸

124. On April 8, 2022, Intuit displayed the following TurboTax ads on Reddit (Shiller Dec. ¶ 170): [image omitted]

Response to SOF ¶ 124: Disputed. Intuit disputes Paragraph 124 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²⁷⁹ Intuit also

²⁷⁴ See General Objections ¶ 5.

²⁷⁵ See General Objections ¶ 3.

²⁷⁶ See General Objections ¶ 5.

²⁷⁷ See General Objections ¶ 5.

²⁷⁸ See General Objections ¶ 3.

²⁷⁹ See General Objections ¶ 5.

disputes Paragraph 124 because Complaint Counsel has failed to adequately identify the “FTC paralegal” mentioned in Paragraph 170 of the Shiller Declaration, to describe the process used to capture the screenshots included, to confirm the reliability of those images, or to identify where the images were displayed on Reddit. Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.²⁸⁰ Intuit further disputes Paragraph 124 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁸¹

125. On April 14, 2022, the following TurboTax ad appeared on the webpage of the Milwaukee Journal Sentinel, [jsonline.com/travel/](https://www.jsonline.com/travel/) (Shiller Dec. ¶ 171): [image omitted]

Response to SOF ¶ 125: Disputed. Intuit disputes Paragraph 125 because, as described in the General Objections incorporated herein, the screenshot provided is unreliable.²⁸² Complaint Counsel have also failed to establish that any consumers ever saw this advertisement.²⁸³ Intuit further disputes Paragraph 125 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁸⁴

126. In TY 2021, Intuit placed TurboTax ads on the Bing results page for the search term “file my taxes for free” (Shiller Dec. ¶¶ 163-65): [image omitted]

Response to SOF ¶ 126: Disputed. Intuit disputes Paragraph 126 because Intuit does not place advertisements on the results pages for internet search engines, such as Bing. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words

²⁸⁰ See General Objections ¶ 5.

²⁸¹ See General Objections ¶ 3.

²⁸² See General Objections ¶ 5.

²⁸³ See General Objections ¶ 5.

²⁸⁴ See General Objections ¶ 3.

or phrases on which to bid, so that advertisements may appear in the search engine results pages.²⁸⁵ Intuit then bids on those key words and *Bing* subsequently places the ads on the result page to be viewed by certain consumers.²⁸⁶ Intuit also disputes Paragraph 126 because it implies that all consumers who searched for the term, “file my taxes for free,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.²⁸⁷ Whether a consumer views a paid search advertisement on Bing depends on other various factors, including how many other companies have bid on those terms.²⁸⁸ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁸⁹

Intuit further disputes Paragraph 126 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁹⁰

127. In TY 2021, Intuit placed TurboTax ads on the Google results page for the search term “file my taxes for free” (Shiller Dec. ¶¶ 166, 168): [image omitted]

Response to SOF ¶ 127: Disputed. Intuit disputes Paragraph 127 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.²⁹¹ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to

²⁸⁵ See RX 66 at 61:23-64:19, 125:10-130:6 (explaining how Intuit works with paid search agencies).

²⁸⁶ Ryan Decl. ¶ 23.

²⁸⁷ RX 66 at 62:1-9.

²⁸⁸ RX 87.

²⁸⁹ See General Objections ¶ 6.

²⁹⁰ See General Objections ¶ 3.

²⁹¹ See RX 66 at 61:23-64:19, 125:10-130:6.

be viewed by certain consumers.²⁹² Intuit also disputes Paragraph 127 because it implies that all consumers who searched for the term, “file my taxes for free,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.²⁹³ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.²⁹⁴ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.²⁹⁵

Intuit further disputes Paragraph 127 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.²⁹⁶

128. In TY 2021, Intuit placed TurboTax ads on the Google results page for the search term “free tax filing” (Shiller Dec. ¶ 167): [image omitted]

Response to SOF ¶ 128: Disputed. Intuit disputes Paragraph 128 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.²⁹⁷ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.²⁹⁸ Intuit also disputes Paragraph 128 because it implies that all

²⁹² Ryan Decl. ¶ 23.

²⁹³ RX 66 at 62:1-9.

²⁹⁴ RX 86.

²⁹⁵ See General Objections ¶ 6.

²⁹⁶ See General Objections ¶ 3.

²⁹⁷ See RX 66 at 61:23-64:19, 125:10-130:6.

²⁹⁸ Ryan Decl. ¶ 23.

consumers who searched for the term, “free tax filing,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.²⁹⁹ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.³⁰⁰ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.³⁰¹

Intuit further disputes Paragraph 128 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.³⁰²

129. After April 18, 2022 (Tax Day), Intuit continued placing TurboTax paid search ads on search result pages for the search term “file tax extension” (Shiller Dec. ¶ 204): [image omitted]

Response to SOF ¶ 129: Disputed and immaterial. Intuit disputes Paragraph 129 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.³⁰³ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.³⁰⁴ Intuit also disputes Paragraph 129 because it implies that all consumers who searched for the term, “file tax

²⁹⁹ RX 66 at 62:1-9.

³⁰⁰ RX 86.

³⁰¹ See General Objections ¶ 6.

³⁰² See General Objections ¶ 3.

³⁰³ See RX 66 at 61:23-64:19, 125:10-130:6.

³⁰⁴ Ryan Decl. ¶ 23.

extension,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.³⁰⁵ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.³⁰⁶ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.³⁰⁷

Intuit further disputes Paragraph 129 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.³⁰⁸

In any event, the statement in Paragraph 129 is immaterial because the dates on which these advertisements were displayed has no bearing on whether they were misleading. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”). Paragraph 129 is also immaterial because all tax extension applications prepared through TurboTax are prepared for free,³⁰⁹ and the Complaint does not allege that Intuit’s advertising concerning tax extensions is deceptive.

³⁰⁵ RX 66 at 62:1-9.

³⁰⁶ RX 86.

³⁰⁷ *See* General Objections ¶ 6.

³⁰⁸ *See* General Objections ¶ 3.

³⁰⁹ Ryan Decl. ¶ 16.

130. After April 18, 2022 (Tax Day), Intuit continued placing TurboTax paid search ads on the Google search results page for the search term “File a Tax Extension For Free” (Shiller Dec. ¶ 205): [image omitted]

Response to SOF ¶ 130: Disputed and immaterial. Paragraph 130 is immaterial because all tax extensions filed through TurboTax are filed for free,³¹⁰ and the Complaint does not allege that Intuit’s advertising concerning tax extensions is deceptive.

Intuit also disputes Paragraph 130 because Intuit does not place advertisements on the results pages for internet search engines, such as Google. Intuit works with paid search agencies that create campaigns and provide recommendations to select key words or phrases on which to bid, so that advertisements *may* appear in the search engine results pages.³¹¹ Intuit then bids on those key words and *Google* subsequently places the ads on the results page to be viewed by certain consumers.³¹² Intuit also disputes Paragraph 130 because it implies that all consumers who searched for the term, “File a Tax Extension For Free,” saw this advertisement. When a consumer searches a term that a company has bid on, the advertisement may, but is not guaranteed to, appear on that consumer’s search results page.³¹³ Whether a consumer views a paid search advertisement on Google depends on various factors, including how many other companies have bid on those terms, the location of the consumer, and the overall quality of the ad campaign, as determined by Google.³¹⁴ Complaint Counsel have failed to establish that any consumers ever saw this advertisement.³¹⁵

³¹⁰ *Id.*

³¹¹ *See* RX 66 at 61:23-64:19, 125:10-130:6.

³¹² Ryan Decl. ¶ 23.

³¹³ RX 66 at 62:1-9.

³¹⁴ RX 86.

³¹⁵ *See* General Objections ¶ 6.

Intuit further disputes Paragraph 130 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.³¹⁶

In any event, the statement in Paragraph 129 is immaterial because the dates on which these advertisements were displayed has no bearing on whether they were misleading. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

131. On April 18, 2022, Intuit distributed the following email (Shiller Dec. ¶ 172): [image omitted]

Response to SOF ¶ 131: Disputed. Intuit disputes Paragraph 131 because Complaint Counsel has failed to adequately identify the “FTC staff attorney” nor the “consumer” mentioned in Paragraph 172 of the Shiller Declaration, to describe the process used to capture the screenshots included, or to confirm the reliability of those images. Intuit further disputes Paragraph 131 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.³¹⁷

132. Consumer Sentinel Network ("Sentinel"), the FTC's consumer complaint database, had received 571 consumer complaints about "free" TurboTax between January 1, 2016, and March 28, 2022. (Shiller Dec. ¶ 220; GX 338 & 339.) Of these complaints, 60 were filed between November 1, 2021, and March 28, 2022. (Shiller Dec. ¶ 221) Of the 60 complaints, (a) 57 were from consumers who thought they were filing for free with TurboTax, (b) 27 mentioned that the consumers saw advertising indicating their tax filing would be free, and (c) 55 were from consumers who paid TurboTax when they thought their tax filing would be free. (Id.)

Response to SOF ¶ 132: Disputed. Intuit disputes Paragraph 132 because the Shiller Declaration fails to explain what is meant by (1) complaints being from consumers who thought they were filing for free with TurboTax, (2) complaints mentioning that the consumer saw advertising indicating their tax filing would be free, and (3) complaints from consumers who paid TurboTax when they thought their tax filing would be free. Among other unexplained questions,

³¹⁶ *See* General Objections ¶ 3.

³¹⁷ *See* General Objections ¶ 3.

the Shiller Declaration does not indicate whether the 57 consumers who “thought they were filing for free with TurboTax” believed so from the advertisements challenged or from some other reason, actually ended up filing their taxes for free using TurboTax (or could have done so); whether the 27 consumers who mentioned they “saw advertising indicating their tax filing would be free” had that as the source of their complaint if they could not file for free; or whether the 55 consumers who “paid TurboTax when they thought their tax filing would be free” actually saw any TurboTax advertising and/or formulated the belief that their tax filing would be free from any TurboTax advertising. Nor does the Shiller Declaration identify the complaints that purportedly fall into each category identified. Without this information, Complaint Counsel’s reference to these purported consumer complaints cannot support any inference of deception. In addition, Ms. Shiller’s description of what someone else said is double hearsay and completely unreliable.³¹⁸ Each complaint must be set forth separately to give Intuit a fair opportunity to address each one. And, of course, Ms. Shiller does not say—because she cannot say—that any complaint is accurate.

Paragraph 132 also fails to explain what the remaining 514 consumer complaints relate to, even at the same overly broad level of generality as the approximately 60 complaints that are discussed, such that they cannot support any inference of deception. The Shiller Declaration provides no indication that any of those roughly 514 complaints relate in any way to the Complaint or Complaint Counsel’s arguments. Indeed, even a cursory review of the consumer complaints reveals that many have no relation whatsoever to the Complaint’s allegations. For example, included in the 571 complaints are complaints about consumers’ inability to access prior years’

³¹⁸ See *In the Matter of AMREP Corp.*, Docket No. 9018 C (FTC Feb. 3, 1978) (embracing the rule against hearsay within hearsay); *NLRB v. Oklahoma Installation Co.*, 1994 U.S. App. LEXIS 14835, *7-8 (6th Cir. June 14, 1994) (finding that hearsay within hearsay rendered “evidence unreliable and therefore insubstantial” in an administrative proceeding).

tax returns;³¹⁹ IRS delays outside of Intuit's control;³²⁰ technical issues with the TurboTax software;³²¹ and the TurboTax desktop product (of which no free version exists).³²² They are not complaints about the challenged advertisements.

Moreover, Intuit disputes Paragraph 132 to the extent it is intended to support an inference of deception. The 571 complaints identified by Complaint Counsel represent [REDACTED]

[REDACTED].³²³ The 60 consumer complaints actually discussed in the Shiller declaration represent an even smaller fraction of the millions of TurboTax customers that filed their taxes during that period.³²⁴ In Tax Year 2020 alone, 38.2 million customers filed their returns with a TurboTax commercial product, with 13.85 million filing their federal and state tax returns for free using Free Edition.³²⁵

Those consumer complaints are also vastly outnumbered by the tens of thousands of satisfied customers who successfully file their taxes for free using TurboTax. For example, between November 7, 2021 to August 18, 2022, 68,836 customer reviews of TurboTax Free Edition generated an average 4.9-star rating out of 5 stars.³²⁶ There were also 63,252 customer reviews of TurboTax Deluxe Edition, generating a 4.5-star average rating; 16,466 customer reviews of TurboTax Premier, generating a 4.4-star average rating; and 18,488 customer reviews

³¹⁹ See, e.g., GX 338 at 27.

³²⁰ See, e.g., GX 338 at 190.

³²¹ See, e.g., GX 338 at 871.

³²² See, e.g., GX 338 at 928.

³²³ See Golder Decl. ¶ 43.

³²⁴ RX 106.

³²⁵ *Id.*

³²⁶ See RX 9.

of TurboTax Self Employed, generating a 4.7-star average rating.³²⁷ On the customer review platform Influenster, TurboTax has the highest rating for any tax preparation brand with 4.5 out of 5 stars based on over 47,000 reviews, followed by TaxAct with 4.4 stars, TaxSlayer with 4.4 stars, and H&R Block with 4.1 stars.³²⁸

TurboTax's satisfaction and customer-retention rates further dispute any inference that Free Edition ads deceived consumers. Intuit maintains an industry-leading overall customer-retention rate (including its paying customer) of approximately 80%.³²⁹ [REDACTED]

[REDACTED]

[REDACTED]

330

Furthermore, depositions of consumer declarants from other related proceedings indicate that consumer complaints are not indicative of deception. Many consumers complaints are unfounded, and even consumers who complain recognize that they clearly knew about and understood Free Edition's eligibility qualifications.³³¹

A survey conducted by Professor John Hauser, Sc.D., for example, establishes that consumers do not rely on Intuit's ads and website alone, but also conduct substantial research when selecting a tax-preparation provider and thus are likely to find third-party websites discussing Free

³²⁷ *Id.*

³²⁸ RX 88; *see also* Golder Decl. ¶ 172.

³²⁹ RX 50 at INTUIT-FFA-FTC-000526548-50; *see also* Golder Decl. ¶ 173.

³³⁰ RX 38 at INTUIT-FFA-FTC-000435838; *see also* Golder Decl. ¶¶ 169-172 (detailing the overwhelming number of positive customer reviews available on the TurboTax website and noting that TurboTax has the highest rating for any tax preparation brand with 4.5 out of 5 stars on the customer review platform Influenster).

³³¹ *See* Intuit Response to SOF ¶ 74.

Edition's eligibility limitations.³³² His survey also shows that consumers are comfortable switching between tax-preparation providers and that, as a result, consumers' decisions to use TurboTax reflect customer satisfaction, not lock-in or deception.³³³

A separate survey by Rebecca Kirk Fair buttresses these conclusions, confirming that consumers often research tax-preparation options and do not feel locked in to using a paid TurboTax product, even after starting in Free Edition.³³⁴ Intuit's ads themselves further establish that consumers were not deceived.³³⁵

Intuit further disputes Paragraph 132 because it relies on redacted copies of complaints from the Consumer Sentinel Network (GX 338 and GX 339). Ms. Shiller fails to adequately explain the FTC's method of compiling and identifying these consumer complaints, and she has not articulated what process was used to verify the substance of the complaints, if any, nor demonstrated that any complaints were submitted by real consumers. Intuit further disputes Paragraph 132 insofar as it relies on the Shiller Declaration because Intuit has been unable to depose Ms. Shiller to test the reliability of her statements.³³⁶ And, lastly, Intuit disputes Paragraph 132 because it has been unable to depose any of the complaining consumers.

In sum, the representation of the complaints is wrong and disputed, the inferences Complaint Counsel urge on the Commission are unsupportable and disputed, the small number of complaints relative to the TurboTax user base is evidence of the *absence* of deception, and Intuit

³³² Declaration of John R. Hauser, Sc.D. in Support of Intuit's Opposition to Complaint Counsel's Motion for Summary Decision ("Hauser Decl.") ¶¶ 72-73.

³³³ *Id.* ¶¶ 85-89.

³³⁴ *See id.* ¶¶ 90-94.

³³⁵ *See supra* Intuit Response to SOF ¶ 17; *infra* Statement of Material Facts as to Which There Exists a Genuine Issue for Trial ("Intuit SOF") ¶¶ 15-31.

³³⁶ *See* General Objections ¶ 3.

has not been afforded an appropriate opportunity to depose either Ms. Shiller or the consumers themselves.

133. Professor Nathan Novemsky, Ph.D., a professor of psychology and marketing at Yale University (GX 304), prepared declarations and supervised and directed a consumer perception survey on behalf of the FTC (see GX 302, GX 305-06, GX 313, and GX 314-15), and:

Response to SOF ¶ 133: Disputed in part and immaterial. Intuit does not dispute that Professor Nathan Novemsky purports to have prepared declarations and directed a consumer survey (“Novemsky Survey”) on behalf of the FTC. However, Intuit disputes the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky. Due to a number of serious flaws in its purpose, design, and results, the Novemsky Survey does not reliably assess whether Intuit’s advertisements, website, or related disclosures caused consumers to have a misimpression that they would qualify to file for free with Free Edition.³³⁷

First, the Novemsky Survey cannot be used to assess anything (regarding deception or otherwise) about Intuit’s advertisements or disclosures because the survey did not show anyone any of the allegedly deceptive ads.³³⁸ Second, the Novemsky Survey cannot be used to draw any causal conclusions about Intuit’s ads because it simply measured respondents’ preexisting impressions and aspirations regarding their eligibility to file for free with TurboTax, rather than the effect of any at-issue communications from Intuit.³³⁹ Third, the results of the Novemsky Survey are biased and unreliable because the Survey sample is not representative of its target population.³⁴⁰ The Novemsky Survey involved only taxpayers who had not yet filed their taxes

³³⁷ See Hauser Decl. ¶ 15.

³³⁸ *Id.* ¶¶ 16, 24, 30-33.

³³⁹ *Id.* ¶¶ 17, 24, 34-39.

³⁴⁰ *Id.* ¶¶ 18, 24, 49-55.

by mid-March, including respondents who had minimal involvement in the tax preparation decisions of their household.³⁴¹ The Novemsky Survey also allowed respondents to opt out after learning the purpose of the survey (identified as an investigation in “unfair and deceptive conduct”), the sponsor (the FTC), and the entity being investigated (Intuit).³⁴² This ability for respondents to opt out of the survey after completion created a significant opportunity for self-selection bias in the final sample population.³⁴³ As the FTC has explained, such disclosures “inadvertently create bias in the consumers’ decision to participate,” which in turn “affect[s] the accuracy and validity of the information collected and effectively nullif[ies] the survey.”³⁴⁴ Finally, the survey instrument employed by Professor Novemsky is flawed and unreliable because it asked leading questions that encourage guessing and therefore produce unreliable data.³⁴⁵ The Novemsky Survey repeatedly included one-sided questions and yes/no questions, both of which are known to bias results by nontrivial amounts; and it included key questions that encourage respondents to guess by providing inadequate information and by allowing respondents to answer that they “think” a certain statement is correct.³⁴⁶

Moreover, the substantial evidence discussed above demonstrates that consumers were not in fact deceived by Intuit’s marketing, which further shows that the Novemsky Survey is unreliable.³⁴⁷

³⁴¹ *Id.* ¶¶ 50-51.

³⁴² *Id.* ¶¶ 54-55.

³⁴³ *Id.* ¶ 54 n.73.

³⁴⁴ RX 89 at 8.

³⁴⁵ Hauser Decl. ¶¶ 19, 24, 56-67.

³⁴⁶ *Id.*

³⁴⁷ *See* Intuit Response to SOF ¶¶ 74, 132.

In contrast to the Novemsky Survey and its unreliable and biased results, Professor John Hauser, Sc.D., designed, implemented, and analyzed a market research survey (“Purchase Driver Survey”) which demonstrated that consumers are actively engaged in finding and selecting a tax preparation provider and are not deceived.³⁴⁸ Professor Hauser’s Purchase Driver Survey evaluated the process that tax filers go through to identify a tax preparation solution, including any research they may conduct, and the factors they consider when selecting a tax preparation method or provider.³⁴⁹ The survey consisted of a screener, a main questionnaire, and a set of follow-up questions, which examined respondents’ background, their experiences filing taxes in 2021, and the factors they considered when choosing a tax preparation method or provider.³⁵⁰

The survey first demonstrates that consumers conduct extensive research before filing their taxes and evaluate all their tax filing options before choosing one.³⁵¹ Survey responses repeatedly mentioned exploring tax preparation websites, reading reviews or testimonials, and speaking with friends and family as part of the process of researching tax preparation methods.³⁵² Those results reflect that consumers do not rely solely on advertisements or email marketing when researching tax preparation solutions.³⁵³

Second, Professor Hauser’s survey demonstrates that consumers consider many factors when filing their taxes, including tradeoffs between quality and price, and do not strictly prefer the

³⁴⁸ Hauser Decl. ¶¶ 6, 20.

³⁴⁹ *Id.* ¶ 70.

³⁵⁰ *Id.* at Appendix C.

³⁵¹ *Id.* ¶¶ 20, 69, 71-72, 74, 76-77 (noting that when it comes to “high-involvement goods” such as tax preparation products, “consumers typically engage closely with the purchase process and conduct substantial research prior to making a purchase decision”).

³⁵² *Id.* ¶ 72.

³⁵³ *Id.* ¶ 74.

cheapest or free option.³⁵⁴ Responses mention price as an important factor, but by no means the only one considered by consumers; in fact, non-price factors such as ease of use, confidence in the accuracy and reliability of the results, and data security all cited as important factors in the choice of tax preparation method or provider.³⁵⁵

Finally, results from Professor Hauser's survey show that consumers do not typically feel "locked in" to a tax preparation provider after entering their personal and financial information.³⁵⁶ Respondents mentioned changing tax preparation methods or providers year to year and conducting research on other providers even after they have started preparing their tax return online.³⁵⁷

Rebecca Kirk Fair—who the FTC has used on numerous occasions—conducted a separate consumer survey that further demonstrated that consumers were not deceived by Intuit's ads. The Kirk Fair Disclosure Survey tested whether consumers—after being exposed to Free Edition advertising—would respond to different information about alternative filing options as part of the hard stop upgrade process, including additional information about other free filing options.³⁵⁸ In order to simulate how real TurboTax customers might learn about Free Edition, Ms. Kirk Fair had survey respondents view a Free Edition advertisement as well as product information on the TurboTax website before beginning the survey.³⁵⁹ Respondents were then prompted to start filing their taxes with Free Edition, but after beginning the process, they were each shown an upgrade

³⁵⁴ *Id.* ¶¶ 21, 71, 78-80, 82-83.

³⁵⁵ *Id.*

³⁵⁶ Hauser Decl. ¶¶ 22, 71, 85-89.

³⁵⁷ *Id.*

³⁵⁸ Declaration of Rebecca Kirk Fair in Support of Intuit's Opposition to Complaint Counsel's Motion for Summary Decision ("Kirk Fair Decl.") ¶ 7.

³⁵⁹ *Id.* at Appendix C.

screen informing them that they were not eligible for Free Edition.³⁶⁰ Some of these respondents were told about alternative free filing options.³⁶¹ Respondents were asked to answer various open-ended questions about the experience.³⁶²

The results demonstrate that “TurboTax’s current upgrade screens do not induce upgrades from TurboTax’s Free Edition to Paid version of TurboTax.”³⁶³ Nearly 40% of respondents indicated, upon viewing the upgrade screen, that they would seek out alternative filing options or conduct additional research.³⁶⁴ For example, respondents indicated they would:

- “Look into other options where I wouldn’t have to pay \$60. Maybe H&R Block. I’d ask friends how they filed.”³⁶⁵
- “As I’m no longer able to file with the free edition, I would search the internet and compare the Turbo Tax pay for edition with other tax platforms with comparable features.”³⁶⁶
- “I would then go to reviews of each of the paid for services. This would help me decide if I want to upgrade.”³⁶⁷

³⁶⁰ *Id.*

³⁶¹ *Id.*

³⁶² *Id.*

³⁶³ *Id.* ¶ 29.

³⁶⁴ *Id.* ¶ 29 n.32.

³⁶⁵ *Id.*

³⁶⁶ *Id.*

³⁶⁷ *Id.* ¶ 30.

- “I would move on to next screen and find out what I need to do differently and how much it would cost. I would then probably go to another website to see what they say about the same information provided and compare price.”³⁶⁸

The survey also demonstrates that providing respondents with more information about alternative free filing options, in this case the IRS Free File program, does not result in fewer respondents choosing to upgrade with TurboTax. Specifically, about 40% of respondents who were told about the alternative free option would voluntarily upgrade to a paid TurboTax product.³⁶⁹

Professor Hauser’s Purchase Driver Survey, as well as the Kirk Fair Disclosure Survey and other publicly available research, demonstrate that consumers do not rely on advertisements and the Intuit website alone to make their purchase decision; that consumers instead evaluate tax filing options based on the factors they consider important; and that consumers do not feel locked in to using a paid TurboTax product after having been informed that they are not eligible for TurboTax Free Edition.³⁷⁰ These results further suggest that the opinions in the Novemsky Declaration regarding consumer perception are inaccurate and that Intuit’s advertisements, website, and related disclosures did not mislead consumers.³⁷¹

³⁶⁸ *Id.*

³⁶⁹ *Id.* ¶ 20.

³⁷⁰ Hauser Decl. ¶¶ 69, 72 (noting that when it comes to “high-involvement goods” such as tax preparation products, “consumers typically engage closely with the purchase process and conduct substantial research prior to making a purchase decision”); Kirk Fair Decl. ¶¶ 28-32 (sharing results from the Kirk Fair Disclosure Survey which demonstrated how “prospective TurboTax customers are well-informed, pursue information from other sources, and have direct experience with other tax preparation service providers”).

³⁷¹ *Id.* ¶ 71.

Moreover, Intuit disputes Paragraph 133 because Intuit has not had the opportunity to depose Professor Novemsky.

In any event, the statement in Paragraph 133 is immaterial because the fact that Professor Novemsky prepared declarations and directed a consumer survey on behalf of the FTC is not relevant to any material issue in this case. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

133(a). [Professor Novemsky] [s]tated that he was asked by the FTC to evaluate claims made by Intuit when it advertises and markets its TurboTax online tax preparation services as “free,” including by designing and supervising an online consumer perception survey, GX 302 ¶ 2, and that he was asked to evaluate declarations Intuit produced, GX 313 ¶¶ 8–9.

Response to SOF ¶ 133(a): Disputed in part and immaterial. Intuit does not dispute that Professor Novemsky was asked by the FTC to evaluate certain claims made by Intuit, including by designing and supervising a consumer survey, and that he was asked to evaluate declarations produced by Intuit. However, Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky.

Additionally, Intuit disputes that Professor Novemsky evaluated *any* claims made by Intuit.³⁷² The Novemsky Survey did not expose respondents to any allegedly deceptive advertisement, disclosure, or claim by Intuit. If respondents were not shown any stimuli in the Novemsky Survey, then the Survey simply measures pre-existing beliefs that could be derived from anywhere—including from the design of the survey.³⁷³

Moreover, Intuit disputes Paragraph 133(a) because Intuit has not had the opportunity to depose Professor Novemsky.

³⁷² *Id.* ¶¶ 30-33.

³⁷³ *Id.* ¶ 33.

In any event, the statement in Paragraph 133(a) is immaterial because what Complaint Counsel asked Professor Novemsky to do is not relevant to any material issue in this case. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

133(b). [Professor Novemsky] [c]onducted a perception survey, instead of a copy test showing advertisements to consumers, because “[p]reliminary testing revealed that most consumers had existing beliefs about their ability to file for free using TurboTax, which indicates that consumers have been exposed to Intuit’s marketing already.” GX 313 ¶¶ 8–9.

Response to SOF ¶ 133(b): Disputed in part. Intuit does not dispute that Professor Novemsky designed and supervised questions to people and that he calls it a survey. However, Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky.

Additionally, Intuit disputes that Professor Novemsky measured consumer perception. As stated in its response to Paragraph 133(a), the Novemsky Survey did not expose respondents to any allegedly deceptive advertisement, disclosure, or claim by Intuit.³⁷⁴ The Novemsky Declaration does not describe showing any stimuli to respondents, there were no screenshots of any stimuli shown to respondents produced, the Novemsky Survey script does not include any reference to presenting respondents with stimuli, and the questions in the survey itself do not reference respondents having reviewed any stimuli.³⁷⁵ Without showing respondents any at-issue messaging, the Novemsky Survey does not and cannot test respondents’ perception let alone tie consumer perception to any of Intuit’s at-issue advertisements, website, or disclosures.³⁷⁶ Rather than surveying any purported consumer perceptions regarding TurboTax advertising, the

³⁷⁴ *Id.* ¶¶ 30-33.

³⁷⁵ *Id.* ¶ 31.

³⁷⁶ *Id.* ¶ 32.

Novemsky Survey at best simply measures unsupported guesses that cannot be connected in any meaningful way to Intuit's advertisements, website, or related disclosures.³⁷⁷

Next, Intuit does not dispute that consumers may have beliefs about their ability to file for free using TurboTax before Professor Novemsky began his survey. However, Intuit does dispute that this hypothetical indicates consumers have already been exposed to Intuit's marketing or that the marketing provided a misimpression about those consumers' eligibility to file using Free Edition. Those impressions could be the result of many different sources, including sources that are entirely unrelated to Intuit.³⁷⁸ In other words, the Novemsky Survey does not and cannot establish the source of respondents' impressions, and further cannot rule out any other sources of information (other than the at-issue communications) that led to consumer beliefs.³⁷⁹ For example, consumers may have seen advertising from competing tax preparation providers that advertise their own free options or that compare their tax preparation offerings to TurboTax, and may not have even seen or been exposed to TurboTax's own marketing. Consumers may also have reviewed independent reviews or spoken to friends. The Novemsky Survey fails to establish that TurboTax's marketing is the sole, substantial, or even partial source of consumers' beliefs.³⁸⁰

Moreover, because Intuit has not had the opportunity to depose Professor Novemsky, it disputes the assertion. It is likely that Professor Novemsky had to stop his survey because he did not like the results.

³⁷⁷ *Id.* ¶¶ 32-33.

³⁷⁸ *Id.* ¶¶ 34-39.

³⁷⁹ *Id.* ¶¶ 40-48.

³⁸⁰ *Id.*

133(c). [Professor Novemsky] [o]pined that consumers not eligible for the Free Edition have the misimpression that they can file their taxes for free with TurboTax. GX 302 ¶¶ 22–24 & tbl. 1.

Response to SOF ¶ 133(c): Disputed in part and immaterial. Intuit does not dispute that Professor Novemsky presented this opinion. However, this is a statement of *facts*. Professor Novemsky’s opinion about Intuit’s advertisements is not a fact. That is particularly true because Professor Novemsky’s survey is “junk science.” Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky.

Moreover, Intuit disputes Paragraph 133(c) to the extent it implies that consumers have the misimpression that they can file their taxes for free with TurboTax when they are not eligible to use Free Edition as a result of Intuit’s advertisements, website, or disclosures.

Intuit further disputes Paragraph 133(c) to the extent that it assumes that consumers not eligible for Free Edition are not able to file their taxes for free with TurboTax. For example, beginning with Tax Year 2019, any enlisted member of the Armed Forces is eligible to use any of Intuit’s online commercial products completely for free, not just Free Edition.³⁸¹ In addition, Intuit regularly runs promotions that allow consumers who do not qualify for Free Edition to use Intuit’s tax preparation software for free.³⁸² Customers can also use coupons or discount codes to use TurboTax products free of charge.³⁸³

Moreover, Intuit disputes Paragraph 133(c) because Intuit has not had the opportunity to depose Professor Novemsky.

³⁸¹ See *supra* Intuit Response to SOF ¶¶ 7, 15; see also Ryan Decl. ¶ 14.

³⁸² See *supra* Intuit Response to SOF ¶¶ 7, 15.

³⁸³ See *supra* Intuit Response to SOF ¶¶ 7, 15.

In any event, the statement in Paragraph 133(c) is immaterial because whether consumers incorrectly believe they are eligible to file taxes for free with TurboTax based on Professor Novemsky's communications—not Intuit's—or some other information or belief does not establish (or even support the claim) that Intuit's ads were deceptive. *See* 16 C.F.R. § 3.43 ("Irrelevant, immaterial, and unreliable evidence shall be excluded.").

133(d). [Professor Novemsky] [f]urther opined that ineligible consumers who had not used TurboTax in the previous three years believed, at a rate of 52.7%, that they could use TurboTax for free. Id. ¶ 23. 72.3% of these taxpayers identify Intuit's TurboTax advertisements and its website as playing a role in forming their misimpression. Id. ¶¶ 25–26 & tbl. 2.

Response to SOF ¶ 133(d): Disputed in part. Intuit does not dispute that Professor Novemsky presented this opinion. However, this is a statement of *facts*. Professor Novemsky's opinion about Intuit's advertisements is not a fact. That is particularly true because Professor Novemsky's survey is "junk science." Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky. Intuit also reiterates and incorporates its responses to Paragraphs 133(a) and (b), as the Novemsky Survey at best simply measures general impressions and unsupported guesses that cannot be connected in any meaningful way to Intuit's advertisements, website, or disclosures. And Intuit reiterates and incorporates its response to Paragraph 133(c) to the extent the Novemsky Survey assumes that consumers not eligible for Free Edition are not able to file their taxes for free with TurboTax. Intuit also disputes that the Novemsky Survey accurately assessed whether a consumer was or was not eligible to use Free Edition. Professor Novemsky did not look at tax returns or otherwise endeavor to make a factually accurate assessment of eligibility.

Moreover, Intuit disputes Paragraph 133(d) because Intuit has not had the opportunity to depose Professor Novemsky.

133(e). [Professor Novemsky] [f]urther opined that consumers have expectations that some companies offer online services for free. Consumers have experience with many free online services such as Google, Facebook, streaming audio and video content by YouTube and Spotify, online games, and many other online services. *Id.* ¶ 27.

Response to SOF ¶ 133(e): Disputed in part and immaterial. Intuit does not dispute Professor Novemsky presented this opinion. However, Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky. In addition, this “opinion” by Professor Novemsky relied on nothing but his own *ipse dixit*, not even his flawed survey, and thus is unreliable and cannot be considered.

Moreover, free online services outside of the tax-preparation industry lack relevance to the Complaint or Complaint Counsel’s arguments. References to other products and services are entirely immaterial, as “the proper context” for the reasonable-consumer inquiry is limited to the relevant market, *Ebner v. Fresh*, 838 F.3d 958, 965-967 (9th Cir. 2016), which is tax preparation products and services. Intuit further disputes any inference that consumers expect companies in the online-tax-preparation industry to provide free tax filing services to all consumers. All major players in the online-tax-preparation industry employ a business model that mirrors Intuit’s.³⁸⁴ Further, consumers are inherently skeptical of “free” marketing, as they understand that for-profit companies need to earn revenue and do not provide everything for free.³⁸⁵ [REDACTED]

[REDACTED]

[REDACTED].³⁸⁶

³⁸⁴ Golder Decl. ¶ 68.

³⁸⁵ Hauser Decl. ¶ 75; Golder Decl. ¶ 65; *see also supra* Intuit Response to SOF ¶ 74.

³⁸⁶ Intuit Response to SOF ¶ 74.

Moreover, Intuit disputes Paragraph 133(e) because Intuit has not had the opportunity to depose Professor Novemsky.

133(f). [Professor Novemsky] [f]urther opined that 55% of consumers ineligible for Free Edition who had not used TurboTax in the previous three years had the misimpression that they had a “simple U.S. return.” Id. ¶¶ 29–30 & tbl. 3.

Response to SOF ¶ 133(f): Disputed in part. Intuit does not dispute that Professor Novemsky presented this opinion. However, Intuit reiterates and incorporates its responses to Paragraphs 133 and 133(a)-(c) and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky. Specifically, Intuit disputes Paragraph 133(f) to the extent it implies that any consumer misimpressions regarding whether they had a simple tax return are connected in any meaningful way to Intuit’s advertisements, website, or disclosures. Intuit also disputes Professor Novemsky’s methodology for assessing whether consumers, in fact, are eligible for Free Edition as it depends on consumers guessing about their tax situations without providing any additional information and Professor Novemsky did not examine the consumers’ tax returns or conduct any other research.

Moreover, Intuit disputes Paragraph 133(f) because Intuit has not had the opportunity to depose Professor Novemsky.

133(g). [Professor Novemsky] [f]urther opined that a hyperlinked “simple returns” is not a sufficient disclaimer to undo consumers’ misimpression that they can file for free with TurboTax. Id. ¶¶ 31-34; GX 313 ¶¶ 53–54.

Response to SOF ¶ 133(g): Disputed in part and immaterial. Intuit does not dispute that Professor Novemsky presented this opinion. However, Intuit reiterates and incorporates its response to Paragraph 133 and the critiques regarding the accuracy and reliability of the Novemsky Survey and the resulting opinions and conclusions asserted by Professor Novemsky.

Moreover, Intuit disputes that the hyperlinked “simple returns” disclaimers in its ads are not sufficient to inform consumers of Free Edition’s qualifications, and Professor Novemsky’s *ipse dixit* on a subject where he lacks qualifications to opine is both immaterial and unsupported. Intuit’s disclosures inform consumers that: (1) there are qualifications to use Free Edition, such that not everyone will qualify; (2) the qualifications are tied to the complexity or simplicity of a consumer’s tax returns; and (3) further information about those requirements can be viewed by clicking the hyperlink.³⁸⁷ Anyone who clicks the hyperlink will learn in full what constitutes a simple return.³⁸⁸ Consumers looking for more information on whether their tax situation constitutes a “simple return” will find that information readily available from multiple sources, including from the disclosures on the TurboTax website and through several third-party product reviews that describe the eligibility requirements for using TurboTax’s free products.³⁸⁹ This information is available to consumers before they start a return on TurboTax’s website and throughout the tax return preparation process. Intuit’s hyperlinked disclosures closely resemble the examples of acceptable hyperlinked disclosures in the FTC’s own “.com Disclosures” guidelines.³⁹⁰ Consumer data illustrate that the disclosures were, in fact, sufficient.³⁹¹

Moreover, Intuit disputes Paragraph 133(g) because Intuit has not had the opportunity to depose Professor Novemsky.

³⁸⁷ GX 155 at 49:23-50:7, 210:25-211:6, 211:10-20, 212:1-9; *see also* Golder Decl. ¶ 77.

³⁸⁸ RX 3, RX 4, RX 20, RX 21, RX 25; Golder Decl. ¶¶ 111-112.

³⁸⁹ *See* RX 90; RX 91; RX 92; and RX 93.

³⁹⁰ RX 96 at A-8.

³⁹¹ *See infra* Intuit SOF ¶¶ 60-62 ([REDACTED]).

134. Mary Ann Somers, then the SVP and Chief Growth Officer of Intuit’s consumer group, was interviewed on the September 20, 2019 episode of the podcast “Renegade Thinkers Unite.” (GX 357; GX 358.) Ms. Somers made the following statements during the interview:

Response to SOF ¶ 134: Disputed in part and immaterial. Intuit disputes Paragraph 134 because neither the audio recording of the podcast nor the transcript of the recording have been properly authenticated. Nowhere in their Statement of Facts or supporting declarations do Complaint Counsel explain where they obtained the audio file for this podcast or represent that it is a true and accurate copy. Nor do they state how they obtained the transcript of the audio file or that the transcript is a true and accurate copy. Without this information, Complaint Counsel have failed to establish the exhibits’ reliability and they may not be considered. *See Bias v. Moynihan*, 508 F.3d 1212, 1224 (9th Cir. 2007) (holding “documents [offered at summary judgment] must be authenticated and attached to a declaration wherein the declarant is the ‘person through whom the exhibits could be admitted into evidence’”); *Lorraine v. Markel Am. Ins. Co.*, 241 F.R.D. 534, 536 (D. Md. 2007) (“[U]nsworn, unauthenticated documents cannot be considered on a motion for summary judgment.”); 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

Intuit further disputes Paragraph 134 to the extent it is intended to support an inference of deception. None of the statements Ms. Somers made during the podcast tend to show that Intuit’s advertisements misled consumers. *See infra* Intuit Response to SOF ¶¶ 134(a)-(c). Her purported statements that Intuit wanted to convey that TurboTax *Free Edition* was free is unremarkable given that TurboTax Free Edition is in fact free and in fact contradict Complaint Counsel’s theory of deception. Moreover, there is substantial evidence disputing any inference that Intuit’s advertisements were deceptive.³⁹²

³⁹² *See infra* Intuit SOF ¶¶ 15-31; 79-94.

134(a). “Here [at Intuit] we had an incredible marketing department and it’s a world-class marketing department. It’s a group that doesn’t toot their own horn so I’m going to toot it for them. Just an incredible group of people. We spend hundreds of millions of dollars in a very short amount of time to generate billions of dollars in a matter of months.” (GX 357 (transcript); GX 358 at 16:11–16:30 (audio).)

Response to SOF ¶ 134(a): Disputed in part and immaterial. Intuit agrees that it has a “world-class marketing department” and agrees that its marketing department does not “toot their own horn.” Intuit disputes Paragraph 134(a) because neither the audio recording of the podcast nor the transcript of the recording have been properly authenticated and shown to be reliable.³⁹³

Intuit further disputes Paragraph 134(a) to the extent it implies that Intuit’s strategy is to “spend hundreds of millions of dollars in a very short amount of time to generate billions of dollars in a matter of months.” Intuit’s strategy is to provide high quality tax preparation products to a wide-reaching group of consumers in the hope that it will retain customers year over year.³⁹⁴ [REDACTED]

[REDACTED]³⁹⁵ Intuit offers a free product so that when customers use Free Edition develop more complex financial situations, they will remember the good experiences they had with TurboTax and choose to use TurboTax’s paid offerings instead of our competitors.³⁹⁶

Intuit also disputes any inference that an investment strategy to “spend hundreds of millions of dollars in a very short amount of time to generate billions of dollars in a matter of months” would amount to deceptive conduct. [REDACTED]

³⁹³ See *supra* Intuit Response to SOF ¶ 134.

³⁹⁴ GX 152 at 128:25-129:3; RX 40 at INTUIT-FFA-FTC-000422217.

³⁹⁵ RX 54 at 28.

³⁹⁶ GX 156 at 89:21-24 and 118:13-19; *see also* GX 152 at 125:5-14.

[REDACTED].³⁹⁷ Thus, the statement is irrelevant to allegations concerning Intuit's free marketing. Moreover, there is substantial evidence disputing any inference that Intuit's advertisements were deceptive.³⁹⁸

In any event, the statement in Paragraph 134 is immaterial because the fact that Intuit has a successful marketing department that does not usually brag about itself does not make it more likely that its advertising misled consumers. The successes of Intuit's advertising department—which markets both paid and free TurboTax products—is also not relevant to Complaint Counsel's theory of deception. *See* 16 C.F.R. § 3.43 (“Irrelevant, immaterial, and unreliable evidence shall be excluded.”).

134(b). Regarding the TurboTax “free free free” campaign: “I’ll start with the part that really was the aha moment, and that was the insight. We know a lot about our free customer. We know what their journey is, a lot of things. But the key insight for us was, when you start talking about free, that’s what people hear. They hear free. You can say a lot of other things, but what they hear is free. We said, ‘Huh, well, if that’s the truth, then how do we create a campaign that builds upon that truth?’ And that’s the campaign that you saw. It was the idea that it’s multiple different situations and you don’t know as you first start to see the execution, what’s going on. We have one that’s a lawyer. That’s a very dramatic environment. We have one that’s a game show that’s kind of fun. We have a spelling bee. We have all these different situations, and then the dialogue starts and everybody’s delivering, the actors and actresses are delivering the dialogue as if they’re delivering real words. But the real words are replaced all with free. And that was really important for us because we wanted it to reflect what the change was in our offering and we made a massive change this year. What we did is, first there was tax reform, so we defined our free product based on the 1040 tax reform as the government had defined it. And then what we did is, we decided this year that we were going to provide what’s called year on year transfer for free. So in the past, people were paying for some of those kinds of things, so the ability to pay zero to file their taxes, we were really making a major change in order to do that. We wanted to really let people know this was free, really free, free, free. That was a reflection of the innovation and the decision that we made on the product. We wanted that to show up in the campaign in a playful way, simple-minded, engaging. We measure advertising like many other people where we are tracking it during the season. We look at the overall ad track and we look at—Did the ad break through? Did people remember the ad then? Did you remember who the ad was from? So brand linkage. Did you get the key message, and then how did that impact your consideration? Just simple measures and metrics. We looked at it and it started to really do well and that’s when we

³⁹⁷ *See supra* Intuit Response to SOF ¶ 17.

³⁹⁸ *See infra* Intuit SOF ¶¶ 15-31; 79-94.

started to realize we were onto something really big here.” (GX 357 (transcript); GX 358 at 26:06–28:30 (audio).)

Response to SOF ¶ 134(b): Disputed in part. Intuit does not dispute that it is the truth that TurboTax Free Edition is free, and that Intuit’s free marketing campaign advertised that fact.

[REDACTED]

[REDACTED]³⁹⁹ And Intuit does not dispute that the ads were aimed at those who qualified to use the product for free.

Intuit disputes Paragraph 134(b) because neither the audio recording of the podcast nor the transcript of the recording have been properly authenticated and shown to be reliable.⁴⁰⁰

Intuit further disputes Paragraph 134(b) to the extent it is intended to support an inference that consumers understood Intuit’s ads to convey that TurboTax is free for everyone. Intuit’s Free Edition ads advertised a single product, Free Edition, and disclosed that product’s qualifications.⁴⁰¹

[REDACTED]

[REDACTED]

[REDACTED]⁴⁰²

Intuit also disputes Paragraph 134(b) to the extent it implies that the “the TurboTax ‘free free free’ campaign” was deceptive. As Ms. Somers stated, Intuit’s marketing department explored how to “create a campaign that builds upon [the] truth” that Free Edition was, in fact, free. The statements quoted do not demonstrate that Intuit’s ads ever conveyed that *all* consumers could file their taxes for free with TurboTax, or that consumers who were not eligible for Free

³⁹⁹ See *supra* Intuit Response to SOF ¶¶ 7-8.

⁴⁰⁰ See *supra* Intuit Response to SOF ¶ 134.

⁴⁰¹ See *supra* Intuit Response to SOF ¶ 17.

⁴⁰² See *supra* Intuit Response to SOF ¶ 74.

Edition could nonetheless file for free. Instead, Intuit’s ads conveyed that a particular TurboTax product, TurboTax Free Edition, was free for consumers who qualified.⁴⁰³ Moreover, there is substantial evidence disputing any inference that Intuit’s advertisements were deceptive.⁴⁰⁴

134(c). “We have a history of being very effective with our ROI and really spending money smartly. Again, looking at the funnel altogether. Every different thing that we do from a TV ad to spending a lot on digital marketing and our performance media to get people to visit the site, see if that’s something as they’re shopping around, is our product one that’s right for them? And then going from visits to logins, from logins to starts, from starts to completions. That’s really how we look at all our different vehicles playing a role in that full-funnel view.” (GX 357 (transcript); GX 358 at 31:04–31:36 (audio).)

Response to SOF ¶ 134(c): Disputed in part. Intuit disputes Paragraph 134 because neither the audio recording of the podcast nor the transcript of the recording have been properly authenticated and shown to be reliable.⁴⁰⁵

Intuit further disputes Paragraph 134(c) to the extent it is intended to support an inference of deception. The statement recognizes that consumers “shop[] around” for a tax-preparation product and that Intuit recommends to consumers the product “that’s right for them.” [REDACTED]

[REDACTED]

[REDACTED]⁴⁰⁶ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁴⁰⁷ Customer retention is a critical component of Intuit’s business model

[REDACTED] and the company has an incentive

⁴⁰³ See *supra* Intuit Response to SOF ¶ 17.

⁴⁰⁴ See *infra* Intuit SOF ¶¶ 15-31; 79-94.

⁴⁰⁵ See *supra* Intuit Response to SOF ¶ 134.

⁴⁰⁶ GX 152 at 66:23-67:8; see also *supra* Intuit Response to SOF ¶ 7.

⁴⁰⁷ GX 152 at 128:25-129:3; see also *supra* Intuit Response to SOF ¶ 4.

to accurately inform its customers about Free Edition’s qualifications and get customers started in the product that best suits their needs.⁴⁰⁸ The quoted statement further recognizes that consumers must visit the TurboTax website before using a TurboTax product, where Intuit clearly and repeatedly discloses Free Edition’s qualifications and provides information about all TurboTax products.⁴⁰⁹

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁴¹⁰ [REDACTED]

[REDACTED]

[REDACTED]⁴¹¹ [REDACTED]

[REDACTED]⁴¹²—in other words, as Ms. Somers purportedly explained, “from visits to logins, from logins to starts, from starts to completions.” [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁴¹³

⁴⁰⁸ GX 152 at 128:25-129:3; RX 40 at INTUIT-FFA-FTC-000422217; *see also supra* Intuit Response to SOF ¶ 5.

⁴⁰⁹ *See infra* Intuit SOF ¶¶ 32-67 (discussing disclosures on the TurboTax.com website).

⁴¹⁰ *See* RX 54 at 10 (displaying the TurboTax Online US Funnel); *see also* Golder Decl. ¶¶ 60-63 & Fig. 3.

⁴¹¹ RX 54 at 10; Golder Decl. ¶¶ 60-63 & Fig. 3; *see also* GX 156 at 120:25-121:2.

⁴¹² RX 54 at 10; Golder Decl. ¶¶ ¶¶ 60-63 & Fig. 3.

⁴¹³ *See infra* Intuit Response to SOF ¶ 7.

In any event, the statement in Paragraph 134(c) is immaterial because the fact that Intuit has a successful “Return On Investment” or ROI strategy, or that Intuit has expended significant resources on digital marketing, TV advertisements, or performance media is not relevant to whether Intuit’s free advertising was deceptive.

PART II: STATEMENT OF MATERIAL FACTS AS TO WHICH THERE EXISTS A GENUINE ISSUE FOR TRIAL

Pursuant to Rule 3.24(a)(2), Respondent Intuit respectfully submits its Statement of Material Facts That Present Genuine Issues for Trial. Intuit limits this submission to just those issues raised by Complaint Counsel’s motion. There are numerous factual issues that will be addressed at the hearing in addition to those addressed here, and Intuit reserves the right to provide additional evidence at trial. Finally, Intuit incorporates its discussion of the many disputed issues of fact addressed in Part I of this submission.

I. INTUIT’S TURBOTAX FREE EDITION MARKETING WAS NOT DECEPTIVE

1. TurboTax Free Edition is a completely free tax preparation and filing software.⁴¹⁴
2. Free Edition is made available by Intuit to the approximately 58 million American tax filers each year that file a “simple tax return.”⁴¹⁵
3. Consumers that file a Federal IRS Form 1040 without any attached schedules (or, before 2019, by using IRS Form 1040EZ)—i.e., a “simple tax return”—can file for their federal tax return for free using TurboTax Free Edition.⁴¹⁶

⁴¹⁴ Ryan Decl. ¶ 5.

⁴¹⁵ Ryan Decl. ¶ 6; *see also* RX 95 (showing that of the approximately 148 million electronic returns filed with the IRS in 2020, 57,671,912 returns included only Form 1040 with no Schedules 1-6 or Schedule A attached).

⁴¹⁶ RX 63.

4. For consumers with more complex tax returns, Intuit offers paid TurboTax products. For instance, consumers with mortgage and property deductions, charitable donations over \$300, itemized deductions, unemployment income, and education expenses can file their taxes using TurboTax Deluxe.⁴¹⁷ Consumers with investment income and rental property income and refinancing deductions can file using TurboTax Premium.⁴¹⁸ And consumers with expenses from self-owned businesses can file their taxes using TurboTax Self-Employed, the most comprehensive TurboTax product.⁴¹⁹

5. Intuit's advertisements disclose, clearly and conspicuously, Free Edition's qualifications, using the disclosure "simple tax returns," or similar language in its advertising and marketing for Free Edition.⁴²⁰

A. Intuit's Free Edition Advertisements Are Not False—Millions Of Americans File For Free Using TurboTax Free Edition

6. In Tax Year 2016 (i.e., calendar year 2017), 14,255,506 taxpayers filed their federal tax returns for free using Free Edition.⁴²¹

7. In Tax Year 2017, 14,815,137 taxpayers filed their federal tax returns for free using Free Edition.⁴²²

8. In Tax Year 2018, 12,704,231 taxpayers filed their federal tax returns for free using Free Edition.⁴²³

⁴¹⁷ RX 9.

⁴¹⁸ *Id.*

⁴¹⁹ *Id.*

⁴²⁰ *See, e.g.,* RX 15; RX 16; RX 17; RX 18; GX 324-25, GX 328-31, GX 334, GX 345-51; *see also* GX 152 at 48:22-49:5; GX 156 at 135:4-10; GX 155 at 52:3-53:14.

⁴²¹ RX 106.

⁴²² *Id.*

⁴²³ *Id.*

9. In Tax Year 2019, 14,105,532 taxpayers filed their federal tax returns for free using Free Edition.⁴²⁴
10. In Tax Year 2020, 13,853,576 taxpayers filed their federal tax returns for free using Free Edition.⁴²⁵
11. During Tax Years 2016 through 2020, approximately one in five taxpayers who filed using any online service (not just TurboTax) filed their federal taxes for free with Free Edition.⁴²⁶
12. In Tax Years 2016-2020, 41.88% of all TurboTax customers filed their federal tax return completely for free with Free Edition.⁴²⁷
13. In Tax Year 2019 (calendar year 2020), approximately 39% of taxpayers that electronically filed a Form 1040 with no Schedules 1-6 or Schedule A attached were eligible to file their taxes for free using Free Edition.⁴²⁸ Specifically, of the 148,496,552 electronic returns filed with the IRS in 2020, 57,671,912 returns included only Form 1040 with no Schedules 1-6 or Schedule A attached.⁴²⁹
14. More taxpayers use Free Edition than any single TurboTax paid product.⁴³⁰

⁴²⁴ *Id.*

⁴²⁵ *Id.*

⁴²⁶ *Supra* Intuit SOF ¶¶ 6-10 (reflecting that over 69 million taxpayers filed their federal tax returns for free using Free Edition between Tax Years 2016-2020); *see also* RX 84 at 2, tbl. 4 (showing that over 151.1 million individual returns were filed electronically using any online service in 2021).

⁴²⁷ RX 106.

⁴²⁸ RX 95.

⁴²⁹ *Id.*

⁴³⁰ RX 106.

B. Free Edition Ads Conveyed That A Single Product—Free Edition—Was Free And Clearly Disclosed Eligibility Limitations

15. Intuit’s free offering is intended to, and does, build goodwill with consumers.⁴³¹

16. Consistent with its objective to build goodwill with consumers, Intuit advertises its free product.⁴³²

17. Intuit’s Free Edition advertisements do not state that all consumers can file their taxes for free with TurboTax.⁴³³

18. Intuit advertises that it has a free product—TurboTax Free Edition—that is available for consumers who qualify.⁴³⁴ Intuit’s ads thus “communicate that the TurboTax *Free Edition* is free.”⁴³⁵

19. Intuit conveys the message that TurboTax Free Edition is free with disclosures,


 ⁴³⁶


20. Intuit’s video advertising for TurboTax Free Edition clearly and conspicuously discloses that Free Edition is available for consumers with “simple tax returns only” (or similar disclosure language).⁴³⁷

⁴³¹ See GX 152 at 122:18-123:8, 124:17-23.

⁴³² See, e.g., GX 324-325, GX 328-331, GX 334, GX 345-351; Compl. Counsel’s Statement of Material Facts As To Which There Is No Genuine Issue for Trial (“Compl. Counsel SMF”) ¶¶ 25-44, 48-60, 100-102, 105-108, 111-112, 114-117.

⁴³³ See *supra* note 420; Golder Decl. ¶ 56; GX 152 at 48:22-49:5; GX 156 at 134:25-135:10; GX 155 at 52:3-53:14.

⁴³⁴ GX 156 at 130:18-131:1; see also *id.* at 110:16-20 

 (emphasis added)).

⁴³⁵ GX 156 at 130:18-19; see also *id.* at 110:16-20.

⁴³⁶ GX 156 at 130:25-131:1, 133:13-134:3.

⁴³⁷ RX 15; RX 16; RX 17; RX 18; GX 324-325; GX 328-331; GX 334; GX 345-351; Ryan Decl. ¶¶ 18-19; Golder Decl. ¶ 56; GX 156 at 133:13-134:3 (explaining that the “Free Free Free” campaign ads contained a disclosure stating that Free Edition was for simple returns).

21. Each TurboTax “free” advertisement stated that the product being advertised was TurboTax Free Edition.⁴³⁸

22. In Tax Year 2021, Intuit’s television ads for Free Edition included a text disclosure stating that “TurboTax Free Edition is for simple U.S. returns only” and inviting consumers to “See if you qualify at turbotax.com.”⁴³⁹ The disclosures in the Tax Year 2021 television ads for Free Edition were set out in white font on a dark blue background without accompanying images that might distract the viewer.⁴⁴⁰

23. Intuit’s Tax Year 2021 television ads also included a voiceover that stating that “TurboTax *Free Edition* is free.”⁴⁴¹

24. The voiceover in Intuit’s Tax Year 2021 television ads also encouraged consumers to “see details at turbotax.com.”⁴⁴²

25. In prior years, Intuit’s television ads also contained the “simple returns” or similar disclosure language and directed consumers to the TurboTax.com website for more details.⁴⁴³

26. For example, each television advertisement for TurboTax Free Edition that ran during Tax Years 2019 and 2020 included a disclosure stating that “TurboTax Free Edition is for simple U.S. returns only” and asked consumers to “[s]ee if [they] qualify at turbotax.com.”⁴⁴⁴

⁴³⁸ See, e.g., GX 324-325; GX 328-331; GX 334; GX 345-351.

⁴³⁹ Ryan Decl. ¶ 19.

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.*

⁴⁴² *Id.*

⁴⁴³ See *supra* note 72.

⁴⁴⁴ RX 15; RX 16; see also GX 156 at 135:8-14 ([REDACTED]).

27. In Tax Years 2017 and 2018, each television advertisement included a disclosure that stated that the offer was for the “Free Edition product only” or for “AbsoluteZero.” All of the disclosures stated that the offer was for “[f]or simple U.S. returns” and encouraged consumers to “See details at turbotax.com.”⁴⁴⁵

28. Prior to Tax Year 2017, the disclosure stated, “TurboTax Federal Free Edition is for simple U.S. returns only.”⁴⁴⁶

29. As reflected above, Intuit updated its television advertisement disclosures in Tax Year 2019 to convey Free Edition’s qualifications more prominently to consumers.⁴⁴⁷ Beyond changes to the disclosure language itself, the disclosure’s color and font were also changed to make the language more prominent and easier to read.⁴⁴⁸ And the primary text at the end of the advertisement was updated to refer to “TurboTax Free Edition.”⁴⁴⁹

30. In Tax Years 2020 and 2021, paid search advertisements for TurboTax Free Edition on Google contained the language “Free for Simple Returns Only” immediately under the link itself.⁴⁵⁰

31. In Tax Year 2021, paid search advertisements for Free Edition placed on Bing likewise contained the language “Free for Simple Returns Only” immediately under the link itself.⁴⁵¹

⁴⁴⁵ *Id.*

⁴⁴⁶ *See, e.g.,* RX 17; RX 18.

⁴⁴⁷ *See supra* Intuit SOF ¶¶ 26-27.

⁴⁴⁸ *Compare* GX 328, *with* RX 15.

⁴⁴⁹ *Id.*

⁴⁵⁰ Ryan Decl. ¶ 24.

⁴⁵¹ Ryan Decl. ¶ 25.

C. The TurboTax Website Clearly, Conspicuously, And Repeatedly Discloses Free Edition’s Eligibility Limitations

32. Consumers must visit the TurboTax website or app in order to use TurboTax Free Edition.⁴⁵²

33. Intuit clearly, conspicuously, and repeatedly disclosed Free Edition’s eligibility limitations throughout the TurboTax website and mobile application, including before consumers enter any personal information.⁴⁵³

34. [REDACTED]

[REDACTED]⁴⁵⁴

35. [REDACTED]

[REDACTED].⁴⁵⁵

36. Intuit’s Free Edition offer on its website included a disclosure that the offer was for “Simple tax returns only.” The “Simple tax returns only” disclosure was in close proximity to the Free Edition offer, with font color-contrasted to the surrounding text, and acted as a hyperlink consumers could click on to learn more about Free Edition’s eligibility limitations.⁴⁵⁶

37. Users that clicked the hyperlinked “simple tax returns” in Tax Years 2019 to 2021 (until August 1, 2022) saw a pop-up screen stating, “A simple tax return is Form 1040 only.”⁴⁵⁷ The screen also lists the situations covered by TurboTax Free Edition, including “W-2 income,

⁴⁵² *Id.* ¶ 28.

⁴⁵³ *See infra* Intuit SOF ¶¶ 34-59.

⁴⁵⁴ RX 62 at INTUIT-FFA-FTC-000490076–77; *see also id.* at -0081.

⁴⁵⁵ RX 62 at INTUIT-FFA-FTC-000490070.

⁴⁵⁶ Ryan Decl. ¶ 30.

⁴⁵⁷ RX 3.

Limited interest and dividend income reported on a 1099-INT or 1099-DIV, Claiming the standard deduction, Earned Income Tax Credit (EIC), Child tax credits, and Student Loan Interest deduction.”⁴⁵⁸

38. Likewise, during Tax Years 2019 and 2020, TurboTax’s homepage included a color-contrasted, hyperlinked disclosure stating that TurboTax Free Edition is for “simple tax returns.”⁴⁵⁹ After clicking on that hyperlinked disclosure, consumers were again provided with a pop-up screen informing them in detail the tax situations covered by Free Edition.⁴⁶⁰

39. Before Tax Year 2018, Intuit stated that its free product applied to filers with “Forms 1040EZ/1040A.”⁴⁶¹

40. In Tax Years 2016 through 2018, the home page invited consumers to click a separate hyperlink to either “See why it’s free” or “No catch, here’s why.”⁴⁶² Again, these hyperlinks directed consumers to a pop-up screen with detailed information about the tax situations covered by Free Edition.⁴⁶³

41. The next page consumers see on the TurboTax website when they click to start filing their taxes is the Products & Pricing page.⁴⁶⁴ That webpage allows consumers to view the

⁴⁵⁸ *Id.* Consumers saw a substantially similar pop-up screen in earlier years. *See, e.g.*, RX 25.

⁴⁵⁹ Ryan Decl. ¶ 56; RX 19.

⁴⁶⁰ RX 20; RX 21.

⁴⁶¹ *See, e.g.*, RX 23.

⁴⁶² In Tax Years 2017 and 2018, the hyperlink stated, “See why it’s free.” *See, e.g.*, RX 23 (Tax Year 2017); RX 22. In Tax Year 2016, the hyperlink stated, “No catch, here’s why.” *See, e.g.*, RX 24.

⁴⁶³ *See, e.g.*, RX 23.

⁴⁶⁴ Ryan Decl. ¶ 42.

full suite of commercial TurboTax products, including their prices, and select which product they wish to use.⁴⁶⁵

42. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁴⁶⁶

43. [REDACTED]

[REDACTED].⁴⁶⁷

44. [REDACTED]

[REDACTED].⁴⁶⁸ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁴⁶⁹

45. The baseline version of the Products & Pricing page included multiple additional hyperlinked disclosures of Free Edition's eligibility limitations that provided access to the same detailed description of Free Edition's qualification.⁴⁷⁰

⁴⁶⁵ RX 9.

⁴⁶⁶ RX 52 at 36; Golder Decl. ¶ 120.

⁴⁶⁷ RX 52 at 36; Golder Decl. ¶ 120.

⁴⁶⁸ RX 53 at 73, 75; Golder Decl. ¶ 121.

⁴⁶⁹ RX 53 at 73, 75; Golder Decl. ¶ 121.

⁴⁷⁰ RX 9.

46. The current Products & Pricing page discloses qualifications for Free Edition in at least four prominent locations and asks consumers to “see if you qualify” with contrasted, hyperlinked text.⁴⁷¹

47. Prior to Tax Year 2021, Intuit made changes to its website to improve consumers’ experiences. For example, the TurboTax website no longer referenced “Free Guaranteed” or makes any other free guarantee and references to “free” were followed by “simple returns only” in close proximity and in larger, contrasting font.⁴⁷²

48. On August 1, 2022, Intuit again updated the TurboTax website.⁴⁷³ The Free Edition landing page, for instance, now includes disclosures in multiple locations stating that Free Edition is “For simple tax returns only,” with hyperlinked text asking consumers to “See if you qualify.” Clicking on the “See if you qualify” hyperlink reveals a pop-up screen with detailed information about the tax situations covered by Free Edition.⁴⁷⁴ The Free Edition webpage also discloses that “Not all taxpayers qualify” to use Free Edition.⁴⁷⁵

49. The Free Edition webpage also now includes the question, “Why use TurboTax Free Edition?” Under that text, the webpage explains, “If you have a simple tax return, you can file your taxes online for free with TurboTax Free Edition.” The “simple tax return” in that sentence is a hyperlink that again leads to a pop-up screen with detailed information about the tax situations covered by Free Edition.⁴⁷⁶

⁴⁷¹ See RX 9; see also GX 155 at 211:17–20.

⁴⁷² Compare RX 19 with RX 7.

⁴⁷³ See, e.g., RX 5; RX 9.

⁴⁷⁴ RX 5.

⁴⁷⁵ *Id.*

⁴⁷⁶ *Id.*

50. The Products & Pricing page was also updated to include additional disclosures. Directly under “Free Edition,” the page discloses that the product is for “Simple tax returns only,” and provides a link to “See if you qualify.”⁴⁷⁷ At three other prominent locations, the webpage states that Free Edition is for “simple tax return[s] only,” with links to additional information about Free Edition’s qualifications.⁴⁷⁸ The webpage further discloses that “Not all taxpayers qualify.”⁴⁷⁹

51. Moreover, in the top panel of the Products & Pricing page, there is an initial set of screening questions about taxpayers’ income and expenses. As was the case in earlier tax years, the screening questions allow the TurboTax software to determine which TurboTax product fits the potential customer’s needs, recommending Free Edition if the customer qualifies.⁴⁸⁰

52. Users that click the hyperlinked “simple tax return” or “See if you qualify” text on TurboTax webpages see a pop-up screen asking, “What qualifies as a simple tax return?”⁴⁸¹ The pop-up then explains, “If you have a simple tax return, you can file with TurboTax Free Edition A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.”⁴⁸² The screen also lists the situations covered by TurboTax Free Edition, including “W-2 income, Limited interest and dividend income reported on a 1099-INT or 10999-DIV, IRS standard deduction, Earned Income

⁴⁷⁷ RX 9.

⁴⁷⁸ *Id.*

⁴⁷⁹ *Id.*

⁴⁸⁰ *See, e.g.,* RX 10; RX 11; RX 12; *see also* RX 8, 13; Golder Decl. ¶ 118 & Fig. 13.

⁴⁸¹ RX 4.

⁴⁸² *Id.*

Tax Credit (EIC), Child tax credits, and Student loan interest deduction,” as well as situations that are not covered.⁴⁸³

53. The updated TurboTax website also includes a webpage displaying all material limitations for Free Edition.⁴⁸⁴ That page provides that “[a] simple return is one that's filed using IRS Form 1040 only, without attaching any schedules,” and includes a button with the text “See if you qualify” that directs consumers to detailed information about the tax situations covered by Free Edition further down that same webpage.⁴⁸⁵

54. The information included on the Free Edition disclosure webpage explains at length the “Situations covered” by Free Edition, as well as the “Situations not covered.”⁴⁸⁶

55. Every other webpage on the TurboTax website, including the homepage was also updated to include “Important Details about Free Filing for Simple Tax Returns” without having to click a link. That disclosure provides, “If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic. A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.” It then details the tax situations covered by Free Edition.⁴⁸⁷

56. Prior versions of the “Important Details” disclosures found on every page of the TurboTax website included hyperlinked text stating, “Important offer details and disclosures.”

⁴⁸³ *Id.*

⁴⁸⁴ RX 6.

⁴⁸⁵ *Id.*

⁴⁸⁶ *Id.*

⁴⁸⁷ RX 5; RX 7; RX 9.

When users click that link, they access a dropdown field including another disclosure that Free Edition is available for simple tax returns only.⁴⁸⁸

57. In addition, the TurboTax website includes multiple TurboTax Blog posts and Support FAQs describing Free Edition’s qualifications. For instance, in a Support FAQ entitled “Is TurboTax Free Edition right for me?,” Intuit explained that “Free Edition is an online-only product that supports simple tax returns that can be filed on Form 1040 without any attached schedules,” and went on to explain the specific tax situations covered by Free Edition.⁴⁸⁹

58. Intuit’s website contains blog posts and articles regarding Free Edition that “[s]pecify that this offer is for people with ‘simple tax returns,’ and link to the appropriate Simple tax returns tool tip.”⁴⁹⁰

59. Thus, before even registering a username or inputting any information, consumers are presented with multiple webpages with repeated, clear disclosures about Free Edition’s limitations.⁴⁹¹

60. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁴⁹² [REDACTED]

[REDACTED]

[REDACTED].

⁴⁸⁸ Ryan Decl. ¶ 41; *see, e.g.*, RX 8.

⁴⁸⁹ RX 63.

⁴⁹⁰ RX 64.

⁴⁹¹ *See supra* Intuit SOF ¶¶ 32-58; *see also* Golder Decl. ¶ 120.

⁴⁹² RX 51 at 13 (showing that in Tax Year 2019, only 20% of TurboTax customers encountered a required upgrade screen); Golder Decl. ¶ 124.

[REDACTED]

[REDACTED]⁴⁹³

61. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁴⁹⁴ [REDACTED]

[REDACTED]

[REDACTED]⁴⁹⁵

62. [REDACTED]

[REDACTED]⁴⁹⁶

63. Consumers may begin using Free Edition even if they understand they likely do not qualify.⁴⁹⁷ Indeed, some third-party reviewers like the New York Times' Wirecutter expressly recommend that consumers start their tax returns using Free Edition, regardless of their tax situation.⁴⁹⁸

⁴⁹³ RX 48 at 100; *see also* RX 37 at INTUIT-FFA-FTC-000316307 (noting that in Tax Year 2016, by the week ending in April 22, only 16% of users encountered an upgrade screen); *see also* Golder Decl. ¶ 123.

⁴⁹⁴ *See, e.g.*, GX 155 at 213:7-15; GX 152 at 129:4-13.

⁴⁹⁵ RX 54 at 30; Golder Decl. ¶ 122.

⁴⁹⁶ *See* RX 65; GX 295 at INTUIT-FFA-FTC-000003255863 [REDACTED] D;
RX 37 at INTUIT-FFA-FTC-000316307 ([REDACTED]);
[REDACTED]);
Golder Decl. ¶ 123.

⁴⁹⁷ RX 80.

⁴⁹⁸ *Id.*

64. [REDACTED]

[REDACTED]

[REDACTED] .⁴⁹⁹ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] .⁵⁰⁰ [REDACTED]

[REDACTED]

[REDACTED] .⁵⁰¹

65. Intuit’s website design “makes price points transparent, limits distracting factors in the disclosure, and repeats the relevant disclosure.”⁵⁰²

66. The FTC’s “.com Disclosure” guidelines recommend keeping a disclosure short and prominently displayed because it increases the likelihood that consumers notice the disclosure and are able to understand and recall this information.⁵⁰³

D. TurboTax Customers—Including Those Who Used Paid TurboTax Product—Are Highly Satisfied

67. Intuit maintains a customer-retention rate of approximately 80%.⁵⁰⁴

⁴⁹⁹ GX 155 at 40:15-25; GX 152 at 129:25-130:10; *see also* RX 55 at 1; *see also* Golder Decl. ¶ 128.

⁵⁰⁰ *See* RX 55 at 1; *see also* Golder Decl. ¶ 134.

⁵⁰¹ RX 55 at 1; *see also* Golder Decl. ¶ 131.

⁵⁰² Golder Decl. ¶ 114.

⁵⁰³ Golder Decl. ¶ 72; RX 96.

⁵⁰⁴ RX 50 at INTUIT-FFA-FTC-000526548; GX 150 at 131:10-13; RX 58 at 81; Golder Decl. ¶ 173.

68. [REDACTED]

[REDACTED]⁵⁰⁵

69. Intuit's "retention rates for customers in [its] paid products are actually higher than those in [its] free products."⁵⁰⁶ [REDACTED]

[REDACTED]⁵⁰⁷

70. Intuit maintains its industry-leading customer-retention rate despite low switching costs for consumers and aggressive competition from competitors.⁵⁰⁸ [REDACTED]

[REDACTED]⁵⁰⁹

71. Intuit also maintains high Net Promotor Scores ("NPS"), a standard metric of customer satisfaction.⁵¹⁰

72. [REDACTED]

[REDACTED]⁵¹¹

⁵⁰⁵ *Id.*

⁵⁰⁶ GX 152 at 133:4-6; *see also* GX 155 at 213:19-22; RX 59 at 3; Golder Decl. ¶ 173.

⁵⁰⁷ RX 59 at 3; Golder Decl. ¶ 173; *see also* RX 36 at INTUIT-FFA-FTC-000477258 ([REDACTED]); RX 50 at INTUIT-FFA-FTC-000526548, -526550 ([REDACTED]).

⁵⁰⁸ RX 53 at 271; RX 60 at 21; Golder Decl. ¶ 156.

⁵⁰⁹ RX 53 at 271; Golder Decl. ¶ 156.

⁵¹⁰ *See* GX 156 90:19-23.

⁵¹¹ RX 38 at INTUIT-FFA-FTC-000435838.

73. [REDACTED]

[REDACTED] .⁵¹²

74. Intuit has received hundreds of thousands of positive reviews on its own website and on third-party websites, further evidencing consumer satisfaction with its products and services.⁵¹³

75. Between November 7, 2021 to August 18, 2022, 68,836 customer reviews of TurboTax Free Edition generated an average 4.9-star rating out of 5 stars. There were also 63,252 customer reviews of TurboTax Deluxe Edition, generating a 4.5-star average rating; 16,466 customer reviews of TurboTax Premier, generating a 4.4-star average rating; and 18,488 customer reviews of TurboTax Self Employed, generating a 4.7-star average rating.⁵¹⁴

76. On the customer review platform Influenster, TurboTax has the highest rating for any tax preparation brand with 4.5 out of 5 stars based on over 47,000 reviews, followed by TaxAct with 4.4 stars, TaxSlayer with 4.4 stars, and H&R Block with 4.1 stars.⁵¹⁵

77. Intuit's industry-leading customer satisfaction scores and retention statistics illustrate that Intuit's customers are satisfied with their decision to use TurboTax—whether they file for free or not—and that paying consumers do not feel deceived.⁵¹⁶

⁵¹² RX 39 at 4; *see also* RX 61 at 36 [REDACTED]

[REDACTED] Golder Decl. ¶ 166 (same).

⁵¹³ Golder Decl. ¶ 170.

⁵¹⁴ *See* RX 9.

⁵¹⁵ RX 88; Golder Decl. ¶ 172.

⁵¹⁶ Golder Decl. ¶ 35 (“[Intuit’s] high satisfaction, high retention, and a low number of complaints indicate that most customers feel that the service they receive from TurboTax products matches or exceeds their expectations.”).

78. “Most customers feel that the service they receive from TurboTax’s products matches or exceeds their expectations.”⁵¹⁷

E. “Simple Returns” Is An Industry-Standard And Readily Understood Term

79. Intuit uses the phrase “simple tax returns” [REDACTED]

[REDACTED]

[REDACTED]⁵¹⁸

80. The phrase “simple tax returns” is a standard term in the world of tax preparation, commonly used by public and private entities alike.⁵¹⁹

81. The IRS categorizes tax returns based on their complexity and the “accompanying schedules or additional forms associated with specific tax credits.”⁵²⁰ It defines “[s]imple returns” as those “without any schedules.”⁵²¹

82. Since at least 2008, the IRS has defined “simple returns” as those filed using the most basic form (either Form 1040A, Form 1040EZ, or Form 1040) “without any schedules.”⁵²²

83. The State of California Franchise Tax Board stated that its ReadyReturn pre-filled tax forms would be available to “taxpayers who file simple returns,” explaining that the program (before it was discontinued) would be extended to individuals with “[i]ncome only from wages,”

⁵¹⁷ *Id.*

⁵¹⁸ GX 155 at 55:16-20.

⁵¹⁹ *See infra* Intuit SOF ¶¶81-84.

⁵²⁰ RX 78 at 14.

⁵²¹ RX 78 at 14.

⁵²² RX 77 at 106 n.2, 111 n.3.

“[n]o more than five dependents,” “[n]o credits other than the renter’s credit,” and taking the “[s]tandard deduction”—i.e., a tax return without any schedules.⁵²³

84. Other tax preparation service providers including H&R Block and TaxSlayer likewise use the term “simple returns,” and tie eligibility for free tax filing to the complexity of one’s returns.⁵²⁴

85. [REDACTED]
[REDACTED]. Although consumers “are skeptical that ‘free’ products are actually free,” [REDACTED]
[REDACTED]⁵²⁵

86. [REDACTED]
[REDACTED]⁵²⁶

87. Using the phrase “simple tax returns” is more effective at conveying Free Edition’s qualifications than potential alternatives. [REDACTED]
[REDACTED]
[REDACTED]⁵²⁷

⁵²³ RX 79 at 1, 2.

⁵²⁴ See RX 97 (stating, under the header “Free Online,” that the product is available for “Simple returns”); RX 98 (proclaiming that people can “file a simple return for free,” and that a simple return is “a basic 1040 tax return”).

⁵²⁵ GX 295 at INTUIT-FFA-FTC-000006255866.

⁵²⁶ *Id.*

⁵²⁷ GX 155 58:5-11; RX 44 at INTUIT-FFA-FTC-000117680.

88. Including more detailed disclosures early in the buying process could be confusing for some consumers, generate less attention and interest, and ultimately result in fewer people filing for free.⁵²⁸

89. [REDACTED]

[REDACTED]”⁵²⁹ [REDACTED]

[REDACTED]⁵³⁰

F. Reasonable Consumers Do Not Believe Every Taxpayer Qualifies For Free Edition

90. Reasonable consumers do not understand Intuit’s Free Edition advertisements to convey that TurboTax is free for all consumers or that all consumers will qualify to use Free Edition.⁵³¹

91. To the contrary, reasonable consumers understand from Intuit’s ads that Free Edition is TurboTax’s free tax-preparation product, that some consumers will not qualify to use that product, and that Intuit has other products that consumers can pay to use.⁵³²

92. Consumers are familiar with business models like Intuit’s, where a free product is offered along with priced offerings and understand that for-profit companies do not offer all goods and service at no cost.⁵³³

⁵²⁸ See Golder Decl. ¶ 73; GX 155 at 209:7-210:7.

⁵²⁹ GX 155 at 209:11–16.

⁵³⁰ GX 155 at 209:23-210:7.

⁵³¹ See *infra* Intuit SOF ¶¶ 91-107; Golder Decl. ¶ 56 (“[I]n my opinion, Intuit’s advertisements did not communicate that TurboTax was free for everyone or all tax situations.”).

⁵³² See *infra* Intuit SOF ¶¶ 92-107.

⁵³³ See Golder Decl. ¶ 65.

93. Consumers are inherently skeptical of “free” claims, appreciating that a corporation’s goal is to turn a profit.⁵³⁴ [REDACTED]

[REDACTED]⁵³⁵ [REDACTED]

[REDACTED]⁵³⁶

94. Moreover, consumers understand that companies like Intuit cannot and do not provide free products to all consumers.⁵³⁷ Indeed, consumers understand that for-profit companies need to make money, and thus consumers are likely to conduct research before committing to using products advertised as free.⁵³⁸ And consumers are familiar with tiered pricing or “freemium” models, both in the tax preparation industry and in other industries.⁵³⁹

95. The major players in the online-tax-preparation industry employ a business model that mirrors Intuit’s.⁵⁴⁰

96. [REDACTED]

[REDACTED]⁵⁴¹ [REDACTED]

[REDACTED]⁵⁴²

⁵³⁴ RX 33 at INTUIT-FFA-FTC-000139032; RX 34 at INTUIT-FFA-FTC-000549950; RX 56 at 17 (only 22% of consumers were confident that Free Edition was truly free); Golder Decl. ¶ 65.

⁵³⁵ RX 34 at INTUIT-FFA-FTC-000549950.

⁵³⁶ RX 33 at INTUIT-FFA-FTC-000139032.

⁵³⁷ See Golder Decl. ¶¶ 64-68.

⁵³⁸ Golder Decl. ¶¶ 64-65.

⁵³⁹ Golder Decl. ¶ 66-69.

⁵⁴⁰ Golder Decl. ¶ 68.

⁵⁴¹ RX 45 at 17; see RX 46 at INTUIT-FFA-FTC-000486016 (noting that Credit Karma Tax experienced “another week of declining login share,” with a total login-share of less than 6% in Tax Year 2018).

⁵⁴² RX 45 at 18.

97. [REDACTED]

[REDACTED]⁵⁴³

98. Moreover, consumers do not rely on advertisements and the Intuit website alone when selecting a tax preparation product.⁵⁴⁴

99. “[T]axpayers are likely to be highly motivated, highly involved, and risk averse in their Consumer Buying Process for tax preparation services. They are therefore likely to commit meaningful time and energy to the information-search and evaluation-of-alternatives stages of the Consumer Buying Process.”⁵⁴⁵ In other words, consumers conduct extensive research before filing their taxes, and evaluate their tax filing options based on a variety of factors they consider important.⁵⁴⁶

100. Consumers explore tax preparation websites, read reviews or testimonials, and speak with friends and family, all as part of the process of researching tax preparation methods.⁵⁴⁷

101. Numerous third-party websites provide comparisons of offers from Intuit and its competitors that set forth the qualifications for Free Edition.⁵⁴⁸

102. Consumers also consider many factors when filing their taxes, including tradeoffs between quality and price, and do not strictly prefer the cheapest or free option.⁵⁴⁹ While price is

⁵⁴³ See GX 152 at 144:11-145:1.

⁵⁴⁴ Hauser Decl. ¶ 76.

⁵⁴⁵ Golder Decl. ¶ 64.

⁵⁴⁶ Golder Decl. ¶¶ 37, 64; Hauser Decl. ¶¶ 20, 71-72, 74, 76-77.

⁵⁴⁷ Hauser Decl. ¶ 72; RX 72 at 57:9-58:16; RX 70 at 50:22-51:2.

⁵⁴⁸ See RX 90, RX 91, RX 99.

⁵⁴⁹ Hauser Decl. ¶¶ 21, 71, 78-83.

one important factor, it is by no means the only one considered by consumers; in fact, non-price factors such as ease of use, confidence in the accuracy and reliability of the results, and data security are also important factors in the choice of tax preparation method or provider.⁵⁵⁰

103. In response to news articles claiming that Intuit deceived consumers by steering them away from its commercial free product, enterprising lawyers filed arbitration claims on behalf of individuals seeking money from Intuit. [REDACTED]

[REDACTED]
[REDACTED]⁵⁵¹

104. One arbitrator found that “[REDACTED]
[REDACTED]
[REDACTED]”⁵⁵²

105. Another arbitrator concluded that “[REDACTED]
[REDACTED]”
noting that Intuit’s “[REDACTED]
[REDACTED]”⁵⁵³ The
arbitrator further recognized that [REDACTED]
[REDACTED]
[REDACTED] and that “[REDACTED]

⁵⁵⁰ *Id.*

⁵⁵¹ Declaration of David Gringer in Support of Intuit’s Opposition to Complaint Counsel’s Motion for Summary Decision (“Gringer Decl.”) ¶ 15.

⁵⁵² RX 67 at 12; *see also* RX 68 at 12.

⁵⁵³ RX 69 at 4.

[REDACTED]⁵⁵⁴

106. Depositions of consumer declarants from other related proceedings also indicate that consumers were not misled by Intuit's advertisements.⁵⁵⁵

107. [REDACTED]

[REDACTED]⁵⁵⁶ [REDACTED]

[REDACTED]⁵⁵⁷ [REDACTED]

[REDACTED]⁵⁵⁸

G. Reasonable Consumers Understand That They Can Seek Out Other Tax Preparation Options

108. Consumers do not feel "locked in" to a tax preparation provider after providing personal or financial information.⁵⁵⁹ Instead, consumers change tax preparation methods or providers year to year and are comfortable conducting research even after they have started preparing their tax return online.⁵⁶⁰

⁵⁵⁴ *Id.*

⁵⁵⁵ See RX 72 at 161:20-22; RX 70 at 74:6-77:9; RX 71 at 43:8-15; 60:5-9.

⁵⁵⁶ RX 72 at 161:20-22.

⁵⁵⁷ RX 70 at 74:6-77:9.

⁵⁵⁸ RX 71 at 43:8-15; 60:5-9.

⁵⁵⁹ Hauser Decl. ¶¶ 22, 71, 85-89; *see also* GX 150 at 241:20-242:3; GX 152 at 129:20-130:15, 132:7-17; RX 35 at INTUIT-FFA-FTC-000166060.

⁵⁶⁰ Hauser Decl. ¶¶ 85-86, 89.

109. [REDACTED]

[REDACTED].⁵⁶¹

110. [REDACTED]

[REDACTED]⁵⁶²

111. Consumers routinely try out online tax preparation products without filing using those products. [REDACTED]

[REDACTED].⁵⁶³ Other survey data indicates that 21.6% of respondents tried out one or more online tax websites without using that website to file their tax returns.⁵⁶⁴

112. There is no evidence that taxpayers who upgrade to one of TurboTax's paid products are misled into believing that they are required to pay using TurboTax or are otherwise misled about the cost of TurboTax's products.⁵⁶⁵

113. In response to the question of what they would do next upon seeing the upgrade screen,⁵⁶⁶ nearly 40% of respondents indicated that upon viewing an upgrade screen, they would

⁵⁶¹ RX 52 at 4; Golder Decl. Fig. 24.

⁵⁶² RX 52 at 4; Golder Decl. ¶ 153 & Fig. 24.

⁵⁶³ RX 57 at 25; Golder Decl. ¶¶ 58, 150.

⁵⁶⁴ Hauser Decl. ¶ 85.

⁵⁶⁵ Hauser Decl. ¶ 95; *see also* GX 150 at 271:25-272:4.

⁵⁶⁶ Kirk Fair Decl. ¶ 29 and Exhibit 2.B.

seek out alternative filing options or conduct additional research.⁵⁶⁷ For example, after viewing the upgrade screen, respondents indicated they would:

- “Look into other options where I wouldn’t have to pay \$60. Maybe H&R Block. I’d ask friends how they filed.”⁵⁶⁸
- “As I’m no longer able to file with the free edition, I would search the internet and compare the Turbo Tax pay for edition with other tax platforms with comparable features.”⁵⁶⁹
- “I would then go to reviews of each of the paid for services. This would help me decide if I want to upgrade.”⁵⁷⁰
- “I would move on to next screen and find out what I need to do differently and how much it would cost. I would then probably go to another website to see what they say about the same information provided and compare price.”⁵⁷¹

114. Seventeen percent of survey respondents indicated that they would conduct additional research to inform their decision to upgrade or not, including research on which product would best fit their needs.⁵⁷² And 15% stated outright that they would look for alternative tax preparation solutions.⁵⁷³

⁵⁶⁷ *Id.* ¶ 29 n.32.

⁵⁶⁸ *Id.*

⁵⁶⁹ *Id.*

⁵⁷⁰ *Id.* ¶ 30.

⁵⁷¹ *Id.*

⁵⁷² *See id.* ¶ 30 and Exhibit 5 (17% of respondents).

⁵⁷³ *Id.* ¶ 29.

115. Had Intuit provided respondents with more information about alternative free filing options, specifically the IRS Free File program, it would not have resulted in fewer respondents choosing to upgrade with TurboTax.⁵⁷⁴

H. Consumers Are Told About Any Costs Before The Point Of Sale

116. Before sale, consumers are told what the products they are purchasing will cost, if anything. Those disclosures include the price for any TurboTax product, such as Deluxe or Premium, as well as any paid add-on features.⁵⁷⁵

117. At any point before completing the transaction, consumers are able to leave the TurboTax website without paying and file their taxes in another way.⁵⁷⁶

II. THE FEDERAL TRADE COMMISSION HAS SPENT YEARS INVESTIGATING INTUIT, WHILE INTUIT HAS NOT HAD ANY OPPORTUNITY TO OBTAIN DISCOVERY

118. The FTC initiated its investigation into Intuit's allegedly deceptive practices in May 2019.⁵⁷⁷

119. On June 28, 2019, the FTC issued a Civil Investigative Demand ("CID") to Intuit.⁵⁷⁸ On May 18, 2020, the FTC issued a second CID to Intuit and separate CIDs for testimony to certain Intuit employees. The second set of CIDs to Intuit demanded documents, written interrogatory responses, and testimony from a corporate representative of Intuit.⁵⁷⁹

⁵⁷⁴ *Id.* ¶ 25.

⁵⁷⁵ Ryan Decl. ¶ 50; *see also* RX 14.

⁵⁷⁶ GX 150 at 241:20-242:3; GX 152 at 129:20-130:15, 132:7-17; RX 35 at INTUIT-FFA-FTC-000166060.

⁵⁷⁷ Gringer Decl. ¶ 6.

⁵⁷⁸ *Id.*

⁵⁷⁹ *Id.*

120. Each of the CIDs stated that the purpose of the FTC’s investigation was “to determine whether Intuit Inc. has engaged in deceptive or unfair acts or practices with respect to the marketing or advertising of online tax preparation products, in violation of the FTC Act, 15 U.S.C. § 45.”⁵⁸⁰

121. In response to those CIDs, Intuit produced hundreds of thousands of documents, provided dozens of written interrogatory responses, and provided testimony from corporate representatives of Intuit.⁵⁸¹

122. Between September 29, 2020, and October 30, 2020, the FTC conducted investigational hearings for eight Intuit employees.⁵⁸²

123. The FTC also issued subpoenas for documents to third parties.⁵⁸³ In response to those requests, the FTC received over a hundred documents of which Intuit is aware, and the FTC may have received substantially more documents that have not yet been identified or produced to Intuit.

124. To date Intuit has been unable to take any document discovery of the FTC or nonparties, or depose any witnesses.⁵⁸⁴

⁵⁸⁰ *Id.* ¶ 7.

⁵⁸¹ *Id.* ¶ 8.

⁵⁸² *Id.* ¶ 9.

⁵⁸³ *Id.* ¶ 11.

⁵⁸⁴ *Id.* ¶ 12.

III. INTUIT'S SETTLEMENT WITH THE STATE ATTORNEYS GENERAL

125. On May 4, 2022, Intuit reached a settlement agreement with the State Attorneys General of all 50 states and the District of Columbia to settle potential claims related to Intuit's marketing of its online tax-preparation products.⁵⁸⁵

126. This agreement, captured in an Assurance of Voluntary Compliance (the "Assurance") with New York, a proposed final judgment and permanent injunction filed in Los Angeles County Superior Court in case no. 19STCV15644,⁵⁸⁶ and various other settlement documents filed with courts and regulators in the various states according to those states' laws, was executed on May 4, 2022.⁵⁸⁷ Each of the settlement documents are substantively identical, and reflect the same agreement captured in the Assurance.

127. Intuit does not admit liability in the Assurance.⁵⁸⁸

128. The Assurance provides for injunctive relief, including and not limited to, requiring Intuit's general compliance with state consumer protection laws, prohibiting Intuit from making certain representations about its online tax preparation products, requiring Intuit to make certain disclosures regarding these products, prohibiting data-clearing practices, prohibiting Intuit from rejoining the IRS Free File program, and requiring Intuit to make payments to settlement and administration funds.⁵⁸⁹

129. Specific provisions of the Assurance are set forth below:

⁵⁸⁵ RX 76.

⁵⁸⁶ RX 75.

⁵⁸⁷ *Id.*

⁵⁸⁸ RX 76 at 18.

⁵⁸⁹ *Id.* at 18-34.

- Intuit must pay a total of \$141,000,000 to the Settlement Fund and Administration Fund.⁵⁹⁰
- “Intuit must not publish, or cause to be published, in any medium ... its ‘free, free, free’ Video Advertisements” or “Video Advertisements that are substantially similar in their repetition of the word free.”⁵⁹¹
- Non-Space-Constrained⁵⁹² ads for free tax preparation products “must disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer’s ability to use that free product; and (2) that not all taxpayers qualify for the free product.”⁵⁹³
- Space-Constrained ads “must disclose that eligibility requirements apply,” and “[i]f made online, Intuit must also (1) Clearly and Conspicuously include a hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously contains full disclosure of all material eligibility restrictions or (2) link by clicking on the Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously sets forth full disclosure of all material eligibility restrictions.”⁵⁹⁴

⁵⁹⁰ *Id.* at 22.

⁵⁹¹ *Id.* at 21.

⁵⁹² “Space-Constrained Advertisement” is defined as “any online Advertisement ... or any Video Advertisement that has space, time, format, size, or technological restrictions that limit Intuit from being able to make the disclosures required by this [agreement]. ... Space-Constrained Advertisements do not include Advertisements on a TurboTax Website.” *Id.* at 5-6.

⁵⁹³ *Id.* at 20.

⁵⁹⁴ *Id.*

- The TurboTax website must “disclose (1) Clearly and Conspicuously and very near to the representation all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is very near to the representation, (ii) that indicates that there are material limitations on a consumer’s ability to use that free product, and (iii) that links to a landing page or webpage that Clearly and Conspicuously sets forth all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product.”⁵⁹⁵
- Intuit must not misrepresent “[t]hat consumers must upgrade to a TurboTax Paid Product to file their taxes online if they are eligible to use the TurboTax Free Edition Product” or “[t]hat consumers can continue using and file their taxes for free with the TurboTax Free Edition Product when that is not the case.”⁵⁹⁶
- Intuit must not misrepresent “[a]ny other fact material to consumers concerning any tax preparation product or service, such as the price; total cost; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.”⁵⁹⁷
- One year after the effective date of the agreement, “Intuit must submit ... a compliance report, sworn under penalty of perjury, in which Intuit must ...

⁵⁹⁵ *Id.* at 21.

⁵⁹⁶ *Id.* at 19.

⁵⁹⁷ *Id.*

describe in detail whether and how Intuit is in compliance with each Section of” the agreement.⁵⁹⁸ Moreover, for the following five years, “Intuit must submit ... a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in ... the structure of Intuit that may affect compliance obligations.”⁵⁹⁹

⁵⁹⁸ *Id.* at 29.

⁵⁹⁹ *Id.*

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**DECLARATION OF CATHLEEN RYAN IN SUPPORT OF INTUIT INC.'S
OPPOSITION TO COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION**

I, Cathleen Ryan, declare as follows:

1. Since January 2022, I have served as the Senior Vice President of Marketing at Intuit. From July 2017 to January 2022, I served as the Vice President of Marketing at Intuit. From 2011 to 2017, I served as Intuit's Director of Marketing, Brand, and Digital Advertising.

2. Based on my more than a decade of experience in those positions, and my review of Intuit's internal documents and data related to the matters here, I have personal knowledge of the facts set forth below.

3. I submit this declaration in support of Intuit's opposition to Complaint Counsel's motion for summary decision.

I. TurboTax Free Edition

4. Intuit offers to consumers TurboTax branded tax preparation software.

5. TurboTax Free Edition is a completely free online tax preparation and filing software that Intuit offers to individuals who qualify.

6. For as long as I can remember, taxpayers with simple tax returns have qualified to use TurboTax Free Edition.

7. Since 2019, our definition of simple tax return has been a return filed with an IRS Form 1040 without any attached schedules.

8. Before 2019, our definition of simple tax return was any return filed using IRS Form 1040EZ or 1040A.

9. Our definition of simple tax return changed in 2019 because the IRS deprecated Forms 1040A and 1040EZ, replacing them with Form 1040.

10. Other than the change in 2019 driven by the IRS form deprecation, our definition of “simple tax return” has not changed.

11. Intuit’s definition of “simple tax return” intentionally matches the IRS’s definition of simple tax return.

12. Over the years, there have been various scenarios where taxpayers who do not have simple tax returns are able to file their taxes for free using TurboTax software. For example, in 2021, in the wake of the global pandemic, we allowed taxpayers who reported unemployment income (and thus needed to use a schedule in addition to Form 1040) to use Free Edition. Our definition of simple tax returns, however, remains unchanged.

13. Customers can use certain coupons or discount codes to use TurboTax products free of charge. A true and correct copy of [REDACTED]

[REDACTED]

[REDACTED] is attached as RX 1.

14. Starting in Tax Year 2019, all enlisted members of the U.S. military have been able to use any TurboTax product for free. Before Tax Year 2019, members of the U.S. military with ranks E1-E5 could use TurboTax Deluxe for free.

15. A true and correct copy of one version of the TurboTax Military landing page, available at <https://turbotax.intuit.com/personal-taxes/online/military-edition.jsp> (last accessed Aug. 29, 2022), is attached as RX 2.

16. All tax extension applications prepared using TurboTax are prepared for free by TurboTax.

17. Further, all consumers can *file* for free using any TurboTax product. This is because TurboTax does not charge a fee for tax filing. Instead, TurboTax's paid products charge for the service of preparing consumers' taxes.

II. TurboTax Free Edition Advertising

18. Intuit's online video and television advertising for TurboTax Free Edition discloses that Free Edition is available for consumers with "simple tax returns only" (or similar disclosure language). The disclosures were presented for 3-4 seconds in a legible font size and color-contrasted with the screen background to enhance visibility, set out in white font on a dark blue background without accompanying images that might distract the viewer. Our goal is to ensure that consumers see these disclosures because we want consumers to understand that there are qualifications to use Free Edition.

19. In Tax Year 2021, all video advertisements for Free Edition displayed a disclosure in white text against a dark blue background, which stated, "TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change." These ads also

included an audio disclosure providing additional information such as, “That’s right, TurboTax Free Edition is Free. See details at TurboTax.com.”

20. Intuit has advertised TurboTax Free Edition on social media and other affiliate websites.

21. Advertisements on social media and other affiliate websites are not static, and Intuit’s advertisements on these websites may appear differently to individual customers depending on the circumstances.

22. TurboTax advertisements disseminated through social media or on other websites appear at different rates and may appear different to different consumers. As a result, one consumer’s experience may not be reflective of other consumers’ experiences with TurboTax ads on social media or other websites.

23. With respect to paid search advertisements, Intuit bids on certain search terms and, if those bids are successful, the search engine provider will place ads in response to those search terms, under certain conditions, on the search engine’s results page. Intuit does not itself place advertisements in search results or dictate when or how frequently its advertisements are displayed to consumers using the search engine.

24. In Tax Years 2020 through 2021, paid search advertisements for Free Edition placed on Google contained a “Free for Simple Returns Only,” immediately under the link itself.

25. In Tax Year 2021, all paid search advertisements placed on Bing contained the disclosure, “Free for Simple Returns Only,” immediately under the link itself.

26. [REDACTED]

[REDACTED]

27. Intuit's online advertising for TurboTax Free Edition states that Free Edition is available for consumers with "simple tax returns only" or similar language.

III. TurboTax Website

28. Consumers must visit the TurboTax website or the mobile application to use the Free Edition product.

29. Intuit repeatedly discloses Free Edition's qualifications in all versions of the TurboTax website and mobile application.

30. For example, during Tax Year 2021, the top of the homepage of Intuit's TurboTax website (<https://turbotax.intuit.com/>) included a promotion for free tax filing, which featured a color contrasted, hyperlinked disclosure stating that Free Edition was for "Simple tax returns only" in close proximity to the phrase "free tax filing."

31. The TurboTax website is not static and may appear differently to different consumers. For example, to attempt to personalize the customer experience and test the efficacy of certain messaging, [REDACTED]. Only some of these versions include promotions for TurboTax Free Edition.

32. In Tax Year 2021, when users clicked on the hyperlinked "Simple tax returns only" disclosure at the top of the TurboTax homepage, a pop-up screen appeared to inform consumers that "[a] simple tax return is Form 1040 only." The pop-up screen then provided an explanation of the tax situations covered by Free Edition. A true and correct screenshot of the Tax Year 2021 pop-up screen that appeared when a user clicked the "Simple tax returns only" hyperlink is attached as RX 3.

33. On August 1, 2022, as part of its efforts to comply with the settlement agreement reached with all 50 states and the District of Columbia, Intuit launched new versions of TurboTax webpages.

34. The Free Edition landing page (<https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>), now includes disclosures in multiple locations stating that Free Edition is “For simple tax returns only,” with hyperlinked text asking consumers to “See if you qualify.” Clicking on the “See if you qualify” hyperlink reveals a pop-up screen with detailed information about the tax situations covered by Free Edition. The Free Edition webpage also discloses that “Not all taxpayers qualify” to use Free Edition. The Free Edition webpage also now includes the question, “Why use TurboTax Free Edition?” Under that text, the webpage explains, “If you have a simple tax return, you can file your taxes online for free with TurboTax Free Edition.” The “simple tax return” in that sentence is a hyperlink that again leads to a pop-up screen with detailed information about the tax situations covered by Free Edition.

35. Attached as RX 4 is a true and correct screenshot of the current pop-up screen that appears when a user clicks on the “simple tax return” or “see if you qualify” text on the TurboTax website.

36. Attached as RX 5 is a true and correct copy of a current version of the TurboTax Free Edition landing page as of August 1, 2022, available at <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp> (last accessed Aug. 29, 2022).

37. The TurboTax website also includes an entirely new webpage displaying material limitations for Free Edition. That page includes in large text, “Simple tax return? You could file for free.” It then provides that “[a] simple return is one that's filed using IRS Form 1040 only, without attaching any schedules,” and includes a button with the text “See if you qualify” that

directs consumers to detailed information about the tax situations covered by Free Edition further down that same webpage.

38. The information included on the Free Edition disclosure webpage explains at length the “Situations covered” by Free Edition, as well as the “Situations not covered.”

39. Attached as RX 6 is a true and correct copy of a current version of the TurboTax disclosure webpage, available at <https://turbotax.intuit.com/best-tax-software/why-its-free/> (last accessed Aug. 29, 2022).

40. Every other webpage on the TurboTax website, including the homepage (<https://turbotax.intuit.com/>), was updated to include “Important Details about Free Filing for Simple Tax Returns” without having to click a link. That disclosure provides, “If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic. A simple tax return is one that’s filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.” It then details the tax situations covered by Free Edition. Attached as RX 7 is a true and correct copy of a current version of the TurboTax homepage, available at <https://turbotax.intuit.com/> (last accessed Aug. 29, 2022).

41. Before and during most of Tax Year 2021 (before the website was updated as described above), every webpage on the TurboTax website contained an “Important Details” disclosure in hyperlinked text. When users clicked on this text, they accessed a dropdown field, which included a disclosure that Free Edition is available for simple tax returns only. RX 8 shows the dropdown field on the Tax Year 2019 TurboTax Products & Pricing page.

42. After the TurboTax homepage, the next page that new consumers see on the TurboTax website is the Products & Pricing page. Attached as RX 9 is a true and correct copy of

a current version of the TurboTax Products & Pricing page, available at <https://turbotax.intuit.com/personal-taxes/online> (last accessed Aug. 29, 2022).

43. For at least as long as I have worked at Intuit, the Products & Pricing page on the TurboTax website has included a simple, interactive tool (the “SKU selector”) that enables customers to receive a recommendation for the product that is most likely to meet their needs. As the potential customer clicks on the various tiles in the SKU selector representing different personal situations, the software updates its recommendation, which appears in the bottom panel of the Products & Pricing Page.

44. Attached as RX 10 is a screenshot of the current screening questions on the TurboTax Products & Pricing page, showing that selections of “I have a job (received W-2),” “I paid rent,” and “I have children or dependents” generates a recommendation of Free Edition.

45. Attached as RX 11 is a screenshot of the current screening questions on the TurboTax Products & Pricing page, showing that selections of “I own a home” and “I donated over \$300 to charity” generates a recommendation of Deluxe.

46. Attached as RX 12 is a screenshot of the current screening questions on the TurboTax Products & Pricing page, showing that selection of “I sold stock, crypto, or own rental property” generates a recommendation of Premier.

47. Attached as RX 13 is a screenshot of the screening questions on the TurboTax Products & Pricing page from Tax Year 2016, showing a recommendation of Free Edition.

48. Attached as RX 8 is a screenshot of the screening questions on the TurboTax Products & Pricing page from Tax Year 2019, showing a recommendation of Free Edition.

49. If a consumer upgrades to a paid product after starting in Free Edition, it is likely that the consumer either (1) did not use the SKU selector on the TurboTax.com Products & Pricing

page, (2) did not select accurate information concerning their tax situation on the SKU selector (either purposefully or because they were unaware of their tax situation), or (3) ignored the recommendation generated by their selections.

50. Before consumers purchase a TurboTax product online, they are told what the product or products they are purchasing will cost, if anything. They are informed of both the price for any TurboTax tax preparation product, such as Deluxe or Premium, as well as any paid add-on features. This is true for all Tax Years. Attached as RX 14 is a screenshot of a Tax Year 2018 payment screen listing the prices of each product and add-on feature.

IV. Additional Exhibits

51. By virtue of my roles at Intuit, I have personal knowledge concerning the following documents, all of which were made and kept in the course of Intuit's regularly conducted business activities.

52. Attached as RX 15 is a true and correct screenshot of the disclosure screen displayed during the 30-second version of the TurboTax Free Edition "Crossword" advertisement, which was aired during Tax Year 2019.

53. Attached as RX 16 is a true and correct screenshot of the disclosure screen displayed during the 30-second version of the TurboTax Free Edition "Auctioneer" advertisement, which was aired during Tax Year 2020.

54. Attached as RX 17 is a true and correct screenshot of the disclosure screen displayed during the TurboTax Free Edition "Boston Tea Party" advertisement, which was aired during Tax Year 2014.

55. Attached as RX 18 is a true and correct screenshot of the disclosure screen displayed during the "Never a Sellout" advertisement, which was aired during Tax Year 2015.

56. Attached as RX 19 is a true and correct screenshot of one version of the TurboTax homepage from Tax Year 2020. In Tax Year 2019, the TurboTax homepage included an identical color-contrasted, hyperlinked disclosure stating that TurboTax Free Edition is only for “simple tax returns.”

57. Attached as RX 20 is a true and correct screenshot of the pop-up screen that appeared when users clicked the hyperlinked “simple tax returns” disclosure on the TurboTax homepage in Tax Year 2019.

58. Attached as RX 21 is a true and correct screenshot of the pop-up screen that appeared when users clicked the hyperlinked “simple tax returns” disclosure on the TurboTax homepage in Tax Year 2020.

59. Attached as RX 22 is a true and correct screenshot of one version of the TurboTax homepage from Tax Year 2018.

60. Attached as RX 23 is a true and correct screenshot of one version of the TurboTax homepage from Tax Year 2017.

61. Attached as RX 24 is a true and correct screenshot of one version of the TurboTax homepage from Tax Year 2016.

62. Attached as RX 25 is a true and correct screenshot of the pop-up screen that appeared when users clicked the hyperlinked “see why it’s free” disclosure on the TurboTax homepage in Tax Year 2017.

63. Attached as RX 26 is a true and correct screenshot of the pop-up screen that appeared when users clicked on the orange “File for \$0” in Tax Year 2019.

64. Attached as RX 27 is a true and correct screenshot of an Intuit slide discussing updates and milestones for TurboTax Live Advertising.

65. Attached as RX 28 is a true and correct copy of an email sent by Danielle Roark to Mary-Ann Somers, which I was copied on, on December 28, 2018.

66. A true and correct copy of the script for the 30-second version of the “Lawyer” advertisement is attached as RX 29.

67. A true and correct copy of the script for the 30-second version of the “Credits” advertisement is attached as RX 30.

68. A true and correct copy of the script for the 15-second version of the “Credits” advertisement is attached as RX 31.

69. A true and correct copy of a PowerPoint presentation titled, “TY20/TY21 AP Scripts,” is attached as RX 32.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of August, 2022, in San Diego, California.

By: 
Cathleen Ryan

RX 1

(Submitted In Camera)

RX 2

[Sign in](#)

- Offer valid for active duty and reservists of an enlisted rank (E-1 through E-9) with a Valid ID from DFAS
- Excludes TurboTax Live products
- Discount will be applied when you are ready to file



It's our way of showing our appreciation for all that you do for our country

Here's how it works

In proud support of your service and sacrifice, enlisted active military and reservists can file both their federal and state taxes for FREE using any of our TurboTax Online products, which include Free Edition, Deluxe, Premier, and Self-Employed. Not valid for TurboTax Live or TurboTax CD/Download products.

Offer not valid for officers. Discounts not reflected in price below.



Simply enter your military W-2, verify your rank and your TurboTax Military discount will be applied when you file.

Frequently Asked Questions

[Who is eligible for the Free Military Discount?](#)

Enlisted (E-1 through E-9) active duty and reserve personnel are eligible for the Military Discount. Commissioned officers, warrant officers, veterans, retirees and National Guard do not qualify for free TurboTax Online discount at this time.













[How do I get the Free Military Discount?](#)

[Are there any TurboTax military discounts on bundles like PLUS or MAX?](#)

[Sign in](#)

Military discounts are not reflected in prices below and will apply when you file. Excludes TurboTax Live.


Select all that apply for a recommendation:

 I want to maximize deductions and credits	 I want a tax expert to do my taxes for me	 I have a job (received W-2)	 I paid rent
 I own a home	 I have children or dependents	 I want a tax expert to review my return	 I donated over \$300 to charity
 I'm paying off student loans	 I sold stock, crypto, or own rental property	 I'm self-employed/freelancer	 I own a small business

[Am I self-employed?](#)

[Show Recommendation](#)

You can do it



Real experts help or do it for you

America's #1 brand of tax software

Free Edition	Deluxe	Premier	Self-Employed
Simple tax returns only See if you qualify	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$59* <u>State additional</u>	\$89* <u>State additional</u>	\$119* <u>State additional</u>
File for \$0	Start for free Pay only when you file	Start for free Pay only when you file	Start for free Pay only when you file
★★★★★ (4.9 68,850 reviews)	★★★★★ (4.5 63,266 reviews)	★★★★★ (4.4 16,471 reviews)	★★★★★ (4.7 18,498 reviews)
Hide Details	More Details	More Details	More Details

File for \$0 with Free Edition

You'll pay absolutely nothing to file your federal and state taxes

FREE

- ✓ Free filing of your simple federal and state tax returns only.
[See if you qualify](#)
- ✓ Covers W-2 income, Earned Income Tax Credit (EIC) and child tax credits
- ✓ Jumpstart your return with last year's TurboTax info or import a

[Sign in](#)

answer simple non-tax questions about your life, and we'll get you your maximum refund.



Guidance in case of an audit, backed by our [Audit Support Guarantee](#)



Get answers 24/7 from our online community of TurboTax specialists and customers

Included in Free Edition

- ✓ Easy prep, print, and e-file
- ✓ Jumpstart your taxes, snap a photo of your W-2

[Learn more](#)

Everything in Free Edition, plus

- ✓ Searches 350+ tax deductions and credits
- ✓ Maximizes mortgage and property tax deductions
- ✓ Turn donations into big deductions

[Learn more](#)

Everything in Deluxe, plus

- ✓ Covers stocks, bonds, ESPPs, and other investments
- ✓ Auto import of investment income
- ✓ Covers rental property income and tax deductions
- ✓ Accurately account for gains and losses from cryptocurrency transactions

[Learn more](#)

Everything in Premier, plus

- ✓ Guidance for independent contractors, freelancers, and small business owners
- ✓ Uncovers industry-specific deductions for more tax breaks
- ✓ Easily upload your 1099-NEC with a snap from your smartphone
- ✓ One-on-one help from self-employment specialists

[Learn more](#)

Get your maximum tax refund — **guaranteed**

Maximum Refund Guarantee

We search over 350 tax deductions

We'll find every tax deduction and credit you qualify for, to boost your tax refund.

Complete Check of Your Return

Every detail reviewed

Get a comprehensive review of your online tax return before you file so you can be confident nothing gets missed.

100% accurate calculations guarantee

100% accurate calculations

Our calculations are 100% accurate on your tax return, or we'll pay any IRS penalties.

Big life changes? We can help

Got married? Had a baby? Bought a home? TurboTax can help find you any new tax deductions and credits.

[Sign in](#)**Guided in case of an audit**

Every personal TurboTax return is backed by our Audit Support Guarantee for free guidance from a trained tax professional.

**Get your fastest tax refund possible**

File taxes electronically (e-file) and get email confirmation when your tax return is accepted.

Your security. Built into everything we do.[Here's how](#)**File faster and easier with the free TurboTax app**[Download on the Apple App Store](#)[Get it on Google Play](#)**Important Details about Free Filing for Simple Tax Returns**

If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic.

A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.

Situations covered (assuming no added tax complexity):

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

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RX 3

You can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic if you have a simple tax return.*

*A simple tax return is Form 1040 only.

Situations covered by TurboTax Free Edition, TurboTax Live Basic, and TurboTax Live Full Service Basic

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- Claiming the standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student Loan Interest deduction

Situations not covered by TurboTax Free Edition, TurboTax Live Basic, and TurboTax Live Full Service Basic

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on schedules 1-3

How does TurboTax make any money?

Customers with more complex tax situations will file with our paid TurboTax products that provide all the additional forms and guidance they need. We also offer additional benefits that go beyond filing your taxes, but they are optional and are not required to file simple taxes for free. We hope that, over time, as our customers with simple returns need more capabilities as their financial situations change (for example owning a home, having a child, managing investments), they have loved our products and services so much that they will choose our paid TurboTax offerings to prepare and file their returns.

RX 4

What qualifies as a simple tax return?

If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic. A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.

Situations covered (assuming no added tax complexity):

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

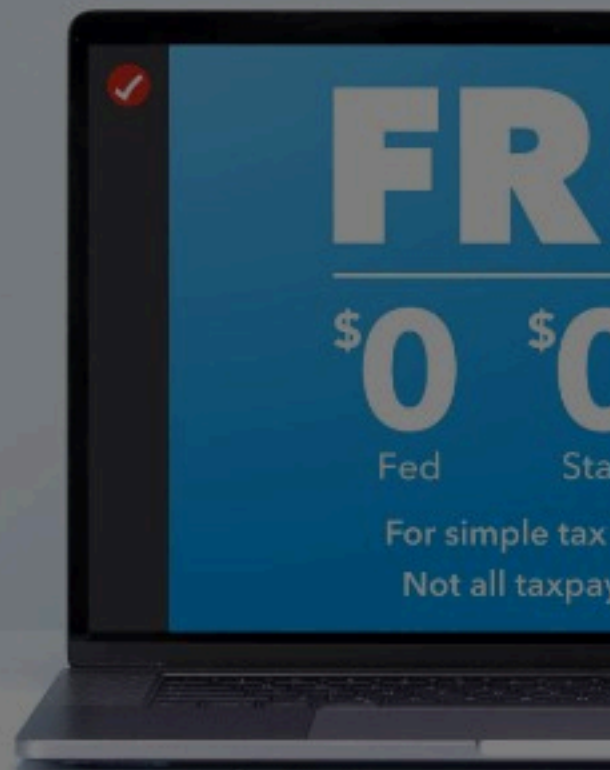
Situations not covered:

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on other forms or schedules (for example, income related to crypto investments)

If you don't have a simple tax return, we have other paid options to file using TurboTax.

How does TurboTax make any money?

We want our customers to love our products and services. Because we have customers who pay for our premium products and services, we can offer simple tax filing. We offer additional paid benefits that go beyond filing your simple taxes for free, but they're optional.



If you have a simple tax return, you can file with TurboTax Free Edition. Just



File your 2021 federal & state taxes for free

Free Edition

is only. See if you qualify

(351 reviews)

\$0 to File.

TurboTax Free Edition can get you your



Get your maximum tax refund, **guaranteed**

RX 5

Missed the tax deadline? Don't worry—we can help. [File now ▶](#)

[Sign in](#)[TurboTax](#) / [Personal Taxes](#) / TurboTax Free Edition

TurboTax Free Edition

For simple tax returns only. [See if you qualify](#)

★★★★★ (4.8/5 | 68,835 reviews)

\$0 Fed. \$0 State. \$0 to File.

File for \$0



Why use TurboTax Free Edition?

If you have a [simple tax return](#), you can file your taxes online for free with TurboTax Free Edition. Just import your W-2, answer basic questions about your life, and we'll get you your maximum refund, [guaranteed](#).



Ideal for [W-2 income](#)

Get the green

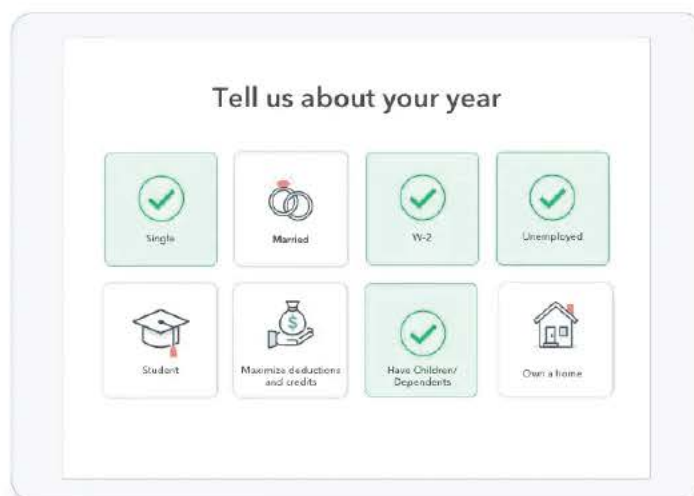


[View all product features](#)

Getting started with TurboTax is easy

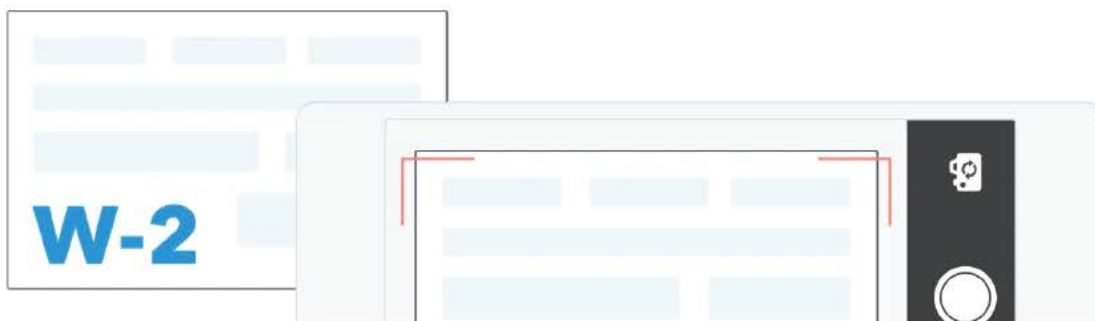
1. ANSWER SIMPLE QUESTIONS ABOUT YOUR LIFE

Tell us about your life, your job, and your family, and we'll do all the math.



2. UPLOAD YOUR W-2 IN A SNAP

Take a picture of your W-2, verify your data, and watch as your information securely uploads into all the right tax forms.



A graphic of a W-2 form with the text "W-2" in large blue letters. The form is white with green and blue borders. A black rectangular box is on the right side of the form.**W-2**

3. YOUR SATISFACTION IS GUARANTEED

Get your maximum refund, [guaranteed](#). Prepare your return online and pay only when you're ready to print or e-file.



Great refund!

\$2,766

Federal Refund

What customers are saying about TurboTax Free Edition



I love that its actually FREE

"TurboTax is free and it works great. I have used it for 5 years and it become simpler and simpler to file every year."

timPatt36 -

MD



Awesome Program for Senior Citizens!

"Easy to understand by just filing it out. You knew about a tax refund that we didn't! Thank you so much for giving us free access to your program! I've used TurboTax for years, but now that our taxes are simple, we qualify for the free version. Keep up the great work!"

CondoGal -

FL



TurboTax is Great

"TurboTax was very easy and fast to use! Never knew doing taxes could be so easy to do myself and free."

Bar19 -

SC

*Actual customer testimonials. Photos are illustrative only.

[View all product reviews](#)

All TurboTax Free Edition features

For simple tax returns only. See if you qualify

Get your maximum refund, guaranteed

With TurboTax, we're committed to getting you every dollar you deserve—and we [guarantee](#) it.

Tax credits for your dependents

We'll show you who qualifies as your dependent. You'll also find tax-saving credits like the [Earned Income Tax Credit \(EIC\)](#), and [Child Tax Credit](#).

Complex life, simplified taxes

TurboTax provides a personalized, free tax preparation experience. Answer simple questions about your life to get every tax deduction and credit you deserve.

50% done in a click

Experience easy and free tax filing as a returning customer! We'll transfer last year's information for free. Now you can save time and know that your tax return is accurate.

Taxes are no longer a mystery

You'll see updates to your tax refund (or taxes due) as you go. ExplainWhy™ delivers personalized insights so you can truly understand your taxes.

Big life changes? We're ready to help.

When you go through big changes, like getting a new job or having a baby, it might affect your taxes. We'll help you understand how and find new deductions for your situation.

Help & support

Community help

Get unlimited access to the helpful [TurboTax community](#) if you have questions about doing your taxes.

FEDERAL TRADE COMMISSION | OFFICE OF THE SECRETARY | FILED 8/30/2022 | DOCUMENT NO. 605463 | Page 203 of 2079 | PUBLIC

Need advice from a tax expert?

Our TurboTax product specialists will provide customized answers to your questions and guide you by drawing on your screen.*

All TurboTax products are easy to use & guaranteed accurate

No tax knowledge needed

You'll get step-by-step guidance for your tax preparation.

Anytime, anywhere

We'll always save your work, so you can pick up where you left off anywhere, on your own device and on your own time.

Snap. Tap. Done.™

Import your tax forms in an instant by snapping a photo with your smartphone.

See your tax refund in real time

We update your federal and state tax refund amount (or taxes due) as you work, so you always know where you stand.

Automatically add your tax forms

Thanks to partnerships with thousands of financial institutions, you don't need to wait for your W-2—we can import the data directly.

Get the fastest possible tax refund

E-file your federal and state tax return with direct deposit to get your tax refund as fast as possible.

Security is built into everything we do

TurboTax works hard to [safeguard your information](#) so you can file your taxes with total confidence.

Finish your state return faster

We'll move info from your federal return to your state return so you can save time and finish faster.

Unsure TurboTax Free Edition is right for you?

We'll help you find the right TurboTax product for your situation.

[Find my product](#)

Get your maximum tax refund — **guaranteed**

 Maximum Refund Guarantee

We search over hundreds of tax deductions

We find every tax deduction and credit you qualify for to get you the biggest tax refund, **guaranteed**.

 Complete Check of Your Refund

Every detail reviewed

Get a comprehensive review of your tax return before you file so you can be confident nothing gets missed.

 100% Accurate Calculations Guarantee

100% accurate calculations

Our calculations are 100% accurate so your taxes will be done right, **guaranteed**, or we'll pay you any IRS penalties.

Ready to try TurboTax Free Edition?

★★★★★ (4.8/5 | 68,835 reviews)

\$0 Fed. \$0 State. \$0 to File.

For simple tax returns only. [See if you qualify](#)

File for \$0

Your security. Built into everything we do.

[Here's how](#)

File faster and easier with the free TurboTax app



Important Details about Free Filing for Simple Tax Returns

If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic.

A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.

Situations covered (assuming no added tax complexity):

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

* More Important Details and Disclosures



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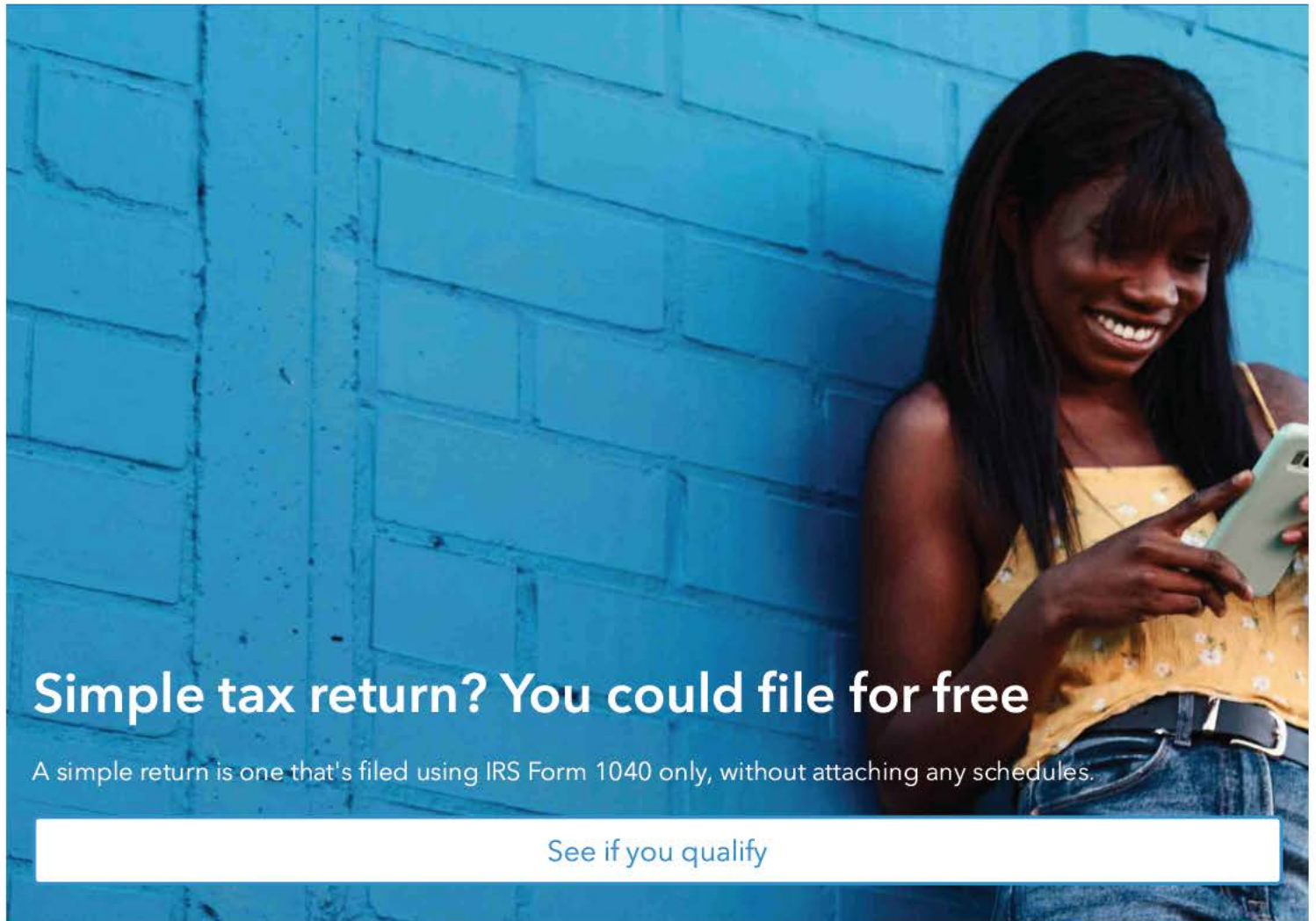
Security Certification of the TurboTax Online application has been performed by C-Level Security.

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RX 6

[Sign in](#)

Simple tax return? You could file for free

A simple return is one that's filed using IRS Form 1040 only, without attaching any schedules.

[See if you qualify](#)

If you have a simple tax return, you could be eligible to file
for \$0

Simple tax returns are those filed using IRS Form 1040 only, with no added complexity. Only certain tax situations qualify.



Situations covered

- W-2 income

- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

[Get started](#)

Situations not covered

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on other forms or schedules (for example, income related to crypto transactions)

[See all products](#)

How does TurboTax make money?

We want our customers to love our products and services. Because we have customers who pay for our premium products and services, we can offer simple tax filing. We offer additional paid benefits that go beyond filing your simple taxes for free, but they're optional.

When financial situations aren't simple anymore (like owning a home, having a child, or managing investments), we hope our customers will choose to pay to prepare and file their returns with TurboTax.

Your security. Built into everything we do.

[Here's how](#)

File faster and easier with the free TurboTax app



Important Details about Free Filing for Simple Tax Returns

If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic.

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- Child tax credits
- Student loan interest deduction

* More Important Details and Disclosures



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RX 7



Sign in



Missed the tax deadline?

Don't worry, you can still file on your own or with expert help.



File with an expert

File on your own

intuit.

One Account. Everything Intuit. [Learn more](#)

Phone number, email or user ID

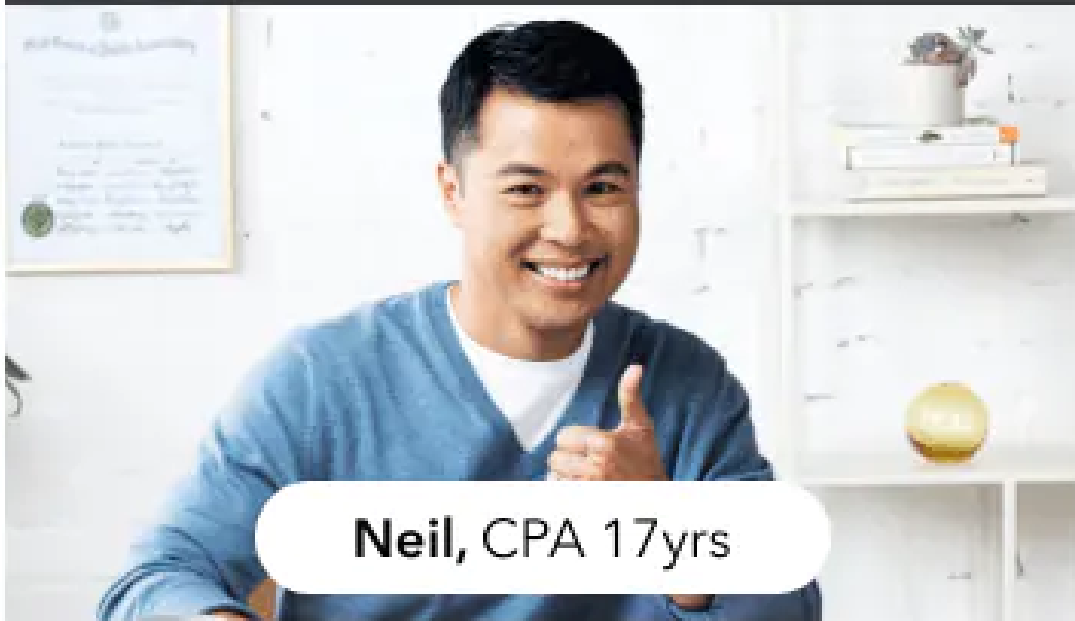
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Sign in

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New to Intuit? [Create an account](#)

LIVE



Neil, CPA 17yrs

**Let's go over your tax
return together**



YOUR APPOINTMENT



April 2 at 10:30 AM ET

Start by meeting with a tax expert

Connect right on your screen with a live expert to discuss your taxes this year. They can even customize your experience so you only answer questions that apply to you and your situation.

Start for free



Are you filing as head of household?

☐ Yes

☐ No



Live help

Get expert advice as often as you need

It's like having a tax expert by your side as you do your taxes. Just use the "Live help" button to chat with an expert or set up a video call at a time that's convenient for you. You can even connect after you file.

[Start for free](#)

Have a tax expert review your return before you file

Be confident nothing is missed and you're getting every dollar you deserve. An expert can go over your return with you and make sure you have no unanswered questions.

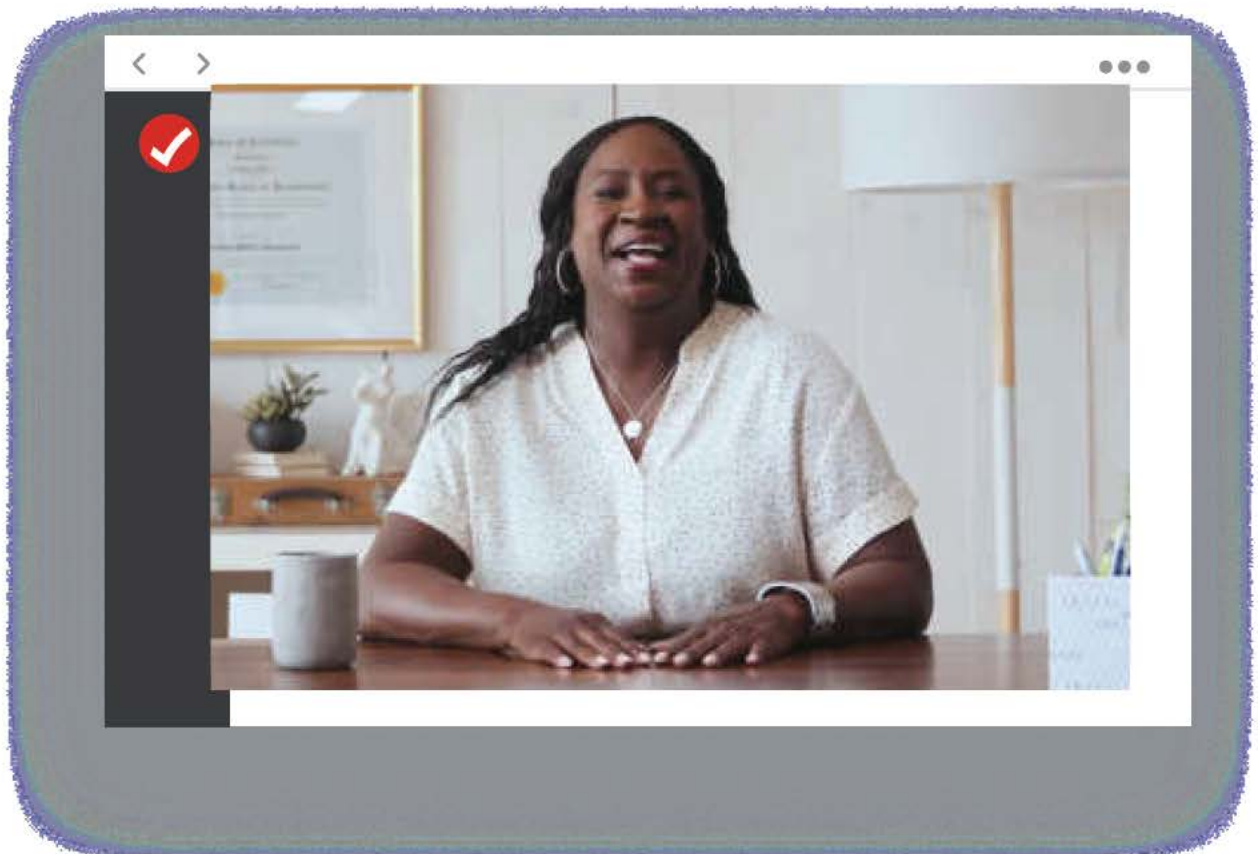
[Start for free](#)

Expert approved guarantee

Backed by our 100% Accurate, Expert Approved Guarantee

Every return filed with TurboTax Live is done right, guaranteed. If you pay an IRS penalty because of an error made by a TurboTax Live expert, we'll pay you the penalty plus interest.

[Start for free](#)



Prefer to hand your taxes off to an expert? Full Service offers just that.

Simply share your tax documents and we'll match you with a dedicated expert who will take it from there.

[Start Full Service](#)

No matter your situation, we have a tax solution that's right for you


[Start for free](#)

Here's what customers are saying

Rated **4.6 out of 5** stars by our customers



(290,579 reviews)

 Customer
review 5 out of 5


Love TurboTax!

"My expert was amazing! She eased my fears about filing and was very professional. She was very efficient and left no tax stone unturned."



amberlicious36

Oklahoma

 Customer
review 5 out of 5

Great Service

"I talked with a live CPA and was very glad that I did. She answered all of my questions and saved me a lot of money."



Ryan7810

Florida

 Customer
review 5 out of 5

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We search over 350 tax deductions

We'll find every tax deduction and credit you qualify for to boost your tax refund.

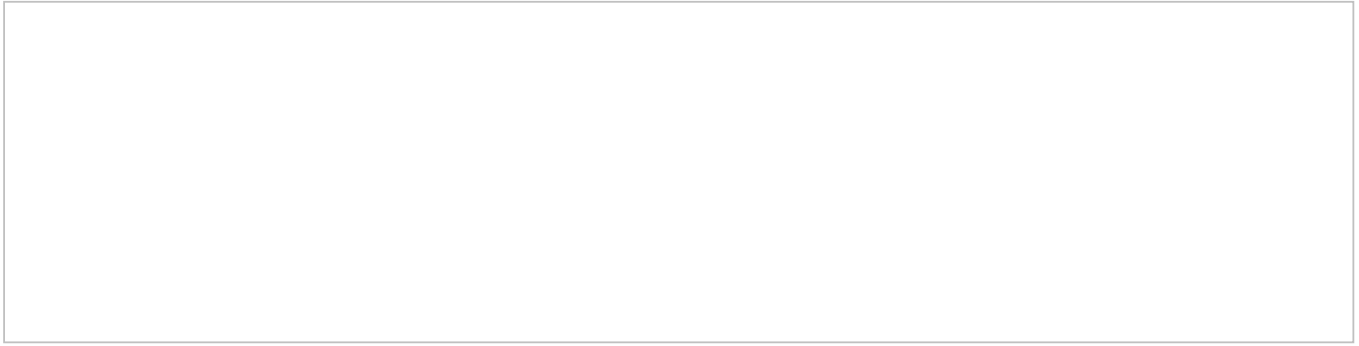
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Get a comprehensive review of your online tax return before you file so you can be confident nothing gets missed.

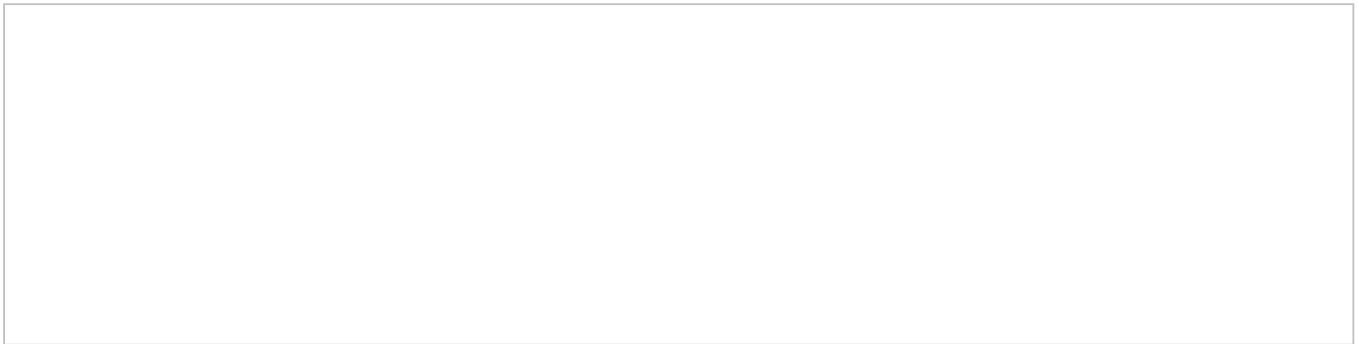
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Our calculations are 100% accurate on your tax return, or we'll pay any IRS penalties.



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Situations covered (assuming no added tax complexity):

- W-2 income
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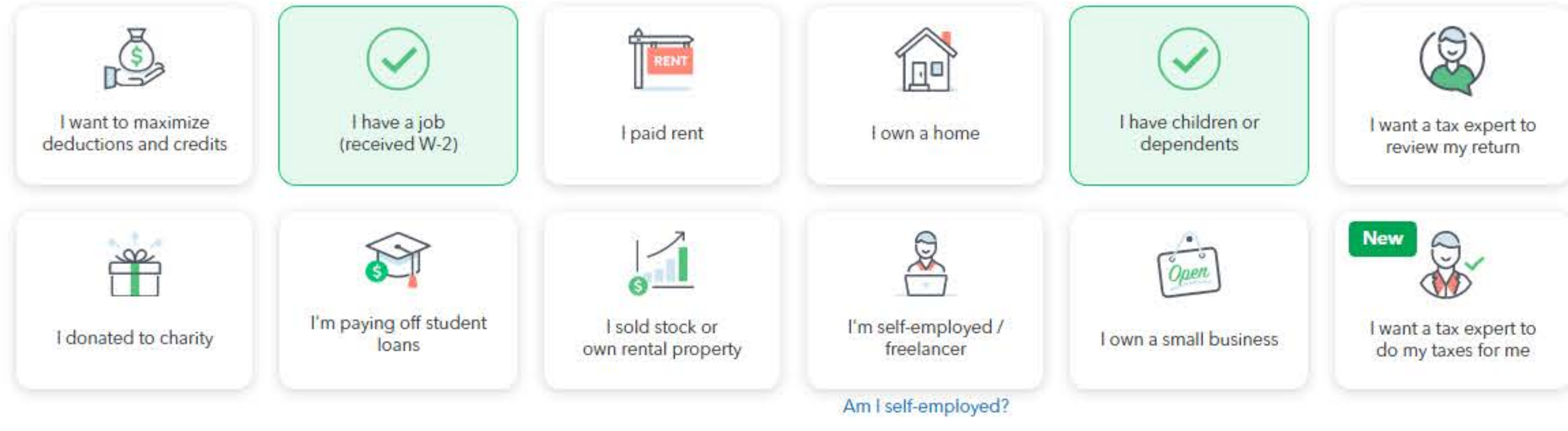
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File for \$0	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>
★★★★★ (4.8/5 67,355 reviews)	★★★★☆ (4.3/5 74,319 reviews)	★★★★☆ (4.3/5 18,601 reviews)	★★★★★ (4.5/5 23,195 reviews)
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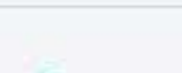
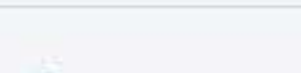
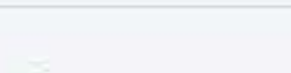
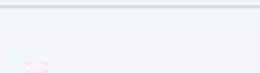
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I own a home




I have children or dependents




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Free Edition Simple tax returns only See if you qualify	Deluxe Maximize tax deductions and credits	Premier Investments and rental property	Self-Employed Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$59* <small>State additional</small>	\$89* <small>State additional</small>	\$119* <small>State additional</small>
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★★★★★ (4.9 68,835 reviews)	★★★★★ (4.5 63,252 reviews)	★★★★★ (4.4 16,466 reviews)	★★★★★ (4.7 18,488 reviews)
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File for \$0 with Free Edition

You'll pay absolutely nothing to file your federal and state taxes if you have a **simple tax return only**. Start by easily importing your W-2, answer simple non-tax questions about your life, and we'll get you your maximum refund.

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Fed State To File

For simple tax returns only.
Not all taxpayers qualify.


- ✓ Free filing of your simple federal and state tax returns only. [See if you qualify](#)
- ✓ Covers W-2 income, Earned Income Tax Credit (EIC) and child tax credits
- ✓ Jumpstart your return with last year's TurboTax info or import a PDF of your return from another tax software
- ✓ Guidance in case of an audit, backed by our [Audit Support Guarantee](#)
- ✓ Get answers 24/7 from our online community of TurboTax specialists and customers

Included in Free Edition	Everything in Free Edition, plus	Everything in Deluxe, plus	Everything in Premier, plus
<div><div>✓</div> Easy prep, print, and e-file</div> <div><div>✓</div> Jumpstart your taxes, snap a photo of your W-2</div>	<div><div>✓</div> Searches 350+ tax deductions and credits</div> <div><div>✓</div> Maximizes mortgage and property tax deductions</div> <div><div>✓</div> Turn donations into big deductions</div>	<div><div>✓</div> Covers stocks, bonds, ESPPs, and other investments</div> <div><div>✓</div> Auto import of investment income</div> <div><div>✓</div> Covers rental property income and tax deductions</div> <div><div>✓</div> Accurately account for gains and losses from cryptocurrency transactions</div>	<div><div>✓</div> Guidance for independent contractors, freelancers, and small business owners</div> <div><div>✓</div> Uncovers industry-specific deductions for more tax breaks</div> <div><div>✓</div> Easily upload your 1099-NEC with a snap from your smartphone</div> <div><div>✓</div> One-on-one help from self-employment specialists</div>
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RX 11

Let's find the right tax solution for you


Select all that apply for a recommendation:




I want to maximize deductions and credits




I want a tax expert to do my taxes for me




I have a job (received W-2)




I paid rent




I own a home




I have children or dependents




I want a tax expert to review my return




I donated over \$300 to charity




I'm paying off student loans



I sold stock, crypto, or own rental property



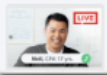
I'm self-employed/an independent contractor



I own a small business

Am I self-employed?

You can do it



Real experts help or do it for you

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Simple tax returns only
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File for \$0

★★★★★
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Deluxe

Maximize tax deductions and credits

\$59*

State additional

Start for free
Pay only when you file

★★★★★
(4.5 | 63,252 reviews)

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Premier

Investments and rental property

\$89*

State additional

Start for free
Pay only when you file

★★★★★
(4.4 | 16,466 reviews)

More Details ▾

Self-Employed

Personal & business income and expenses

\$119*

State additional

Start for free
Pay only when you file

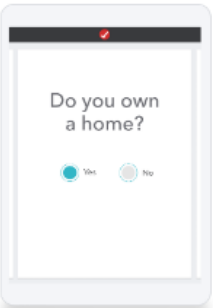
★★★★★
(4.7 | 18,488 reviews)

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Everything in Free Edition, plus

Maximize your deductions

We'll search over 350 tax deductions and credits to find every tax break you qualify for so you get your maximum refund, **guaranteed**. Homeowners get step-by-step guidance to help turn their biggest investment into their biggest tax break.




- ✓ Get homeowner tax breaks (Schedule A)
- ✓ Make the most out of charitable donations over \$300
- ✓ Jumpstart your return with last year's TurboTax info or import a PDF of your return from another tax software
- ✓ Connect with product specialists via phone and on your screen to get your taxes done
- ✓ Easily make changes to your 2021 tax return online up to 3 years after it's been filed and accepted by the IRS

Included in Free Edition	Everything in Free Edition, plus	Everything in Deluxe, plus	Everything in Premier, plus
<div><div>✓ Easy prep, print, and e-file</div><div>✓ Jumpstart your taxes, snap a photo of your W-2</div></div>	<div><div>✓ Searches 350+ tax deductions and credits</div><div>✓ Maximizes mortgage and property tax deductions</div><div>✓ Turn donations into big deductions</div></div>	<div><div>✓ Covers stocks, bonds, ESPPs, and other investments</div><div>✓ Auto import of investment income</div><div>✓ Covers rental property income and tax deductions</div><div>✓ Accurately account for gains and losses from cryptocurrency transactions</div></div>	<div><div>✓ Guidance for independent contractors, freelancers, and small business owners</div><div>✓ Uncovers industry-specific deductions for more tax breaks</div><div>✓ Easily upload your 1099-NEC with a snap from your smartphone</div><div>✓ One-on-one help from self-employment specialists</div></div>
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RX 12

Let's find the right tax solution for you


Select all that apply for a recommendation:




I want to maximize deductions and credits




I want a tax expert to do my taxes for me




I have a job (received W-2)




I paid rent




I own a home




I have children or dependents




I want a tax expert to review my return




I donated over \$300 to charity




I'm paying off student loans



I sold stock, crypto, or own rental property



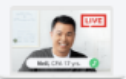
I'm self-employed/an independent contractor



I own a small business

Am I self-employed?

You can do it



Real experts help
or do it for you

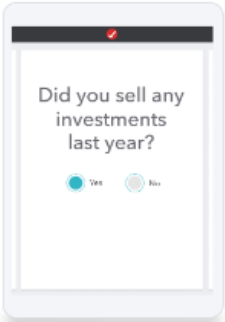
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WE RECOMMEND			
Free Edition	Deluxe	Premier	Self-Employed
Simple tax returns only See if you qualify	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$59* State additional	\$89* State additional	\$119* State additional
File for \$0	Start for free Pay only when you file	Start for free Pay only when you file	Start for free Pay only when you file
★★★★★ (4.9 68,835 reviews)	★★★★★ (4.5 63,252 reviews)	★★★★★ (4.4 16,466 reviews)	★★★★★ (4.7 18,488 reviews)
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Your investments and rental property covered

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- ✓ Covers stock, cryptocurrency, bonds, ESPPs, robo-investing, rental property income, and more.
- ✓ We'll search for more than 450 tax deductions and credits to find every tax break you qualify for
- ✓ Connect with product specialists via phone and on your screen to get your taxes done
- ✓ Answer simple questions to enable personalized tips and maximize your tax outcome

Included in Free Edition	Everything in Free Edition, plus	Everything in Deluxe, plus	Everything in Premier, plus
<div><div>✓</div> Easy prep, print, and e-file</div> <div><div>✓</div> Jumpstart your taxes, snap a photo of your W-2</div>	<div><div>✓</div> Searches 350+ tax deductions and credits</div> <div><div>✓</div> Maximizes mortgage and property tax deductions</div> <div><div>✓</div> Turn donations into big deductions</div>	<div><div>✓</div> Covers stocks, bonds, ESPPs, and other investments</div> <div><div>✓</div> Auto import of investment income</div> <div><div>✓</div> Covers rental property income and tax deductions</div> <div><div>✓</div> Accurately account for gains and losses from cryptocurrency transactions</div>	<div><div>✓</div> Guidance for independent contractors, freelancers, and small business owners</div> <div><div>✓</div> Uncovers industry-specific deductions for more tax breaks</div> <div><div>✓</div> Easily upload your 1099-NEC with a snap from your smartphone</div> <div><div>✓</div> One-on-one help from self-employment specialists</div>
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RX 13

Tell us about you - we'll recommend the right product

Single

Have children/
dependents

Own a home

Maximize deductions
and credits

Sold stock or bonds/
own rental property

Self-employed/
independent contractor

	AbsoluteZero.			
	We recommend Federal Free Edition	Deluxe	Premier	Self-Employed ⓘ
Compare our product features and benefits	Simple tax returns (1040EZ/1040A) Start for Free \$0 Fed \$0 State \$0 To File	Maximize tax deductions and credits Start for Free \$54.99 \$34.99* State additional	Investments and rental property Start for Free \$79.99 \$54.99* State additional	Personal & business income and expenses Start for Free \$114.99 \$89.99* State additional
		MOST POPULAR		
Easy prep, print and e-file with 100% accurate calculations guaranteed	●	●	●	●
Jumpstart your refund by automatically importing your W-2 tax forms	●	●	●	●
Expanded set of self-help tools and support from our tax community to get the answers you need 24/7	●	●	●	●
Expert help, live on screen—get tax advice from credentialed CPAs and EAs		●	●	●
Searches 350+ tax deductions and credits (Schedule A)		●	●	●
Maximizes mortgage/property tax deductions (Schedule A)		●	●	●
Turns charitable donations into big deductions with ItsDeductible™		●	●	●
Get a head start by transferring last year's info from your TurboTax return		●	●	●
Know more about what impacts your tax refund with personalized reports		●	●	●
Store all of your important tax documents for anytime access and protection		●	●	●
Covers stocks, bonds, ESPPs and other investment income (Schedule D)			●	●
Automatically imports investment income including cost basis (Schedule D)			●	●
Covers rental property income and tax deductions (Schedule E)			●	●
Maximizes business deductions for vehicle, phone, supplies, home office and more (Schedule C)				●
Find business expenses you may not know about and keep more of the money you earn				●
Effortless expense and mileage tracking, year round from QuickBooks Self-Employed				●
	★★★★★ (4.8/5 71812 reviews) Learn more	★★★★★ (4.7/5 95286 reviews) Learn more	★★★★★ (4.7/5 9845 reviews) Learn more	★★★★★ (4.7/5 12132 reviews) Learn more

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- **QuickBooks Self-Employed Offer:** File your 2016 TurboTax Self-Employed return by 4/18/17 and receive your complimentary subscription to QuickBooks Self-Employed until 4/30/18. Activation required. Log in to QuickBooks Self-Employed by 7/15/17 via mobile app or at <https://selfemployed.intuit.com/turbotax>; e-mail address used for activation and log-in. Offer valid only for new QuickBooks Self-Employed customers. See QuickBooks.com for price comparison.
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RX 15



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100% accurate calculations

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RX 20

You can file with TurboTax Free Edition if you have a simple tax return.*

*A simple tax return is Form 1040 only, without any additional schedules. Simple tax situations covered in TurboTax Free Edition include:

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- Claiming the standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits

Situations not covered in TurboTax Free Edition include:

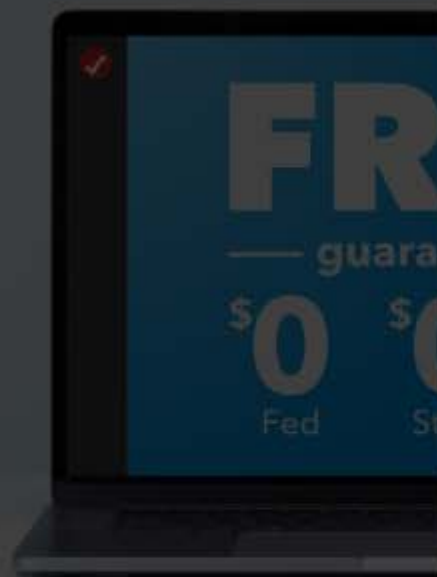
- Itemized deductions
- Business or 1099-MISC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on schedules 1-3, such as the Student Loan Interest Deduction

How does TurboTax make any money?

Customers with more complex tax situations will file with our other TurboTax products that provide all the right forms and guidance they need. We also offer additional benefits that go beyond filing your taxes, but they are completely optional and are not required to file your taxes for free. Many of our customers value additional features like:

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With TurboTax Free, the power to file for free is all yours!



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nd we'll get

rbo



stand your
health
turbo

Get your maximum
refund, guaranteed

RX 21

You can file with TurboTax Free Edition if you have a simple tax return.*

*A simple tax return is Form 1040 only OR Form 1040 + Unemployment Income. Situations covered in TurboTax Free Edition include:

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- Claiming the standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Unemployment income reported on a 1099-G

Situations not covered in TurboTax Free Edition include:

- Itemized deductions
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on schedules 1-3, such as the Student Loan Interest Deduction

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Customers with more complex tax situations will file with our other TurboTax products that provide all the right forms and guidance they need. We also offer additional benefits that go beyond filing your taxes, but they are completely optional and are not required to file your taxes for free. Many of our customers value additional features like:

- One-on-one help for answers, on demand with a TurboTax specialist

With TurboTax Free Edition, the power to file for free is all yours!



RX 22

RX 23

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Toby H.

Thanks @turbotax, made filing super
easy and free.



Tim S.

Gotta love @turbotax finally got my w2
and 10 minutes later my taxes are filed



Beverleigh

...@turbotax love Turbo Tax-refund in 14
days! Did my States and Federal taxes
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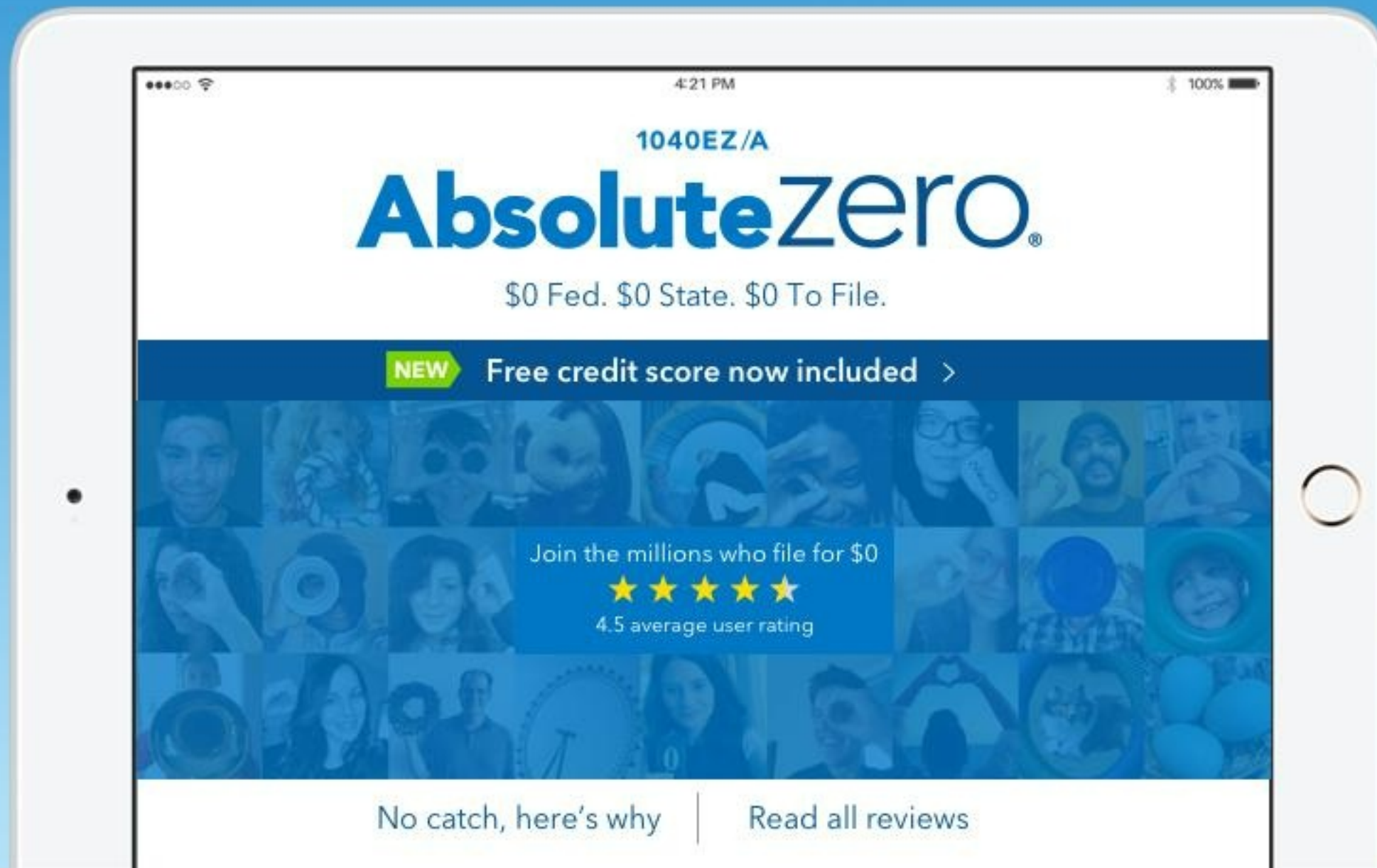
RX 24



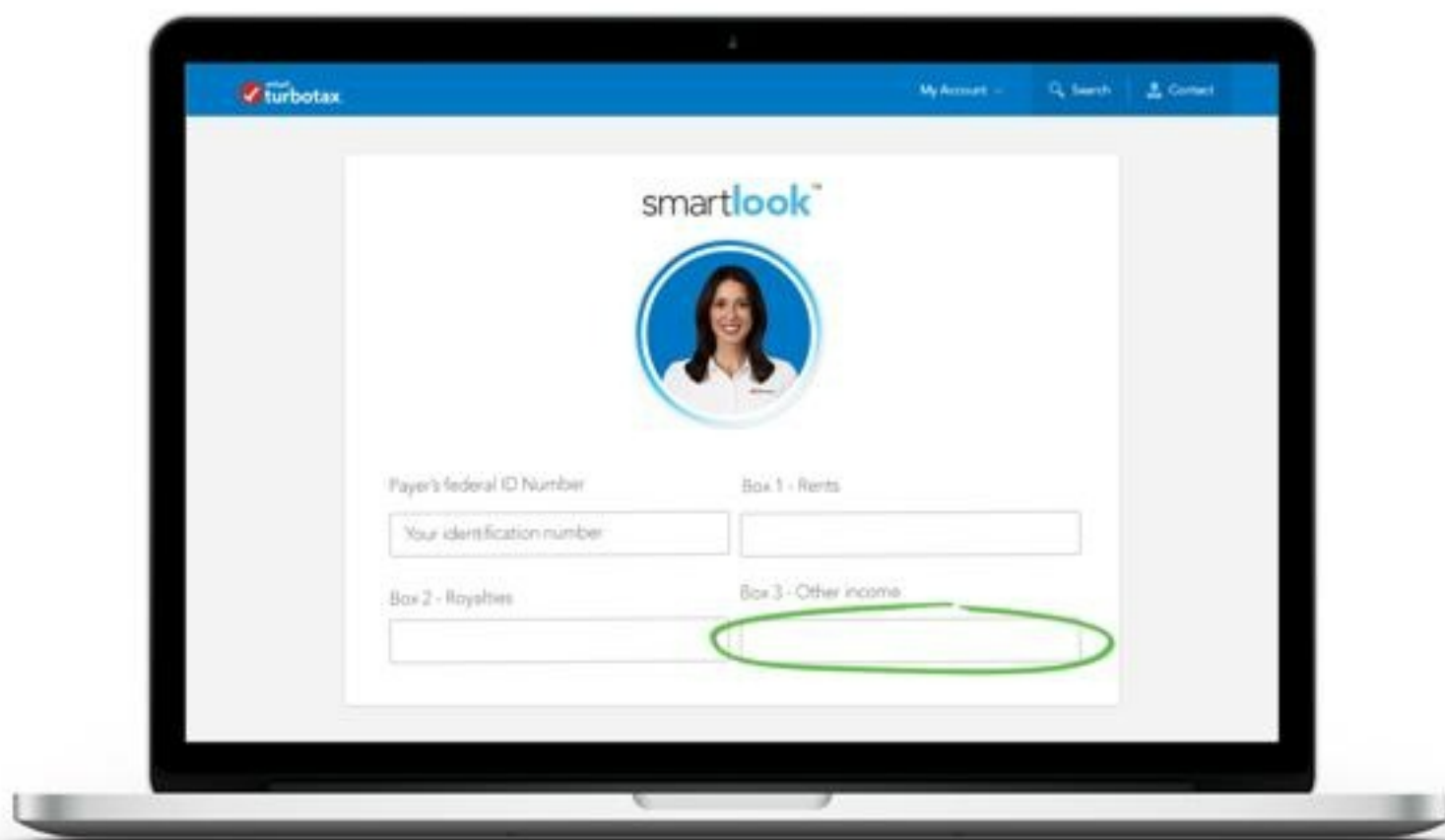
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RX 25



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Yes. We guarantee you'll pay absolutely nothing to file your federal (1040EZ/1040A) and state taxes. This is a limited time offer and returns must be filed before the offer ends. Customers will receive an email notice prior to offer end date.

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60 million hard-working Americans can file their federal (1040EZ/1040A) and state taxes for free and so can you, if you:

- Made less than \$100,000
- Don't own a home or rental property
- Didn't sell investments
- Don't own a business or have 1099-MISC income
- Don't have any major medical expenses

How does TurboTax make any money?

We offer additional benefits that go beyond filing your taxes. You'll have an opportunity to add these benefits as you're doing your taxes, but they're **completely optional** and are not required to file your taxes for free. But many of our customers value features like:

- One-on-one help for answers, on demand with a TurboTax specialist
- 24/7 Tax Return Access to view and print copies of all your completed TurboTax returns

With Absolute Zero, the power to file for free is all yours!

What now?

To get started with Absolute Zero simply click File for \$0, and you're on your way!

File for \$0

RX 26

Great choice! We think you'll love this year's TurboTax.

How did you do your taxes last year?

Please select one:



I used TurboTax



I used a different tax software
or website



I used a CPA or accountant



I went to a tax service
(H&R; Block, Jackson Hewitt, etc.)



I didn't file taxes last year



Other

[Skip this step](#)

[Continue](#)

RX 27

(Submitted In Camera)

RX 28

(Submitted In Camera)

RX 29

Lawyer
:30

Open on a dramatic courtroom scene. It's a tense moment as the fate of the defendant, in this case a young woman who is obviously innocent, hangs in the balance. Her lawyer paces the floor, deliberately adding drama to her closing argument. She looks to the judge, who returns a respectful nod.

LAWYER: Free free free, free free free freefreefree.

The lawyer plays up the emotion to the jury.

LAWYER: Free free free, Free free freefreefreefree. Free free freefreefreefreefreefree.

The stern eyes of the jury meet her back. She continues into her closing argument, making an impassioned plea on behalf of her client. We see the stenographer typing furiously.

LAWYER: Free free, free free! Free! Free

A juror stands up, initiating a slow clap.

JUROR: Free.

The room erupts in applause.

The judge hits her gavel.

JUDGE: Free free free free!

VO: That's right, TurboTax Free is free. Free, free free free.

**LEGAL: Free Edition product only. For simple U.S. returns. Offer subject to change.
See details at turbotax.com.**

LOGO: intuit turbotaxfree

**END CARD: intuit turbotaxfree
Free, free free free.**

RX 30

Credits

:30

Open on a man walking away from a tattered-up van. We see the cityscape in the back drop as he throws a lighter over his shoulder.

MAN: Free! Free, free free.

Cut to the lighter landing in a trail of gasoline.

Cut to the car in the background exploding against the cityscape backdrop.

SUPER: FREEFREE. FREE FREE.

Credits roll and play out as the man walks out of frame from the explosion.

VO: That's right, TurboTax Free is free. Free, free free free.

**LEGAL: Free Edition product only. For simple U.S. returns. Offer subject to change.
See details at turbotax.com.**

LOGO: intuit turbotaxfree

**END CARD: intuit turbotaxfree
Free, free free free.**

RX 31

Credits

:15

Open on a man walking away from a tattered-up van. We see the cityscape in the back drop as he throws a lighter over his shoulder.

MAN: Free! Free, free free.

Cut to the car in the background exploding against the cityscape backdrop.

SUPER: FREEFREE. FREE FREE.

Credits roll and play out as the man walks out of frame from the explosion.

VO: That's right, TurboTax Free is free. Free, free free free.

**LEGAL: Free Edition product only. For simple U.S. returns. Offer subject to change.
See details at turbotax.com.**

LOGO: intuit turbotaxfree

**END CARD: intuit turbotaxfree
Free, free free free.**

RX 32

(Submitted In Camera)

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**DECLARATION OF DAVID GRINGER IN SUPPORT OF INTUIT INC.'S
OPPOSITION TO COMPLAINT COUNSEL'S MOTION FOR SUMMARY DECISION**

I, David Gringer, declare as follows:

1. I am a partner at Wilmer Cutler Pickering Hale and Dorr LLP. I represent Respondent Intuit Inc. in the above-captioned proceeding.

2. I submit this declaration in support of Intuit's Opposition to Complaint Counsel's Motion for Summary Decision.

I. Intuit Documents

3. The documents identified below were provided to me, or attorneys acting under my direct supervision and direction, by Intuit employees. By virtue of my role as outside counsel and my interactions with Intuit employees, I understand that the attached documents were stored and maintained in Intuit's files in the course of regularly conducted business activity, and that they were created at or near the time that they were dated, by a person with knowledge of their contents, in the ordinary course of business.

- A true and correct copy of an email thread dated January 15, 2015, featuring Daniel McCarthy and Maria Scott, is attached hereto as RX 33.
- A true and correct copy of a research report titled “TurboTax Brand Insights: Focus Groups” is attached hereto as RX 34.
- A true and correct copy of an email thread dated March 20, 2018, including Christine Morrison and Mandy Ison is attached hereto as RX 35.
- A true and correct copy of an Intuit spreadsheet titled “Book5” is attached hereto as RX 36.
- A true and correct copy of an Intuit spreadsheet titled “Microsoft_Excel_Worsheet4” is attached hereto as RX 37.
- A true and correct copy of an Intuit slide deck titled “TurboTax Online Competitive NPS TY18 2019 Study” is attached hereto as RX 38.
- A true and correct copy of an Intuit slide deck titled “TurboTax Online TY20 NPS Study” is attached hereto as RX 39.
- A true and correct copy of an Intuit slide deck titled “Core DIY Update” is attached hereto as RX 40.
- A true and correct copy of an email from Laurence Lewis to Diane Weiss and others, dated February 9, 2017, is attached hereto as RX 41.
- A true and correct copy of an Intuit slide deck titled “TY14 Product Lineup Learnings” is attached hereto as RX 42.
- A true and correct copy of an Intuit slide deck titled “TY16 EOS Learnings Slides JULY 2017 FINAL” is attached hereto as RX 43.

- A true and correct copy of an Intuit slide deck titled “AZ Modal Learnings” is attached hereto as RX 44.
- A true and correct copy of an Intuit slide deck titled “CG GTM Plan Review” is attached hereto as RX 45.
- A true and correct copy of an Intuit slide deck titled “FY19 Ad Channel Review” is attached hereto as RX 46.
- A true and correct copy of an Intuit slide deck titled “PLU/Monetization Overview” is attached hereto as RX 47.
- A true and correct copy of an Intuit slide deck titled, “FY22/TY21 TurboTax and Mint Mid & EOS Initiative & Channel Learnings & Implications” is attached hereto as RX 48.
- A true and correct copy of an Intuit “Go to Market” White Paper for Fiscal Year 2019 is attached hereto as RX 49.
- A true and correct copy of an Intuit slide deck titled “Consumer Group Business Models” is attached hereto as RX 50.
- A true and correct copy of an Intuit slide deck titled “Bundle Results and Considerations: FY 2020 Bundle Results” is attached hereto as RX 51.
- A true and correct copy of an Intuit slide deck titled “Consumer Group GOAT SLT Review” is attached hereto as RX 52.
- A true and correct copy of an Intuit slide deck titled “TY19 End of Season Learnings Offering Portfolio” is attached hereto as RX 53.
- A true and correct copy of an Intuit slide deck titled “CG GTM Plan Executive Summary, FY’20/TY’19” is attached hereto as RX 54.

- A true and correct copy of an Intuit spreadsheet titled “Customer Benefit Metric: Time Spent to Complete Taxes” is attached hereto as RX 55.
- A true and correct copy of an Intuit slide deck titled “Brand Sentiment Metrics Mid-Season TY18” is attached hereto as RX 56.
- A true and correct copy of an Intuit slide deck titled “2021 TurboTax Defection Study” is attached hereto as RX 57.
- A true and correct copy of an Intuit slide deck titled “Investor Day 2021” is attached hereto as RX 58.
- A true and correct copy of an Intuit slide deck titled “TY20 Core EOS Learnings” is attached hereto as RX 59.
- A true and correct copy of an Intuit slide deck titled “FY21_TY20 OA & PR Comms Plans on a Page” is attached hereto as RX 60.
- A true and correct copy of an Intuit slide deck titled “TurboTax Brand Foundations: Integrated Findings” is attached hereto as RX 61.
- A true and correct copy of an Intuit slide deck titled “TurboTax Free TY18 Style Guide” is attached hereto as RX 62.
- Attached as RX 63 is a true and correct copy of the TurboTax Support FAQ titled, *Is TurboTax Free Edition Right for Me?*, available at https://ttlc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/turbotax-free-edition-right/L9JrkQ3NP_US_en_US (last accessed Aug. 29, 2022).
- Attached as RX 64 is a true and correct copy of an Intuit blog post titled, *You Can Still File Your Taxes for Free!*, available at <https://blog.turbotax.intuit.com/tax->

planning-2/you-can-still-file-your-taxes-for-free-22623/ (last accessed Aug. 29, 2022).

II. FTC Investigation

4. I have personal knowledge of the facts stated in this declaration.

5. I was counsel for Intuit in the Federal Trade Commission's investigation of Intuit.

6. The FTC initiated its investigation into Intuit's allegedly deceptive practices in May 2019. On June 28, 2019, the FTC issued a Civil Investigative Demand to Intuit. On May 18, 2020, the FTC issued a second CID to Intuit and separate CIDs for testimony to certain Intuit employees. The second set of CIDs to Intuit demanded documents, written interrogatory responses, and testimony from a corporate representative of Intuit.

7. Intuit responded to the FTC's May 18, 2020 CID request on July 31, 2020. A true and correct copy of Intuit's July 31, 2020 CID responses are attached hereto as RX 65.

8. Each of the CIDs stated that the purpose of the FTC's investigation was "to determine whether Intuit Inc. has engaged in deceptive or unfair acts or practices with respect to the marketing or advertising of online tax preparation products, in violation of the FTC Act, 15 U.S.C. § 45."

9. In response to those CIDs, Intuit produced hundreds of thousands of documents, provided dozens of written interrogatory responses, and provided testimony from corporate representatives of Intuit.

10. Between September 29, 2020, and October 30, 2020, the FTC conducted investigational hearings for eight Intuit employees and an investigational hearing of Intuit.

11. One of these hearings was for Mandy Ison, the Group Manager of Pay-Per-Click and Search Engine Optimization for TurboTax, Turbo & Mint. A true and correct copy of Ms. Ison's Investigational Hearing Transcript is attached hereto as RX 66.

12. The FTC also issued subpoenas for documents to non-parties. In response to those requests, the FTC received over a hundred documents of which Intuit is aware and may have received substantially more documents that have not yet been identified or produced to Intuit. The FTC has not provided its full investigative file to Intuit, despite our request that it do so.

13. Intuit has been unable to take any document discovery or depose any witnesses. Intuit has served discovery to Complaint Counsel, but they have not responded. Discovery was fully open in Part 3 for only 9 days before the matter was removed from adjudication after the FTC suffered a resounding defeat on its motion for preliminary injunction in federal court.

14. If provided the opportunity, in addition to other discovery, Intuit would depose Professor Nathan Novemsky and Diana Shiller, the declarants on which Complaint Counsel rely to support their motion for summary decision. Professor Novemsky's survey falls well below any acceptable standard for a consumer survey. I anticipate that under cross-examination, Professor Novemsky would have to concede as much. Likewise, Ms. Shiller's fails to meet the standards set by courts for admissible evidence. I am confident that under cross-examination, Ms. Shiller would concede the same.

15. In response to news articles claiming that Intuit deceived consumers by steering them away from its commercial free product, hundreds of thousands of individuals filed arbitration claims seeking money from Intuit. Intuit prevailed in over eighty percent of the cases that were decided on the merits, and in many of the decisions, the arbitrator expressly rejected Complaint

Counsel's theory of deception. A true and correct copy of three exemplar decisions by arbitrators are attached hereto.

- A true and correct copy of [REDACTED]
[REDACTED] is attached hereto as RX 67.
- A true and correct copy of [REDACTED]
[REDACTED] is attached hereto as RX 68.
- A true and correct copy of [REDACTED]
[REDACTED] is attached hereto as RX 69.

16. In the course of discovery in the arbitrations and in a case filed against Intuit by the City of Los Angeles Attorney and the Santa Clara County Counsel's Office, styled as *People v. Intuit Inc.*, JCCP No. 5067 (Cal. Super.), certain consumers were deposed. I served as lead counsel for Intuit in *People v. Intuit* and represented Intuit in the arbitrations. In the course of that representation, I either took the depositions referenced below, or the attorneys who did were acting under my direct supervision and direction.

- A true and correct transcript of the deposition of [REDACTED]
[REDACTED] is attached hereto as RX 70.
- A true and correct transcript of the deposition of Kalynna Rozar in *People v. Intuit Inc.*, JCCP No. 5067 (Cal. Super.), taken by Intuit on March 21, 2022, is attached hereto as RX 71.
- A true and correct transcript of the deposition of Paul Harford in *People v. Intuit Inc.*, JCCP No. 5067 (Cal. Super.), taken by Intuit on February 28, 2022, is attached hereto as RX 72. I took Mr. Harford's deposition.

17. On April 21, 2022, a hearing was held before Hon. Charles Breyer in the Northern District of California on a motion for preliminary injunction that was filed by the FTC.

- A true and correct transcript of proceedings in *FTC v. Intuit Inc.*, No. 22-01973-CRB (N.D. Cal Apr. 21, 2022), is attached hereto as RX 73.
- A true and correct copy of the decision denying the FTC's motion for a preliminary injunction in *FTC v. Intuit Inc.*, No. 22-01973-CRB (N.D. Cal Apr. 21, 2022), is attached hereto as RX 74.

18. On May 4, 2022, Intuit reached a settlement agreement with the State Attorneys General of all 50 states and the District of Columbia to settle potential claims related to Intuit's marketing of its online tax-preparation products. The documents related to that settlement are attached hereto. Along with my colleague Brian Mahanna, I served as lead counsel for Intuit in the State Attorneys General investigation.

- A true and correct copy of the Final Judgment and Permanent Injunction in *People v. Intuit Inc.*, JCCP No. 5067 (Cal. Super. June 25, 2022), is attached hereto as RX 75.
- A true and correct copy of the Assurance of Voluntary Compliance executed by Intuit and the New York Attorney General is attached hereto as RX 76.

19. On August 12, 2022, I provided to Complaint Counsel and others at the Federal Trade Commission a summary of changes made to Intuit's website to comply with Intuit's May 4, 2022 settlement agreement with the State Attorneys General, as well as images of those webpages. Copies of those webpages are identified as RX 5, RX 6, and RX 7.

III. Publicly Available Internet Sources

20. Attached to Intuit's Opposition to Complaint Counsel's Motion for Summary Decision are a number of documents obtained from sources publicly available on the internet. These documents were downloaded by legal assistants working under my supervision and at my direction.

- A true and correct copy of David C. Cico and Courtney L. Howard Olsten, IRS, *Lessons Learned from IRS Free Filers: Capturing Young Taxpayers for a Lifetime of Electronic Filing* (2008), available at <https://www.irs.gov/pub/irs-soi/08rescone file.pdf> (last accessed Aug. 29, 2022), is attached hereto as RX 77. It shows that the IRS used the phrase "simple tax return" to refer to a return filed on a Form 1040, 1040A, or 1040EZ, without any schedules in 2008.
- A true and correct copy of a United States Government Accountability Office Report to Congressional Requesters titled *IRS Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free*, available at <https://www.gao.gov/assets/gao-22-105236.pdf> (last accessed Aug. 29, 2022), is attached hereto as RX 78.
- A true and correct copy of the 2014 ReadyReturn Tool Kit created by the State of California Franchise Tax Board, available at https://web.archive.org/web/20140429085122/https://www.ftb.ca.gov/aboutFTB/tool_kits/ReadyReturn/2014_Tool_Kit.pdf (archived Apr. 29, 2014), is attached hereto as RX 79.
- A true and correct copy of Pinola, M., "The Best Online Tax Filing Software," New York Times, April 18, 2022, available at <https://www.nytimes.com/wirecutter>

/reviews/best-tax-software (last accessed Aug. 29, 2022), is attached hereto as RX 80.

- A true and correct copy of IRS, *Questions and Answers about the 2018 Form 1040*, available at <https://www.irs.gov/forms-pubs/questions-and-answers-about-the-2018-form-1040> (last accessed Aug. 29, 2022), is attached hereto as RX 81. It notes, that “[t]axpayers with straightforward tax situations will only need to file the Form 1040 with no numbered schedules.”
- A true and correct copy of TaxAct, *TaxAct Free*, available at <https://www.taxact.com/individual-taxes/online/free> (last accessed Aug. 29, 2022), is attached hereto as RX 82. The TaxAct website states that “Simple filers ... file their federal taxes for free.”
- A true and correct copy of H&R Block, *Online tax return – filing your tax return online*, available at <https://www.hrblock.com/tax-center/filing/filing-online/online-tax-return/> (last accessed Aug. 29, 2022), is attached hereto as RX 83. The H&R Block website states that taxpayers can “[f]ile simple returns for free with H&R Block.”
- A true and correct excerpt of the Internal Revenue Service Data Book, 2021, available at <https://www.irs.gov/pub/irs-pdf/p55b.pdf> (last accessed Aug. 29, 2022), is attached hereto as RX 84. It shows that, in Tax Year 2021, of the 167.9 million individual tax returns filed in the United States, 83.9 million (approximately 50 percent) were prepared and electronically filed by a paid tax professional, and 16.8 million (approximately 10 percent) were self-prepared on paper, whereas 67.2

million (approximately 40 percent) were self-prepared using an online tax-preparation software program.

- A true and correct copy of *Edition*, Merriam-Webster Online Dictionary, available at <https://www.merriam-webster.com/dictionary/edition> (last accessed Aug. 29, 2022), is attached hereto as RX 85.
- A true and correct copy of Google Ads Help Center, *Find out why you may not see your ad*, available at <https://support.google.com/google-ads/troubleshooter/1711301?> (last accessed Aug. 29, 2022), is attached hereto as RX 86.
- A true and correct copy of Microsoft, *What is search engine marketing?*, available at <https://about.ads.microsoft.com/en-us/get-started/search-engine-marketing-basics> (last accessed Aug. 29, 2022), is attached hereto as RX 87.
- A true and correct copy of Influenster, *Tax Preparation Services*, available at <https://www.influenster.com/reviews/tax-preparation-services> (last accessed Aug. 29, 2022), is attached hereto as RX 88.
- A true and correct copy of Federal Trade Commission, *Federal Trade Commission Privacy Impact Assessment for FTC Consumer Surveys* (2018), available at https://www.ftc.gov/system/files/attachments/privacy-impact-assessments/ftc_consumer_survey_pia_7-30-18.pdf (last accessed Aug. 29, 2022), is attached hereto as RX 89.
- A true and correct copy of Parys, S. and Orem, T., “TurboTax Review 2022,” Nerdwallet, March 3, 2022, available at <https://www.nerdwallet.com/article/taxes/turbotax-review/> (last accessed Aug. 29, 2022), is attached hereto as RX 90.

- A true and correct copy of Ward, C., “TurboTax Review In-Depth: Does Free Really Mean Free?,” Listen Money Matters, available at <https://www.listenmoney.com/turbo-tax-review/> (last accessed Aug. 29, 2022), is attached hereto as RX 91.
- A true and correct copy of Rosenberg, E., “TurboTax review: Not the cheapest online tax software, but good for complex situations,” Business Insider, March 24, 2022, available at <https://www.businessinsider.com/personal-finance/turbotax-review> (last accessed Aug. 29, 2022), is attached hereto as RX 92.
- A true and correct copy of Baluch, A., Van Bloom, C. and Rosenberg, E., “TurboTax Tax Software Review,” U.S. News & World Reports, February 2, 2022, available at <https://www.usnews.com/360-reviews/technology/tax-software/turbo-tax> (last accessed Aug. 29, 2022), is attached hereto as RX 93.
- A true and correct copy of the Internal Revenue Service’s Late-May Filing Season Statistics by AGI, tbl.1, available at <https://www.irs.gov/pub/irs-soi/20inweek21.xls> (last accessed Aug. 29, 2022), is attached hereto as RX 94. It shows that there were 45,589,095 tax returns filed using Form 1040 with no Schedules 1-6 or Schedule A attached in Tax Year 2019.
- A true and correct copy of the Internal Revenue Service’s Mid-November Filing Season Statistics by AGI, tbl.1, available at <https://www.irs.gov/pub/irs-soi/20inweek53.xls> (last accessed Aug. 29, 2022), is attached hereto as RX 95. It shows that of the 148,496,552 electronic returns filed with the IRS in 2020, 57,671,912 returns included only Form 1040 with no Schedules 1-6 or Schedule A attached.

- A true and correct excerpt of the FTC’s “.com Disclosures: How to Make Effective Disclosures in Digital Advertising” guidelines, available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-onlineadvertising-disclosure-guidelines/130312dotcomdisclosures.pdf> (last accessed Aug. 29, 2022), is attached hereto as RX 96.
- A true and correct copy of H&R Block, *Online Tax Filing*, available at <https://www.hrblock.com/online-tax-filing/> (last accessed Aug. 29, 2022), is attached hereto as RX 97. It states under the header “Free Online” that the product is available for “Simple returns.”
- A true and correct copy of TaxSlayer, *TaxSlayer Simply Free*, available at <https://www.taxslayer.com/products/taxslayer-free-tax-filing> (last accessed Aug 29, 2022), is attached hereto as RX 98. It states that taxpayers can “file a simple return for free” and that a simple return is “a basic 1040 tax return.”
- A true and correct copy of Zhu, E., “TurboTax Review 2022,” SmartAsset, Feb. 14, 2022, available at <https://smartasset.com/taxes/turbo-tax-review> (last accessed Aug. 29, 2022), is attached hereto as RX 99.
- A true and correct copy of *FTC Looks to Modernize Its Guidance on Preventing Digital Deception*, June 3, 2022, available at <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-looks-modernize-its-guidance-preventing-digital-deception> (last accessed Aug. 29, 2022), is attached hereto as RX 100.
- A true and correct copy of Joshua D. Wright, *Section 5 Revisited: Time for the FTC to Define the Scope of Its Unfair Methods of Competition Authority* 6 (Feb. 6, 2015), https://www.ftc.gov/system/files/documents/public_statements/626811/150226bh

_section_5_symposium.pdf (last accessed Aug. 29, 2022), is attached hereto as RX 101.

- A true and correct screenshot of a post on FTC Chair Lina Khan's Twitter account from March 29, 2022 is attached hereto as RX 102.
- A true and correct copy of Rolnik, *Q&A With FTC Chair Lina Khan: "The Word 'Efficiency' Doesn't Appear Anywhere in the Antitrust Statutes,"* ProMarket (June 3, 2022), <https://www.promarket.org/2022/06/03/qa-with-ftc-chair-lina-khan-the-word-efficiency-doesnt-appear-anywhere-in-the-antitrust-statutes/> (last accessed Aug. 29, 2022), is attached hereto as RX 103.
- A true and correct copy of Sisco, *FTC Pursues TurboTax Fraud Case Despite Supreme Court Mauling*, The Information (Jan. 20, 2022), <https://www.theinformation.com/articles/ftc-pursues-turbotax-fraud-case-despite-supreme-court-mauling> (last accessed Aug. 29, 2022), is attached hereto as RX 104.
- A true and correct copy of the FTC's Complaint from *In the Matter of 1-800 Contacts, Inc.*, No. 9372 (Aug. 8, 2016), https://www.ftc.gov/system/files/documents/cases/160808_1800contactspt3cmpt.pdf (last accessed Aug. 29, 2022), is attached hereto as RX 105.

21. A true and correct copy of Intuit finance data concerning the number of units of each commercial TurboTax SKU sold between Tax Years 2016 and 2020, provided by Intuit to me or attorneys acting under my direct supervision and direction, is attached hereto as RX 106.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of August, 2022, in New York, New York.

By: /s/ David Gringer
David Gringer

RX 33

(Submitted In Camera)

RX 34

(Submitted In Camera)

RX 35

(Submitted In Camera)

RX 36

(Submitted In Camera)

RX 37

(Submitted In Camera)

RX 38

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RX 56

(Submitted In Camera)

RX 57

(Submitted In Camera)

RX 58

intuit.

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ck credit karma

INVESTOR DAY 2021

September 2021

Kim Watkins

Agenda

Welcome	Kim Watkins - VP, Investor Relations
Evolution to an AI-Driven Expert Platform	Sasan Goodarzi - CEO
Platform Immersion Experience	Kim Watkins - VP, Investor Relations
BREAK	
Small Business & Self-Employed Group	Alex Chriss - GM, Small Business & Self-Employed Group
Consumer Group	Greg Johnson - GM, Consumer Group
BREAK	
Credit Karma	Kenneth Lin - CEO and Founder, Credit Karma
Delivering on our Financial Principles	Michelle Clatterbuck - CFO
BREAK	
Wrap-up & Q&A	Sasan & Team

Forward-looking statements

This presentation contains forward-looking statements. There are a number of factors that could cause our results to differ materially from our expectations. See the section entitled “Cautions about forward-looking statements” in the accompanying Appendix for information regarding these statements and related risks and uncertainties. You can also learn more about these risks in our Form 10-K for fiscal 2021 and our other SEC filings, which are available on the Investor Relations page of Intuit's website at **www.intuit.com**. We assume no obligation to update any forward-looking statement.

Non-GAAP financial measures

This presentation includes certain non-GAAP financial measures. See the section entitled “About non-GAAP financial measures” in the accompanying Appendix for an explanation of management's use of these measures and reconciliations to the most directly comparable GAAP financial measures.

In this presentation, we may also announce plans or intentions regarding functionality that is not yet delivered. These statements do not represent an obligation to deliver this functionality to customers.

Some numbers may not agree with the sum of the components, nor with SEC filing(s), due to immaterial rounding adjustments. Financial results are reported under ASC 606 unless otherwise noted.

Platform Immersion Experience

Connect people to experts



MARK NOTARAINNI

Chief Customer Success Officer
Intuit



ARIEGE MISHERGHI

VP and Expert Segment Leader
Small Business & Self-Employed Group

Unlock smart money decisions



KENNETH LIN

CEO and Founder
Credit Karma



POULOMI DAMANY

GM and VP, Credit Karma Money
Credit Karma

Be the center of small business growth



RANIA SUCCAR

SVP, QuickBooks Money Platform
Small Business & Self-Employed Group



CASSIE DIVINE

SVP, QuickBooks Online Platform
Small Business & Self-Employed Group

Disrupt the small business mid-market



KELLY VINCENT

VP and Mid-Market Segment Leader
Small Business & Self-Employed Group



BOBBY MORRISON

Chief Sales Officer
Small Business & Self-Employed Group

Revolutionize speed to benefit



MARIANNA TESSEL

Chief Technology Officer
Intuit

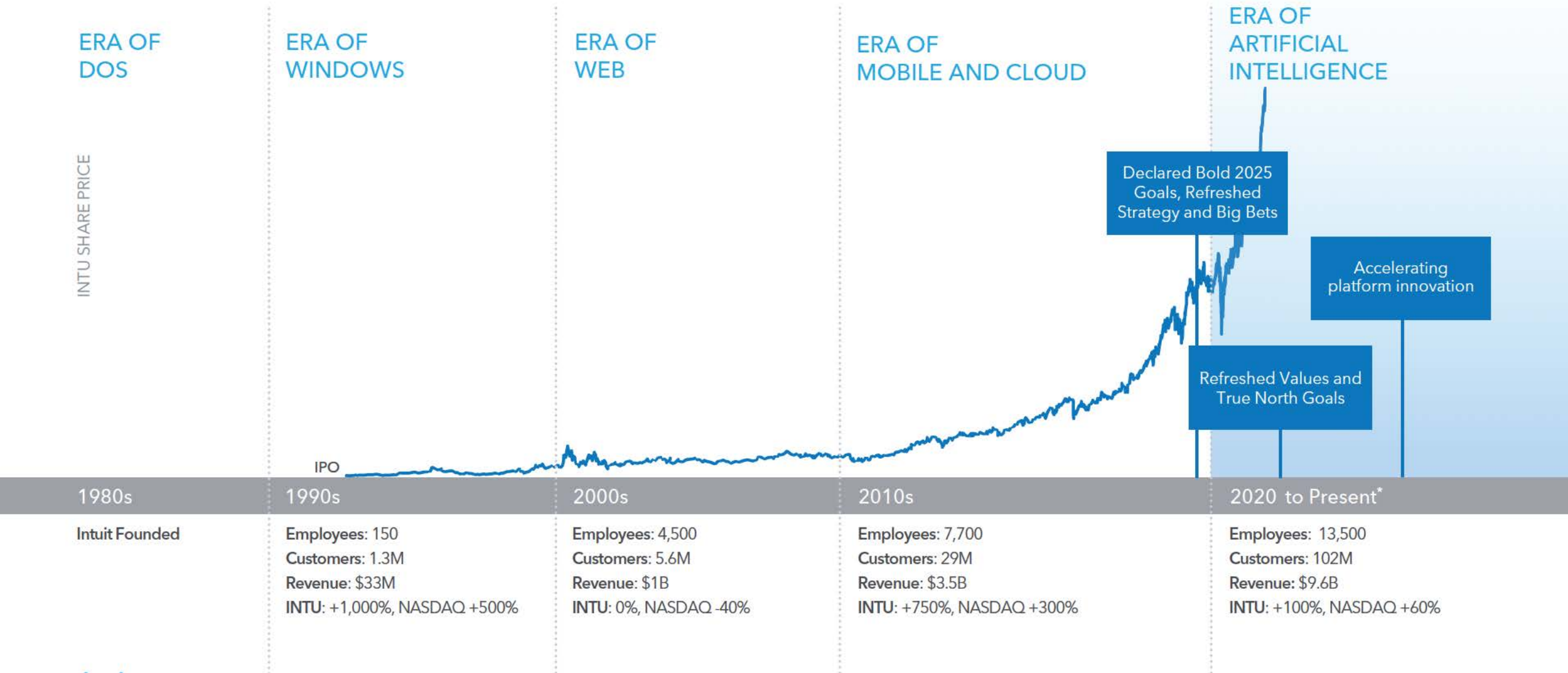


ALEX BALAZS

Chief Architect
Intuit

Sasan Goodarzi

History of self-disruption and re-imagination



Solid track record delivering for each stakeholder

CULTURE AND REPUTATION

Fortune 100 Best Companies

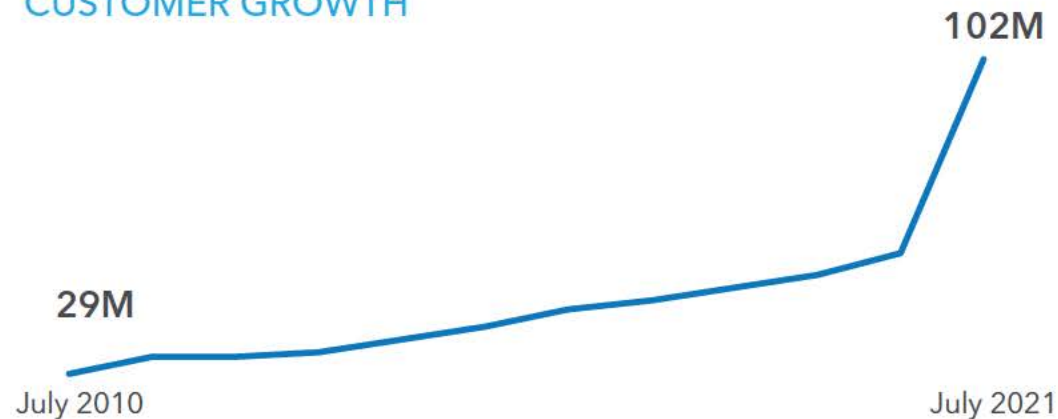


2002 2021

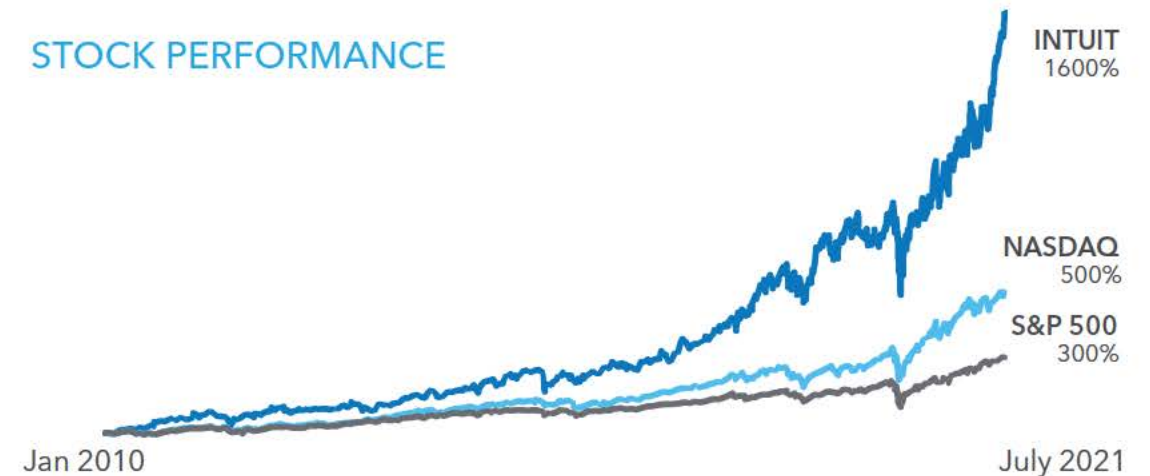
Fortune | Fast Company | Glassdoor | Forbes | Barron's



CUSTOMER GROWTH



STOCK PERFORMANCE



Delivered strong financial results in FY'21

	GROWTH RATE			
	ACTUAL	PRIOR YEAR	ACTUAL	ORIGINAL GUIDANCE
Revenue	\$9,633	\$7,679	25%	15-17%
GAAP Operating Income	\$2,500	\$2,176	15%	9-12%
Non-GAAP Operating Income	\$3,485	\$2,668	31%	12-14%
GAAP Diluted EPS	\$7.56	\$6.92	9%	(21-23%)
Non-GAAP Diluted EPS	\$9.74	\$7.86	24%	4-7%

\$ in millions except EPS.

FY'21 results include the addition of Credit Karma starting Dec. 3, 2020. Original guidance provided Dec. 7, 2020.

FY'21 reflections



What matters most to our customers

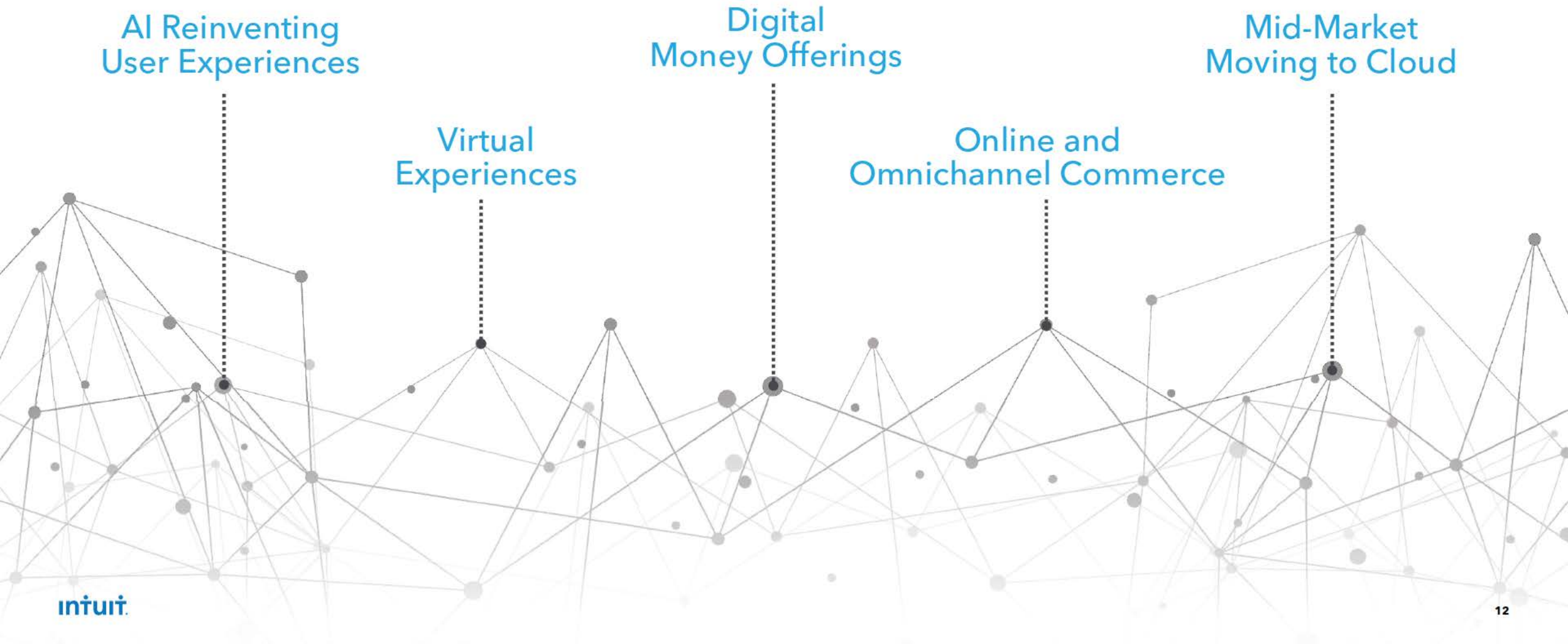
Consumer Problems

Need	Rank
Make Ends Meet	1
Maximize Tax Refund	2
Save More	3
Pay Off Debt	4
Know Where I Stand	5
Reduce My Payments	6

Small Business & Self-Employed Problems

Need	Rank
Get Customers	1
Get Paid	2
Get Capital	3
Pay Workers	4
Access Advice	5
Be Compliant And Organized	6
Get Work Done	7

Key trends that can be a catalyst for growth



Intuit's game plan to deliver for customers



intuit MISSION

Powering Prosperity Around the World

Our Values

Integrity Without Compromise

We speak the truth and assume best intent.

We value trust above all else.

We do the right thing, even when no one is looking.

Courage

We are bold and fearless in how we think and act.

We relentlessly hold a high bar for performance.

We value speed, a bias for learning and action.

Customer Obsession

We fall in love with our customers' problems.

We deliver unrivaled customer benefit to power their prosperity.

We sweat every detail of the experience to deliver excellence.

Stronger Together

We champion diversity, inclusion, and a respectful environment.

We thrive on diverse voices to challenge and inform decisions.

We deliver exceptional results so others can count on us.

We Care And Give Back

We are stewards of the future.

We strengthen the communities around us.

We strive to give everyone the opportunity to prosper.

Bold 2025 Goals

Prosperity

Double household savings rate and improve SMB success rate >10 pts vs. industry

Reputation

Best-in-Class of Most Reputable Companies

Growth

>200M customers, accelerating revenue growth

Prosperity based on customers on Intuit's platform.

U.S. average household savings rate is based on Personal Savings rate published by the Bureau of Economic Analysis.

SMB 5-year survival rate according to the Bureau of Labor Statistics.

Best-in-class defined by Reputation Institute's RepTrak score of 80+.

True North Goals

Deliver best-we-can-be results in the current period for each key stakeholder, while building the foundation for an even stronger future

Employees	Customers	Communities	Shareholders																								
Empower the world’s top talent to do the best work of their lives	Delight customers by solving the problems that matter most	Make a difference in the communities we serve	Drive long-term growth, increasing shareholder value																								
<p>Inspire and empower highly engaged employees</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Create a diverse and inclusive environment</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Grow highly capable people managers</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Retain world’s top talent</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24:	<p>Grow active customers</p> <table><tr><th>TOTAL</th><th>ACTIVE</th><th>MONTHLY ACTIVE</th><th>SUM DAILY UNIQUES (CK)</th></tr><tr><td>• FY’21:</td><td></td><td></td><td></td></tr><tr><td>• FY’22:</td><td></td><td></td><td></td></tr><tr><td>• FY’24:</td><td></td><td></td><td></td></tr></table> <p>Improve customer retention*</p> <table><tr><th>ANNUAL</th><th>90-DAY</th></tr><tr><td>• FY’21:</td><td></td></tr><tr><td>• FY’22:</td><td></td></tr><tr><td>• FY’24:</td><td></td></tr></table> <p>Delight customers more than alternatives</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p><small>* Note: Credit Karma is excluded from retention metrics</small></p>	TOTAL	ACTIVE	MONTHLY ACTIVE	SUM DAILY UNIQUES (CK)	• FY’21:				• FY’22:				• FY’24:				ANNUAL	90-DAY	• FY’21:		• FY’22:		• FY’24:		<p>Create jobs through Prosperity Hubs</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Prepare communities for jobs</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Make a positive impact on climate</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24:	<p>Grow revenue double-digit</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Grow SMB online revenue > 30%</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Increase revenue per customer (ARPC)</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24: <p>Generate operating income growth</p> <ul style="list-style-type: none">• FY’21:• FY’22:• FY’24:
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Intuit Strategy




AI-Driven Expert Platform

Five Big Bets accelerating growth



Five Big Bets accelerating growth

- 
- 1 Revolutionize speed to benefit
 - 2 Connect people to experts
 - 3 Unlock smart money decisions
 - 4 Be the center of small business growth
 - 5 Disrupt the small business mid-market

Struggling to grow and manage their business

Be the center of small business growth, disrupt the mid-market

Get and engage customers

2/3 Small businesses cite finding new customers as biggest obstacle ⁽¹⁾

50% Number of small businesses afraid to add another channel due to operational complexity ⁽²⁾

77% Small and mid-market businesses have not adopted a formal CRM despite the importance of getting customers ⁽³⁾

Retain customers and manage business

25% Small businesses struggle to retain existing customers ⁽⁴⁾

64% Small businesses have invoices that go unpaid for 60 days or more ⁽⁵⁾

84% Small businesses use pen and paper or spreadsheets to reconcile their inventory across channels ⁽⁶⁾

Optimize cash flow and stay compliant

50% Small businesses fail within 5 years; cash flow 2nd largest driver ⁽⁷⁾

60% Small businesses struggle with cash flow ⁽⁸⁾

76% Small businesses want one location from which they could manage everything related to their business finances ⁽⁹⁾

(1) https://www.cbronline.com/wp-content/uploads/dlm_uploads/2019/05/salesforce-research-smb-trends-report-3.pdf

(2) Intuit analysis

(3) Intuit survey

(4) https://www.salesforce.com/content/dam/web/en_ie/www/PDF/small-business-trends-report-4th-edition.pdf

(5) <https://quickbooks.intuit.com/blog/news/small-business-cash-flow-the-state-of-payments/>

(6) Intuit survey

(7) <https://www.lendingtree.com/business/small/failure-rate/>

(8) <https://quickbooks.intuit.com/r/getting-paid/state-of-payments-cash-flow-2021/>

(9) Intuit survey

The source of truth for your business

Provide an innovative platform for small and mid-market businesses to grow and run their business



intuit



mailchimp

+



intuit
quickbooks

Grow your business

- Get customers
- Retain customers
- Get capital
- Get paid fast
- Sell across channels

Run your business

- Deepen business insights
- Pay employees
- Be compliant and organized
- Access advice
- Track inventory across channels

Mailchimp brings cutting-edge digital marketing tools

Simple and powerful marketing solution for small and mid-market businesses to get and retain customers



Get your business online

Build an online presence and sell online with easy-to-use design and content tools and templates

E-commerce: Web stores, shoppable social pages, pay enabled appointments, content creator

Market your business

Create and send the right messages on all the right channels at exactly the right moments

Marketing automation: Behavioral targeting, personalized marketing, creative assistant, organic social posting, digital ads

Manage your customer relationships

Centralize contact data and use predictive insights to drive customer value and loyalty

Customer Relationship Management (CRM): Audience analytics dashboard, customer segmentation, customer lifetime value, multi-channel communication platform

Benefit from insights and analytics

Get insights to make it easy to market better and smarter with each campaign

Insights: Reporting tools, A/B and multivariate testing, AI-backed recommendations and best practices

Delivering an innovative customer growth platform

Accelerating vision to be the source of truth for small and mid-market businesses



Get your business online

- Shoppable pages
- Web store
- Website builder
- Appointment scheduling

Market your business

- Behavioral targeting
- Personalized marketing
- Creative assistant
- Organic social & ads

Manage your customer relationships

- Audience analytics dashboard
- Customer segmentation
- Customer lifetime value analysis
- Multi-channel communication platform

Payments and expense

- Invoicing
- Recurring Billing
- In-person
- Term Loan
- Bank Account**
- Bill Pay*

Human capital management

- Payroll
- Time Tracking
- Insurance and Benefits*
- HR Expert Support*

Accounting and compliance

- QBO & QBSE
- QBO Advanced
- QB Live
- QB Live Setup & Cleanup

Customer data and purchase data brought together creates actionable insights and opportunities for small business and mid-market growth

Mailchimp brings technology at scale and customer reach

Global customer engagement and digital marketing platform for growing small and mid-market businesses

CORE COMPETENCIES

Global* customer reach

13M total users

2.4M monthly active users

Data and technology

250+ integration partners

170B 3rd party API calls in CY20

AI-powered automation at scale

70B contacts

2.2M daily AI-driven predictions

Global leader in helping small businesses grow

Large customer base and strong revenue growth

13M

total users

2.4M

monthly active users

800K

paid customers

60

net promoter score*

95%

recurring revenue in CY20

20%

revenue growth in CY20

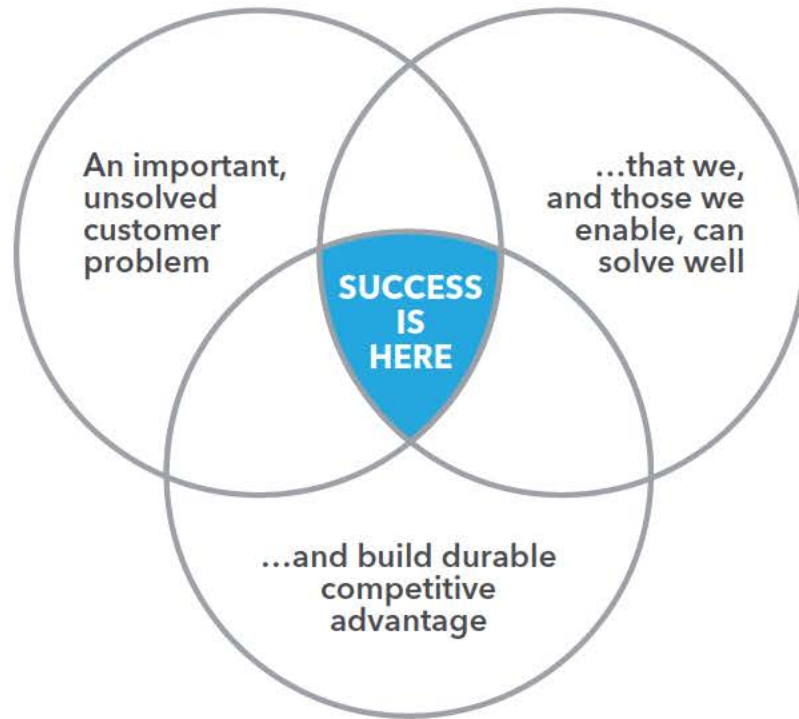
~\$800M

revenue in CY20

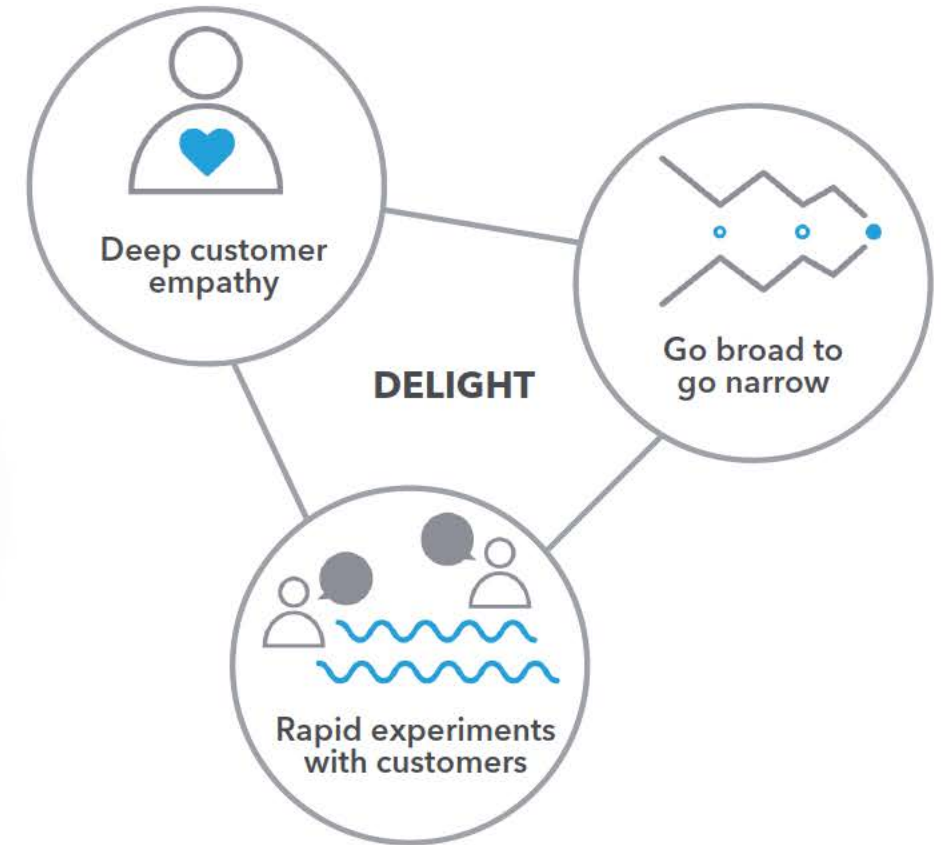
>50%

revenue outside the U.S.

CDI and D4D: Execution excellence secret sauce #1

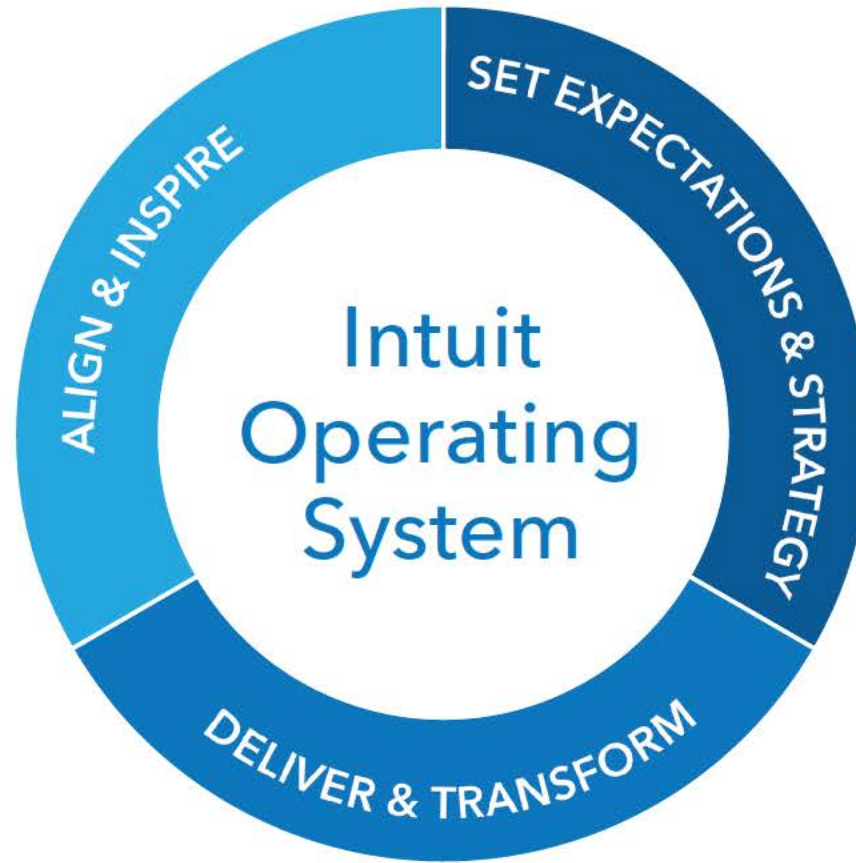


Customer-Driven Innovation (CDI)
What to solve



Design for Delight (D4D)
How to solve

Intuit's Operating System: Execution excellence secret sauce #2



Intuit's Operating System: Execution excellence secret sauce #2



Unique consumer and small business assets at scale

8M  **TOTAL ACTIVE CUSTOMERS**

\$345B money movement

16M  **PAID WORKERS**

1 in 5 SMB use QB Payroll
\$232B payroll volume

700K   **TAX PROS & PRO ADVISORS**

30M ProConnect returns
\$51B in refunds



56M  **UNIQUE TAX FILERS**

\$105B in refunds¹
54M W2s and over 40M 1099s

121M  **MEMBERS**

41M Monthly Active Users
Visibility into \$7.2T in member debt

29M  **REGISTERED USERS**

3.6M Monthly Active Users
190M weekly transactions

13M  **REGISTERED USERS**

2.4M Monthly Active Users
70B contacts

Our secret sauce, strategy, and assets create advantage

Our strategy and assets

Large, growing market accelerated by secular shifts aligned with our product strategy

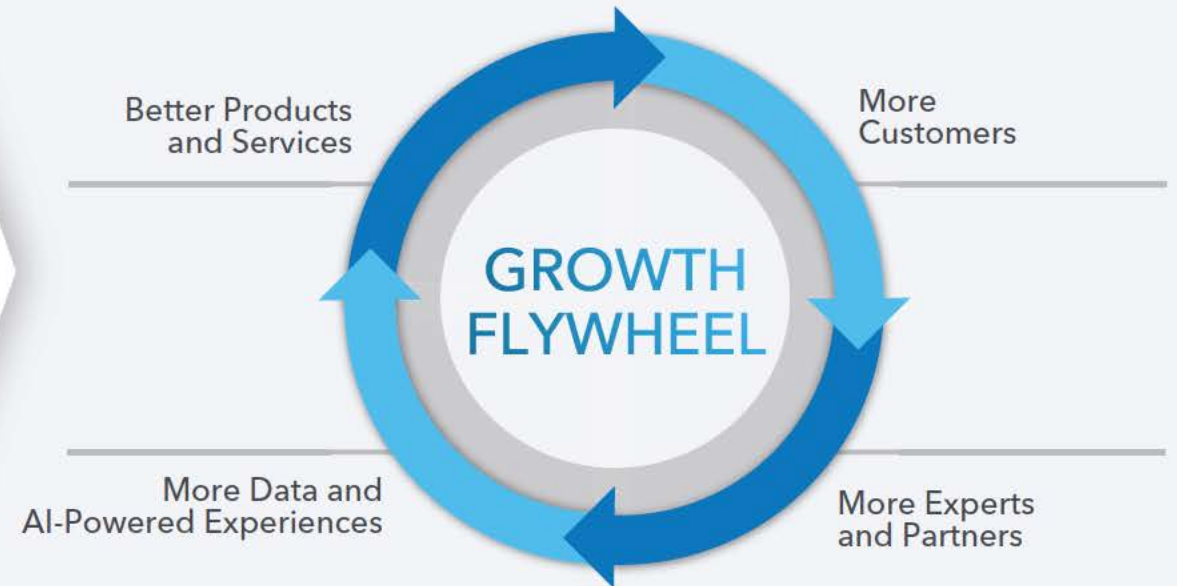
Strong customer relationships at scale with 102M customers engaging with us at critical moments of truth

Multi-sided expert and partner network with over 1M CPAs, tax pros, financial experts, and 3rd party developers

Data platform powered by AI creating frictionless experiences that deliver personalized customer benefits

Strong unit economics and retention powered by integrated ecosystem offerings and customer loyalty

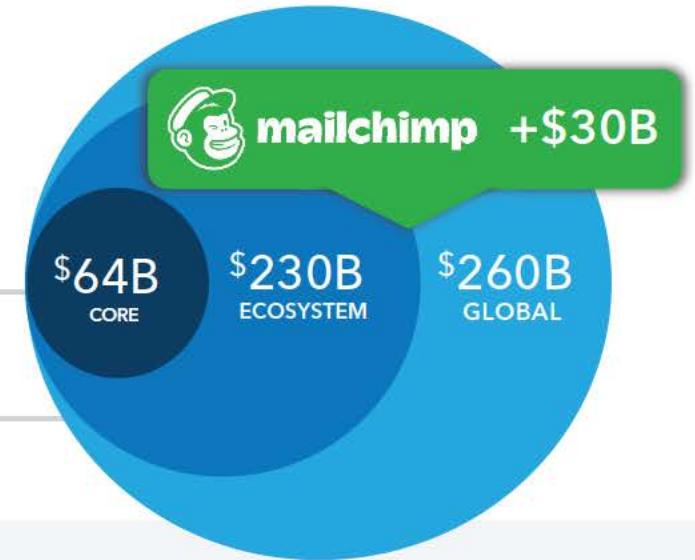
Drive growth and strengthen our durable advantage



Our strategy and assets position us to penetrate our TAM

Large market growth opportunities, with a strategy to increase penetration and grow ARPC

SEGMENT	CUSTOMERS	CUSTOMERS TAM	\$ TAM
SMALL BUSINESS	7M	75M	
SELF-EMPLOYED	1M		
CONSUMER	94M	240M	



GROW THE CORE:

Consumer Tax and SMB Financial Management Software (FMS) in the U.S.

DIY and Assisted platforms (TurboTax and QuickBooks)

- 63M SMBs and SEs in the U.S.; \$34B U.S. FMS opportunity (includes \$22B for connecting SMBs and SEs to experts)
- 1M U.S. mid-market (MM) businesses; \$7B U.S. FMS opportunity, where our offering aims to disrupt MM
- \$24B U.S. Tax opportunity, with \$20B from connecting people to experts in TurboTax Live

CONNECT THE ECOSYSTEM:

Platform solutions beyond Tax for Consumers and FMS for SMBs in the U.S.

Connected platform solutions for SMBs (e.g., Payroll, Payments, Capital) and Consumers

- \$78B U.S. SMB connected services opportunity, with \$28B from mid-market and being the center of SMB growth
- \$85B consumer finance platform opportunity, unlocking smart money decisions by connecting people with financial products that help them make ends meet

EXPAND GLOBALLY:

International markets outside of the U.S.

Core and Ecosystem solutions for SBSEG (UK, Canada, and Australia) and Tax (Canada) international markets

- 10M SMBs and SEs in our core markets outside the U.S.; 700K MM businesses
- \$30B opportunity for FMS and connected services in non-U.S. core markets, with \$11B mid-market and \$9B lending
- \$2B opportunity to expand our DIY and Assisted tax offerings in Canada

Our strategy is driving momentum

Three big opportunities

Grow the Core

Consumer tax and SMB financial management software (FMS) in the U.S.

DIY and Assisted platforms (TurboTax and QuickBooks)

Connect the Ecosystem

Platform solutions beyond tax and FMS for consumers and SMBs in the U.S.

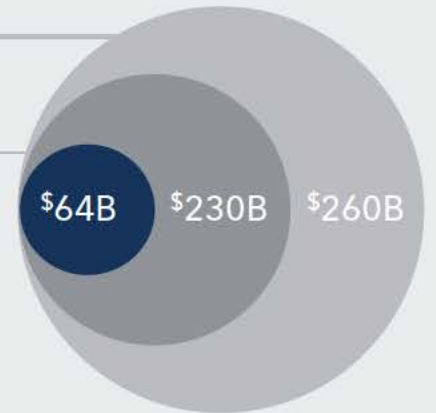
Connected platform solutions for SMBs (e.g., payroll, payments, capital) and consumers

Expand Globally

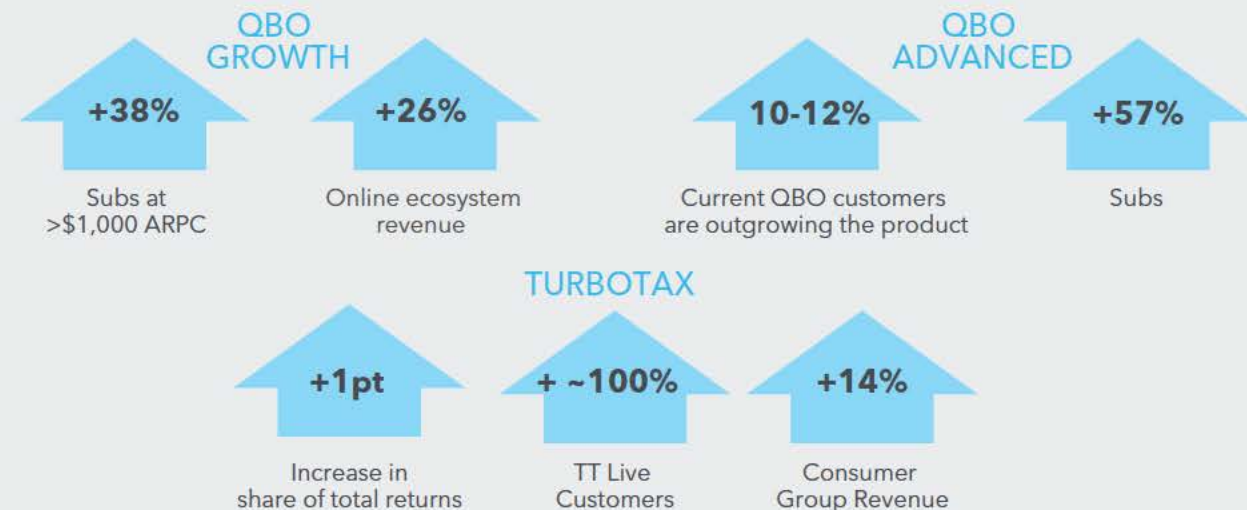
International markets outside of the U.S.

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REASONS TO BELIEVE



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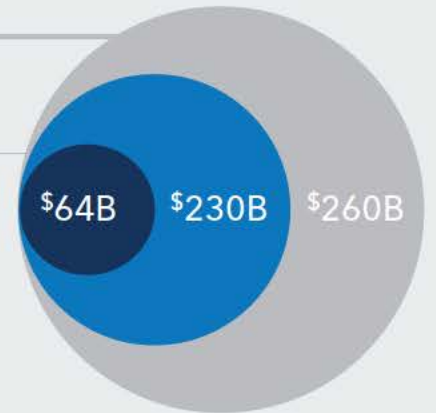
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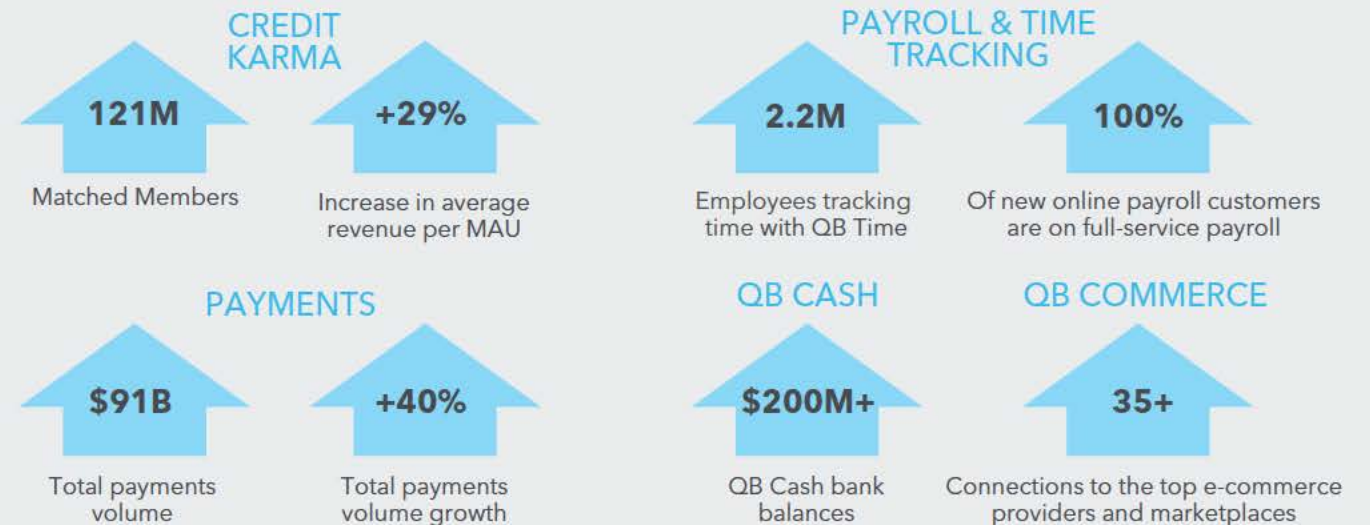
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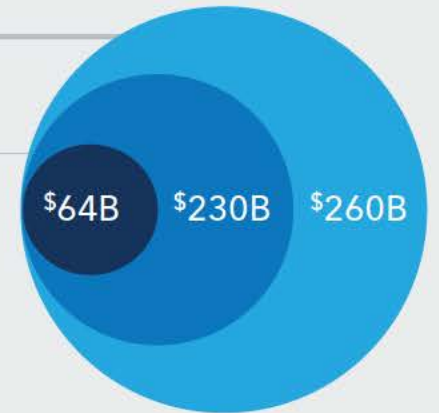
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REASONS TO BELIEVE

GLOBAL CUSTOMERS

30%

% of QBO subs outside of the US

INCREASING MONETIZATION

+43%

Online international revenue (constant currency)

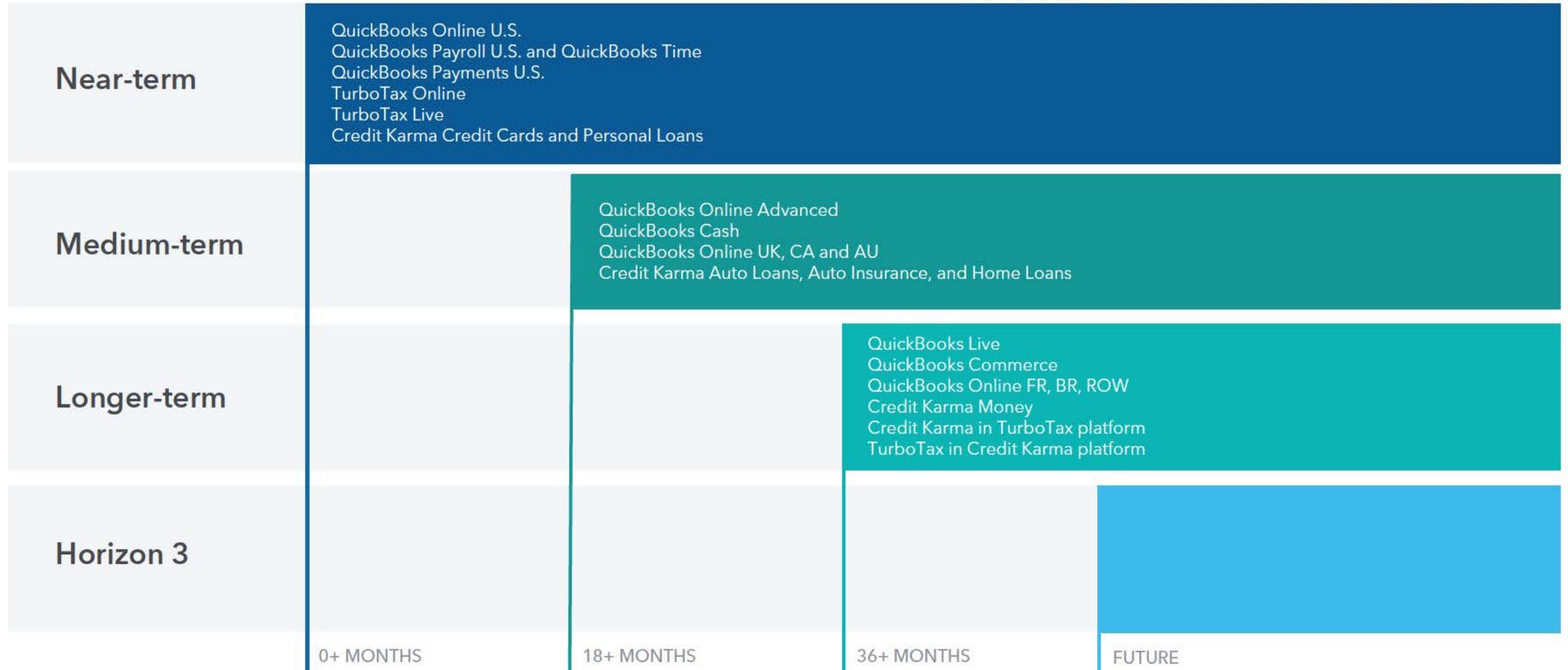
CUSTOMER DELIGHT

+8 pts

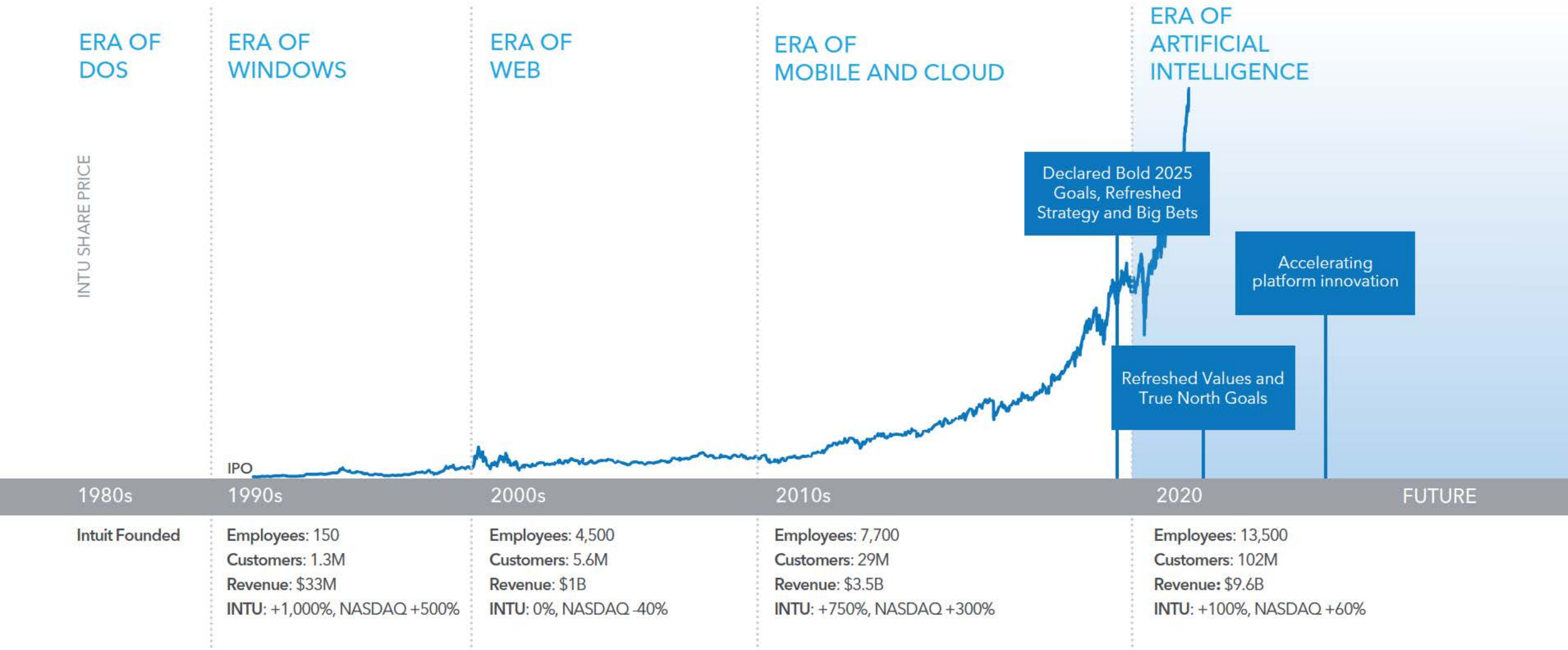
NPS in U.K.

Accelerating innovations across horizons

EXPECTED CONTRIBUTIONS FROM INNOVATIONS



History of self-disruption and re-imagination



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Platform Immersion Experience

Connect people to experts



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Save More	3
Pay Off Debt	4
Know Where I Stand	5
Reduce My Payments	6

Small Business & Self-Employed Problems

Need	Rank
Get Customers	1
Get Paid	2
Get Capital	3
Pay Workers	4
Access Advice	5
Be Compliant And Organized	6
Get Work Done	7

Small Business and Self-Employed strategy

Grow the Core

Grow and transform the Financial Management Software category in the U.S. through innovation and meeting customers where they are (DIY & Assisted)

Goal: Delight customers, improve conversion, retention, and fuel franchise growth

Connect the Ecosystem

Connect customers to benefits across the QuickBooks ecosystem

Goal: Provide business-critical services that allow QuickBooks to become the center of small business growth and increase customer lifetime value

Expand Globally

Expand our platform to win in geographies outside the U.S.

Goal: Bring our platform to new geographies and scale in existing markets, per our global playbook

Become the source of truth for your business

Uniquely positioned to address key SMB needs with our data-advantaged, connected ecosystem

Customer segments



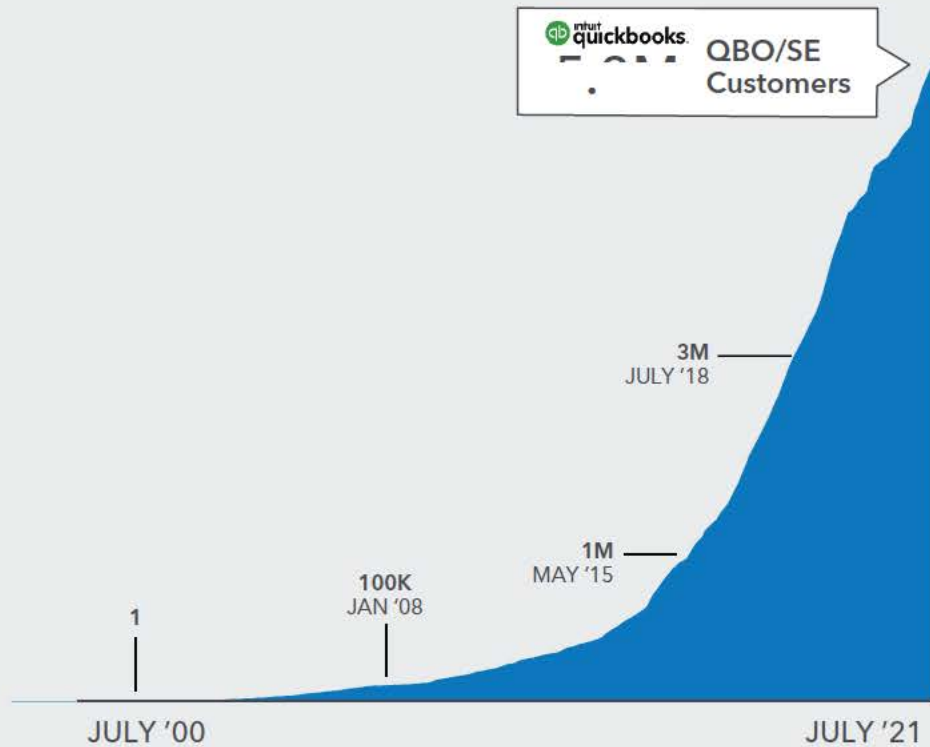
QuickBooks ecosystem



FY'21 customer and ARPC strength

Grew our base 16%, retained 83%, delighted them with our benefits, and increased ARPC 13%

CUSTOMER GROWTH



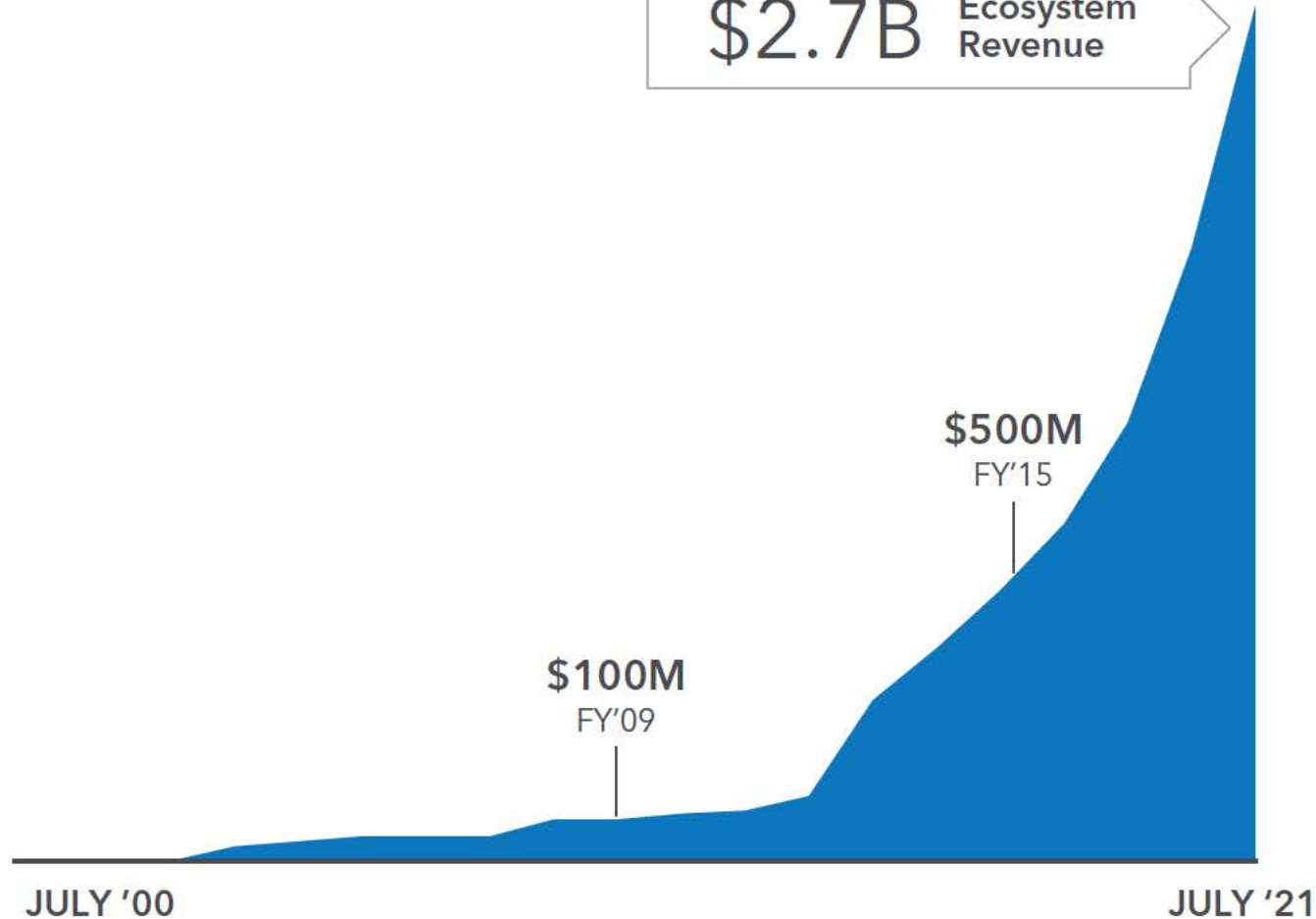
BASE MONETIZATION



Note:
QBO Subs. exclude subscribers from the discontinued TurboTax and QuickBooks Self-Employed bundle
ARPC is in Constant Currency
PRS > 32 for US QBO and Payroll, Int'l QBO

26% online revenue growth in FY'21

intuit quickbooks Online
Ecosystem
Revenue
\$2.7B



Strong growth across all 3 pillars

Grow the Core

- 24% U.S. online accounting revenue growth (e.g., QBO, Advanced, Live)
- ARPC growth driven by mix shift and higher effective prices (e.g., in the U.S., QBO Advanced base grew 57% while QBSE base grew 8%)

Connect the Ecosystem

- 24% U.S. online services revenue growth (e.g., Payments, Payroll, Capital)
- 40% of QBO customers, +4 pts YoY, use an ecosystem service or 3rd party app, as we increase platform penetration

Expand Globally

- 43% international online revenue growth, in constant currency
- 23% QuickBooks international ARPC growth with higher effective prices and scaled ecosystem engagement
- Innovation driving NPS gains YoY across markets

Note:

QBO Subs. exclude subscribers from the discontinued TurboTax and QuickBooks Self-Employed bundle
International Revenue and ARPC is in Constant Currency

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Become the source of truth for your business

Grow the Core

Illustrative innovations driving customer impact

QBO Advanced DISRUPT THE SMALL BUSINESS MID-MARKET

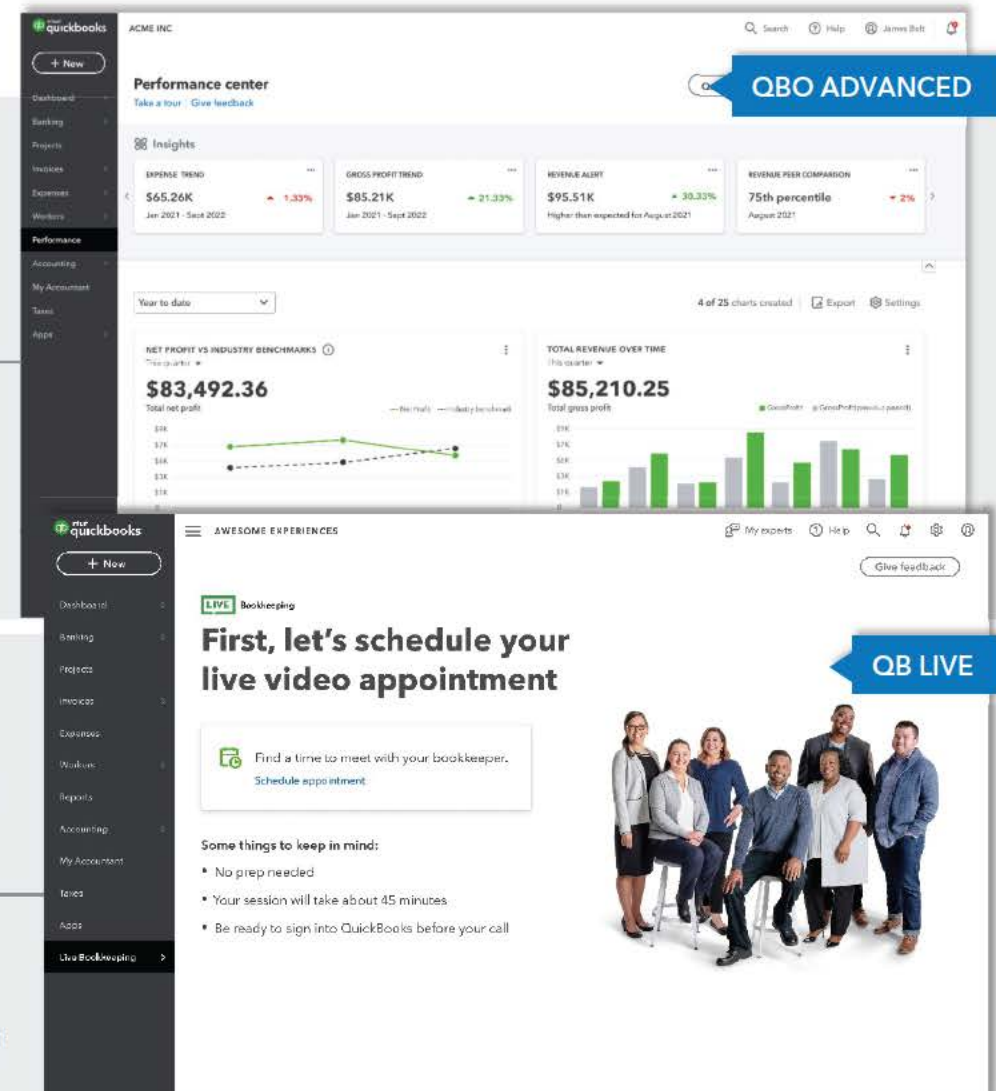
OPPORTUNITY \$47B mid-market opportunity across our ecosystem worldwide
 1.7M mid-market businesses with 10-100 employees
 10-12% of customers outgrow standard QBO SKUs each year

PROOF POINTS 118K customers today in QBO Advanced, +57% YoY
 +10 pts increase in mix of new customers vs upgraders as we penetrate TAM
 4X ecosystem services ARPC for QBO Advanced customers vs QBO
 64% increase in QBO Advanced exclusive feature usage (e.g., custom roles), driving lineup differentiation for mid-market

QB Live CONNECT PEOPLE TO EXPERTS

OPPORTUNITY \$22B U.S. assisted bookkeeping category
 40% of SMBs say bookkeeping and taxes are the worst part of owning a small business
 33% of accounting firms say the biggest issue they face is growing their business

PROOF POINTS 2X increase in experts on the platform supporting Live
 3X increase in QB Live Setup customers as we penetrate the Do-It-For-Me category
 +5 pts uplift in 90-day retention for QBO customers who utilized QB Live Setup offering



Connect the Ecosystem

Illustrative innovations driving customer impact

Payroll & Time Tracking BE THE CENTER OF SMALL BUSINESS GROWTH

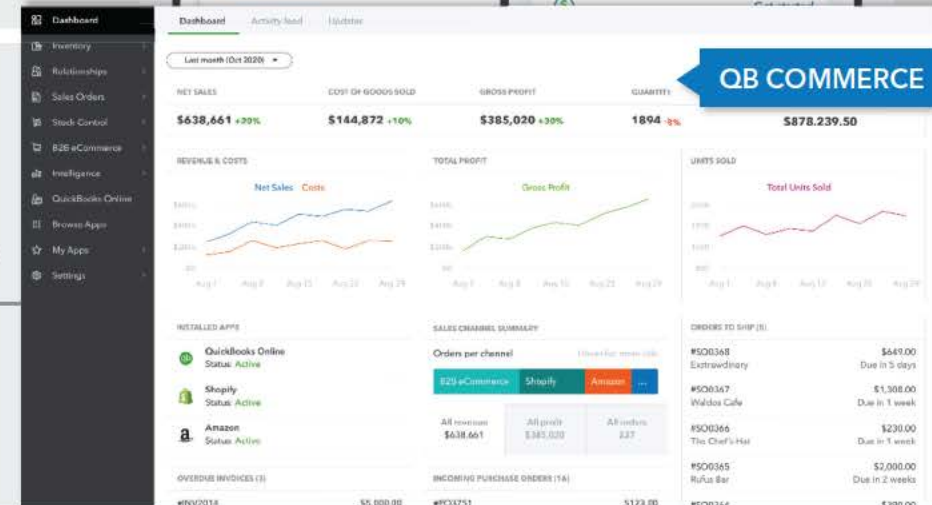
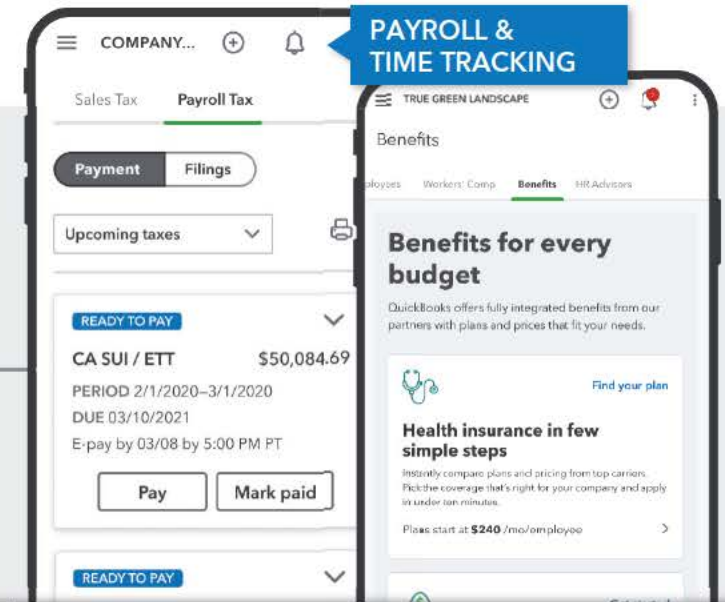
OPPORTUNITY \$5B U.S. SMB Payroll and Time Tracking category
 >30% of SMBs still use pen, paper, or spreadsheets for payroll
 50% of SMBs and self-employed do manual time tracking

PROOF POINTS 1.6M businesses use Intuit payroll
 100% of new online payroll customers are on full-service payroll, with access to automated taxes
 30%+ choose SKUs with expert help and beyond payroll services (e.g., time, HR, expert onboarding)
 2.2M employees tracking time with QB Time, +13% YoY

QB Commerce BE THE CENTER OF SMALL BUSINESS GROWTH

OPPORTUNITY 85%+ growth in worldwide ecommerce sales expected between 2019 and 2023
 6.4M Product-Based Businesses (PBBs) in the U.S., U.K., Canada, and Australia
 50%+ of PBBs sell in one channel only due to the complexity of managing multiple channels

PROOF POINTS 35+ connections to the top e-commerce providers and marketplaces
 NEW launched SquareSpace integration
 NEW building capabilities for Trada wholesale B2B marketplace, including B2B payments



Connect the Ecosystem

Illustrative innovations driving customer impact

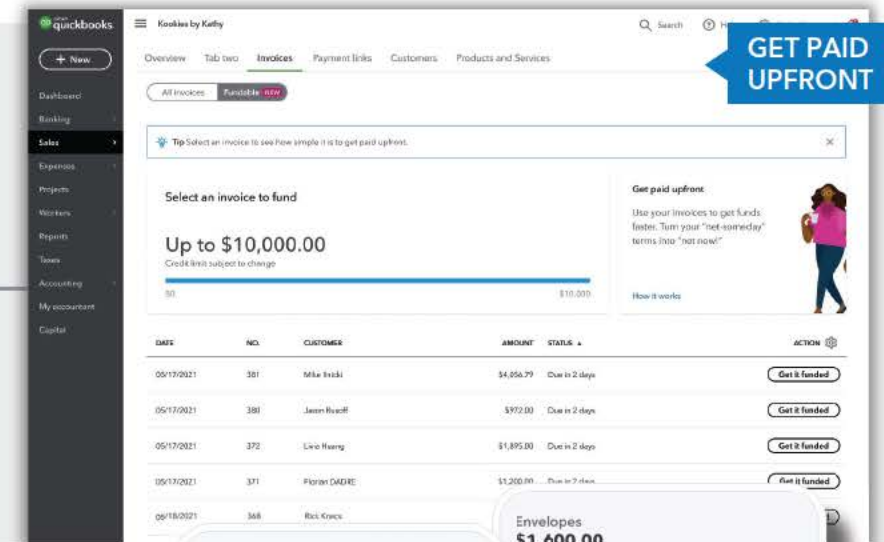
Payments BE THE CENTER OF SMALL BUSINESS GROWTH

OPPORTUNITY

\$26B U.S. SMB payments and invoicing category
 \$1.5T of invoices created in QuickBooks every year
 66% of SMB owners said that the time to process a payment has the largest impact on cash flow

PROOF POINTS

\$91B total payments volume, +40% YoY, putting Intuit among the top merchant processors in U.S.
 61% growth in credit card and ACH charge volume for customers using QuickBooks Online
 35% full year growth in invoices paid on Intuit Rails



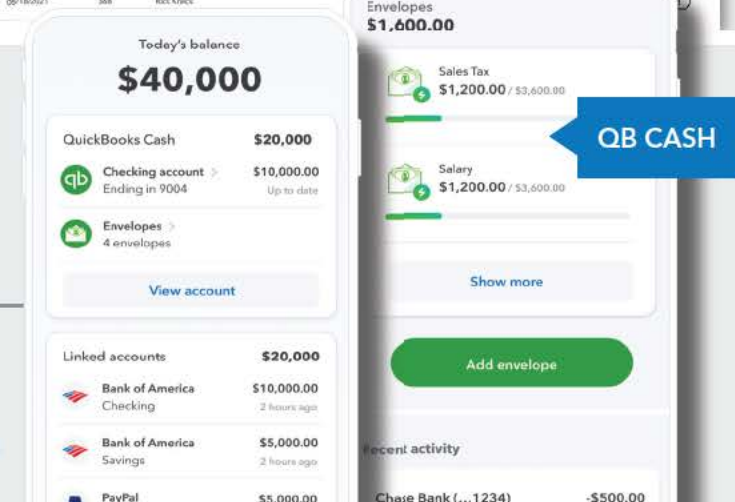
Money Management & Capital BE THE CENTER OF SMALL BUSINESS GROWTH

OPPORTUNITY

50% of small business starts fail within 5 years; cash flow 2nd largest driver following insufficient demand
 87% of SMBs with a business bank account established the account within first year of business
 \$13B U.S. SMB Capital category

PROOF POINTS

60B data points applied to AI/ML models from 3M SMBs, informing cash flow data predictions
 66% increase in eligible capital population vs pre-COVID high from optimized risk models
 \$200M+ QB Cash bank account* balances; 31% of customers are new starts, or in business for a year or less



Expand Globally

Illustrative innovations driving customer impact

Established Markets SCALE RAPIDLY AND PROFITABLY

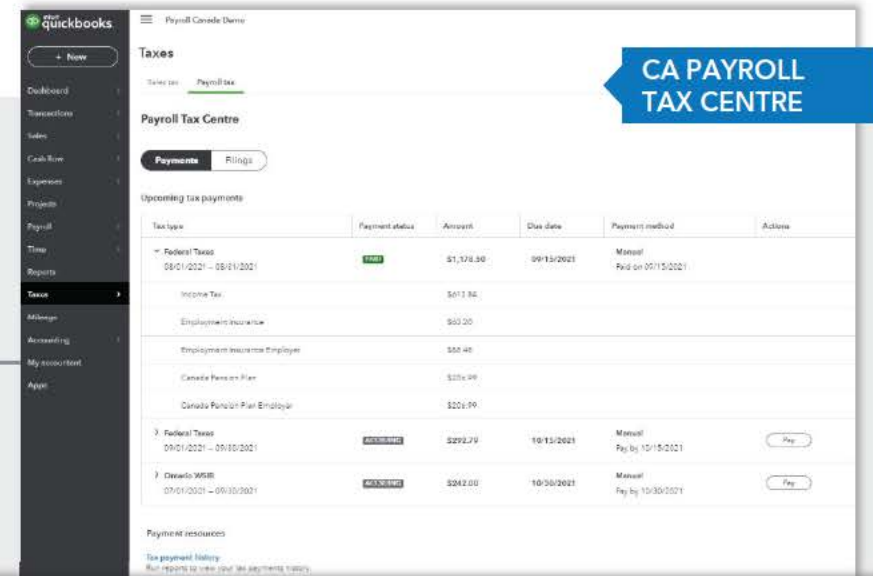
OPPORTUNITY 10M+ serviceable SMBs across Canada, United Kingdom, and Australia
Proven QBO product-market fit, favorable unit economics and strong brand awareness
\$27B incremental opportunity from connected services such as Payroll and Payments

PROOF POINTS 1.4M+ customers, +12% YoY, as SMBs seek a single source of truth amid macro headwinds
 38% online revenue growth in established markets with acceleration in ARPC
 +7 pts in Canada payroll usage rates; Canada payments card volume +51%
 +8 pts NPS growth YoY in the United Kingdom and +15 pts in Australia

Emerging Markets NAIL PRODUCT MARKET FIT

OPPORTUNITY 3M+ serviceable SMBs in **France**, with heavy compliance needs
 17M+ serviceable SMBs in **Brazil**, with rapid cloud adoption
Rest of World a largely untapped opportunity; local compliance is critical

PROOF POINTS 69% Brazil growth in QBO base as we gain momentum with Accountants
 +2 pts France NPS uplift with improved accountant experience
 13X increase in number of compliant ROW markets



Money Portfolio

Meeting customers' cash flow and money management needs

60B SMB data points enable unique, end-to-end money offerings to optimize cash flow

Money In

Invoicing



Recurring Billing



In-Person



Remote Check Deposit



Money Out

Debit Card**



Bill Pay*



Payroll + Contractor Payments



ACH Transfer



Capital

Get Paid Upfront



Term Loan



Loan Marketplace



PPP



Money Management

Bank Account**



Smart Envelopes



Cash Flow Planner



Rewards**



Proof Points

\$91B

total payments volume

16M

employees paid

\$1B

loans since capital launch in 2017

\$200M+

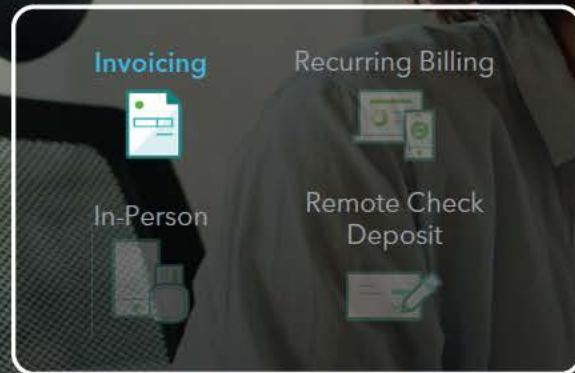
QB Cash bank balances since February launch



Sandra

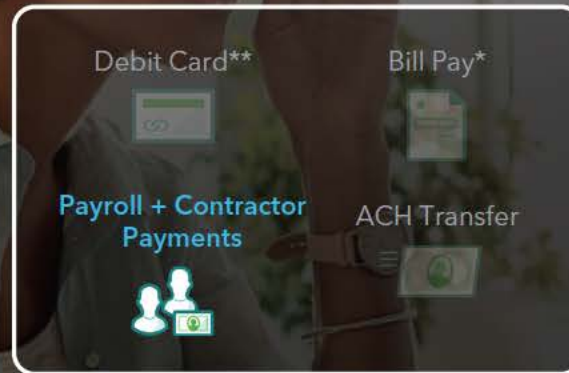
Owner, graphic design studio

Money In



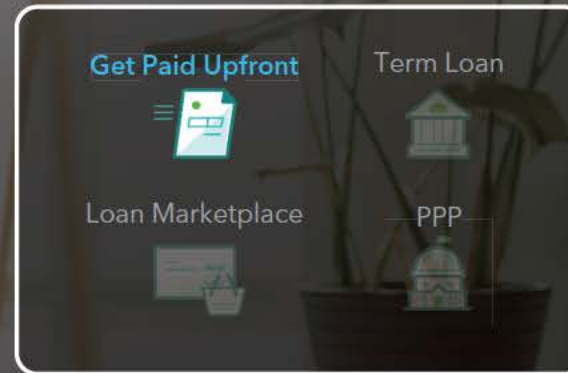
Invoice sent electronically and accounting is done automatically

Money Out



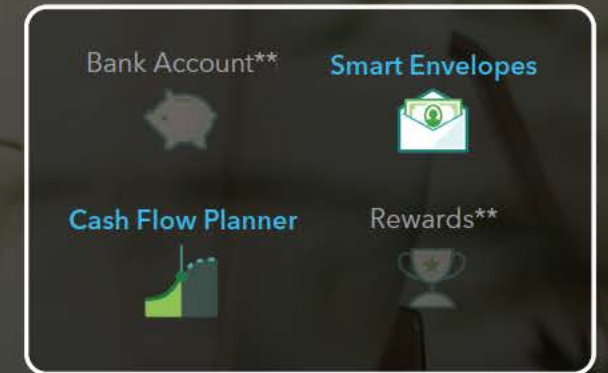
Full Service Payroll delivered to employees same-day

Capital



Get Paid Upfront provides an invoice funding option as work is completed vs days or weeks later

Money Management



Personalized cash flow predictions preempt issues and offer greater visibility and control

Smart Envelopes make it easier to save for anticipated expenses

*Indicates service provided through partners

**QuickBooks and Intuit are a technology company, not a bank. Banking services provided by our partner, Green Dot Bank

Mid-Market Portfolio

Meeting mid-market needs in the core and across the ecosystem

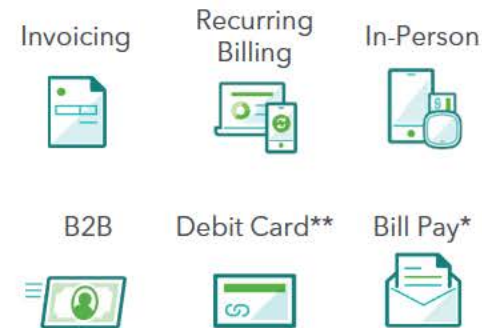
Accounting & Compliance



Human Capital Management



Payments & Expense



Operations & Growth



Proof Points

57%

QBO Advanced customer growth

29%

growth in Online Payroll base with 10+ employees, now 15% of base

65%

increase in customers processing >\$1M of annual payment volume

11%

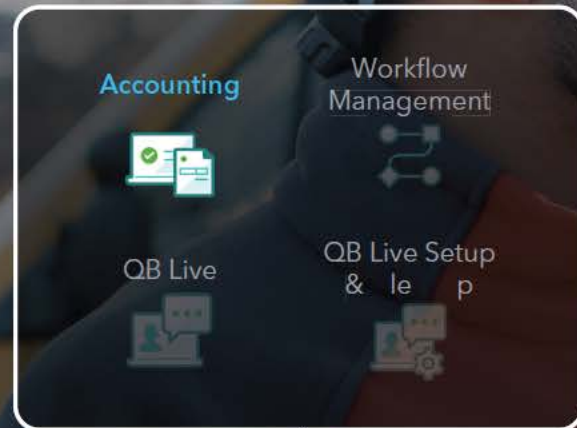
Custom Reporting adoption in 4 months since launch

A man with a beard, wearing a yellow hard hat and a red and blue jacket, is looking at a laptop. He is standing in front of a yellow construction vehicle. The background is slightly blurred, showing a construction site with trees and a clear sky.

Kevin

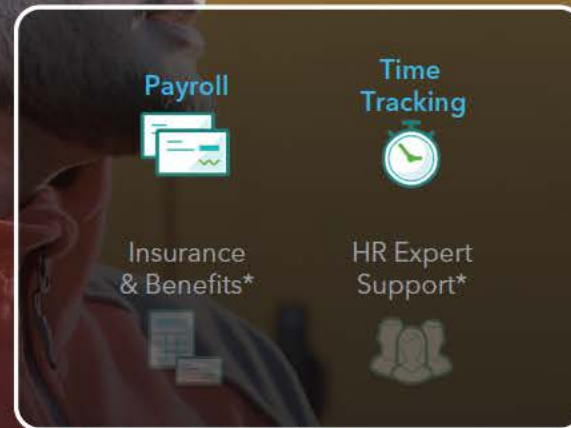
Owner, AB Electric
Regional electric company

Accounting & Compliance



Transactions and time data flow into QBO Advanced for automated accounting

Human Capital Management



Employees' hours tracked automatically with the QuickBooks mobile app

Payroll is automatically calculated and paid

Payments & Expense



Payments accepted anywhere with QuickBooks Card Reader

Operations & Growth



Custom reports expose business health and growth opportunities

*Indicates service provided through partners

**QuickBooks and Intuit are a technology company, not a bank. Banking services provided by our partner, Green Dot Bank

The source of truth for your business

Provide an innovative platform for small and mid-market businesses to grow and run their business



intuit



mailchimp

+



intuit
quickbooks

Grow your business

- Get customers
- Retain customers
- Get capital
- Get paid fast
- Sell across channels

Run your business

- Deepen business insights
- Pay employees
- Be compliant and organized
- Access advice
- Track inventory across channels

Mailchimp brings cutting-edge digital marketing tools

Simple and powerful marketing solution for small and mid-market businesses to get and retain customers



Get your business online

Build an online presence and sell online with easy-to-use design and content tools and templates

E-commerce: web stores, shoppable social pages, pay enabled appointments, content creator

Market your business

Create and send the right messages on all the right channels at exactly the right moments

Marketing automation: behavioral targeting, personalized marketing, creative assistant, organic social posting, digital ads

Manage your customer relationships

Centralize contact data and use predictive insights to drive customer value and loyalty

Customer Relationship Management (CRM): Audience analytics dashboard, customer segmentation, customer lifetime value, multi-channel communication platform

Benefit from insights and analytics

Get insights to make it easy to market better and smarter with each campaign

Insights: reporting tools, A/B and multivariate testing, AI-backed recommendations and best practices

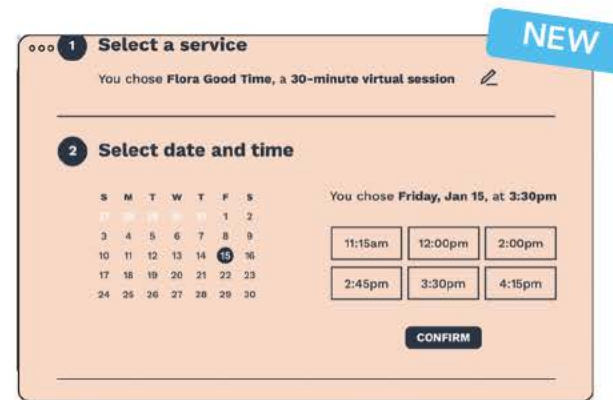
Get your business online

Sell online through web stores, shoppable social pages, appointment scheduling, and email



555K websites created in 2020,
web stores launched in May 2021

Websites let you get your business online and web stores make it easy to sell online and accept payment



14K appointments created in
first four months since launch

Appointments make customer scheduling and online payments easy

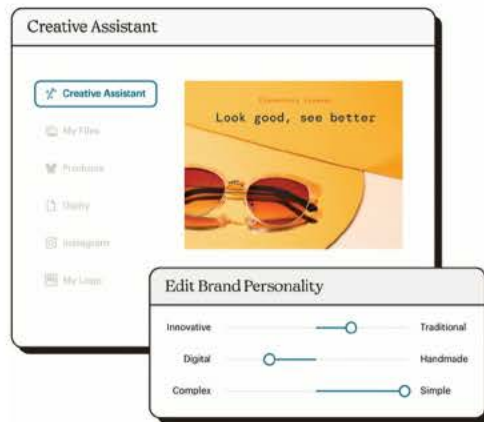


6B emails sent between Black Friday
and Cyber Monday to drive sales

Sale alerts, digital ads and shoppable social pages let you stay top of mind and sell online

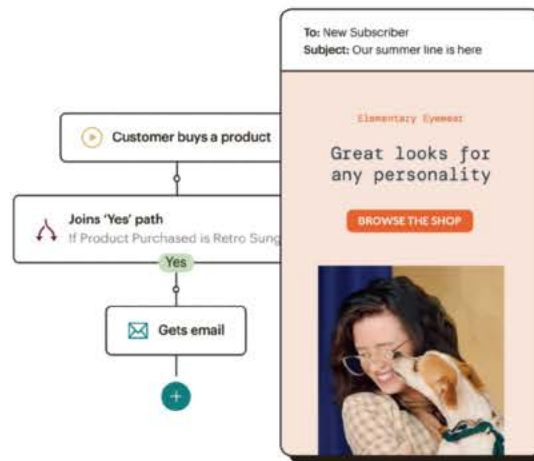
Market your business

Create marketing campaigns that make it easy to send the right messages at exactly the right moments



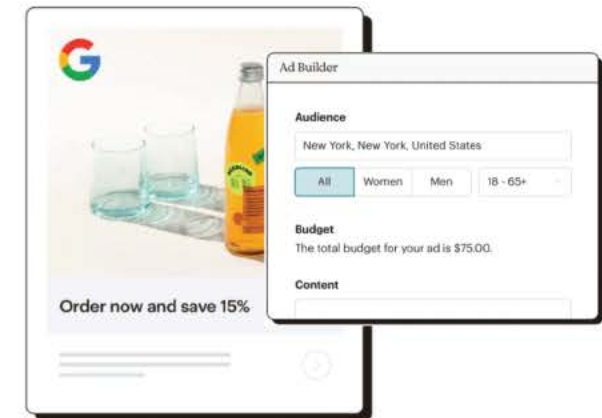
12M designs created instantly with AI-powered Creative Assistant

Creative Assistant blends design principles and the power of AI to automatically generate designs perfect for your brand



2.2M active marketing automations running today

Marketing automations like customer journeys and abandoned cart outreach are always on - even when you're off

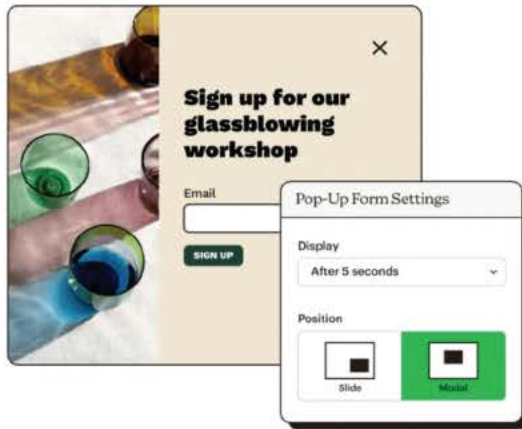


78% of paid users leverage multiple channels, including social and digital ads

Social posts and digital ads let you design, manage and publish across channels, helping you grow - all in one place

Manage your customer relationships

Gain key audience understanding through centralized contact data and predictive insights



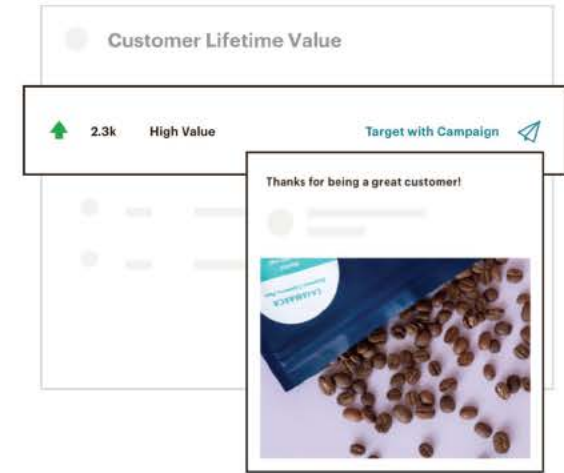
231M mailing list subscribers created via sign-up forms in 2020

Forms collect the data you need to grow your audience and send your customers personalized, relevant content



51% higher click through rates when segment tool used

Audience dashboard and segmentation tools make it easy to understand your audience and send campaigns that matter

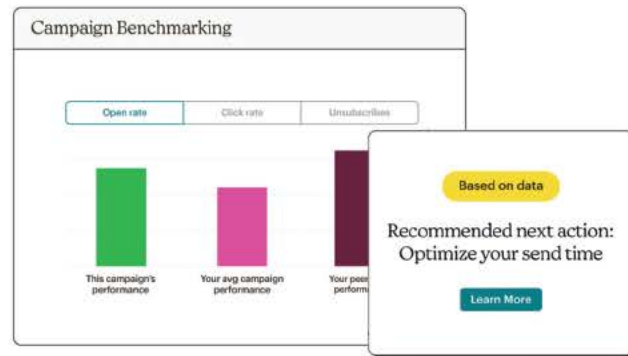


500K lifetime value models run per month to optimize prospect outreach

Predictive analytics estimate future buying behavior with tools such as customer lifetime value models, so you can market smarter with more targeted campaigns - without hiring a data scientist

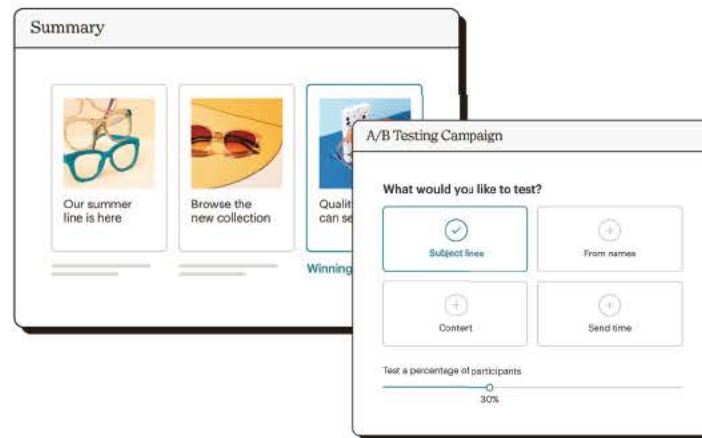
Benefit from insights and analytics

Track, test and understand marketing performance to market better and smarter with each campaign



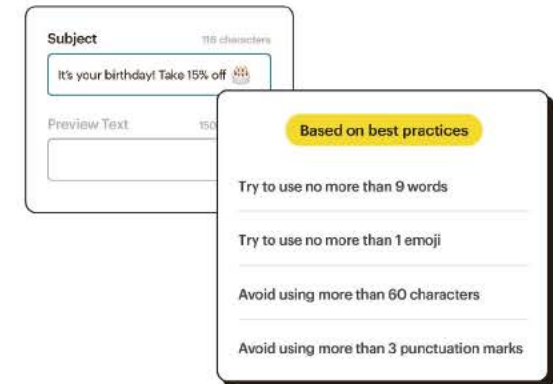
2B+ data points make it easy to benchmark and optimize

Reports makes it easy to track performance, monitor trends, and see how you stack up



8 marketing campaign variations can be tested at once

A/B and multivariate testing takes the guesswork out of great marketing



10K emails sent every second at 'normal' best practices

Smart tools leverage predictive and behavioral analytics based on data to help you know who to talk to, what to say, and how to optimize your approach

Delivering an innovative customer growth platform

Accelerating vision to be the source of truth for small and mid-market businesses



Get your business online

- Shoppable pages
- Web store
- Website builder
- Appointment scheduling

Market your business

- Behavioral targeting
- Personalized marketing
- Creative assistant
- Organic social & ads

Manage your customer relationships

- Audience analytics dashboard
- Customer segmentation
- Customer lifetime value analysis
- Multi-channel communication platform

Payments and expense

- Invoicing
- Recurring Billing
- In-person
- Term Loan
- Bank Account**
- Bill Pay*

Human capital management

- Payroll
- Time Tracking
- Insurance and Benefits*
- HR Expert Support*

Accounting and compliance

- QBO & QBSE
- QBO Advanced
- QB Live
- QB Live Setup & Cleanup

Customer data and purchase data brought together creates actionable insights and opportunities for small business and mid-market growth

Key takeaways

Excited by the new ways we are shaping our business and the runway ahead

1

Durable strategy

Strategy and approach remains durable and grounded in customers' needs

2

Serving more customers and meeting more customers' needs

Disrupting the low-end, penetrating mid-market, broadening the assisted category, and expanding our ecosystem offerings

3

Leveraging data across the ecosystem to create unique customer experiences and offerings

AI-driven insights from billions of platform data connections uniquely position us to serve SMBs with a single, seamless platform

4

Growing our customer base and improving ARPC

Expect to grow customers and increase ARPC as our "formula" to drive >30% online ecosystem revenue growth over the long-term

Execution of our strategy creates a path to robust, long-term growth

Key drivers for growth

LEVERS	MULTI-YEAR RANGE
Customers	10-20%
ARPC	10-20%
Online Revenue Growth	>30%
Total Revenue Growth	10-15%

LONG-TERM EXPECTATION

SMALL BUSINESS AND
SELF-EMPLOYED GROUP

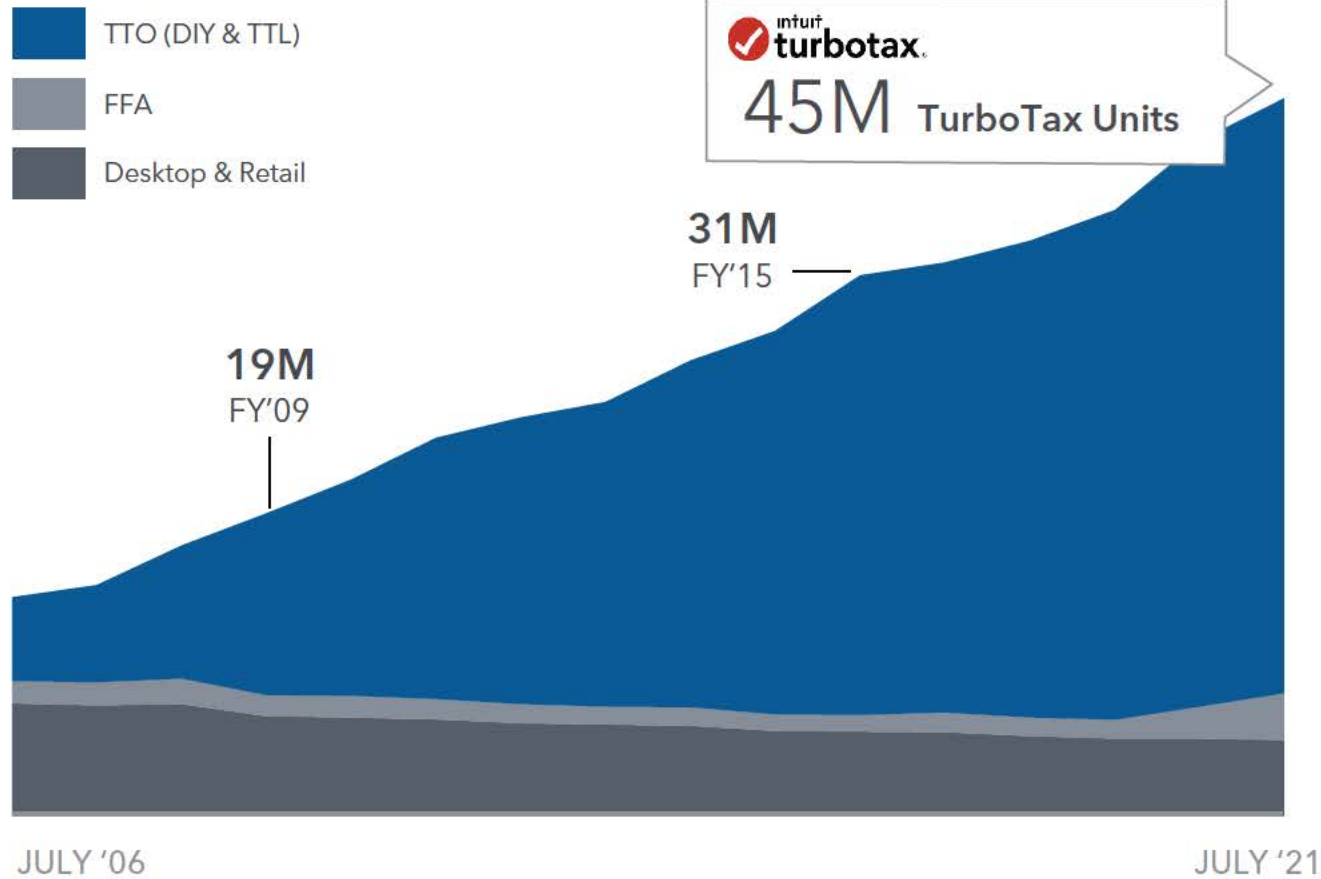
10-15%

ANNUAL REVENUE GROWTH

Greg Johnson

Strong customer growth

TURBOTAX UNITS (U.S. ONLY)

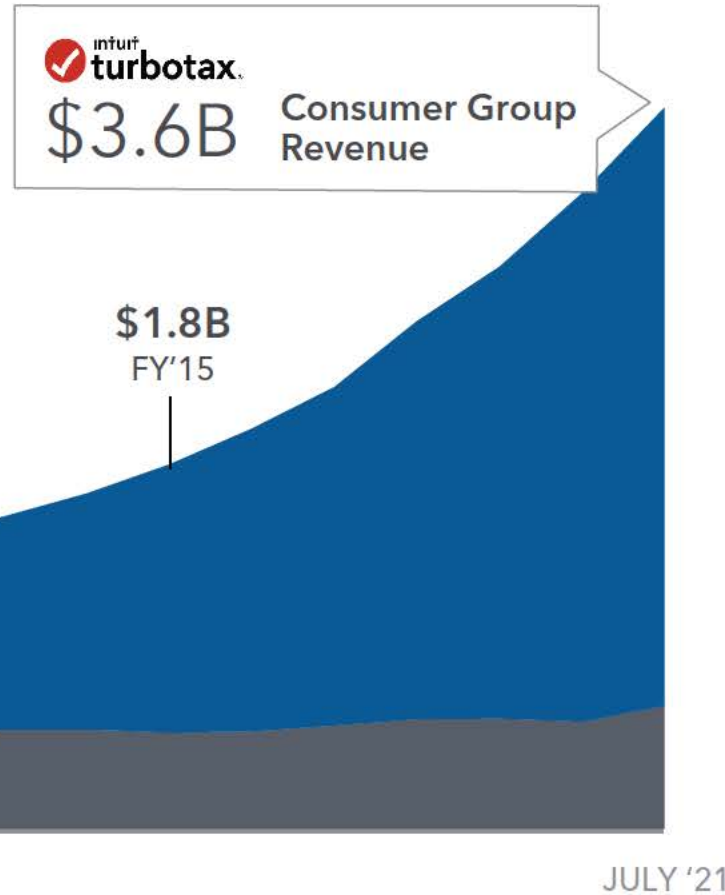
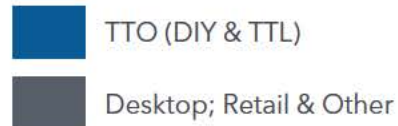


6% TurboTax customer growth

- ~100% TurboTax Live customer growth
- 13% growth in under-penetrated segments: Latino, investors, self-employed
- 1.9M net customer adds

Revenue acceleration

CG REVENUE



14% Consumer Group revenue growth

- 4th consecutive year of highly predictable **double-digit** growth
- **+20%** growth in under-penetrated segments: Latino, investors, self-employed
- **+8%** increase in Average Revenue Per Return for paying customers

Successfully executing our strategy, opportunities ahead



PLATFORM

**Extend our Lead
in DIY Tax Prep**

**Transform the
Assisted Category**

FY'21 Consumer Group Financial Performance

KEY STATS

- ✓ ~1 pt share increase of IRS returns
 - ✓ ~100% TurboTax Live customer growth
 - ✓ Tripled the growth rate of investor customers
 - ✓ Delighted consumers and pros (63 and 73 PRS)
 - ✓ Launched TurboTax Full Service at scale
-
- ✓ +14% Revenue
 - ✓ +8% Average Revenue Per Return for paying customers

What matters most to our customers

Consumer Problems

Need	Rank
Make Ends Meet	1
Maximize Tax Refund	2
Save More	3
Pay Off Debt	4
Know Where I Stand	5
Reduce My Payments	6

Small Business & Self-Employed Problems

Need	Rank
Get Customers	1
Get Paid	2
Get Capital	3
Pay Workers	4
Access Advice	5
Be Compliant And Organized	6
Get Work Done	7

intuit MISSION

Powering Prosperity Around the World

Intuit Strategy



AI-Driven Expert Platform

Creating a network advantage

8M  **TOTAL ACTIVE CUSTOMERS**

\$345B money movement

16M  **PAID WORKERS**

1 in 5 SMB use QB Payroll
\$232B payroll volume

700K  **TAX PROS & PRO ADVISORS**

30M ProConnect returns
\$51B in refunds



56M  **UNIQUE TAX FILERS**

\$105B in refunds¹
54M W2s and over 40M 1099s

121M  **MEMBERS**

41M Monthly Active Users
Visibility into \$7.2T in member debt

29M  **REGISTERED USERS**

3.6M Monthly Active Users
190M weekly transactions

13M  **REGISTERED USERS**

2.4M Monthly Active Users
70B contacts

CONSUMER GROUP | VISION

Financial Freedom for all Consumers



TAX AND BEYOND

Consumer strategic roadmap



PLATFORM

Extend Lead in DIY

REVOLUTIONIZE
SPEED TO BENEFIT

Data and AI-driven experiences that deliver "taxes are done" with no effort



Transform Assisted Category

CONNECT PEOPLE
TO EXPERTS

Virtual expert platform that revolutionizes the way "taxes are done" with complete confidence



Disrupt Consumer Finance

UNLOCK SMART
MONEY DECISIONS

AI-driven platform that autonomously helps customers reach savings, debt, and more money goals



Expand Reach Globally

Financial Freedom for all Consumers

US tax industry landscape

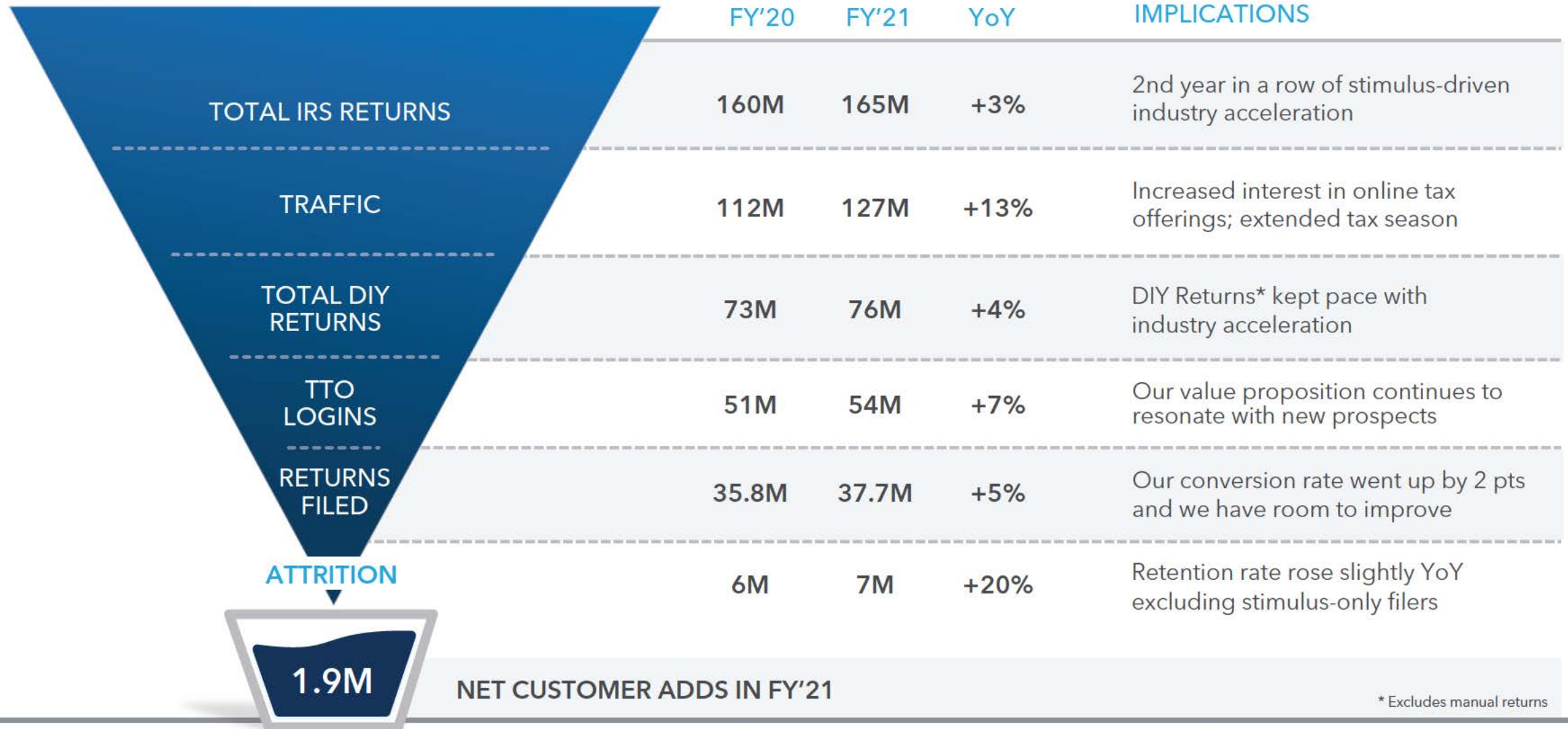
Shifting our focus to growing total share of IRS returns



Growth drivers

- Transforming the assisted category with TurboTax Live
- Win with under-penetrated segments
- Improve experiences for customers and pros with AI-driven platform
- Continue to innovate for filers with simple returns

Opportunity: TurboTax online US acquisition funnel



* Excludes manual returns

Gaining share of total industry with TurboTax Live innovations

TOTAL ADDRESSABLE MARKET (TAX)



AVERAGE REVENUE PER RETURN

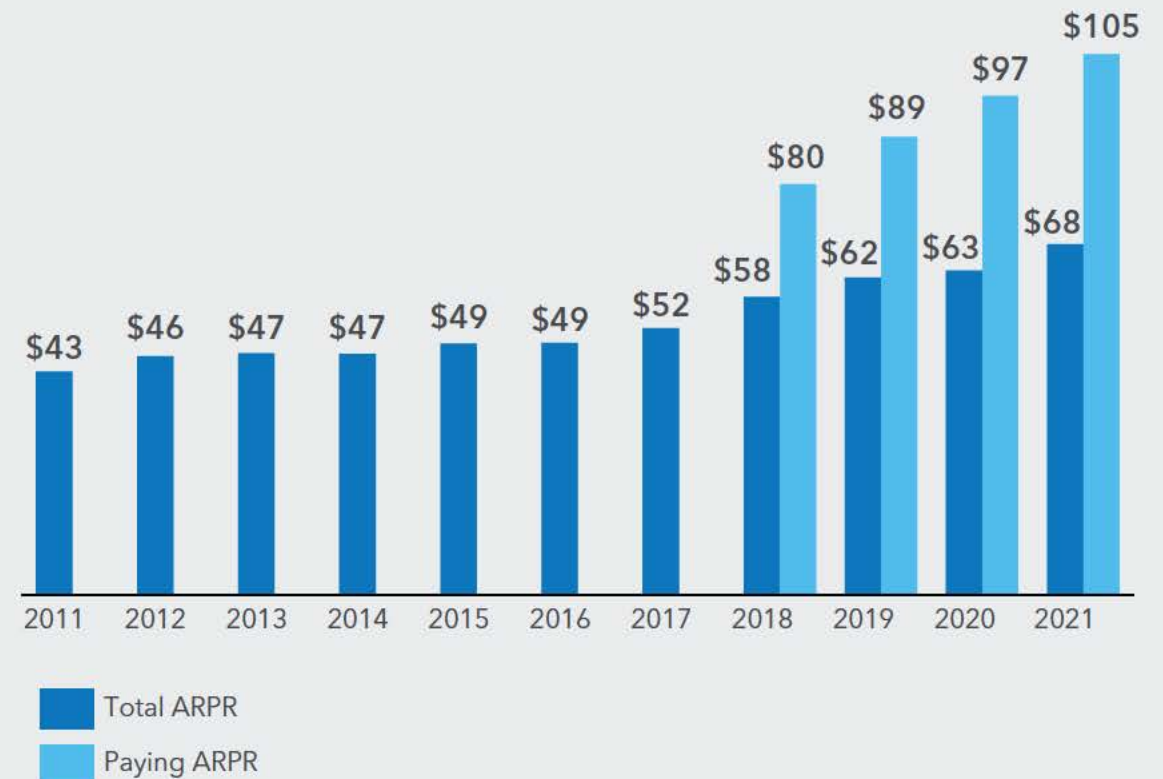
Assisted	~\$232
DIY	~\$58



Return Share* (YoY)	Revenue Share (YoY)
31% (+1 pt)	~14% (+1 pt)

* TurboTax share of IRS Returns excluding Free File customers: ~29%

TURBOTAX U.S. AVERAGE REVENUE PER RETURN



* Total ARPR excluding Free File customers was \$72 in 2021



Extend our lead in DIY tax prep

Revolutionize speed to benefit

Opportunity

127M consumers visited TurboTax

76M actually filed with DIY software

37.7M filed with TurboTax Online

16.7M filers logged into TurboTax, but did not complete

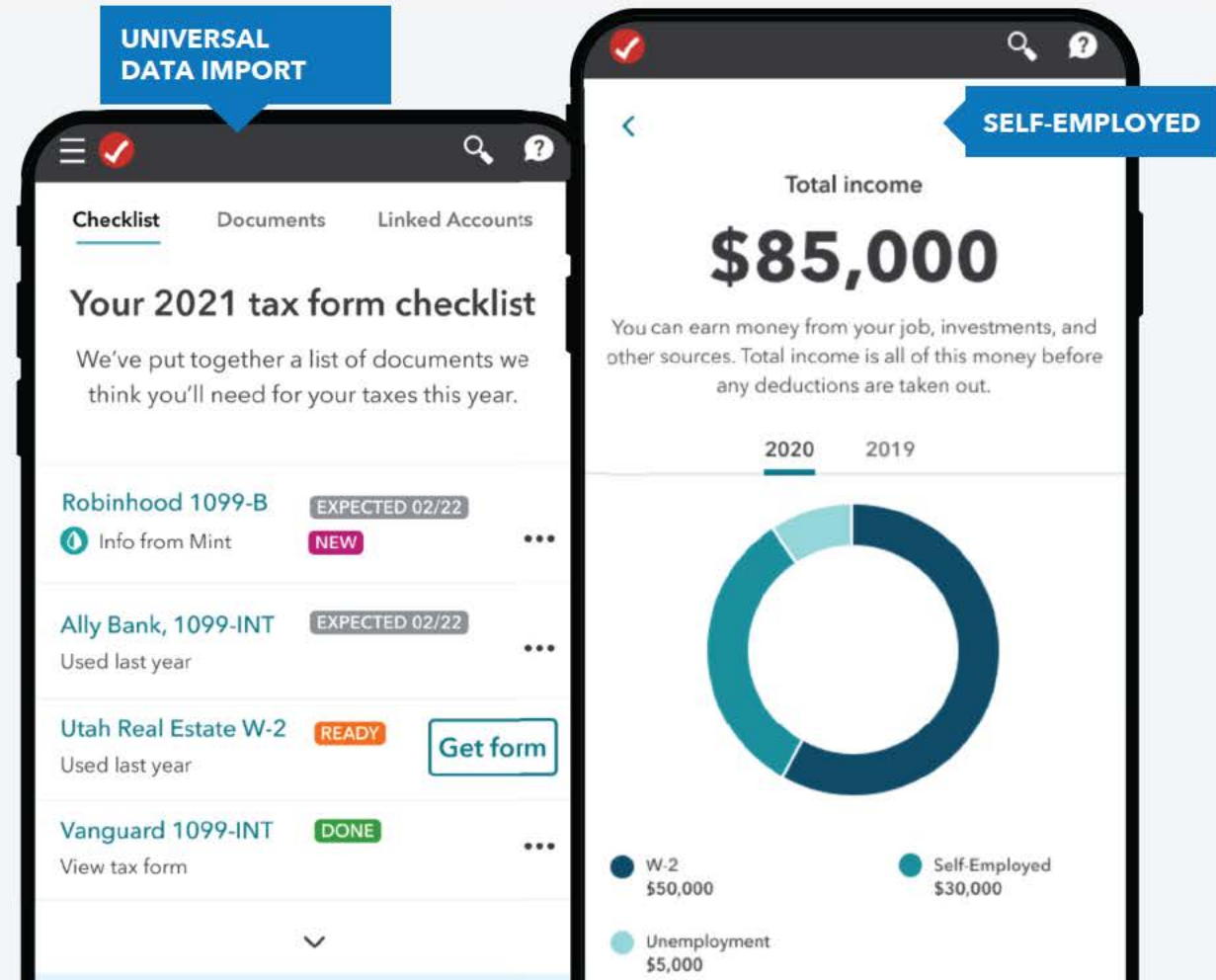
Proof Points

36M tax forms automatically imported

+2M increase in mobile app filers

3M new self-employed, Latino, investor filers last year

~81% retention rate; slight increase, excluding stimulus-only filers





Transform the assisted category

Connect people to experts

Opportunity

\$20B assisted tax preparation TAM

88M customers seek out filing assistance every year

10M estimated churn within the assisted category

4M filers defect annually to assisted solution

Proof Points

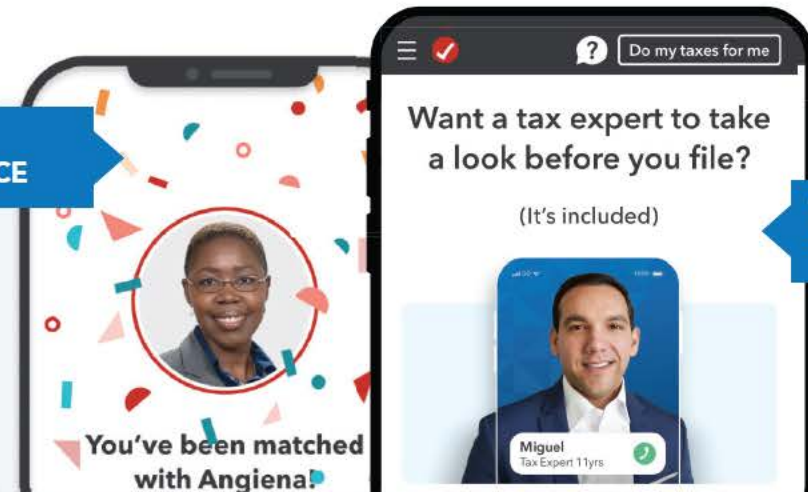
~100% TurboTax Live customer growth

+4 pts TurboTax Live conversion improvement

>100% increase in TurboTax Live customers new to Intuit

+5 pts increase in TurboTax Live expert PRS

**FULL
SERVICE**



**TT LIVE 2.0
ENHANCEMENTS**

Client
Ian Cameron

Expert
Jose Rivera

Full Service
Tax Prep

Documents | **Info Gathering** | **Tax Prep** | **Forms & Worksheets** | **Finish & File**

Client
Personal Information

Federal
Wages & Income
Deductions & Credits
Other Tax Situations
Federal Review

State
State Returns
State Review

Business use of home
1 recommendation

Start date when client started using this home office
10/11/2008

Number of months client used this office at least 15 days
12 months

Percentage of work done at this home office
70%

Home office square footage
250
Be sure to include any storage space
Entire home square footage

Recommendation
Similar to 97% of all returns for customers in this tax situation

100%
75%
50%
0%

Case A Case B Case C Case D

Home office deduction tips for customer
Remind customer the deduction is up to a maximum write off of \$1,500 a year. (Customer would hit the max if their office is 300 square feet.) Customer has the option to choose between the two for the bigger deduction.

**EXPERT
EXPERIENCE**

Disrupt consumer finance

Unlock smart money decisions with Intuit and Credit Karma combined capabilities

**GROW TURBOTAX BY
PROVIDING ACCESS TO
CREDIT KARMA MEMBERS**

GROW CREDIT KARMA
BY INTRODUCING TO
TURBOTAX CUSTOMERS

ACCELERATE CREDIT KARMA
MONEY GROWTH WITH
TURBOTAX

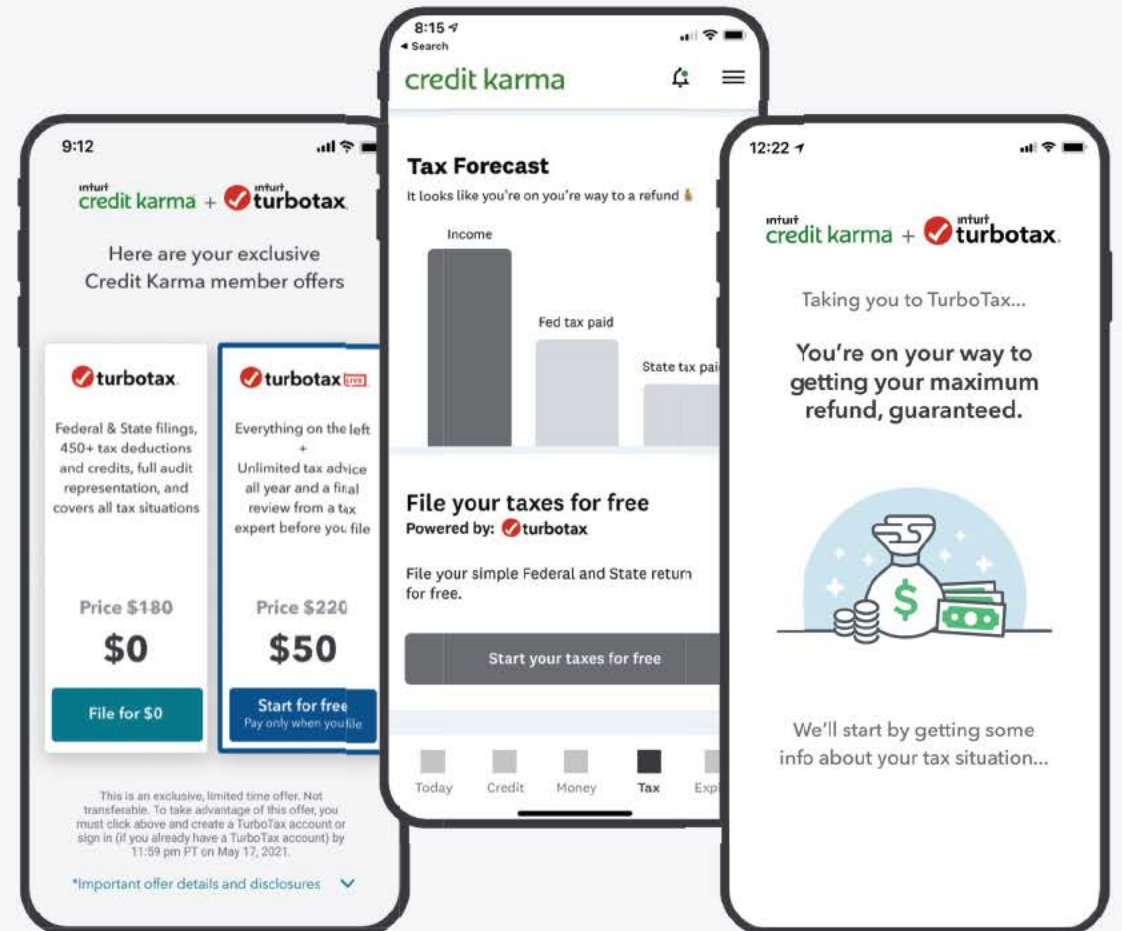
ACCELERATE CREDIT KARMA
MONEY GROWTH WITH
QUICKBOOKS PAYROLL

Our mission is to leverage the combined strengths of Credit Karma and TurboTax to deliver the best-in-class holistic tax experience for Credit Karma members

Engage **121M** Credit Karma members year-round with financial insights derived from tax data

TurboTax will provide valued Credit Karma members with superior offers, shifting from more expensive assisted tax prep into a TurboTax experience

Last tax season, we ran **35+** experiments aiming to provide personalized experiences for customers



Single platform that flexes to each customer's journey

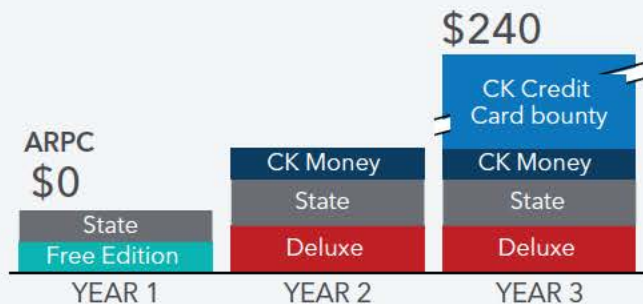
Maximizing your tax refund and helping you unlock smart money decisions



Retail Employee

TTO customer that adopts CK

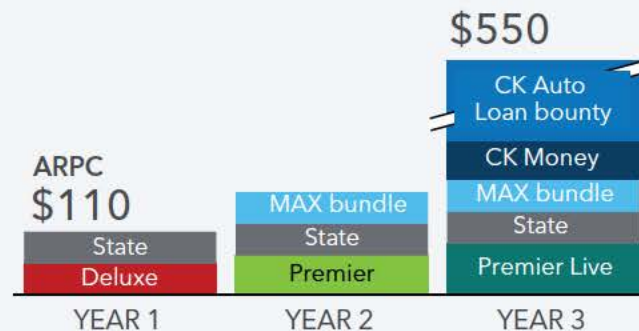
As a single filer, Anna easily filed her 1040, without any schedules, in the TTO Free Federal Edition for no cost. In Year 2, Anna was married and filed itemized deductions in Deluxe jointly with her new husband. She didn't have a bank account, so instead of waiting for a check again, she chose to deposit her federal refund into a Credit Karma Money account. In Year 3, they even found a new credit card in Credit Karma that helped them finance their dream vacation.



Recent College Grad

TTO customer that upgrades to TT Live and then adopts CK

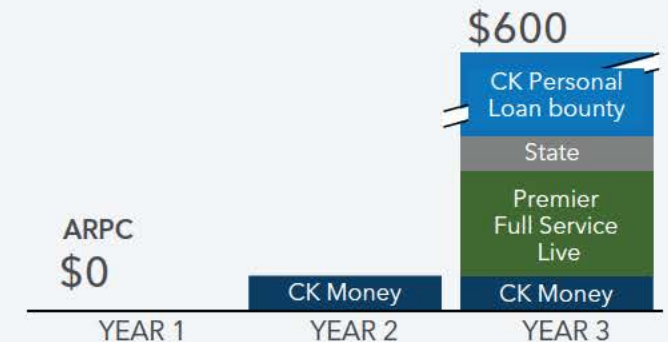
Rachel started in TTO Deluxe as she filed her federal and state taxes with itemized deductions. She moved to Premier as she began dabbling in stocks, moving to Premier Live as her RSUs began to vest in Year 3. Along the way, she added Audit Defense in the MAX bundle and made a smart money decision by opening a Credit Karma Money account to get her federal refund deposited, and also by refinancing her auto loan through a personalized offer from Credit Karma.



Marketing Professional

CK member that adopts TTO Full Service

Rory is unemployed and has been accumulating credit card debt. He signed up for Credit Karma to understand and improve his credit score. In Year 2, he got a job as Marketing Manager and wanted to get his paycheck early so he opened a Credit Karma Money account to avoid fees and help him with building savings. In Year 3, Rory consolidated his debt so he could lower his overall interest cost through a personal loan obtained through Credit Karma. Rory also needed assistance with filing taxes; he opted for TTO Live Full Service Premier to let an expert handle his taxes for him.



Execution of our strategy creates a path to robust, long-term growth

Key drivers for growth

GROWTH DRIVERS	1 PT OF GROWTH YIELDS REVENUE OF	MULTI-YEAR RANGE
IRS returns	~1%	0-2%
DIY category share	~2.5%	2-4%
Total TurboTax share	~1.5%	1-2%
Revenue per return	~1%	4%+

**LONG-TERM
EXPECTATION**
CONSUMER GROUP

8-12%
ANNUAL REVENUE GROWTH

Kenneth Lin

Unlocking smart money decisions

Consumers' most important problem is making ends meet

Finding the right financial products is a challenge

\$20-40B	Amount consumers overpay on higher-cost credit card debt vs. lower-cost personal loans ⁽¹⁾
\$37B	Amount consumers overpay on auto loans ⁽²⁾
37M	Number of times workers tapped into paychecks early through pay-advance apps in 2019 ⁽³⁾
\$130B	Amount Credit Karma estimates mispriced financial products are costing Americans annually ⁽⁴⁾
81%	Number of subprime credit card applications are rejected. ⁽⁵⁾

Struggling with paying off debt and saving money

\$14.3T	Total household debt in the United States ⁽⁶⁾
~\$1T	Credit card debt in the United States ⁽⁶⁾
~62%	Americans live paycheck to paycheck ⁽⁷⁾
33%	Americans have lost income during the pandemic ⁽⁸⁾
75%	Americans have concerns about their ability to pay bills and loans ⁽⁹⁾
60%	Percentage of Americans who couldn't come up with \$1,000 in an emergency ⁽¹⁰⁾

Seeking to do better, but need help

<30%	Americans feel comfortable with amount of knowledge they have about managing their finances ⁽¹¹⁾
60%	Of consumers say they are trying to improve their credit score ⁽¹²⁾

(1) Intuit analysis

(2) Credit Karma analysis

(3) <https://www.nytimes.com/2020/10/02/your-money/cash-advance-apps-paychecks.html>

(4) Credit Karma analysis

(5) https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-card-market-report_2017.pdf

(6) https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2020Q2.pdf

(7) <https://listwithclever.com/research/covid-impact-september/#spending-insight>

(8) <https://finhealthnetwork.org/research/income-age-race-and-gender-are-key-factors-as-new-data-shows-1-in-3-americans-earning-less-during-covid-19/>

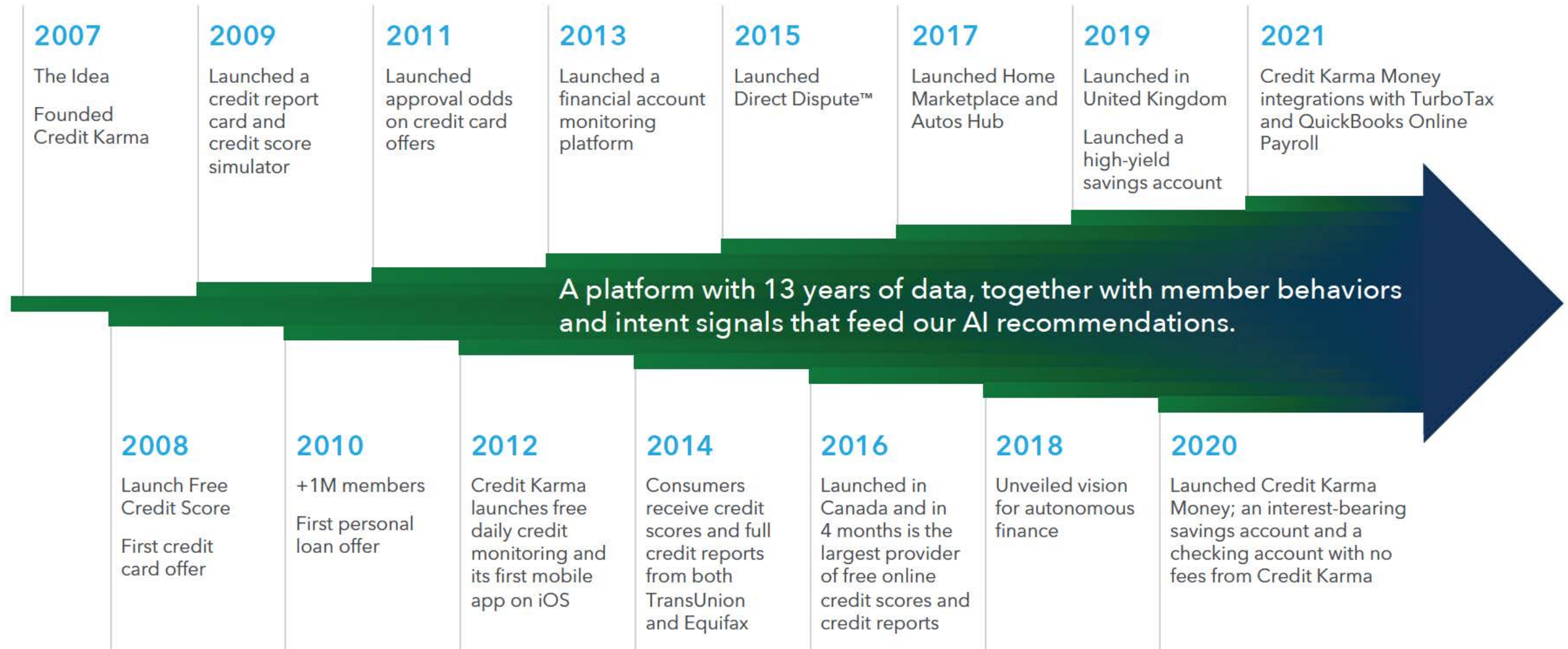
(9) <https://content.transunion.com/y/financial-hardship-report-us-wave-twelve>

(10) <https://www.cnn.com/2021/01/11/just-39percent-of-americans-could-pay-for-a-1000-emergency-expense.html>

(11) <https://www.principal.com/about-us/news-room/news-releases/we-make-35000-decisions-day-7-10-postpone-major-financial-decisions>

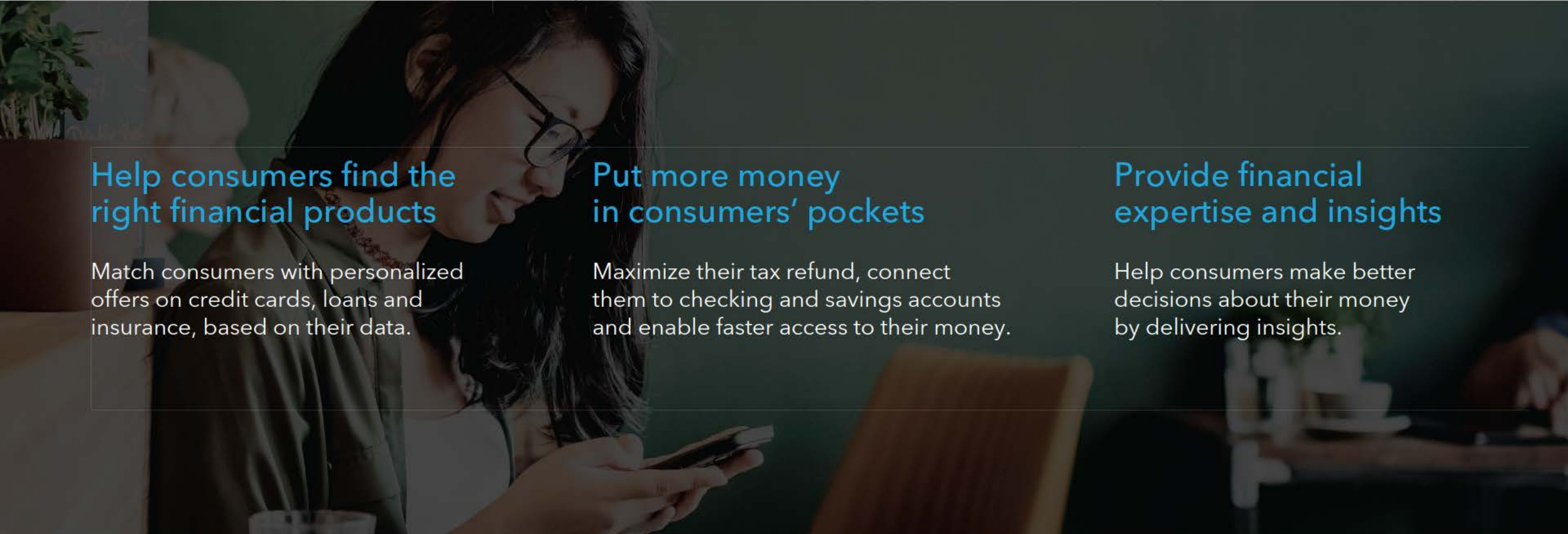
(12) <https://www.businesswire.com/news/home/20180731005198/en/Majority-U.S.-Consumers-Actively-Improve-Credit-Score>

Data platform with powerful network effects



Credit Karma vision

Autonomously help consumers save, pay down debt and get faster access to money

A woman with long dark hair and glasses is looking down at her smartphone. She is wearing a light-colored top. The background is slightly blurred, showing what appears to be a cafe or office setting with a plant and some furniture.

Help consumers find the right financial products

Match consumers with personalized offers on credit cards, loans and insurance, based on their data.

Put more money in consumers' pockets

Maximize their tax refund, connect them to checking and savings accounts and enable faster access to their money.

Provide financial expertise and insights

Help consumers make better decisions about their money by delivering insights.

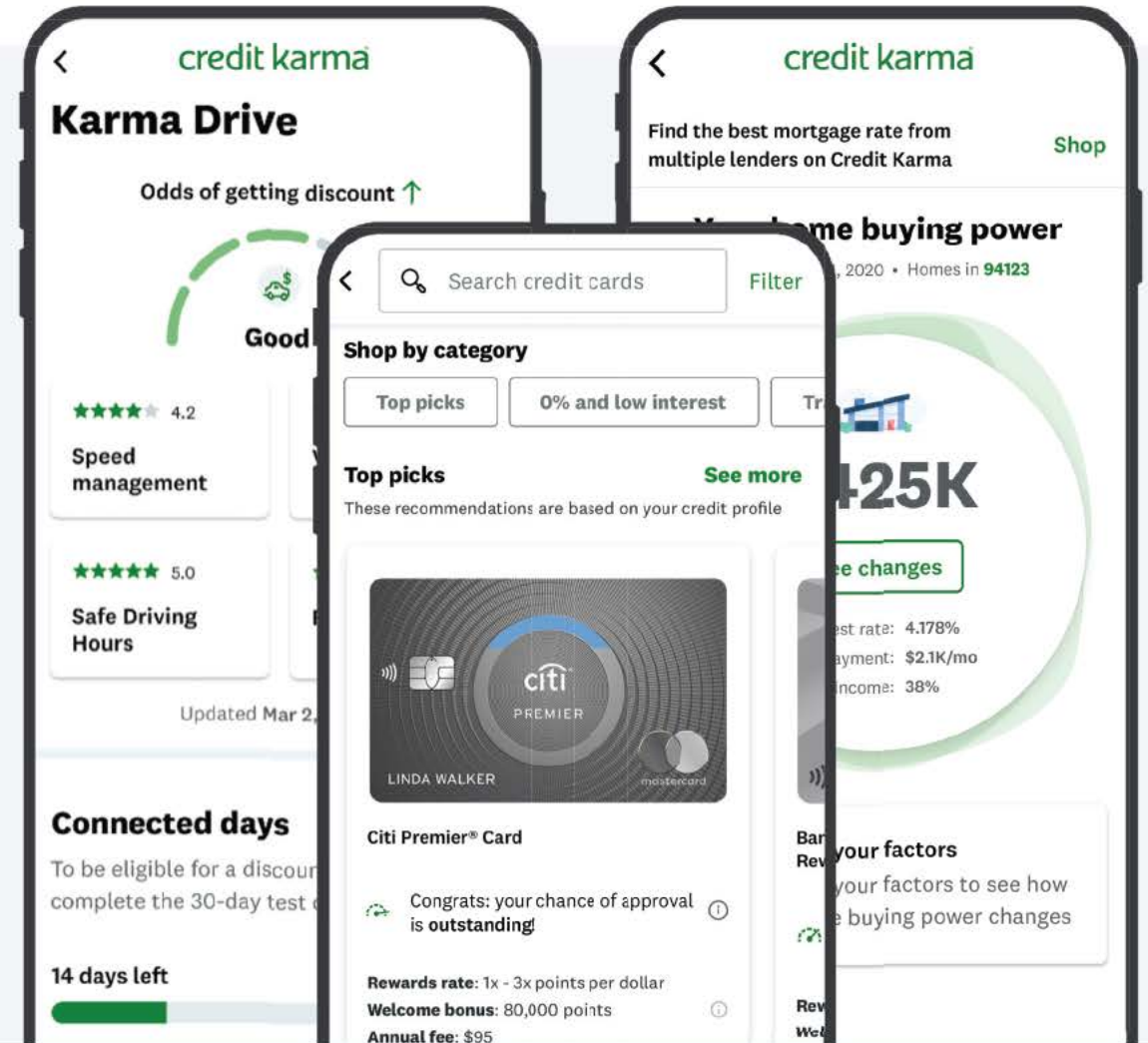
Help consumers find the right financial products

Match consumers with personalized offers on credit cards, loans and insurance, based on their data

OUTSTANDING BADGE: The outstanding badge on a financial offer from a loan or credit card partner lets the member know they have a high likelihood of being approved -- before they apply. Lightbox allows lenders to deploy targeting models in an encrypted environment, leveraging thousands of data points from Credit Karma members and Intuit customers to help determine approval with a high level of certainty; more than double the average approval rate for credit cards booked outside of Credit Karma.

KARMA DRIVE: Karma Drive, in partnership with a leading insurance provider, gives members in the U.S. an easy opportunity to try out usage-based insurance to see if their driving habits might qualify them for a discount on their auto insurance without committing to a new policy.

HOME PULSE: Home Pulse tracks the equity of members' homes and connects them with the right products, like cash-out refinance and a home equity line of credit, to maximize their borrowing power based on the equity in their home.



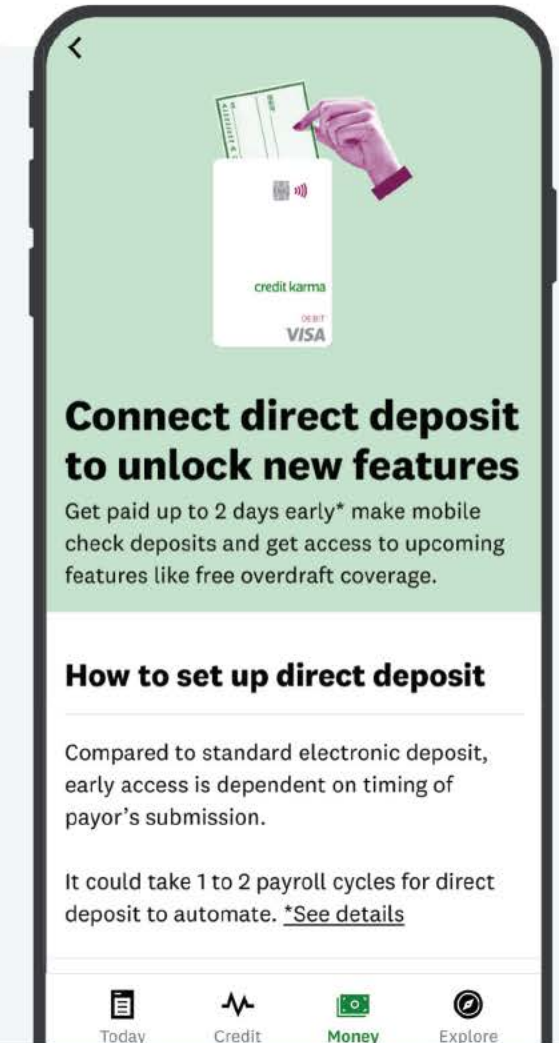
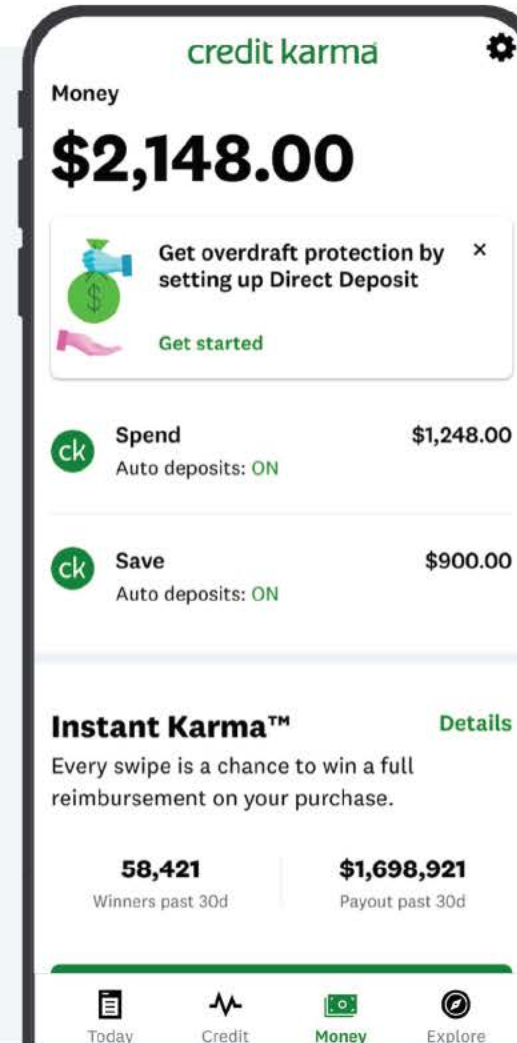
Put more money in consumers' pockets

Maximize their tax refund, connect them to checking and interest-bearing savings accounts and enable faster access to their money

INTRODUCE CONSUMERS TO CREDIT KARMA MONEY: Credit Karma Money helps members change their relationship with money, with a focus on saving for the future, paying bills on time and building wealth. It offers the opportunity for TurboTax customers to deposit up to \$105B in tax refunds and eligible QuickBooks Payroll customers to deposit up to \$232B of payroll into a new Credit Karma Money interest-bearing savings and checking accounts with no fees from Credit Karma.

ENABLE FASTER ACCESS TO MONEY: Use Intuit's financial data and money platforms to help consumers pay down debt and access paychecks early.

BILL TRACKING AND NOTIFICATIONS: Provide tracking and notifications designed to remind members of upcoming bills so they can make on-time or early payments and protect their credit.



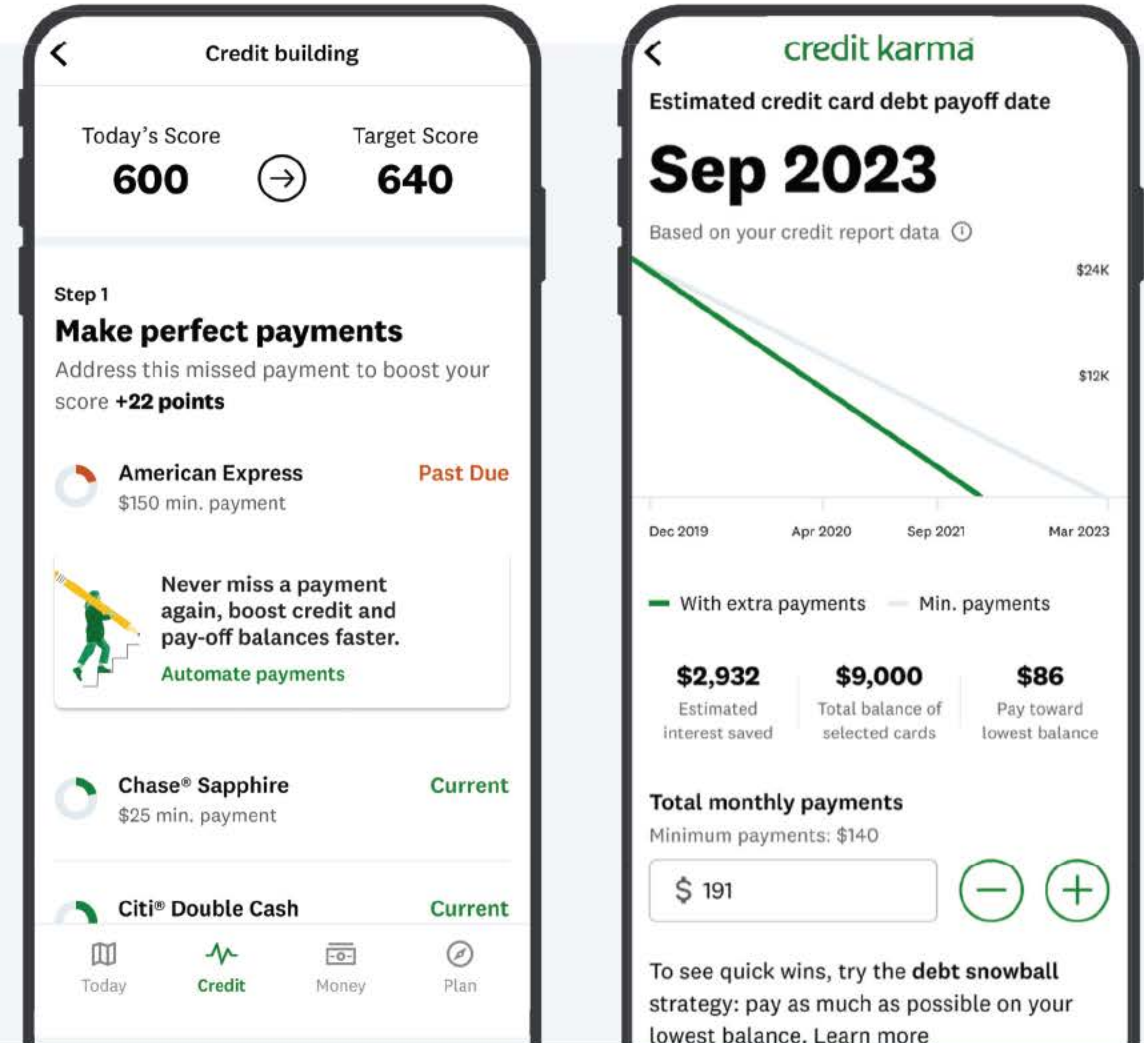
Provide financial expertise and insights

Help consumers make better decisions about their money by delivering insights

COMPLETE PROFILE: By combining Credit Karma credit and assets data with Intuit's verified income and cash flow data, we can offer unparalleled financial insights to help members understand their complete financial picture.

TAILORED INSIGHTS AND AUTOMATION: Use machine learning to provide optimal credit building, borrowing and saving strategies while automating and simplifying the process to remove friction, inertia and complexity.

BUILD WEALTH: Enable the combined customer base to build wealth and achieve financial goals through education and a unified, comprehensive suite of financial products.



Credit Karma strategy

Grow Core Business

Grow the core business, including credit cards and personal loans

Expand Growth Verticals

Expand growth verticals, including home loans, auto loans and insurance

Develop Emerging Verticals

Develop emerging verticals, focused on money innovation including savings and checking accounts

———— A personal financial assistant that makes financial progress possible for everyone ————

Accelerating growth with combined capabilities

Customer benefit powered by scale and trust helps unlock progress and prosperity

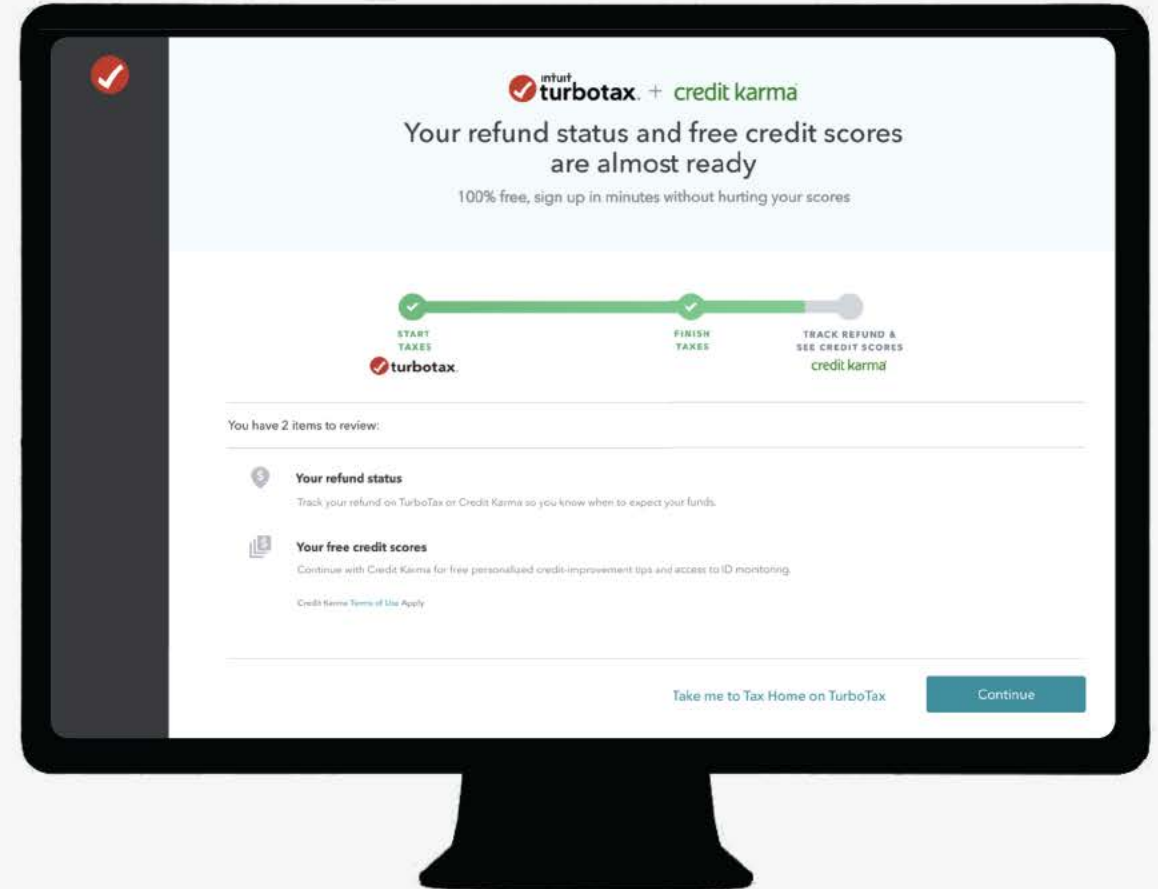
GROW TURBOTAX BY
PROVIDING ACCESS TO
CREDIT KARMA MEMBERS

GROW CREDIT KARMA
MEMBER BASE

INTEGRATED CREDIT KARMA
MONEY WITH TURBOTAX

INTEGRATED CREDIT KARMA
MONEY WITH QUICKBOOKS
PAYROLL

Grow member base by introducing Intuit customers to Credit Karma. TurboTax and Turbo customers accounted for **40%** of new members since the acquisition closed*, significantly accelerating Credit Karma's new member growth and introducing Intuit customers to the value of Credit Karma.



Accelerating growth with combined capabilities

Customer benefit powered by scale and trust helps unlock progress and prosperity

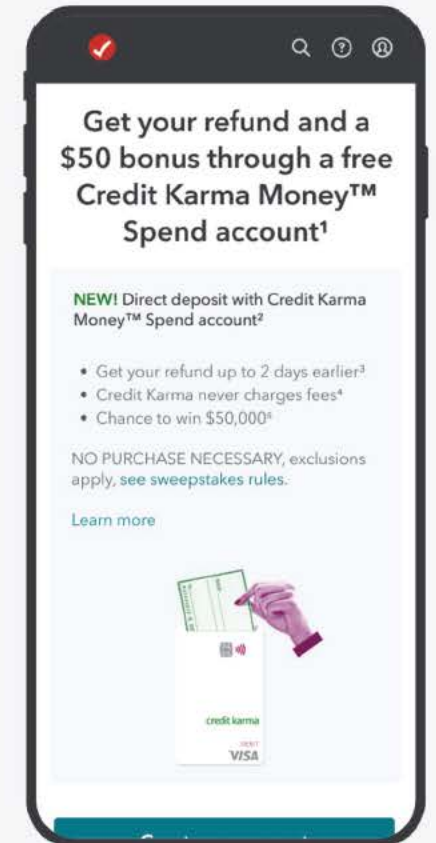
GROW TURBOTAX BY
PROVIDING ACCESS TO
CREDIT KARMA MEMBERS

GROW CREDIT KARMA
MEMBER BASE

INTEGRATED CREDIT KARMA
MONEY WITH TURBOTAX

INTEGRATED CREDIT KARMA
MONEY WITH QUICKBOOKS
PAYROLL

Accelerate Credit Karma Money with TurboTax. This year, we integrated Credit Karma Money into the TurboTax filing experience, offering approximately **38M** TurboTax customers the opportunity to deposit **\$105B** in tax refunds into a Credit Karma Money account.



Accelerating growth with combined capabilities

Customer benefit powered by scale and trust helps unlock progress and prosperity

GROW TURBOTAX BY
PROVIDING ACCESS TO
CREDIT KARMA MEMBERS

GROW CREDIT KARMA
MEMBER BASE

INTEGRATED CREDIT KARMA
MONEY WITH TURBOTAX

INTEGRATED CREDIT KARMA
MONEY WITH QUICKBOOKS
PAYROLL

Integrated Credit Karma Money with QuickBooks Payroll, giving **16M** employees paid by QuickBooks, if eligible, the option to seamlessly sign up for and deposit **\$232B** in payroll volume into a Credit Karma Money account.



Powerful data platform

Our trusted brands will deliver breakthrough benefits that improve members' lives

CAPABILITIES

Scale and trust

Large customer base
and trusted brand

~121M members
76 net promoter score

Connections to over
24,000 financial institutions

Data platform

Connecting customers
to solutions personalized
for them using their data

55,000 tax and finance
attributes per customer

Visibility to \$7.2T
in member debt

AI platform

Leveraging capabilities
to innovate for customers

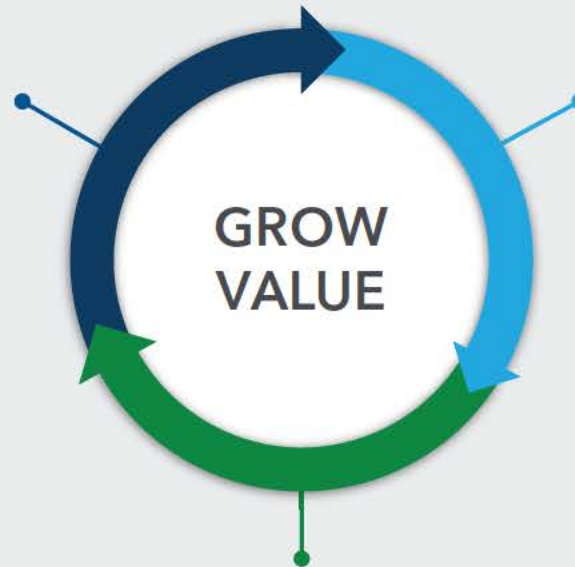
35B daily machine
learning predictions

Money movement platform
and risk/fraud capabilities

Credit Karma's data platform and recurring engagement creates powerful network effects, driving revenue growth

Financial Partners Win

Credit Karma financial partners win because we help our members understand how likely it is that they will be approved for a financial product before they apply. With Lightbox, members who apply for products through Credit Karma have more than double the average approval rate for credit cards booked outside of Credit Karma.



Members Win

Credit Karma members win because we match them to financial products that are personalized for their financial situation. When they apply for a product through Credit Karma, they have a high likelihood of approval. The average consumer has no idea what products they qualify for (81% of subprime credit card applications are rejected), so on Credit Karma, they are less likely to waste time applying for products they aren't qualified for and don't hurt their credit when they are denied for those products.

Credit Karma Wins

Credit Karma wins because when a member is approved for a financial product we recommend, we typically get paid. We also build further trust with our members. Over time we create a virtuous cycle, as we have more offers on the platform, we attract more members. We help our partners market their products more efficiently and effectively, allowing them to personalize offer for the members, allowing us to gain share of wallet within more mature verticals and grow into new verticals.

Strategy and business model that unlocks TAM, creating durable growth

Large TAM with significant opportunity to increase penetration

\$85B CREDIT KARMA TAM

Grow Core Business - \$17B

Credit cards, personal loans

5% share of credit card and personal loan transactions

Expand Growth Verticals - \$36B

Auto loans, home loans, home equity loans, student loans, auto insurance

Develop Emerging Verticals - \$32B

Savings and checking accounts

There is significant opportunity to increase penetration within our existing addressable market through:

- Growing penetration within the growth and emerging verticals
- Growing share of existing members' transactions
- Digitization of originations

Credit Karma revenue is driven by member engagement, frequency, transactions, and revenue per transaction

	FY'20	FY'21	YoY
Members	112M	121M	8%
Average Monthly Active Users (MAUs)	39M	41M	6%
Average Revenue per MAU Driven by growth in: Frequency of Visits, Transactions/MAU, Revenue/Transaction	\$22	\$28	29%
TOTAL REVENUE	\$0.8B	\$1.1B	37%

*FY'20 and FY'21 Credit Karma revenue if Intuit had a full year of Credit Karma revenue during fiscal 2020 and 2021. Revenue is unaudited.

Execution of our strategy creates a path to robust, long-term growth

Key drivers for growth

LEVERS	MULTI-YEAR RANGE
Members	4-6%
Average MAU	6-8%
Average Revenue Per MAU Driven by growth in: Frequency of visits, Transactions / MAU, Revenue / Transaction	10-15%

**LONG-TERM
EXPECTATION**
CREDIT KARMA

20-25%
ANNUAL REVENUE GROWTH

Michelle Clatterbuck

Outstanding performance vs. FY'21 objectives

Last year's summary

- Double-digit revenue growth
- Fast-growing SaaS business
- Disciplined investments yield operating income dollars growing faster than revenue
- AI-driven expert platform strategy enables new drivers of operating margin expansion
- Consistent dividend increases
- ROIC >20% in FY'21

FY'21 Outcomes

25%	Intuit revenue growth
39%	Combined platform revenue growth
26%	Small business online ecosystem revenue growth
15%	GAAP operating income growth
31%	Non-GAAP operating income growth
11%	Dividend increase in FY'21
17%	ROIC

Bold 2025 Goals

Prosperity	Double household savings rate and improve SMB success rate >10 pts vs. industry
Reputation	Best-in-Class of Most Reputable Companies
Growth	>200M customers, accelerating revenue growth

Prosperity based on customers on Intuit's platform.

U.S. average household savings rate is based on Personal Savings rate published by the Bureau of Economic Analysis.

SMB 5-year survival rate according to the Bureau of Labor Statistics.

Best-in-class defined by Reputation Institute's RepTrak score of 80+.

Bold 2025 Goals

Prosperity	Double household savings rate and improve SMB success rate >10 pts vs. industry		FY'19	FY'20	FY'21
		Household Savings Rate ¹	9% 1.2x avg U.S. savings rate	15% 1.2x avg U.S. savings rate	17% 1.2x avg U.S. savings rate
		SMB Success Rate SMB 5-year survival rate ~50% ²			69% ³
Reputation	Best-in-Class of Most Reputable Companies		FY'19	FY'20	FY'21
		Reputation Score ⁴	72.7	73.4	72.6
Growth	>200M customers, accelerating revenue growth		FY'19	FY'20	FY'21
		Customers	52M	57M	102M
		Revenue Growth	13%	13%	25%

Prosperity based on customers on Intuit's platform.

1. FY'21 data as of July 2021. U.S. average household savings rate is 14% based on Personal Savings rate published by the Bureau of Economic Analysis from August 2020 - July 2021.

2. SMB 5-year survival rate is ~50% according to the Bureau of Labor Statistics data on the March 2015 cohort of new business openings.

3. 69% for FY'21 is based on QuickBooks 5-year survival rate of new openings from the year-ending December 2015 through December 2020. QuickBooks customers who have survived more than 5 years have used or licensed QuickBooks Online or Desktop versions for an average of 3 or more years during that period. Using QuickBooks does not guarantee any future success.

4. Best-in-class defined by Reputation Institute's RepTrak score of 80+.

Financial principles remain enduring

Grow organic revenue double digits

- Customer growth fueled by delivery of the customer benefit
- Grow average revenue per customer

Operating income dollars grow faster than revenue

- Revenue grows faster than expense
- Acceptable LTV/CAC as we grow online

Deploy cash to the highest-yield opportunities - targeting 15% ROI over 5 years

- Investing in organic growth drivers (R&D, infrastructure, sales & marketing)
- Use acquisitions to accelerate growth in talent and technology

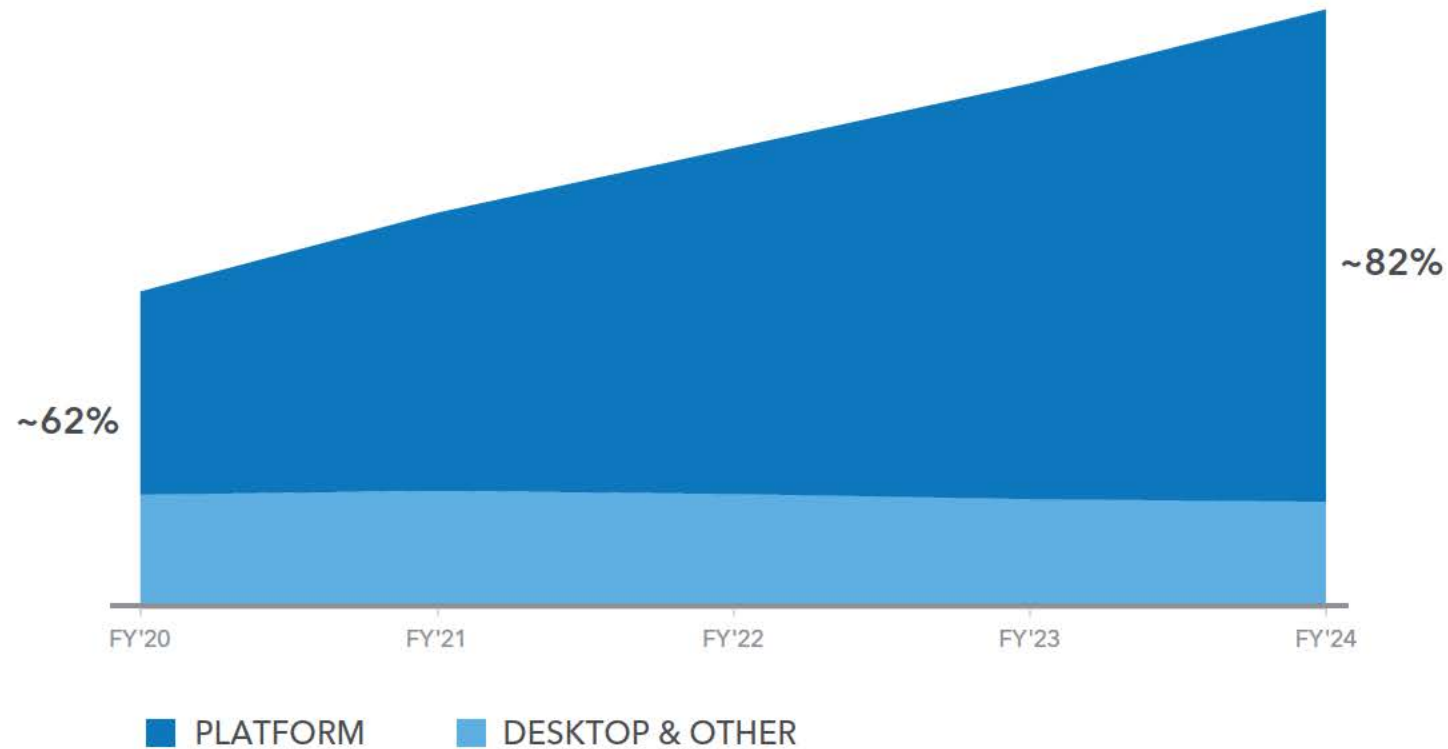
Return excess cash to shareholders via dividend and share repurchase

- Utilize grid to achieve favorable volume weighted average price targeting a return \geq Intuit's WACC
- Dividends expected to grow at or slightly ahead of earnings

Maintain a strong balance sheet

- Net cash position at the end of FY and average cash balance of \$700M net of debt due in 2 years
- Maintain investment grade rating

Combined platform revenue driving revenue growth



- QuickBooks Online, TurboTax Online, and Credit Karma revenue grew 39% to \$6.6B in FY'21
- Small business online ecosystem revenue grew 26% in FY'21
- >80% of Intuit's FY'22 revenue is expected to come from existing customers

Good progress with large opportunity ahead

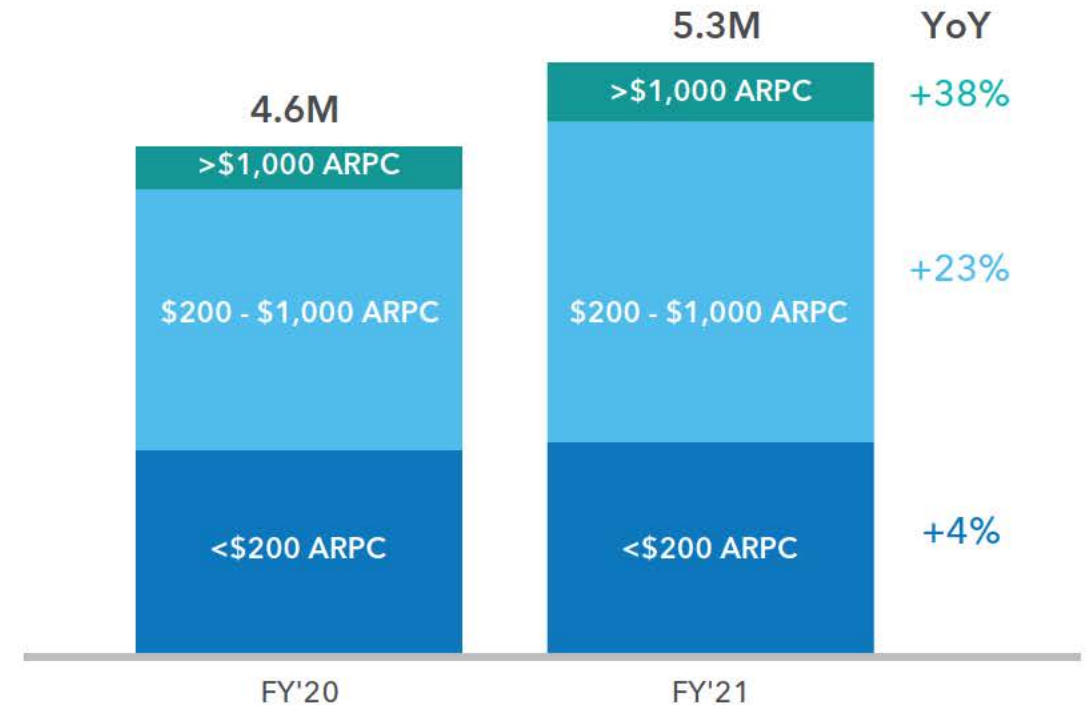


TOTAL QUICKBOOKS PAYING CUSTOMERS

QBO, DESKTOP SUBS, DESKTOP UNITS BY FY



SUBSCRIBER BASE



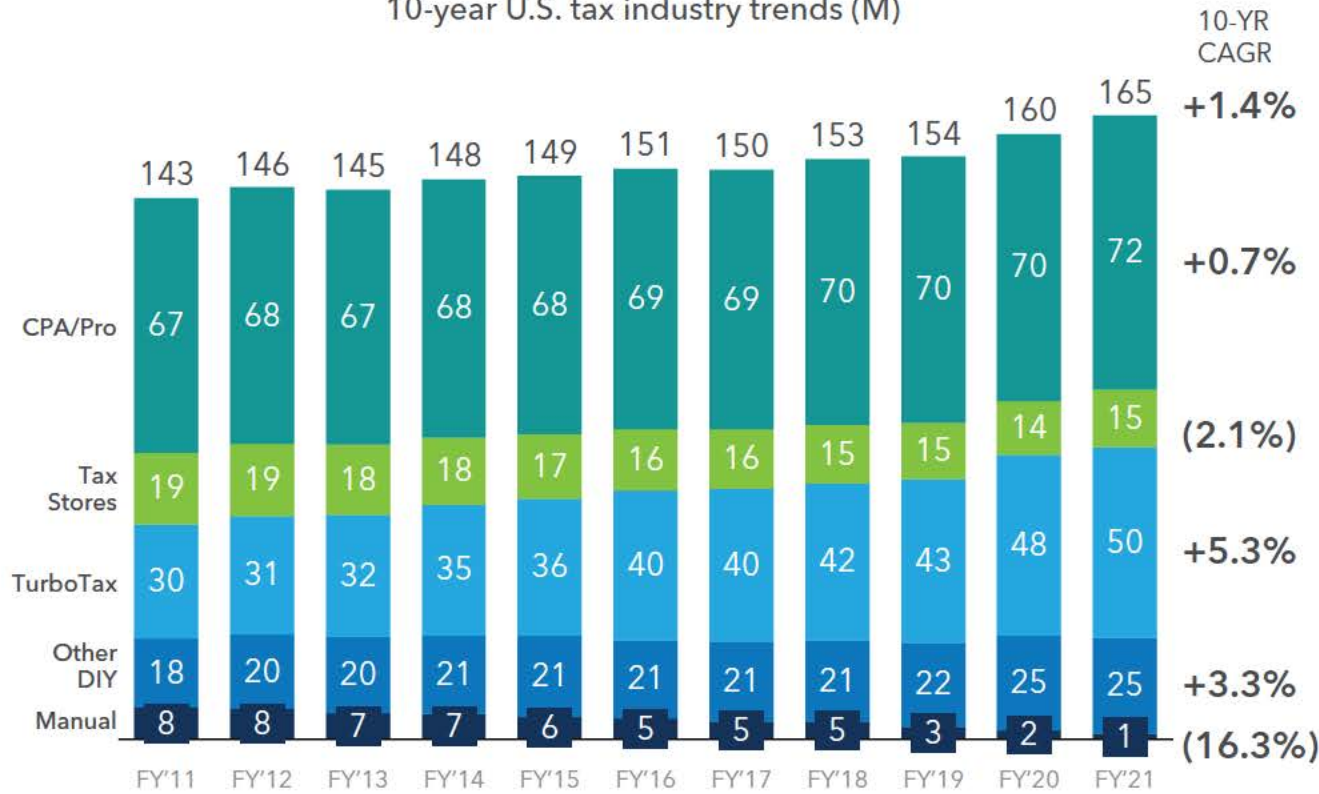
	TAM	FY'21 QBO SUBS	QBO SUBS GROWTH
U.S.	65M	3.7M	18%
International	10M	1.6M	11%
Total	75M	5.3M	16%

Very pleased with ARPR performance



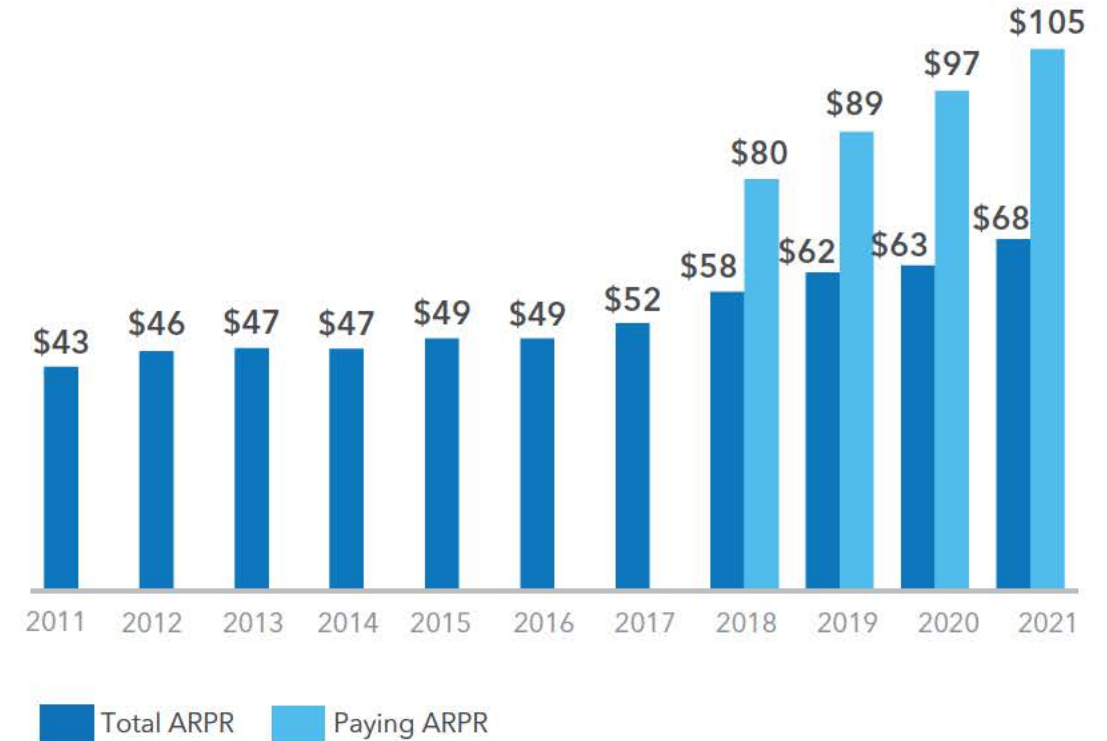
SHIFTING OUR FOCUS TO GROWING TOTAL SHARE OF IRS RETURNS

10-year U.S. tax industry trends (M)



Turbo Tax share of IRS Returns: ~31%
Turbo Tax share of IRS Returns excluding Free File customers: ~29%

TURBOTAX U.S. AVERAGE REVENUE PER RETURN



Total ARPR excluding Free File customers was \$72 in 2021

Excited about the opportunities ahead



Large TAM with significant opportunity to increase penetration

\$85B CREDIT KARMA TAM

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*FY'20 and FY'21 Credit Karma revenue if Intuit had a full year of Credit Karma revenue during fiscal 2020 and 2021. Revenue is unaudited.

ARPC: Improved monetization over time

	FY'20 ARPC	FY'21 ARPC	FY'22- FY'24 EXPECTED TRAJECTORY
QuickBooks Online U.S.	\$651	\$716	INCREASE: Maturing base, online services and new product innovation (e.g., QB Live & QBO Advanced)
QuickBooks International	\$153	\$188	INCREASE: Maturing base, lower discounting
QuickBooks SE	\$116	\$136	FLAT: Maturing base offset by mix shift towards non-U.S. base
QuickBooks Online WW	\$435	\$492	INCREASE: Maturing base, online services, and new product innovation offset by mix shift towards SE and non-U.S. base
QuickBooks Desktop	\$682	\$795	INCREASE: Enterprise growth, retention of customers with complex needs
TurboTax (per return)	\$63	\$68	INCREASE: Growth of assisted offerings driving higher ARPR
Credit Karma	\$22	\$28	INCREASE: Existing large member base, growth from Lightbox, new products in Auto and Home, Credit Karma Money scaling
ProTax (avg. order per customer)	\$4,083	\$4,197	SLIGHT INCREASE: Mix and attach offerings

Disciplined investment: Drives operating income growth

Focus is on durable customer and revenue growth; manage operating margin at Intuit level

GAAP BASIS, UNLESS NOTED OTHERWISE	FY'21 % OF REVENUE	LONG-TERM EXPECTATION
Revenue	100	Double-digit growth driven by customers and ARPC
Gross margin	82	~ % flat over time
Sales and marketing	27	% flat to down over time, governed by LTV to CAC
Research and development	17	% flat to down over time
General and administrative	10	% flat to down over time
Operating income margin	26	Operating income grows faster than revenue*
Operating income margin (Non-GAAP)	36	Operating income grows faster than revenue

*FY'22 GAAP operating income is expected to grow slower than revenue due to the investments in stock-based compensation and the impact of the Credit Karma acquisition

Platform evolution drives margin expansion over time

Leveraging key services and capabilities across our businesses



Technology

Increasing developer velocity to drive faster delivery of customer benefits across products with data management and AI capabilities, expert services, money movement, and fraud and risk capabilities

Customer Success

Scaling a common customer success platform to deliver operational efficiency and effectiveness across all products

Go-to-Market

Enabling effective customer acquisition with an infrastructure that supports better targeting, personalization, and sales management tools, governed by LTV to CAC

Prioritizing investment opportunities is in our DNA

Investing to drive customer, revenue and operating income growth

Investing in highest-yielding opportunities

- Investing to drive durable growth
- Focusing on organic growth drivers and M&A that will accelerate speed and velocity
- Making deliberate trade offs and investment decisions based on our financial principles

Areas of Investment Include:

Revolutionize speed to benefit

Connect people to experts

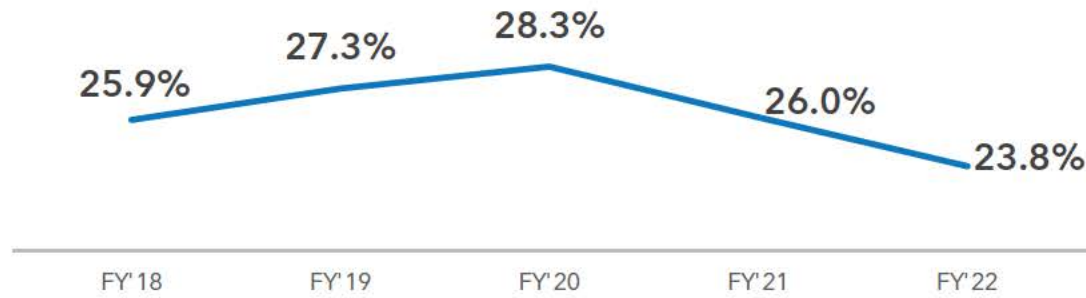
Unlock smart money decisions

Be the center of small business growth

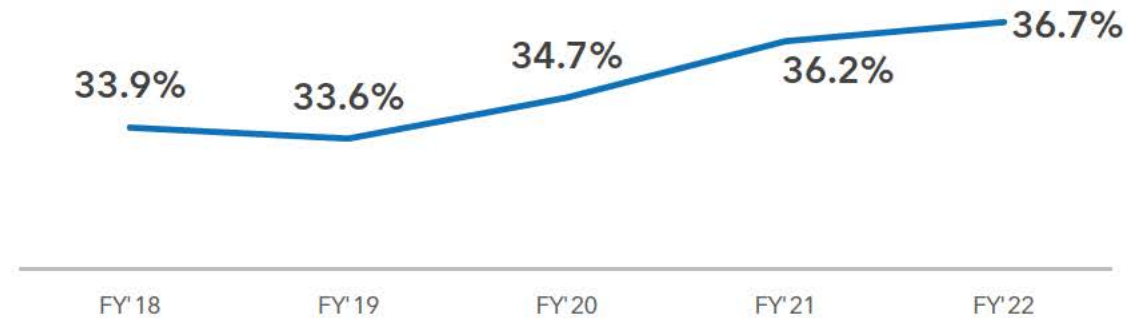
Disrupt the small business mid-market

A track record of margin expansion

GAAP OPERATING MARGIN



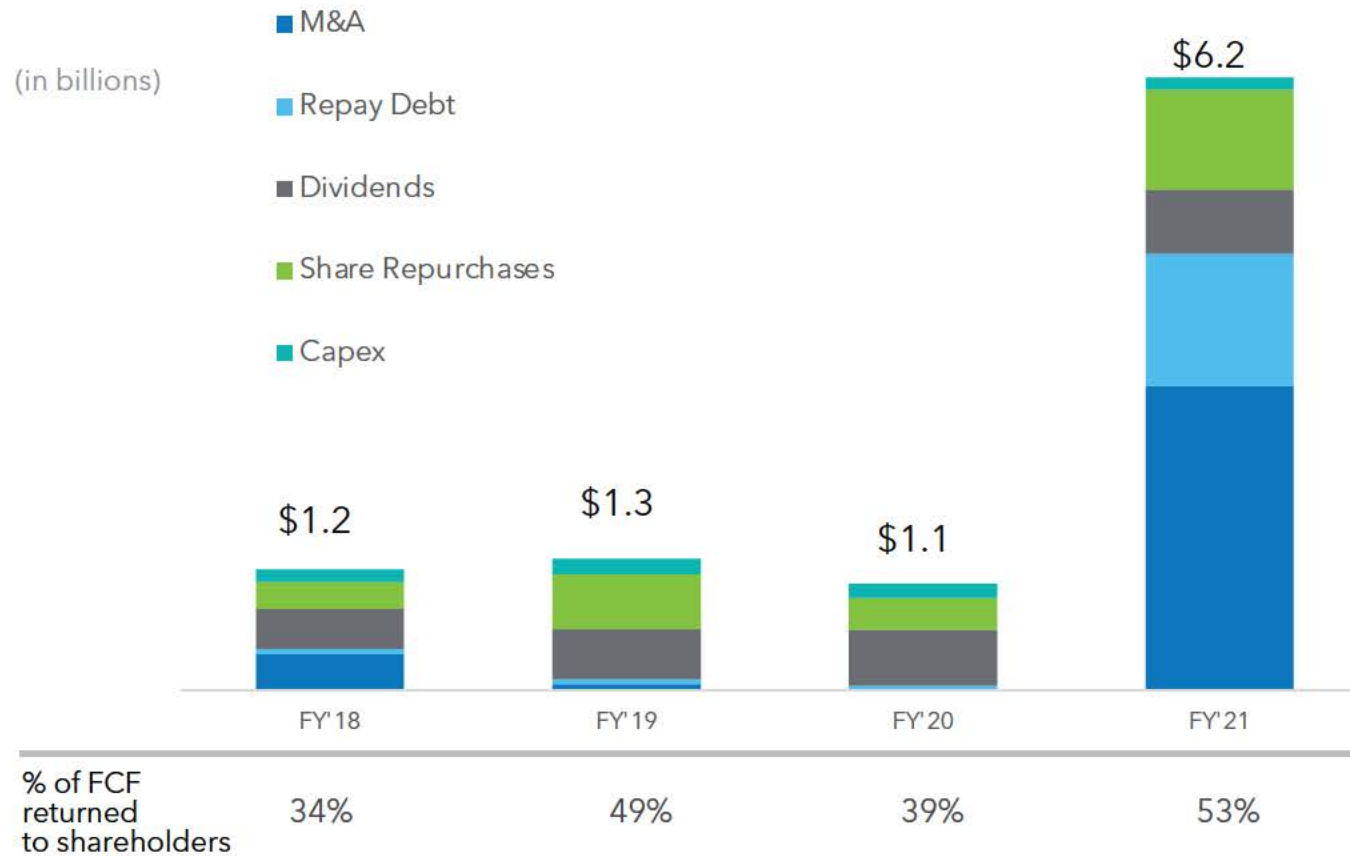
NON-GAAP OPERATING MARGIN



Platform strategy drives margin expansion over time

- GAAP guidance in FY'22 implies operating margin declines just over 2 points, due to investments in stock-based compensation, and full year impact of the Credit Karma acquisition
- Non-GAAP guidance in FY'22 implies operating margin expands an average of a point each year since FY'19, even though our initial guidance after closing the Credit Karma acquisition included a negative 2-point operating margin impact
- In FY'21, non-GAAP operating margin expanded by ~140 bps

Overall capital allocation



A healthy mix of uses of capital

- Investing in organic growth drivers (R&D, infrastructure, sales & mktg)
- Use acquisitions to accelerate speed and velocity, growth in talent and technology and fill out our product roadmap
- 15% increase in cash dividend in FY'22
- % of FCF returned to shareholders remains strong
- Expect capex as % of revenue ~2-3% going forward

Share repurchase guiding principles

Our intent is to be in the market each quarter, guided by these principles

Share repurchase is used to return cash to shareholders in the absence of acceptable investment opportunities

1

At a maximum, we limit repurchase amounts to:

- Cash in excess of liquidity needs
- Price level defined by “smart grid” to exceed cost of capital on average

2

At a minimum, we expect share repurchases to offset dilution from stock-based compensation over a 3-year period

FY'22 guidance: Double-digit revenue growth

	GUIDANCE	FY'22 GROWTH
Small Business & Self-Employed	\$5,270 - \$5,340	12% - 14%
Consumer	\$3,915 - \$3,955	10% - 11%
Credit Karma	\$1,345 - \$1,380	18% - 21%*
ProConnect	\$520 - \$525	1% - 2%
TOTAL REVENUE	\$11,050 - \$11,200	15% - 16%

*FY'22 Credit Karma revenue growth if Intuit had a full year of Credit Karma revenue during fiscal 2021. FY'21 revenue is unaudited.

(In millions)

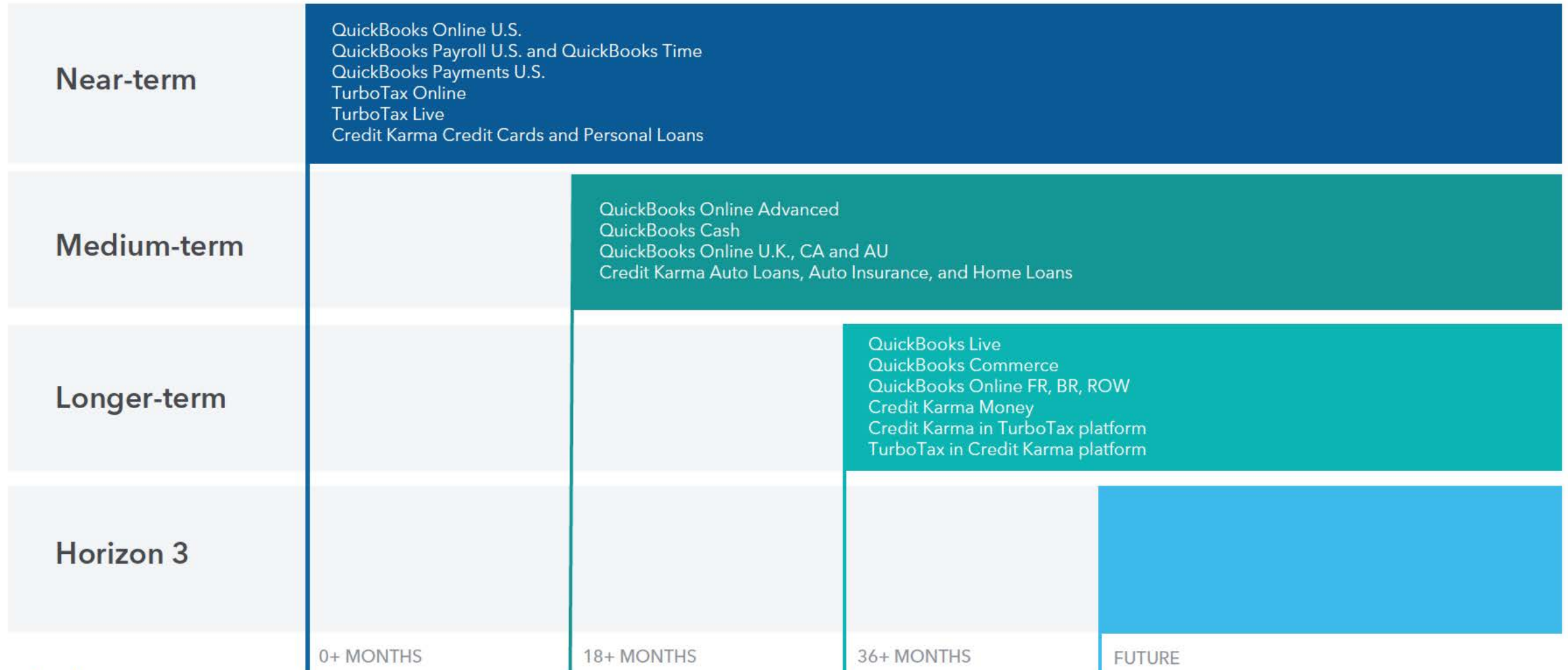
FY'22 guidance: Strong operating income growth

	GUIDANCE	FY'22 GROWTH
GAAP Operating Income	\$2,605 - \$2,680	4% - 7%
Non-GAAP Operating Income	\$4,050 - \$4,125	16% - 18%
GAAP Diluted EPS	\$7.46 - \$7.66	(1)% - 1%
Non-GAAP Diluted EPS	\$11.05 - \$11.25	13% - 16%
Dividend per share	\$2.72	15%

(In millions, except EPS and dividend per share)

Accelerating innovations across horizons

EXPECTED CONTRIBUTION FROM INNOVATIONS



Large market opportunity, consistent operating excellence

- Double-digit revenue growth
- Fast-growing platform company
- Disciplined investments yield operating income dollars growing faster than revenue
- AI-driven expert platform strategy enables new drivers of operating margin expansion
- Consistent dividend increases
- ROIC >15% in FY'22

Q&A

Q&A



Sasan
Goodarzi

CEO



Alex
Chriss

GM, Small Business
& Self-Employed Group



Greg
Johnson

GM, Consumer Group



Kenneth
Lin

CEO and Founder,
Credit Karma



Michelle
Clatterbuck

CFO

Appendix

About non-GAAP financial measures

The accompanying presentation contains non-GAAP financial measures. Table 1, Table 2 and Table 3 reconcile the non-GAAP financial measures in the presentation to the most directly comparable financial measures prepared in accordance with Generally Accepted Accounting Principles (GAAP). These non-GAAP financial measures include non-GAAP operating income (loss), non-GAAP net income (loss), and non-GAAP net income (loss) per share.

Non-GAAP financial measures should not be considered as a substitute for, or superior to, measures of financial performance prepared in accordance with GAAP. These non-GAAP financial measures do not reflect a comprehensive system of accounting, differ from GAAP measures with the same names, and may differ from non-GAAP financial measures with the same or similar names that are used by other companies.

We compute non-GAAP financial measures using the same consistent method from quarter to quarter and year to year. We may consider whether other significant items that arise in the future should be excluded from our non-GAAP financial measures.

We exclude the following items from all of our non-GAAP financial measures:

- Share-based compensation expense
- Amortization of acquired technology
- Amortization of other acquired intangible assets
- Goodwill and intangible asset impairment charges
- Gains and losses on disposals of businesses and long-lived assets
- Professional fees for business combinations

We also exclude the following items from non-GAAP net income (loss) and diluted net income (loss) per share:

- Gains and losses on debt and equity securities and other investments
- Income tax effects and adjustments
- Discontinued operations

We believe that these non-GAAP financial measures provide meaningful supplemental information regarding Intuit's operating results primarily because they exclude amounts that we do not consider part of ongoing operating results when planning and forecasting and when assessing the performance of the organization, our individual operating segments, or our senior management. We believe our non-GAAP financial measures also facilitate the comparison by management and investors of results for current periods and guidance for future periods with results for past periods.

About non-GAAP financial measures (cont.)

The following are descriptions of the items we exclude from our non-GAAP financial measures.

Share-based compensation expenses. These consist of non-cash expenses for stock options, restricted stock units, and our Employee Stock Purchase Plan. When considering the impact of equity awards, we place greater emphasis on overall shareholder dilution rather than the accounting charges associated with those awards.

Amortization of acquired technology and amortization of other acquired intangible assets. When we acquire a business in a business combination, we are required by GAAP to record the fair values of the intangible assets of the entity and amortize them over their useful lives. Amortization of acquired technology in cost of revenue includes amortization of software and other technology assets of acquired entities. Amortization of other acquired intangible assets in operating expenses includes amortization of assets such as customer lists, covenants not to compete, and trade names.

Goodwill and intangible asset impairment charges. We exclude from our non-GAAP financial measures non-cash charges to adjust the carrying values of goodwill and other acquired intangible assets to their estimated fair values.

Gains and losses on disposals of businesses and long-lived assets. We exclude from our non-GAAP financial measures gains and losses on disposals of businesses and long-lived assets because they are unrelated to our ongoing business operating results.

Professional fees for business combinations. We exclude from our non-GAAP financial measures the professional fees we incur to complete business combinations. These include investment banking, legal, and accounting fees.

Gains and losses on debt and equity securities and other investments. We exclude from our non-GAAP financial measures gains and losses that we record when we sell or impair available-for-sale debt and equity securities and other investments.

Income tax effects and adjustments. We use a long-term non-GAAP tax rate for evaluating operating results and for planning, forecasting, and analyzing future periods. This long-term non-GAAP tax rate excludes the income tax effects of the non-GAAP pre-tax adjustments described above, and eliminates the effects of non-recurring and period specific items which can vary in size and frequency. Based on our current long-term projections, we are using a long-term non-GAAP tax rate of 24% for fiscal 2021 and fiscal 2022. This long-term non-GAAP tax rate could be subject to change for various reasons including significant changes in our geographic earnings mix or fundamental tax law changes in major jurisdictions in which we operate. We evaluate this long-term non-GAAP tax rate on an annual basis and whenever any significant events occur which may materially affect this rate.

Operating results and gains and losses on the sale of discontinued operations. From time to time, we sell or otherwise dispose of selected operations as we adjust our portfolio of businesses to meet our strategic goals. In accordance with GAAP, we segregate the operating results of discontinued operations as well as gains and losses on the sale of these discontinued operations from continuing operations on our GAAP statements of operations but continue to include them in GAAP net income or loss and net income or loss per share. We exclude these amounts from our non-GAAP financial measures.

Table 1: Reconciliation of historical non-GAAP financial measures to the most directly comparable GAAP financial measures

(Dollars in millions, except per share amounts)

	Fiscal 2021	Fiscal 2020
GAAP operating income	\$ 2,500	\$ 2,176
Amortization of acquired technology	50	22
Amortization of other acquired intangible assets	146	6
Professional fees for business combinations	36	29
Share-based compensation expense	753	435
Non-GAAP operating income	\$ 3,485	\$ 2,668
GAAP net income	\$ 2,062	\$ 1,826
Amortization of acquired technology	50	22
Amortization of other acquired intangible assets	146	6
Professional fees for business combinations	36	29
Share-based compensation expense	753	435
Net loss on debt securities and other investments	(15)	5
Other income from divested businesses [A]	(30)	-
Income tax effects and adjustments [B]	(345)	(248)
Non-GAAP net income	\$ 2,657	\$ 2,075
GAAP diluted net income per share	\$ 7.56	\$ 6.92
Non-GAAP diluted net income per share	\$ 9.74	\$ 7.86
Shares used in diluted per share amounts	273	264
Non-GAAP tax rate	24.0%	23.0%

See "About Non-GAAP Financial Measures" immediately preceding this Table 1 for information on these measures, the items excluded from the most directly comparable GAAP measures in arriving at non-GAAP financial measures, and the reasons management uses each measure and excludes the specified amounts in arriving at each non-GAAP financial measure.

[A] During fiscal 2021, we recorded a \$30 million gain from the sale of a note receivable that was previously written off.

[B] As discussed in "About Non-GAAP Financial Measures - Income Tax Effects and Adjustments" immediately preceding this Table 1, our long-term non-GAAP tax rate eliminates the effects of non-recurring and period-specific items. Income tax adjustments consist primarily of the tax impact of the non-GAAP pre-tax adjustments and the excess tax benefits on share-based compensation.

Table 2: Reconciliation of forward-looking guidance for non-GAAP financial measures to projected GAAP revenue, operating income and EPS

(Dollars in millions, except per share amounts)

	Forward-Looking Guidance				
	GAAP		Adjustments	Non-GAAP	
	Range of Estimate			Range of Estimate	
	From	To		From	To
Twelve Months Ending July 31, 2022					
Revenue	\$ 11,050	\$ 11,200	\$ —	\$ 11,050	\$ 11,200
Operating income	\$ 2,605	\$ 2,680	\$ 1,445	[a] \$ 4,050	\$ 4,125
Diluted earnings per share	\$ 7.46	\$ 7.66	\$ 3.59	[b] \$ 11.05	\$ 11.25

See “About Non-GAAP Financial Measures” immediately preceding Table 1 for information on these measures, the items excluded from the most directly comparable GAAP measures in arriving at non-GAAP financial measures, and the reasons management uses each measure and excludes the specified amounts in arriving at each non-GAAP financial measure.

- [a] Reflects estimated adjustments for share-based compensation expense of approximately \$1,172 million; amortization of acquired technology of approximately \$59 million; and amortization of other acquired intangibles of approximately \$214 million.
- [b] Reflects estimated adjustments in item [a], income taxes related to these adjustments, and other income tax effects related to the use of the non-GAAP tax rate. We expect a non-GAAP tax rate of 24% in fiscal 2022.

Table 3: Calculation of free cash flow

(Dollars in millions)

	Fiscal 2021	Fiscal 2020	Fiscal 2019	Fiscal 2018
Net cash provided by operating activities	\$ 3,250	\$ 2,414	\$ 2,324	\$ 2,112
Less capital expenditures:				
Purchases of property and equipment	(53)	(59)	(76)	(38)
Capitalization of internal use software	(72)	(78)	(79)	(86)
Total capital expenditures	(125)	(137)	(155)	(124)
Free cash flow	<u>\$ 3,125</u>	<u>\$ 2,277</u>	<u>\$ 2,169</u>	<u>\$ 1,988</u>

To supplement our statements of cash flows prepared in accordance with GAAP, we use free cash flow to analyze cash flow generated from operations. We define free cash flow as net cash provided by operating activities less total capital expenditures. This non-GAAP financial measure should not be considered as a substitute for, or superior to, GAAP net income as an indicator of our operating performance or GAAP cash flows from operating activities as a measure of our liquidity.

Cautions about forward-looking statements

Except for historical or current facts, the content in this presentation contains forward-looking statements, which include expectations regarding our prospects for the business in fiscal 2022 and beyond; our growth outside the US; the timing and growth of revenue for each of Intuit's reporting segments and from current or future products and services; our customer growth; our corporate tax rate; changes to our products and their impact on our business; the amount and timing of any future dividends or share repurchases; the availability of our offerings; the timing and impact of our strategic decisions and initiatives on our business and reputation; and the timing, completion and impact of our proposed Mailchimp acquisition.

Because these forward-looking statements involve risks and uncertainties, there are important factors that could cause our actual results to differ materially from the expectations expressed in the forward-looking statements. These risks and uncertainties may be amplified by the COVID-19 pandemic, which continues to cause global economic instability and uncertainty. Given these risks and uncertainties, you are cautioned not to place any undue reliance on such forward-looking statements. These factors include, without limitation, the following: our ability to compete successfully; potential governmental encroachment in our tax businesses; our ability to adapt to technological change; our ability to predict consumer behavior; our reliance on third-party intellectual property; our ability to protect our intellectual property rights; any harm to our reputation; risks associated with acquisition and divestiture activity, including our proposed acquisition of Mailchimp; the issuance of equity or incurrence of debt to fund an acquisition; any cybersecurity incidents that may affect us (including those affecting the third parties we rely on); customer concerns about privacy and cybersecurity incidents; fraudulent activities by third parties using our offerings; our failure to process transactions effectively; interruption or failure of our information technology; our ability to maintain critical third-party business relationships; our ability to attract and retain talent; any deficiency in the quality or accuracy of our products (including the advice given by experts on our platform); any delays in product launches; difficulties in processing or filing customer tax submissions; risks associated with international operations; changes to public policy, laws or regulations affecting our businesses; litigation in which we are involved; the seasonal nature of our tax business; changes in tax rates and tax reform legislation; global economic changes; exposure to credit, counterparty or other risks in providing capital to businesses; amortization of acquired intangible assets and impairment charges; our ability to repay or otherwise comply with the terms of our outstanding debt; our ability to repurchase shares or distribute dividends; volatility of our stock price; and our ability to successfully market our offerings.

More details about these and other risks that may impact our business are included in our Form 10-K for fiscal 2021 and in our other SEC filings. You can locate these reports through our website at <http://investors.intuit.com>. Forward-looking statements represent the judgment of the management of Intuit as of the date of this presentation. We do not undertake any duty to update any forward-looking statement or other information in this presentation.

RX 59

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RX 60

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RX 61



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RX 62

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RX 63

Is TurboTax Free Edition right for me?

SOLVED • by TurboTax • TurboTax Online •  9185 •  Updated 1 month ago

TurboTax Free Edition is an online-only product that supports simple tax returns that can be filed on Form 1040 without any attached schedules. **Not all taxpayers qualify.**

Simple tax situations covered in TurboTax Free Edition:

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- Claiming the standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student Loan Interest Deduction

Situations not covered in TurboTax Free Edition include:

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on schedules 1-3

Related Information:

[Is TurboTax Deluxe Online right for me?](#)

Is TurboTax Premier Online right for me?

Why am I being charged for TurboTax Free Edition?

Is TurboTax Business right for me?

Is TurboTax Self-Employed right for me?

Was this helpful?

Yes

No

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RX 64

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You Can Still File Your Taxes for Free!



TAX PLANNING

You Can Still File Your Taxes for Free!

[Read the Article](#)Written by [TurboTaxBlogTeam](#)

Modified Jul 26, 2022

1 min read

The April 17th deadline is around the corner, but it's not too late to file your simple tax return for free!

If you have a simple tax return only, you may be able to [file your federal and state taxes for free](#) with [TurboTax Free Edition](#). [See if you qualify](#).

Over the last six years Americans filed approximately 70 million tax returns completely free of charge using TurboTax, more than all other tax prep software companies combined. Last tax season, more people filed their taxes with TurboTax and paid absolutely nothing than in any year in company history.



- Form 1040 or Form 1040-SR + unemployment income only with no schedules
- Have W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- Claim the standard deduction
- Claim [Earned Income Tax Credit](#), the Child Tax Credit and unemployment income reported on



- Don't own a home or rental property
- Didn't sell investments

You can easily and accurately file your federal Form 1040 or Form 1040-SR, as well as state returns, with the [TurboTax Free Edition](#) and pay nothing – \$0 federal, \$0 state, \$0 to file so file now and be on your way to your maximum refund, guaranteed?



Written by **TurboTaxBlogTeam**

More from TurboTaxBlogTeam

17 responses to “You Can Still File Your Taxes for Free!”



Nance Shaw says: April 29, 2019 at 4:32 pm

How do I find my file? The IRS says they cannot find it.

Reply



TurboTaxKasey says:

April 30, 2019 at 9:33 am

Hello Nance,



to access your prior year tax returns sign onto the TurboTax website with the user ID you used to create the account –

<https://myturbotax.intuit.com/>

Scroll down to the bottom of the screen and on the section; Your tax

returns & documents click on Show.

Click on the Year

Click on Download/print return (PDF)

If you used the desktop CD/Download editions installed on your computer, the only copy of your tax data file and any PDF's will be on the computer where the return was created. TurboTax does not store online any returns completed using the desktop editions.

Thank you

Reply



Mike Munroe says:

March 18, 2019 at 5:12 pm

TurboTax claims it's free, but I got 3/4 of the way to through and had to fill out a form for childcare. free doesn't cover this form, forcing me to upgrade to deluxe edition for \$60 then state isn't covered costing another \$40. How does the free version cover state, but deluxe doesn't? BAIT & SWITCH!!!!

Reply



Tom Ciomcia says:

March 7, 2019 at 5:19 am

Is turbotax something a old guy on a pension and social security can use ?

Reply



Joel says:

March 18, 2019 at 9:12

Yes, sir. You can file for free if you don't itemize. The standard



deduction for a married couple in 2018 is \$24,000.00. But if you itemize, TurboTax charges you for the extra forms, but not until you finish, review and actually send the completed forms on line to the IRAs. Turbo tax also Carrie's over all info from one year to the next. I have been using Turbo Tax for 20 years, now and it's very user friendly. But you can file on line with the IRS for free through their tax forms website 8f you don't itemize. You just don't get the benefit Turbo Tax gives through asking you step by step instructions as you file. Turbo Tax also makes you aware of everything you could possibly need to file before it does a Federal (and State, if you choose). It then does a review, shows you anything needing correction before sending, then you only pay after your return is filed. They also send you emails to let you know once your returns have been accepted. Hope this answers your question. Have a great day.

[Reply](#)**Teresa A Eppley** says:

February 27, 2019 at 7:32 am

I filed my income tax through TurboTax but I was charged \$105 I thought it was actually free this year

[Reply](#)**Michael Singleton** says:

March 9, 2019 at 7:19 pm

Im doing mine. It won't let me file for free because I have a Health Savings account. To start it wants 52 dollars. If I pay it will it hold all my work and data hostage again?

Mike Singleton

[Reply](#)**Michelle Foster** says:

February 20, 2019 at 7:51



I was charged for my state taxes. I will not use Turbo Tax again!

Reply



Shimae Martin says:

February 15, 2019 at 12:24 pm

TurboTax is not free! I went through all the steps for my 2018 taxes and at the end I could not actually file until I paid \$39.99. I was appalled! I started my taxes with the free version. Last year they got me because I had to pay. They're running these ads saying that you can file for free which is not true. I canceled my tax return with them and file with Credit Karma absolutely free! I found two days ago with Credit Karma and my money is on the way. So don't believe TurboTax is free because it is not

Reply



karenn says:

February 13, 2019 at 12:50 pm

i cannot get past upgrade notice at end to file my taxes

Reply



Kellie Freitas says:

February 6, 2019 at 7:20 pm

I couldn't get to the next step without being charged.. after I typed in my health care info?? Used free turbo tax for the past couple yrs but will not next yr..guessing I wore out my welcome

Reply



Ida Reed says:

January 31, 2019 at 12:44 am



Why does the commercial advertise free. But it's not

Reply



Rose Woronecki says: January 30, 2019 at 4:34 pm

Not free if you have form 1099 G

Reply



norma says: March 31, 2019 at 4:20 pm

so which site should I be on because I have a 1099G also

Reply



John McCarren says: January 28, 2019 at 9:20 am

Turbo Tax charged me a fee because I had to do schedule A and report a 1099 R.

Reply



ELAINE n SWAFFORD says: January 27, 2019 at 6:56 am

I have filed my simple return using Turbo Tax for 4 years, suddenly this year because I made a contribution to my IRA of \$1000 I was told I had to use deluxe for \$40. Very misleading and fraudulent advertising.

Reply





..... says:

January 14, 2019 at 3:01 pm

NO it is NOT free. It used to be but now they suddenly have processing fees and programs that you get sucked into.

This would have been my 7th year using turbo tax but I am never using again. Used to recommend, I do not anymore.

Reply

Leave a Reply

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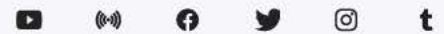
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commercial
Community
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Center

More Products from Intuit

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Mint budget tracker
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Professional tax software
Professional accounting
software
Credit Karma credit score
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RX 65

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RX 66

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RX 70

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RX 71

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES

TURBOTAX FREE FILING CASES)
)
Included Actions:) JCCP No. 5067
)
THE PEOPLE OF THE STATE OF) Included Action Case
CALIFORNIA;) Nos. 19STCV15644 &
) 19CV354178
Plaintiff,)
)
v.)
)
INTUIT INC., a Delaware)
Corporation; and DOES 1-50,)
Inclusive;)
)
Defendants.)
)

PEOPLE OF THE STATE OF)
CALIFORNIA, acting by and)
through Santa Clara County)
Counsel James R. Williams;)
)
Plaintiff,)
)
v.)
)
INTUIT INC., and DOES 1-50,)
inclusive;)
)
Defendants.)
_____)

VIDEOTAPED REMOTE DEPOSITION OF KALYNNA ROZAR
Monday, March 21, 2022

Reported by: Sharon Pearce, RMR, CRR, CRC, NYRCR

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES

3
4 TURBOTAX FREE FILING CASES)

5 Included Actions:) JCCP No. 5067

6 THE PEOPLE OF THE STATE OF) Included Action Case
7 CALIFORNIA;) Nos. 19STCV15644 &
8) 19CV354178

9 Plaintiff,)

10 v.)

11 INTUIT INC., a Delaware)
12 Corporation; and DOES 1-50,)
13 Inclusive;)

14 Defendants.)

15
16 PEOPLE OF THE STATE OF)
17 CALIFORNIA, acting by and)
18 through Santa Clara County)
19 Counsel James R. Williams;)

20 Plaintiff,)

21 v.)

22 INTUIT INC., and DOES 1-50,)
23 Inclusive;)

24 Defendants.)

25
VIDEOTAPED REMOTE DEPOSITION of
KALYNNA ROZAR, beginning at 12:32 p.m. and ending
at 4:24 p.m., Monday, March 21, 2022, reported
by Sharon Pearce, RMR, CRR, CRC, NYRCR,
Registered Diplomate Reporter, Certified
Realtime Reporter, Certified Realtime Captioner,
and Notary Public of the State of New York,
pursuant to notice.

1 APPEARANCES (Appearing via Videoconference):

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4
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12 molly.dillaway@wilmerhale.com

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16 Tonya Long

17 Corporate Counsel

18 Intuit

19
20 Rachel Neil

21
22 Peter Cooper, Videographer

23
24 Grant Franks, Concierge

25
Page 4

I N D E X

EXAMINATION BY:	PAGE
MS. PHILLIPS	8, 181
MR. MAHMOOD	169

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 0144	Summary of Kalynna Rozar TurboTax Filing History Records	44
Exhibit 0145	A TurboTax web page printout	55
Exhibit 0146	Declaration of Kalynna Rozar	70
Exhibit 0147	An email with a screen shot	134
Exhibit 0148	An email chain dated February 4, 2021	138
Exhibit 0149	An email chain dated June 24, 2020	141
Exhibit 0150	An invite dated December 15, 2020	144
Exhibit 0151	An invite dated January 22, 2021	154
Exhibit 0152	An invite dated February 5, 2021	155

1	E X H I B I T S (Continued)		
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit 0153	An invite dated February 7, 2021	158
4	Exhibit 0154	An email dated October 22, 2021	161
5	Exhibit 0155	An email dated December 28, 2021	163

7
8
9
10
11

12	PREVIOUSLY MARKED EXHIBITS		
13	NUMBER	DESCRIPTION	PAGE
14	Exhibit 0076	"IRS Free File: Do your Taxes for Free" website printout	128

15
16
17
18
19
20
21

22 INFORMATION REQUESTED
23 (None)
24 INSTRUCTION NOT TO ANSWER
25 (None)

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ROZAR

Benicia, California

Monday, March 21, 2022

12:32 p.m. - 4:24 p.m.

THE VIDEOGRAPHER: Good

afternoon. We're going on the record 12:32:38
at approximately 12:32 p.m. Eastern 12:32:41
Standard Time on Monday, 12:32:46
March 21, 2022. Audio and video 12:32:47
recording will continue to take place 12:32:51
unless all parties agree to go off the 12:32:53
record. 12:32:55

This is Media Unit 1 of the 12:32:55
video recorded deposition of Kalynna 12:32:58
Rozar taken in the matter of In Re 12:33:02
TurboTax Free Filing Cases filed in 12:33:04
the Superior Court of the State of 12:33:08
California for the County of Los 12:33:12
Angeles with Docket Nos. 19STCV15644 12:33:13
and 19CV354178. This deposition is 12:33:20
being held via remote videoconference. 12:33:27

My name is Pete Cooper from the 12:33:30
firm of Veritext, and I am the 12:33:32
videographer. The court reporter is 12:33:34
Sharon Pearce from the firm Veritext. 12:33:35

1 ROZAR

2 All counsel appearances will be held 12:33:39
3 upon the stenographic record. All 12:33:42
4 counsel consent to this remote video 12:33:44
5 arrangement and waive any objections 12:33:47
6 to this manner of reporting. If there 12:33:48
7 are any objections to the court 12:33:51
8 reporter swearing in the witness 12:33:53
9 remotely and this remote video 12:33:54
10 arrangement, please state them now. 12:33:56

11 Not hearing any objections, the 12:33:58
12 court reporter may now swear in the 12:34:03
13 witness, and we can proceed. 12:34:05

14 K A L Y N N A R O Z A R,

15 having first been duly sworn by
16 Sharon Pearce, the Notary Public,
17 was examined and testified as
18 follows:

19 EXAMINATION

20 BY MS. PHILLIPS: 11:41:30

21 Q. My name is Elizabeth Phillips. 11:41:30
22 I'm from the law firm of Wilmer Cutler 12:34:32
23 Pickering Hale & Dorr on behalf of the 12:34:35
24 defendant, Intuit. 12:34:36

25 Could you please state your 12:34:39

Page 8

1 ROZAR

2 name -- your full name for the record. 12:34:41

3 A. Kalyнна Maria Rozar. 12:34:43

4 Q. And what is your address? 12:34:46

5 A. 202 Hartwood Drive, Smallwood, 12:34:47

6 New York 12778. 12:34:52

7 Q. So just before we get into it, 12:34:53

8 I'm just going to give you instructions 12:34:56

9 just to get a sense of how the next few 12:34:58

10 hours are going to go. 12:35:00

11 So a deposition is a testimonial 12:35:01

12 proceeding, and it's just like testifying 12:35:04

13 in court. So I'm going to be asking you 12:35:05

14 questions, and it's important that you 12:35:08

15 answer those questions to the best of your 12:35:10

16 ability. 12:35:12

17 Do you understand that you're 12:35:13

18 testifying under oath today? 12:35:15

19 A. Yes. 12:35:16

20 Q. And do you understand that this 12:35:16

21 oath is the same as if you were testifying 12:35:20

22 in court before a judge? 12:35:22

23 A. Yes. 12:35:23

24 Q. Do you understand that in 12:35:23

25 answering these questions, you're 12:35:29

1 ROZAR

2 providing testimony under perjury? 12:35:30

3 A. Yes. 12:35:32

4 Q. And do you understand that I'll 12:35:33

5 be asking you questions and that your 12:35:35

6 testimony will be taken by both the court 12:35:37

7 reporter and the videographer? 12:35:38

8 A. Yes. 12:35:40

9 Q. So I'm going to need you to give 12:35:41

10 oral responses so that the court reporter 12:35:47

11 can take them down. So if you could just 12:35:48

12 say yes or no instead of nodding or 12:35:50

13 shaking your head, that would be helpful. 12:35:53

14 Is that clear? 12:35:56

15 A. Yes. 12:35:57

16 Q. Okay. And similarly, if you 12:35:57

17 could just say yes instead of uh-huh or 12:36:01

18 something like that, just so the record is 12:36:03

19 clear. Is that okay? 12:36:04

20 A. Yes. 12:36:06

21 Q. Okay. The court reporter is 12:36:07

22 going to be recording everything we say 12:36:10

23 verbatim, so if you could please let me 12:36:12

24 finish my questions completely before you 12:36:15

25 start answering, and I'll do my best to 12:36:16

1 ROZAR

2 let you give your answer completely before 12:36:19

3 I ask the next question so that we have a 12:36:22

4 clean record. 12:36:25

5 Is that okay? 12:36:26

6 A. Yes. 12:36:27

7 Q. Great. And if you don't hear a 12:36:27

8 question that I ask, please say so, and I 12:36:31

9 will repeat it. All right? 12:36:33

10 A. Yes. 12:36:35

11 Q. And if you don't understand a 12:36:35

12 question, please let me know, and I will 12:36:38

13 do my best to clarify. Okay? 12:36:40

14 A. Yes. 12:36:42

15 Q. If you answer a question, I will 12:36:42

16 assume that you've heard and understood 12:36:46

17 it. 12:36:50

18 Is that fair? 12:36:50

19 A. Yes. 12:36:51

20 Q. Great. So if you realize an 12:36:51

21 earlier answer was inaccurate or 12:36:57

22 incomplete, please say that you want to 12:36:59

23 supplement your earlier answer. You'll be 12:37:02

24 allowed to do so. Okay? 12:37:03

25 A. Okay. 12:37:05

1 ROZAR

2 Q. We're going to be taking breaks 12:37:05
3 about every hour or so. But if you need a 12:37:08
4 break before that, just let me know, and 12:37:11
5 we can take a break whenever you need it. 12:37:13
6 My only request is that if there's a 12:37:15
7 question pending, that you answer the 12:37:18
8 question before we take the break. 12:37:19

9 Is that all right? 12:37:21

10 A. Yes. 12:37:22

11 Q. Okay. And there may be times 12:37:22
12 when counsel for the Los Angeles City 12:37:27
13 Attorney objects to one of my questions. 12:37:29
14 Notwithstanding that objection, you have 12:37:32
15 to still answer the question. Is that 12:37:34
16 okay? 12:37:36

17 A. Yes. 12:37:36

18 Q. Do you understand these 12:37:36
19 instructions? 12:37:40

20 A. Yes. 12:37:40

21 Q. Are there any reasons you 12:37:41
22 believe you might not be able to provide 12:37:45
23 truthful and complete testimony today? 12:37:46

24 A. No. 12:37:48

25 Q. Are you taking any medication 12:37:49

1 ROZAR

2 that would affect your ability to recall 12:37:53

3 facts or give accurate testimony? 12:37:54

4 A. No. 12:37:57

5 Q. If you were called to testify in 12:37:58

6 Los Angeles as a witness in this case, 12:38:04

7 would you do so? 12:38:06

8 A. Am I legally obligated to? 12:38:06

9 Q. I can't answer that question. 12:38:11

10 A. If -- if I would go to prison if 12:38:16

11 I do not do it, then, I mean, I'd rather 12:38:21

12 do -- go to LA than go to prison. But 12:38:23

13 living in New York with three jobs, it's 12:38:25

14 very difficult to do that. 12:38:27

15 Q. Understood. 12:38:28

16 Have you ever been deposed 12:38:28

17 before? 12:38:29

18 A. No. 12:38:30

19 Q. And you don't have a lawyer with 12:38:31

20 you; right? 12:38:34

21 A. No. 12:38:35

22 Q. Okay. And that's your choice to 12:38:36

23 not have a lawyer? 12:38:38

24 A. Yes. 12:38:39

25 Q. And you understand that the 12:38:39

1 ROZAR

2 lawyers for the Los Angeles City Attorney 12:38:42

3 are not your personal lawyers; right? 12:38:44

4 A. Yes. 12:38:46

5 Q. Did you prepare for this 12:38:46

6 deposition? 12:38:50

7 A. I reread my statement and I set 12:38:50

8 up the Zoom, and that's about all I did. 12:38:57

9 Q. Okay. How many times did you 12:39:01

10 reread your statement? And by statement, 12:39:04

11 you're referring to the declaration you 12:39:08

12 submitted in this case? 12:39:09

13 A. Yes. I did it one time. 12:39:10

14 Q. Did you talk to anybody? 12:39:11

15 A. About the statement? No. 12:39:15

16 Q. Okay. So to prepare for this 12:39:17

17 deposition, did you talk to anybody with 12:39:22

18 the Los Angeles City Attorney's Office? 12:39:25

19 A. I talked to Yosef and Lee 12:39:27

20 something just about what to expect from a 12:39:31

21 deposition, how long it's going to take. 12:39:35

22 He sent me another copy of my 12:39:38

23 deposition -- or my declaration, because I 12:39:41

24 didn't have a digital copy. I only had a 12:39:42

25 paper copy, and he sent it to me, and I 12:39:45

1 ROZAR

2 sent it back to them, and that's about all 12:39:48

3 we did. 12:39:50

4 Q. Okay. So did they suggest any 12:39:50

5 questions that might be asked today? 12:39:52

6 A. No. 12:39:54

7 Q. Did they tell you anything about 12:39:55

8 your tax history with TurboTax? 12:39:59

9 A. No. 12:40:02

10 Q. And did they suggest any answers 12:40:02

11 to any questions that I might ask? 12:40:06

12 A. No. 12:40:08

13 Q. Did you take any notes of that 12:40:08

14 discussion? 12:40:13

15 A. No. 12:40:13

16 Q. Did you review any documents 12:40:14

17 other than the declaration? 12:40:17

18 A. No. I did send the deputy -- 12:40:18

19 the -- I'm sorry. I've had food poisoning 12:40:26

20 this past weekend. 12:40:28

21 Q. Oh, my gosh. I'm sorry. 12:40:28

22 A. That's why I paused on will your 12:40:29

23 memory be affected. But I sent them the 12:40:31

24 receipts from my TurboTax payments for the 12:40:36

25 last -- since 2014. What I sent to you 12:40:41

1 ROZAR

2 also, that's all I sent to them. 12:40:44

3 Q. Okay. Great. 12:40:46

4 A. About. 12:40:47

5 Q. Okay. When you reviewed your 12:40:47

6 declaration before this deposition, did 12:40:51

7 you see anything that you want to correct 12:40:53

8 at this point? 12:40:56

9 A. No. 12:40:56

10 Q. Okay. Is anyone in the room 12:40:56

11 with you today? 12:41:00

12 A. No. 12:41:01

13 Q. Do you have any notes with you? 12:41:01

14 A. No. 12:41:04

15 Q. Are your devices turned off, 12:41:07

16 phone and everything? 12:41:08

17 A. It's on do not disturb. Do you 12:41:09

18 want me to turn it off fully? 12:41:12

19 Q. You can keep it on do not 12:41:15

20 disturb. 12:41:17

21 A. Thank you. 12:41:17

22 Q. So we sent you a box of 12:41:18

23 documents in the mail. Did you receive 12:41:19

24 that? 12:41:20

25 A. Yeah. 12:41:20

1 ROZAR

2 Q. And do you have that box with 12:41:21
3 you? 12:41:22

4 A. I do. 12:41:22

5 Q. Okay. Great. 12:41:23

6 So you can go ahead and open 12:41:24
7 that box now. Most of the documents I'm 12:41:25
8 going to show you today are in that box, 12:41:31
9 but they'll also be available on the 12:41:34
10 screen through Exhibit Share. And there 12:41:35
11 should be some numbered folders in that 12:41:38
12 box. So just please don't open any of the 12:41:40
13 individual folders yet. I'll direct you 12:41:43
14 to which ones to open as we go through. 12:41:45

15 A. Okay. 12:41:50

16 Q. Great. 12:41:55

17 Okay. So just a couple of 12:41:57
18 background questions. 12:41:58

19 Could you just walk me through 12:42:00
20 your educational background starting with 12:42:01
21 any post-high school education. 12:42:03

22 A. I have a bachelor's of science 12:42:05
23 in communication studies with a minor in 12:42:08
24 psychology and dance from Emerson College. 12:42:10

25 Q. Okay. And what year did you 12:42:13

1 ROZAR

2 graduate? 12:42:16

3 A. 2012. 12:42:16

4 Q. And could you walk me through 12:42:17

5 your employment history since 2012? 12:42:21

6 A. We're going to be here a while. 12:42:23

7 Like, every single job I've had since 12:42:27

8 then? 12:42:30

9 Q. Let's say your -- I mean, have 12:42:30

10 you had full-time jobs? 12:42:34

11 A. Yes. My main job I've had since 12:42:37

12 then. In 2000 -- I had, like, a few jobs 12:42:39

13 post-college, and then my main job was I 12:42:43

14 worked at Apple for five years from 2013 12:42:45

15 to 2019. 12:42:47

16 Q. Okay. 12:42:51

17 A. And since then, I have been 12:42:52

18 working at different branches, basically. 12:42:54

19 Q. Okay. And what did you do for 12:42:57

20 Apple? 12:42:59

21 A. I worked in a store. I was an 12:43:00

22 operations expert, which meant I dealt 12:43:04

23 with store operations and inventory. 12:43:06

24 Q. Okay. Have you ever been 12:43:09

25 involved in a lawsuit before? 12:43:15

1 ROZAR

2 A. No. 12:43:16

3 Q. Have you read either of the 12:43:17

4 complaints that were filed in this case? 12:43:22

5 A. No. 12:43:24

6 Q. Have you read any news reports 12:43:27

7 about the case? 12:43:28

8 A. No. 12:43:29

9 Q. Have you read any news reports 12:43:29

10 about TurboTax in general? 12:43:34

11 A. No. 12:43:35

12 Q. Have you read any of the briefs 12:43:35

13 written by the plaintiffs in this case? 12:43:39

14 A. No. 12:43:40

15 Q. Have you ever searched the 12:43:41

16 internet for how to file your taxes for 12:43:46

17 free? 12:43:48

18 A. Yes. 12:43:48

19 Q. Could you tell me when -- when 12:43:51

20 was the first time you tried to search the 12:43:55

21 internet for how to file your taxes for 12:43:57

22 free? 12:43:59

23 A. To the best of my knowledge, it 12:43:59

24 was -- I don't know -- when I was still at 12:44:05

25 Apple. So a few years ago, 2015 maybe, 12:44:07

1 ROZAR

2 before -- I don't know. '16. But, yeah, 12:44:14

3 a coworker told me that I should be able 12:44:18

4 to file them for free. 12:44:20

5 Q. Okay. Do you remember what 12:44:21

6 search terms you used? 12:44:25

7 A. Google free tax filing under -- 12:44:26

8 I don't know. Honestly, I don't remember. 12:44:34

9 I'm sorry. 12:44:35

10 Q. No. That's okay. You should 12:44:35

11 only answer to what you remember. So 12:44:39

12 that's completely fine if you don't 12:44:41

13 remember the answer to a question. 12:44:42

14 A. Okay. 12:44:45

15 Q. Did you consider using any other 12:44:45

16 search terms than that one you just 12:44:47

17 mentioned? 12:44:49

18 A. Not that I can remember. 12:44:50

19 Q. Okay. 12:44:55

20 A. I'm really sorry. Can I take a 12:44:58

21 break really, really quick? I'll be right 12:45:01

22 back. 12:45:05

23 THE VIDEOGRAPHER: It is 12:45:05

24 approximately 12:45 p.m., and we're 12:45:06

25 going off the record. 12:45:08

1 ROZAR

2 (Recess) 12:45:09

3 THE VIDEOGRAPHER: The time is 12:45:09

4 approximately 12:47 p.m., and we are 12:47:23

5 back on the record. 12:47:25

6 BY MS. PHILLIPS: 11:41:30

7 Q. Okay. So you mentioned you 11:41:30

8 searched the internet for free tax filing. 12:47:30

9 Do you remember what results you 12:47:33
10 found? 12:47:34

11 A. I found -- I found, like, 12:47:34

12 free -- I think it was, like, free file 12:47:43

13 something. Those -- I found, like, the 12:47:46

14 IRS website, but then it, like, brought me 12:47:49

15 to, like, a bunch of different, like -- 12:47:50

16 like, icons of, like, you can do it 12:47:54

17 through H&R Block, you can do it through 12:47:56

18 TurboTax, you can do it through, like, 12:47:58

19 other ones also. But those are the two 12:48:01

20 ones that I remember. And then so I 12:48:03

21 remember clicking -- do you want me to 12:48:08

22 keep going? 12:48:10

23 Q. Yeah. 12:48:10

24 A. So I remember clicking on, like, 12:48:11

25 the TurboTax one, and then, like, it 12:48:13

1 ROZAR

2 brought me to this weird website, and I 12:48:16

3 couldn't figure out what to do from there. 12:48:17

4 So then I did Googled -- so then I did 12:48:18

5 Google after that free -- because I've 12:48:21

6 been using TurboTax before, and so I 12:48:21

7 Googled "free TurboTax." And it brought 12:48:24

8 me to the TurboTax website, like, you 12:48:29

9 know, through Google. It's, like, the 12:48:36

10 actual TurboTax website rather than 12:48:39

11 through the IRS website anymore. And 12:48:39

12 then -- so I, like, clicked on that, and 12:48:44

13 then that's where I went through. 12:48:47

14 Q. Okay. So just to be clear, so 12:48:48

15 the first was the IRS Free File Program? 12:48:54

16 A. I think so. 12:48:59

17 Q. And then that brought you to the 12:48:59

18 IRS Free File Program delivered by 12:49:02

19 TurboTax? 12:49:04

20 A. Yeah. I mean, yeah. It was -- 12:49:04

21 yeah. I think -- 12:49:08

22 Q. Okay. 12:49:08

23 A. This was the best I've -- this 12:49:09

24 was, like, years ago at this point, so 12:49:10

25 this is the best of my ability to 12:49:12

1 ROZAR

2 remember. 12:49:13

3 Q. Sure. And that's all we're 12:49:13

4 asking for. 12:49:14

5 Do you remember -- when you went 12:49:15

6 to the TurboTax product that was available 12:49:18

7 on the IRS website, do you recall why -- 12:49:22

8 what was it about the website that gave 12:49:25

9 you trouble signing in? 12:49:27

10 A. I remember it looked like a 12:49:28

11 different interface, and so I -- it didn't 12:49:30

12 look familiar, basically, from what I was 12:49:32

13 used to. So I didn't feel as comfortable 12:49:35

14 using it. 12:49:38

15 Q. Okay. Understood. 12:49:38

16 Okay. So we talked earlier 12:49:40

17 about the -- you submitted a declaration 12:49:47

18 in this case; is that right? 12:49:49

19 A. Mm-hmm. 12:49:50

20 Q. And did somebody from the Los 12:49:51

21 Angeles City Attorney's Office ask you to 12:49:55

22 sign a declaration? 12:49:57

23 A. Yes. 12:49:59

24 Q. Who asked you to sign it? 12:49:59

25 A. I don't remember specifically. 12:50:01

1 ROZAR

2 Q. Okay. And do you remember when 12:50:04
3 they asked you to sign it? 12:50:07

4 A. I don't remember specifically. 12:50:09

5 Q. Did they tell you why they 12:50:10
6 wanted you to sign the declaration? 12:50:14

7 A. Because it wouldn't be valid -- 12:50:15
8 it wouldn't be valid with -- if I didn't 12:50:21
9 sign it. 12:50:25

10 Q. So I guess, more generally, did 12:50:25
11 they ask you why -- or did they tell you 12:50:27
12 why they wanted you to provide the 12:50:29
13 declaration, the whole thing? 12:50:32

14 A. Because I've been talking -- 12:50:33
15 basically, I had -- I had contacted 12:50:36
16 them -- I don't remember where I found the 12:50:38
17 initial thing, but, like, if you have this 12:50:41
18 certain circumstance that's -- excuse 12:50:43
19 me -- of, like, if you make under a 12:50:47
20 certain amount of money, and you tried to 12:50:49
21 use TurboTax for free, and it didn't work 12:50:51
22 out, contact the LA Department -- District 12:50:53
23 Attorney. 12:51:01

24 And so I did. And then -- 12:51:01
25 because I had made under a certain amount 12:51:04

1 ROZAR

2 of money, and I thought I didn't need to 12:51:05
3 pay for TurboTax, but I ended up paying 12:51:08
4 for it anyway. And then we got to talking 12:51:10
5 for a few months. And then I told them 12:51:12
6 everything that had happened. 12:51:13

7 And then -- this is a long 12:51:14
8 answer to your question. But basically, 12:51:15
9 we had talked for I think a few months, 12:51:17
10 back and forth, and then eventually, at 12:51:20
11 the end, they were, like, we are actually 12:51:22
12 going to send this to court. We're going 12:51:25
13 to go through this whole thing. So in 12:51:26
14 order to, like, sum up everything you've 12:51:27
15 told us and, like, make this an official 12:51:28
16 thing, we need to write it all out, and 12:51:30
17 then you're going to sign this so we can 12:51:34
18 actually file it with -- against TurboTax, 12:51:36
19 basically. 12:51:38

20 Q. Okay. And during those 12:51:39
21 conversations, did you ever tell the LA 12:51:44
22 City Attorney what you just told me about 12:51:47
23 how you had first gone to the IRS Free 12:51:49
24 File Program website to try to file -- the 12:51:53
25 first time you tried to search for free 12:51:55

1 ROZAR

2 tax filing? 12:51:58

3 A. I don't remember. 12:51:58

4 Q. Okay. And did the City 12:52:01

5 Attorney's office -- did they tell you at 12:52:08

6 the time that you had signed your 12:52:10

7 declaration that you might have to sit for 12:52:12

8 a deposition like this one based on the 12:52:14

9 declaration? 12:52:16

10 A. I don't remember. 12:52:17

11 Q. So who drafted the declaration? 12:52:18

12 A. The District Attorney office. 12:52:24

13 Q. And then they sent it to you to 12:52:27

14 sign; is that right? 12:52:31

15 A. They sent it to me to review, to 12:52:32

16 make sure that everything on that was 12:52:34

17 correct, and then I signed it. 12:52:35

18 Q. Okay. Do you remember who sent 12:52:36

19 it to you? 12:52:38

20 A. I believe -- I believe it was 12:52:39

21 Yosef, but I don't remember exactly who it 12:52:42

22 was. 12:52:43

23 Q. Okay. Before they sent you the 12:52:43

24 draft to review, did you speak with 12:52:50

25 anybody? I think you mentioned you had 12:52:53

1 ROZAR

2 some conversations; is that right? 12:52:55

3 A. Yes. 12:52:56

4 Q. Do you remember how many 12:52:56

5 conversations you had? 12:52:59

6 A. I do not. 12:53:00

7 Q. Do you remember whom you spoke 12:53:01

8 with? 12:53:05

9 A. I remember someone named 12:53:05

10 Danielle Gold something, and then I 12:53:09

11 definitely spoke with Yosef Mahmood, and 12:53:13

12 that's all that I remember. 12:53:16

13 Q. Okay. And do you remember what 12:53:17

14 you discussed with them? Was it just your 12:53:19

15 experience? 12:53:23

16 A. Yeah. It was basically my 12:53:24

17 experience of, like, how I believed that 12:53:26

18 I -- I didn't -- I have been using 12:53:29

19 TurboTax for years, didn't know that I'd 12:53:31

20 qualify for free until around -- I think I 12:53:33

21 said 2016 earlier, but I think it was 12:53:35

22 later than that, like, maybe 2017, 2018, 12:53:36

23 20 -- maybe that year. 12:53:40

24 And then my coworker at Apple 12:53:42

25 had told me that I probably qualified for 12:53:49

1 ROZAR

2 the free filing service, and so that's 12:53:52
3 what I started looking for. I tried 12:53:54
4 figuring it out through Googling and the 12:53:56
5 IRS website. Eventually, I couldn't 12:53:59
6 figure it out. 12:54:01

7 But then I thought I was doing 12:54:02
8 the free service through TurboTax.com, and 12:54:03
9 then, by the end, I had gotten through the 12:54:06
10 entire thing, and it asked me to pay. And 12:54:07
11 I figured I had done something wrong. And 12:54:11
12 so I was just, like, well, I guess I'm 12:54:11
13 already here. It doesn't matter about my 12:54:11
14 income level. I did something wrong. So 12:54:16
15 I might as well just pay it. So that's 12:54:16
16 what I remember talking about with them. 12:54:18

17 Q. Do you remember how many times 12:54:19
18 you read the declaration before you signed 12:54:23
19 it? 12:54:25

20 A. Not specifically. I believe it 12:54:25
21 was at least two times. 12:54:31

22 Q. Okay. And did you receive 12:54:33
23 multiple drafts of it, or did they just 12:54:38
24 send you the one draft that you read twice 12:54:41
25 and then signed it? 12:54:44

1 ROZAR

2 A. They -- I read through the 12:54:45
3 draft, different iterations of the draft, 12:54:49
4 through just Zoom calls, and then they 12:54:52
5 sent me one copy of it. My name was 12:54:54
6 spelled incorrectly, so they sent me a new 12:54:56
7 copy of it, and then I sent back I think 12:54:58
8 both copies. 12:55:01

9 Q. Okay. So you never got any 12:55:01
10 drafts over email? It was all over Zoom? 12:55:04

11 A. Yeah. 12:55:07

12 Q. When you were reviewing the 12:55:08
13 declaration, did you do anything or take 12:55:16
14 any steps to confirm whether everything 12:55:17
15 was accurate in the declaration? 12:55:20

16 A. Yes. I looked at my old tax 12:55:22
17 history to make sure that it was the years 12:55:27
18 that I was basically under the income 12:55:31
19 level, but I could verify again by memory 12:55:33
20 of, like, I remember being told this. 12:55:40
21 And then I tried looking through my search 12:55:42
22 history also through my internet browser, 12:55:43
23 but it doesn't go back as far from that. 12:55:46
24 Yeah. 12:55:48

25 Q. Okay. So apart from the one 12:55:49

1 ROZAR

2 edit you just mentioned about your name 12:55:57
3 being misspelled, did you make any other 12:55:58
4 edits of the declaration before you signed 12:56:01
5 it? 12:56:04

6 MR. MAHMOOD: Objection to the 12:56:04
7 extent it calls for revealing attorney 12:56:06
8 work product. 12:56:07

9 Q. You can answer. 12:56:10

10 A. There were certain things. I 12:56:10
11 don't remember exactly what the edits were 12:56:15
12 about, but it was, like, little things, 12:56:17
13 like address, where I was living, little 12:56:19
14 edits like that. 12:56:26

15 Q. Okay. Is there anything you 12:56:27
16 told the city attorney that was not 12:56:31
17 included in the declaration? 12:56:34

18 A. I don't believe so. 12:56:35

19 Q. Okay. And having reviewed your 12:56:38
20 declaration for this deposition, is there 12:56:42
21 anything in the declaration that, sitting 12:56:44
22 here today, you'd like to correct? 12:56:47

23 A. No. 12:56:50

24 Q. So I'm going to switch gears a 12:56:51
25 little bit. I just want to get more 12:56:56

1 ROZAR

2 information about your tax filing history. 12:56:57

3 What is a tax year? 12:56:59

4 A. The previous year to when you 12:57:01

5 have to file it. 12:57:10

6 Q. Okay. So how does -- in your 12:57:12

7 understanding, how does a tax year differ 12:57:14

8 from a calendar year? 12:57:17

9 A. I do not know. 12:57:17

10 Q. What methods of tax preparation 12:57:18

11 have you used in the past? 12:57:23

12 A. Just TurboTax, and then this 12:57:25

13 past year, I used an accountant. 12:57:28

14 Q. Okay. So did you only use an 12:57:31

15 accountant this -- for tax year 2021? 12:57:34

16 A. Yes. 12:57:38

17 Q. And what was your approximate 12:57:38

18 gross income this year for 20 -- sorry -- 12:57:41

19 for tax year 2021? 12:57:46

20 A. Around \$18,000. 12:57:48

21 Q. So why did you choose to use an 12:57:48

22 accountant this year? 12:57:52

23 A. I had a complicated tax year. I 12:57:53

24 sold -- actually, it was more than that. 12:57:59

25 I don't remember exactly how much it was. 12:58:02

1 ROZAR

2 But I sold some stock. I also bought a 12:58:05
3 house with my parents, and it was just too 12:58:09
4 complicated for me to -- I didn't want to 12:58:12
5 do anything wrong, so I hired a 12:58:14
6 professional to do it. 12:58:15

7 Q. Okay. And you paid the 12:58:16
8 accountant to do so? 12:58:17

9 A. Yes. 12:58:18

10 Q. How much did you have to pay the 12:58:18
11 accountant? 12:58:21

12 A. \$190. 12:58:22

13 Q. And that was more than you ever 12:58:23
14 paid TurboTax; right? 12:58:26

15 A. Yes. 12:58:28

16 Q. Have you ever heard of the IRS 12:58:28
17 Volunteer Income Tax Assistant Program? 12:58:32

18 A. No. 12:58:35

19 Q. So are you aware that this 12:58:35
20 program provides free basic tax return 12:58:39
21 preparation to qualified individuals in 12:58:42
22 person? 12:58:44

23 A. No. I did not know that. 12:58:45

24 Q. So your accountant never told 12:58:47
25 you that you might be able to get free 12:58:49

1 ROZAR

2 in-person assistance? 12:58:51

3 A. No. 12:58:53

4 Q. Would you have expected him to? 12:58:54

5 A. No. 12:58:56

6 Q. Why not? 12:58:57

7 A. Actually, yeah. I guess I would 12:58:58

8 have. I was kind of surprised that he 12:59:09

9 needed my income. Now that I'm thinking 12:59:12

10 about it, like, I was a little bit annoyed 12:59:14

11 at him. He saw how much -- how little 12:59:15

12 money I made, and he still charged me 12:59:18

13 \$190. And, like, now that I'm thinking 12:59:20

14 about that, I was, like, -- I mean, I 12:59:21

15 don't know. I don't know. 12:59:25

16 Q. Do you know if that was his 12:59:26

17 standard rate, though, \$190? 12:59:27

18 A. I don't know if that was his 12:59:29

19 standard rate. 12:59:31

20 Q. Okay. Have you ever used a 12:59:31

21 version of online tax prep software other 12:59:38

22 than TurboTax? 12:59:42

23 A. No, I have not. 12:59:42

24 Q. Why not? 12:59:43

25 A. I tried using H&R Block, as I 12:59:44

1 ROZAR

2 think I mentioned in my emails to you. 12:59:49

3 But I had already had all my information 12:59:55

4 from TurboTax before, and so I just 12:59:57

5 imported -- it was easier than starting 12:59:59

6 new with H&R Block. So I just imported 13:00:00

7 everything over from my previous years. 13:00:03

8 Q. So apart from that ability to 13:00:05

9 import your information from previous 13:00:08

10 years, what did you like about using 13:00:11

11 TurboTax? 13:00:13

12 A. It was a simple interface to 13:00:14

13 use. They walk you through every step. 13:00:16

14 Q. Have you ever prepared and filed 13:00:21

15 your taxes for free? 13:00:25

16 A. Yeah, I did. The year -- I 13:00:26

17 think it was 2020, because I had 13:00:30

18 information about how to access the free 13:00:35

19 programs from the District Attorney's 13:00:36

20 Office. So thanks for that, guys. 13:00:38

21 Q. So -- so had you visited the -- 13:00:40

22 strike that. 13:00:40

23 So the City Attorney's office 13:00:53

24 told you how to get to -- how to access 13:00:54

25 the IRS free file program; is that right? 13:00:56

1 ROZAR

2 A. They didn't tell me 13:00:58
3 specifically. But they did -- but through 13:00:59
4 the questioning of it, I was able to 13:01:01
5 figure it out more for the next year. 13:01:04
6 Basically, I did in 2020, after having a 13:01:06
7 little more, like, information, just from, 13:01:09
8 like, going through it more with, you 13:01:11
9 know, another party. They didn't tell me 13:01:13
10 how to use it specifically, but I figured 13:01:15
11 it out because of having more information. 13:01:18
12 And I did basically what I thought I was 13:01:19
13 supposed to have done the previous six 13:01:21
14 years or whatever. 13:01:23

15 Q. Okay. So what was the 13:01:24
16 additional information you got that 13:01:26
17 allowed you to -- 13:01:27

18 A. That there was a program that 13:01:29
19 existed through TurboTax, that I wasn't 13:01:31
20 necessarily just doing it wrong, that 13:01:34
21 I was -- I had to access it in a different 13:01:36
22 way than going through IRS.com. And 13:01:38
23 basically, that, like, this did exist, and 13:01:41
24 it wasn't just because, like, oh, I added 13:01:43
25 a student loan credit that, like, now, 13:01:45

1 ROZAR

2 instead of -- even though I only made 13:01:47
3 20,000 -- whatever -- how much amount of 13:01:49
4 money, just because I added a student loan 13:01:50
5 credit doesn't automatically make me 13:01:51
6 disqualified from the free tax filing 13:01:53
7 program, which I thought was the original 13:01:55
8 case. But having more information, then I 13:01:58
9 figured that I just needed to go through 13:02:00
10 the IRS website directly. 13:02:02

11 Q. Okay. So -- just to be clear, 13:02:03
12 so in tax year 2020, you went to IRS.gov 13:02:06
13 and found a Free File Program? Do I have 13:02:11
14 that right? 13:02:15

15 A. I believe that was -- I think 13:02:15
16 so. Yeah. 13:02:16

17 Q. And how was that different than 13:02:16
18 what you had done in earlier tax years 13:02:19
19 when you -- so how was that different than 13:02:22
20 what you had done in previous tax years 13:02:33
21 when you tried to access -- 13:02:35

22 A. I'm sorry. Do you need to say
23 that again?

24 THE COURT REPORTER: I'm sorry.

25 Yes. Just repeat that question for

1 ROZAR

2 me.

3 Q. So how was that different than
4 what you had done in previous tax years 13:02:37
5 when you tried to access -- when you 13:02:37
6 clicked on the Google search result for 13:02:37
7 the Free File Program? 13:02:39

8 A. I didn't get discouraged by the 13:02:40
9 fact that it looked different than the -- 13:02:42
10 what I was used to. I knew that it was 13:02:44
11 going to look differently. And I just 13:02:46
12 kind of powered through. And it was a 13:02:47
13 different interface for sure, but I knew 13:02:50
14 that I was in the right place. 13:02:54

15 Q. Okay. So both times you went 13:02:56
16 through IRS.gov; is that right? 13:03:00

17 A. I believe so. 13:03:02

18 Q. Okay. And in tax year 2020, how 13:03:06
19 did you -- how did you find the website? 13:03:12
20 Did you go straight to IRS.gov? 13:03:14

21 A. I believe so. 13:03:17

22 Q. So about how long did it take 13:03:18
23 you to find the IRS Free File Program 13:03:22
24 delivered by TurboTax? 13:03:27

25 A. I would be making it up if I 13:03:28

1 ROZAR

2 told you an answer. 13:03:31

3 Q. I don't want you to do that. 13:03:32

4 So when you file your taxes, is 13:03:35

5 it important for you to maximize your 13:03:42

6 refund? 13:03:45

7 A. Yes. 13:03:45

8 Q. Is it important to you that your 13:03:46

9 taxes are accurate? 13:03:50

10 A. Yes. 13:03:50

11 Q. And when you file your taxes, do 13:03:51

12 you ever have any questions about them? 13:03:56

13 A. Yes. 13:03:57

14 Q. Do you value the option of 13:03:58

15 getting help as you prepare your taxes? 13:04:02

16 A. I do, yes. 13:04:05

17 Q. And when you're preparing your 13:04:06

18 taxes, do you value the ability to import 13:04:11

19 your prior years' tax data? 13:04:13

20 A. Yes. 13:04:15

21 Q. And do you value the ability to 13:04:16

22 import your personal information from 13:04:20

23 prior years? 13:04:22

24 A. No. 13:04:22

25 Q. Didn't you say just a few 13:04:23

1 ROZAR

2 minutes ago that you like using TurboTax 13:04:29

3 because it allowed you to import your 13:04:31

4 information from year to year? 13:04:34

5 A. Yes. 13:04:35

6 Q. So do you value the ability to 13:04:37

7 import your personal information? 13:04:40

8 MR. MAHMOOD: Objection. Form. 13:04:43

9 A. Do I answer? 13:04:44

10 Q. I'm just trying to understand 13:04:49

11 the difference between your two answers. 13:04:50

12 It's not a trick question. 13:04:53

13 A. I guess it was helpful to -- I 13:04:54

14 mean, it's, like -- in importing my 13:05:01

15 information -- like, this past year -- I 13:05:04

16 guess I've seen this year that, like, it 13:05:06

17 didn't matter to, like, import everything 13:05:07

18 from previous years. I thought it was a 13:05:10

19 lot more important than it was, but having 13:05:12

20 used my own accountant this year, it 13:05:14

21 didn't really matter. 13:05:14

22 Like, I already had all my, 13:05:15

23 like, information saved onto my computer. 13:05:18

24 And so, like, typing in my name and my 13:05:20

25 address and everything, it's, like, yeah, 13:05:22

1 ROZAR

2 I valued the interface that TurboTax had, 13:05:26
3 and I'm glad to have the information from 13:05:28
4 previous years. But, like, having used a 13:05:30
5 separate service, I see that, like, it's 13:05:32
6 not the only place that I possibly could 13:05:35
7 have that. 13:05:37

8 Q. Okay. Understood. 13:05:38

9 Have you ever had any problems 13:05:38
10 with the IRS after filing your taxes? 13:05:41

11 A. No. 13:05:43

12 Q. What do you know about Intuit as 13:05:50
13 a company or TurboTax? 13:05:54

14 A. Not a lot. 13:05:55

15 Q. You understand it's a for-profit 13:05:59
16 business? 13:06:01

17 A. Yes. 13:06:01

18 Q. And it's not a government 13:06:01
19 entity; right? 13:06:04

20 A. Right. 13:06:05

21 Q. And you're aware that TurboTax 13:06:06
22 sells commercial products; is that right? 13:06:11

23 A. Yes. 13:06:13

24 Q. So what was the first year that 13:06:16
25 you used TurboTax, if you can remember? 13:06:22

1 ROZAR

2 A. I believe it was 2013. 13:06:23

3 Q. So how did you first hear about 13:06:26

4 TurboTax? 13:06:28

5 A. I do not remember. 13:06:28

6 Q. Have you seen advertisements for 13:06:31

7 TurboTax? 13:06:36

8 A. I'm sure. Yeah. 13:06:37

9 Q. Do you remember which ones? 13:06:39

10 A. No. 13:06:41

11 Q. Do you remember where you saw 13:06:41

12 them? 13:06:46

13 A. No. 13:06:46

14 Q. Do you remember what they said? 13:06:47

15 A. No. 13:06:51

16 Q. What made you decide to use 13:06:51

17 TurboTax the first time you used it? 13:06:57

18 A. I do not remember. 13:06:59

19 Q. And do you remember how you 13:07:00

20 found the TurboTax website the first year 13:07:02

21 you used it? 13:07:05

22 A. I do not remember. 13:07:05

23 Q. Do you remember if you ever, you 13:07:07

24 know, typed in TurboTax.com directly into 13:07:14

25 your web browser in any of the tax years 13:07:16

1 ROZAR

2 you used TurboTax? 13:07:19

3 A. Yes, I did. 13:07:20

4 Q. Do you remember when? 13:07:21

5 A. I'm sure most of them. 13:07:22

6 Q. Did you read any reviews before 13:07:24

7 you began using TurboTax? 13:07:29

8 A. I don't remember. 13:07:31

9 Q. And do you remember which 13:07:36

10 TurboTax products you've used? 13:07:41

11 A. The cheapest ones always. 13:07:43

12 Q. And would you say your 13:07:45

13 experiences were generally positive? 13:07:49

14 A. I will say this. I didn't 13:07:55

15 understand that I needed to -- I didn't 13:07:56

16 understand that -- why I needed to pay to 13:07:57

17 get my taxes done. I just assumed that 13:08:02

18 was what needed to be done. So I was 13:08:05

19 never happy to pay for the service of 13:08:09

20 using TurboTax, because I thought that, 13:08:12

21 like, I had to pay taxes as a U.S. 13:08:14

22 citizen, like, I might as well pay 13:08:15

23 for whatever is -- if I have to pay for 13:08:17

24 it, then I'll use this one because it's 13:08:18

25 been working. So yeah. It was an easy 13:08:20

1 ROZAR

2 product to use, but I -- in general, I 13:08:21

3 was, like, why am I paying to do my taxes? 13:08:24

4 Q. And do you remember, in any of 13:08:26

5 the years that you used TurboTax, did you 13:08:34

6 start in a different product that you 13:08:35

7 finished than the one you finished in? 13:08:37

8 A. I think it was -- I don't 13:08:39

9 remember what year it was. But I 13:08:43

10 definitely -- whatever I sent to you, I 13:08:47

11 definitely looked at H&R Block, and I 13:08:52

12 started it, and then I didn't -- it 13:08:57

13 didn't -- it wasn't as clear. I didn't 13:09:00

14 like it as much as what I was familiar 13:09:03

15 with, which was TurboTax. 13:09:04

16 Q. Okay. But specifically within 13:09:05

17 TurboTax, did you ever choose one of the 13:09:09

18 TurboTax products to start and then end up 13:09:12

19 filing using a different product that you 13:09:15

20 can remember? 13:09:17

21 A. I don't remember that, no. I 13:09:18

22 don't think so. I didn't realize there 13:09:21

23 were multiple TurboTax products. 13:09:23

24 Q. Okay. So I'm going to introduce 13:09:24

25 Exhibit 0144. You can open up Folder 13:09:29

1 ROZAR

2 No. 1. 13:09:32

3 (Exhibit 0144, Summary of 13:09:33

4 Kalyнна Rozar TurboTax Filing History 13:09:33

5 Records, was hereby marked for 13:09:33

6 identification, as of this date.) 13:09:58

7 A. Okay. 13:09:58

8 Q. And this is a chart that we 13:09:59

9 assembled using TurboTax's records of your 13:10:07

10 history of using TurboTax back to tax year 13:10:11

11 2014, which was the latest year we had it. 13:10:14

12 So just to walk you through the 13:10:19

13 chart, do you see the first column where 13:10:20

14 it says "Start Product"? 13:10:22

15 A. Mm-hmm. 13:10:26

16 Q. So that reflects the TurboTax 13:10:27

17 product that Intuit's records reflect show 13:10:29

18 that you began your taxes in. 13:10:33

19 Do you understand that? 13:10:36

20 A. Mm-hmm. 13:10:37

21 Q. Okay. The next column says "End 13:10:38

22 Product." So that reflects the TurboTax 13:10:42

23 product that you used to complete your 13:10:44

24 taxes. 13:10:46

25 Are you with me? 13:10:46

1 ROZAR

2 A. Mm-hmm. I'm sorry. Yes. 13:10:47

3 Q. And then the next column says 13:10:50

4 "Intuit FFA Eligible." So that reflects 13:10:54

5 Intuit's records about whether you were 13:10:57

6 eligible to use the software that Intuit 13:10:59

7 donated to the TurboTax -- to the Free 13:11:02

8 File Program. 13:11:04

9 Do you understand that? 13:11:04

10 A. Yes. Yes. 13:11:05

11 Q. And then there's a column titled 13:11:06

12 "PRS Scores." 13:11:09

13 Do you ever recall taking a 13:11:10

14 survey when you finished using the 13:11:13

15 TurboTax software? 13:11:15

16 A. Not specifically, but I'm 13:11:16

17 assuming this means -- actually, I won't 13:11:19

18 assume. What -- go ahead. 13:11:22

19 Q. Okay. So this number just 13:11:24

20 reflects the score that you gave TurboTax 13:11:25

21 on a scale of 1 to 10 when you were 13:11:28

22 finished using the product. 13:11:31

23 Does that sound right? 13:11:34

24 A. Yes. 13:11:36

25 Q. Okay. And then the final 13:11:37

1 ROZAR

2 column, "Add-Ons and Other TurboTax 13:11:41

3 Benefits Used." That's Intuit's records 13:11:45

4 of whether you used any of the add-on 13:11:47

5 products or other features of TurboTax 13:11:49

6 software. 13:11:51

7 Does that sound right? 13:11:52

8 A. These are extra products? 13:11:53

9 Q. Correct. 13:11:56

10 A. So it was an extra add-on to use 13:12:00

11 an import from the previous year? 13:12:04

12 Q. I'm sorry. 13:12:06

13 A. So I see here -- what does "YOY" 13:12:12

14 stand for? 13:12:18

15 Q. Year over year. 13:12:18

16 A. And so "YOY" data transfer means 13:12:19

17 I used data from last year, and so they 13:12:22

18 imported that for me for the next year; 13:12:25

19 correct? 13:12:28

20 Q. Yes. So these are -- these are 13:12:28

21 benefits to using the TurboTax software 13:12:32

22 that are included in the products that you 13:12:34

23 used. 13:12:39

24 A. So that's another charge? 13:12:40

25 Q. No extra charge, no. 13:12:41

1 ROZAR

2 A. Okay. So yeah. I understand. 13:12:43

3 MR. MAHMOOD: Objection to the 13:12:46

4 attorney testimony about the exhibit. 13:12:47

5 Q. Okay. So do you see any errors 13:12:48

6 in this document? 13:12:57

7 A. Not that I can -- not off the 13:12:58

8 top of my head. 13:12:59

9 Q. Okay. And do you have any 13:13:00

10 reason to believe that anything is 13:13:01

11 inaccurate? 13:13:03

12 A. No. 13:13:04

13 Q. So just going year by year, you 13:13:04

14 know, some of this may be a little bit 13:13:13

15 repetitive, what we already discussed, so 13:13:15

16 just bear with me. 13:13:18

17 But -- so you said you used 13:13:19

18 TurboTax starting in tax year 2013; is 13:13:21

19 that right? 13:13:23

20 A. I thought I did. But I don't 13:13:23

21 see it on here. So I don't know. 13:13:28

22 Q. Yeah. So tax year 2014 is as 13:13:29

23 far back as Intuit has records for your 13:13:33

24 history. 13:13:37

25 But is it true that you used -- 13:13:38

1 ROZAR

2 used the product in tax year 2013, if you 13:13:43

3 remember? 13:13:45

4 A. I don't remember. So -- you 13:13:45

5 know? I don't remember specifically. 13:13:55

6 Q. Okay. The first year you used 13:13:56

7 TurboTax, what do you remember about the 13:13:59

8 home screen? 13:14:02

9 A. Not a lot. 13:14:02

10 Q. Do you remember anything about 13:14:05

11 it? 13:14:09

12 A. No. 13:14:10

13 Q. Do you remember if you received 13:14:12

14 a recommendation for a -- to use a 13:14:16

15 particular product? 13:14:18

16 A. For tax year 2014? 13:14:19

17 Q. Yes. 13:14:23

18 A. I do not remember. 13:14:24

19 Q. And do you remember what product 13:14:25

20 you started in? 13:14:29

21 A. I don't remember, no. 13:14:30

22 Q. And do you remember what product 13:14:33

23 you finished in? 13:14:37

24 A. I don't remember, no. I do see 13:14:37

25 it on this page, though. 13:14:40

1 ROZAR

2 Q. And do you have any reason to 13:14:41

3 believe that you did not start in Deluxe 13:14:45

4 and finish in Deluxe? 13:14:47

5 A. I have no reason, no. 13:14:49

6 Q. And do you remember what your 13:14:51

7 experience was like in 2014, tax year 13:14:56

8 2014? 13:14:59

9 A. I do not remember. 13:14:59

10 Q. And you -- do you remember 13:15:03

11 taking this survey at the end of your -- 13:15:05

12 A. I don't remember. 13:15:07

13 Q. Do you have any reason to 13:15:08

14 believe that you did not give TurboTax a 13:15:12

15 10 out of 10? 13:15:14

16 A. I almost always give 10 out of 13:15:15

17 10 for surveys, unless it's really, really 13:15:17

18 truly awful. 13:15:20

19 Q. Why is that? 13:15:21

20 A. I'm generous, I guess. 13:15:22

21 Q. Okay. So after the first year 13:15:24

22 you used TurboTax, why did you decide to 13:15:32

23 come back the second year? 13:15:34

24 A. It was what I was familiar with. 13:15:35

25 I didn't know I had another option, 13:15:38

1 ROZAR

2 really. 13:15:41

3 Q. But you knew there were other 13:15:41

4 options available on the internet? 13:15:42

5 A. Yes. I knew -- I guess I 13:15:44

6 didn't -- I wasn't interested enough to 13:15:47

7 look for a different option, because it 13:15:51

8 worked fine the year before, and I just 13:15:53

9 thought I had to pay for tax prep, and 13:15:55

10 it's like, all right, this worked. I'll 13:15:58

11 do it again. 13:15:59

12 Q. And in tax year 2015, do you 13:16:00

13 remember how you arrived at the website? 13:16:05

14 A. I do not remember. 13:16:07

15 Q. And do you remember if you 13:16:08

16 started in Deluxe? 13:16:11

17 A. I do not remember specifically. 13:16:13

18 Q. Do you have any reason to 13:16:15

19 believe that you did not start and finish 13:16:18

20 in Deluxe? 13:16:21

21 A. I have no reason to remember 13:16:21

22 differently. 13:16:24

23 Q. Okay. And do you remember 13:16:24

24 giving TurboTax a 10 out of 10 that year? 13:16:28

25 A. I don't remember that 13:16:32

1 ROZAR

2 specifically. 13:16:33

3 Q. So in tax year 2016, do you 13:16:33

4 remember how you arrived at the website 13:16:42

5 that year? 13:16:44

6 A. I do not remember specifically. 13:16:44

7 Q. Do you have any reason to 13:16:46

8 believe that you did not start and finish 13:16:50

9 in Deluxe that year? 13:16:52

10 A. I do not have a reason to 13:16:53

11 believe differently. 13:16:55

12 Q. And do you remember giving 13:16:56

13 TurboTax a 10 out of 10 that year? 13:17:01

14 A. I don't remember specifically. 13:17:03

15 Q. Okay. In tax year 2017, do you 13:17:06

16 remember how you got to the website that 13:17:14

17 year? 13:17:15

18 A. No. It was -- 2017 would have 13:17:15

19 been -- I did my tax in 2018; right? 13:17:22

20 Q. Correct. 13:17:25

21 A. This I think was probably the 13:17:26

22 year that I talked to my friend, either 13:17:27

23 2017 or 2018. So I either -- this might 13:17:31

24 have been the year that I Googled "free 13:17:35

25 tax" and then eventually -- as I told you 13:17:39

1 ROZAR

2 before, basically tried to figure out the 13:17:42
3 free tax program and then couldn't figure 13:17:44
4 it out. 13:17:46

5 Q. So in this year, after you 13:17:46
6 Googled "free tax filing" and what -- 13:17:55
7 found the IRS Free File Program, did you 13:17:57
8 then go -- and that didn't look right to 13:18:01
9 you, did you then go directly to 13:18:05
10 TurboTax.com? 13:18:07

11 A. No. I think I Googled "free 13:18:07
12 tax" -- "free filing TurboTax." And then 13:18:10
13 it brought me to a push website. 13:18:15

14 Q. Okay. And you mentioned a 13:18:17
15 couple times that your coworker told you 13:18:20
16 about the free tax filing program; is that 13:18:22
17 right? 13:18:26

18 A. Yeah. 13:18:26

19 Q. Do you remember what they said? 13:18:27

20 A. They said that if you make under 13:18:30
21 a certain amount -- I think it was 30 -- 13:18:32
22 some -- in the 30s or something -- that I 13:18:35
23 would be eligible to have my taxes filed 13:18:37
24 for free, and I told them, well, I usually 13:18:40
25 use TurboTax. They're like, no, no. It 13:18:42

1 ROZAR

2 counts for that too. They have their own 13:18:45
3 thing. 13:18:47

4 Q. Okay. Did they tell you it was 13:18:47
5 a government-sponsored program? 13:18:49

6 A. I don't remember. 13:18:50

7 Q. And so they told you 13:18:51
8 specifically that you could do it through 13:18:54
9 TurboTax? 13:18:56

10 A. Yeah, I think so. 13:18:56

11 Q. So in the next tax year, tax 13:18:58
12 year 2018, do you remember how you arrived 13:19:06
13 at the TurboTax website? 13:19:07

14 A. That means I did it in 2019. 13:19:08
15 Wait. 2018. I'm sorry. I'm getting it a 13:19:19
16 little confused. If I did it no 2019, I 13:19:23
17 was still in LA. I don't remember -- I 13:19:26
18 don't remember which year it was. I'm 13:19:29
19 sorry. I don't remember which year it was 13:19:30
20 that I did the 2017 versus 2018. 13:19:32

21 Q. Okay. In tax year 2018, do you 13:19:36
22 have any reason to believe that you did 13:19:44
23 not start and finish your tax filing 13:19:45
24 process in the Deluxe product? 13:19:48

25 A. No. 13:19:49

1 ROZAR

2 MR. MAHMOOD: Objection. Form. 13:19:51

3 Q. And you used TurboTax again in 13:19:51

4 tax year 2019? 13:20:02

5 A. Yeah, I did. 13:20:03

6 Q. Do you remember how you arrived 13:20:04

7 at the TurboTax website in 2019 -- tax 13:20:07

8 year 2019? 13:20:10

9 A. I think I went to TurboTax.com. 13:20:11

10 Q. Do you remember what product you 13:20:14

11 started in? 13:20:18

12 A. Not specifically. 13:20:18

13 Q. Do you have any reason to 13:20:21

14 believe you did not start in Deluxe? 13:20:24

15 A. No. 13:20:26

16 MR. MAHMOOD: Objection. Form. 13:20:27

17 Q. Do you remember what product you 13:20:28

18 finished in? 13:20:33

19 A. Not specifically. 13:20:34

20 Q. Any reason to believe you did 13:20:36

21 not finish in Deluxe? 13:20:39

22 A. No. 13:20:41

23 MR. MAHMOOD: Objection. Form. 13:20:41

24 Q. I'm going to mark as 13:20:42

25 Exhibit 0145. This is just going to be 13:20:54

1 ROZAR

2 available on your screen. I don't have it 13:20:57

3 in paper. 13:20:59

4 (Exhibit 0145, A TurboTax web 13:21:00

5 page printout, was hereby marked for 13:21:00

6 identification, as of this date.) 13:21:12

7 A. Should I open it? 13:21:12

8 Q. Yes. 0145. 13:21:13

9 Do you see it? 13:21:19

10 A. I'm sorry. I messed up. Give 13:21:20

11 me one second. I clicked on 144, and 13:21:27

12 then -- I'm sorry. Give me one second. 13:21:32

13 Q. You might have to refresh the 13:21:35

14 folder to see 0145. 13:21:37

15 A. Yeah. I refreshed the folder -- 13:21:39

16 and then -- hold on one second. I have to 13:21:40

17 start over. Okay. 0145; right? 13:21:43

18 Q. 0145. Yeah. 13:22:25

19 A. Okay. There. I have it. 13:22:25

20 Q. Okay. Have you ever seen a 13:22:27

21 screen like this before? 13:22:32

22 A. It looks like familiar. 13:22:33

23 Q. Okay. So did you see this 13:22:34

24 screen when you were filing your taxes? 13:22:38

25 A. Probably. 13:22:39

1 ROZAR

2 Q. Do you have a specific 13:22:40
3 recollection of it or -- 13:22:44

4 A. No. 13:22:46

5 Q. -- it just looks familiar. 13:22:47
6 Okay? 13:22:48

7 A. It looks familiar. But I do 13:22:49
8 remember being shown -- I don't remember 13:22:50
9 the specific date, but I do remember, 13:22:52
10 like, being shown this thing, this -- I 13:22:54
11 remember it being an issue that I had a 13:22:58
12 student loan tax credit and that it, like, 13:23:00
13 changed what I was able to do. So I don't 13:23:04
14 remember this specifically, but I remember 13:23:07
15 my tax -- my student -- my loan tax 13:23:08
16 credit, like, made me think, like, oh, 13:23:10
17 I've got to pay extra in order to, like, 13:23:12
18 use TurboTax, but, like -- and also use 13:23:14
19 my, like, student loan credit thing. 13:23:18

20 Q. Okay. Do you remember if you 13:23:20
21 saw this -- sorry. Strike that. 13:23:22

22 You said you remembered being 13:23:25
23 shown this screen. 13:23:29

24 Does that mean shown by TurboTax 13:23:30
25 when you were going through the process of 13:23:33

1 ROZAR

2 filing your taxes? 13:23:34

3 A. You know, I -- I don't remember 13:23:35

4 this specifically, so I feel I can't 13:23:42

5 answer that. 13:23:44

6 Q. Okay. But did anybody from the 13:23:45

7 City Attorney's office show you this 13:23:49

8 screen? 13:23:51

9 A. No. I don't remember. I don't 13:23:51

10 think so, though. 13:23:56

11 Q. Do you remember seeing it every 13:23:57

12 year that you used TurboTax? 13:23:59

13 A. I don't remember that. 13:24:00

14 Q. Okay. So you submitted your 13:24:08

15 declaration in February of 2021; is that 13:24:15

16 correct? 13:24:17

17 A. If you say so. I don't 13:24:17

18 remember. 13:24:21

19 Q. And in calendar year 2021, so 13:24:21

20 that would be calendar year 2020, you used 13:24:27

21 the IRS Free File Program delivered by 13:24:30

22 TurboTax to prepare your taxes? 13:24:33

23 A. Yeah. Yes. 13:24:35

24 Q. Okay. And how did you find out 13:24:35

25 about the IRS Free File Program that year? 13:24:44

1 ROZAR

2 A. I -- after doing all this stuff 13:24:47
3 with, you know -- with this lawsuit, I 13:24:51
4 realized that I would still be eligible 13:24:54
5 regardless of the tax credit or whatever, 13:24:56
6 so I -- I went to the IRS website, and I 13:24:58
7 did it through there, I'm pretty sure. 13:25:03

8 Q. Okay. So you found the IRS Free 13:25:05
9 File Program by going directly to the IRS 13:25:10
10 website; is that right? 13:25:12

11 A. I believe so. I don't really 13:25:13
12 remember, though. I mean, I'm assuming -- 13:25:15
13 honestly, I'm assuming that's how I got 13:25:18
14 there. But I don't remember. I did them 13:25:20
15 late -- late in 2021. 13:25:22

16 Q. Okay. 13:25:24

17 A. I don't really remember. 13:25:25

18 Q. So did you file those taxes 13:25:26
19 after you submitted the declaration in 13:25:30
20 this case? 13:25:32

21 A. Yeah, I did. 13:25:33

22 Q. And had you visited the IRS Free 13:25:33
23 File Program delivered by TurboTax website 13:25:45
24 before filing your declaration? 13:25:47

25 A. I think I did that only with the 13:25:50

1 ROZAR

2 District Attorney. I remember they, like, 13:25:57
3 showed me, like, this is what it looked 13:25:58
4 like to you before? Did you find this 13:26:01
5 before? And I was, like, this is not what 13:26:03
6 I used before, basically. 13:26:05

7 Q. Okay. So at the time you signed 13:26:07
8 your declaration, had you seen -- you had 13:26:11
9 seen the website because the Los Angeles 13:26:14
10 City Attorney showed it to you; is that 13:26:18
11 right? 13:26:20

12 A. I think so, yeah. 13:26:20

13 Q. So after the first year of using 13:26:28
14 TurboTax, did you consider using any other 13:26:35
15 brand of tax preparation software? 13:26:40

16 A. As I said before, I tried H&R 13:26:42
17 Block. 13:26:46

18 Q. And when did you try H&R Block? 13:26:46

19 A. I don't really remember. I 13:26:49
20 think -- it was either -- I don't 13:26:55
21 really -- I'm not -- I don't remember the 13:26:57
22 exact date. 13:26:58

23 Q. Sure. Do you remember the -- 13:26:59
24 which year? 13:27:01

25 A. I mean, I can verify that 13:27:02

1 ROZAR

2 through my email. But off the top of my 13:27:07

3 head, I can't remember. 13:27:09

4 Q. Okay. That's fine. 13:27:10

5 And why did you decide not to 13:27:11

6 use H&R Block? 13:27:18

7 A. Because I didn't want to start 13:27:19

8 from scratch. And I didn't -- I didn't 13:27:22

9 like the interface as much. 13:27:27

10 Q. Okay. So I'd like to ask you 13:27:28

11 some questions about tax year 2017 and 13:27:38

12 2019. If you'd like to go back to 13:27:41

13 Exhibit 0144. 13:27:45

14 A. Okay. 13:27:48

15 Q. Which was Folder 1. 13:27:48

16 Do you see in the last column in 13:28:01

17 tax year 2017 and 2019, it says, 13:28:03

18 "AnswerXchange"? 13:28:09

19 A. Yes, I do. 13:28:10

20 Q. Do you remember viewing content 13:28:11

21 on the TurboTax website using 13:28:13

22 AnswerXchange? 13:28:15

23 A. I'm sorry. You're talking about 13:28:16

24 2019? 13:28:21

25 Q. 2017 or 2019, either year. 13:28:22

1 ROZAR

2 A. Oh, okay. Yeah. I do 13:28:25
3 remember -- I do -- I'm sorry. I'm not 13:28:27
4 feeling well. Can you say that question 13:28:30
5 one more time? 13:28:32

6 Q. Sure. And also, we're reaching 13:28:32
7 about an hour. If you'd like to take a 13:28:36
8 break, this is fine with me. Do you want 13:28:38
9 to keep going or would you like to take a 13:28:41
10 break? 13:28:43

11 A. Could we take a break? 13:28:43

12 Q. Absolutely. Is ten minutes good 13:28:45
13 or -- 13:28:48

14 A. Yeah. Ten minutes is before. 13:28:49

15 Q. Okay. 13:28:51

16 THE VIDEOGRAPHER: The time is 13:28:52
17 approximately 1:28 p.m. This is the 13:28:52
18 end of Media No. 1, and we're going 13:28:54
19 off the record. 13:28:57

20 (Recess) 13:28:58

21 THE VIDEOGRAPHER: The time is 13:28:58
22 approximately 1:41 p.m. This is the 13:41:29
23 beginning of Media No. 2, and we are 13:41:31
24 on the record. 13:41:34

25 13:41:34

1 ROZAR

2 BY MS. PHILLIPS: 11:41:30

3 Q. Ms. Rozar, has TurboTax ever 11:41:30
4 recommended to you that you start in a 13:41:40
5 particular product. 13:41:43

6 A. I don't remember. 13:41:46

7 Q. Have you ever complained to 13:41:48
8 TurboTax about any issues? 13:41:52

9 A. I don't remember, but I don't 13:41:54
10 think so. 13:41:58

11 Q. Have you ever disputed a charge 13:41:59
12 from TurboTax on your credit card? 13:42:02

13 A. No. 13:42:03

14 Q. Why not? 13:42:04

15 A. Because I knew what I was being 13:42:10
16 charged for, and so I've only disputed 13:42:19
17 charges from, like, what is this, and, 13:42:24
18 like, I didn't -- it wasn't my consent to 13:42:26
19 be charged that. 13:42:28

20 Q. And actually, I wanted to go 13:42:30
21 back. I think before the break, we were 13:42:35
22 talking about the AnswerXchange part of 13:42:39
23 the TurboTax website. 13:42:42

24 Do you remember that? 13:42:43

25 A. Mm-hmm. Yes. 13:42:44

1 ROZAR

2 Q. And do you remember viewing 13:42:45
3 content on AnswerXchange? 13:42:49

4 A. I remember getting error when I 13:42:50
5 tried to use it. But I don't remember 13:42:53
6 getting anything super helpful. 13:42:57

7 Q. You said you remember getting an 13:42:59
8 error message? 13:43:02

9 A. I did, yeah. 13:43:02

10 Q. Okay. Do you remember what you 13:43:03
11 were looking for? 13:43:05

12 A. No, I don't. 13:43:06

13 Q. And do you know if the -- if 13:43:07
14 AnswerXchange is available through the IRS 13:43:12
15 Free File Program delivered by TurboTax? 13:43:14

16 A. I do not know if it is available 13:43:17
17 through that. 13:43:21

18 Q. Do you have personal knowledge 13:43:22
19 of why anyone other than yourself who was 13:43:27
20 eligible for the Free File Program but 13:43:30
21 paid to file their taxes through TurboTax 13:43:33
22 chose to do so? 13:43:35

23 A. I do not know. 13:43:36

24 MR. MAHMOOD: Objection to form. 13:43:37

25 Q. So you don't know anyone else 13:43:43

1 ROZAR

2 eligible but paid to file their taxes on 13:43:44

3 TurboTax chose to do so because they 13:43:47

4 wanted to import their data from a 13:43:50

5 financial institution; right? 13:43:51

6 MR. MAHMOOD: Objection. Form. 13:43:53

7 A. I do not. 13:43:54

8 Q. And you don't know if someone 13:43:55

9 who was eligible for the program if there 13:43:58

10 were a trial program because they wanted 13:44:01

11 to import data from a previous year's tax 13:44:03

12 return; is that right? 13:44:05

13 MR. MAHMOOD: Objection. Form. 13:44:06

14 Q. You can answer. 13:44:12

15 A. I don't really understand the 13:44:13

16 question. 13:44:14

17 Q. So you don't know whether there 13:44:19

18 might be somebody who was eligible for the 13:44:21

19 Free File Program but paid to file their 13:44:23

20 taxes on TurboTax because they valued the 13:44:25

21 ability to import data from the previous 13:44:28

22 year tax return; right? 13:44:32

23 MR. MAHMOOD: Objection. Form. 13:44:33

24 A. I don't know about anybody 13:44:34

25 else's tax preparation besides my own. 13:44:40

1 ROZAR

2 Q. Okay. And for the years that 13:44:42
3 you used TurboTax to prepare your taxes, 13:44:47
4 you are aware that you had choices other 13:44:51
5 than TurboTax to prepare your taxes; 13:44:53
6 correct? 13:44:54

7 A. Yes. I'm aware. 13:44:55

8 Q. What other choices are you aware 13:44:59
9 of? 13:45:01

10 A. I'm aware of H&R Block and 13:45:01
11 private accountants. 13:45:03

12 Q. And at any point during the 13:45:04
13 process of preparing your taxes with 13:45:08
14 TurboTax, you could have left TurboTax and 13:45:10
15 used a different service; correct? 13:45:13

16 A. I am aware that I could have 13:45:15
17 done that, yes. 13:45:18

18 Q. Do you know if the IRS has a 13:45:18
19 website? 13:45:30

20 A. Yes, it does, and I know that. 13:45:30

21 Q. What is the URL for the website? 13:45:33

22 A. IRS.gov. 13:45:38

23 Q. How many times have you visited 13:45:40
24 that website? 13:45:44

25 A. I do not know. More than once. 13:45:45

1 ROZAR

2 Q. And why did you visit the 13:45:51
3 website? 13:45:52

4 A. For the past two years, I 13:45:52
5 believe, it was to pay my tax bill, and 13:45:56
6 prior to that, it was to try and figure 13:46:00
7 out a free filing program. 13:46:01

8 Q. And do you remember when you 13:46:04
9 visited the website to try to find the 13:46:08
10 free tax filing program? 13:46:10

11 A. From tax year 2017 -- I mean, 13:46:12
12 probably -- between 2017 and 2020. 13:46:20

13 Q. And so you've used the IRS Free 13:46:28
14 File Program in tax year 2020; right? 13:46:33

15 A. Through TurboTax, yes. 13:46:34

16 Q. Okay. What is your 13:46:36
17 understanding of what the IRS Free File 13:46:42
18 Program is? 13:46:44

19 A. If you make under a certain 13:46:45
20 amount of money through income, then you 13:46:48
21 are eligible to not have to pay to do your 13:46:50
22 taxes. 13:46:53

23 Q. And what's your understanding of 13:46:54
24 who offers that service? 13:46:58

25 A. The IRS and different partners 13:47:03

1 ROZAR

2 they have through the IRS. 13:47:04

3 Q. So are you aware that the IRS' 13:47:06

4 Free File Program is a voluntary program? 13:47:13

5 A. What does that mean? 13:47:15

6 Q. Are you aware that the partners 13:47:17

7 that you just referenced that partner with 13:47:23

8 the IRS are -- donate their services 13:47:26

9 voluntarily? They're not required to 13:47:29

10 donate products to the IRS? 13:47:32

11 A. I did not know. I thought they 13:47:34

12 were required to donate. 13:47:36

13 Q. So are you aware that Intuit 13:47:37

14 does not have to participate in the Free 13:47:46

15 File Program? 13:47:48

16 A. I am aware that they no longer 13:47:48

17 participate in it, so I guess I understand 13:47:52

18 that they don't have to. 13:47:54

19 Q. Are you aware that the IRS has a 13:47:58

20 responsibility for marketing the Free File 13:48:00

21 Program? 13:48:02

22 A. Sure. Yes. 13:48:02

23 Q. How do you know that? 13:48:07

24 A. I guess I don't have any proof. 13:48:11

25 Q. Are you aware that the IRS has 13:48:18

1 ROZAR

2 stated that the Free File Program 13:48:20

3 participants are allowed to engage in 13:48:21

4 commercial activity in the same way that 13:48:24

5 they could if they did not participate in 13:48:27

6 the Free File Program? 13:48:29

7 A. I'm sorry. Can you say that one 13:48:30

8 more time? 13:48:32

9 Q. Are you aware that the IRS has 13:48:32

10 stated that Free File Program participants 13:48:35

11 are still permitted to engage in 13:48:38

12 commercial activity in the same way that 13:48:40

13 they could if they were not Free File 13:48:42

14 Program participants? 13:48:44

15 A. Yeah. Yes. 13:48:45

16 Q. And are you aware that the IRS 13:48:49

17 has stated that the Free File Program 13:48:53

18 participants may market their free or paid 13:48:54

19 commercial tax products to any taxpayers? 13:48:58

20 A. Yes. 13:49:00

21 Q. So that means -- so you're aware 13:49:07

22 that the IRS has state Free File Program 13:49:09

23 participants can market their commercial 13:49:11

24 products to taxpayers of any income level? 13:49:15

25 A. Yes. 13:49:18

1 ROZAR

2 Q. And you mentioned that you 13:49:18
3 previously worked at Apple; right? 13:49:24

4 A. Yes. 13:49:25

5 Q. Are you aware of any programs to 13:49:26
6 which Apple donates iPhones or other 13:49:31
7 devices to anybody? 13:49:33

8 A. Yeah, they do. 13:49:35

9 Q. So if I wanted to go buy an 13:49:40
10 iPhone and go to Apple.com, it never -- 13:49:45
11 Apple.com never tells me that I might be 13:49:50
12 able to get a donated iPhone for free, 13:49:53
13 does it? 13:49:56

14 MR. MAHMOOD: Objection to form. 13:49:56

15 A. They do it more on -- I mean, 13:49:57
16 they do it more on, like, global scales, 13:50:02
17 like, you know, doctors get free iPhones 13:50:05
18 and stuff. It's not a consumer thing. 13:50:07

19 Q. Okay. But if I were in the 13:50:09
20 category of people who might be eligible 13:50:15
21 to receive one of these donated products, 13:50:17
22 they never tell me you might be eligible 13:50:21
23 to receive one of these products for free? 13:50:24

24 A. I'm not sure. 13:50:26

25 Q. Would you expect Apple.com to 13:50:27

1 ROZAR

2 say that to everybody who came to their 13:50:32

3 website? 13:50:34

4 MR. MAHMOOD: Objection. Form. 13:50:35

5 A. No. I don't know. No. 13:50:36

6 Q. I'm going to mark the next 13:50:42

7 exhibit. That's 0146. And that's going 13:50:50

8 to be in your Folder 3. 13:50:53

9 (Exhibit 0146, Declaration of 13:50:56

10 Kalynna Rozar, was hereby marked for 13:50:56

11 identification, as of this date.) 13:51:20

12 A. Okay. I got it. 13:51:20

13 Q. Do you recognize this document? 13:51:21

14 A. Yeah. It's my declaration. 13:51:23

15 Q. And could you turn to the last 13:51:27

16 page. 13:51:29

17 Is that your signature on the 13:51:35

18 last page? 13:51:37

19 A. Yes. 13:51:38

20 Q. Why does the last page look 13:51:38

21 different than the other pages? 13:51:42

22 A. I don't notice it looking 13:51:44

23 different. 13:51:52

24 Q. Is it because you just printed 13:51:52

25 the last page to sign it and then sent 13:52:01

1 ROZAR

2 that single page back to the City 13:52:03

3 Attorney? 13:52:07

4 A. Yes. 13:52:07

5 Q. So you signed this document on 13:52:13

6 February 9, 2021; is that right? 13:52:15

7 A. Yes. 13:52:16

8 Q. Are you aware that the Los 13:52:16

9 Angeles City Attorney's Office did not 13:52:21

10 file it until February 16th? 13:52:22

11 A. No. 13:52:24

12 Q. Are you aware of any changes 13:52:25

13 that they made to the declaration between 13:52:28

14 the time you signed the signature page and 13:52:30

15 the time it was filed? 13:52:32

16 A. No. 13:52:34

17 Q. Let's go to the beginning and 13:52:36

18 start with paragraph 1. 13:52:43

19 So the first sentence says, "The 13:52:49

20 facts set forth in this declaration are 13:52:52

21 true and correct based upon my own 13:52:54

22 personal knowledge." Right? 13:52:56

23 A. Yes. 13:52:57

24 Q. How do you define personal 13:52:57

25 knowledge? 13:52:59

1 ROZAR

2 A. Only what I know. 13:53:00

3 Q. And does that include things 13:53:01

4 that you heard from somebody else? 13:53:04

5 A. Yes. 13:53:06

6 Q. So if somebody tells you 13:53:08

7 something, but you haven't independently 13:53:14

8 confirmed that, you consider that to be 13:53:19

9 personal knowledge? 13:53:21

10 A. No. I would confirm it until I 13:53:22

11 made it my personal knowledge. 13:53:28

12 Q. So it's your testimony today 13:53:29

13 that you have personal knowledge of 13:53:34

14 everything in the declaration at the time 13:53:35

15 you signed it; is that right? 13:53:37

16 A. Yeah. 13:53:39

17 Q. So in paragraph 2, do you see 13:53:41

18 the parentheses where it says 13:53:49

19 "(hereinafter 'TurboTax')"? 13:53:51

20 A. Yes. 13:53:53

21 Q. Why did you include that phrase? 13:53:54

22 A. I did not include this phrase. 13:53:56

23 This was written by -- this was phrased by 13:54:05

24 the district attorney, and I believe it 13:54:07

25 was -- and it looks like this because 13:54:09

1 ROZAR

2 rather than having to type out TurboTax or 13:54:12

3 Intuit.com, it's easier just to write 13:54:14

4 TurboTax. 13:54:16

5 Q. Okay. If we can go to 13:54:16

6 paragraph 5. It says, "I began using 13:54:24

7 TurboTax in tax year 2013 because I liked 13:54:26

8 the interface and it was straightforward 13:54:28

9 and easy to use and thought it looked 13:54:31

10 clean." Is that right? 13:54:34

11 A. Yes. 13:54:35

12 Q. So what made you decide to go to 13:54:35

13 the TurboTax website in the first place 13:54:38

14 before you knew what the interface looked 13:54:40

15 like? 13:54:42

16 A. I don't remember. 13:54:42

17 Q. It wasn't because you had read 13:54:48

18 any promise that you could file for free 13:54:51

19 on TurboTax.com; is that right? 13:54:54

20 A. That is why I did not know at 13:54:55

21 that time. 13:54:57

22 Q. Did you try to start in the free 13:54:57

23 edition product in that year, in tax year 13:55:05

24 2013? 13:55:07

25 A. I did not. 13:55:07

1 ROZAR

2 Q. Why not? 13:55:08

3 A. I did not know about the 13:55:09

4 program. 13:55:10

5 Q. Okay. There was nothing else on 13:55:11

6 the TurboTax website that said anything 13:55:15

7 about a free product? 13:55:18

8 A. No, it did not. 13:55:19

9 Q. So do you remember what product 13:55:24

10 you did use in tax year 2013? 13:55:25

11 A. I do not remember. 13:55:27

12 Q. But you did understand that the 13:55:28

13 product that you used cost money; is that 13:55:38

14 right? 13:55:41

15 A. Yes. 13:55:42

16 Q. So the next paragraph says, 13:55:43

17 "Around when I was getting ready to 13:55:50

18 prepare my taxes for tax year 2017, 13:55:52

19 though, I recall hearing from some work 13:55:54

20 colleagues about some sort of free tax 13:55:56

21 preparation program for people who earned 13:55:58

22 a low income. I thought that I might 13:56:01

23 qualify because my income level was low." 13:56:03

24 Am I reading that correctly? 13:56:06

25 A. Yes. 13:56:07

1 ROZAR

2 Q. So who were the work colleagues? 13:56:07

3 A. People from Apple. 13:56:14

4 Q. And they told you while you were 13:56:16

5 at work? 13:56:19

6 A. Yes. 13:56:19

7 Q. Had they used the program 13:56:20

8 before? 13:56:24

9 A. I don't know. 13:56:24

10 Q. But -- so they didn't say either 13:56:25

11 way whether they had or not. 13:56:29

12 A. No, they did not. 13:56:31

13 Q. When you -- when they told you 13:56:32

14 about it, did you ask for the specific 13:56:37

15 name of the program? 13:56:38

16 A. No. 13:56:39

17 Q. Why not? 13:56:41

18 A. Or maybe -- honestly, I don't 13:56:43

19 remember. Better answer, though, I don't 13:56:47

20 remember if I did. 13:56:49

21 Q. Did you ask them how you could 13:56:52

22 find it, the program? 13:56:57

23 A. No. 13:56:59

24 Q. Did they tell you that it was a 13:57:02

25 government-sponsored program? 13:57:04

1 ROZAR

2 A. I don't remember. 13:57:05

3 Q. Where would you typically expect 13:57:06

4 to go to find the government-sponsored tax 13:57:18

5 preparation program? 13:57:21

6 A. Where would I expect to go? 13:57:22

7 Probably IRS.gov. 13:57:29

8 Q. Okay. And so your work 13:57:32

9 colleagues told you that this free tax 13:57:39

10 preparation program was based on income 13:57:42

11 level; is that right? 13:57:44

12 A. Yes, that is right. 13:57:45

13 Q. But they didn't specify that it 13:57:48

14 was a TurboTax product, did they? 13:57:53

15 A. I don't remember, but I do 13:57:55

16 remember -- I -- I mean, this was five -- 13:57:58

17 I don't remember. This conversation was a 13:58:04

18 long time ago. But I kind of remember 13:58:06

19 asking them, like, but I always used 13:58:08

20 TurboTax tax. They're like, yeah, you can 13:58:08

21 do it through TurboTax tax anyway. 13:58:10

22 Q. Okay. Is there a reason you 13:58:12

23 didn't put that in the declaration? 13:58:13

24 A. I don't think specifically. 13:58:15

25 Q. Okay. So at that point, you 13:58:20

1 ROZAR

2 said this was tax year 2017. 13:58:28

3 You had already used TurboTax 13:58:30

4 tax for tax years 2013 to 2016; right? 13:58:33

5 A. Yes. 13:58:37

6 Q. Okay. So having used TurboTax 13:58:37

7 tax for the last four years prior to this 13:58:41

8 conversation, you understood that 13:58:44

9 eligibility for the TurboTax tax products 13:58:46

10 were not based on income; right? 13:58:48

11 MR. MAHMOOD: Objection. Form. 13:58:51

12 A. I'm sorry. Can you rephrase 13:58:55

13 that? 13:58:57

14 Q. Sure. So having used TurboTax 13:58:57

15 for four years, did you ever see anything 13:59:02

16 on the TurboTax website that said certain 13:59:07

17 products were for people with specific 13:59:10

18 income brackets? 13:59:13

19 A. I don't think so. 13:59:14

20 Q. So the knowledgeability for 13:59:16

21 the -- the knowledgeability requirements 13:59:21

22 for the TurboTax products on the website 13:59:22

23 you had been using was not based on 13:59:25

24 income; right? 13:59:27

25 A. Right. 13:59:27

1 ROZAR

2 Q. So why did you think that a tax 13:59:35

3 preparation program based on income would 13:59:38

4 be on the TurboTax website that year? 13:59:40

5 A. Because my friend had mentioned 13:59:43

6 that I could still use TurboTax tax and 13:59:47

7 get the free filing program. So I tried 13:59:49

8 to find it through there. 13:59:55

9 Q. Okay. Let's go to the next 14:00:00

10 paragraph. That's paragraph 7. It says, 14:00:04

11 "I recall Googling something like 'Free 14:00:09

12 Tax Filing.' I usually skip the ad 14:00:12

13 results that show up at the top of a 14:00:14

14 Google search, and so I think I skipped 14:00:16

15 down to the organic search results." 14:00:18

16 Is that correct? Did I read 14:00:21

17 that correctly? 14:00:24

18 A. You did read that correctly. 14:00:25

19 Q. So why do you usually skip the 14:00:26

20 ad results? 14:00:29

21 A. I don't want to participate in 14:00:30

22 the ad revenue, and I feel like it is less 14:00:40

23 tailored to what I actually need. 14:00:48

24 Q. Why don't you want to 14:00:50

25 participate in the ad revenue? 14:00:53

1 ROZAR

2 A. Why would I? 14:00:54

3 Q. I'm asking you. 14:00:57

4 A. Just a general distaste for it, 14:00:58

5 I guess. I don't know. I don't have a 14:01:07

6 reason. 14:01:10

7 Q. So what is an organic search 14:01:11

8 results, in your own words? 14:01:15

9 A. Something that's not just 14:01:16

10 sponsored by -- not sponsored. Something 14:01:18

11 that would be more specific to what I was 14:01:22

12 looking for. So if I'm Googling what do I 14:01:24

13 feed my rabbit, it's not going to bring up 14:01:30

14 Chewy.com. It's going to bring me, like, 14:01:32

15 an actual, like, information, you know, 14:01:35

16 rather than just a, like, product. 14:01:35

17 Q. Okay. So you mentioned earlier 14:01:37

18 that when you Googled "free tax filing," 14:01:43

19 you saw a result -- organic search result 14:01:46

20 for the IRS Free File Program; is that 14:01:49

21 right? 14:01:51

22 A. Well, reading through this, I 14:01:52

23 mean, I don't remember exactly what it 14:01:56

24 was, but, I mean, it looked like it was a 14:01:57

25 TurboTax link, like, not the free -- 14:01:59

1 ROZAR

2 like -- hold on. Can you say your 14:02:01

3 question again? 14:02:03

4 Q. Sure. So I believe you 14:02:03

5 testified when you Googled "free tax 14:02:07

6 filing," you saw a result and clicked on a 14:02:10

7 result for the IRS Free File Program; is 14:02:12

8 that right? 14:02:14

9 A. Honestly, at this point. I 14:02:15

10 don't know. It was, like, years ago. 14:02:19

11 Q. Okay. So -- but you did say 14:02:24

12 earlier that you went to the IRS Free File 14:02:32

13 Program and found the product donated by 14:02:35

14 TurboTax and clicked on that; is that 14:02:38

15 right? 14:02:40

16 A. I do remember that. I don't 14:02:40

17 remember the order of, like -- of what -- 14:02:41

18 when that happened. But yes, I remember 14:02:44

19 doing that. 14:02:46

20 Q. And can you tell me again why 14:02:46

21 you didn't use that product at that time? 14:02:49

22 MR. MAHMOOD: Objection. Form. 14:02:55

23 Q. You can answer. 14:02:56

24 A. Should I answer? Okay. Because 14:02:57

25 it was a different format than what I was 14:02:59

1 ROZAR

2 used to, and I didn't feel as comfortable 14:03:01
3 with it. 14:03:04

4 Q. When you say you didn't feel as 14:03:05
5 comfortable with it, can you elaborate a 14:03:09
6 little bit on what you mean by that? 14:03:11

7 A. It wasn't what I was used to, 14:03:15
8 and I didn't know if I was in the right 14:03:17
9 place, if I would be able to still use the 14:03:19
10 same thing I was used to, and so I didn't 14:03:21
11 pursue it. 14:03:24

12 Q. Do you remember how it was 14:03:24
13 different than what you were used to? 14:03:26

14 A. Not specifically. 14:03:28

15 Q. And why didn't you include that 14:03:29
16 in the declaration that you went to the 14:03:36
17 IRS Free File Program website -- 14:03:38

18 A. I don't know. 14:03:41

19 Q. -- in tax year 2017? 14:03:43

20 A. I don't know. 14:03:44

21 Q. Did you tell the Los Angeles 14:03:45
22 City Attorney's Office that you had gone 14:03:52
23 to the IRS Free File Program website in 14:03:53
24 tax year 2017? 14:03:55

25 A. Honestly -- I don't know. 14:03:56

1 ROZAR

2 Honestly, I'm trying to remember. It's, 14:04:00
3 like, this was five years ago. I don't 14:04:02
4 remember -- I mean, oh, God. I don't 14:04:04
5 know. I, like -- I may have testified to 14:04:06
6 this, but, like, I honestly don't 14:04:08
7 specifically remember at this point. 14:04:09

8 Q. Okay. So is it fair to say that 14:04:10
9 you don't really remember the specifics of 14:04:18
10 what's in this declaration? 14:04:20

11 A. Well, this declaration was given 14:04:22
12 to me a year ago. 14:04:24

13 MR. MAHMOOD: Objection. Form. 14:04:25

14 Q. I'm sorry? 14:04:26

15 A. This declaration was given, 14:04:26
16 like, two -- like, a year and a half -- I 14:04:28
17 was working on this for, like, two years 14:04:30
18 ago, so, like, my memory is different 14:04:32
19 since then. So it's -- like, it's less 14:04:33
20 than that. It's, like -- I remembered 14:04:35
21 more clearly when I gave this declaration 14:04:36
22 than I remember today. 14:04:36

23 Q. Okay. Okay. So continuing in 14:04:37
24 paragraph 7. You said, "I saw a TurboTax 14:04:56
25 link and clicked it, since I had already 14:05:01

1 ROZAR

2 been using TurboTax. This link took me to 14:05:03
3 the TurboTax website. I believed that I 14:05:05
4 would be able to access the free version 14:05:07
5 of TurboTax tax I had heard about on this 14:05:09
6 website, along with all of TurboTax's 14:05:12
7 other products." 14:05:14

8 Did I read that correctly? 14:05:15

9 A. Yes. 14:05:16

10 Q. So when you Googled "free tax 14:05:17
11 filing," do you remember if you clicked on 14:05:24
12 any other links? 14:05:26

13 A. I don't remember. 14:05:27

14 Q. And so you saw the TurboTax link 14:05:28
15 and clicked on it, and that took you to 14:05:39
16 the page that you were familiar with that 14:05:41
17 you had used in previous years; is that 14:05:43
18 correct? 14:05:46

19 A. Yeah, according to this 14:05:46
20 declaration, which was more clear at that 14:05:48
21 point. 14:05:50

22 Q. Okay. And when you went to that 14:05:50
23 website that you're familiar with, you did 14:05:57
24 not see the free tax preparation program 14:06:00
25 that you had heard about; is that right? 14:06:03

1 ROZAR

2 A. I mean, I feel like I saw, like, 14:06:05
3 a free -- it was, like, many different, 14:06:15
4 like, links, like, different products you 14:06:19
5 could use. And there was one that said, 14:06:20
6 like, "free filing" on it. And I -- I 14:06:22
7 don't remember what year we're talking 14:06:24
8 about at this point, but I remember 14:06:25
9 clicking on, like, the free one that was, 14:06:26
10 like -- I see on the next page, actually, 14:06:28
11 now that I'm looking at, it's, like, free 14:06:30
12 edition. And it's, like, yeah, I clicked 14:06:32
13 on the -- it said free edition, so I 14:06:34
14 clicked on that, so I thought I was in the 14:06:37
15 right place. 14:06:39

16 Q. Okay. So you clicked on "free 14:06:39
17 edition" and started filing your tax -- 14:06:43
18 doing your -- started preparing your taxes 14:06:45
19 using free edition? Is that what you 14:06:48
20 remember? 14:06:50

21 A. That's what I remember. 14:06:50

22 Q. And -- okay. And that's your 14:06:56
23 recollection, even though you looked at 14:07:03
24 TurboTax's records that show that you 14:07:06
25 never started in free edition? 14:07:08

1 ROZAR

2 A. Well, I think I have -- 14:07:10

3 MR. MAHMOOD: Objection to form. 14:07:12

4 Q. You can answer. 14:07:13

5 A. I remember clicking on that, and 14:07:14

6 then it, like, got me to the point 14:07:16

7 where -- so, like, I don't know 14:07:18

8 what the -- this -- the record may show, 14:07:19

9 like, how -- I -- I don't know how this 14:07:22

10 record works. What I remember is I 14:07:24

11 clicked on this thing, getting to a 14:07:25

12 certain point, and then it being, like, 14:07:27

13 oh, like, you have a tax -- like, a 14:07:29

14 student loan tax, credit, whatever. Like, 14:07:31

15 is that going to work at this point? Oh, 14:07:33

16 do I have to start over? So, like, I -- 14:07:35

17 then I feel like I went to, like, the one 14:07:37

18 you have to pay for because of, like, 14:07:38

19 this -- the credit that I, like -- oh, I 14:07:40

20 guess I'm not eligible for this thing. 14:07:42

21 Q. Okay. And again, I'm only, you 14:07:44

22 know -- you can only testify today as to 14:07:47

23 what you remember. So I'm only interested 14:07:49

24 in what your memory is. 14:07:51

25 A. Okay. 14:07:52

1 ROZAR

2 Q. And if you don't remember, 14:07:53

3 that's perfectly fine to say so. 14:07:56

4 Okay. So keeping on 14:08:00

5 paragraph 7, you said, "I recall Googling 14:08:12

6 something like 'free tax filing,' and then 14:08:14

7 I saw a TurboTax link and clicked it, 14:08:17

8 since I had already been using TurboTax"; 14:08:20

9 right? 14:08:23

10 A. Yes. 14:08:23

11 Q. If I represented to you that 14:08:24

12 Intuit's records indicate that you did not 14:08:28

13 access TurboTax in tax year 2017 through 14:08:30

14 Google search results, would that change 14:08:33

15 your recollection at all, or -- 14:08:36

16 A. It would not change my 14:08:38

17 recollection. 14:08:39

18 Q. But is it possible you went 14:08:40

19 directly to TurboTax.com without clicking 14:08:44

20 on a Google search result? 14:08:47

21 MR. MAHMOOD: Objection. Form. 14:08:48

22 A. Possible. Yeah. 14:08:49

23 Q. And you don't have your internet 14:08:52

24 history going back that far; is that 14:08:56

25 right? 14:08:57

1 ROZAR

2 A. I do not. 14:08:57

3 Q. Let's turn to look at 14:08:58

4 paragraph 8. You say, "In fact, I recall 14:09:09

5 looking around the site and seeing a page 14:09:13

6 that looked like the following:" 14:09:15

7 And then there's a screen shot; 14:09:17

8 is that right? 14:09:19

9 A. Yes. 14:09:19

10 Q. Can you tell me what this is an 14:09:21

11 image of? 14:09:23

12 A. It looks like a TurboTax website 14:09:24

13 home page or product page at least. 14:09:27

14 Q. And do you see in the top left 14:09:30

15 corner, it says "Wayback Machine"? 14:09:33

16 A. Yes. 14:09:37

17 Q. Do you know what the Wayback 14:09:37

18 Machine is? 14:09:39

19 A. You can see websites from 14:09:40

20 different years. 14:09:41

21 Q. And did you personally go to the 14:09:45

22 Wayback Machine and type in URL at the top 14:09:47

23 of the page? 14:09:51

24 A. No, I did not. 14:09:52

25 Q. Who did? 14:09:52

1 ROZAR

2 A. The district attorney, and then 14:09:53
3 they showed it to me during whatever Zoom 14:09:56
4 calls. 14:09:58

5 Q. Okay. So he created it and then 14:09:59
6 sent it to you. 14:10:03

7 A. Yeah. Yes. 14:10:03

8 Q. And is that how this image ended 14:10:07
9 up in the declaration? 14:10:10

10 A. Yes. 14:10:11

11 Q. Okay. So the date up at the top 14:10:11
12 says January 5, 2018; right? 14:10:21

13 A. Yes. 14:10:23

14 Q. So that would be tax year 2017? 14:10:23

15 A. Yes. 14:10:25

16 Q. And you had already used 14:10:29
17 TurboTax in previous years before tax year 14:10:31
18 2017. 14:10:34

19 A. Yes. 14:10:35

20 Q. So do you see on the image where 14:10:38
21 it says, "Tell us about you -- we will 14:10:42
22 recommend the right tax solution"? 14:10:46

23 A. Yes. 14:10:49

24 Q. Did you click on any of those 14:10:49
25 tiles below? 14:10:51

1 ROZAR

2 A. I don't remember. 14:10:52

3 Q. Do you remember receiving a 14:11:00

4 recommendation from TurboTax about which 14:11:02

5 product to start in? 14:11:03

6 A. I don't remember. 14:11:04

7 Q. And every year that you logged 14:11:05

8 into TurboTax, have you -- did you see a 14:11:11

9 page that looked like this? 14:11:14

10 A. I don't specifically remember. 14:11:15

11 Q. Okay. So then next, in 14:11:21

12 paragraph 9, it says, "I selected the 14:11:30

13 'Free Edition' option because I thought 14:11:33

14 this was the free option that I had heard 14:11:34

15 about from others." Is that right? 14:11:36

16 A. Yes. 14:11:39

17 Q. And was this the first -- in tax 14:11:39

18 year 2017, was that the first time you had 14:11:44

19 seen the free edition on there? 14:11:45

20 A. Best of my memory, yes. 14:11:47

21 Q. Okay. And it's your testimony 14:11:54

22 that you clicked on "Free Edition" and 14:11:59

23 started preparing your taxes in Free 14:12:03

24 Edition; is that right? 14:12:05

25 A. That is my testimony. That's 14:12:06

1 ROZAR

2 what I remember. Yes. 14:12:07

3 Q. Okay. And that's your testimony 14:12:08

4 regardless of the fact that TurboTax's 14:12:20

5 records reflect otherwise? 14:12:22

6 MR. MAHMOOD: Objection. Form. 14:12:24

7 A. That's what I remember. So 14:12:25

8 that's why I -- I -- it's, like, just 14:12:29

9 because the records -- I don't know. 14:12:32

10 That's what I remember. So I don't know 14:12:33

11 how the records work, and that's just what 14:12:34

12 I remember. 14:12:36

13 Q. Okay. So going back to the 14:12:37

14 image, there are five choices given here; 14:12:41

15 right? The free edition, deluxe, premier, 14:12:46

16 self-employed, and live. 14:12:49

17 Do you see that? 14:12:51

18 A. Yes. 14:12:51

19 Q. And do you see where it says 14:12:51

20 "Free Edition"? 14:12:55

21 A. Yes. 14:12:56

22 Q. And that sort of middle part of 14:12:56

23 that button says "simple tax returns." 14:13:00

24 Do you see that? 14:13:04

25 A. Yes. 14:13:04

1 ROZAR

2 Q. Okay. So on the front page of 14:13:04
3 the TurboTax website, it said that 14:13:09
4 TurboTax free edition was for simple tax 14:13:12
5 returns; right? 14:13:15

6 A. Yes. 14:13:15

7 Q. And nothing -- nothing on this 14:13:15
8 page indicates that free edition was 14:13:20
9 available to anybody below a certain 14:13:22
10 income; is that right? 14:13:24

11 A. That is correct. 14:13:25

12 Q. And there are four other choices 14:13:25
13 on the page; is that right? 14:13:32

14 A. Yes. 14:13:33

15 Q. And each of those choices all 14:13:33
16 have prices listed? 14:13:37

17 A. Yes. 14:13:40

18 Q. So it's clear that the other 14:13:40
19 choices cost money. Is that fair? 14:13:46

20 A. Yes, it is fair. 14:13:49

21 Q. So if you click on Deluxe, 14:13:50
22 before you entered any information, you 14:13:59
23 know that it would cost 39.99 plus the 14:14:01
24 cost of the state return? 14:14:04

25 A. Yes. That is correct. I 14:14:06

1 ROZAR

2 understand that. 14:14:07

3 Q. Do you see at the bottom of each 14:14:08

4 of the four that are not free edition, it 14:14:15

5 says, "Start for free. Pay only when you 14:14:18

6 file"? 14:14:22

7 A. Yes, I see that. 14:14:22

8 Q. What do you understand that to 14:14:23

9 mean? 14:14:26

10 A. You can do the process, but if 14:14:27

11 you want to actually file your taxes, you 14:14:34

12 have to pay for it. 14:14:36

13 Q. So you don't -- so you 14:14:38

14 understand that you didn't have to pay 14:14:42

15 until you were ready to file your taxes; 14:14:43

16 is that right? 14:14:46

17 A. Yes, I understand that. 14:14:46

18 Q. Okay. So if we go to 14:14:54

19 paragraph 9, you said, "I answered the 14:14:55

20 questions and filled out the required 14:14:59

21 information. I believe this was part of 14:15:00

22 TurboTax finding out about me in order to 14:15:03

23 recommend the right tax solution." 14:15:05

24 Did I read that correctly? 14:15:07

25 A. On paragraph 9? 14:15:09

1 ROZAR

2 Q. Yes. It's the sentences that 14:15:14
3 start on line 26 and then go to the next 14:15:17
4 page. 14:15:21

5 A. Website asked me question 14:15:23
6 about -- oh, yeah. Okay. I see. 14:15:29

7 Q. So what did you mean by the 14:15:34
8 "right tax solution"? 14:15:35

9 A. I thought it would also included 14:15:37
10 my income level as part of, like, what I 14:15:46
11 was eligible for. 14:15:47

12 Q. So by "right tax solution," did 14:15:49
13 you just mean the least expensive? 14:15:55

14 A. Yeah. 14:15:57

15 Q. By "right tax solution," did you 14:15:57
16 think of an easiest to use? 14:16:08

17 A. Not in this context. 14:16:10

18 Q. Did you think of the solution 14:16:13
19 that would enable you to file a compliant 14:16:22
20 and accurate tax return? 14:16:27

21 A. I -- that was part of the given, 14:16:28
22 I guess. It's, like, this -- what I meant 14:16:29
23 by "right tax solution" was something that 14:16:31
24 would be in compliance with United States 14:16:34
25 law and also be appropriate to my income 14:16:37

1 ROZAR

2 level and would also encompass the credits 14:16:40

3 and whatever deductions I was owed. 14:16:45

4 Q. Okay. Going back to the screen 14:16:47

5 shot on page 2 in paragraph 8. 14:16:58

6 Would you expect TurboTax to 14:17:01

7 recommend any products that were not 14:17:04

8 listed here? 14:17:06

9 A. Well, I guess I assumed that the 14:17:06

10 free edition meant the one that was the 14:17:13

11 free file. So I didn't expect it to offer 14:17:16

12 anything else. I didn't realize there was 14:17:18

13 a different one that was not included. I 14:17:21

14 expected that this included all the ones 14:17:23

15 that were offered, including the free file 14:17:24

16 program, based on income. 14:17:25

17 Q. And where -- where on this page 14:17:26

18 did you see any product that listed 14:17:31

19 income-based eligibility requirements? 14:17:35

20 A. It did not require -- 14:17:36

21 MR. MAHMOOD: Objection. Form. 14:17:38

22 A. That was my assumption that free 14:17:39

23 was in regards to the Free File Program. 14:17:41

24 Q. Okay. Even though it says 14:17:45

25 "simple tax returns." 14:17:46

1 ROZAR

2 A. Yeah. I didn't -- I did not 14:17:47
3 realize that "simple tax returns" meant 14:17:49
4 anything that was not regarded -- I don't 14:17:51
5 know. Yeah. I saw "free." I thought 14:17:53
6 free. That's what it was. 14:17:55

7 Q. Okay. You didn't see any income 14:17:57
8 eligibility requirements; is that right? 14:18:02

9 A. No. 14:18:03

10 Q. What do you understand simple 14:18:04
11 tax returns to mean? 14:18:13

12 A. I thought I had a simple one, 14:18:18
13 because all I had was basically a W-2 and 14:18:20
14 then the student loan credit. I didn't 14:18:24
15 realize that that was complicated. 14:18:26

16 Q. Okay. So you understand that 14:18:27
17 simple tax returns does not necessarily 14:18:32
18 mean that you have a certain income level; 14:18:35
19 is that right? 14:18:40

20 A. I guess not, no. 14:18:40

21 Q. And you testified earlier that 14:18:44
22 you used an accountant this year because 14:18:47
23 you thought your returns were complicated? 14:18:51

24 A. Right. This is the first year 14:18:53
25 of my life I've ever had a complicated tax 14:18:58

1 ROZAR

2 return. So -- 14:19:01

3 Q. But you said your approximate 14:19:01

4 income -- gross income was 18,000? Is 14:19:07

5 that right? 14:19:09

6 A. It may -- that was my -- from -- 14:19:10

7 I think that was my income from jobs, and 14:19:14

8 then my income with selling stock was, 14:19:17

9 like, 27,000. So that's -- I mean -- 14:19:21

10 yeah. So it's, like, that's why it was 14:19:24

11 complicated for me. That's why I wanted 14:19:25

12 to just have a professional handle it. 14:19:27

13 Q. Okay. And when you say 27,000, 14:19:28

14 was that total with the jobs or 18,000 14:19:31

15 plus 27,000? 14:19:34

16 A. Total with the jobs. 14:19:35

17 Q. Okay. So you understood this 14:19:37

18 year that you would have a complicated tax 14:19:41

19 return and you'd still have -- still have 14:19:43

20 an income level that would qualify you for 14:19:46

21 the Free File Program. 14:19:49

22 A. I did understand that, yeah. 14:19:50

23 Q. Okay. Let's go to paragraph 10. 14:19:52

24 You said, "I thought that TurboTax had a 14:20:03

25 free tax preparation service that I might 14:20:05

1 ROZAR

2 be eligible for, given my income, based on 14:20:07

3 TurboTax's listing of a free edition 14:20:10

4 because I had Googled free tax filing and 14:20:12

5 clicked on a non-ad result and because the 14:20:15

6 TurboTax program specifically asked about 14:20:18

7 my income in helping me choose a product." 14:20:19

8 Is that right? 14:20:21

9 A. Mm-hmm. Yes. 14:20:22

10 Q. So when you said you thought 14:20:23

11 TurboTax had a free tax preparation 14:20:31

12 service that you might be eligible for, 14:20:33

13 given your income, based on TurboTax's 14:20:34

14 listing of a free edition, you're 14:20:36

15 referring to the product that's in the 14:20:39

16 left-most column on page 2, paragraph 8? 14:20:40

17 A. Yes, I am referring to that. 14:20:46

18 Q. Okay. So let's go back to that 14:20:50

19 screen shot in paragraph 8. The top of 14:20:57

20 that page says, "Tell us about you -- 14:21:02

21 we'll recommend the right tax solution." 14:21:05

22 Right? 14:21:08

23 A. Yes. 14:21:08

24 Q. And then under that, it has a 14:21:08

25 number of tiles you can click on to 14:21:10

1 ROZAR

2 provide information about your situation; 14:21:12

3 is that right? 14:21:14

4 A. Yes. 14:21:14

5 Q. Do any of those tiles ask for 14:21:15

6 your income? 14:21:20

7 A. No. 14:21:21

8 Q. Okay. So why did you think that 14:21:29

9 TurboTax asked about your income for the 14:21:44

10 purpose of recommending product? 14:21:46

11 A. I guess I unfairly assumed that 14:21:49

12 TurboTax would -- hate to say it, but -- 14:21:52

13 do the right thing and, like, see that my 14:21:57

14 income qualified me for the program and 14:22:00

15 would recommend that. So I guess that was 14:22:05

16 negative on my part. 14:22:07

17 Q. What do you mean by "unfairly"? 14:22:09

18 A. Well, because, like, clearly, 14:22:11

19 that didn't work out, you know? Like, I 14:22:13

20 thought I was going to be recommended it. 14:22:15

21 It was my fault, I guess, because, like, I 14:22:16

22 assumed that, like, my income would 14:22:19

23 qualify me. And, like, I knew I was 14:22:23

24 qualified based on my income, and I guess 14:22:25

25 I thought that, like, free -- I guess I 14:22:27

1 ROZAR

2 just assumed that TurboTax would, like, 14:22:31

3 catch that I -- I don't know. I guess I 14:22:34

4 assumed too much of it. It would, like, 14:22:36

5 catch that my income was lower, especially 14:22:37

6 because I clicked on the free one, 14:22:40

7 assuming that it was part of that whole 14:22:41

8 Free File Program, and be, like, oh, yeah, 14:22:43

9 so you're qualified for this program. 14:22:45

10 Q. When you clicked on the free 14:22:46

11 edition, like, you had not entered any 14:22:48

12 income information yet; is that right? 14:22:50

13 A. I don't remember, but probably 14:22:52

14 not. 14:22:55

15 Q. Okay. So is it possible that 14:22:55

16 TurboTax was asking you about your income 14:23:00

17 in order to help you prepare and file your 14:23:02

18 taxes? 14:23:04

19 A. Can you say that one more time? 14:23:05

20 Q. Is it possible that TurboTax 14:23:08

21 asked you about your income in order to 14:23:10

22 help you prepare and file your taxes? 14:23:12

23 A. It's possible. I don't remember 14:23:14

24 that. I don't -- yeah. I don't remember 14:23:15

25 specifically. 14:23:17

1 ROZAR

2 Q. Do you think it would be 14:23:17
3 possible to prepare and file your taxes 14:23:21
4 using TurboTax if you never gave them your 14:23:24
5 income? 14:23:26

6 A. No. 14:23:26

7 Q. So is it possible that the 14:23:27
8 reason why TurboTax asked for your income 14:23:32
9 was to help you prepare and file your 14:23:34
10 taxes? 14:23:36

11 A. Yes. 14:23:36

12 MR. MAHMOOD: Objection. Form. 14:23:38

13 Q. And is it possible that it was 14:23:38
14 not asking you about your income in order 14:23:41
15 to recommend a product? 14:23:43

16 A. That is possible, yes, although 14:23:47
17 I will say that if I'm in a spot where 14:24:04
18 it's asking me to find the right product 14:24:07
19 and asking me for my income, I would 14:24:08
20 assume that my income was based on -- was 14:24:09
21 part of the eligibility for which product 14:24:11
22 would be the best one for me. This was my 14:24:13
23 assumption, though. 14:24:15

24 Q. And again, though, going back to 14:24:15
25 the screen shot, when it's asking you, 14:24:19

1 ROZAR

2 "Tell us about you -- we'll recommend the 14:24:25

3 right tax solution," none of those tiles 14:24:27

4 relate to income, do they? 14:24:30

5 A. No, they do not. 14:24:31

6 Q. Okay. So TurboTax didn't ask 14:24:32

7 you about your income in order to 14:24:34

8 recommend the right product. 14:24:36

9 A. I guess not. 14:24:37

10 Q. And that's because none of these 14:24:39

11 products are based on income. 14:24:44

12 A. None of -- no. 14:24:47

13 MR. MAHMOOD: Objection. Form. 14:24:48

14 Q. Okay. So going to the next 14:24:49

15 paragraph. "After" -- paragraph 11 I'm at 14:25:01

16 now. "After the TurboTax website told me 14:25:05

17 I was only eligible for paid options based 14:25:09

18 on the information I entered, I opened a 14:25:11

19 new tab to see if I could figure out why 14:25:12

20 TurboTax was not offering me the free 14:25:14

21 option. I Googled 'free TurboTax' to see 14:25:16

22 if I could figure out what the 14:25:19

23 requirements were, but that ended up not 14:25:21

24 being helpful." 14:25:22

25 Did I read that correctly? 14:25:24

1 ROZAR

2 A. Yes. 14:25:25

3 Q. So was "free TurboTax" the only 14:25:26
4 phrase you searched on Google? 14:25:32

5 A. I don't remember if there were 14:25:34
6 others, but definitely -- that's one that 14:25:35
7 I did. 14:25:39

8 Q. Are you -- are you sure that you 14:25:39
9 Googled that exact phrase? 14:25:47

10 MR. MAHMOOD: Objection to form. 14:25:48

11 A. I don't remember if I Googled 14:25:49
12 that exact phrase. 14:25:54

13 Q. Okay. Do you think, at the time 14:25:55
14 you wrote this declaration, you remembered 14:25:58
15 that you Googled that exact phrase? 14:26:03

16 A. I think at that time, I do 14:26:04
17 remember that better. Yes. 14:26:06

18 Q. Okay. What does it mean when 14:26:07
19 you said that ended up not being helpful? 14:26:18

20 A. I don't remember specifically. 14:26:20
21 But clearly, I didn't find the actual free 14:26:23
22 site. So in the end, it didn't wind up 14:26:26
23 being helpful. 14:26:30

24 Q. But you did find the free 14:26:30
25 website; right? You just -- you did find 14:26:32

1 ROZAR

2 it. 14:26:35

3 A. Yeah. I guess so. But it 14:26:36

4 wasn't helpful in terms of me filing my 14:26:42

5 taxes for free is the ultimate thing. 14:26:44

6 Q. But just to be clear, you found 14:26:46

7 the free website. You just didn't use it. 14:26:48

8 A. At this point, I don't remember. 14:26:50

9 But that's what I wrote, I think, 14:26:52

10 previously. So that's what I'm going to 14:26:53

11 go with, because I remembered better at 14:26:55

12 that point. 14:26:58

13 Q. Well, I think that's not in your 14:26:58

14 declaration. That's just something you 14:26:59

15 told me earlier; isn't that right? 14:27:01

16 A. Okay. I mean, I did -- at some 14:27:03

17 point, I found the free one. I don't 14:27:11

18 remember exactly what year it was. I 14:27:13

19 don't remember the exact order of this. 14:27:16

20 So that's why I'm, like, hesitant to be, 14:27:17

21 like, yeah, I was totally in this context, 14:27:19

22 this exact timeline, this is what happened 14:27:20

23 in this time. So it's, like, I remember I 14:27:21

24 found it at some point. I don't remember 14:27:24

25 if it was exactly at this -- 2017 where I 14:27:26

1 ROZAR

2 was, like, Googled this, and found it. It 14:27:27
3 might have been 2018. It might have been 14:27:28
4 later. It might have been earlier. I 14:27:30
5 don't remember. 14:27:31

6 Q. And just to take a pause. I 14:27:32
7 know that you're not feeling well. So -- 14:27:36
8 and we haven't been going for quite an 14:27:40
9 hour yet. But do you want to take a break 14:27:42
10 now or -- I want you to feel free to 14:27:44
11 interrupt me whenever you feel like you 14:27:46
12 need to take a break. So we can do it now 14:27:48
13 if it would be helpful for you or we can 14:27:50
14 keep going. 14:27:53

15 A. Yeah. Okay. Now would be 14:27:54
16 great. Thank you. 14:27:56

17 Q. Okay. Was ten minutes enough 14:27:56
18 last time or you want fifteen? 14:27:59

19 A. Ten is probably fine. 14:28:00

20 Q. Okay. 14:28:04

21 A. Thank you. 14:28:06

22 Q. We'll come back at 2:38. 14:28:07

23 A. Okay. Thank you. 14:28:10

24 Q. Thanks. 14:28:12

25 THE VIDEOGRAPHER: The time is 14:28:12

1 ROZAR

2 approximately 2:28, and we're going 14:28:13

3 off the record. 14:28:15

4 (Recess) 14:28:16

5 THE VIDEOGRAPHER: The time is 14:28:16

6 approximately 2:39 p.m., and we are 14:39:30

7 back on the record. 14:39:33

8 BY MS. PHILLIPS: 11:41:30

9 Q. So first of all, Ms. Rozar, I 11:41:30

10 just want to reiterate, I know you're not 14:39:41

11 feeling well. Please, please interrupt 14:39:44

12 whenever you need a break. Totally on 14:39:48

13 your schedule here. 14:39:49

14 A. I appreciate that. 14:39:51

15 Q. So -- okay. So I think we were 14:39:52

16 looking at paragraph 11 of the 14:39:56

17 declaration. 14:39:58

18 And I think we're here talking 14:40:07

19 about tax year '17 still; is that correct? 14:40:08

20 A. Yeah. 14:40:12

21 Q. You said, "I Googled free 14:40:12

22 TurboTax." 14:40:17

23 But sitting here today, you 14:40:20

24 can't remember whether you used that exact 14:40:21

25 phrase or not; is that right? 14:40:25

1 ROZAR

2 A. That's correct. 14:40:26

3 Q. But at the time you signed your 14:40:27
4 declaration a year and a month or so ago, 14:40:31
5 you did remember that clearly? 14:40:36

6 A. I remembered it more clearly. 14:40:38
7 I've also had Covid since then. I've lost 14:40:40
8 a lot of memory. 14:40:42

9 Q. Oh, gosh. I'm sorry to hear 14:40:44
10 that. 14:40:45

11 A. That's okay. 14:40:45

12 Q. Okay. Okay. So I think it's 14:40:46
13 the third sentence in paragraph 11. You 14:41:05
14 said, "I went to the TurboTax website in 14:41:09
15 another tab and tried to go through the 14:41:11
16 website again for clarification but did 14:41:13
17 not figure out the problem." Is that 14:41:16
18 right? 14:41:17

19 A. Right. 14:41:17

20 Q. What -- do you remember what you 14:41:18
21 did to look around the TurboTax website? 14:41:22

22 A. I'm getting an image in my head. 14:41:24
23 I don't remember if this was the year. I 14:41:35
24 don't remember -- you know what? No. 14:41:37
25 I -- that's not really -- I don't 14:41:42

1 ROZAR

2 remember -- that's not reliable. So no. 14:41:46

3 I don't really remember. I'm sorry. 14:41:53

4 Q. That's okay. No need to 14:41:54

5 apologize. I know this was a long time 14:41:58

6 ago. 14:42:01

7 So do you remember contacting 14:42:02

8 TurboTax support ever? 14:42:09

9 A. Are you still talking about 14:42:09

10 2017? 14:42:14

11 Q. Yes. 14:42:14

12 A. Tax year 2017. 14:42:14

13 Q. Tax year 2017. Yeah. 14:42:16

14 A. I feel like I did, but I don't 14:42:17

15 remember what about. 14:42:26

16 Q. Okay. Did you look at -- do you 14:42:27

17 remember if you looked at any of the 14:42:33

18 frequently asked questions pages? 14:42:35

19 A. I don't remember if I did. 14:42:36

20 Q. Do you remember if you looked at 14:42:38

21 any of the blog posts? 14:42:40

22 A. I know I have in the past. I 14:42:42

23 don't know for this year. 14:42:46

24 Q. So going on to paragraph 12. 14:42:47

25 You said, "I had probably spent almost two 14:42:54

1 ROZAR

2 hours between entering my tax information 14:42:56

3 and searching for the free option I 14:42:58

4 believed I was qualified to use. At this 14:43:00

5 point, I was so exasperated and just 14:43:02

6 wanted to get the process over with, so I 14:43:05

7 chose the cheapest option TurboTax gave me 14:43:07

8 and paid about \$140 to finish my taxes." 14:43:10

9 Is that correct? 14:43:13

10 A. Yeah, I think so. 14:43:14

11 Q. Sorry. I just meant did I read 14:43:15

12 that correctly? 14:43:19

13 A. Yeah. 14:43:20

14 Q. And when you told the Los 14:43:21

15 Angeles City Attorney's Office that you 14:43:31

16 paid \$140 to finish your taxes, was that 14:43:34

17 based on memory, or did you look at your 14:43:37

18 receipts? 14:43:39

19 A. I think it was based on memory. 14:43:39

20 Q. Did you ever give them your 14:43:41

21 receipts? 14:43:45

22 A. I did, but only -- I don't 14:43:45

23 remember -- 14:43:50

24 Q. Did you give them your receipts 14:43:50

25 prior to signing this declaration? 14:43:53

1 ROZAR

2 A. I don't remember. The only time 14:43:54

3 I remember giving them receipts was this 14:43:58

4 past Friday when I sent it to them. 14:44:00

5 Q. Do you remember if they asked 14:44:04

6 for your receipts? 14:44:05

7 A. I don't remember. 14:44:06

8 Q. And how do you -- how do you 14:44:07

9 know you spent almost two hours between 14:44:15

10 entering your tax information and 14:44:18

11 searching for the free option you believed 14:44:19

12 you were qualified to use? 14:44:21

13 A. I mean, there's an estimate -- I 14:44:23

14 spent a long time doing it. I spent, 14:44:25

15 like, two hours, I guess. 14:44:28

16 Q. And then in paragraph 12, the 14:44:29

17 last sentence, you said, "The same thing 14:44:34

18 happened again in tax year 2018." 14:44:36

19 Did I read that correctly? 14:44:39

20 A. You read that correctly. 14:44:40

21 Q. What is that referring to, "the 14:44:42

22 same thing"? 14:44:46

23 A. I believe what I was referring 14:44:46

24 to was, like, I looked for the free option 14:44:48

25 again and was still unable to find it. 14:44:51

1 ROZAR

2 Q. Okay. Did you spend two hours 14:44:54
3 again in tax year 2018? 14:44:56

4 A. I don't remember. I remember 14:44:58
5 spending a good amount of time. 14:45:02

6 Q. Okay. 14:45:04

7 A. But I also remember being -- I 14:45:09
8 didn't include this in the declaration, I 14:45:12
9 guess, but I also remember kind of being, 14:45:13
10 like, I mean, it is what it is. The same 14:45:14
11 thing happened last year. So it was, 14:45:15
12 like, I guess, like, I'm not qualified 14:45:17
13 because of the student loan credit. So -- 14:45:18

14 Q. So why didn't you include that 14:45:21
15 in the declaration? 14:45:24

16 A. I don't know. 14:45:24

17 Q. So just to clarify, when you say 14:45:28
18 the same thing happened, are you saying 14:45:30
19 that you assumed that you could not file 14:45:32
20 for free, so you paid to use TurboTax, and 14:45:38
21 not that you spent two hours looking for 14:45:43
22 the free tax option? 14:45:44

23 A. Honestly, I don't know what that 14:45:45
24 line is specifically referring to. 14:45:47

25 Q. Okay. Is it referring -- is 14:45:49

1 ROZAR

2 it -- do you know if it's referring to the 14:45:52

3 part where you said, "I paid about \$140 to 14:45:54

4 finish my taxes"? 14:45:56

5 A. I don't know if it's referring 14:45:58

6 to that specifically. 14:46:00

7 Q. You actually paid about \$75 in 14:46:04

8 tax year 2018 to file your taxes; is that 14:46:07

9 right? 14:46:09

10 A. If you say so. I don't 14:46:09

11 remember. You would know, I'm sure. 14:46:14

12 Q. Okay. So if we go to the next 14:46:15

13 paragraph, paragraph 13, it says, "Even 14:46:32

14 after having to pay, I continued to use 14:46:41

15 TurboTax because I thought there was 14:46:43

16 really no other option. I believed I 14:46:44

17 would just have to pay with whatever tax 14:46:46

18 preparation service I used because I 14:46:48

19 thought they would have similar 14:46:49

20 qualifications for using a free product." 14:46:51

21 Is that correct? 14:46:54

22 A. Yes. 14:46:54

23 Q. What other tax preparation 14:46:56

24 services are you referring to there? 14:47:02

25 A. H&R Block, a private accountant. 14:47:03

1 ROZAR

2 Q. So you knew that TurboTax was 14:47:14
3 not the only option. 14:47:20

4 A. Right. 14:47:22

5 Q. Right? 14:47:22

6 And did you ever look into any 14:47:23
7 of these other options to figure out what 14:47:27
8 their eligibility criteria was to file for 14:47:30
9 free? 14:47:32

10 A. I don't remember. 14:47:32

11 Q. So why did you think there was 14:47:35
12 no other option? 14:47:38

13 A. I don't know. 14:47:39

14 Q. It was just an assumption? 14:47:51

15 A. I guess so. I guess I trusted 14:47:56
16 that, like -- I don't know. I guess I 14:48:02
17 didn't really understand -- now that I'm 14:48:04
18 thinking about it more, it's, like, I 14:48:07
19 didn't really understand that, like, 14:48:08
20 TurboTax was, like, not a government 14:48:09
21 thing. You know, I have learned since 14:48:10
22 that, like, there's -- TurboTax, H&R 14:48:12
23 Block, they're all just private companies 14:48:14
24 that, like -- I'm not going to get too 14:48:16
25 political about this, but, like, that are 14:48:18

1 ROZAR

2 not part of the government. 14:48:19

3 And, like, I thought that it 14:48:20

4 was, like, a service that was part of the 14:48:22

5 government that, like, you do your taxes 14:48:23

6 through these things, and then, like, they 14:48:24

7 just kind of like -- they, like, offer you 14:48:26

8 the best price because they have to 14:48:27

9 because it's part of the government. I 14:48:29

10 didn't realize that they were, like, 14:48:30

11 private softwares. And so that's why I 14:48:32

12 assumed that, like, H&R Block would be the 14:48:36

13 same. It's, like -- it's, like, you have 14:48:37

14 to go through the government anyway to do 14:48:39

15 your taxes. So it's, like, why would it 14:48:42

16 not be the same? 14:48:44

17 Q. Okay. So you thought that all 14:48:45

18 of the products that are listed in 14:48:47

19 paragraph 8 on the screen shot -- those 14:48:50

20 were all part of a government-sponsored -- 14:48:53

21 A. No, no. 14:48:53

22 Q. -- process? 14:48:58

23 A. Sorry. No. I thought, like, 14:48:58

24 H&R Block and all that kind of stuff, all 14:48:59

25 those -- not the product TurboTax. I 14:49:01

1 ROZAR

2 thought all the tax companies were, like, 14:49:03
3 part of the government. So that's why I 14:49:04
4 assumed that, like, even if I used H&R 14:49:04
5 Block, it would be the exact same thing, 14:49:10
6 because, it's, like -- it's all just tax 14:49:12
7 preparation. So it all goes through the 14:49:13
8 government anyway. So it's, like, why 14:49:14
9 would it be any different? 14:49:14

10 Q. Okay. But do you understand 14:49:15
11 that the screen shot in paragraph 8 -- 14:49:17
12 those five columns listed at the bottom -- 14:49:19
13 those are all TurboTax products? 14:49:23

14 A. Yes. 14:49:24

15 Q. Okay. So being part of -- 14:49:25
16 having -- strike that. 14:49:32

17 The fact that they're all 14:49:33
18 TurboTax products meant that, in your 14:49:35
19 mind, they were all part of a government 14:49:37
20 solution because they were part of 14:49:42
21 TurboTax? 14:49:44

22 A. No. I'm sorry. It's been 14:49:44
23 miscommunication. 14:49:46

24 Q. Yeah. Sorry. 14:49:47

25 A. The reason I -- that's okay. So 14:49:48

1 ROZAR

2 I feel like when you asked me if I used 14:49:50
3 different products, I meant product 14:49:52
4 being -- I think of TurboTax as one 14:49:54
5 product, not the services offered within 14:49:56
6 it. I was referring to, like, other 14:49:58
7 products such as, like, H&R Block and, 14:49:59
8 like, other tax preparation companies. So 14:50:00
9 I had never considered different products 14:50:04
10 within TurboTax because I always want to 14:50:07
11 just go with the cheapest one. So I 14:50:08
12 thought that they were just going to offer 14:50:10
13 me the cheapest one. 14:50:11

14 So it's, like, that's -- so this 14:50:13
15 is talking about, like, I would have to 14:50:16
16 pay whatever tax preparation service I 14:50:18
17 used, because I thought it would be the 14:50:20
18 same qualifications using a free product. 14:50:23
19 So that's what I'm talking about. I used 14:50:23
20 TurboTax because I thought it would be the 14:50:25
21 same qualifications as using H&R Block as 14:50:27
22 using somewhere else. That's what I'm 14:50:30
23 referring to in this paragraph. 14:50:32

24 Q. So you thought all the companies 14:50:33
25 offered the same products. They were just 14:50:36

1 ROZAR

2 different interfaces? 14:50:39

3 A. Yes. 14:50:40

4 Q. Is that right? 14:50:41

5 A. Yes. Yes. 14:50:42

6 Q. Okay. And how did you learn 14:50:42

7 that not to be the case? 14:50:45

8 A. Like, I don't know. Now? 14:50:47

9 Q. Okay. So before -- are you 14:50:50

10 saying before this deposition, you did not 14:50:54

11 realize that TurboTax was a commercial 14:50:56

12 product and not part of the government? 14:50:58

13 A. I mean, kind of. I don't know. 14:51:01

14 I feel stupid to say it, but, like, I 14:51:07

15 guess -- I didn't really, like -- I guess 14:51:08

16 I knew it, like, intellectually that -- in 14:51:10

17 some recess of my brain, but, like, I 14:51:14

18 guess I didn't really, like, think about, 14:51:16

19 like, oh, yeah, it's just, like, that 14:51:17

20 thing you have to pay for for, like -- I 14:51:19

21 guess -- no. I thought it was all part of 14:51:21

22 the government. I didn't realize it was, 14:51:25

23 like, a private little thing. 14:51:27

24 Q. So when you paid TurboTax, did 14:51:28

25 you think that that -- what you paid 14:51:32

1 ROZAR

2 TurboTax was going to the IRS? 14:51:35

3 A. No, I didn't. I knew it was 14:51:37

4 going to TurboTax, but I thought I had -- 14:51:39

5 I thought, like -- I don't -- I'm not a 14:51:40

6 fan of the government in general. So, 14:51:44

7 like, I thought that, like, it was just 14:51:45

8 being, like, kind of bad to its citizens 14:51:46

9 by, like, forcing us to pay for products 14:51:49

10 anyway. Like, private contractors -- I 14:51:51

11 have a very obviously poor understanding 14:51:54

12 of how taxes work. Like, I thought you 14:51:56

13 had to, like, go through, like, private, 14:51:58

14 like, contractors, basically, in order to 14:52:00

15 access what you need to do as a civil 14:52:02

16 duty. So, like, that's what I'm saying. 14:52:05

17 Q. So when you say you're not a fan 14:52:07

18 of the government, what does that mean? 14:52:12

19 A. I don't believe it has our best 14:52:13

20 interests at heart. 14:52:17

21 Q. Do you believe that to be true 14:52:18

22 about the IRS? 14:52:19

23 A. No -- I don't know. I shouldn't 14:52:20

24 have even brought it up. It's not 14:52:25

25 relevant. 14:52:26

1 ROZAR

2 Q. I mean, would you say that you 14:52:26
3 generally trust the IRS? 14:52:31

4 A. Yes. 14:52:32

5 Q. Would you say that you trust the 14:52:33
6 government in general? 14:52:42

7 A. In the -- no, not in general. I 14:52:43
8 say in this specific context. I believe 14:52:47
9 that TurboTax and H&R Block have also, 14:52:50
10 like, lobbied the government in order to, 14:52:53
11 like, make this -- to, like, make their 14:52:56
12 products, like, necessary in order to file 14:52:59
13 taxes. And so that's basically my belief 14:53:01
14 about that is, that, like, I have to -- I 14:53:03
15 believe that, like, I had to pay TurboTax 14:53:05
16 and because that's, like, the most 14:53:09
17 available. 14:53:10

18 I'm getting into, like, a 14:53:10
19 circle. I don't know. I'm sorry. Like, 14:53:12
20 I shouldn't have even brought this up. 14:53:13
21 But, like, I thought I would qualify for 14:53:15
22 free. But since there's a lot of 14:53:20
23 bureaucracy that gets into this, that, 14:53:22
24 like, I would have to pay regardless. 14:53:24
25 That's the gist -- that's the moral of the 14:53:26

1 ROZAR

2 story. And, like, that's it. 14:53:27

3 Q. Okay. I think you just -- to 14:53:28

4 clarify one point, I think you said that 14:53:39

5 you believed that TurboTax and H&R Block 14:53:44

6 lobby the government to make their 14:53:48

7 products necessary? Is that what you 14:53:51

8 said? 14:53:53

9 A. Yeah. 14:53:53

10 Q. Why do you believe that? 14:53:54

11 A. I believe I read something like 14:53:56

12 that. 14:53:58

13 Q. Do you remember where you read 14:53:59

14 it? 14:54:00

15 A. No. 14:54:00

16 Q. Do you remember when -- 14:54:00

17 A. No. 14:54:03

18 Q. -- you read it? 14:54:04

19 Okay. So you believe you had to 14:54:06

20 pay no matter what. Right? That's the 14:54:14

21 bottom line? 14:54:16

22 A. I believe it's, like, they 14:54:16

23 offered it in theory, but, like, it was 14:54:18

24 going to be difficult to get to an actual 14:54:20

25 free filing program. 14:54:22

1 ROZAR

2 Q. Okay. But you didn't take any 14:54:23
3 additional steps just to test out any 14:54:29
4 other options to confirm that you would 14:54:32
5 have to pay no matter what; is that right? 14:54:35

6 A. Yeah. I guess so. 14:54:36

7 Q. Okay. So continuing in 14:54:38
8 paragraph 13. You said, "I also liked 14:54:53
9 TurboTax's interface and the fact that it 14:54:58
10 always imported my prior tax year 14:55:00
11 information into the program when I 14:55:02
12 started each year." Is that right? 14:55:04

13 A. Yes. 14:55:05

14 Q. So you valued the feature to 14:55:06
15 import your personal information from the 14:55:12
16 prior year; is that right? 14:55:13

17 A. Yes. Yep. Yes. 14:55:14

18 Q. And is that because -- did you 14:55:16
19 value that feature because it saved you 14:55:22
20 time in preparing your tax return? 14:55:24

21 A. Yes. 14:55:26

22 Q. And was that one of the reasons 14:55:27
23 why you decided to use TurboTax year after 14:55:35
24 year? 14:55:38

25 A. Yes. 14:55:39

1 ROZAR

2 Q. So if we turn to paragraph 14, 14:55:40
3 it says, "I now know that TurboTax 14:55:49
4 maintains a separate website for the free 14:55:52
5 version of TurboTax that I do qualify for 14:55:55
6 and that it does not list all of its 14:55:57
7 products on the main website that I had 14:55:59
8 always used in the past." 14:56:01

9 Is that sentence something in 14:56:03
10 your conversations with Ms. Goldstein or 14:56:07
11 Mr. Mahmood -- did you tell them that you 14:56:10
12 now know that TurboTax maintains a 14:56:14
13 separate website for the free version of 14:56:17
14 TurboTax that you do qualify for? 14:56:20

15 A. Yes, I did tell them that. 14:56:22

16 Q. And how did you come to learn 14:56:24
17 about this separate website? 14:56:26

18 A. On this web -- from the -- 14:56:27
19 talking to them, from talking to Yosef and 14:56:29
20 Danielle. 14:56:32

21 Q. So they told you about the 14:56:33
22 website, that it existed, and that's how 14:56:35
23 you knew about the separate website? 14:56:39

24 A. I figured it out after that, 14:56:41
25 yes. 14:56:44

1 ROZAR

2 Q. So you figured out what the 14:56:45
3 separate website was after you signed the 14:56:49
4 declaration. 14:56:51

5 A. Yes -- after I signed the 14:56:52
6 declaration? Or, like, while making the 14:56:56
7 declaration? 14:56:59

8 Q. Well, I'm asking you when did 14:57:00
9 you find out what the separate website 14:57:02
10 was? 14:57:05

11 A. Before I signed the declaration, 14:57:05
12 while talking to them. 14:57:09

13 Q. And did they tell you how to 14:57:10
14 find it? 14:57:18

15 A. I think so. 14:57:19

16 Q. And did you visit it before 14:57:24
17 signing the declaration, you went to the 14:57:26
18 website? 14:57:30

19 A. I think so. 14:57:31

20 Q. Because you testified that you 14:57:31
21 didn't file your tax year 2020 taxes until 14:57:35
22 later; right? 14:57:40

23 A. Right. 14:57:42

24 Q. So you went to the website 14:57:42
25 before you actually went back to file -- 14:57:45

1 ROZAR

2 to prepare and file your taxes? 14:57:49

3 MR. MAHMOOD: Objection. Form. 14:57:50

4 A. Yeah. So, like, I figured out 14:57:54

5 what the -- that it was a separate website 14:57:56

6 through talking to the DA's office, and 14:57:57

7 then when I went to do my taxes later that 14:58:00

8 year, then I used the -- I went through 14:58:02

9 that website, the separate website, to 14:58:04

10 file my taxes for free. 14:58:06

11 Q. And I just -- sorry. I don't 14:58:08

12 mean to repeat myself, but I just want to 14:58:10

13 make sure I get this really clear. 14:58:12

14 So when you say you figured out 14:58:14

15 that it was a separate website, did you 14:58:16

16 figure that out because they told you that 14:58:20

17 it was a separate website? 14:58:22

18 A. Yeah. 14:58:23

19 Q. Okay. And the free version of 14:58:27

20 TurboTax that you do qualify for, is that 14:58:34

21 referring to the IRS Free File Program 14:58:36

22 delivered by TurboTax? 14:58:39

23 A. Yes. 14:58:40

24 Q. Okay. So talking about the IRS 14:58:40

25 Free File Program. You understand that 14:58:57

1 ROZAR

2 there are eligibility requirements to use 14:59:01

3 that program; right? 14:59:03

4 A. Yes. 14:59:04

5 Q. And those are income-based? 14:59:04

6 A. Right. Yes. 14:59:07

7 Q. So you understand that some 14:59:08

8 people qualify to use the software. 14:59:11

9 A. Yes. 14:59:13

10 Q. And you understand that some 14:59:14

11 people do not qualify to use the software? 14:59:17

12 A. Yes. 14:59:19

13 Q. How did you learn that you 14:59:19

14 qualified to use the IRS Free File Program 14:59:24

15 delivered by TurboTax product? 14:59:27

16 A. In the first place? 14:59:29

17 Q. Yes. 14:59:31

18 A. From my friend because of the 14:59:32

19 low income. 14:59:33

20 Q. You're talking about back in tax 14:59:36

21 year 2017. 14:59:37

22 A. Yes. 14:59:38

23 Q. Are you aware that the different 14:59:38

24 products offered through the IRS Free File 14:59:50

25 Program have different eligibility 14:59:52

1 ROZAR

2 requirements? 14:59:54

3 A. No. Maybe? I don't know. 14:59:54

4 Maybe not. I don't know. 15:00:02

5 Q. So that -- so are you aware that 15:00:02

6 somebody might have qualified for the IRS 15:00:08

7 Free File Program delivered by TurboTax 15:00:10

8 but would not have qualified for the 15:00:12

9 product that H&R Block donated to the IRS 15:00:17

10 Free File Program? 15:00:20

11 A. I think -- yeah. Yeah. I'm 15:00:21

12 aware of that. 15:00:23

13 Q. Okay. So when did you learn 15:00:24

14 that you qualified for the product donated 15:00:26

15 by TurboTax specifically? 15:00:29

16 A. In tax year 2017. 15:00:30

17 Q. And you did that -- how did you 15:00:36

18 figure that out? 15:00:40

19 A. Because my income was under 15:00:40

20 the -- I forgot what the exact threshold 15:00:45

21 is for TurboTax, but I learned that it was 15:00:47

22 under that threshold. 15:00:49

23 Q. And do you know -- do you 15:00:51

24 remember where you found that out, what 15:00:53

25 website you went to? 15:00:55

1 ROZAR

2 A. No, I don't remember. 15:00:56

3 Q. Was that when you went to 15:00:56

4 IRS.gov that year? 15:01:01

5 A. I don't remember. 15:01:02

6 Q. Are you aware that the 15:01:04

7 eligibility requirements change year to 15:01:14

8 year for the IRS Free File Program? 15:01:17

9 A. I did not know that. 15:01:19

10 Q. Okay. So being eligible in tax 15:01:21

11 year 2017 does not necessarily mean that 15:01:28

12 you would be eligible in tax year 2020. 15:01:32

13 Do you understand that? 15:01:34

14 A. I guess I understand that now. 15:01:35

15 Q. Okay. So when did you find out 15:01:38

16 that you were eligible to file in tax year 15:01:41

17 2020 with IRS Free File Program delivered 15:01:45

18 by TurboTax? 15:01:47

19 A. I don't remember when I found 15:01:48

20 that out. 15:01:50

21 Q. Was it -- do you think it was 15:01:52

22 when you went to IRS.gov and started the 15:01:56

23 process of preparing and filing your 15:02:03

24 taxes? 15:02:05

25 MR. MAHMOOD: Objection. Form. 15:02:06

1 ROZAR

2 A. I can't answer that based on my 15:02:07
3 memory. 15:02:11

4 Q. So then, continuing in 15:02:12
5 paragraph 14, the second sentence says, "I 15:02:27
6 did not know that and never would have 15:02:31
7 expected that to be the case in any of the 15:02:32
8 years I filed my taxes with TurboTax for 15:02:35
9 tax years 2013 to 2019." 15:02:38

10 Did I read that right? 15:02:40

11 A. Yes. 15:02:42

12 Q. And by that, did you mean you 15:02:42
13 never would have expected TurboTax to 15:02:47
14 maintain a separate website for the 15:02:50
15 product it donated to the IRS Free File 15:02:52
16 Program? 15:02:54

17 A. Yeah. I didn't know it would be 15:02:54
18 a separate website. 15:02:56

19 Q. Go ahead. 15:02:57

20 A. Sorry. 15:03:01

21 Q. No. You finish your answer. 15:03:02

22 A. I didn't know that it was a 15:03:03
23 donation to the IRS. I thought it was 15:03:05
24 just part of the I -- the TurboTax family. 15:03:07

25 Q. Do you know if Intuit was 15:03:14

1 ROZAR

2 allowed to include the product it donated 15:03:16

3 to the Free File Program on its main 15:03:17

4 commercial website? 15:03:20

5 A. I don't know that. 15:03:20

6 Q. Would you expect Intuit to 15:03:21

7 include that product that it donated to 15:03:27

8 the IRS on its commercial website if it 15:03:29

9 would have violated IRS rules to do so? 15:03:32

10 MR. MAHMOOD: Objection. Form. 15:03:35

11 A. Would I have expected it if I 15:03:37

12 had known that it violated those rules? I 15:03:41

13 guess not, no. I would not have expected 15:03:43

14 that. 15:03:44

15 Q. Okay. I'm going to introduce 15:03:45

16 exhibit -- previously marked Exhibit 0076. 15:03:55

17 And that's Folder No. 6 in your box. 15:03:59

18 (Exhibit 0076, "IRS Free File: 15:04:03

19 Do your Taxes for Free" website 15:04:03

20 printout, was previously marked for 15:04:03

21 identification.) 15:04:26

22 A. Okay. I have it. 15:04:26

23 Q. Do you recognize this website? 15:04:27

24 A. Vaguely. 15:04:30

25 Q. Have you ever visited it before? 15:04:35

1 ROZAR

2 A. I'm sure I have. 15:04:39

3 Q. Okay. If you could go to the 15:04:42

4 second page on this website. Do you see 15:04:46

5 where it says "How IRS Free File Offers 15:04:54

6 Work"? 15:04:58

7 A. Yes. 15:05:00

8 Q. And do you see where it says, 15:05:00

9 "You must begin your filing option at 15:05:02

10 IRS.gov. Going directly into a company's 15:05:04

11 website will result in not receiving the 15:05:06

12 benefits offered here"? 15:05:08

13 A. I do see that. 15:05:10

14 Q. What does that mean to you? 15:05:10

15 A. It means that if I went -- if I 15:05:16

16 couldn't figure out IRS.gov, and I went 15:05:19

17 directly to TurboTax, like I did, I would 15:05:22

18 not receive the benefits of filing for 15:05:23

19 free. 15:05:27

20 Q. So given this statement from the 15:05:30

21 IRS, would you still expect to be able to 15:05:37

22 receive the benefits of the IRS Free File 15:05:40

23 Program by going to the TurboTax 15:05:43

24 commercial website? 15:05:44

25 MR. MAHMOOD: Objection. Form. 15:05:45

1 ROZAR

2 A. I don't remember seeing this 15:05:46

3 before, this specific thing, but now 15:05:49

4 seeing this here, I guess not. 15:05:51

5 Q. Okay. In any of your 15:05:56

6 conversations with the Los Angeles City 15:06:01

7 Attorney's Office, did anybody tell you 15:06:03

8 that the IRS website says that you must 15:06:07

9 begin your filing option at IRS.gov, and 15:06:11

10 going directly to a company's website will 15:06:14

11 not result in receiving the benefits 15:06:16

12 offered here? 15:06:18

13 A. I don't remember. 15:06:18

14 Q. Let's go back to your 15:06:21

15 declaration, which is Exhibit 0146. 15:06:29

16 A. Got it. 15:06:48

17 Q. So this declaration, from what 15:06:49

18 I -- what I have seen, never mentions the 15:06:58

19 IRS Free File Program at all. 15:07:01

20 Is there a reason why? 15:07:03

21 A. I don't know. 15:07:05

22 Q. So if you go to paragraph 15, 15:07:11

23 you said, "I expected TurboTax to 15:07:20

24 recommend any free tax preparation product 15:07:22

25 they had to me because I trusted them 15:07:24

1 ROZAR

2 based on how big of a name they are and 15:07:26
3 because of TurboTax presenting itself as 15:07:28
4 an expert in tax preparation on its 15:07:30
5 website." 15:07:32

6 Did I read that right? 15:07:34

7 A. Yes. 15:07:36

8 Q. Do you remember where on its 15:07:36
9 website TurboTax presented itself as an 15:07:38
10 expert in tax preparation? 15:07:41

11 A. Not specifically. 15:07:42

12 Q. So what did you base that 15:07:45
13 statement on? 15:07:48

14 A. A vibe. I don't know. An 15:07:49
15 assumption that -- why would they -- why 15:07:54
16 would they not -- I don't know. I mean, I 15:08:01
17 feel like I've seen before, like, trust 15:08:10
18 the tax experts to do your taxes for you. 15:08:12
19 Do TurboTax. I don't know. I don't know 15:08:15
20 if that's specifically true, though. 15:08:16

21 Q. Okay. Going to the last 15:08:18
22 paragraph, which is paragraph 16, you 15:08:23
23 said, "If TurboTax offered a product that 15:08:26
24 would allow me to properly file my taxes 15:08:29
25 for free, I would consider that to be the 15:08:31

1 ROZAR

2 best tax preparation service for my 15:08:33

3 circumstances." 15:08:35

4 What do you mean by properly 15:08:35

5 file your taxes for free? 15:08:40

6 A. To do it accurately and 15:08:41

7 correctly. 15:08:45

8 Q. And are you referring to a 15:08:45

9 particular product in that sentence? 15:08:54

10 A. No. I thought just that 15:08:56

11 TurboTax free file -- I guess I was 15:09:03

12 referring to the Free File Program I 15:09:05

13 thought I was eligible for. I thought 15:09:06

14 that it would allow me -- that they would 15:09:09

15 suggest that to me, and they would file my 15:09:11

16 taxes accurately and get the IRS off my 15:09:13

17 back in general. 15:09:15

18 Q. And do you understand there to 15:09:16

19 be any differences between a product that 15:09:24

20 would allow you to properly file your 15:09:27

21 taxes for free and products they use for 15:09:29

22 TurboTax in previous years besides the 15:09:32

23 price? 15:09:34

24 A. I don't have any specific 15:09:37

25 feelings on the word "properly," so I 15:09:38

1 ROZAR

2 don't know. 15:09:41

3 Q. Okay. And you said earlier that 15:09:41

4 you filed your taxes this year for tax 15:09:48

5 year 2021 using an accountant; is that 15:09:50

6 right? 15:09:52

7 A. Yes. 15:09:53

8 Q. But your -- but your gross 15:09:53

9 income was less than \$73,000; is that 15:09:58

10 right? 15:10:00

11 A. Yes. Yes. 15:10:01

12 Q. So you could have properly filed 15:10:02

13 for free using one of the services offered 15:10:07

14 by the IRS Free File Program; is that 15:10:10

15 right? 15:10:12

16 A. Yes. 15:10:12

17 Q. But you chose not to. 15:10:12

18 A. Yes. 15:10:15

19 Q. So a product that allows you to 15:10:16

20 properly file your taxes for free does not 15:10:23

21 automatically make it the best product for 15:10:24

22 tax preparation method for you; is that 15:10:27

23 right? 15:10:29

24 A. That's correct. Just because I 15:10:29

25 had a very complicated tax year versus a 15:10:32

1 ROZAR

2 the previous years it was just W-2s and 15:10:34
3 student loan income. So -- if I had not 15:10:38
4 all the complication things that I had 15:10:41
5 this year, I would have gone for a free 15:10:43
6 file. 15:10:45

7 Q. Are you aware that you can file 15:10:49
8 your taxes for free using pen and paper? 15:10:51

9 A. I did not know that. 15:10:54

10 Q. I am going to mark Exhibit 0147. 15:10:56
11 And that's going to be Folder 7. 15:11:10

12 (Exhibit 0147, An email with a 15:11:16
13 screen shot, was hereby marked for 15:11:16
14 identification, as of this date.) 15:11:46

15 A. Okay. I have it. 15:11:46

16 Q. Do you recognize this document? 15:11:47

17 A. Yes. It's my email I sent. 15:11:48

18 Q. And who did you send it to? 15:11:51

19 A. I sent the email to the TurboTax 15:11:53
20 lawsuit and Yosef, and I gave this screen 15:11:57
21 shot of the email to you. 15:11:59

22 Q. Okay. And I think the date got 15:12:01
23 cut off when you took the screen shot. 15:12:05

24 So do you have a recollection of 15:12:08
25 approximately when you sent this email? 15:12:10

1 ROZAR

2 A. I don't. Do you want me look it 15:12:12
3 up? 15:12:13

4 Q. No. That's okay. 15:12:14

5 Was it before you signed your 15:12:16
6 declaration? 15:12:22

7 A. Yes. 15:12:22

8 Q. And in this email, you were 15:12:23
9 alerting Yosef that your name was 15:12:27
10 misspelled in the declaration; is that 15:12:33
11 right? 15:12:35

12 A. Yes. 15:12:35

13 Q. Was that the only mistake you 15:12:35
14 identified? 15:12:41

15 A. In written form, yeah. There 15:12:41
16 was some other mistakes, that I don't 15:12:43
17 remember what they were specifically, that 15:12:44
18 we had identified through Zoom calls. 15:12:46

19 Q. Do you remember generally what 15:12:47
20 the mistakes were about? 15:12:49

21 A. About my address, certain 15:12:51
22 timeline things, but that was about it. 15:12:53

23 Q. Did they relate to your 15:12:55
24 experiences looking for the IRS Free File 15:13:04
25 Program and Google searches you ran? 15:13:12

1 ROZAR

2 MR. MAHMOOD: Objection. Form. 15:13:14

3 A. There -- about the Google 15:13:15

4 searches? What do you mean? 15:13:21

5 Q. I'm just trying to get a sense 15:13:22

6 of what the mistakes that you identified 15:13:24

7 related to, whether they were only things 15:13:27

8 likes your address or if they related to 15:13:30

9 your experiences. 15:13:33

10 A. It was -- there were some things 15:13:34

11 about the dates that were wrong, but we 15:13:38

12 corrected them. But there was just, 15:13:40

13 like -- it looked like it was, like, a 15:13:42

14 typo. 15:13:43

15 Q. Okay. And by "dates," do you 15:13:43

16 mean the tax years that are referenced? 15:13:46

17 A. I believe so. But I don't 15:13:51

18 really remember specifically. 15:13:53

19 Q. Okay. So based on our 15:13:55

20 conversation today, would you feel 15:14:04

21 comfortable with a Court relying on your 15:14:07

22 declaration? 15:14:09

23 A. Yes. 15:14:10

24 Q. Do you feel comfortable 15:14:11

25 testifying to everything that you've put 15:14:18

1 ROZAR

2 in your declaration? 15:14:19

3 A. Yes. 15:14:20

4 Q. Even though you don't remember a 15:14:20

5 lot of what happened? 15:14:25

6 MR. MAHMOOD: Objection. Form. 15:14:26

7 A. I am -- at the point of the -- 15:14:27

8 that I made this declaration, I remembered 15:14:31

9 a lot more. It was still hazy, but it was 15:14:33

10 still to the best of my ability. At this 15:14:35

11 point, me going on a stand, and even this, 15:14:37

12 is, like, very hazy for me. I don't 15:14:41

13 remember a lot of this. 15:14:43

14 Q. Okay. All right. I'm going to 15:14:45

15 shift gears a little bit. I don't think I 15:14:57

16 have too much left. So hopefully, it 15:14:59

17 won't take up too much more of your time. 15:15:02

18 When did you first hear about 15:15:04

19 this lawsuit? 15:15:07

20 A. I don't remember. 15:15:08

21 Q. Do you remember who contacted 15:15:10

22 you? 15:15:14

23 A. I don't. I honestly have no 15:15:14

24 idea. I forgot entirely how I got 15:15:17

25 involved in this. 15:15:19

1 ROZAR

2 Q. Okay. Do you remember if it was 15:15:20
3 by email or a phone call? 15:15:23

4 A. Probably email. I don't respond 15:15:25
5 to phone calls like that. 15:15:27

6 Q. I am going to mark as exhibit -- 15:15:28
7 I think we're at 0148, and that's going to 15:15:37
8 be Folder 8. 15:15:43

9 (Exhibit 0148, An email chain 15:15:44
10 dated February 4, 2021, was hereby 15:15:44
11 marked for identification, as of this 15:15:44
12 date.) 15:16:05

13 A. Okay. I have it. 15:16:05

14 Q. Do you recognize this email? Or 15:16:15
15 email chain, I should say? 15:16:23

16 A. Yeah. 15:16:24

17 Q. Okay. And so the most recent 15:16:25
18 email on the first page is dated 15:16:31
19 February 4, 2021; is that right? 15:16:35

20 A. Yeah. 15:16:36

21 Q. And the first email is on 15:16:40
22 page 4, I believe, that's dated 15:16:44
23 June 25, 2020? 15:16:48

24 A. Okay. 15:16:49

25 Q. Is that right? 15:16:49

1 ROZAR

2 A. Yes. 15:16:50

3 Q. So do you remember receiving the 15:16:51

4 email at the bottom of this thread, the 15:16:56

5 subject "Privacy notice concerning 15:16:59

6 TurboTax free filing lawsuit"? 15:17:01

7 A. Not specifically. 15:17:02

8 Q. Does this look like what you got 15:17:06

9 that sort of started your involvement in 15:17:10

10 the lawsuit? 15:17:13

11 A. Yeah. I mean, it looks 15:17:14

12 legitimate. I honestly don't remember 15:17:16

13 doing any of this. But I remember -- I 15:17:17

14 mean, obviously, it's correct. So -- 15:17:19

15 Q. Before you received this email, 15:17:20

16 had you ever filed a complaint with any 15:17:26

17 branch of the government about TurboTax? 15:17:28

18 A. No. 15:17:30

19 Q. Before receiving this email, had 15:17:31

20 you ever contacted TurboTax to ask for a 15:17:35

21 refund of any kind? 15:17:39

22 A. No. 15:17:40

23 Q. What was your understanding of 15:17:40

24 this email? 15:17:48

25 A. That other people had also 15:17:48

1 ROZAR

2 experienced the same thing that I had, 15:17:54
3 which was they believed that they are 15:17:55
4 eligible, believed that they were going 15:17:57
5 through the free file tax program, but 15:17:59
6 ultimately, we did not get the product 15:18:02
7 that we were eligible for. 15:18:06

8 Q. And you now understand that to 15:18:08
9 mean the IRS Free File Program? 15:18:14

10 A. Yes. 15:18:16

11 Q. So then the email right above 15:18:16
12 that looks like your response; is that 15:18:24
13 right? 15:18:27

14 A. Yeah. 15:18:27

15 Q. You said, "I remember thinking 15:18:27
16 that I was eligible for free filing every 15:18:29
17 year, but could not figure out how to 15:18:33
18 actually do it." Is that right? 15:18:35

19 A. Yeah. 15:18:37

20 Q. And at this point, why did you 15:18:38
21 think you were eligible for free filing? 15:18:41

22 A. Because my coworker had told me 15:18:43
23 that I was eligible based on my low 15:18:46
24 income, and -- but -- that's basically it. 15:18:48

25 Q. At that point, had you looked 15:18:50

1 ROZAR

2 into any of the eligibility requirements 15:19:03

3 online, or was it based on what your 15:19:05

4 coworker had told you? 15:19:08

5 A. I don't remember. But I think 15:19:09

6 at this point -- at the point -- after 15:19:10

7 that, I just gave up and I was, like, 15:19:13

8 okay, it's not real. 15:19:15

9 Q. Okay. I'm going to introduce 15:19:16

10 Exhibit 0149. And that's going to be 15:19:28

11 Folder No. 9. 15:19:30

12 (Exhibit 0149, An email chain 15:19:32

13 dated June 24, 2020, was hereby marked 15:19:32

14 for identification, as of this date.) 15:19:56

15 A. Okay. 15:19:56

16 Q. Do you recognize this email? 15:19:57

17 A. I remember reading it when I had 15:20:00

18 to send all the stuff back to you. 15:20:05

19 Q. Okay. 15:20:06

20 A. So yeah. I recognize it. 15:20:06

21 Q. The bottom email, was that an 15:20:09

22 automated response from the Los Angeles 15:20:12

23 City Attorney's Office to your response to 15:20:14

24 the original email? 15:20:18

25 A. It looks like it, yes. 15:20:19

1 ROZAR

2 Q. Do you see in the last 15:20:21
3 paragraph, that email says, "Due to the 15:20:26
4 volume of messages, we may not be able to 15:20:28
5 respond to everyone individually"? 15:20:30

6 A. Yes. 15:20:32

7 Q. Do you agree that that language 15:20:32
8 makes it sound like the City Attorney's 15:20:35
9 Office was getting a large volume of 15:20:37
10 responses? 15:20:39

11 A. Yes. 15:20:40

12 Q. Do you agree that if the City 15:20:42
13 Attorney's Office actually got very few 15:20:47
14 responses, that language is misleading? 15:20:49

15 MR. MAHMOOD: Objection. Form. 15:20:51

16 A. No. I mean, if they've got 15:20:52
17 other stuff going on. It's not just -- I 15:20:58
18 don't know. 15:21:02

19 Q. Turn back to Exhibit 0148, which 15:21:02
20 was Folder 8. 15:21:12

21 A. Which was the email thread? 15:21:16

22 Q. Yes. 15:21:18

23 A. Okay. 15:21:19

24 Q. It has a number at the bottom 15:21:19
25 that ends in 6535. 15:21:22

1 ROZAR

2 A. Mm-hmm. 15:21:26

3 Q. Okay. So at the bottom of 15:21:27

4 page 3, do you see you received a response 15:21:32

5 on September 1, 2020? 15:21:36

6 A. Mm-hmm. 15:21:39

7 Q. Is that right? 15:21:39

8 A. Yes. 15:21:40

9 Q. Do you know why it took so long 15:21:40

10 for the City Attorney's Office to get back 15:21:43

11 to you? 15:21:46

12 A. I do not. 15:21:46

13 Q. Do you think your memory of your 15:21:46

14 experiences would have been clearer if you 15:21:58

15 had been contacted sooner? 15:22:01

16 A. Possibly. 15:22:03

17 Q. And then it looks like between 15:22:06

18 December 2020 and February 21, 2021, you 15:22:13

19 had at least four different Zoom calls or 15:22:19

20 phone calls with Mr. Mahmood and 15:22:23

21 Ms. Goldstein; is that right? 15:22:25

22 A. Yes. 15:22:26

23 Q. I'm going to mark as Exhibit 15:22:27

24 0150, and that's Folder No. 10. 15:22:38

25

1 ROZAR

2 (Exhibit 0150, An invite dated 15:22:43

3 December 15, 2020, was hereby marked 15:22:43

4 for identification, as of this date.) 15:23:05

5 A. Okay. I have it. 15:23:05

6 Q. Do you recognize this document? 15:23:06

7 A. An email I sent to you about a 15:23:08

8 Zoom meeting with the District Attorney's 15:23:12

9 Office. 15:23:14

10 Q. And do you remember that 15:23:14

11 meeting? 15:23:17

12 A. Not at all. 15:23:18

13 Q. Do you have any reason to 15:23:19

14 believe that didn't happen? 15:23:22

15 A. No. I don't have reason to 15:23:23

16 believe it didn't happen. 15:23:32

17 Q. So do you remember speaking to 15:23:33

18 Danielle Goldstein on December 15, 2020? 15:23:39

19 A. Not specifically. 15:23:42

20 Q. Do you remember speaking to her 15:23:43

21 at all? 15:23:46

22 A. Yes. 15:23:46

23 Q. Do you remember if anybody else 15:23:46

24 attended this Zoom meeting? 15:23:53

25 A. Not this one specifically. 15:23:54

1 ROZAR

2 Q. At this meeting, did 15:23:56

3 Ms. Goldstein ask you questions? 15:24:03

4 A. I don't remember specifically, 15:24:04

5 but I'm sure she did. 15:24:07

6 Q. Do you remember what she -- 15:24:08

7 anything she asked? 15:24:10

8 A. No. 15:24:11

9 Q. Do you remember anything she 15:24:11

10 told you? 15:24:15

11 A. No. 15:24:16

12 Q. Do you remember anything you 15:24:16

13 told her? 15:24:19

14 A. No. 15:24:19

15 Q. Do you remember if Ms. Goldstein 15:24:20

16 told you anything about the Los Angeles 15:24:26

17 City Attorney's lawsuit against TurboTax? 15:24:28

18 A. I don't remember that, no. 15:24:32

19 Q. Did she mention a motion that 15:24:33

20 Intuit had filed with the lawsuit? 15:24:39

21 A. I remember hearing about that. 15:24:40

22 I don't remember if it was from her or 15:24:43

23 this specific meeting. 15:24:46

24 Q. Okay. What did you -- what do 15:24:47

25 you remember hearing about that? 15:24:48

1 ROZAR

2 A. Just that it happened. 15:24:49

3 Q. Do you remember -- did anybody 15:24:52

4 tell you what it was about -- 15:24:56

5 A. No. 15:24:57

6 Q. -- the lawsuit? 15:24:58

7 Did anybody tell you why it was 15:25:01

8 filed? 15:25:03

9 A. No. Or maybe. I don't know. I 15:25:04

10 don't remember. 15:25:08

11 Q. Did Ms. Goldstein or anybody 15:25:09

12 else tell you that the Los Angeles City 15:25:14

13 Attorney's Office had a deadline in 15:25:17

14 February 2021 to respond to that motion? 15:25:19

15 A. I don't remember. I think I 15:25:20

16 had -- actually, I kind of remember this 15:25:25

17 now. I think I was Covid positive at this 15:25:26

18 very moment. So this was not a good 15:25:29

19 memory time for me. 15:25:31

20 Q. You said you were Covid positive 15:25:32

21 at the moment? 15:25:34

22 A. I believe so, or, like, right 15:25:34

23 out of it. I think I had Covid, like, 15:25:36

24 December 6th of 2020. 15:25:39

25 Q. Okay. 15:25:40

1 ROZAR

2 A. So honestly, I don't really 15:25:40
3 remember, like, anything from that time. 15:25:42

4 Q. And I think you mentioned 15:25:44
5 earlier that as a result of having Covid, 15:25:47
6 you lost a fair bit of memory; is that 15:25:50
7 right? 15:25:52

8 A. Yeah. 15:25:52

9 Q. Okay. So that memory loss had 15:25:52
10 happened before you signed your 15:25:55
11 declaration? 15:25:56

12 A. Yeah, I guess so. 15:25:57

13 Q. So it's possible that your 15:26:02
14 memories of what happened and what are 15:26:09
15 included in your declaration are not 15:26:10
16 entirely accurate? Is that possible? 15:26:12

17 A. I don't think so, because we 15:26:15
18 spoke mostly before I got Covid, and so 15:26:16
19 they had more of a record of all the stuff 15:26:19
20 that I had spoken about, and then we went 15:26:22
21 over it. It was, like, everything that we 15:26:25
22 went over in the declaration is kind of, 15:26:26
23 like, all right, this is what we talked 15:26:29
24 about. I was, like, okay, that sounds 15:26:31
25 familiar. That sounds familiar. And at 15:26:33

1 ROZAR

2 this point, it's gotten worse over the 15:26:33

3 time. So -- 15:26:35

4 Q. So just to be clear, you said 15:26:35

5 you spoke mostly before you got Covid? 15:26:38

6 A. I think so. Yeah. 15:26:40

7 Q. And you had Covid in December of 15:26:41

8 2020? 15:26:43

9 A. Yeah. 15:26:44

10 Q. Okay. When did -- do you 15:26:44

11 remember approximately when you spoke to 15:26:51

12 the City Attorney's office before December 15:26:54

13 of 2020? 15:26:55

14 A. No. 15:26:56

15 Q. Okay. 15:26:56

16 A. I remember during the summer, 15:26:58

17 though, I feel like. September? 15:27:01

18 Q. And was that by Zoom or -- 15:27:04

19 A. Yeah. 15:27:06

20 Q. -- phone call? Okay. 15:27:07

21 A. Zoom, I think, or phone. I 15:27:09

22 don't know. At this point, I don't 15:27:12

23 remember. 15:27:12

24 Q. Okay. So if you go back to 15:27:13

25 Exhibit 0148, which was in Folder 8, and 15:27:24

1 ROZAR

2 that's the longer email thread that we 15:27:30
3 were looking at before. 15:27:32

4 And on the bottom of page 3, it 15:27:38
5 says, "On September 1, 2020, the Los 15:27:40
6 Angeles City Attorney's Office wrote, 15:27:45
7 'Thank you for contacting the Los Angeles 15:27:48
8 City Attorney's Office regarding our 15:27:50
9 ongoing lawsuit against Intuit Inc. and 15:27:52
10 thank you for your willingness to 15:27:54
11 potentially assist in the lawsuit." 15:27:56

12 And then on the next page, it 15:27:57
13 says, "The lawsuit is still in the early 15:27:59
14 stages, and we have received many 15:28:00
15 responses from consumers, but we will do 15:28:02
16 our best to reach out to you directly so 15:28:04
17 that we can learn more about your 15:28:07
18 experience with Intuit's products." 15:28:09

19 Is that right? 15:28:11

20 A. I'm sorry. I kind of got lost. 15:28:11

21 Q. I'm sorry. I was just reading 15:28:13
22 the first sentence on the top of page 4. 15:28:15

23 A. Oh, okay. I see that. So yeah. 15:28:17

24 That was in September. Okay. And then -- 15:28:23

25 Q. Okay. So the first time -- is 15:28:28

1 ROZAR

2 it fair that the first time the Los 15:28:30

3 Angeles City Attorney's Office reached out 15:28:32

4 to you was September of 2020? 15:28:33

5 A. Yeah. I guess so. Yeah. 15:28:35

6 Q. Okay. And then you provided 15:28:42

7 contact information on September 1, 2020; 15:28:44

8 is that right? 15:28:48

9 A. Yeah. 15:28:48

10 Q. And then there was no more 15:28:49

11 action on this email chain, it looks like, 15:28:57

12 until December 11, 2020; is that right? 15:28:59

13 A. Yeah. 15:29:01

14 Q. And it says, "I know that you 15:29:04

15 spoke with one of my colleagues a little 15:29:09

16 while back. And as we move forward with 15:29:10

17 the litigation, we were wondering if you 15:29:15

18 had some time over the next few weeks for 15:29:16

19 a followup conversation." 15:29:18

20 Do you see that? 15:29:20

21 A. Yes. 15:29:21

22 Q. So what is that conversation 15:29:21

23 referring to where it says, "I know you 15:29:23

24 spoke with one of my colleagues a little 15:29:25

25 while back"? 15:29:26

1 ROZAR

2 A. I don't remember. 15:29:27

3 Q. Do you remember if that was a 15:29:30

4 phone or a Zoom conversation? 15:29:35

5 A. I don't remember. It might have 15:29:37

6 been -- I remember on the phone, actually. 15:29:40

7 Q. And do you remember about how 15:29:43

8 long that conversation lasted? 15:29:44

9 A. No. 15:29:46

10 Q. Do you remember who it was with? 15:29:47

11 A. No. Actually, no. I don't 15:29:49

12 remember anything about this anymore. I 15:29:52

13 have, like, a very vague memory talking to 15:29:55

14 somebody on the phone. I don't remember 15:29:58

15 when. 15:29:59

16 Q. Do you remember if it was a man 15:29:59

17 or a woman you spoke to? 15:30:00

18 A. I don't. 15:30:02

19 Q. Do you remember if you gave 15:30:02

20 information about your experience with 15:30:11

21 TurboTax during that first conversation 15:30:13

22 that's referred to in the December 11th 15:30:17

23 email? 15:30:19

24 A. No. I don't remember. 15:30:19

25 Q. Do you remember if you spoke -- 15:30:20

1 ROZAR

2 strike that. 15:30:20

3 Do you remember how many 15:30:32

4 conversations you had before 15:30:34

5 December 11, 2020? 15:30:37

6 A. I don't remember. 15:30:38

7 Q. So going back to Exhibit 0150, 15:30:39

8 which was in Folder No. 10, the Zoom 15:30:57

9 meeting invitation. 15:31:00

10 So during that meeting, did 15:31:02

11 Ms. Goldstein tell you about any of the 15:31:09

12 City Attorney's arguments in the lawsuit? 15:31:11

13 A. I don't remember. But I don't 15:31:12

14 think so. 15:31:16

15 Q. Did she tell you about any of 15:31:16

16 Intuit's argument? 15:31:23

17 A. I don't remember. 15:31:24

18 Q. During that first conversation, 15:31:25

19 did the topic of signing a declaration 15:31:33

20 come up? 15:31:36

21 A. I don't remember. 15:31:36

22 Q. Did Ms. Goldstein ask how you 15:31:42

23 first arrived at the TurboTax website, the 15:31:46

24 first time -- 15:31:48

25 A. Sorry. During this meeting? 15:31:50

1 ROZAR

2 Q. Yes. 15:31:51

3 A. I don't remember. I don't 15:31:52

4 remember anything about this meeting. 15:31:54

5 Q. Okay. Do you remember if she 15:31:55

6 shared any documents with you? 15:31:59

7 A. I don't remember. 15:32:00

8 Q. Did she ask to see any of your 15:32:01

9 documents? 15:32:05

10 A. I don't remember. 15:32:05

11 Q. Did anybody ever -- from the Los 15:32:05

12 Angeles City Attorney's Office ever ask 15:32:10

13 you to provide documentation supporting 15:32:11

14 the facts in your declaration? 15:32:16

15 A. Ever? 15:32:19

16 Q. Before you signed it. 15:32:21

17 A. Yeah. I remember looking at 15:32:23

18 my -- oh, my God. What is it called -- 15:32:32

19 tax returns with them. I don't remember 15:32:35

20 if I sent -- I couldn't find documentation 15:32:36

21 having sent it to them, so I may have just 15:32:38

22 showed them via a Zoom call. But I don't 15:32:40

23 remember doing that either. So I know -- 15:32:43

24 somehow -- I'm pretty sure we talked about 15:32:45

25 what my tax returns were like, you know, 15:32:47

1 ROZAR

2 in terms of, like, income level and 15:32:50

3 everything, but I don't remember 15:32:52

4 specifically doing it. 15:32:52

5 Q. Okay. And do you remember 15:32:53

6 showing them your receipts from TurboTax? 15:32:58

7 A. I don't remember showing them. 15:32:59

8 Q. Did they ask for it? 15:33:00

9 A. I don't remember if they asked 15:33:05

10 for it. 15:33:06

11 Q. I'm going to introduce 15:33:06

12 Exhibit 0151, which is Folder No. 11. 15:33:20

13 (Exhibit 0151, An invite dated 15:33:32

14 January 22, 2021, was hereby marked 15:33:32

15 for identification, as of this date.) 15:33:50

16 A. Okay. I have it. 15:33:50

17 Q. Do you recognize this document? 15:33:51

18 A. It's the email screen shot I 15:33:55

19 sent to you. It's a Zoom invitation. 15:33:58

20 Q. And that's for a conversation 15:34:03

21 between you and Mr. Mahmood? 15:34:06

22 A. Yes. 15:34:08

23 Q. And do you remember speaking to 15:34:08

24 Mr. Mahmood on January 22, 2021? 15:34:12

25 A. Not specifically. 15:34:15

1 ROZAR

2 Q. Do you remember who attended 15:34:16
3 that call? 15:34:20

4 A. No. 15:34:21

5 Q. Do you remember what followup 15:34:22
6 questions he had for you during that call? 15:34:27

7 A. No. 15:34:30

8 Q. Do you remember anything that 15:34:30
9 you discussed? 15:34:39

10 A. No. 15:34:39

11 Q. Do you remember if Mr. Mahmood 15:34:41
12 showed you any documents during that call? 15:34:49

13 A. I don't remember. 15:34:50

14 Q. And do you remember if you 15:34:50
15 showed him any documents? 15:34:56

16 A. At this point, I don't remember. 15:34:56

17 Q. I'm going to introduce 15:34:57
18 Exhibit 0152, which is Folder 12. 15:35:13

19 (Exhibit 0152, An invite dated 15:35:16
20 February 5, 2021, was hereby marked 15:35:16
21 for identification, as of this date.) 15:35:36

22 A. Another Zoom invitation. 15:35:36

23 Q. So do you recognize this 15:35:38
24 document? 15:35:42

25 A. It says "Zoom invitation," 15:35:43

1 ROZAR

2 screen shot I sent to you. 15:35:45

3 Q. Okay. And so is this a third 15:35:46

4 conversation you had with the Los Angeles 15:35:52

5 City Attorney's Office? 15:35:54

6 A. I guess so. 15:35:55

7 Q. Do you remember speaking to 15:35:57

8 anybody in the City Attorney's Office on 15:36:00

9 February 5, 2021? 15:36:03

10 A. Not specifically. 15:36:04

11 Q. Do you remember anything about 15:36:06

12 this conversation? 15:36:15

13 A. No. 15:36:16

14 Q. I know these can be tedious. 15:36:16

15 A. That's okay. I'm pretty sure I 15:36:26

16 told everybody I was going to be a 15:36:28

17 terrible witness. But anyway -- 15:36:30

18 Q. What do you mean by that? 15:36:31

19 A. Like, I didn't take notes about 15:36:32

20 how I did my taxes. I don't remember 15:36:35

21 anything in my life in general. So, like, 15:36:37

22 I -- it's, like, I remember I feel, like, 15:36:41

23 at the time -- like, I remembered what I 15:36:42

24 told them in this deposition, and at this 15:36:43

25 point, like, I've moved on with my life, 15:36:47

1 ROZAR

2 and I don't remember what I told them at 15:36:49
3 this point. 15:36:51

4 Q. But you feel comfortable with 15:36:57
5 your recollection -- 15:36:59

6 A. At the time that I did it, 15:37:01
7 yes -- I'm sorry. I keep interrupting 15:37:04
8 you. 15:37:05

9 Q. No. You didn't interrupt. 15:37:06

10 A. Yeah. At the time, I felt 15:37:08
11 confident in what I had told them. I had 15:37:10
12 specific -- like, because I had just 15:37:12
13 done -- when did I do my taxes? Not for 15:37:14
14 this year. But, like, I remember 15:37:16
15 specifically -- I don't know. I don't 15:37:17
16 know. Like, I remember it, and then now I 15:37:22
17 don't. That's the -- that's the gist. 15:37:24

18 Q. And you feel pretty sure about 15:37:25
19 that, even though you were talking about 15:37:30
20 primarily your experience from three years 15:37:32
21 prior? 15:37:35

22 A. Oh, my God. I don't know. I 15:37:35
23 don't know. Yeah. I don't know. 15:37:47

24 Q. Okay. I'm just asking. 15:37:48

25 A. I know. 15:37:51

1 ROZAR

2 Q. Okay. I'm going to introduce 15:37:51

3 Exhibit 0153, which is Folder No. 13. 15:37:59

4 (Exhibit 0153, An invite dated 15:38:03

5 February 7, 2021, was hereby marked 15:38:03

6 for identification, as of this date.) 15:38:24

7 A. Another Zoom invitation. 15:38:24

8 Q. I think this is the last one. 15:38:25

9 So you don't have to look at too many more 15:38:27

10 of these. 15:38:30

11 But do you recognize this 15:38:30

12 document? 15:38:32

13 A. Yeah. Another Zoom invitation 15:38:32

14 screen shot email that I sent to your 15:38:34

15 office. 15:38:36

16 Q. Okay. And do you remember 15:38:36

17 speaking with the Los Angeles City 15:38:38

18 Attorney's Office on February 7, 2021? 15:38:39

19 A. I do not remember that 15:38:42

20 specifically, and I don't remember any 15:38:44

21 contents of that specific conversation. 15:38:45

22 Q. So apart from the specific 15:38:46

23 conversations, do you recall anything -- 15:39:00

24 strike that. 15:39:00

25 Who from the City Attorney -- 15:39:10

1 ROZAR

2 who from the Los Angeles City Attorney's 15:39:13

3 Office did you ever speak to? 15:39:15

4 A. I remember speaking to Yosef. I 15:39:17

5 remember speaking to Danielle. 15:39:20

6 Q. Okay. Anybody else? 15:39:21

7 A. I don't remember. 15:39:22

8 Q. And do you remember any 15:39:26

9 questions that they asked you at any 15:39:27

10 point? 15:39:29

11 MR. MAHMOOD: Objection to the 15:39:29

12 extent it calls for revealing attorney 15:39:30

13 work product. 15:39:32

14 A. Not specific questions. 15:39:33

15 Q. Do you remember generally what 15:39:36

16 they asked about? 15:39:40

17 MR. MAHMOOD: Same objection. 15:39:43

18 A. I remember them asking what my 15:39:43

19 income level were, what my understanding 15:39:49

20 of the free filing program was, if 15:39:51

21 websites looked familiar, how I first 15:39:55

22 heard about the free filing program, why I 15:39:59

23 thought I was eligible for the program, 15:40:06

24 stuff like that. 15:40:08

25 Q. And do you remember what you 15:40:09

1 ROZAR

2 answered? 15:40:12

3 A. What I wrote in my declaration. 15:40:12

4 So I remembered that I wrote -- I 15:40:16

5 remembered hearing it specifically from a 15:40:17

6 friend of mine that I worked with, that if 15:40:19

7 you are under a certain income level, you 15:40:21

8 could file your taxes for free. That I 15:40:25

9 remember I looked for it, and I told them 15:40:27

10 that, like, I looked for it, and I 15:40:29

11 couldn't find it. I looked through 15:40:31

12 specific websites, I looked through that 15:40:33

13 also, and couldn't find it. 15:40:35

14 And so I thought I was -- I was, 15:40:36

15 like, maybe the program doesn't exist, but 15:40:40

16 because of my student loan income tax 15:40:42

17 credit, whatever, that precludes -- that 15:40:44

18 excludes me from this -- this program. 15:40:47

19 And so I was, like, I guess I have to just 15:40:51

20 pay. Even though my income is super low, 15:40:53

21 I have to just pay it. That's what I 15:40:56

22 remember telling them. 15:40:58

23 Q. And do you remember ever telling 15:40:58

24 them that you had visited the IRS Free 15:41:02

25 File Program website in tax year 2017? 15:41:05

1 ROZAR

2 MR. MAHMOOD: Objection. Form. 15:41:09

3 A. At this point, we're going back 15:41:09

4 and forth so much, that, it was, like, I 15:41:16

5 don't remember what I wrote in my thing, 15:41:18

6 what I told you before, or what I actually 15:41:19

7 remember. So I can't answer that 15:41:21

8 honestly. 15:41:23

9 Q. Okay. Again, I only want you to 15:41:23

10 answer as to what you remember. 15:41:26

11 Just a couple more documents. 15:41:29

12 I'm going to mark as 15:41:37

13 Exhibit 0154. That's going to be Folder 15:41:41

14 No. -- sorry. One second -- 14. 15:41:47

15 (Exhibit 0154, An email dated 15:41:57

16 October 22, 2021, was hereby marked 15:41:57

17 for identification, as of this date.) 15:42:04

18 Q. I'm sorry. Yes. 14. 15:42:04

19 A. Okay. I have it. It's an email 15:42:14

20 from Yosef. 15:42:15

21 Q. Do you remember receiving this 15:42:16

22 email? 15:42:20

23 A. Yeah. 15:42:20

24 Q. And that email is dated 15:42:21

25 October 22, 2021? 15:42:29

1 ROZAR

2 A. Yes. 15:42:31

3 Q. Did you communicate at all with 15:42:32

4 the Los Angeles City Attorney's Office 15:42:35

5 between February 2021 and October 2021? 15:42:38

6 A. I don't remember. 15:42:41

7 Q. Do you remember if you ever 15:42:43

8 reached out to them to ask for a status 15:42:48

9 update on the lawsuit? 15:42:50

10 A. I don't think I did, but I don't 15:42:51

11 remember specifically. 15:42:52

12 Q. The sort of last paragraph 15:42:52

13 before the signature says, "I wanted to 15:43:00

14 give you a heads up as they may reach out 15:43:02

15 to you to attempt to schedule a 15:43:05

16 deposition." 15:43:07

17 Do you see that? 15:43:08

18 A. Yes. 15:43:08

19 Q. And is that referring -- the 15:43:09

20 "they" there is referring to attorneys for 15:43:12

21 Intuit? 15:43:14

22 A. Yes. 15:43:15

23 Q. Was that the first time that the 15:43:20

24 City Attorney's Office had told you that 15:43:25

25 attorneys from Intuit may want to schedule 15:43:27

1 ROZAR

2 a deposition? 15:43:29

3 MR. MAHMOOD: Objection. Form. 15:43:30

4 A. I don't remember, but I think 15:43:31

5 so. 15:43:36

6 Q. Do you remember if they told you 15:43:36

7 it was a possibility back when you signed 15:43:39

8 your declaration? 15:43:42

9 MR. MAHMOOD: Objection. Form. 15:43:43

10 A. I don't remember. No. 15:43:44

11 Q. Do you think you would have been 15:43:47

12 willing to sign and submit the 15:44:07

13 declaration, knowing that you would have 15:44:09

14 to sit for this deposition? 15:44:11

15 MR. MAHMOOD: Objection. Form. 15:44:14

16 A. I don't know. 15:44:15

17 Q. I'm going to mark as 15:44:20

18 Exhibit 0155, and that's going to be 15:44:31

19 Folder No. 15. 15:44:36

20 (Exhibit 0155, An email dated 15:44:37

21 December 28, 2021, was hereby marked 15:44:37

22 for identification, as of this date.) 15:44:56

23 A. Okay. Yeah. It's an email I 15:44:56

24 sent to Yosef and the TurboTax lawsuit 15:44:57

25 email address. 15:45:00

1 ROZAR

2 Q. And that was on 15:45:01

3 December 28, 2021? 15:45:07

4 A. Yes. 15:45:07

5 Q. And you had just gotten a call 15:45:07

6 from an attorney for Intuit referencing a 15:45:12

7 subpoena; is that right? 15:45:13

8 A. Yes. 15:45:14

9 Q. And did that refer to the 15:45:14

10 subpoena that related to your deposition 15:45:18

11 today? 15:45:20

12 A. Yes. 15:45:20

13 Q. And in this email, you said, "I 15:45:25

14 need to talk to someone in your office." 15:45:27

15 Do you see that? 15:45:29

16 A. Mm-hmm. I do. 15:45:30

17 Q. Why did you need to talk to 15:45:32

18 somebody in the City Attorney's Office? 15:45:35

19 A. Because I heard the word 15:45:37

20 "subpoena," and I freaked out. 15:45:39

21 Q. Why did you freak out? 15:45:41

22 A. Because "subpoena" is a scary 15:45:42

23 word to somebody who is not involved in 15:45:44

24 the law. 15:45:46

25 Q. Did you ever have a conversation 15:45:46

1 ROZAR

2 with anybody in the City Attorney's 15:45:51

3 Office? 15:45:54

4 A. Yeah. I called -- eventually, 15:45:54

5 Yosef gave me a call. 15:45:57

6 Q. And what did you talk about? 15:46:00

7 A. We talked about how I didn't 15:46:03

8 want to be involved in a lawsuit anymore. 15:46:05

9 Q. And why do you not want to be 15:46:06

10 involved in the lawsuit? 15:46:10

11 A. Because I have three jobs, and 15:46:11

12 this is my only day off, and I'm also 15:46:13

13 recovering from food poisoning, and I just 15:46:15

14 didn't want to spend the time to be doing 15:46:17

15 this. 15:46:19

16 Q. Any other reasons? 15:46:20

17 A. No. That's it. 15:46:24

18 Q. So we've been going a little bit 15:46:26

19 over an hour. If it works for you, we can 15:46:34

20 take another ten minutes, and I'll just go 15:46:37

21 through my notes and see if I have 15:46:40

22 anything left to ask. If I do, it will be 15:46:42

23 very short. 15:46:47

24 But does that work for you to 15:46:49

25 come back in ten minutes? 15:46:50

1 ROZAR

2 MR. MAHMOOD: Can we make it 15:46:52
3 15 minutes? 15:46:53

4 MS. PHILLIPS: Absolutely. 15:46:54

5 THE VIDEOGRAPHER: All right. 15:46:55

6 The time is approximately 3:46 p.m. 15:46:56

7 This is the end of Media No. 2, and 15:46:58

8 we're going off the record. 15:47:00

9 (Recess) 15:47:02

10 THE VIDEOGRAPHER: The time is 15:47:02

11 approximately 4:06 p.m. This is the 16:06:01

12 beginning of Media No. 3, and we are 16:06:04

13 on the record. 16:06:07

14 BY MS. PHILLIPS: 11:41:30

15 Q. All right. Ms. Rozar, just a 11:41:30

16 couple of additional questions from me. 16:06:11

17 So before the break, you 16:06:13

18 mentioned that when you talked to 16:06:16

19 Mr. Mahmood in December of 2021, you told 16:06:18

20 him that you did not want to be part of 16:06:21

21 this lawsuit anymore; is that right? 16:06:23

22 A. That's right. 16:06:25

23 Q. Did you ask him if there was any 16:06:25

24 way you could stop participating? 16:06:29

25 A. That's right. I did. 16:06:31

1 ROZAR

2 Q. And what did he say? 16:06:33

3 A. He said that the wheels were too 16:06:34

4 in motion and that I -- if I was 16:06:39

5 subpoenaed, I -- or if -- basically, I 16:06:41

6 needed to be part of this. Yeah. 16:06:41

7 Q. And then just to clarify your 16:06:49

8 timelines to the best of your ability on 16:06:50

9 your communications with the City 16:06:52

10 Attorney's Office. 16:06:54

11 So you think you spoke with 16:06:54

12 somebody sometime between 16:06:58

13 September 1, 2020, and December 15, 2020? 16:07:00

14 Is that right? 16:07:03

15 A. Yeah. 16:07:03

16 Q. Okay. But you don't recall who 16:07:05

17 you spoke to? 16:07:06

18 A. No. 16:07:07

19 Q. And you don't recall what you 16:07:11

20 spoke about -- 16:07:12

21 A. No. 16:07:14

22 Q. -- during that conversation? 16:07:14

23 Okay. Do you remember any idea 16:07:17

24 how long the conversation lasted? 16:07:18

25 A. No. 16:07:19

1 ROZAR

2 Q. And we looked at four meeting 16:07:23
3 invitations; right? 16:07:26

4 A. Yes. 16:07:27

5 Q. So is it fair to say that in 16:07:27
6 those four meetings is when you sort of 16:07:32
7 discussed in greatest detail your 16:07:35
8 experiences with the City Attorney's 16:07:38
9 Office in January and February of 2021? 16:07:41

10 MR. MAHMOOD: Objection. Form. 16:07:44

11 A. That's probably right. 16:07:46

12 Q. Okay. And to the best of your 16:07:47
13 recollection, no one from the City 16:07:52
14 Attorney's Office asked you for any 16:07:54
15 documentation in support of the statements 16:07:57
16 you made in your declaration prior to the 16:08:00
17 time you signed it; is that right? 16:08:03

18 A. I'm sorry. Could you say that 16:08:05
19 one more time? 16:08:06

20 Q. Prior to the time you signed 16:08:07
21 your declaration, did anybody from the 16:08:09
22 City Attorney's Office ask you to provide 16:08:13
23 any documents that would support the 16:08:14
24 statements you made in the declaration? 16:08:17

25 A. Yeah. I think they asked me to 16:08:18

1 ROZAR

2 show my tax returns. 16:08:20

3 Q. Tax returns. Okay. 16:08:22

4 No others? 16:08:23

5 A. They may have asked for my 16:08:25

6 receipts as well, but I don't remember at 16:08:26

7 this point. 16:08:28

8 Q. All right. No further questions 16:08:28

9 from me. Thank you very much. 16:08:32

10 BY MR. MAHMOOD: 16:08:32

11 Q. Ms. Rozar, I have a few 16:08:36

12 questions for you, but they will hopefully 16:08:38

13 be relatively quick. 16:08:40

14 I'm going to start with some -- 16:08:41

15 your recollection of your income in 16:08:43

16 certain tax years. If you don't recall, 16:08:45

17 that's okay. Go ahead and let me know. 16:08:47

18 Do you recall what your income 16:08:50

19 was in tax year 2013? 16:08:51

20 A. No. 16:08:53

21 Q. Do you recall what your income 16:08:56

22 was in tax year 2014? 16:08:58

23 A. Off the top of my head, or can I 16:09:00

24 look at the sheet that they gave me? 16:09:02

25 Q. You can look at the sheet that 16:09:04

1 ROZAR

2 they gave you. 16:09:07

3 Is that a certain exhibit you're 16:09:09

4 referring to? 16:09:10

5 A. Yeah. It was -- it was all 16:09:11

6 right in front of me, so it was easier. 16:09:15

7 Yeah. It was -- I don't know 16:09:26

8 what exhibit it was, but it was this 16:09:27

9 (indicating). 16:09:29

10 Q. Okay. I think that was -- is 16:09:31

11 that Exhibit 0144? 16:09:35

12 MS. PHILLIPS: Yes. 16:09:39

13 Q. Okay. 16:09:41

14 A. Oh, wait no, it doesn't. I 16:09:42

15 thought it did. 16:09:44

16 Q. No problem. No problem. I 16:09:45

17 didn't -- I wasn't sure that there was. 16:09:47

18 But go on. 16:09:49

19 A. Okay. There's not. Okay. So 16:09:50

20 it was I think around -- it was under 30, 16:09:52

21 I'm pretty sure, \$30,000. 16:09:55

22 Q. Okay. And that's fine. 16:09:56

23 Do you recall what your income 16:09:57

24 was in tax year 2015? 16:09:59

25 A. Around -- between \$25,000 and 16:10:00

1 ROZAR

2 \$30,000. 16:10:05

3 Q. And how about your income in tax 16:10:07

4 year 2016? 16:10:10

5 A. Probably highest 32,000. 16:10:11

6 Q. And do you -- and do you recall 16:10:14

7 what your income was in tax year 2017? 16:10:17

8 A. 32,000, around that, I think. 16:10:19

9 Q. And then do you recall what your 16:10:25

10 income was in tax year 2018? 16:10:28

11 A. I think it was around 33,000. 16:10:29

12 Q. And how about your income in tax 16:10:33

13 year 2019? 16:10:37

14 A. I think it was, like, 42,000. 16:10:37

15 Q. And do you recall what your 16:10:42

16 income was in tax year 2020? 16:10:46

17 A. Low. Really low. But I don't 16:10:47

18 remember specifically what it was. 16:10:52

19 Like -- I don't remember, honestly. 16:10:54

20 Q. Do you think it was less than 16:10:55

21 30,000? 16:10:57

22 A. Definitely. Definitely less 16:10:57

23 than 30,000. 16:10:59

24 Q. Do you think it was less than 16:11:00

25 25,000? 16:11:02

1 ROZAR

2 A. Yes. I think it was less than 16:11:02
3 20,000. 16:11:04

4 Q. Do you think it was less than 16:11:04
5 15,000? 16:11:07

6 A. I don't remember, honestly. It 16:11:07
7 was a really weird tax year. 16:11:11

8 Q. But you're pretty confident it 16:11:13
9 was less than 20,000? 16:11:15

10 A. Yeah. 16:11:16

11 Q. Okay. And then earlier, I 16:11:16
12 believe you testified that you recall 16:11:20
13 going to IRS.gov and clicking on a link 16:11:22
14 related to TurboTax at some point in time. 16:11:25

15 Do you recall that? 16:11:27

16 A. Yes. 16:11:28

17 Q. And you testified that the 16:11:28
18 website that you ended up at didn't look 16:11:31
19 right to you. 16:11:33

20 Do you recall testifying to that 16:11:35
21 effect? 16:11:36

22 A. I do remember testifying to 16:11:37
23 that. 16:11:38

24 Q. And what about the TurboTax site 16:11:38
25 that you went to from IRS.gov didn't look 16:11:44

1 ROZAR

2 right to you? 16:11:47

3 A. It just looked different than 16:11:48

4 what I was used to. I don't remember 16:11:49

5 specifically why it looked off. 16:11:50

6 Q. And what was the website that 16:11:56

7 you were used to? 16:11:57

8 A. TurboTax.com. 16:11:57

9 Q. Okay. And in tax year 2017, you 16:11:59

10 testified that you ended up on the 16:12:07

11 TurboTax website; is that correct? 16:12:11

12 A. Yes. 16:12:12

13 Q. And what did you do once you 16:12:12

14 arrived at the TurboTax website? 16:12:15

15 A. I -- honestly, I'm forgetting, 16:12:17

16 like -- 16:12:29

17 Q. Sure. 16:12:29

18 A. Go ahead. 16:12:31

19 Q. No. If you had something to 16:12:33

20 say, go ahead. 16:12:36

21 A. I don't specifically remember. 16:12:38

22 It was, like, if I -- in 2017, I feel like 16:12:40

23 I -- I don't remember -- 16:12:44

24 Q. That's okay. 16:12:50

25 A. -- at this point. 16:12:51

1 ROZAR

2 Q. Could I refer you to 16:12:52

3 Exhibit 0146 for a moment? 16:12:54

4 A. Which one was that? 16:12:55

5 Q. I think it might be Folder 3. 16:12:57

6 A. I don't have the same folders 16:13:02

7 anymore. 16:13:05

8 Q. It's your declaration. 16:13:05

9 A. All right. Thank you. Okay. 16:13:06

10 Q. And could I refer you to just 16:13:17

11 review paragraphs 8 and 9. 16:13:21

12 A. Yeah. Okay. I'm looking at it. 16:13:23

13 Okay. Yeah. So, like -- 16:13:33

14 Q. Does it refresh your 16:13:35

15 recollection about what happened in tax 16:13:37

16 year 2017? 16:13:38

17 A. Yeah. Yeah. I remember, like, 16:13:39

18 trying to find -- like, click on the free 16:13:42

19 edition and, like, start the free one, and 16:13:44

20 then, it, like -- it didn't go through as 16:13:46

21 free. 16:13:50

22 Q. Why did you select the free 16:13:50

23 edition? 16:13:53

24 A. Because I thought that that was 16:13:53

25 the free tax filing. I didn't realize -- 16:13:54

1 ROZAR

2 I thought it was for free tax filing based 16:13:57
3 on my income. 16:14:00

4 Q. And after you -- what happened 16:14:01
5 after you selected the free edition? 16:14:02

6 A. I remember going through the tax 16:14:04
7 prep software and then getting to a point 16:14:08
8 where I had to enter a student loan 16:14:10
9 credit, and then it was, like, oh, in 16:14:15
10 order to do this, you have to, like, 16:14:16
11 upgrade. So I was, like, okay. So I 16:14:17
12 guess it's no longer free based on that. 16:14:19

13 Q. And what did you think when you 16:14:21
14 saw that -- when you saw that upgrade? 16:14:23

15 A. I thought that it was kind of 16:14:26
16 BS, but also that I, like -- that it must 16:14:31
17 be, like, you can only do your taxes for 16:14:35
18 free if you only -- like, even regardless 16:14:37
19 of your income, it was, like, if your 16:14:41
20 income was simple -- if your income was 16:14:43
21 low and your tax return was simple, then 16:14:46
22 you could do it for free. But now that I 16:14:48
23 had to, like, pay for it, I was, like, oh, 16:14:51
24 I entered this, like, extra credit. So I 16:14:53
25 had to pay for it. 16:14:57

1 ROZAR

2 Q. And what did you do after you 16:14:58
3 were told that you had to pay? 16:15:00

4 A. I paid for it. 16:15:02

5 Q. And why did you pay? 16:15:03

6 A. Because I thought I had to, 16:15:07
7 because I was already done doing all this 16:15:12
8 stuff on website, so I was, like, yeah. I 16:15:14
9 mean, at this point, like, I spent a few 16:15:18
10 hours doing this. I might as well just 16:15:21
11 pay. 16:15:23

12 Q. And going back to your testimony 16:15:24
13 about the other TurboTax site that you had 16:15:28
14 seen after going to IRS.gov, would it have 16:15:32
15 made a difference if you had gotten to 16:15:37
16 that page from the TurboTax website that 16:15:39
17 you had previously used in the past? 16:15:41

18 A. Yeah, I think so, because then 16:15:44
19 it would have felt like it's more of an 16:15:48
20 official TurboTax thing versus just, like, 16:15:49
21 this, like -- it was, like, kind of, like, 16:15:53
22 off-brand TurboTax. And I went through 16:15:54
23 IRS, and it was, like, this doesn't feel 16:15:56
24 right. So if it was through the TurboTax 16:15:58
25 website, then I would have been, like, all 16:16:00

1 ROZAR

2 right, well, this is just, like, what it 16:16:02
3 is. This is the real one. 16:16:02

4 Q. And then going to tax year 2018, 16:16:03
5 how did you file your taxes in tax year 16:16:08
6 2018? 16:16:10

7 A. Through TurboTax. 16:16:10

8 Q. And do you recall what product 16:16:17
9 you selected when you used TurboTax in tax 16:16:18
10 year 2018? 16:16:22

11 A. At this point, I tried to go 16:16:23
12 through the free one, and then it didn't 16:16:24
13 work again. 16:16:26

14 Q. And what happened after you 16:16:27
15 tried to go through the free one? 16:16:28

16 A. I feel like it went -- my memory 16:16:29
17 at this point, I feel like I went to try 16:16:34
18 the free one, and then it didn't work 16:16:36
19 again, and so I just went with whatever 16:16:38
20 the cheapest default one was after that 16:16:40
21 and paid for it. 16:16:42

22 Q. And why did you continue to use 16:16:43
23 TurboTax after you had to pay? 16:16:45

24 A. I thought I had to pay with any 16:16:46
25 other website, and I was already familiar 16:16:50

1 ROZAR

2 with this one. 16:16:51

3 Q. And then, if I could refer you 16:16:53

4 to paragraph 13 in your declaration. 16:16:57

5 A. Okay. 16:17:00

6 Q. Sorry. Give me one second. 16:17:05

7 I'm sorry. Could I refer you to 16:17:21

8 paragraph 16. I apologize about that. 16:17:38

9 Do you see where it says, "If 16:17:39

10 TurboTax offered a product that would 16:17:42

11 allow me to properly file my taxes for 16:17:43

12 free, I would consider that to be the best 16:17:45

13 tax preparation service for my 16:17:47

14 circumstances"? 16:17:49

15 A. Yes. 16:17:49

16 Q. And do you still believe that? 16:17:50

17 A. Yes. 16:17:54

18 Q. And why would you consider that 16:17:56

19 to be the best service for you? 16:17:59

20 A. I made so little money. Like, 16:18:00

21 they're really going to charge me, like, 16:18:03

22 70 bucks to, like, file what I'm supposed 16:18:06

23 to do -- like, I'm legally obligated to 16:18:08

24 do? Like, that was my whole thing. I'm 16:18:12

25 like, why am I paying for this when I make 16:18:13

1 ROZAR

2 so little money already? 16:18:15

3 Q. And then if I could turn you to 16:18:17

4 the last sentence of paragraph 14. 16:18:18

5 Do you see where it says, "I 16:18:21

6 would expect TurboTax to list all of its 16:18:24

7 products on its website"? 16:18:26

8 A. Yes. 16:18:28

9 Q. Do you believe that? 16:18:28

10 A. Yes. 16:18:29

11 Q. Why? 16:18:29

12 A. I mean, if they're listing a 16:18:29

13 product, why wouldn't they list all of 16:18:35

14 them? Like, I went to the IRS website, 16:18:37

15 and it's, like, I found it through there, 16:18:41

16 but that was, like, a weird -- it looked 16:18:43

17 like a weird offshoot of it. So I was, 16:18:45

18 like, this doesn't look familiar. I don't 16:18:47

19 want to mess anything up with going to 16:18:49

20 this. 16:18:51

21 And so I went just back to the 16:18:51

22 Turbo -- I eventually went back to the 16:18:53

23 TurboTax website. And then if it didn't 16:18:55

24 have it on there, then I guess you 16:18:57

25 wouldn't think it would exist if it wasn't 16:19:00

1 ROZAR

2 on the products website; right? 16:19:02

3 Q. And did you think that TurboTax 16:19:04

4 would present on its website any product 16:19:06

5 that it developed? 16:19:08

6 A. Yeah. 16:19:09

7 Q. And do you think that TurboTax 16:19:12

8 would present on its website any product 16:19:13

9 that has its brand name in the title of 16:19:15

10 the product? 16:19:17

11 A. Yes. 16:19:18

12 Q. And shifting gears to tax year 16:19:20

13 2020. 16:19:22

14 Do you recall what product you 16:19:23

15 used in tax year 2020? 16:19:24

16 A. TurboTax Free Filing. 16:19:25

17 Q. And do you recall if you were 16:19:27

18 able to repopulate your information from 16:19:29

19 previous tax years in that product? 16:19:31

20 A. I think I was, but it was a 16:19:32

21 different year for me, because I wasn't 16:19:37

22 working for Apple like I was in 2019, so 16:19:39

23 it didn't matter as much. But I think I 16:19:43

24 was. But I don't remember, though. 16:19:45

25 Q. Got it. 16:19:46

1 ROZAR

2 If you hadn't been allowed to 16:19:47
3 repopulate your information from previous 16:19:49
4 tax years in that product, would you still 16:19:50
5 have used that product? 16:19:53

6 A. Yeah. I think -- yeah, because 16:19:54
7 it's, like -- yeah. Because it's, like, 16:19:58
8 to not have to pay for it, to have to 16:20:00
9 enter in my own information, I can do 16:20:02
10 that. It's fine. 16:20:04

11 Q. Okay. No further questions at 16:20:05
12 the moment. 16:20:07

13 MS. PHILLIPS: Okay. Just a 16:20:10
14 couple more from me. 16:20:10

15 BY MS. PHILLIPS: 16:20:13

16 Q. So when you said that you went 16:20:13
17 to the IRS Free File Program delivered by 16:20:17
18 TurboTax website, you said it looked 16:20:22
19 different; right? 16:20:25

20 A. Mm-hmm. 16:20:25

21 Q. But you didn't receive an error 16:20:27
22 message, did you? 16:20:29

23 A. I don't think so. 16:20:30

24 Q. So it was a functional product; 16:20:31
25 right? 16:20:35

1 ROZAR

2 MR. MAHMOOD: Objection. Form. 16:20:37

3 A. It was -- I don't know. I think 16:20:37

4 it was. I didn't go through it in that 16:20:41

5 first time that I looked at it. 16:20:43

6 Q. Apart from it looking different 16:20:44

7 than what you were used to, is there 16:20:46

8 anything about the product that you 16:20:48

9 visited that made it look like it wouldn't 16:20:51

10 work? 16:20:53

11 A. Honestly, I didn't include this 16:20:54

12 in the declaration, but going back to it 16:20:57

13 now, like, it looked counterfeit to me. 16:20:59

14 It looked like a lot less polished, and 16:21:01

15 that's why I was, like, hmm, I don't know 16:21:05

16 about this. It doesn't look as legit as 16:21:08

17 much, you know, so -- 16:21:10

18 Q. And you accessed it through 16:21:10

19 IRS.gov; right? 16:21:12

20 A. Yeah. 16:21:14

21 Q. So you felt that IRS.gov would 16:21:15

22 include a counterfeit product on its 16:21:17

23 website? 16:21:19

24 A. Counterfeit may have been the 16:21:20

25 incorrect word. But it didn't look -- I 16:21:22

1 ROZAR

2 just didn't feel comfortable with it. 16:21:24

3 Q. Okay. And I think you just 16:21:26

4 testified that you finished inputting your 16:21:33

5 information and felt that you had to pay, 16:21:40

6 so you just paid; is that right? 16:21:42

7 A. Right. 16:21:43

8 Q. What did you mean that you had 16:21:44

9 to pay? 16:21:47

10 A. That if I paid -- I mean, that I 16:21:47

11 had no other option, that if I wanted to 16:21:51

12 pay my -- if I wanted to do my citizen 16:21:54

13 duty of paying my taxes, I had to pay for 16:21:56

14 it. 16:21:58

15 Q. Okay. But you could have left 16:21:58

16 your TurboTax at that point without paying 16:22:02

17 TurboTax anything; right? 16:22:04

18 A. I could have, and then I thought 16:22:06

19 if I did that, I wouldn't have done my -- 16:22:08

20 what I'm legally obligated to do, which is 16:22:11

21 to pay my taxes. So I thought that I was 16:22:14

22 legally obligated to pay this. 16:22:16

23 Q. So you thought that the charge 16:22:19

24 that TurboTax was charging you was a 16:22:21

25 government charge. 16:22:23

1 ROZAR

2 A. No. I didn't think it was a 16:22:25
3 government charge necessarily. I knew it 16:22:26
4 was going to TurboTax's profits. However, 16:22:28
5 I thought that in order to pay my taxes, 16:22:30
6 regardless of any system, any company that 16:22:34
7 I used, I would need to pay to do it, so 16:22:37
8 why not -- I'm already here. I'm already 16:22:39
9 done with my taxes. Why not just pay it, 16:22:41
10 rather than having to start over with 16:22:44
11 somebody who I might get a cheaper thing 16:22:46
12 with. 16:22:48

13 Q. But you didn't look at any other 16:22:48
14 products at that point, did you? 16:22:49

15 A. At that point, no. 16:22:50

16 Q. And do you believe that TurboTax 16:22:51
17 should list or should have listed the 16:22:59
18 product that it donated to the IRS Free 16:23:03
19 File Program on its commercial website, 16:23:06
20 even though the IRS says you must begin 16:23:07
21 your filing option at IRS.gov, and going 16:23:09
22 directly to a company's website will 16:23:13
23 result in not receiving the benefits 16:23:15
24 offered here? 16:23:17

25 MR. MAHMOOD: Objection. Form. 16:23:18

1 ROZAR

2 A. I do believe that they should 16:23:19
3 have at least put it on their list of 16:23:22
4 products. I mean, who's to say about, 16:23:24
5 like, what the ethics of an actually 16:23:30
6 company are? But in terms of, like, 16:23:31
7 listing their products, that is one of 16:23:33
8 their products, and that's what I believe 16:23:34
9 that I was doing. 16:23:36

10 And so to have it at least 16:23:37
11 listed on there, like, hey, if you want to 16:23:38
12 get a free tax filing, you need to at 16:23:40
13 least follow these steps, because that's 16:23:41
14 one of their products, but it wasn't 16:23:42
15 listed. And so I did assume that their 16:23:44
16 free one on their website said, okay, this 16:23:46
17 is going to be the free filing one. And, 16:23:49
18 like, even if I had to go to start it on 16:23:51
19 IRS.gov, that wasn't mentioned anywhere on 16:23:53
20 IRS -- on TurboTax.com. 16:23:55

21 Q. Okay. But you were able to find 16:23:56
22 the product that TurboTax donated to IRS 16:23:59
23 Free File Program on IRS.gov. You just 16:24:05
24 didn't know that's what it was? Is that 16:24:08
25 right? 16:24:09

1 ROZAR

2 A. I found it for tax year 2020 16:24:10

3 when I realized that it was a separate 16:24:12

4 website. 16:24:13

5 Q. Well, you found it for tax year 16:24:14

6 2017; right? You just didn't use it? 16:24:17

7 A. Yeah. I just didn't use it. 16:24:19

8 Yeah. Correct. 16:24:21

9 Q. Okay. No further questions. 16:24:21

10 MR. MAHMOOD: I'm good as well. 16:24:26

11 THE VIDEOGRAPHER: All right. 16:24:28

12 We are off the record at 4:24 p.m. 16:24:29

13 Eastern Standard Time. This concludes 16:24:34

14 today's testimony given by Kalynna 16:24:35

15 Rozar. The total number of media 16:24:38

16 units used was three and will be 16:24:41

17 retained by Veritext Legal Solutions. 16:24:43

18 (TIME NOTED: 4:24 p.m.)

19

20

21 KALYNNA ROZAR

22

23 Subscribed and sworn to

24 before me this _____

25 day of _____, 2022.

Notary Public

CERTIFICATION

I, SHARON PEARCE, RDR, CRR, CRC,
NYRCR, a Notary Public for and within the
State of New York, do hereby certify:

That the witness whose testimony as
herein set forth, was duly sworn by me;
and that the within transcript is a true
record of the testimony given by said
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of April, 2022.



SHARON PEARCE

RDR, CRR, CRC, NYRCR

* * *

ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: TURBOTAX FREE FILING CASES
DATE OF DEPOSITION: March 21, 2022
WITNESS' NAME: KALYNNA ROZAR

PAGE / LINE (S) /	CHANGE	REASON
6	----- / ----- / ----- / -----	-----
7	----- / ----- / ----- / -----	-----
8	----- / ----- / ----- / -----	-----
9	----- / ----- / ----- / -----	-----
10	----- / ----- / ----- / -----	-----
11	----- / ----- / ----- / -----	-----
12	----- / ----- / ----- / -----	-----
13	----- / ----- / ----- / -----	-----
14	----- / ----- / ----- / -----	-----
15	----- / ----- / ----- / -----	-----
16	----- / ----- / ----- / -----	-----
17	----- / ----- / ----- / -----	-----
18	----- / ----- / ----- / -----	-----
19	----- / ----- / ----- / -----	-----

KALYNNA ROZAR
SUBSCRIBED AND SWORN TO
BEFORE ME THIS _____ DAY
OF _____, 2022.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

1 KALYNNA ROZAR

2 kmrozar@gmail.com

3 April 4, 2022

4 RE: TURBOTAX FREE FILING CASES

5 March 21, 2022, KALYNNA ROZAR, JOB NO. 5126180

6 The above-referenced transcript has been
7 completed by Veritext Legal Solutions and
8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 _X_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of
21 Counsel - Original transcript to be released for signature
22 as determined at the deposition.

23 ___ Signature Waived - Reading & Signature was waived at the
24 time of the deposition.

25

Page 189

1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 CASE: TURBOTAX FREE FILING CASES

2 WITNESS: KALYNNA ROZAR (#JOB NO 5126180)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

5 _____

6 REASON_____

7 PAGE_____ LINE_____ CHANGE_____

8 _____

9 REASON_____

10 PAGE_____ LINE_____ CHANGE_____

11 _____

12 REASON_____

13 PAGE_____ LINE_____ CHANGE_____

14 _____

15 REASON_____

16 PAGE_____ LINE_____ CHANGE_____

17 _____

18 REASON_____

19 PAGE_____ LINE_____ CHANGE_____

20 _____

21 REASON_____

22 _____

23 _____

24 WITNESS _____ Date _____

25 _____

[& - 22]

&	152:5 154:12	19stev15644 1:6	111:8 171:10
& 1:6 2:6 8:23	11th 151:22	2:6 7:19	177:4,6,10
189:23 190:9	12 107:24 109:16	1:28 61:17	2019 18:15 53:14
0	155:18	1:41 61:22	53:16 54:4,7,8
0076 6:14 128:16	12778 9:6	2	60:12,17,24,25
128:18	128 6:14	2 61:23 72:17 94:5	127:9 171:13
0144 5:9 43:25	12:32 2:21 7:4,7	95:13 97:16 166:7	180:22
44:3 60:13 170:11	12:45 20:24	20 27:23 31:18	202 4:10 9:5
0145 5:11 54:25	12:47 21:4	20,000 36:3 172:3	2020 5:17,19 34:17
55:4,8,14,17,18	13 111:13 120:8	172:9	35:6 36:12 37:18
0146 5:12 70:7,9	158:3 178:4	200 3:7	57:20 66:12,14
130:15 174:3	13079 187:20	2000 18:12	122:21 126:12,17
0147 5:14 134:10	134 5:14	20001 4:9	138:23 141:13
134:12	138 5:15	2012 18:3,5	143:5,18 144:3,18
0148 5:15 138:7,9	14 121:2 127:5	2013 18:14 41:2	146:24 148:8,13
142:19 148:25	161:14,18 179:4	47:18 48:2 73:7	149:5 150:4,7,12
0149 5:17 141:10	140 108:8,16 111:3	73:24 74:10 77:4	152:5 167:13,13
141:12	141 5:17	127:9 169:19	171:16 180:13,15
0150 5:18 143:24	144 5:18 55:11	2014 15:25 44:11	186:2
144:2 152:7	14th 3:7	47:22 48:16 49:7	2021 5:16,20,22
0151 5:20 154:12	15 5:19 130:22	49:8 169:22	6:3,5,6 31:15,19
154:13	144:3,18 163:19	2015 19:25 50:12	57:15,19 58:15
0152 5:21 155:18	166:3 167:13	170:24	71:6 133:5 138:10
155:19	15,000 172:5	2016 27:21 51:3	138:19 143:18
0153 6:3 158:3,4	154 5:20	77:4 171:4	146:14 154:14,24
0154 6:4 161:13,15	155 5:21	2017 27:22 51:15	155:20 156:9
0155 6:6 163:18,20	158 6:3	51:18,23 53:20	158:5,18 161:16
1	16 20:2 131:22	60:11,17,25 66:11	161:25 162:5,5
1 7:13 44:2 45:21	178:8	66:12 74:18 77:2	163:21 164:3
60:15 61:18 71:18	161 6:4	81:19,24 86:13	166:19 168:9
143:5 149:5 150:7	163 6:6	88:14,18 89:18	2022 1:22 2:22 7:3
167:13 190:1	169 5:4	103:25 107:10,12	7:9 186:24 187:18
1-50 1:10,17 2:10	16th 71:10	107:13 124:21	188:4,23 189:3,5
2:17	17 105:19	125:16 126:11	2025.520 189:9,12
10 45:21 49:15,15	18,000 31:20 96:4	160:25 171:7	21 1:22 2:22 7:3,9
49:16,17 50:24,24	96:14	173:9,22 174:16	143:18 188:4
51:13,13 96:23	181 5:3	186:6	189:5
143:24 152:8	1875 4:8	2018 27:22 51:19	213 3:9
11 101:15 105:16	190 32:12 33:13,17	51:23 53:12,15,20	22 5:20 6:5 154:14
106:13 150:12	19cv354178 1:7	53:21 88:12 104:3	154:24 161:16,25
	2:7 7:20	109:18 110:3	

[24 - answering]

24 5:17 141:13	5067 1:5 2:5	129:21 142:4	107:6
25 138:23	5126180 189:5	180:18 185:21	agree 7:11 142:7
25,000 170:25	191:2	absolutely 61:12	142:12
171:25	55 5:11	166:4	ahead 17:6 45:18
26 93:3	6	access 34:18,24	127:19 169:17
27,000 96:9,13,15	6 128:17	35:21 36:21 37:5	173:18,20
28 6:6 163:21	6535 142:25	83:4 86:13 117:15	alerting 135:9
164:3	663-6443 4:10	accessed 182:18	allow 131:24
299-5900 3:17	6th 146:24	accountant 31:13	132:14,20 178:11
2:28 105:2	7	31:15,22 32:8,11	allowed 11:24
2:38 104:22	7 6:3 78:10 82:24	32:24 39:20 95:22	35:17 39:3 68:3
2:39 105:6	86:5 134:11 158:5	111:25 133:5	128:2 181:2
2s 134:2	158:18	accountants 65:11	allows 133:19
3	70 3:15 5:12	accurate 13:3	amount 24:20,25
3 70:8 143:4 149:4	178:22	29:15 38:9 93:20	36:3 52:21 66:20
166:12 174:5	73,000 133:9	147:16	110:5
30 52:21 170:20	75 111:7	accurately 132:6	angeles 1:2 2:2 3:5
190:1	8	132:16	3:8 7:19 12:12
30,000 170:21	8 5:3 87:4 94:5	acting 1:13 2:13	13:6 14:2,18
171:2,21,23	97:16,19 113:19	action 1:6 2:6	23:21 59:9 71:9
30s 52:22	114:11 138:8	150:11 187:14	81:21 108:15
32,000 171:5,8	142:20 148:25	actions 1:5 2:5	130:6 141:22
33,000 171:11	174:11	activity 68:4,12	145:16 146:12
39.99 91:23	9	actual 22:10 79:15	149:6,7 150:3
3:46 166:6	9 71:6 89:12 92:19	102:21 119:24	153:12 156:4
4	92:25 141:11	ad 78:12,20,22,25	158:17 159:2
4 5:16 138:10,19	174:11	97:5	162:4
138:22 149:22	90012 3:8	add 46:2,4,10	annoyed 33:10
189:3	95110-1770 3:16	added 35:24 36:4	answer 6:24 9:15
408 3:17	978-1865 3:9	additional 35:16	11:2,15,21,23 12:7
42,000 171:14	9th 3:15	120:3 166:16	12:15 13:9 20:11
44 5:9	a	address 9:4 30:13	20:13 25:8 30:9
4:06 166:11	ability 9:16 13:2	39:25 135:21	38:2 39:9 57:5
4:24 2:22 7:4	22:25 34:8 38:18	136:8 163:25	64:14 75:19 80:23
186:12,18	38:21 39:6 64:21	advertisements	80:24 85:4 127:2
4th 187:18	137:10 167:8	41:6	127:21 161:7,10
5	able 12:22 20:3	affect 13:2	answered 92:19
5 5:22 73:6 88:12	32:25 35:4 56:13	afternoon 7:6	160:2
155:20 156:9	69:12 81:9 83:4	ago 19:25 22:24	answering 9:25
		39:2 76:18 80:10	10:25
		82:3,12,18 106:4	

[answers - bear]

answers 15:10 39:11 answerxchange 60:18,22 62:22 63:3,14 anybody 14:14,17 26:25 57:6 64:24 69:7 91:9 130:7 144:23 146:3,7,11 153:11 156:8 159:6 165:2 168:21 anymore 22:11 151:12 165:8 166:21 174:7 anyway 25:4 76:21 113:14 114:8 117:10 156:17 apart 29:25 34:8 158:22 182:6 apologize 107:5 178:8 appearances 3:1 4:1 8:2 appearing 3:1 4:1 189:18 190:7 apple 18:14,20 19:25 27:24 69:3 69:6 75:3 180:22 apple.com 69:10 69:11,25 appreciate 105:14 appropriate 93:25 approximate 31:17 96:3 approximately 7:7 20:24 21:4 61:17 61:22 105:2,6 134:25 148:11 166:6,11	april 187:18 189:3 argument 152:16 arguments 152:12 arrangement 8:5 8:10 arrived 50:13 51:4 53:12 54:6 152:23 173:14 asked 15:5 23:24 24:3 28:10 93:5 97:6 98:9 99:21 100:8 107:18 109:5 115:2 145:7 154:9 159:9,16 168:14,25 169:5 asking 9:13 10:5 23:4 76:19 79:3 99:16 100:14,18 100:19,25 122:8 157:24 159:18 assembled 44:9 assist 149:11 assistance 33:2 assistant 32:17 assume 11:16 45:18 100:20 185:15 assumed 42:17 94:9 98:11,22 99:2,4 110:19 113:12 114:4 assuming 45:17 58:12,13 99:7 assumption 94:22 100:23 112:14 131:15 attempt 162:15 attended 144:24 155:2 attorney 3:5 12:13 14:2 24:23 25:22	26:12 30:7,16 47:4 59:2,10 71:3 72:24 88:2 158:25 159:12 164:6 attorney's 14:18 23:21 26:5 34:19 34:23 57:7 71:9 81:22 108:15 130:7 141:23 142:8,13 143:10 144:8 145:17 146:13 148:12 149:6,8 150:3 152:12 153:12 156:5,8 158:18 159:2 162:4,24 164:18 165:2 167:10 168:8,14 168:22 attorneys 162:20 162:25 audio 7:9 automated 141:22 automatically 36:5 133:21 available 17:9 23:6 50:4 55:2 63:14,16 91:9 118:17 avenue 4:8 aware 32:19 40:21 65:4,7,8,10,16 67:3,6,13,16,19,25 68:9,16,21 69:5 71:8,12 124:23 125:5,12 126:6 134:7 awful 49:18	b b 5:7 6:1 190:1 bachelor's 17:22 back 15:2 20:22 21:5 25:10 29:7 29:23 44:10 47:23 49:23 60:12 62:21 71:2 86:24 90:13 94:4 97:18 100:24 104:22 105:7 122:25 124:20 130:14 132:17 141:18 142:19 143:10 148:24 150:16,25 152:7 161:3 163:7 165:25 176:12 179:21,22 182:12 background 17:18 17:20 bad 117:8 base 131:12 based 26:8 71:21 76:10 77:10,23 78:3 94:16,19 97:2,13 98:24 100:20 101:11,17 108:17,19 124:5 127:2 131:2 136:19 140:23 141:3 175:2,12 basic 32:20 basically 18:18 23:12 24:15 25:8 25:19 27:16 29:18 35:6,12,23 52:2 59:6 95:13 117:14 118:13 140:24 167:5 bear 47:16
--	---	--	--

[began - citizen]

began 42:7 44:18 73:6 beginning 2:21 61:23 71:17 166:12 behalf 8:23 belief 118:13 believe 12:22 26:20,20 28:20 30:18 36:15 37:17 37:21 41:2 47:10 49:3,14 50:19 51:8,11 53:22 54:14,20 58:11 66:5 72:24 80:4 92:21 109:23 117:19,21 118:8 118:15 119:10,11 119:19,22 136:17 138:22 144:14,16 146:22 172:12 178:16 179:9 184:16 185:2,8 believed 27:17 83:3 108:4 109:11 111:16 119:5 140:3,4 benefits 46:3,21 129:12,18,22 130:11 184:23 benicia 7:2 best 9:15 10:25 11:13 19:23 22:23 22:25 89:20 100:22 113:8 117:19 132:2 133:21 137:10 149:16 167:8 168:12 178:12,19 better 75:19 102:17 103:11	big 131:2 bill 66:5 bit 30:25 33:10 47:14 81:6 137:15 147:6 165:18 block 21:17 33:25 34:6 43:11 59:17 59:18 60:6 65:10 111:25 112:23 113:12,24 114:5 115:7,21 118:9 119:5 125:9 blog 107:21 blood 187:14 bottom 92:3 114:12 119:21 139:4 141:21 142:24 143:3 149:4 bought 32:2 box 16:22 17:2,7,8 17:12 128:17 brackets 77:18 brain 116:17 branch 139:17 branches 18:18 brand 59:15 176:22 180:9 break 12:4,5,8 20:21 61:8,10,11 62:21 104:9,12 105:12 166:17 breaks 12:2 briefs 19:12 bring 79:13,14 brought 21:14 22:2,7,17 52:13 117:24 118:20 browser 29:22 41:25	bs 175:16 bucks 178:22 bunch 21:15 bureaucracy 118:23 business 40:16 button 90:23 buy 69:9	160:7 169:16 170:3 certification 187:2 certified 2:23,23 certify 187:6,12 chain 5:15,17 138:9,15 141:12 150:11 change 86:14,16 126:7 188:5 191:4 191:7,10,13,16,19 changed 56:13 changes 71:12 charge 46:24,25 62:11 178:21 183:23,25 184:3 charged 33:12 62:16,19 charges 62:17 charging 183:24 chart 44:8,13 cheaper 184:11 cheapest 42:11 108:7 115:11,13 177:20 chewy.com. 79:14 choice 13:22 choices 65:4,8 90:14 91:12,15,19 choose 31:21 43:17 97:7 chose 63:22 64:3 108:7 133:17 circle 118:19 circumstance 24:18 circumstances 132:3 178:14 citizen 42:22 183:12
---	--	--	---

[citizens - correct]

citizens 117:8	99:6,10	complaint 139:16	content 60:20 63:3
city 3:5 12:12 14:2	clicking 21:21,24	complaints 19:4	contents 158:21
14:18 23:21 25:22	84:9 85:5 86:19	complete 12:23	context 93:17
26:4 30:16 34:23	172:13	44:23	103:21 118:8
57:7 59:10 71:2,9	code 189:9,12,19	completed 189:7	continue 7:10
81:22 108:15	189:20	189:17 190:6	177:22
130:6 141:23	colleagues 74:20	completely 10:24	continued 6:1
142:8,12 143:10	75:2 76:9 150:15	11:2 20:12	111:14
145:17 146:12	150:24	completion 190:10	continuing 82:23
148:12 149:6,8	college 17:24	compliance 93:24	120:7 127:4
150:3 152:12	18:13	compliant 93:19	contractors
153:12 156:5,8	column 44:13,21	complicated 31:23	117:10,14
158:17,25 159:2	45:3,11 46:2	32:4 95:15,23,25	conversation
162:4,24 164:18	60:16 97:16	96:11,18 133:25	76:17 77:8 136:20
165:2 167:9 168:8	columns 114:12	complication	150:19,22 151:4,8
168:13,22	come 49:23 104:22	134:4	151:21 152:18
civil 117:15	121:16 152:20	computer 39:23	154:20 156:4,12
189:19,20	165:25	concerning 139:5	158:21 164:25
clara 1:13 2:13	comfortable 23:13	concierge 4:24	167:22,24
3:13	81:2,5 136:21,24	concludes 186:13	conversations
clarification	157:4 183:2	confident 157:11	25:21 27:2,5
106:16	commercial 40:22	172:8	121:10 130:6
clarify 11:13	68:4,12,19,23	confirm 29:14	152:4 158:23
110:17 119:4	116:11 128:4,8	72:10 120:4	cooper 4:22 7:22
167:7	129:24 184:19	confirmed 72:8	copies 29:8
clean 11:4 73:10	commission	confused 53:16	copy 14:22,24,25
clear 10:14,19	188:25	connected 4:14	29:5,7
22:14 36:11 43:13	communicate	consent 8:4 62:18	corner 87:15
83:20 91:18 103:6	162:3	consider 20:15	corporate 4:17
123:13 148:4	communication	59:14 72:8 131:25	corporation 1:10
clearer 143:14	17:23	178:12,18	2:10
clearly 82:21	communications	considered 115:9	correct 16:7 26:17
98:18 102:21	167:9	consumer 69:18	30:22 46:9,19
106:5,6	companies 112:23	consumers 149:15	51:20 57:16 65:6
click 88:24 91:21	114:2 115:8,24	contact 24:22	65:15 71:21 78:16
97:25 174:18	company 40:13	150:7 189:9	83:18 91:11,25
clicked 22:12 37:6	184:6 185:6	contacted 24:15	105:19 106:2
55:11 80:6,14	company's 129:10	137:21 139:20	108:9 111:21
82:25 83:11,15	130:10 184:22	143:15	133:24 139:14
84:12,14,16 85:11	complained 62:7	contacting 107:7	173:11 186:8
86:7 89:22 97:5		149:7	

[corrected - different]

corrected 136:12 corrections 189:14 189:15 190:3,4 correctly 74:24 78:17,18 83:8 92:24 101:25 108:12 109:19,20 132:7 cost 74:13 91:19 91:23,24 counsel 1:14 2:14 3:13 4:17 8:2,4 12:12 189:18,21 190:7 counterfeit 182:13 182:22,24 counts 53:2 county 1:2,13 2:2 2:13 3:13 7:18 couple 17:17 52:15 161:11 166:16 181:14 court 1:1 2:1 7:17 7:24 8:7,12 9:13 9:22 10:6,10,21 25:12 36:24 136:21 covid 106:7 146:17,20,23 147:5,18 148:5,7 coworker 20:3 27:24 52:15 140:22 141:4 crc 1:24 2:22 187:4,22 created 88:5 credit 35:25 36:5 56:12,16,19 58:5 62:12 85:14,19 95:14 110:13 160:17 175:9,24	credits 94:2 criteria 112:8 crr 1:24 2:22 187:4,22 cut 134:23 cutler 4:5 8:22 d d 5:1 da's 123:6 dance 17:24 danielle 27:10 121:20 144:18 159:5 data 38:19 46:16 46:17 64:4,11,21 date 44:6 55:6 56:9 59:22 70:11 88:11 134:14,22 138:12 141:14 144:4 154:15 155:21 158:6 161:17 163:22 188:4 189:16 190:5 191:24 dated 5:15,17,18 5:20,21 6:3,4,6 138:10,18,22 141:13 144:2 154:13 155:19 158:4 161:15,24 163:20 dates 136:11,15 day 165:12 186:24 187:18 188:22 dc 4:9 deadline 146:13 dealt 18:22 december 5:19 6:6 143:18 144:3,18 146:24 148:7,12 150:12 151:22	152:5 163:21 164:3 166:19 167:13 decide 41:16 49:22 60:5 73:12 decided 120:23 declaration 5:12 14:11,23 15:17 16:6 23:17,22 24:6,13 26:7,9,11 28:18 29:13,15 30:4,17,20,21 57:15 58:19,24 59:8 70:9,14 71:13,20 72:14 76:23 81:16 82:10 82:11,15,21 83:20 88:9 102:14 103:14 105:17 106:4 108:25 110:8,15 122:4,6,7 122:11,17 130:15 130:17 135:6,10 136:22 137:2,8 147:11,15,22 152:19 153:14 160:3 163:8,13 168:16,21,24 174:8 178:4 182:12 deductions 94:3 default 177:20 defendant 8:24 defendants 1:11 1:18 2:11,18 4:3 define 71:24 definitely 27:11 43:10,11 102:6 171:22,22 delaware 1:9 2:9	delivered 22:18 37:24 57:21 58:23 63:15 123:22 124:15 125:7 126:17 181:17 deluxe 49:3,4 50:16,20 51:9 53:24 54:14,21 90:15 91:21 department 24:22 deposed 13:16 deposition 1:21 2:21 7:14,20 9:11 14:6,17,21,23 16:6 26:8 30:20 116:10 156:24 162:16 163:2,14 164:10 188:4 189:19,22 189:24 190:8,10 deputy 15:18 description 5:8 6:2,13 detail 168:7 determined 189:18,22 190:7 developed 180:5 devices 16:15 69:7 differ 31:7 difference 39:11 176:15 differences 132:19 different 18:18 21:15 23:11 29:3 35:21 36:17,19 37:3,9,13 43:6,19 50:7 65:15 66:25 70:21,23 80:25 81:13 82:18 84:3 84:4 87:20 94:13 114:9 115:3,9 116:2 124:23,25
--	---	---	---

[different - exact]

143:19 173:3 180:21 181:19 182:6 differently 37:11 50:22 51:11 difficult 13:14 119:24 digital 14:24 dillaway 4:7 diplomate 2:23 direct 17:13 directly 36:10 41:24 52:9 58:9 86:19 129:10,17 130:10 149:16 184:22 discouraged 37:8 discussed 27:14 47:15 155:9 168:7 discussion 15:14 disputed 62:11,16 disqualified 36:6 distaste 79:4 district 24:22 26:12 34:19 59:2 72:24 88:2 144:8 disturb 16:17,20 docket 7:19 doctors 69:17 document 47:6 70:13 71:5 134:16 144:6 154:17 155:24 158:12 documentation 153:13,20 168:15 documents 15:16 16:23 17:7 153:6 153:9 155:12,15 161:11 168:23 doing 28:7 35:20 58:2 80:19 84:18	109:14 139:13 153:23 154:4 165:14 176:7,10 185:9 donate 67:8,10,12 donated 45:7 69:12,21 80:13 125:9,14 127:15 128:2,7 184:18 185:22 donates 69:6 donation 127:23 dorr 4:5 8:23 draft 26:24 28:24 29:3,3 drafted 26:11 drafts 28:23 29:10 drive 9:5 due 142:3 duly 8:15 187:8 duty 117:16 183:13 e e 5:1,7 6:1 189:9 189:12 190:1 191:3,3,3 earlier 11:21,23 23:16 27:21 36:18 79:17 80:12 95:21 103:15 104:4 133:3 147:5 172:11 early 149:13 earned 74:21 easier 34:5 73:3 170:6 easiest 93:16 east 3:15 eastern 7:7 186:13 easy 42:25 73:9	edit 30:2 edition 73:23 84:12,13,17,19,25 89:13,19,22,24 90:15,20 91:4,8 92:4 94:10 97:3 97:14 99:11 174:19,23 175:5 edits 30:4,11,14 education 17:21 educational 17:20 effect 172:21 either 19:3 51:22 51:23 59:20 60:25 75:10 153:23 elaborate 81:5 eligibility 77:9 94:19 95:8 100:21 112:8 124:2,25 126:7 141:2 eligible 45:4,6 52:23 58:4 63:20 64:2,9,18 66:21 69:20,22 85:20 93:11 97:2,12 101:17 126:10,12 126:16 132:13 140:4,7,16,21,23 159:23 elizabeth 4:6 8:21 else's 64:25 email 5:14,15,17 6:4,6 29:10 60:2 134:12,17,19,21 134:25 135:8 138:3,4,9,14,15,18 138:21 139:4,15 139:19,24 140:11 141:12,16,21,24 142:3,21 144:7 149:2 150:11	151:23 154:18 158:14 161:15,19 161:22,24 163:20 163:23,25 164:13 emails 34:2 emerson 17:24 employed 90:16 employment 18:5 enable 93:19 encompass 94:2 ended 25:3 88:8 101:23 102:19 172:18 173:10 ends 142:25 engage 68:3,11 enter 175:8 181:9 entered 91:22 99:11 101:18 175:24 entering 108:2 109:10 entire 28:10 entirely 137:24 147:16 entity 40:19 errata 188:2 189:14,16 190:3,5 error 63:4,8 181:21 errors 47:5 especially 99:5 esq 3:6,14 4:6,7 estimate 109:13 ethics 185:5 eventually 25:10 28:5 51:25 165:4 179:22 everybody 70:2 156:16 exact 59:22 102:9 102:12,15 103:19
--	---	--	---

[exact - filing]

103:22 105:24 114:5 125:20 exactly 26:21 30:11 31:25 79:23 103:18,25 examination 5:2 8:19 examined 8:17 exasperated 108:5 excludes 160:18 excuse 24:18 exhibit 5:9,11,12 5:14,15,17,18,20 5:21 6:3,4,6,14 17:10 43:25 44:3 47:4 54:25 55:4 60:13 70:7,9 128:16,16,18 130:15 134:10,12 138:6,9 141:10,12 142:19 143:23 144:2 148:25 152:7 154:12,13 155:18,19 158:3,4 161:13,15 163:18 163:20 170:3,8,11 174:3 exhibits 6:12 exist 35:23 160:15 179:25 existed 35:19 121:22 expect 14:20 69:25 76:3,6 94:6,11 128:6 129:21 179:6 expected 33:4 94:14 127:7,13 128:11,13 130:23 expensive 93:13	experience 27:15 27:17 49:7 149:18 151:20 157:20 experienced 140:2 experiences 42:13 135:24 136:9 143:14 168:8 expert 18:22 131:4 131:10 experts 131:18 expires 188:25 extent 30:7 159:12 extra 46:8,10,25 56:17 175:24 f fact 37:9 87:4 90:4 114:17 120:9 facts 13:3 71:20 153:14 fair 11:18 82:8 91:19,20 147:6 150:2 168:5 familiar 23:12 43:14 49:24 55:22 56:5,7 83:16,23 147:25,25 159:21 177:25 179:18 family 127:24 fan 117:6,17 far 29:23 47:23 86:24 fault 98:21 feature 120:14,19 features 46:5 february 5:16,22 6:3 57:15 71:6,10 138:10,19 143:18 146:14 155:20 156:9 158:5,18 162:5 168:9	federal 190:1,8,9 feed 79:13 feel 23:13 57:4 78:22 81:2,4 84:2 85:17 104:10,11 107:14 115:2 116:14 131:17 136:20,24 148:17 156:22 157:4,18 173:22 176:23 177:16,17 183:2 feeling 61:4 104:7 105:11 feelings 132:25 felt 157:10 176:19 182:21 183:5 ffa 45:4 fifteen 104:18 figure 22:3 28:6 35:5 52:2,3 66:6 101:19,22 106:17 112:7 123:16 125:18 129:16 140:17 figured 28:11 35:10 36:9 121:24 122:2 123:4,14 figuring 28:4 file 6:14 19:16,21 20:4 21:12 22:15 22:18 25:18,24,24 31:5 34:25 36:13 37:7,23 38:4,11 45:8 52:7 57:21 57:25 58:9,18,23 63:15,20,21 64:2 64:19,19 66:14,17 67:4,15,20 68:2,6 68:10,13,17,22 71:10 73:18 79:20 80:7,12 81:17,23	92:6,11,15 93:19 94:11,15,23 96:21 99:8,17,22 100:3,9 110:19 111:8 112:8 118:12 122:21,25 123:2 123:10,21,25 124:14,24 125:7 125:10 126:8,16 126:17 127:15 128:3,18 129:5,22 130:19 131:24 132:5,11,12,15,20 133:14,20 134:6,7 135:24 140:5,9 160:8,25 177:5 178:11,22 181:17 184:19 185:23 filed 7:16 19:4 34:14 52:23 71:15 127:8 133:4,12 139:16 145:20 146:8 filing 1:4 2:4 5:9 7:16 20:7 21:8 26:2 28:2 31:2 36:6 40:10 43:19 44:4 52:6,12,16 53:23 55:24 57:2 58:24 66:7,10 78:7,12 79:18 80:6 83:11 84:6 84:17 86:6 97:4 103:4 119:25 126:23 129:9,18 130:9 139:6 140:16,21 159:20 159:22 174:25 175:2 180:16 184:21 185:12,17 188:3 189:4 191:1
---	--	---	---

[filled - further]

filled 92:20	128:17 134:11	104:2 125:24	102:3,21,24 103:5
final 45:25	138:8 141:11	126:19 179:15	103:7,17 104:10
financial 64:5	142:20 143:24	186:2,5	105:21 108:3
find 37:19,23	148:25 152:8	four 77:7,15 91:12	109:11,24 110:20
57:24 59:4 66:9	154:12 155:18	92:4 143:19 168:2	110:22 111:20
75:22 76:4 78:8	158:3 161:13	168:6	112:9 115:18
100:18 102:21,24	163:19 174:5	franks 4:24	118:22 119:25
102:25 109:25	folders 17:11,13	frcp 190:1	121:4,13 123:10
122:9,14 126:15	174:6	freak 164:21	123:19,21,25
153:20 160:11,13	follow 185:13	freaked 164:20	124:14,24 125:7
174:18 185:21	following 87:6	free 1:4 2:4 6:14	125:10 126:8,17
finding 92:22	follows 8:18 189:8	6:15 7:16 19:17	127:15 128:3,18
fine 20:12 50:8	followup 150:19	19:22 20:4,7 21:8	128:19 129:5,19
60:4 61:8 86:3	155:5	21:12,12 22:5,7,15	129:22 130:19,24
104:19 170:22	food 15:19 165:13	22:18 24:21 25:23	131:25 132:5,11
181:10	forcing 117:9	25:25 27:20 28:2	132:12,21 133:13
finish 10:24 49:4	forgetting 173:15	28:8 32:20,25	133:14,20 134:5,8
50:19 51:8 53:23	forgot 125:20	34:15,18,25 36:6	135:24 139:6
54:21 108:8,16	137:24	36:13 37:7,23	140:5,9,16,21
111:4 127:21	form 39:8 54:2,16	45:7 51:24 52:3,6	159:20,22 160:8
finished 43:7,7	54:23 63:24 64:6	52:7,11,12,16,24	160:24 174:18,19
45:14,22 48:23	64:13,23 69:14	57:21,25 58:8,22	174:21,22,25
54:18 183:4	70:4 77:11 80:22	63:15,20 64:19	175:2,5,12,18,22
firm 7:23,25 8:22	82:13 85:3 86:21	66:7,10,13,17 67:4	177:12,15,18
first 8:15 19:20	90:6 94:21 100:12	67:14,20 68:2,6,10	178:12 180:16
22:15 25:23,25	101:13 102:10	68:13,17,18,22	181:17 184:18
40:24 41:3,17,20	123:3 126:25	69:12,17,23 73:18	185:12,16,17,23
44:13 48:6 49:21	128:10 129:25	73:22 74:7,20	188:3 189:4 191:1
59:13 71:19 73:13	135:15 136:2	76:9 78:7,11	frequently 107:18
89:17,18 95:24	137:6 142:15	79:18,20,25 80:5,7	friday 109:4
105:9 124:16	161:2 163:3,9,15	80:12 81:17,23	friend 51:22 78:5
137:18 138:18,21	168:10 182:2	83:4,10,24 84:3,6	124:18 160:6
149:22,25 150:2	184:25	84:9,11,13,16,19	front 91:2 170:6
151:21 152:18,23	format 80:25	84:25 86:6 89:13	full 9:2 18:10
152:24 159:21	forth 25:10 71:20	89:14,19,22,23	fully 16:18
162:23 182:5	161:4 187:8	90:15,20 91:4,8	functional 181:24
five 18:14 76:16	forward 150:16	92:4,5 94:10,11,15	further 169:8
82:3 90:14 114:12	found 21:10,11,11	94:22,23 95:5,6	181:11 186:9
floor 3:7,15	21:13 24:16 36:13	96:21,25 97:3,4,11	187:12
folder 43:25 55:14	41:20 52:7 58:8	97:14 98:25 99:6	
55:15 60:15 70:8	80:13 103:6,17,24	99:8,10 101:20,21	

[gears - hartwood]

g	111:12 113:14 115:11 117:13 127:19 129:3 130:14,22 148:24 165:20 169:17 170:18 173:18,20 174:20 177:11,15 182:4 185:18	182:12 184:4,21 185:17 gold 27:10 goldstein 121:10 143:21 144:18 145:3,15 146:11 152:11,22 good 7:5 61:12 110:5 146:18 186:10 google 20:7 22:5,9 37:6 78:14 86:14 86:20 102:4 135:25 136:3 googled 22:4,7 51:24 52:6,11 79:18 80:5 83:10 97:4 101:21 102:9 102:11,15 104:2 105:21 googling 28:4 78:11 79:12 86:5 gosh 15:21 106:9 gotten 28:9 148:2 164:5 176:15 government 40:18 53:5 75:25 76:4 112:20 113:2,5,9 113:14,20 114:3,8 114:19 116:12,22 117:6,18 118:6,10 119:6 139:17 183:25 184:3 graduate 18:2 grant 4:24 great 11:7,20 16:3 17:5,16 104:16 greatest 168:7 gross 31:18 96:4 133:8	guess 24:10 28:12 33:7 39:13,16 49:20 50:5 67:17 67:24 79:5 85:20 93:22 94:9 95:20 98:11,15,21,24,25 99:3 101:9 103:3 109:15 110:9,12 112:15,15,16 116:15,15,18,21 120:6 126:14 128:13 130:4 132:11 147:12 150:5 156:6 160:19 175:12 179:24 guys 34:20
gears 30:24 137:15 180:12 general 19:10 43:2 79:4 117:6 118:6 118:7 132:17 156:21 generally 24:10 42:13 118:3 135:19 159:15 generous 49:20 getting 38:15 53:15 63:4,6,7 74:17 85:11 106:22 118:18 142:9 175:7 gist 118:25 157:17 give 9:8 10:9 11:2 13:3 49:14,16 55:10,12 108:20 108:24 162:14 178:6 given 82:11,15 90:14 93:21 97:2 97:13 129:20 186:14 187:10 giving 50:24 51:12 109:3 glad 40:3 global 69:16 gmail.com 189:2 go 7:11 9:10 13:10 13:12,12 17:6,14 25:13 29:23 36:9 37:20 45:18 52:8 52:9 60:12 62:20 69:9,10 71:17 73:5,12 76:4,6 78:9 87:21 92:18 93:3 96:23 97:18 103:11 106:15	god 82:4 153:18 157:22 goes 114:7 going 7:6 9:8,10 9:13 10:9,22 12:2 14:21 17:8 18:6 20:25 21:22 25:12 25:12,17 30:24 35:8,22 37:11 43:24 47:13 54:24 54:25 56:25 58:9 61:9,18 70:6,7 79:13,14 85:15 86:24 90:13 94:4 98:20 100:24 101:14 103:10 104:8,14 105:2 107:24 112:24 115:12 117:2,4 119:24 128:15 129:10,23 130:10 131:21 134:10,11 137:11,14 138:6,7 140:4 141:9,10 142:17 143:23 152:7 154:11 155:17 156:16 158:2 161:3,12,13 163:17,18 165:18 166:8 169:14 172:13 175:6 176:12,14 177:4 178:21 179:19	h h 5:7 6:1 191:3 h&r 21:17 33:25 34:6 43:11 59:16 59:18 60:6 65:10 111:25 112:22 113:12,24 114:4 115:7,21 118:9 119:5 125:9 hale 4:5 8:23 half 82:16 hand 187:18 handle 96:12 handled 189:8 happen 144:14,16 happened 25:6 80:18 103:22 109:18 110:11,18 137:5 146:2 147:10,14 174:15 175:4 177:14 happy 42:19 hartwood 9:5	

[hate - interrupt]

hate 98:12 hazy 137:9,12 head 10:13 47:8 60:3 106:22 169:23 heads 162:14 hear 11:7 41:3 106:9 137:18 heard 11:16 32:16 72:4 83:5,25 89:14 159:22 164:19 hearing 8:11 74:19 145:21,25 160:5 heart 117:20 hedding 3:15 held 7:21 8:2 help 38:15 99:17 99:22 100:9 helpful 10:13 39:13 63:6 101:24 102:19,23 103:4 104:13 helping 97:7 hereinafter 72:19 hereunto 187:17 hesitant 103:20 hey 185:11 high 17:21 highest 171:5 hired 32:5 history 5:10 15:8 18:5 29:17,22 31:2 44:4,10 47:24 86:24 hmm 23:19 44:15 44:20 45:2 62:25 97:9 143:2,6 164:16 181:20 182:15	hold 55:16 80:2 home 48:8 87:13 honestly 20:8 58:13 75:18 80:9 81:25 82:2,6 110:23 137:23 139:12 147:2 161:8 171:19 172:6 173:15 182:11 hopefully 137:16 169:12 hour 12:3 61:7 104:9 165:19 hours 9:10 108:2 109:9,15 110:2,21 176:10 house 32:3 huh 10:17	imported 34:5,6 46:18 120:10 importing 39:14 inaccurate 11:21 47:11 include 72:3,21,22 81:15 110:8,14 128:2,7 182:11,22 included 1:5,6 2:5 2:6 30:17 46:22 93:9 94:13,14 147:15 189:14 190:3 including 94:15 inclusive 1:10,17 2:10,17 income 28:14 29:18 31:18 32:17 33:9 66:20 68:24 74:22,23 76:10 77:10,18,24 78:3 91:10 93:10,25 94:16,19 95:7,18 96:4,4,7,8,20 97:2 97:7,13 98:6,9,14 98:22,24 99:5,12 99:16,21 100:5,8 100:14,19,20 101:4,7,11 124:5 124:19 125:19 133:9 134:3 140:24 154:2 159:19 160:7,16 160:20 169:15,18 169:21 170:23 171:3,7,10,12,16 175:3,19,20,20 incomplete 11:22 incorrect 182:25 incorrectly 29:6	independently 72:7 indicate 86:12 indicates 91:8 indicating 170:9 individual 17:13 individually 142:5 individuals 32:21 information 6:22 31:2 34:3,9,18 35:7,11,16 36:8 38:22 39:4,7,15,23 40:3 79:15 91:22 92:21 98:2 99:12 101:18 108:2 109:10 120:11,15 150:7 151:20 180:18 181:3,9 183:5 initial 24:17 inputting 183:4 institution 64:5 instruction 6:24 instructions 9:8 12:19 intellectually 116:16 interested 50:6 85:23 187:15 interests 117:20 interface 23:11 34:12 37:13 40:2 60:9 73:8,14 120:9 interfaces 116:2 internet 19:16,21 21:8 29:22 50:4 86:23 interrupt 104:11 105:11 157:9
	i		
	icons 21:16 idea 137:24 167:23 identification 44:6 55:6 70:11 128:21 134:14 138:11 141:14 144:4 154:15 155:21 158:6 161:17 163:22 identified 135:14 135:18 136:6 image 87:11 88:8 88:20 90:14 106:22 import 34:9 38:18 38:22 39:3,7,17 46:11 64:4,11,21 120:15 important 9:14 38:5,8 39:19		

[interrupting - lauren]

interrupting 157:7 introduce 43:24 128:15 141:9 154:11 155:17 158:2 intuit 1:9,17 2:9 2:17 4:18 8:24 40:12 45:4,6 47:23 67:13 127:25 128:6 145:20 149:9 162:21,25 164:6 intuit's 44:17 45:5 46:3 86:12 149:18 152:16 intuit.com 73:3 inventory 18:23 invitation 152:9 154:19 155:22,25 158:7,13 invitations 168:3 invite 5:18,20,21 6:3 144:2 154:13 155:19 158:4 involved 18:25 137:25 164:23 165:8,10 involvement 139:9 iphone 69:10,12 iphones 69:6,17 irs 6:14 21:14 22:11,15,18 23:7 25:23 28:5 32:16 34:25 36:10 37:23 40:10 52:7 57:21 57:25 58:6,8,9,22 63:14 65:18 66:13 66:17,25 67:2,3,8 67:10,19,25 68:9 68:16,22 79:20 80:7,12 81:17,23	117:2,22 118:3 123:21,24 124:14 124:24 125:6,9 126:8,17 127:15 127:23 128:8,9,18 129:5,21,22 130:8 130:19 132:16 133:14 135:24 140:9 160:24 176:23 179:14 181:17 184:18,20 185:20,22 irs.com. 35:22 irs.gov 36:12 37:16,20 126:4,22 129:16 130:9 172:13,25 176:14 182:19,21 184:21 185:19 irs.gov. 65:22 76:7 129:10 185:23 issue 56:11 issues 62:8 iterations 29:3	k k 8:14 kalynna 1:21 2:21 5:9,13 7:14 9:3 44:4 70:10 186:14 186:21 188:4,21 189:1,5 191:2 keep 16:19 21:22 61:9 104:14 157:7 keeping 86:4 kind 33:8 37:12 76:18 110:9 113:7 113:24 116:13 117:8 139:21 146:16 147:22 149:20 175:15 176:21 kmrozar 189:2 knew 37:10,13 50:3,5 62:15 73:14 98:23 112:2 116:16 117:3 121:23 184:3 know 11:12 12:4 19:24 20:2,8 22:9 27:19 31:9 32:23 33:15,15,16,18 35:9 40:12 41:24 47:14,21 48:5 49:25 57:3 58:3 63:13,16,23,25 64:8,17,24 65:18 65:20,25 67:11,23 69:17 70:5 72:2 73:20 74:3 75:9 79:5,15 80:10 81:8,18,20,25 82:5 85:7,9,22 87:17 90:9,10 91:23 95:5 98:19 99:3 104:7 105:10	106:24 107:5,22 107:23 109:9 110:16,23 111:2,5 111:11 112:13,16 112:21 116:8,13 117:23 118:19 121:3,12 125:3,4 125:23 126:9 127:6,17,22,25 128:5 130:21 131:14,16,19,19 133:2 134:9 142:18 143:9 146:9 148:22 150:14,23 153:23 153:25 156:14 157:15,16,22,23 157:23,25 163:16 169:17 170:7 182:3,15,17 185:24 knowing 163:13 knowledge 19:23 63:18 71:22,25 72:9,11,13 knowledgeability 77:20,21 known 128:12
	j james 1:14 2:14 january 5:20 88:12 154:14,24 168:9 jccp 1:5 2:5 job 18:7,11,13 189:5 191:2 jobs 13:13 18:10 18:12 96:7,14,16 165:11 josé 3:16 judge 9:22 june 5:17 138:23 141:13		l l 8:14 la 13:12 24:22 25:21 53:17 lacity.org 3:10 language 142:7,14 large 142:9 lasted 151:8 167:24 late 58:15,15 latest 44:11 lauren 3:14

[lauren.shepard - maintains]

lauren.shepard 3:18 law 8:22 93:25 164:24 lawsuit 18:25 58:3 134:20 137:19 139:6,10 145:17 145:20 146:6 149:9,11,13 152:12 162:9 163:24 165:8,10 166:21 lawyer 13:19,23 lawyers 14:2,3 learn 116:6 121:16 124:13 125:13 149:17 learned 112:21 125:21 lee 14:19 left 65:14 87:14 97:16 137:16 165:22 183:15 legal 186:17 189:7 legally 13:8 178:23 183:20,22 legit 182:16 legitimate 139:12 level 28:14 29:19 68:24 74:23 76:11 93:10 94:2 95:18 96:20 154:2 159:19 160:7 life 95:25 156:21 156:25 liked 73:7 120:8 likes 136:8 line 93:3 110:24 119:21 188:5 189:15 190:4 191:4,7,10,13,16	191:19 link 79:25 82:25 83:2,14 86:7 172:13 links 83:12 84:4 list 121:6 179:6,13 184:17 185:3 listed 91:16 94:8 94:18 113:18 114:12 184:17 185:11,15 listing 97:3,14 179:12 185:7 litigation 150:17 little 30:12,13,25 33:10,11 35:7 47:14 53:16 81:6 116:23 137:15 150:15,24 165:18 178:20 179:2 live 90:16 living 13:13 30:13 liz.phillips 4:11 llc 188:2 llp 4:5 loan 35:25 36:4 56:12,15,19 85:14 95:14 110:13 134:3 160:16 175:8 lobbied 118:10 lobby 119:6 locked 189:12 190:1 logged 89:7 long 4:16 14:21 25:7 37:22 76:18 107:5 109:14 143:9 151:8 167:24	longer 67:16 149:2 175:12 look 23:12 37:11 50:7 52:8 70:20 87:3 106:21 107:16 108:17 112:6 135:2 139:8 158:9 169:24,25 172:18,25 179:18 182:9,16,25 184:13 looked 23:10 29:16 37:9 43:11 59:3 73:9,14 79:24 84:23 87:6 89:9 107:17,20 109:24 136:13 140:25 159:21 160:9,10,11,12 168:2 173:3,5 179:16 181:18 182:5,13,14 looking 28:3 29:21 63:11 70:22 79:12 84:11 87:5 105:16 110:21 135:24 149:3 153:17 174:12 182:6 looks 55:22 56:5,7 72:25 87:12 139:11 140:12 141:25 143:17 150:11 los 1:2 2:2 3:5,8 7:18 12:12 13:6 14:2,18 23:20 59:9 71:8 81:21 108:14 130:6 141:22 145:16 146:12 149:5,7 150:2 153:11	156:4 158:17 159:2 162:4 loss 147:9 lost 106:7 147:6 149:20 lot 39:19 40:14 48:9 106:8 118:22 137:5,9,13 182:14 low 74:22,23 124:19 140:23 160:20 171:17,17 175:21 lower 99:5 m machine 87:15,18 87:22 mahmood 3:6 5:4 27:11 30:6 39:8 47:3 54:2,16,23 63:24 64:6,13,23 69:14 70:4 77:11 80:22 82:13 85:3 86:21 90:6 94:21 100:12 101:13 102:10 121:11 123:3 126:25 128:10 129:25 136:2 137:6 142:15 143:20 154:21,24 155:11 159:11,17 161:2 163:3,9,15 166:2 166:19 168:10 169:10 182:2 184:25 186:10 mail 16:23 main 18:11,13 121:7 128:3 maintain 127:14 maintains 121:4 121:12
--	--	--	--

[making - notary]

making 37:25 122:6 man 151:16 manner 8:6 march 1:22 2:22 7:3,9 188:4 189:5 maria 9:3 mark 54:24 70:6 134:10 138:6 143:23 161:12 163:17 marked 6:12 44:5 55:5 70:10 128:16 128:20 134:13 138:11 141:13 144:3 154:14 155:20 158:5 161:16 163:21 market 68:18,23 marketing 67:20 marriage 187:14 matter 7:15 28:13 39:17,21 119:20 120:5 180:23 187:16 maximize 38:5 mean 13:11 18:9 22:20 33:14 39:14 56:24 58:12 59:25 66:11 67:5 69:15 76:16 79:23,24 81:6 82:4 84:2 92:9 93:7,13 95:11,18 96:9 98:17 102:18 103:16 109:13 110:10 116:13 117:18 118:2 123:12 126:11 127:12 129:14 131:16 132:4	136:4,16 139:11 139:14 140:9 142:16 156:18 176:9 179:12 183:8,10 185:4 means 45:17 46:16 53:14 68:21 129:15 meant 18:22 93:22 94:10 95:3 108:11 114:18 115:3 media 7:13 61:18 61:23 166:7,12 186:15 medication 12:25 meeting 144:8,11 144:24 145:2,23 152:9,10,25 153:4 168:2 meetings 168:6 memories 147:14 memory 15:23 29:19 82:18 85:24 89:20 106:8 108:17,19 127:3 143:13 146:19 147:6,9 151:13 177:16 mention 145:19 mentioned 20:17 21:7 26:25 30:2 34:2 52:14 69:2 78:5 79:17 147:4 166:18 185:19 mentions 130:18 mess 179:19 message 63:8 181:22 messages 142:4 messed 55:10	method 133:22 methods 31:10 middle 90:22 mind 114:19 mine 160:6 minor 17:23 minutes 39:2 61:12,14 104:17 165:20,25 166:3 miscommunicati... 114:23 misleading 142:14 misspelled 30:3 135:10 mistake 135:13 mistakes 135:16 135:20 136:6 mm 23:19 44:15 44:20 45:2 62:25 97:9 143:2,6 164:16 181:20 molly 4:7 molly.dillaway 4:12 moment 146:18,21 174:3 181:12 monday 1:22 2:22 7:3,8 money 24:20 25:2 33:12 36:4 66:20 74:13 91:19 178:20 179:2 month 106:4 months 25:5,9 moral 118:25 motion 145:19 146:14 167:4 move 150:16 moved 156:25 multiple 28:23 43:23	n n 5:1 8:14,14 name 7:22 8:21 9:2,2 29:5 30:2 39:24 75:15 131:2 135:9 180:9 188:3 188:4 named 27:9 necessarily 35:20 95:17 126:11 184:3 necessary 118:12 119:7 189:14 190:3 need 10:9 12:3,5 25:2,16 36:22 78:23 104:12 105:12 107:4 117:15 164:14,17 184:7 185:12 needed 33:9 36:9 42:15,16,18 167:6 negative 98:16 neil 4:20 never 29:9 32:24 42:19 69:10,11,22 84:25 100:4 115:9 127:6,13 130:18 new 2:24 9:6 13:13 29:6 34:6 101:19 187:6 188:2 news 19:6,9 nodding 10:12 non 97:5 north 3:7 nos 1:6 2:6 7:19 notary 2:24 8:16 186:25 187:5 188:24
---	---	--	--

[notating - opened]

notating 189:15 190:4 noted 186:18 notes 15:13 16:13 156:19 165:21 notice 2:24 70:22 139:5 notwithstanding 12:14 number 5:8 6:2,13 45:19 97:25 142:24 186:15 189:15 190:4 numbered 17:11 nw 4:8 nyrcr 1:24 2:22 187:5,22	obviously 117:11 139:14 october 6:5 161:16 161:25 162:5 offer 94:11 113:7 115:12 offered 94:15 115:5,25 119:23 124:24 129:12 130:12 131:23 133:13 178:10 184:24 offering 101:20 offers 66:24 129:5 office 3:5,13 14:18 23:21 26:5,12 34:20,23 57:7 71:9 81:22 108:15 123:6 130:7 141:23 142:9,13 143:10 144:9 146:13 148:12 149:6,8 150:3 153:12 156:5,8 158:15,18 159:3 162:4,24 164:14 164:18 165:3 167:10 168:9,14 168:22 189:11 official 25:15 176:20 offshoot 179:17 oh 15:21 35:24 56:16 61:2 82:4 85:13,15,19 93:6 99:8 106:9 116:19 149:23 153:18 157:22 170:14 175:9,23 okay 10:16,19,21 11:5,13,24,25	12:11,16 13:22 14:9,16 15:4 16:3 16:5,10 17:5,15,17 17:25 18:16,19,24 20:5,10,14,19 21:7 22:14,22 23:15,16 24:2 25:20 26:4 26:18,23 27:13 28:22 29:9,25 30:15,19 31:6,14 32:7 33:20 35:15 36:11 37:15,18 40:8 43:16,24 44:7,21 45:19,25 47:2,5,9 48:6 49:21 50:23 51:15 52:14 53:4,21 55:17,19,20,23 56:6,20 57:6,14,24 58:8,16 59:7 60:4 60:10,14 61:2,15 63:10 65:2 66:16 69:19 70:12 73:5 74:5 76:8,22,25 77:6 78:9 79:17 80:11,24 82:8,23 82:23 83:22 84:16 84:22 85:21,25 86:4 88:5,11 89:11,21 90:3,13 91:2 92:18 93:6 94:4,24 95:7,16 96:13,17,23 97:18 98:8 99:15 101:6 101:14 102:13,18 103:16 104:15,17 104:20,23 105:15 106:11,12,12 107:4,16 110:2,6 110:25 111:12 113:17 114:10,15	114:25 116:6,9 119:3,19 120:2,7 123:19,24 125:13 126:10,15 128:15 128:22 129:3 130:5 131:21 133:3 134:15,22 135:4 136:15,19 137:14 138:2,13 138:17,24 141:8,9 141:15,19 142:23 143:3 144:5 145:24 146:25 147:9,24 148:10 148:15,20,24 149:23,24,25 150:6 153:5 154:5 154:16 156:3,15 157:24 158:2,16 159:6 161:9,19 163:23 167:16,23 168:12 169:3,17 170:10,13,19,19 170:22 172:11 173:9,24 174:9,12 174:13 175:11 178:5 181:11,13 183:3,15 185:16 185:21 186:9 old 29:16 once 65:25 173:13 ones 17:14 21:19 21:20 41:9 42:11 94:14 ongoing 149:9 online 33:21 141:3 ons 46:2 open 17:6,12,14 43:25 55:7 opened 101:18
o			
o 8:14 oath 9:18,21 objection 12:14 30:6 39:8 47:3 54:2,16,23 63:24 64:6,13,23 69:14 70:4 77:11 80:22 82:13 85:3 86:21 90:6 94:21 100:12 101:13 102:10 123:3 126:25 128:10 129:25 136:2 137:6 142:15 159:11,17 161:2 163:3,9,15 168:10 182:2 184:25 objections 8:5,7 8:11 objects 12:13 obligated 13:8 178:23 183:20,22			

[operations - please]

operations 18:22 18:23 option 38:14 49:25 50:7 89:13,14 101:21 108:3,7 109:11,24 110:22 111:16 112:3,12 129:9 130:9 183:11 184:21 options 50:4 101:17 112:7 120:4 oral 10:10 order 25:14 56:17 80:17 92:22 99:17 99:21 100:14 101:7 103:19 117:14 118:10,12 175:10 184:5 organic 78:15 79:7 79:19 original 36:7 141:24 189:10,21 outcome 187:15 owed 94:3	176:16 188:5 189:15 190:4 191:4,7,10,13,16 191:19 pages 70:21 107:18 189:14,17 189:17 190:3,6,6 paid 32:7,14 63:21 64:2,19 68:18 101:17 108:8,16 110:20 111:3,7 116:24,25 176:4 177:21 183:6,10 paper 14:25 55:3 134:8 paragraph 71:18 72:17 73:6 74:16 78:10,10 82:24 86:5 87:4 89:12 92:19,25 94:5 96:23 97:16,19 101:15,15 105:16 106:13 107:24 109:16 111:13,13 113:19 114:11 115:23 120:8 121:2 127:5 130:22 131:22,22 142:3 162:12 178:4,8 179:4 paragraphs 174:11 parentheses 72:18 parents 32:3 part 62:22 90:22 92:21 93:10,21 98:16 99:7 100:21 111:3 113:2,4,9,20 114:3,15,19,20 116:12,21 127:24 166:20 167:6	participants 68:3 68:10,14,18,23 participate 67:14 67:17 68:5 78:21 78:25 participating 166:24 particular 48:15 62:5 132:9 parties 7:11 187:13 partner 67:7 partners 66:25 67:6 party 35:9 pause 104:6 paused 15:22 pay 25:3 28:10,15 32:10 42:16,19,21 42:22,23 50:9 56:17 66:5,21 85:18 92:5,12,14 111:14,17 115:16 116:20 117:9 118:15,24 119:20 120:5 160:20,21 175:23,25 176:3,5 176:11 177:23,24 181:8 183:5,9,12 183:13,21,22 184:5,7,9 paying 25:3 43:3 178:25 183:13,16 payments 15:24 pdf 189:12 190:1 pearce 1:24 2:22 7:25 8:16 187:4 187:21 pen 134:8 penalty 189:16 190:5	pending 12:7 pennsylvania 4:8 people 1:6,12 2:6 2:12 69:20 74:21 75:3 77:17 124:8 124:11 139:25 perfectly 86:3 period 189:18 190:7 perjury 10:2 189:17 190:6 permitted 68:11 person 32:22 33:2 personal 14:3 38:22 39:7 63:18 71:22,24 72:9,11 72:13 120:15 personally 87:21 pete 7:22 peter 4:22 phillips 4:6 5:3 8:20,21 21:6 62:2 105:8 166:4,14 170:12 181:13,15 phone 16:16 138:3 138:5 143:20 148:20,21 151:4,6 151:14 phrase 72:21,22 102:4,9,12,15 105:25 phrased 72:23 pickering 4:5 8:23 place 7:10 37:14 40:6 73:13 81:9 84:15 124:16 plaintiff 1:7,15 2:7 2:15 3:3 plaintiffs 19:13 please 8:10,25 10:23 11:8,12,22
p			
p.m. 2:21,22 7:4,4 7:7 20:24 21:4 61:17,22 105:6 166:6,11 186:12 186:18 page 5:2,8,11 6:2 6:13 48:25 55:5 70:16,18,20,25 71:2,14 83:16 84:10 87:5,13,13 87:23 89:9 91:2,8 91:13 93:4 94:5 94:17 97:16,20 129:4 138:18,22 143:4 149:4,12,22			

[please - program]

17:12 105:11,11 plus 91:23 96:15 point 16:8 22:24 65:12 76:25 80:9 82:7 83:21 84:8 85:6,12,15 103:8 103:12,17,24 108:5 119:4 137:7 137:11 140:20,25 141:6,6 148:2,22 155:16 156:25 157:3 159:10 161:3 169:7 172:14 173:25 175:7 176:9 177:11,17 183:16 184:14,15 poisoning 15:19 165:13 polished 182:14 political 112:25 poor 117:11 positive 42:13 146:17,20 possibility 163:7 possible 86:18,22 99:15,20,23 100:3 100:7,13,16 147:13,16 possibly 40:6 143:16 post 17:21 18:13 posts 107:21 potentially 149:11 powered 37:12 precludes 160:17 premier 90:15 prep 33:21 50:9 175:7 preparation 31:10 32:21 59:15 64:25	74:21 76:5,10 78:3 83:24 96:25 97:11 111:18,23 114:7 115:8,16 130:24 131:4,10 132:2 133:22 178:13 prepare 14:5,16 38:15 57:22 65:3 65:5 74:18 99:17 99:22 100:3,9 123:2 prepared 34:14 preparing 38:17 65:13 84:18 89:23 120:20 126:23 present 180:4,8 presented 131:9 presenting 131:3 pretty 58:7 153:24 156:15 157:18 170:21 172:8 previous 31:4 34:7 34:9 35:13 36:20 37:4 39:18 40:4 46:11 64:11,21 83:17 88:17 132:22 134:2 180:19 181:3 previously 6:12 69:3 103:10 128:16,20 176:17 price 113:8 132:23 prices 91:16 primarily 157:20 printed 70:24 printout 5:11 6:15 55:5 128:20 prior 38:19,23 66:6 77:7 108:25 120:10,16 157:21	168:16,20 prison 13:10,12 privacy 139:5 private 65:11 111:25 112:23 113:11 116:23 117:10,13 probably 27:25 51:21 55:25 66:12 76:7 99:13 104:19 107:25 138:4 168:11 171:5 problem 106:17 170:16,16 problems 40:9 procedure 189:19 189:20 proceed 8:13 proceeding 9:12 process 53:24 56:25 65:13 92:10 108:6 113:22 126:23 product 23:6 30:8 43:2,6,19 44:14,17 44:22,23 45:22 48:2,15,19,22 53:24 54:10,17 62:5 73:23 74:7,9 74:13 76:14 79:16 80:13,21 87:13 89:5 94:18 97:7 97:15 98:10 100:15,18,21 101:8 111:20 113:25 115:3,5,18 116:12 124:15 125:9,14 127:15 128:2,7 130:24 131:23 132:9,19 133:19,21 140:6	159:13 177:8 178:10 179:13 180:4,8,10,14,19 181:4,5,24 182:8 182:22 184:18 185:22 products 40:22 42:10 43:18,23 46:5,8,22 67:10 68:19,24 69:21,23 77:9,17,22 83:7 84:4 94:7 101:11 113:18 114:13,18 115:3,7,9,25 117:9 118:12 119:7 121:7 124:24 132:21 149:18 179:7 180:2 184:14 185:4,7,8 185:14 professional 32:6 96:12 profit 40:15 profits 184:4 program 22:15,18 25:24 32:17,20 34:25 35:18 36:7 36:13 37:7,23 45:8 52:3,7,16 53:5 57:21,25 58:9,23 63:15,20 64:9,10,19 66:7,10 66:14,18 67:4,4,15 67:21 68:2,6,10,14 68:17,22 74:4,21 75:7,15,22,25 76:5 76:10 78:3,7 79:20 80:7,13 81:17,23 83:24 94:16,23 96:21 97:6 98:14 99:8,9
--	---	--	---

[program - recommend]

119:25 120:11 123:21,25 124:3 124:14,25 125:7 125:10 126:8,17 127:16 128:3 129:23 130:19 132:12 133:14 135:25 140:5,9 159:20,22,23 160:15,18,25 181:17 184:19 185:23 programs 34:19 69:5 promise 73:18 proof 67:24 properly 131:24 132:4,20,25 133:12,20 178:11 provide 12:22 24:12 98:2 153:13 168:22 provided 150:6 189:19 190:8 provides 32:20 providing 10:2 prs 45:12 psychology 17:24 public 2:24 8:16 186:25 187:5 188:24 purpose 98:10 pursuant 2:24 pursue 81:11 push 52:13 put 76:23 136:25 185:3	qualified 27:25 32:21 98:14,24 99:9 108:4 109:12 110:12 124:14 125:6,8,14 qualify 27:20 74:23 96:20 98:23 118:21 121:5,14 123:20 124:8,11 question 11:3,8,12 11:15 12:7,8,15 13:9 20:13 25:8 36:25 39:12 61:4 64:16 80:3 93:5 questioning 35:4 questions 9:14,15 9:25 10:5,24 12:13 15:5,11 17:18 38:12 60:11 92:20 107:18 145:3 155:6 159:9 159:14 166:16 169:8,12 181:11 186:9 quick 20:21 169:13 quite 104:8	reaching 61:6 read 19:3,6,9,12 28:18,24 29:2 42:6 73:17 78:16 78:18 83:8 92:24 101:25 108:11 109:19,20 119:11 119:13,18 127:10 131:6 reading 74:24 79:22 141:17 149:21 189:23 190:9 ready 74:17 92:15 real 141:8 177:3 realize 11:20 43:22 94:12 95:3 95:15 113:10 116:11,22 174:25 realized 58:4 186:3 really 20:20,21,21 39:21 49:17,17 50:2 58:11,17 59:19,21 64:15 82:9 106:25 107:3 111:16 112:17,19 116:15,18 123:13 136:18 147:2 171:17 172:7 178:21 realtime 2:23,23 reason 47:10 49:2 49:5,13 50:18,21 51:7,10 53:22 54:13,20 76:22 79:6 100:8 114:25 130:20 144:13,15 188:5 191:6,9,12 191:15,18,21	reasons 12:21 120:22 165:16 recall 13:2 23:7 45:13 74:19 78:11 86:5 87:4 158:23 167:16,19 169:16 169:18,21 170:23 171:6,9,15 172:12 172:15,20 177:8 180:14,17 receipts 15:24 108:18,21,24 109:3,6 154:6 169:6 receive 16:23 28:22 69:21,23 129:18,22 181:21 received 48:13 139:15 143:4 149:14 receiving 89:3 129:11 130:11 139:3,19 161:21 184:23 recess 21:2 61:20 105:4 116:17 166:9 recognize 70:13 128:23 134:16 138:14 141:16,20 144:6 154:17 155:23 158:11 recollection 56:3 84:23 86:15,17 134:24 157:5 168:13 169:15 174:15 recommend 88:22 92:23 94:7 97:21 98:15 100:15 101:2,8 130:24
q	r		
qualifications 111:20 115:18,21	r 1:14 2:14 8:14,14 191:3,3 r&s 190:1,9 rabbit 79:13 rachel 4:20 ran 135:25 rate 33:17,19 rdr 187:4,22 reach 149:16 162:14 reached 150:3 162:8		

[recommendation - require]

recommendation 48:14 89:4	refund 38:6 139:21	58:12,14,17 59:2 59:19,21,23 60:3	154:7,9,23 155:2,5 155:8,11,13,14,16
recommended 62:4 98:20	regarded 95:4	60:20 61:3 62:6,9	156:7,11,20,22
recommending 98:10	regarding 149:8	62:24 63:2,4,5,7	157:2,14,16
record 7:6,12 8:3 9:2 10:18 11:4 20:25 21:5 61:19 61:24 85:8,10 105:3,7 147:19 166:8,13 186:12 187:10	regardless 58:5 90:4 118:24 175:18 184:6	63:10 66:8 73:16 74:9,11 75:19,20 76:2,15,16,17,18 79:23 80:16,17,18 81:12 82:2,4,7,9 82:22 83:11,13 84:7,8,20,21 85:5 85:10,23 86:2 89:2,3,6,10 90:2,7 90:10,12 99:13,23 99:24 102:5,11,17	158:16,19,20 159:4,5,7,8,15,18 159:25 160:9,22 160:23 161:5,7,10 161:21 162:6,7,11 163:4,6,10 167:23 169:6 171:18,19 172:6,22 173:4,21 173:23 174:17 175:6 180:24
recorded 7:14	regards 94:23	102:20 103:8,18	remembered 56:22 82:20 102:14 103:11 106:6 137:8 156:23 160:4,5
recording 7:10 10:22	registered 2:23	103:19,23,24	remote 1:21 2:21 7:21 8:4,9
records 5:10 44:5 44:9,17 45:5 46:3 47:23 84:24 86:12 90:5,9,11	reiterate 105:10	104:5 105:24	remotely 8:9
recovering 165:13	relate 101:4 135:23	106:5,20,23,24	repeat 11:9 36:25 123:12
refer 164:9 174:2 174:10 178:3,7	relying 136:21	107:2,3,7,15,17,19 107:20 108:23 109:2,3,5,7 110:4 110:4,7,9 111:11 112:10 119:13,16 125:24 126:2,5,19 130:2,13 131:8 135:17,19 136:18 137:4,13,20,21 138:2 139:3,12,13 140:15 141:5,17 144:10,17,20,23 145:4,6,9,12,15,18 145:21,22,25 146:3,10,15,16 147:3 148:11,16 148:23 151:2,3,5,6 151:7,10,12,14,16 151:19,24,25 152:3,6,13,17,21 153:3,4,5,7,10,17 153:19,23 154:3,5	repetitive 47:15 rephrase 77:12 repopulate 180:18 181:3
referenced 67:7 136:16 189:6	remember 20:5,8 20:11,13,18 21:9 21:20,21,24 23:2,5 23:10,25 24:2,4,16 26:3,10,18,21 27:4 27:7,9,12,13 28:16 28:17 29:20 30:11 31:25 40:25 41:5 41:9,11,14,18,19 41:22,23 42:4,8,9 43:4,9,20,21 48:3 48:4,5,7,10,13,18 48:19,21,22,24 49:6,9,10,12 50:13 50:14,15,17,21,23 50:25 51:4,6,12,14 51:16 52:19 53:6 53:12,17,18,19 54:6,10,17 56:8,8 56:9,11,14,14,20 57:3,9,11,13,18	reported 1:24 2:22 reporter 2:23,23 7:24 8:8,12 10:7 10:10,21 36:24	reporting 8:6 188:2
referencing 164:6			reports 19:6,9
referred 151:22			represented 86:11
referring 14:11 97:15,17 109:21 109:23 110:24,25 111:2,5,24 115:6 115:23 123:21 132:8,12 150:23 162:19,20 170:4			request 12:6
reflect 44:17 90:5			requested 6:22 190:1,9,10
reflects 44:16,22 45:4,20			require 94:20
refresh 55:13 174:14			
refreshed 55:15			

[required - san]

required 67:9,12 92:20 requirements 77:21 94:19 95:8 101:23 124:2 125:2 126:7 141:2 reread 14:7,10 respond 138:4 142:5 146:14 response 140:12 141:22,23 143:4 responses 10:10 142:10,14 149:15 responsibility 67:20 result 37:6 79:19 79:19 80:6,7 86:20 97:5 129:11 130:11 147:5 184:23 results 21:9 78:13 78:15,20 79:8 86:14 retained 186:17 return 32:20 64:12,22 91:24 93:20 96:2,19 120:20 175:21 189:17 190:6 returns 90:23 91:5 94:25 95:3,11,17 95:23 153:19,25 169:2,3 revealing 30:7 159:12 revenue 78:22,25 review 15:16 26:15,24 174:11 189:8,10,13 190:2 reviewed 16:5 30:19	reviewing 29:12 reviews 42:6 right 11:9 12:9 13:20 14:3 20:21 23:18 26:14 27:2 32:14 34:25 36:14 37:14,16 40:19,20 40:22 45:23 46:7 47:19 50:10 51:19 52:8,17 55:17 58:10 59:11 64:5 64:12,22 66:14 69:3 71:6,22 72:15 73:10,19 74:14 76:11,12 77:4,10,24,25 79:21 80:8,15 81:8 83:25 84:15 86:9,25 87:8 88:12,22 89:15,24 90:15 91:5,10,13 92:16,23 93:8,12 93:15,23 95:8,19 95:24 96:5 97:8 97:21,22 98:3,13 99:12 100:18 101:3,8 102:25 103:15 105:25 106:18,19 111:9 112:4,5 116:4 119:20 120:5,12 120:16 122:22,23 124:3,6 127:10 131:6 133:6,10,15 133:23 135:11 137:14 138:19,25 140:11,13,18 143:7,21 146:22 147:7,23 149:19 150:8,12 164:7 166:5,15,21,22,25	167:14 168:3,11 168:17 169:8 170:6 172:19 173:2 174:9 176:24 177:2 180:2 181:19,25 182:19 183:6,7,17 185:25 186:6,11 rmr 1:24 2:22 room 16:10 rozar 1:21 2:21 5:9,13 7:1,15 8:1 9:1,3 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1,4 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1,3 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1,10 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1	96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1,9 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 166:15 167:1 168:1 169:1,11 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1,15,21 188:4,21 189:1,5 191:2 rules 128:9,12 190:8 s s 5:7 6:1 188:5 191:3 san 3:16
--	--	---	---

[santa - signed]

santa 1:13 2:13 3:13 saved 39:23 120:19 saw 33:11 41:11 56:21 79:19 80:6 82:24 83:14 84:2 86:7 95:5 175:14 175:14 saying 110:18 116:10 117:16 says 44:14,21 45:3 60:17 71:19 72:18 73:6 74:16 78:10 87:15 88:12,21 89:12 90:19,23 92:5 94:24 97:20 111:13 121:3 127:5 129:5,8 130:8 142:3 149:5 149:13 150:14,23 155:25 162:13 178:9 179:5 184:20 scale 45:21 scales 69:16 scary 164:22 schedule 105:13 162:15,25 189:10 school 17:21 science 17:22 score 45:20 scores 45:12 scratch 60:8 screen 5:14 17:10 48:8 55:2,21,24 56:23 57:8 87:7 94:4 97:19 100:25 113:19 114:11 134:13,20,23 154:18 156:2	158:14 search 19:20 20:6 20:16 25:25 29:21 37:6 78:14,15 79:7,19 86:14,20 searched 19:15 21:8 102:4 searches 135:25 136:4 searching 108:3 109:11 second 49:23 55:11,12,16 127:5 129:4 161:14 178:6 see 16:7 40:5 44:13 46:13 47:5 47:21 48:24 55:9 55:14,23 60:16 72:17 77:15 83:24 84:10 87:14,19 88:20 89:8 90:17 90:19,24 92:3,7 93:6 94:18 95:7 98:13 101:19,21 129:4,8,13 142:2 143:4 149:23 150:20 153:8 162:17 164:15 165:21 178:9 179:5 seeing 57:11 87:5 130:2,4 seen 39:16 41:6 55:20 59:8,9 89:19 130:18 131:17 176:14 select 174:22 selected 89:12 175:5 177:9	self 90:16 selling 96:8 sells 40:22 send 15:18 25:12 28:24 134:18 141:18 sense 9:9 136:5 sent 14:22,25 15:2 15:23,25 16:2,22 26:13,15,18,23 29:5,6,7 43:10 70:25 88:6 109:4 134:17,19,25 144:7 153:20,21 154:19 156:2 158:14 163:24 sentence 71:19 106:13 109:17 121:9 127:5 132:9 149:22 179:4 sentences 93:2 separate 40:5 121:4,13,17,23 122:3,9 123:5,9,15 123:17 127:14,18 186:3 september 143:5 148:17 149:5,24 150:4,7 167:13 service 28:2,8 40:5 42:19 65:15 66:24 96:25 97:12 111:18 113:4 115:16 132:2 178:13,19 services 67:8 111:24 115:5 133:13 set 14:7 71:20 187:8,18	shaking 10:13 share 17:10 shared 153:6 sharon 1:24 2:22 7:25 8:16 187:4 187:21 sheet 169:24,25 188:2 shepard 3:14 shift 137:15 shifting 180:12 short 165:23 shot 5:14 87:7 94:5 97:19 100:25 113:19 114:11 134:13,21,23 154:18 156:2 158:14 show 17:8 44:17 57:7 78:13 84:24 85:8 169:2 showed 59:3,10 88:3 153:22 155:12,15 showing 154:6,7 shown 56:8,10,23 56:24 sign 23:22,24 24:3 24:6,9 25:17 26:14 70:25 163:12 189:16 190:5 signature 70:17 71:14 162:13 187:20 189:21,23 189:23 190:9 signed 26:6,17 28:18,25 30:4 59:7 71:5,14 72:15 106:3 122:3 122:5,11 135:5
--	---	--	--

[signed - student]

147:10 153:16 163:7 168:17,20 signing 23:9 108:25 122:17 152:19 similar 111:19 similarly 10:16 simple 34:12 90:23 91:4 94:25 95:3,10,12,17 175:20,21 single 18:7 71:2 sit 26:7 163:14 site 87:5 102:22 172:24 176:13 sitting 30:21 105:23 situation 98:2 six 35:13 skip 78:12,19 skipped 78:14 smallwood 9:5 software 33:21 45:6,15 46:6,21 59:15 124:8,11 175:7 softwares 113:11 sold 31:24 32:2 solution 88:22 92:23 93:8,12,15 93:18,23 97:21 101:3 114:20 solutions 186:17 189:7 somebody 23:20 64:18 72:4,6 125:6 151:14 164:18,23 167:12 184:11 sooner 143:15	sorry 15:19,21 20:9,20 31:18 36:22,24 45:2 46:12 53:15,19 55:10,12 56:21 60:23 61:3 68:7 77:12 82:14 106:9 107:3 108:11 113:23 114:22,24 118:19 123:11 127:20 149:20,21 152:25 157:7 161:14,18 168:18 178:6,7 sort 74:20 90:22 139:9 162:12 168:6 sound 45:23 46:7 142:8 sounds 147:24,25 speak 26:24 159:3 speaking 144:17 144:20 154:23 156:7 158:17 159:4,5 specific 56:2,9 75:14 77:17 79:11 118:8 130:3 132:24 145:23 157:12 158:21,22 159:14 160:12 specifically 23:25 24:4 28:20 35:3 35:10 43:16 45:16 48:5 50:17 51:2,6 51:14 53:8 54:12 54:19 56:14 57:4 76:24 81:14 82:7 89:10 97:6 99:25 102:20 110:24 111:6 125:15	131:11,20 135:17 136:18 139:7 144:19,25 145:4 154:4,25 156:10 157:15 158:20 160:5 162:11 171:18 173:5,21 specifics 82:9 specify 76:13 spelled 29:6 spend 110:2 165:14 spending 110:5 spent 107:25 109:9,14,14 110:21 176:9 spoke 27:7,11 147:18 148:5,11 150:15,24 151:17 151:25 167:11,17 167:20 spoken 147:20 sponsored 53:5 75:25 76:4 79:10 79:10 113:20 spot 100:17 spring 3:7 stages 149:14 stand 46:14 137:11 standard 7:8 33:17,19 186:13 start 10:25 43:6,18 44:14 49:3 50:19 51:8 53:23 54:14 55:17 60:7 62:4 71:18 73:22 85:16 89:5 92:5 93:3 169:14 174:19 184:10 185:18	started 28:3 43:12 48:20 50:16 54:11 84:17,18,25 89:23 120:12 126:22 139:9 starting 17:20 34:5 47:18 state 1:1,6,12 2:1,6 2:12,24 7:17 8:10 8:25 68:22 91:24 187:6 189:9,12 stated 68:2,10,17 statement 14:7,10 14:10,15 129:20 131:13 statements 168:15 168:24 states 93:24 status 162:8 stenographic 8:3 step 34:13 steps 29:14 120:3 185:13 stipulation 189:20 stock 32:2 96:8 stop 166:24 store 18:21,23 story 119:2 straight 37:20 straightforward 73:8 street 3:7,15 strike 34:22 56:21 114:16 152:2 158:24 student 35:25 36:4 56:12,15,19 85:14 95:14 110:13 134:3 160:16 175:8
--	---	--	--

[studies - tells]

studies 17:23 stuff 58:2 69:18 113:24 141:18 142:17 147:19 159:24 176:8 stupid 116:14 subject 139:5 submit 163:12 submitted 14:12 23:17 57:14 58:19 subpoena 164:7 164:10,20,22 subpoenaed 167:5 subscribed 186:23 188:22 suggest 15:4,10 132:15 sum 25:14 summary 5:9 44:3 summer 148:16 super 63:6 160:20 superior 1:1 2:1 7:17 supplement 11:23 support 107:8 168:15,23 supporting 153:13 supposed 35:13 178:22 sure 23:3 26:16 29:17 37:13 41:8 42:5 58:7 59:23 61:6 67:22 69:24 77:14 80:4 102:8 111:11 123:13 129:2 145:5 153:24 156:15 157:18 170:17,21 173:17 surprised 33:8	survey 45:14 49:11 surveys 49:17 swear 8:12 swearing 8:8 switch 30:24 sworn 8:15 186:23 187:8 188:22 system 184:6	48:2,16 49:7 50:9 50:12 51:3,15,19 51:25 52:3,6,12,16 53:11,11,21,23 54:4,7 56:12,15,15 58:5 59:15 60:11 60:17 64:11,22,25 66:5,10,11,14 68:19 73:7,23 74:10,18,20 76:4,9 76:20,21 77:2,4,4 77:7,9 78:2,6,12 79:18 80:5 81:19 81:24 83:5,10,24 84:17 85:13,14 86:6,13 88:14,17 88:22 89:17 90:23 91:4 92:23 93:8 93:12,15,20,23 94:25 95:3,11,17 95:25 96:18,25 97:4,11,21 101:3 105:19 107:12,13 108:2 109:10,18 110:3,22 111:8,17 111:23 114:2,6 115:8,16 120:10 120:20 122:21 124:20 125:16 126:10,12,16 127:9 130:24 131:4,10,18 132:2 133:4,22,25 136:16 140:5 153:19,25 160:16 160:25 169:2,3,16 169:19,22 170:24 171:3,7,10,12,16 172:7 173:9 174:15,25 175:2,6 175:21 177:4,5,9	178:13 180:12,15 180:19 181:4 185:12 186:2,5 taxes 6:14 19:16 19:21 34:15 38:4 38:9,11,15,18 40:10 42:17,21 43:3 44:18,24 52:23 55:24 57:2 57:22 58:18 63:21 64:2,20 65:3,5,13 66:22 74:18 84:18 89:23 92:11,15 99:18,22 100:3,10 103:5 108:8,16 111:4,8 113:5,15 117:12 118:13 122:21 123:2,7,10 126:24 127:8 128:19 131:18,24 132:5,16,21 133:4 133:20 134:8 156:20 157:13 160:8 175:17 177:5 178:11 183:13,21 184:5,9 taxpayers 68:19 68:24 tedious 156:14 tell 15:7 19:19 24:5,11 25:21 26:5 35:2,9 53:4 69:22 75:24 80:20 81:21 87:10 88:21 97:20 101:2 121:11,15 122:13 130:7 146:4,7,12 152:11,15 telling 160:22,23 tells 69:11 72:6
	t t 5:7 6:1 191:3,3 tab 101:19 106:15 tailored 78:23 take 7:10 10:11 12:5,8 14:21 15:13 20:20 29:13 37:22 61:7,9,11 104:6,9,12 120:2 137:17 156:19 165:20 taken 7:15 10:6 talk 14:14,17 164:14,17 165:6 talked 14:19 23:16 25:9 51:22 147:23 153:24 165:7 166:18 talking 24:14 25:4 28:16 60:23 62:22 84:7 105:18 107:9 115:15,19 121:19 121:19 122:12 123:6,24 124:20 151:13 157:19 tax 15:8 20:7 21:8 26:2 29:16 31:2,3 31:7,10,15,19,23 32:17,20 33:21 36:6,12,18,20 37:4 37:18 38:19 41:25 44:10 47:18,22		

[ten - total]

ten 61:12,14 104:17,19 165:20 165:25	135:22 136:7,10 think 21:12 22:16 22:21 25:9 26:25 27:20,21 29:7 34:2,17 36:15 43:8,22 51:21 52:11,21 53:10 54:9 56:16 57:10 58:25 59:12,20 62:10,21 76:24 77:19 78:2,14 85:2 93:16,18 96:7 98:8 100:2 102:13,16 103:9 103:13 105:15,18 106:12 108:10,19 112:11 115:4 116:18,25 119:3,4 122:15,19 125:11 126:21 134:22 137:15 138:7 140:21 141:5 143:13 146:15,17 146:23 147:4,17 148:6,21 152:14 158:8 162:10 163:4,11 167:11 168:25 170:10,20 171:8,11,14,20,24 172:2,4 174:5 175:13 176:18 179:25 180:3,7,20 180:23 181:6,23 182:3 183:3 184:2 thinking 33:9,13 112:18 140:15 third 106:13 156:3 thought 25:2 28:7 35:12 36:7 39:18 42:20 47:20 50:9 67:11 73:9 74:22	84:14 89:13 93:9 95:5,12,23 96:24 97:10 98:20,25 111:15,19 113:3 113:17,23 114:2 115:12,17,20,24 116:21 117:4,5,7 117:12 118:21 127:23 132:10,13 132:13 159:23 160:14 170:15 174:24 175:2,15 176:6 177:24 183:18,21,23 184:5 thread 139:4 142:21 149:2 three 13:13 157:20 165:11 186:16 threshold 125:20 125:22 tiles 88:25 97:25 98:5 101:3 time 7:8 14:13 18:10 19:20 21:3 25:25 26:6 41:17 59:7 61:5,16,21 68:8 71:14,15 72:14 73:21 76:18 80:21 89:18 99:19 102:13,16 103:23 104:18,25 105:5 106:3 107:5 109:2 109:14 110:5 120:20 137:17 146:19 147:3 148:3 149:25 150:2,18 152:24 156:23 157:6,10 162:23 165:14 166:6,10 168:17	168:19,20 172:14 182:5 186:13,18 189:10,18,24 190:7 timeline 103:22 135:22 timelines 167:8 times 12:11 14:9 28:17,21 37:15 52:15 65:23 title 180:9 titled 45:11 today 9:18 12:23 15:5 16:11 17:8 30:22 72:12 82:22 85:22 105:23 136:20 164:11 today's 186:14 told 20:3 25:5,15 25:22 27:25 29:20 30:16 32:24 34:24 38:2 51:25 52:15 52:24 53:7 75:4 75:13 76:9 101:16 103:15 108:14 121:21 123:16 140:22 141:4 145:10,13,16 156:16,24 157:2 157:11 160:9 161:6 162:24 163:6 166:19 176:3 tonya 4:16 top 47:8 60:2 78:13 87:14,22 88:11 97:19 149:22 169:23 topic 152:19 total 96:14,16 186:15
---	--	--	---

[totally - use]

totally 103:21 105:12 transcript 187:9 189:6,8,10,13,13 189:21 190:2,2 transfer 46:16 trial 64:10 trick 39:12 tried 19:20 24:20 25:25 28:3 29:21 33:25 36:21 37:5 52:2 59:16 63:5 78:7 106:15 177:11,15 trouble 23:9 true 47:25 71:21 117:21 131:20 187:9 truly 49:18 trust 118:3,5 131:17 trusted 112:15 130:25 truthful 12:23 try 25:24 59:18 66:6,9 73:22 177:17 trying 39:10 82:2 136:5 174:18 turbo 179:22 turbotax 1:4 2:4 5:9,11 7:16 15:8 15:24 19:10 21:18 21:25 22:6,7,8,10 22:19 23:6 24:21 25:3,18 27:19 31:12 32:14 33:22 34:4,11 35:19 37:24 39:2 40:2 40:13,21,25 41:4,7 41:17,20 42:2,7,10	42:20 43:5,15,17 43:18,23 44:4,10 44:16,22 45:7,15 45:20 46:2,5,21 47:18 48:7 49:14 49:22 50:24 51:13 52:12,25 53:9,13 54:3,7 55:4 56:18 56:24 57:12,22 58:23 59:14 60:21 62:3,8,12,23 63:15 63:21 64:3,20 65:3,5,14,14 66:15 72:19 73:2,4,7,13 74:6 76:14,20,21 77:3,6,9,14,16,22 78:4,6 79:25 80:14 82:24 83:2 83:3,5,14 86:7,8 86:13 87:12 88:17 89:4,8 91:3,4 92:22 94:6 96:24 97:6,11 98:9,12 99:2,16,20 100:4,8 101:6,16,20,21 102:3 105:22 106:14,21 107:8 108:7 110:20 111:15 112:2,20 112:22 113:25 114:13,18,21 115:4,10,20 116:11,24 117:2,4 118:9,15 119:5 120:23 121:3,5,12 121:14 123:20,22 124:15 125:7,15 125:21 126:18 127:8,13,24 129:17,23 130:23 131:3,9,19,23	132:11,22 134:19 139:6,17,20 145:17 151:21 152:23 154:6 163:24 172:14,24 173:11,14 176:13 176:16,20,22,24 177:7,9,23 178:10 179:6,23 180:3,7 180:16 181:18 183:16,17,24 184:16 185:22 188:3 189:4 191:1 turbotax's 44:9 83:6 84:24 90:4 97:3,13 120:9 184:4 turbotax.com 28:8 41:24 52:10 73:19 86:19 turbotax.com. 54:9 173:8 185:20 turn 16:18 70:15 87:3 121:2 142:19 179:3 turned 16:15 twice 28:24 two 21:19 28:21 39:11 66:4 82:16 82:17 107:25 109:9,15 110:2,21 type 73:2 87:22 typed 41:24 typically 76:3 typing 39:24 typo 136:14	ultimately 140:6 unable 109:25 understand 9:17 9:20,24 10:4 11:11 12:18 13:25 39:10 40:15 42:15 42:16 44:19 45:9 47:2 64:15 67:17 74:12 92:2,8,14,17 95:10,16 96:22 112:17,19 114:10 123:25 124:7,10 126:13,14 132:18 140:8 understanding 31:7 66:17,23 117:11 139:23 159:19 understood 11:16 13:15 23:15 40:8 77:8 96:17 unfairly 98:11,17 unit 7:13 united 93:24 units 186:16 update 162:9 upgrade 175:11 175:14 url 65:21 87:22 use 24:21 31:14,21 34:13 35:10 41:16 42:24 43:2 45:6 46:10 48:14 52:25 56:18,18 60:6 63:5 73:9 74:10 78:6 80:21 81:9 84:5 93:16 103:7 108:4 109:12 110:20 111:14 120:23 124:2,8,11 124:14 132:21
		u	
		u.s. 42:21 uh 10:17 ultimate 103:5	

[use - written]

177:22 186:6,7 usually 52:24 78:12,19	volume 142:4,9 voluntarily 67:9 voluntary 67:4 volunteer 32:17	58:6,10,23 59:9 60:21 62:23 65:19 65:21,24 66:3,9 70:3 73:13 74:6 77:16,22 78:4 81:17,23 83:3,6,23 87:12 91:3 93:5 101:16 102:25 103:7 106:14,16 106:21 121:4,7,13 121:17,22,23 122:3,9,18,24 123:5,9,9,15,17 125:25 127:14,18 128:4,8,19,23 129:4,11,24 130:8 130:10 131:5,9 152:23 160:25 172:18 173:6,11 173:14 176:8,16 176:25 177:25 179:7,14,23 180:2 180:4,8 181:18 182:23 184:19,22 185:16 186:4 websites 87:19 159:21 160:12 weekend 15:20 weeks 150:18 weird 22:2 172:7 179:16,17 went 22:13 23:5 36:12 37:15 54:9 58:6 80:12 81:16 83:22 85:17 86:18 106:14 122:17,24 122:25 123:7,8 125:25 126:3,22 129:15,16 147:20 147:22 172:25 176:22 177:16,17	177:19 179:14,21 179:22 181:16 west 3:15 wheels 167:3 whereof 187:17 williams 1:14 2:14 willing 163:12 willingness 149:10 wilmer 4:5 8:22 wilmerhale.com 4:11,12 wind 102:22 wing 3:15 witness 8:8,13 13:6 156:17 187:7 187:11,17 188:4 189:13,16 190:2,5 191:2,24 woman 151:17 wondering 150:17 word 132:25 164:19,23 182:25 words 79:8 work 24:21 30:8 74:19 75:2,5 76:8 85:15 90:11 98:19 117:12 129:6 159:13 165:24 177:13,18 182:10 worked 18:14,21 50:8,10 69:3 160:6 working 18:18 42:25 82:17 180:22 works 85:10 165:19 worse 148:2 write 25:16 73:3 written 19:13 72:23 135:15
v	w		
v 1:8,16 2:8,16 vague 151:13 vaguely 128:24 valid 24:7,8 value 38:14,18,21 39:6 120:19 valued 40:2 64:20 120:14 verbatim 10:23 verify 29:19 59:25 veritext 7:23,25 186:17 188:2 189:7,9,11 version 33:21 83:4 121:5,13 123:19 versus 53:20 133:25 176:20 vibe 131:14 video 7:9,14 8:4,9 videoconference 3:1 4:1 7:21 videographer 4:22 7:5,24 10:7 20:23 21:3 61:16,21 104:25 105:5 166:5,10 186:11 videotaped 1:21 2:21 viewing 60:20 63:2 violated 128:9,12 visit 66:2 122:16 visited 34:21 58:22 65:23 66:9 128:25 160:24 182:9	w 95:13 134:2 wait 53:15 170:14 waive 8:5 waived 189:23,23 waiving 189:20 walk 17:19 18:4 34:13 44:12 want 11:22 16:7 16:18 21:21 30:25 32:4 38:3 60:7 61:8 78:21,24 92:11 104:9,10,18 105:10 115:10 123:12 135:2 161:9 162:25 165:8,9,14 166:20 179:19 185:11 wanted 24:6,12 62:20 64:4,10 69:9 96:11 108:6 162:13 183:11,12 washington 4:9 way 35:22 68:4,12 75:11 166:24 187:15 wayback 87:15,17 87:22 we've 165:18 web 5:11 41:25 55:4 121:18 website 6:15 21:14 22:2,8,10,11 23:7 23:8 25:24 28:5 36:10 37:19 41:20 50:13 51:4,16 52:13 53:13 54:7		

[wrong - zoom]

wrong 28:11,14 32:5 35:20 136:11 wrote 102:14 103:9 149:6 160:3 160:4 161:5	174:12,13,17,17 176:8,18 180:6 181:6,6,7 182:20 186:7,8 year 17:25 27:23 31:3,4,7,8,13,15 31:18,19,22,23 34:16 35:5 36:12 37:18 39:4,4,15,16 39:20 40:24 41:20 43:9 44:10,11 46:11,15,15,17,18 47:13,13,18,22 48:2,6,16 49:7,21 49:23 50:8,12,24 51:3,5,9,13,15,17 51:22,24 52:5 53:11,12,18,19,21 54:4,8 57:12,19,20 57:25 59:13,24 60:11,17,25 64:22 66:11,14 73:7,23 73:23 74:10,18 77:2 78:4 81:19 81:24 82:12,16 84:7 86:13 88:14 88:17 89:7,18 95:22,24 96:18 103:18 105:19 106:4,23 107:12 107:13,23 109:18 110:3,11 111:8 120:10,12,16,23 120:24 122:21 123:8 124:21 125:16 126:4,7,8 126:11,12,16 133:4,5,25 134:5 140:17 157:14 160:25 169:19,22 170:24 171:4,7,10	171:13,16 172:7 173:9 174:16 177:4,5,10 180:12 180:15,21 186:2,5 year's 64:11 years 18:14 19:25 22:24 27:19 29:17 34:7,10 35:14 36:18,20 37:4 38:19,23 39:18 40:4 41:25 43:5 65:2 66:4 77:4,7 77:15 80:10 82:3 82:17 83:17 87:20 88:17 127:8,9 132:22 134:2 136:16 157:20 169:16 180:19 181:4 yep 120:17 york 2:24 9:6 13:13 187:6 188:2 yosef 3:6 14:19 26:21 27:11 121:19 134:20 135:9 159:4 161:20 163:24 165:5 yosef.mahmood 3:10 yoy 46:13,16
x 5:1,7 6:1 189:12		
y		
y 8:14 yeah 16:25 20:2 21:23 22:20,20,21 27:16 29:11,24 33:7 34:16 36:16 39:25 41:8 42:25 47:2,22 52:18 53:10 54:5 55:15 55:18 57:23 58:21 59:12 61:2,14 63:9 68:15 69:8 70:14 72:16 76:20 83:19 84:12 86:22 88:7 93:6,14 95:2 95:5 96:10,22 99:8,24 103:3,21 104:15 105:20 107:13 108:10,13 114:24 116:19 119:9 120:6 123:4 123:18 125:11,11 127:17 135:15 138:16,20 139:11 140:14,19 141:20 147:8,12 148:6,9 148:19 149:23 150:5,5,9,13 153:17 157:10,23 158:13 161:23 163:23 165:4 167:6,15 168:25 170:5,7 172:10	z 8:14 zoom 14:8 29:4,10 88:3 135:18 143:19 144:8,24 148:18,21 151:4 152:8 153:22 154:19 155:22,25 158:7,13	

California Code of Civil Procedure
Article 5. Transcript or Recording
Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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RX 72

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES

TURBOTAX FREE FILING CASES)

)

Included Actions:)

JCCP No. 5067

)

THE PEOPLE OF THE STATE OF
CALIFORNIA;

)

Included Action Case
Nos. 19STCV15644 &
19CV354178

)

Plaintiff,)

)

v.)

)

INTUIT INC., a Delaware
Corporation; and DOES 1-50,
inclusive;

)

)

Defendants.)

)

PEOPLE OF THE STATE OF
CALIFORNIA, acting by and
through Santa Clara County
Counsel James R. Williams;

)

)

)

)

Plaintiff,)

)

v.)

)

INTUIT INC., and DOES 1-50,
inclusive;

)

)

Defendants.)

)

VIDEOTAPED REMOTE DEPOSITION OF PAUL HARTFORD
Benicia, California
Monday, February 28, 2022

Reported by: Lynda L. Fenn, CSR, RPR, CSR No. 12566

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

TURBOTAX FREE FILING CASES)

)

Included Actions:) JCCP No. 5067

)

THE PEOPLE OF THE STATE OF) Included Action Case
CALIFORNIA;) Nos. 19STCV15644 &
) 19CV354178

Plaintiff,)

)

v.)

)

INTUIT INC., a Delaware)
Corporation; and DOES 1-50,)
inclusive;)

)

Defendants.)

)

PEOPLE OF THE STATE OF)
CALIFORNIA, acting by and)
through Santa Clara County)
Counsel James R. Williams;)

)

Plaintiff,)

)

v.)

)

INTUIT INC., and DOES 1-50,)
inclusive;)

)

Defendants.)

)

VIDEOTAPED REMOTE DEPOSITION of PAUL HARTFORD, taken on
behalf of Defendant, Benicia, California, at 9:31 a.m.
and ending at 2:22 p.m., Monday, February 28, 2022,
reported by Lynda L. Fenn, CSR No. 12566, Certified
Shorthand Reporter within and for the State of
California, pursuant to notice.

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17 Corporate Counsel

18 Intuit

19
20 Rachel Neil

21
22 Brandon Miller, Videographer

23
24 Clint Thomas, Concierge

25
Page 4

I N D E X

EXAMINATION BY:	PAGE
MR. GRINGER	9, 173
MR. MAHMOOD	162

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 0074	A five-page LinkedIn page for Paul Hartford	34
Exhibit 0075	A two-page email chain ending in an email from Benjamin Chapin to WH Intuit Litigation All, February eight, 2022	42
Exhibit 0076	A three-page document entitled IRS Free File: Do your Taxes for Free	48
Exhibit 0077	A six-page email chain ending in an email from Paul Hartford to Benjamin Chapin, February 24, 2022	61
Exhibit 0078	A one-page document entitled Summary of Paul Hartford TurboTax Records Pursuant to Cal. Evid. Code S. 1523(d)	65
Exhibit 0079	A two-page email from Notice Administrator to Benjamin Chapin, June 23, 2020	80

1	E X H I B I T S (Continued)		
2	NUMBER	DESCRIPTION	PAGE
3	Exhibit 0080	A two-page email from Paul Hartford to Los Angeles City Attorney's Office, June 25, 2020; PEOPLE-LACA-0007472 -	81
4		PEOPLE-LACA-0007473	
5	Exhibit 0081	A three-page email chain ending in an email from Paul Hartford to Los Angeles City Attorney's Office, January 21, 2021; PEOPLE-LACA-0008317 -	87
6		PEOPLE-LACA-0008319	
7			
8	Exhibit 0082	A six-page email chain ending in an email from Los Angeles City Attorney's Office to Paul Hartford, February three, 2021; PEOPLE-LACA-0006580 -	92
9		PEOPLE-LACA-0006585	
10	Exhibit 0083	A five-page document entitled Declaration of Paul Hartford in Support of the People's Opposition to Intuit's Motion for Summary Adjudication	121
11			
12			
13			
14			
15			
16			
17		INFORMATION REQUESTED	
18		(None)	
19		INSTRUCTION NOT TO ANSWER	
20		(None)	
21			
22			
23			
24			
25			

1 Benicia, California

2 Monday, February 28, 2022

3 9:31 a.m. - 2:22 p.m.

4

5

6

7 THE VIDEOGRAPHER: Good morning. We're 09:31:03

8 going on the record at 9:31 a.m. Pacific Standard 09:31:04

9 Time on February 28th, 2022. 09:31:09

10 Please note that the microphones are very, 09:31:12

11 very sensitive and may pick up whispering. However, 09:31:15

12 please speak slowly with your voice up at all times. 09:31:19

13 Please silence all cell phones and place 09:31:22

14 them away the microphones as they can interfere with 09:31:25

15 the deposition audio. 09:31:28

16 Audio and video recordings will continue to 09:31:29

17 take place unless all parties agree to go off the 09:31:33

18 record. 09:31:36

19 This is Media No. 1 of the video-recorded 09:31:36

20 deposition of Paul Hartford taken by counsel for 09:31:38

21 defendants in the matter of TurboTax Free filing 09:31:41

22 cases, filed in Superior Court in the State of 09:31:45

23 California, County of Los Angeles, case numbers JCCP 09:31:50

24 No. 5067, Included Action Case Nos. 19STCV15644 and 09:32:09

25 19CV354178. 09:32:14

Page 7

1 This deposition is taking place via 09:32:15
2 Veritext virtual and all participants are attending 09:32:18
3 remotely. 09:32:21
4 My name is Brandon Miller from the firm 09:32:22
5 Veritext Legal Solutions. I'm the videographer. The 09:32:26
6 court reporter is Lynda Fenn, from the firm Veritext 09:32:27
7 Legal Solutions. I'm not related to any party in 09:32:29
8 this action nor am I financially interested in the 09:32:31
9 outcome. 09:32:33
10 Counsels and all present in the rooms and 09:32:34
11 everyone attending remotely will now state their 09:32:36
12 appearances and affiliations for the record, 09:32:39
13 beginning with the noticing attorney, and the witness 09:32:42
14 may be sworn in. 09:32:43
15 Thank you. 09:32:45
16 MR. GRINGER: Good morning, David Gringer 09:32:46
17 Wilmer Cutler Pickering Hale and Dorr Cutler for 09:32:48
18 Intuit, joined by my colleagues Phoebe Silos and 09:32:52
19 Tonya Long from Intuit in-house counsel. 09:32:55
20 MS. SILOS: Good morning, everyone. Phoebe 09:33:00
21 Silos here from Wilmer Cutler Pickering Hale and 09:33:02
22 Dorr, also for defendant, Intuit. 09:33:04
23 MR. MAHMOOD: Good morning, Yosef Mahmood 09:33:11
24 on behalf of the People of the State of California 09:33:13
25 through the Los Angeles City Attorney's Office. I'm 09:33:15

1 here with my colleague, Lee Sherman, also from the 09:33:17
2 Los Angeles City Attorney's Office. 09:33:21
3 MR. BLOOM: Good morning, Aaron Bloom on 09:33:25
4 behalf of the People for the -- from the Santa Clara 09:33:28
5 County Counsel's Office here with my colleague, 09:33:33
6 Rachel Neil. 09:33:52
7 THE COURT REPORTER: Mr. Hartford, please 09:33:52
8 raise your right hand. 09:33:55
9
10
11 PAUL HARTFORD,
12 produced as a witness on behalf of the Defendants,
13 and having been first duly sworn, was examined and
14 testified as follows:
15
16 THE COURT REPORTER: Go ahead, Counsel.
17
18 EXAMINATION
19 BY MR. GRINGER:
20 Q Good morning, Mr. Hartford. Thank you so 09:33:57
21 much for your time this morning and for the 09:33:58
22 thoughtful effort you put forward in providing us 09:34:00
23 documents in response to our subpoena. 09:34:04
24 Even though you just told us your name, for 09:34:07
25 the record would you mind stating your full name? 09:34:10

1 A Paul Hartford. 09:34:13

2 Q That's H-a-r-t-f-o-r-d? 09:34:16

3 A That's correct. 09:34:18

4 Q And you told us you are from -- you live in 09:34:19

5 Benicia, California; is that right? 09:34:27

6 A That's correct. 09:34:29

7 Q Where is Benicia? 09:34:29

8 A I'm about 40 minutes northwest of -- or 09:34:31

9 northeast of San Francisco, Solano County. 09:34:37

10 Q I once drove through there on the way the 09:34:43

11 Oregon border. I was lost. 09:34:47

12 Anyway. What is your address in Benicia? 09:34:50

13 A 153 Banbury, B-a-n-b-u-r-y, Court, the zip 09:34:55

14 is 94510. 09:35:04

15 Q If you don't mind me asking, how old are 09:35:06

16 you? 09:35:12

17 A Seventy-three. 09:35:12

18 Q Have you ever been deposed before? 09:35:14

19 A No. 09:35:17

20 Q So I'm going to go over a couple of the 09:35:20

21 ground rules for the deposition very briefly since 09:35:24

22 you haven't been deposed before. 09:35:26

23 So as you can probably tell already a 09:35:28

24 deposition is a testimonial proceeding that's like 09:35:31

25 testifying in court. I'm going to be asking you 09:35:35

1 questions and it's important that you answer those 09:35:38

2 questions to the best of your ability. 09:35:41

3 Is that okay? 09:35:48

4 A Yes. 09:35:48

5 Q Do you understand that you are testifying 09:35:48

6 today under oath? 09:35:50

7 A That's correct. 09:35:51

8 Q Is there any reason that you can't provide 09:35:51

9 truthful and complete testimony today? 09:35:58

10 A No. 09:35:59

11 Q If I ask a question and you don't 09:36:00

12 understand what it means, will you let me know? 09:36:03

13 A Yes. 09:36:06

14 Q And if that happens, I'll do my best to 09:36:07

15 make the question clearer, if I can. 09:36:11

16 Do you understand there's a court reporter 09:36:16

17 who is taking down your testimony today? 09:36:18

18 A Yes. 09:36:20

19 Q And do you understand that your testimony 09:36:20

20 is also being video recorded? 09:36:22

21 A Correct. 09:36:24

22 Q So even though we're on video, it's still 09:36:25

23 important to give audible answers to my questions for 09:36:29

24 the court reporter. So instead of nodding or shaking 09:36:33

25 your head, if you can please state your answer 09:36:36

Page 11

Page 12

1 Los Angeles as a witness in this case, will you do 09:37:30

2 so? 09:37:33

3 A Yes. 09:37:33

4 Q You don't have a lawyer with you today; is 09:37:33

5 that right?

6 A No. 09:37:41

7 Q It's your choice to not have a lawyer with 09:37:42

8 you today; correct? 09:37:46

9 A Correct. 09:37:48

10 Q And do you understand that the lawyers for 09:37:49

11 the city attorney and the county counsel who are on 09:37:51

12 this call are not your personal lawyers? 09:37:54

13 A Yeah, that's right. 09:37:57

14 Q Did you do anything to prepare for your 09:37:58

15 deposition today? 09:38:02

16 A Basically I reread, you know, the 09:38:03

17 declaration. I mused around in all the emails that 09:38:09

18 came through, back and forth, and then I spent an 09:38:16

19 arduous amount of time learning how to work my 09:38:21

20 computers so I could get you guys all set up here. 09:38:24

21 Q We appreciate that, the last one in 09:38:30

22 particular, sir. It's still better than us coming in 09:38:33

23 person, I think. 09:38:37

24 A It's terrific. 09:38:38

25 Q Yeah. And so you said you reread the 09:38:39

1 declaration. 09:38:42

2 Why did you do that? 09:38:43

3 A I was advised to do so to make sure that 09:38:44

4 it -- you know, I knew what I was talking about. 09:38:49

5 Q Who advised you to reread your declaration? 09:38:52

6 A I'm sorry, your name just flew right out of 09:38:56

7 my head. 09:39:04

8 The guy for L.A. 09:39:05

9 Q Mr. Mahmood? 09:39:07

10 A Yes. 09:39:11

11 Q So, Mr. Mahmood advised you to reread your 09:39:11

12 declaration before the deposition so you knew what 09:39:15

13 you were talking about; correct? 09:39:18

14 A Yeah, I would have done that anyway. 09:39:20

15 Q Did Mr. Mahmood give you any other advice 09:39:23

16 about the deposition? 09:39:27

17 A He pointed out that he wasn't an attorney 09:39:28

18 representing me and that was about it. 09:39:30

19 Q How many times did you talk to Mr. Mahmood 09:39:38

20 about the deposition? 09:39:41

21 A Just the once. We've exchanged -- you got 09:39:43

22 all the email exchanges. There was some rescheduling 09:39:48

23 emails and some things like that. 09:39:52

24 But other than that, that was about it. 09:39:54

25 Q When did you talk to Mr. Mahmood about the 09:39:56

1	deposition?	09:40:01
2	A It was either Thursday or Friday.	09:40:01
3	Q Did Mr. Mahmood have anyone with you when	09:40:06
4	he talked to you Thursday or Friday about the	09:40:10
5	deposition?	09:40:12
6	A I don't recall.	09:40:12
7	Q Did Mr. Mahmood suggest any questions that	09:40:18
8	you might be asked in today's deposition?	09:40:24
9	A No.	09:40:29
10	Q Did Mr. Mahmood suggest any answers that	09:40:30
11	you might provide during the deposition?	09:40:33
12	A No.	09:40:37
13	Q Did you take any notes of your discussion	09:40:39
14	with Mr. Mahmood about this deposition?	09:40:42
15	A No, none were necessary.	09:40:45
16	Q How long was your conversation with	09:40:49
17	Mr. Mahmood about the deposition on Thursday or	09:40:52
18	Friday?	09:40:55
19	A Maybe a minute or two. It wasn't	09:40:55
20	extensive.	09:41:01
21	Q Had you reviewed your declaration since	09:41:07
22	signing it since Mr. Mahmood suggested that you	09:41:10
23	review it?	09:41:14
24	A Yes.	09:41:15
25	Q When was the last time you had reviewed it?	09:41:16

Page 16

Page 17

1 BY MR. GRINGER: 09:44:00

2 Q And since Mr. Mahmood objected attorney 09:44:00

3 work product, you are not an attorney, are you, sir? 09:44:04

4 A Oh, is that me? No. Huh-uh. 09:44:07

5 Q So when you were editing the -- when you 09:44:09

6 were reviewing the declaration, that's not the work 09:44:11

7 product of an attorney; correct? 09:44:14

8 A I don't understand. 09:44:16

9 Q Sure. Yeah. Fair enough. 09:44:18

10 The time you spent reviewing the 09:44:21

11 declaration that you signed, that was not a time 09:44:23

12 spent by an attorney; correct? 09:44:26

13 A No. 09:44:29

14 Q A couple of just -- because we're remote, a 09:44:31

15 couple of basic questions. 09:44:36

16 I assume no one is in the room with you 09:44:37

17 today? 09:44:40

18 A That's correct. 09:44:40

19 Q Do you have any notes with you? 09:44:40

20 A Just -- your name is David and Lynda is a 09:44:44

21 court reporter and that's it. 09:44:48

22 Q Anything else? 09:44:53

23 A Just a note to myself about one thing that 09:44:58

24 I, you know, wanted to make sure to say. 09:45:00

25 Q What -- what is that? 09:45:05

Page 19

1 for free? 09:46:49

2 A I'm not -- I don't lead a very active 09:46:50

3 social life, so I'm not in a workplace. I don't have 09:46:52

4 an opportunity to talk to a lot of people. I can't 09:46:55

5 speak to that. 09:46:57

6 Q You wouldn't know the number of people who 09:46:58

7 file their taxes for free, say, last year using 09:47:00

8 TurboTax Free -- 09:47:04

9 A You know, I almost Googled that last night. 09:47:07

10 Well, I don't -- 09:47:10

11 Q Okay. Well, do me a favor actually, when 09:47:10

12 this is over go ahead and Google that, if you don't 09:47:13

13 mind because I would be curious to hear your 09:47:16

14 response. Obviously you don't have to. It's just a 09:47:19

15 suggestion. 09:47:21

16 A Okay. 09:47:22

17 Q So you received a box of documents in the 09:47:22

18 mail, exhibits for today? And you can go ahead and 09:47:26

19 open that now, as can anyone else who has it. 09:47:37

20 And so almost all of the documents that I'm 09:47:40

21 going to show you today are in that box. We're also 09:47:45

22 going to make them available on the screen. 09:47:45

23 There are a few for which it didn't work to 09:47:47

24 print them out and those will only be available on 09:47:51

25 your screen as we go. 09:47:55

Page 21

1 about it. 09:49:47

2 Q You mentioned as you went some of your 09:49:52

3 career, can you just walk us through general -- at a 09:49:55

4 high level your employment history? 09:50:00

5 A Okay. Let's see. Graduated from high 09:50:02

6 school in '67. Did a brief stint in the service. I 09:50:10

7 was honorably discharged as a convenience to the 09:50:18

8 government. Worked in retail window display product 09:50:21

9 visual merchandising, I guess you'll call it. 09:50:29

10 I was building props to use in the window 09:50:36

11 displays and stuff and aligned with my grandfather, 09:50:41

12 who was a cabinetmaker at the University of 09:50:43

13 California. And in '73 I more or less started my own 09:50:47

14 business as a fixture builder and that kind of grew 09:50:51

15 into a -- I was a subcontractor in the housing 09:50:59

16 industry where a builder, who felt his product should 09:51:04

17 sell just based on the fact that he built it, had to 09:51:10

18 hire a marketing company and a design firm to promote 09:51:13

19 the houses and so I was what was known as what was a 09:51:17

20 special effects provider. I did mirroring, 09:51:20

21 architectural accents, closet conversions and I did 09:51:27

22 that for the better part of 17, 18 years. And then I 09:51:28

23 injured my arm and had to have surgery. 09:51:32

24 So then from there I thought, well, I've 09:51:34

25 always been making money around houses, so I got a 09:51:37

1 real estate license -- everybody defers to real 09:51:40
2 estate -- and found that I really -- I guess, you 09:51:43
3 know, in separating it out, I went on the finance 09:51:50
4 side of things. I wasn't, you know, selling houses, 09:51:53
5 per se, but I was arranging financing for people and 09:51:57
6 I did that for nearly twenty years. 09:52:01

7 In that period of time I had an opportunity 09:52:05
8 to open my own real estate company and along with 09:52:07
9 that I opened a mortgage company. And then in 2008, 09:52:10
10 the fall out of everybody should be able to get a 09:52:16
11 loan, irrespective of credit and all the doors that 09:52:23
12 that opened causing the real estate bust, I kind of 09:52:27
13 looked around my office and I realized I was the only 09:52:35
14 guy there. And I called my business partner and I 09:52:38
15 said, Hey, we've got rent due. And he said, Hey, 09:52:41
16 Paul, I meant to call you. I went to work for the 09:52:44
17 Vacaville Water District.

18 So, needless to say, I was unemployed, so I 09:52:48
19 called it retirement because that was easier to live 09:52:52
20 with. 09:52:56

21 From there I just took a couple part-time 09:52:57
22 jobs here and there, Home Depot. You know, some 09:52:59
23 product hocking at Costco. And, you know, in that 09:53:02
24 expansive time, I, you know, cut my living expenses 09:53:06
25 and essentially here I am today basically a retired 09:53:10

1	guy living on Social Security.	09:53:17
2	Q Well, thank you for sharing that. You	09:53:20
3	know, that was a tough time in '08, '09 with the real	09:53:24
4	estate crisis, I know.	09:53:30
5	A Oy vey.	09:53:33
6	Q Well said.	09:53:38
7	Okay. Have you ever been involved in a	09:53:41
8	lawsuit before?	09:53:42
9	A I had a guy sue me once over a fireplace	09:53:43
10	mantel I built.	09:53:49
11	Q Do you remember the name of the case, by	09:53:49
12	any chance?	09:53:53
13	A No.	09:53:55
14	Q Do you remember the name of the guy who	09:53:55
15	sued you?	09:53:57
16	A No, I'm afraid I don't.	09:53:57
17	Q Any other cases or lawsuits you can	09:53:59
18	remember being a part of?	09:54:02
19	A No other lawsuits, no.	09:54:03
20	Q Have you read either of the complaints that	09:54:05
21	were filed in this case?	09:54:08
22	A No.	09:54:09
23	Q And I should have asked you. We have two	09:54:13
24	represents with the Santa Clarita County Counsel's	09:54:18
25	Office on the deposition.	09:54:22

1 Have you ever talked to anyone in that 09:54:24

2 office? 09:54:26

3 A No. 09:54:26

4 Q More generally, have you read any news 09:54:26

5 reports about that case? 09:54:33

6 A No. The only thing I read that had 09:54:34

7 anything to do with TurboTax was something that was 09:54:39

8 prompted by Benjamin Chapin that had to do with the 09:54:42

9 fact that TurboTax and the I.R.S. had some sort of an 09:54:50

10 affiliation that gave them another product line of 09:54:54

11 sorts that, again, was supposed to be free. But that 09:54:58

12 came to an end right around the time of the Super 09:55:02

13 Bowl. 09:55:07

14 That -- other than that, nothing. 09:55:08

15 Q That TurboTax and I.R.S., as you put it, 09:55:11

16 affiliation, before Mr. Chapin said something to you, 09:55:17

17 had you ever heard about it before? 09:55:22

18 A No. 09:55:26

19 Q So when you signed your declaration you had 09:55:26

20 never heard about the affiliation between TurboTax 09:55:28

21 and the I.R.S.? 09:55:31

22 A No. 09:55:32

23 Q And where did you go to read about the 09:55:37

24 affiliation ending around the time of the Super Bowl? 09:55:42

25 A Oh, it was a little news grab on social 09:55:46

1 media. 09:55:49

2 Q Have you read any of the briefs written by 09:55:53

3 the city attorney or county counsel in this case? 09:55:57

4 A No. 09:56:00

5 Q Have you ever heard of a product called 09:56:00

6 TurboTax Freedom Edition? 09:56:08

7 A Yes. 09:56:11

8 Q What is TurboTax Freedom Edition? 09:56:11

9 A I think that's was a rather clandestine 09:56:16

10 offering by TurboTax. Again, you had to have a 09:56:27

11 special website or something to get on it. 09:56:31

12 Q Where did you first hear about TurboTax 09:56:33

13 Freedom Edition? 09:56:38

14 A From Mr. -- 09:56:38

15 Q From Mr. Mahmood? 09:56:39

16 A -- Mahmood. 09:56:43

17 Q Is that what he told you about TurboTax 09:56:44

18 Freedom Edition is the clandestine product? 09:56:46

19 A Yeah, after I was, you know, venting about 09:56:49

20 my experience he just casually mentioned, well, in 09:56:53

21 the future if you go to this website you can actually 09:56:59

22 find a free tax preparation and filing, so I filed 09:57:01

23 that away in my little head and thought that I would 09:57:05

24 look into it. 09:57:09

25 Q Did you ever look into it? 09:57:09

Page 26

25	A	Yeah, pretty much culminating in 2016, I	09:58:40
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1 would say. 09:58:46

2 Q Did Mr. Mahmood tell you that the free 09:59:02

3 product on the TurboTax commercial website was not 09:59:06

4 truly free? 09:59:10

5 A No. 09:59:13

6 Q Have you ever heard of I.R.S. Free File 09:59:17

7 Program delivered by TurboTax? 09:59:21

8 A Yeah, just this year. 09:59:22

9 Q What did you hear about it? 09:59:25

10 A That it -- that it had been terminated. 09:59:27

11 Q Did you understand -- I asked you before 09:59:32

12 about TurboTax Freedom Edition and you heard about it 09:59:34

13 from Mr. Mahmood. 09:59:38

14 Do you understand TurboTax Freedom Edition 09:59:41

15 to have any connection to the I.R.S.? 09:59:44

16 A I wasn't aware of it at the time. 09:59:46

17 Q When you say you weren't aware of it at the 09:59:48

18 time, at the time that you signed your declaration? 09:59:51

19 A At the time that Mr. Mahmood mentioned it 09:59:53

20 to me. 09:59:56

21 Q Were you aware of any connection between 09:59:57

22 TurboTax Freedom Edition and the I.R.S. at the time 10:00:01

23 you signed your declaration? 10:00:04

24 A No. 10:00:06

25 Q At the time you signed your declaration, 10:00:06

Page 28

1 had you heard of something called the I.R.S. Free 10:00:09
2 File Program? 10:00:12
3 A No. 10:00:12
4 Q What factors are important to you in 10:00:12
5 selecting a form of tax preparation? 10:00:24
6 A That's changed over the years. Now it's 10:00:34
7 just a matter of expediency. 10:00:38
8 Q What do you mean by "expediency"? 10:00:41
9 A My income and my -- the things I own and 10:00:48
10 whatnot don't require a lot of extrapolation. You 10:00:51
11 know, I don't need an accountant, per se. You know, 10:00:59
12 I don't need to know all the nuances of the tax 10:01:02
13 codes. 10:01:05
14 I don't have capital gains income. I don't 10:01:07
15 have real estate to declare. I don't have -- I no 10:01:09
16 longer own rental properties, so I don't have to, you 10:01:12
17 know, do depreciations. 10:01:15
18 Once upon a time I needed, you know, 10:01:19
19 real-deal tax help. 10:01:22
20 Q So when you use the word "expediency," what 10:01:26
21 does that mean? Ease of use? 10:01:30
22 A I didn't catch the last part of your -- 10:01:33
23 Q I apologize. 10:01:36
24 When you say, "expediency," are you 10:01:37
25 referring to ease of use? 10:01:40

1 A Absolutely. Ease of use and getting it to 10:01:41
2 Sacramento and getting it to wherever the I.R.S. is. 10:01:48
3 Q Are there any other factors that are 10:01:52
4 important to you that you didn't list? 10:01:55
5 A You know, with the advent of all of these 10:01:56
6 computer programs and the software, it was pretty 10:02:01
7 enlightening, you know, as you walk through it and 10:02:06
8 how the software would break off -- you know, if you 10:02:10
9 answered a certain way, it would break into another 10:02:13
10 area and ask you some additional questions. 10:02:21
11 It seemed pretty -- pretty good. I mean, 10:02:23
12 you know, for a do-it-yourself type of thing. That's 10:02:25
13 the main thing. I mean, you know, when you get all 10:02:33
14 your I's dotted and your T's crossed. 10:02:35
15 Q So the software that you described that's 10:02:40
16 pretty enlightening and pretty good, you are 10:02:43
17 referring to TurboTax there? 10:02:46
18 A That's correct. 10:02:48
19 Q And you said something that was interesting 10:02:51
20 to me, Mr. Hartford. You said, you know, you 10:02:55
21 described it as pretty enlightening. 10:03:01
22 Were there benefits to you to using the 10:03:03
23 TurboTax software besides just getting your taxes 10:03:06
24 prepared? 10:03:10
25 A Well, as I came to find out, you know, they 10:03:12

1 hold on to my filed returns, so I had access to them. 10:03:18

2 That was good. The TurboTax software held on to and 10:03:23

3 maintained, you know, my previous years input and 10:03:32

4 stuff so I was able to kind of pick up the ball from 10:03:36

5 there. 10:03:42

6 I had been a user of other Intuit products 10:03:45

7 in -- in the mortgage and finance business and I -- 10:03:51

8 there was a confidence level that I felt was there. 10:03:56

9 Q When you talked about the software holding 10:04:06

10 on to your previous year input, are you referring to 10:04:12

11 the data that you provided on your previous year tax 10:04:14

12 return? 10:04:17

13 A Yeah. Yeah. 10:04:17

14 Q And that automatically populated that data, 10:04:18

15 automatically populated itself the next year you were 10:04:22

16 using TurboTax; is that right? 10:04:26

17 A Correct. 10:04:28

18 Q Did that save you -- that automatic 10:04:28

19 population of your previous year's data, did that 10:04:31

20 save you time in doing your taxes? 10:04:36

21 A Yeah, as I indicated in my declaration, I 10:04:38

22 had come from a background where, you know, you held 10:04:47

23 on to every receipt possible and every outside source 10:04:50

24 you paid that wasn't on your payroll and you hang on 10:04:54

25 to all of that stuff. 10:04:57

1 And so now that I didn't have any of that, 10:04:58

2 I had, you know, a business suit wardrobe, I had a 10:05:02

3 room full of tools I didn't need, so I started 10:05:05

4 donating them. And so I went through the rather 10:05:06

5 substantial list of things that I donated, only to 10:05:09

6 have the TurboTax software tell me, oh, you are 10:05:12

7 better off going ahead and using the standard 10:05:18

8 deduction. So I thought, okay. 10:05:20

9 Q And you mentioned earlier you used other 10:05:23

10 Intuit products when you had your business. 10:05:25

11 Are you referring to QuickBooks, by any 10:05:27

12 chance? 10:05:29

13 A That was one of them, yeah. 10:05:29

14 Q I recognize it's been a while now since 10:05:31

15 you've operated your business. 10:05:35

16 But would you have seen some value in 10:05:39

17 integration between QuickBooks and the TurboTax 10:05:42

18 software? 10:05:46

19 MR. MAHMOOD: Objection; form. 10:05:48

20 THE WITNESS: I had to say with my computer 10:05:50

21 savvy, I wouldn't have appreciated that. I wouldn't 10:05:54

22 have understood it. You know, I can see, you know, a 10:05:58

23 lot of -- integration is a great word, you know, 10:06:02

24 where -- where a company is able to build on 10:06:11

25 something else based on the fact that they've already 10:06:14

1 kind of got their foot in the door. 10:06:17

2 BY MR. GRINGER: 10:06:23

3 Q And so you mentioned also that there was a 10:06:24

4 year where you listed your donations and then the 10:06:26

5 TurboTax software told you you are better off taking 10:06:30

6 the standard deduction, as opposed to itemizing. 10:06:33

7 A Correct. 10:06:37

8 Q Do you remember what year that was? 10:06:37

9 A It was either 2014 or 2015 when I started 10:06:40

10 my relationship with TurboTax. 10:06:43

11 Q Were you impressed by the fact that 10:07:01

12 TurboTax told you you didn't need to itemize? 10:07:04

13 A I'd have to say I was more disappointed. I 10:07:08

14 thought, you know, I was going to get fabulous sums 10:07:11

15 of money back, you know, based on all my charitable 10:07:16

16 efforts. 10:07:21

17 But essentially I trusted the fact that 10:07:23

18 whoever put this program together knew what they were 10:07:25

19 doing. 10:07:28

20 Q Do you enjoy doing your taxes? 10:07:30

21 A It's like going to get a root canal. 10:07:36

22 Q So that's no? 10:07:42

23 A That's no. 10:07:44

24 Q And I assume that's always been true? 10:07:44

25 A Yes. 10:07:47

1 Q So, Mr. Hartford, if I could ask you to 10:07:55
2 open folder number 12 and we also put that in Exhibit 10:08:01
3 Share. If we could mark that as Hartford Exhibit 10:08:10
4 No. 1.
5 (Defendant's Exhibit 74 was marked for
6 identification by the Certified Shorthand Reporter
7 and is attached hereto.)
8 THE WITNESS: You said open number 12? 10:08:20
9 MR. GRINGER: Yeah, number 12. And I leave 10:08:22
10 it to you, Mr. Hartford, whether you would rather 10:08:25
11 look at it on paper or also on the screen. 10:08:33
12 BY MR. GRINGER:
13 Q And just let me know when you have it 10:08:45
14 opened. 10:08:47
15 A Oh, I have it opened. 10:08:48
16 Q Do you recognize -- thank you for showing 10:08:53
17 me, sir. 10:08:55
18 Do you recognize Hartford Exhibit No. 1? 10:08:56
19 A Yeah, these are little snippets of podcasts 10:09:00
20 by a guy named Stossel. 10:09:26
21 Q And this is from your LinkedIn page. 10:09:33
22 Do you see that, Exhibit No. 1? 10:09:36
23 A Oh, yeah, up in the left-hand corner, 10:09:43
24 correct. 10:09:48
25 Q And so these are posts you've made on 10:09:48

1	LinkedIn.	10:09:51
2	Do you I have that right in Exhibit No. 1?	10:09:54
3	A Yeah.	10:09:56
4	Q And you describe yourself here as a common	10:09:56
5	sense -- on the first page of Exhibit No. 1 as a	10:10:00
6	"common sense advocate and independent deep thinker."	10:10:03
7	What those that mean?	10:10:09
8	A What does that mean? It means that once	10:10:10
9	upon a time I was pretty far out there on the left,	10:10:25
10	pretty liberal. And then as I was in business, I	10:10:27
11	became more conservative and I -- I just quietly bore	10:10:31
12	the cost of doing business and went on.	10:10:39
13	Then -- in a way, the social media platform	10:10:43
14	gives you a little bit of a voice. I've got friends	10:10:53
15	that say, yeah, you are shouting in an empty room.	10:10:59
16	But based on some of the responses that I	10:11:04
17	get, there's other people that feel the way that I	10:11:06
18	do. And this is -- this is actually more politics	10:11:09
19	than TurboTax.	10:11:14
20	But essentially the whole nature of how the	10:11:15
21	country is run lacks common sense and I'm an advocate	10:11:21
22	for common sense.	10:11:31
23	And as far as being an independent thinker,	10:11:33
24	I no longer affiliate with Republicans or Democrats.	10:11:37
25	I am more -- well, I signed up to be a Libertarian	10:11:40

1	because I just think that we have too much damn	10:11:45
2	government.	10:11:49
3	But common sense doesn't prevail because it	10:11:49
4	doesn't payoff anybody. You know, it's better to do	10:11:54
5	it the old way because everybody's got their hooks in	10:11:58
6	you.	10:12:02
7	Q You said, "We have too much damn	10:12:02
8	government."	10:12:05
9	Why do you think we have too much damn	10:12:05
10	government?	10:12:08
11	A Well, have you ever tried to do a room	10:12:08
12	addition to your home?	10:12:13
13	Q I have not.	10:12:17
14	A Have you ever -- have you ever -- well, as	10:12:19
15	an example, have you gone to Home Depot and had to,	10:12:22
16	you know, mask up, get limited to the number of	10:12:29
17	people allowed in the store.	10:12:33
18	Have you ever dealt with the Department of	10:12:38
19	Motor Vehicles, you know. The classic example is the	10:12:43
20	lottery system here in California. That was sold to	10:12:49
21	us years ago as being the savior of the public	10:12:53
22	schools and nothing could be further from the truth.	10:12:56
23	In fact, if we had a way to annex another	10:12:59
24	made up county, it would be comprised of the entire	10:13:04
25	lottery system bureaucracy.	10:13:09

1 I'm being to pontificate and I forgot the 10:13:16
2 original question, I apologize. 10:13:20

3 Q My question was: Why do you think we have 10:13:22
4 too much damn government? 10:13:25

5 A Oh, yeah. Well, it's self-serving. 10:13:28

6 Q What do you mean by that? 10:13:35

7 A It means ones you get elected, you are at 10:13:36
8 the trough. You have achieved the notoriety. You 10:13:46
9 get elected to office. You spend probably 60 percent 10:13:51
10 of your time that you are in office out there barking 10:13:55
11 for dollars so that you can get matching dollars from 10:13:59
12 your affiliate party, whether you are a Democrat or a 10:14:03
13 Republican. 10:14:08

14 The idea of actually doing a job and -- it 10:14:09
15 just doesn't factor in anymore. It's a 10:14:14
16 self-perpetuating thing. It's a parasite. A 10:14:17
17 malignant parasite. 10:14:25

18 Q What's the malignant parasite, just so 10:14:29
19 it's -- 10:14:34

20 A The government. I mean I know people that 10:14:34
21 could live comfortably. Families of four that could 10:14:38
22 live on the per diem that the state legislators get 10:14:42
23 here in California. 10:14:47

24 Why should elected officials be allowed to 10:14:57
25 write-off property not only in their own district or 10:15:01

1 constituency but also in Washington or thereabouts. 10:15:07

2 Q I'm not familiar with the write-off 10:15:16

3 property. 10:15:20

4 A Yeah, it's just something that's just 10:15:20

5 always been kind of a thorn in the side. You know, 10:15:23

6 they are allowed to get benefits beyond what's 10:15:29

7 available to the normal person. 10:15:33

8 Q Now, I want to ask you if you turn to the 10:15:40

9 third page of Exhibit No. 1, where you have a post 10:15:43

10 about the California Public Utilities Commission? 10:15:48

11 A Yeah. 10:15:52

12 Q What is your view of the California Public 10:15:53

13 Utilities Commission? 10:16:02

14 MR. MAHMOOD: Objection; form. 10:16:02

15 MR. GRINGER: Hold on. What was wrong with 10:16:03

16 the form of that question? 10:16:05

17 MR. MAHMOOD: I think we're going off on a 10:16:07

18 pretty broad tangent with all of these questions and 10:16:10

19 I don't think it's too relevant to this -- to this -- 10:16:15

20 MR. GRINGER: Well, I'm not sure that's a 10:16:19

21 valid objection to the form. 10:16:21

22 You can answer my previous question. 10:16:22

23 BY MR. GRINGER: 10:16:24

24 Q What is your view of the California Public 10:16:25

25 Utilities Commission? 10:16:28

1 A Well, it's another bureaucracy and it's 10:16:28
2 made up of people appointed by, you know, our elected 10:16:32
3 officials and they are basically a rubber-stamp 10:16:38
4 outfit. 10:16:47

5 Q So, now if I could ask you to turn to the 10:16:50
6 fifth page of Exhibit No. 1. You have a post at the 10:16:57
7 top of the page. 10:17:02

8 A Is this the one, "The solution to society's 10:17:06
9 programs cannot be just steal more." 10:17:08

10 Q Yeah. And then below that do you see where 10:17:12
11 it says, "Free health care, free education, free 10:17:15
12 housing, et cetera, is paid for by taking money that 10:17:17
13 belongs to someone else." 10:17:21

14 A Right. 10:17:22

15 Q What did you mean that? 10:17:23

16 A Exactly what it says. 10:17:25

17 MR. MAHMOOD: Objection; relevance. 10:17:26

18 THE WITNESS: In order to fund these 10:17:28

19 various things: Free education, free housing, 10:17:31

20 someone's got to be working and paying taxes. You 10:17:39

21 know, it's not like -- the government doesn't have 10:17:46

22 another income stream, per se, short of whatever you 10:17:55

23 feel or I feel about how they collect their monies. 10:18:00

24 But free health care. If there was a free 10:18:10

25 health care, entity it wouldn't have a subsidiary and 10:18:13

1 we'll wash your car while you're there, you know, and 10:18:24
2 so doing they generate money washing cars while you 10:18:28
3 are in getting your free health care. 10:18:32
4 Free housing is a really corker with me 10:18:39
5 because that's just going to -- the realities are 10:18:44
6 that the land left able to be built on, has to be 10:18:47
7 respected and zoned properly. And adjusting all of 10:18:57
8 these to accommodate freebies is unfair to the people 10:19:04
9 that own that in the vicinity and other properties 10:19:09
10 related to that. It's just wrong. 10:19:12
11 BY MR. GRINGER: 10:19:15
12 Q How do you feel about the government 10:19:16
13 providing free taxes to people? 10:19:17
14 A Well, I'm glad you asked that because in 10:19:20
15 this case this is where the integration thing works 10:19:23
16 out. And it works out fine for companies who can 10:19:25
17 sell you ancillary services. Or provide your 10:19:30
18 information to other businesses. 10:19:34
19 Now I know that you sign privacy agreements 10:19:39
20 and stuff like that. But I've been seeing those 10:19:42
21 broken down to where you have like three choices of 10:19:44
22 your opt out and you've got to sign your basic 10:19:49
23 privacy away in order to -- to use whatever service 10:19:54
24 you're bucking for there. 10:19:59
25 Q So, do you think a government program 10:20:01

1 providing people with free tax preparation is a good 10:20:05
2 thing? 10:20:08
3 A It's a scary thing. 10:20:09
4 Q Why is it scary? 10:20:13
5 A It is more -- okay. I'm going to reach 10:20:15
6 back into my left-wing pocket. It's more big 10:20:29
7 brother. I don't want the government in my -- in my 10:20:35
8 life, if I can help it. 10:20:38
9 Q How would you feel about preparing your 10:20:40
10 taxes pursuant to a government program that provides 10:20:43
11 people with free tax preparation? 10:20:49
12 A I'll be honest, I wouldn't trust it. 10:20:52
13 Q Why wouldn't you trust it? 10:20:54
14 A I don't think the government serves the 10:21:09
15 people anymore. I think it is a self-perpetuating 10:21:15
16 money machine. 10:21:20
17 As an example, the talk about going to 10:21:28
18 digital currency, you know, where having five dollars 10:21:31
19 in your pocket really doesn't mean much. Well, it 10:21:36
20 doesn't mean much anyway now. But let's say you have 10:21:40
21 a hundred bucks in your pocket. 10:21:44
22 Now, if I had to have a card, like a credit 10:21:48
23 card, only it's got my -- all my balance on it and 10:21:51
24 the government's handling it and the government 10:21:54
25 decides they don't like what they are seeing me post 10:21:59

1 on LinkedIn, who's to say that all of a sudden 10:22:03

2 there's not a glitch on that card and I can't get at 10:22:05

3 my money. 10:22:08

4 Q Mr. Hartford -- 10:22:11

5 A This is where I put the tin foil hat on 10:22:16

6 guys. I mean, you know, I'm sorry. 10:22:19

7 Q No, we're here to ask you questions and 10:22:21

8 hear your answers, so no need to apologize. 10:22:26

9 A All right. 10:22:30

10 Q If I could ask you to open folder ten which 10:22:30

11 we'll mark online as Hartford Exhibit No. 2. 10:22:36

12 (Defendant's Exhibit 75 was marked for

13 identification by the Certified Shorthand Reporter

14 and is attached hereto.) 10:23:10

15 THE CONCIERGE: Mr. Gringer, this is the 10:23:10

16 tech. Just to let you know I have been marking these 10:23:15

17 on the Exhibit Share because the witness has a paper 10:23:18

18 copy, but Exhibit Nos. 1 and 2 have been marked. 10:23:21

19 MR. GRINGER: Thank you. 10:23:24

20 BY MR. GRINGER: 10:23:24

21 Q All right. Mr. Hartford, are you with us 10:23:25

22 on Exhibit No. 2? 10:23:27

23 A I'm sorry? 10:23:29

24 Q Do you have the document, Exhibit No. 2 in 10:23:29

25 front of you? 10:23:34

Page 43

1	Q	You then write on the second page of	10:24:42
2		Exhibit No. 2, "Now I'm concerned that TurboTax,"	10:24:47
3		slash, "Intuit may seek a little retribution for	10:24:49
4		those of us named in this lawsuit using their friends	10:24:53
5		at the I.R.S. to target us after the fact."	10:24:59
6		Why did you believe that Intuit would have	10:25:04
7		friends at the I.R.S.?	10:25:07
8	A	Because they have a working relationship of	10:25:08
9		sorts.	10:25:11
10	Q	How did it make you feel that Intuit had	10:25:11
11		friends at the I.R.S.?	10:25:14
12	A	I didn't like it.	10:25:16
13	Q	Why not?	10:25:17
14	A	It goes back to not trusting the	10:25:18
15		government.	10:25:21
16	Q	Am I correct that one of the agencies in	10:25:23
17		the government that you don't trust is the I.R.S.?	10:25:26
18	A	I think that's safe to say, yes.	10:25:30
19	Q	So you expressed concerns here that Intuit	10:25:33
20		might seek retribution against you with the I.R.S.	10:25:40
21		for your participation in this case.	10:25:43
22		What retribution did you have in mind, if	10:25:46
23		any?	10:25:50
24	A	Perhaps just a random audit which would	10:25:52
25		require me to, you know, seek, you know, professional	10:25:58

Page 44

1 assistance. 10:26:04

2 I think that was the main thing. 10:26:09

3 Q Do you believe that the I.R.S. might go 10:26:12

4 along with an attempt by Intuit to seek retribution 10:26:16

5 against you for participating in this case? 10:26:20

6 A I think anything is possible in this day 10:26:21

7 and age. All you do is click a button. 10:26:24

8 You know, I don't know if this is germane 10:26:31

9 or not, but I was audited in 1981 by the I.R.S. And 10:26:32

10 it was a very unpleasant experience. 10:26:37

11 1981 was one of the first building hiccups 10:26:41

12 and being in the building trades I was negatively 10:26:47

13 impacted by it and I was told I owed \$78,000 to the 10:26:51

14 government and I hadn't seen \$78,000 in one place in 10:27:03

15 a couple of years. 10:27:08

16 The long and the short of it was when the 10:27:11

17 new accounting firm that we hired went to bat for us 10:27:16

18 and explained everything and took issue with 10:27:21

19 everything, it did, indeed, turn out that my wife at 10:27:25

20 the time had been embezzling money, \$13,000, which I 10:27:29

21 paid my half of because I didn't understand that she 10:27:41

22 was stealing money. 10:27:43

23 But she was socking something away in her 10:27:45

24 own -- for her own nest egg, who knows. 10:27:49

25 But getting to that was an extremely 10:27:53

1 painful time and the idea that \$78,000 became, oh, 10:27:56
2 well, here's the culprit. Here's the problem. It's 10:28:08
3 13,000 bucks. What do you want to do? Here's my 10:28:13
4 check for 6500 bucks. No apology. No nothing. 10:28:18
5 Q Just so we have a clear record, 10:28:24
6 Mr. Hartford, and I think this is a -- perhaps a 10:28:28
7 yes-or-no question. 10:28:34
8 Do you believe that the I.R.S. might go 10:28:35
9 along with an attempt by Intuit to seek retribution 10:28:37
10 against you for participating in this case? 10:28:42
11 A Yeah, it's in the back of my mind. 10:28:44
12 Q Well, I can assure you Intuit is not going 10:28:48
13 to ask for any retribution for your participation in 10:28:52
14 this case. So we appreciate your time. 10:28:55
15 A Thank you. 10:28:56
16 Q If I could ask you a few more questions on 10:28:58
17 this topic and then maybe we can take a short break. 10:29:02
18 Have you ever heard of the I.R.S. VITA, 10:29:06
19 V-I-T-A, program? 10:29:10
20 A No. 10:29:11
21 Q If the I.R.S. offered taxpayers free 10:29:11
22 in-person assistance with preparing and filing your 10:29:15
23 taxes, would that interest you? 10:29:18
24 A No. 10:29:19
25 Q Do you know if the I.R.S. has a website? 10:29:20

1	A	Yes.	10:29:26
2	Q	What would you expect the URL for the	10:29:28
3		I.R.S.'s website to be?	10:29:32
4	A	Oh, I have no clue. I imagine it would	10:29:35
5		have to include the I.R.S. -- the initials I.R.S.	10:29:38
6	Q	So I take it then you've never actually	10:29:42
7		visited the I.R.S.'s website at I.R.S. dot-gov?	10:29:46
8	A	No, I don't think so.	10:29:49
9	Q	Is there a reason why not?	10:29:51
10	A	I'm sorry?	10:29:51
11	Q	Is there a reason why not?	10:29:52
12	A	It kind of goes back to the root canal	10:29:53
13		thing. I don't -- I don't have any need for it.	10:29:59
14	Q	Did you ever consider going to the I.R.S.'s	10:30:08
15		website to see if there were any free tax filing	10:30:12
16		options available?	10:30:16
17	A	No.	10:30:17
18	Q	Why not?	10:30:17
19	A	I just wouldn't expect it, so I just didn't	10:30:18
20		shop there. I guess I just went with whoever was	10:30:29
21		sponsoring the football game.	10:30:33
22		MR. GRINGER: Why don't we -- we've been on	10:30:50
23		for an hour. Why don't we take a five-minute break.	10:30:52
24		Is that okay.	10:30:56
25		THE WITNESS: Sure.	10:30:57

1 MR. GRINGER: We'll come back at 10:35 a.m. 10:30:58

2 THE WITNESS: Okay. 10:31:07

3 THE VIDEOGRAPHER: Okay. Stand by, 10:31:07

4 everyone, please. Thank you. 10:31:20

5 This marks the end of Media No. 1. Going 10:31:24

6 off the record at 10:31 a.m. 10:31:43

7 (Brief interruption in proceedings.) 10:37:15

8 THE VIDEOGRAPHER: We are back on the 10:37:27

9 record at 10:37 a.m. Pacific and this marks the 10:37:56

10 beginning of Media No. 2 in the deposition of Paul 10:38:00

11 Hartford. 10:38:02

12 You will may proceed, Counsel. 10:38:03

13 BY MR. GRINGER: 10:38:05

14 Q Welcome back, Mr. Hartford. 10:38:06

15 Could you now open folder five, please. 10:38:12

16 And we're going to mark folder five as Exhibit No. 3. 10:38:15

17 (Defendant's Exhibit 76 was marked for

18 identification by the Certified Shorthand Reporter

19 and is attached hereto.) 10:38:23

20 BY MR. GRINGER: 10:38:23

21 Q And while you're opening that -- this is 10:38:24

22 going to take me a minute to read. You can keep 10:38:27

23 opening. I'm just going to state something for the 10:38:30

24 record. This is the -- Exhibit No. 3 is a web page 10:38:33

25 printed from the URL w-w-w dot I.R.S. dot-gov, 10:38:35

1 forward slash, filing, forward slash, free, dash, 10:38:43
2 file, dash, do, dash, your, dash, federal, dash, 10:38:50
3 taxes, dash, for, dash, free. 10:39:01
4 THE CONCIERGE: I'm sorry, Mr. Gringer. 10:39:14
5 This is Clint. I just sat back down. 10:39:16
6 Did we just mark a new document? 10:39:19
7 MR. GRINGER: We did, Clint. 10:39:21
8 THE CONCIERGE: Can you tell me which one 10:39:24
9 that is, so I can mark it? 10:39:25
10 MR. GRINGER: It's folder five and it 10:39:28
11 should be marked as Exhibit No. 3. 10:39:30
12 THE CONCIERGE: All right. You got it. 10:39:31
13 BY MR. GRINGER: 10:39:32
14 Q Mr. Hartford, have you ever seen Exhibit 10:39:33
15 No. 3 before? 10:39:35
16 A Not to my recollection. 10:39:36
17 Q I'm not going to reread the URL that I just 10:39:37
18 read into the record. 10:39:43
19 But do you recall if you've ever gone to 10:39:46
20 the URL that I read before? 10:39:48
21 A I don't believe so, no. 10:39:52
22 Q I'm just going to state so you know. This 10:40:03
23 is the landing page for the I.R.S. Free File Program. 10:40:05
24 And if I could ask you to turn to the second page of 10:40:09
25 Exhibit No. 3. 10:40:12

1 And do you see there's a heading in bold 10:40:16

2 "How I.R.S. Free File Offers Work" on the second page 10:40:20

3 of Exhibit No. 3? 10:40:24

4 A Uh-huh. 10:40:25

5 Q Is that a "yes"? 10:40:28

6 A Yes. 10:40:30

7 Q And there's a list of five things. 10:40:30

8 Do you see that?

9 A Yes. 10:40:33

10 Q Could you read the very first thing under 10:40:33

11 "How I.R.S. Free File Offers Work" in Exhibit No. 3? 10:40:35

12 A "You must beginning your filing option at 10:40:40

13 I.R.S. dot-gov going directly to a company's website 10:40:43

14 will not result" -- no, "will result in not receiving 10:40:48

15 the benefits offered here." 10:40:54

16 Q So where would you expect to go to find 10:40:57

17 software made available through the I.R.S. Free File 10:41:01

18 Program? 10:41:11

19 A I don't know. 10:41:11

20 Q Do you think you could begin your filing 10:41:11

21 option at I.R.S. dot-gov? 10:41:15

22 MR. MAHMOOD: Objection; form. 10:41:19

23 THE WITNESS: Once again, I -- I don't 10:41:22

24 know. This -- if I knew about this page, this is 10:41:26

25 something I would Google to look for customer reviews 10:41:32

Page 50

1 or consumer stuff and see if it was real. 10:41:37

2 BY MR. GRINGER: 10:41:41

3 Q Why would you be interested in if it was 10:41:41

4 real? 10:41:45

5 A Well, because I'm about to give some 10:41:50

6 website a whole bunch of my information. 10:41:55

7 Q What website are you referring to? 10:41:58

8 A Well, in this case the I.R.S. dot-gov. 10:42:00

9 Q Have you ever searched the Internet 10:42:07

10 specifically for how you can file your taxes for 10:42:09

11 free? 10:42:11

12 A Just when I looked up that TurboTax -- you 10:42:11

13 know, looking for reviews on it. 10:42:23

14 Q When was that? 10:42:27

15 A Well, it would have had to have been like 10:42:29

16 2014 or 2015. 10:42:38

17 Q And were you looking for how to file your 10:42:40

18 taxes for free or were you looking for TurboTax. 10:42:42

19 A Well, it was almost all one word or all one 10:42:48

20 phrase, "TurboTax file for free" you know, or that 10:42:52

21 type of thing. 10:42:55

22 Q Didn't you search in your declaration that 10:42:56

23 you searched for "TurboTax," period? 10:42:57

24 A Okay. Yes. 10:43:02

25 Q So did you ever do a search for "free 10:43:06

1 taxes"? 10:43:08

2 A Well, as part and parcel of that TurboTax, 10:43:09

3 I would imagine. That would be the best of my 10:43:19

4 recollection. 10:43:22

5 Q Other than the search you did for the 10:43:22

6 phrase "TurboTax," have you ever done any searching 10:43:25

7 for free tax options? 10:43:28

8 A No. 10:43:30

9 Q Do you know what a tax year is? 10:43:31

10 A Yeah, I would imagine it's a year of 10:43:37

11 earnings from, you know, January one through December 10:43:53

12 31. There's also -- I can't remember now. 10:43:56

13 But it seemed to me there was some other -- 10:44:06

14 that's all I know. 10:44:12

15 Q When I refer to tax year 2018, do you -- 10:44:13

16 what calendar year does that refer to in your mind? 10:44:17

17 A My earnings from what I earned in 2017. 10:44:23

18 Q And if you said I used TurboTax in tax year 10:44:38

19 2015, what calendar year would you be talking about? 10:44:43

20 A I imagine 2014. 10:44:47

21 Q When you prepare your taxes, is it 10:45:02

22 important to you to maximize your refund? 10:45:05

23 A Well, it used to be. 10:45:09

24 Q Why -- why did it used to be important to 10:45:11

25 maximize your refund? 10:45:14

1	A Well, the way I kind of evolve as a	10:45:18
2	business person was that there were certain things	10:45:24
3	you did. And one of them was that when you incurred	10:45:26
4	costs doing business, some of them were allowable	10:45:31
5	expenses that you could reclaim at the end of the	10:45:35
6	year.	10:45:38

7	Q What did today, do you -- is it important	10:45:41
8	for you to get --	10:45:46

9	A I'm below the poverty line today. I	10:45:47
10	just -- I don't make enough and I don't think	10:45:52
11	anything really gets taken off. As long as congress	10:45:54
12	doesn't start taxing the Social Security folks, I	10:46:00
13	should be okay.	10:46:05

14	Q When you prepare your taxes, is it	10:46:06
15	important to you that your taxes are accurate?	10:46:08

16	A Yes.	10:46:10
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17	Q If you filed your taxes using a	10:46:10
18	government-sponsored program, would you be concerned	10:46:15
19	about your taxes' accuracy?	10:46:18

20	A That's kind of a neither yes or a no. It's	10:46:29
21	kind of a maybe.	10:46:36

22	Q Why maybe?	10:46:36
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23	A	I just worry that somehow they would get	10:46:37
24		lost.	10:46:47

25	Q So if you filed your taxes using a	10:46:47
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1 government sponsored program, you would be worried 10:46:50

2 that your taxes would somehow get lost; correct? 10:46:54

3 A That would be a concern. 10:46:57

4 Q Do you have other concerns about using a 10:46:59

5 government-sponsored program to prepare your taxes? 10:47:07

6 A I don't know -- I don't know if I could 10:47:14

7 expect the same sort of in-depth analysis from the 10:47:17

8 government as I would from an entity like TurboTax 10:47:22

9 that holds itself out as being kind of all knowing. 10:47:27

10 I mean that's -- that's the theme for 10:47:33

11 everybody preparing taxes this year is maximize your 10:47:37

12 return. 10:47:42

13 Q Any other concerns about using a 10:47:42

14 government-sponsored program to prepare your taxes? 10:47:44

15 A That's enough. That's it. 10:47:47

16 Q I think you've already said this but -- 10:47:53

17 well, strike that. 10:47:59

18 Do you value the option of getting help as 10:48:00

19 you prepare your taxes? 10:48:03

20 A Not anymore. 10:48:07

21 Q What about going back to 2014? Do you 10:48:08

22 value the option of getting help as you prepared your 10:48:13

23 taxes? 10:48:19

24 A I couldn't access 2014 through TurboTax and 10:48:21

25 I got to tell you, I don't recall, you know, whether 10:48:26

1 I had -- what would be deemed a more complicated 10:48:32
2 earnings year. 10:48:38

3 Q When you prepare your taxes do you ever -- 10:48:45
4 since 2014 when you prepared your taxes, have you 10:48:49
5 ever had any questions about them? 10:48:52

6 A No. 10:48:53

7 Q Have you ever had any problems with the 10:48:54
8 I.R.S. after filing your taxes, other than the 10:49:00
9 instance that you already mentioned from 1981? 10:49:02

10 A During that -- you know, when the real 10:49:16
11 estate market was kind of upside down, I remember 10:49:19
12 trying to do an offer in compromise with the I.R.S. 10:49:24
13 once. 10:49:29

14 And once again, the semantics don't really 10:49:30
15 paint the picture. Let's just say for round figures 10:49:34
16 I owed them 5,000 bucks and I offered them four. 10:49:43
17 That's not how it worked. So I realized it was just 10:49:48
18 something that didn't -- didn't apply to me. It 10:49:50
19 wasn't worth pursuing. 10:49:52

20 Q So to be in an offer-and-compromise 10:49:53
21 situation, you had unpaid taxes. 10:50:00

22 Do I have that right? 10:50:02

23 A I don't know if I had unpaid taxes or if 10:50:03
24 taxes were looming. 10:50:07

25 Q Since you've been using TurboTax, have you 10:50:10

1 had any problems with the I.R.S. after filing your 10:50:13
2 taxes? 10:50:18
3 A No. 10:50:18
4 Q You understand that TurboTax is part of a 10:50:19
5 for-profit business; correct? 10:50:26
6 A Right. 10:50:28
7 Q You understand that TurboTax is not a 10:50:28
8 charity; correct? 10:50:30
9 A That's correct. 10:50:31
10 Q You know TurboTax is not itself the 10:50:32
11 government; correct? 10:50:35
12 A Yeah. 10:50:39
13 Q And you, given your experience in business, 10:50:41
14 I assume you understand that it costs money to 10:50:44
15 develop tax preparation software; correct? 10:50:48
16 A Yes. 10:50:52
17 Q And someone who's been paying taxes I think 10:50:52
18 for a long time now, you understand that the tax code 10:50:57
19 changes over time; correct? 10:51:00
20 A Yes. 10:51:01
21 Q You understand that when the tax code 10:51:01
22 changes, TurboTax has to upgrade its software 10:51:03
23 accordingly; correct? 10:51:07
24 MR. MAHMOOD: Objection; form. 10:51:09
25 THE WITNESS: It would make sense. I mean 10:51:12

1 they are holding themselves out as experts, so yes. 10:51:15

2 BY MR. GRINGER: 10:51:19

3 Q And you haven't encountered situations 10:51:19

4 where TurboTax couldn't handle your taxes from a -- 10:51:25

5 is that right?

6 A Say that again. 10:51:33

7 Q Withdrawn. You've already answered it. 10:51:34

8 I think you mentioned this already. 10:51:38

9 Did you read any reviews before you began 10:51:40

10 using TurboTax? 10:51:42

11 A Yeah. 10:51:43

12 Q Do you remember which reviews you read? 10:51:45

13 A No. 10:51:50

14 Q Do you remember how many reviews you read 10:51:53

15 before you began using TurboTax? 10:51:55

16 A That's a toughy. You know, we're jumping 10:52:05

17 in The Wayback Machine here. I would say I probably 10:52:08

18 read, you know, a five-star review. A three-star 10:52:11

19 review. A one-star review, you know, just to kind of 10:52:14

20 ferret out where -- you know, a lot of people that 10:52:17

21 have a voice now with Yelp don't mind really going at 10:52:21

22 it and you can usually tell when someone's just got 10:52:26

23 an ax to grind. 10:52:30

24 So I would think it's safe -- safe to say 10:52:31

25 if you had to put a number on it, it would be five or 10:52:34

1 six at least reviews and they were generally from 10:52:37
2 individuals. 10:52:40

3 Q Do you remember reading any, what I'll 10:52:47
4 call, independent reviews? 10:52:52

5 A No. 10:52:53

6 Q Nothing on a news site, for example? 10:52:56

7 A No. 10:53:00

8 Q These were individuals who had used the 10:53:06
9 product. Those were the reviews you read? 10:53:09

10 A Yeah, and that's -- like you said, that's 10:53:11
11 my recollection. 10:53:14

12 Q And you were careful to get a cross-sample 10:53:14
13 of both good and bad reviews, it sounds like? 10:53:20

14 A Yeah. Any time you do those review 10:53:25
15 websites you really do have to do that, you know, 10:53:29
16 whether it's a service or a product or what have you. 10:53:31

17 Q Why is it important to read both good and 10:53:34
18 bad reviews before you use the service? 10:53:37

19 A I'll give you an example I went through 10:53:39
20 this weekend. I was looking for work shirts and, you 10:53:41
21 know, I was hoping to find -- you know, right now 10:53:45
22 it's real popular to buy in the U.S.A. and, first and 10:53:49
23 foremost, JoesUSA, his shirts are made in Bangladesh. 10:53:55

24 Another shirt company that had a decent 10:54:00
25 looking shirt, one of the reviews said they're not 10:54:06

1 Americanized sizings. And having purchased a shirt 10:54:06
2 once as an extra large, and even my wife couldn't 10:54:10
3 have gotten into it or my -- oh, that's another 10:54:15
4 story. 10:54:20

5 So it turns out I had to buy a shirt that 10:54:20
6 was a 5X, you know, in order to get it to fit and -- 10:54:23
7 you know, it's just -- some of it is commonplace and 10:54:28
8 useful and other times it's just like, oh, they 10:54:29
9 didn't return my phone calls or something like that 10:54:31
10 and you just kind of go, yeah, right. Okay. Next. 10:54:34

11 Q And do you recall what the reviews you read 10:54:37
12 about TurboTax said? 10:54:42

13 A Just that it was easy to use mostly and 10:54:43
14 that the word that came to mind -- and I don't know 10:54:48
15 how -- in what context it was but painless, you know, 10:54:58
16 stuck in my head. 10:55:04

17 Q I take it whatever you read in the reviews, 10:55:13
18 you were not deterred from using TurboTax. 10:55:18

19 Do I have that right? 10:55:21

20 A No, there was some "there" there. 10:55:23

21 Q Did you read any reviews of any other 10:55:25
22 online tax preparation options? 10:55:28

23 A I got to tell you, it's like the old story 10:55:31
24 about tissue paper, how Kleenex cornered the market, 10:55:36
25 you know. Or Hershey's is the chocolate. TurboTax 10:55:41

1 is the TurboTax. I mean, I -- I know there's more 10:55:44
2 out there. 10:55:47
3 I think H&R Block does one now and I'm 10:55:48
4 trying to think what one of the other ones is. 10:55:50
5 But I mean it's like there's a lot of -- or 10:55:53
6 a lot more competition than what there used to be. 10:55:56
7 Q What do you like about using TurboTax? 10:56:06
8 A I like whoever designed the program, so it 10:56:10
9 feels like you are just having a conversation and the 10:56:14
10 way they've structured it, taking you from, you know, 10:56:19
11 just the facts to then -- life experiences is an 10:56:25
12 example. Did you get married? Did you die? Did 10:56:31
13 you -- you know, whatever. Did you have a baby? Did 10:56:35
14 you go back to college? 10:56:37
15 Everything is -- the question format is 10:56:38
16 user friendly and it's -- it's simple. You know, it 10:56:43
17 doesn't -- doesn't require a lot of head scratching, 10:56:48
18 you know. You just answer the question and you click 10:56:55
19 the button. 10:56:57
20 Q Anything else? 10:56:59
21 A I don't know. As opposed to for what? 10:57:01
22 Q No, is there anything else that you like -- 10:57:09
23 A You know, I may have mentioned it -- I 10:57:12
24 thought I did somewhere. But the -- when I looked 10:57:15
25 up, you know, to provide the -- the document 10:57:22

1 requests, when I figured out how to do it and how to 10:57:25
2 put it in an email, I got a response from Benjamin 10:57:30
3 Chapin that there was a couple of files that were 10:57:38
4 either corrupted or they couldn't open. 10:57:42

5 And then he asked who is Diana Sukorina? 10:57:44
6 And you could have knocked me over with a feather. I 10:57:49
7 said, Oh, my God.

8 And I went back and sure as shit, I guess, 10:57:53
9 she may have used TurboTax in 2016 and somehow in my 10:57:56
10 file when I pulled up my taxes, her tax return came 10:58:00
11 up. We filed separately. And I still haven't told 10:58:03
12 her that that was there. I mean, that just -- that 10:58:08
13 just -- oh, my God. What are they doing looking at 10:58:11
14 her stuff, you know. Or why is my stuff and her 10:58:14
15 stuff crossing over. 10:58:18

16 Q I'm sorry, who is Diana Sukorina? 10:58:21

17 A Well, she's my significant other of the 10:58:25
18 last 30 years. We're -- I guess we're on record as 10:58:29
19 being domestic partners. We're not married, but we 10:58:33
20 get along okay. 10:58:37

21 Q Can I ask you to go to folder 16, 10:58:45
22 Mr. Hartford, which we'll mark as Exhibit No. 4. 10:58:50

23 (Defendant's Exhibit 77 was marked for
24 identification by the Certified Shorthand Reporter
25 and is attached hereto.)

1 THE WITNESS: I tell you whoever sealed 10:58:59
2 these really should get a bonus. They did a job. 10:59:01
3 THE VIDEOGRAPHER: Mr. Hartford -- 10:59:06
4 THE WITNESS: Yes?
5 THE VIDEOGRAPHER: -- you turned off your 10:59:08
6 video on accident. 10:59:09
7 THE WITNESS: Oh, I'm sorry. Bad dog, 10:59:11
8 Paul. I'm back. 10:59:16
9 Okay. Ready. 10:59:34
10 BY MR. GRINGER: 10:59:35
11 Q And, Mr. Hartford, Exhibit No. 4 looks to 10:59:36
12 be an email chain between you and Benjamin Chapin 10:59:38
13 with the top email from February 24th, 2022. 10:59:44
14 Do I have that right? 10:59:47
15 A Yeah, I'm just turning your volume up a 10:59:48
16 little bit. 10:59:51
17 Yes. 10:59:51
18 Q Oh, I'm sorry, I can turn my own volume up 10:59:51
19 too. 10:59:54
20 Do you recognize Exhibit No. 4? 10:59:55
21 A Yes. 11:00:01
22 Q What is it? 11:00:02
23 A Oh, I went to the I.R.S. website. 11:00:03
24 This is where in providing the 11:00:05
25 documentation, 2014 on the TurboTax apparently was a 11:00:13

1 cutoff. They don't -- they don't store them anymore. 11:00:16

2 And I thought they would -- you know, that they 11:00:20

3 started with the next year. 11:00:23

4 And so I couldn't -- I couldn't provide an 11:00:24

5 actual tax return. 11:00:27

6 Q But you said that you would expect TurboTax 11:00:32

7 to have your 2014 returns. 11:00:35

8 Is that because you used TurboTax to 11:00:38

9 prepare your 2014 taxes? 11:00:40

10 A I thought -- well, yeah, because I 11:00:42

11 contacted the company I used in 2016, '17 and asked 11:00:46

12 if I had done it in 2014 with them and they said no. 11:00:50

13 So a cursory glance at the numbers, I 11:00:54

14 thought, well, that's seven years, but it's not 11:01:01

15 really. 11:01:04

16 Q That's because you would do your 2014 taxes 11:01:04

17 in 2015; is that right? 11:01:08

18 A Correct. 11:01:11

19 Q Do you remember how much you paid TurboTax 11:01:11

20 for your 2014 taxes? 11:01:13

21 A I'm pretty sure it was like 79.95 or 11:01:19

22 something. I went into both my current credit cards 11:01:25

23 and the -- you know, one credit card was an updated 11:01:30

24 version of the other one to try and find the specific 11:01:33

25 charges. And I could only find a couple and they 11:01:36

Page 64

Page 65

Page 66

1 Are you still with me? 11:06:30

2 A Yeah. 11:06:31

3 Q The next column over in Exhibit No. 5 11:06:31

4 reflects Intuit's records about whether you are 11:06:38

5 eligible to use the software that Intuit donated to 11:06:41

6 the I.R.S. Free File Program. 11:06:45

7 Does that make sense to you? 11:06:51

8 A Sure. 11:06:52

9 Q The next column over is titled "PRS 11:06:53

10 Scores." 11:06:56

11 Now, do you recall ever taking survey when 11:06:57

12 you finished using the TurboTax software? 11:06:59

13 A I don't recall. 11:07:02

14 Q Do you ever -- do you recall filling out a 11:07:06

15 questionnaire when you finished using the TurboTax 11:07:09

16 software? 11:07:11

17 A I don't remember. 11:07:11

18 Q So the column PRS score is a numerical 11:07:12

19 score you gave when you took a survey using TurboTax 11:07:21

20 and at the end of using the software. 11:07:24

21 So that's -- 11:07:26

22 A Oh, okay. 11:07:27

23 Q Does that refresh your memory? 11:07:29

24 A No, but I see what they're saying. In 11:07:31

25 other words, I gave it good reviews a couple years, 11:07:34

1 and then I was a little disappointed in tax year 11:07:37
2 2018, and I didn't bother in '19 or '20. 11:07:42
3 Q That is what it says. Thank you, 11:07:50
4 Mr. Hartford. We'll come back to that in a moment. 11:07:54
5 And then in the final column of Exhibit No. 11:07:57
6 5 is, as the title suggests, Intuit's records of 11:07:59
7 whether you used any add-on products or other 11:08:04
8 features of the TurboTax software, including, as 11:08:05
9 you'll see, the year-over-year data transfer that we 11:08:08
10 already talked about. 11:08:13
11 Is that clear? 11:08:14
12 A Yeah, I'm just -- it's pretty small print. 11:08:15
13 Q Okay. I think you -- 11:08:20
14 MR. MAHMOOD: I'm going to object to all 11:08:22
15 the description of the document as attorney testimony 11:08:25
16 and the document as lacking foundation. 11:08:26
17 MR. GRINGER: Can someone on the tech side 11:08:36
18 suggest to Mr. Hartford how he might be able to make 11:08:39
19 it a little larger? 11:08:42
20 THE WITNESS: I found it. Thank you. 11:08:43
21 MR. GRINGER: Okay. Great. 11:08:44
22 THE WITNESS: I didn't want to lose all the 11:08:47
23 rest of it. 11:08:49
24 MR. GRINGER: No, no. Understood. Thank 11:08:50
25 you. 11:08:51

1 THE WITNESS: Was there a question out 11:09:00
2 there? I'm sorry. 11:09:02
3 MR. GRINGER: Well, not -- not yet, no. 11:09:05
4 THE WITNESS: Okay. 11:09:06
5 BY MR. GRINGER: 11:09:06
6 Q No, I just -- can you see it better now? 11:09:07
7 Can you see Exhibit No. 5 better now? 11:09:07
8 A Yeah, I can see it now. I'm looking -- a 11:09:09
9 lot better. 11:09:11
10 Q Is there anything on Exhibit No. 5 that you 11:09:11
11 know to be untrue? 11:09:13
12 A I just don't have that expertise. 11:09:19
13 Q You don't have that expertise or you don't 11:09:21
14 remember? 11:09:24
15 A A little bit of both. 11:09:24
16 Q Now -- 11:09:25
17 A Oh, hey, time out. Time out. Time out. 11:09:38
18 Live tax advice in 2018? You know, 11:09:41
19 that's -- that's kind of weird. 11:09:43
20 Q Tax year 2018, so that would be calendar 11:09:45
21 year 2019. 11:09:48
22 A And I don't know what an answer exchange 11:09:56
23 is. And I certainly don't recall product support. 11:09:58
24 I'm not saying that they are falsified. 11:10:01
25 I'm just saying I don't -- I don't know 11:10:03

1 what they are and I don't recall ever having it. You 11:10:05
2 know, most -- what do you call it -- live advice now 11:10:10
3 is like a chat. You know, you go to a chat room or a 11:10:14
4 chat feature that your provider has there and you ask 11:10:17
5 somebody a question. I don't remember any of that. 11:10:21
6 But that's just for clarity. I don't know. 11:10:24
7 I don't remember any of that stuff. 11:10:28
8 Q Do you recall ever either taking a picture 11:10:29
9 of any of your tax forms and uploading them into the 11:10:33
10 TurboTax software? 11:10:37
11 A No. 11:10:38
12 Q And just for -- 11:10:38
13 A I took a screen share picture maybe a month 11:10:44
14 ago. 11:10:49
15 Q This would be with your phone. Do you 11:10:49
16 recall ever doing that? 11:10:52
17 A No, I use my phone -- I do every now and 11:10:53
18 then use it as a camera, but that's it. 11:10:57
19 Q Do you remember ever going to any payroll 11:11:01
20 service to access your tax forms? 11:11:04
21 A No. 11:11:11
22 Q Like a W-2? It sounds like also your 11:11:11
23 significant other may have used TurboTax on your 11:11:17
24 account for one or more years. 11:11:21
25 Is that possible? 11:11:23

1 A Well, she -- obviously, TurboTax has her, I 11:11:24
2 think, 2016 tax year, so I don't -- I don't know if 11:11:34
3 she did it on my account. 11:11:38
4 Q So you've described -- let me ask you this: 11:11:39
5 Have you ever disputed a charge from TurboTax on your 11:11:52
6 credit card? 11:11:56
7 A No, I don't believe so. 11:11:57
8 Q Have you ever complained to TurboTax about 11:11:59
9 an issue? 11:12:06
10 A I don't recall. 11:12:09
11 Q Now, if you look at Exhibit No. 5 for tax 11:12:23
12 year 2016 under the add-ons and other TurboTax 11:12:25
13 benefits column. 11:12:31
14 Do you see that?
15 A Uh-huh.
16 Q Do you see where one of them is TurboTax 11:12:34
17 Max? 11:12:40
18 A Yeah. 11:12:40
19 Q And are you familiar at all with TurboTax 11:12:41
20 Max? 11:12:50
21 A No. 11:12:50
22 Q Now, tax year '20, that's last year; 11:12:50
23 correct?
24 A Okay. 11:13:03
25 Q Are you with me? 11:13:03

1 A I am. That's the bottom of the document 11:13:04
2 there. 11:13:09
3 Q And so when you were preparing your taxes 11:13:10
4 last year -- well, let me ask you this: Did you use 11:13:13
5 TurboTax to prepare your taxes last year? 11:13:20
6 A For to 2021? 11:13:23
7 Q Yeah. 11:13:25
8 A Yeah. 11:13:26
9 Q Did you do anything to look for the 11:13:26
10 software that Intuit donated to the I.R.S. Free File 11:13:30
11 Program? 11:13:35
12 A No, I looked at that the article, that I 11:13:35
13 referenced earlier that said that that program came 11:13:38
14 to an end. 11:13:40
15 Q What about your 2020 taxes? Did you use 11:13:41
16 TurboTax to do your 2020 taxes? 11:13:47
17 A Yes. 11:13:49
18 Q Did you do anything to look for the 11:13:49
19 software that TurboTax donated to the I.R.S. Free 11:13:52
20 File Program for your 2020 taxes? 11:13:56
21 A Based on my experience I just went ahead 11:13:58
22 and bought whatever was the next step up so I knew I 11:14:01
23 wouldn't run aground. 11:14:05
24 Q So you did not do anything to look for the 11:14:08
25 software that TurboTax donated to the I.R.S. Free 11:14:12

1 File Program for your 2020 taxes; correct? 11:14:16

2 A No, I wasn't -- like I said, I wasn't aware 11:14:19

3 that they were in cahoots with one another. 11:14:22

4 Q I think you already said this, but for the 11:14:27

5 years in which you used TurboTax to prepare your 11:14:30

6 taxes, you were aware that you had choices other than 11:14:33

7 TurboTax; correct? 11:14:37

8 A Yes. 11:14:37

9 Q There's at least one recent year in which 11:14:37

10 you used an accountant to prepare your taxes; 11:14:45

11 correct?

12 A Yes. 11:14:51

13 Q Why did you use an accountant in that year 11:14:52

14 to prepare your taxes? 11:14:56

15 A My mother passed away and there was some 11:14:57

16 inheritance there and -- you know, I was actively 11:15:02

17 involved with selling her house and it just -- it 11:15:08

18 just seemed more -- I wanted to make sure that I 11:15:11

19 didn't miss anything and so I just went back to the 11:15:17

20 accounting firm I used to use. 11:15:19

21 Q Did you --

22 I didn't feel confident that I could use 11:15:22

23 it. I'm sorry. 11:15:25

24 Q No, I didn't mean to cut you off. I 11:15:26

25 apologize. 11:15:29

1 I assume the accounting firm that you use 11:15:30
2 charges more than TurboTax charges you to prepare 11:15:32
3 your taxes? 11:15:34
4 A Yes, they do. 11:15:34
5 Q And by about how much more does the 11:15:36
6 accountant charge than TurboTax? 11:15:41
7 A Hundreds of dollars. You know, I don't 11:15:42
8 recall. I guess that would be a good thing to look 11:15:44
9 up. I didn't look up to see what I paid them. But 11:15:47
10 it seemed to me it was in the neighborhood of six 11:15:49
11 hundred bucks. 11:15:53
12 Q And you used an accountant even though you 11:15:54
13 knew there were less expensive ways of preparing your 11:15:58
14 taxes; correct? 11:16:02
15 A Yes. And in that particular tax year for 11:16:03
16 that particular reason, yes. 11:16:06
17 Q And you used an accountant even though 11:16:07
18 there were less expensive ways of preparing your 11:16:15
19 taxes properly; correct? 11:16:18
20 A Correct. 11:16:19
21 Q So it's not true that it's always the case 11:16:19
22 that the best way to prepare your taxes is the least 11:16:21
23 expensive way that let's you prepare your taxes 11:16:24
24 properly; correct? 11:16:28
25 A Say it again for me, would you please? 11:16:29

1 Q Sure. It's not always the case that the 11:16:31
2 best way to prepare your taxes is the least expensive 11:16:34
3 way that let's you prepare your taxes properly 11:16:38
4 correct? 11:16:42

5 MR. MAHMOOD: Objection; form. 11:16:43

6 THE WITNESS: Depending on the complexity 11:16:44
7 of the return and the year's earnings and stuff, yes. 11:16:47
8 BY MR. GRINGER:

9 Q When you filed your taxes with the 11:16:53
10 accountant, did your accountant tell you there are 11:16:55
11 government programs where you could file your taxes 11:16:59
12 for free? 11:17:01

13 A No. 11:17:02

14 Q Did you expect your accountant to direct 11:17:02
15 you to government programs where you could file your 11:17:04
16 taxes for free? 11:17:12

17 A No. 11:17:13

18 Q Do you expect a business to tell you about 11:17:13
19 government programs where you can obtain the service 11:17:16
20 from the government for less than the business is 11:17:20
21 charging? 11:17:24

22 A In the instance you are referring to 11:17:26
23 Anderson & Associates, no. 11:17:29

24 Q Would you expect a bookstore to tell you 11:17:30
25 about the same book being available at the library? 11:17:34

Page 76

1 Q So, just so I'm clear, you would not expect 11:19:17
2 the employee down at the local Ace Hardware to tell 11:19:19
3 him that he could get the same thing at Home Depot 11:19:22
4 for four dollars? 11:19:28
5 A I wouldn't expect it, no. 11:19:29
6 Q Why not? 11:19:31
7 A Well, I imagine it's -- it's just not how 11:19:31
8 they are trained. 11:19:37
9 Q Do you know that Toyota owns Lexus? 11:19:49
10 A Yeah. 11:19:51
11 Q Would you expect a Lexus dealership to tell 11:19:52
12 you that you can get a SUV for less at the Toyota 11:19:56
13 dealership down the block? 11:20:00
14 MR. MAHMOOD: Objection; form. 11:20:00
15 THE WITNESS: I got to tell you, no. 11:20:01
16 BY MR. GRINGER: 11:20:09
17 Q Why not? 11:20:09
18 A Well, once -- once the prospect hits the 11:20:10
19 parking lot, you got to close it. That's it. If 11:20:15
20 anything you are going to up sell him. 11:20:19
21 Q So changing gears, when did you first hear 11:20:44
22 about this lawsuit? 11:20:48
23 A I don't recall specifically. I just 11:20:49
24 remember it was one of these little news blurb things 11:20:55
25 and I -- I guess I clicked on it and responded and it 11:21:05

1 generated an email to Mr. Mahmood's office and stuff 11:21:13
2 like that. 11:21:20
3 Q We'll come back to that in one second. 11:21:25
4 I guess -- just going back to the question 11:21:28
5 I was asking you about Lexus and Ace Hardware. 11:21:30
6 You understand that a business might have 11:21:33
7 discounts of various kinds available; correct? 11:21:36
8 A Sure. 11:21:40
9 Q And you understand, however, that sometimes 11:21:44
10 those discounts can't be made available to everyone; 11:21:46
11 correct?
12 A Yeah, you got to qualify for them. 11:21:51
13 Q Sometimes it's not clear whether you 11:21:54
14 qualify for the discount or not; correct? 11:21:56
15 MR. MAHMOOD: Objection; form. 11:22:00
16 THE WITNESS: I can't agree to that. 11:22:01
17 BY MR. GRINGER: 11:22:09
18 Q And as a general matter you don't expect 11:22:10
19 businesses to tell you about government programs 11:22:13
20 where the same service can be made available for 11:22:18
21 free; correct? 11:22:22
22 A My only experience in that is in the 11:22:23
23 lending business and, you know, we oftentimes had to 11:22:25
24 shop circumstances for borrowers and it may take them 11:22:30
25 out of the conventional lending area and into a 11:22:38

1 government program. 11:22:45

2 Q Interesting analogy. 11:22:46

3 So did you find that the conventional 11:22:47

4 lenders would tell the borrowers about the government 11:22:49

5 program? 11:22:52

6 A No. I, as the spokesperson for the 11:22:53

7 contact, was the person responsible for steering the 11:22:56

8 customer into the -- you know, into the program they 11:22:59

9 could qualify for. 11:23:03

10 That's not to say that some of the 11:23:06

11 conventional lenders didn't have a -- you know, a 11:23:07

12 government program also. You know, you take 11:23:11

13 Countrywide, they're out of business now, 11:23:14

14 understandably, but, you know, they had just a piss 11:23:16

15 pot full of programs and then they also had FHA, VA. 11:23:20

16 They did the PERS program. They did the STRS 11:23:28

17 program. All that stuff. 11:23:31

18 But it was just a matter of then, you know, 11:23:33

19 shopping for the best price, best rate usually. Or 11:23:35

20 extended circumstances where, you know, maybe they -- 11:23:39

21 a husband and wife and the wife just recently 11:23:41

22 relocated, hasn't found a new job, but based on what 11:23:46

23 they wrote down on their loan app, she was making ten 11:23:47

24 grand a month, you know. 11:23:52

25 Q So if I'm hearing you correctly what you 11:23:54

1 are saying is it's your understanding that to find 11:23:57
2 the best price, you have to shop around? 11:24:00
3 MR. MAHMOOD: Objection; form. 11:24:02
4 THE WITNESS: In the -- in the loan 11:24:03
5 business, yeah. 11:24:06
6 BY MR. GRINGER: 11:24:06
7 Q And as a general matter? 11:24:07
8 A As a general matter this kind of comes back 11:24:10
9 to my common sense comment. You know, we've become a 11:24:14
10 whole nation of barterers or negotiators or 11:24:18
11 something. You know, the best price doesn't always 11:24:30
12 mean the best product. And that's kind of where I'm 11:24:33
13 at. 11:24:38
14 Q So a product could have a lower price, but 11:24:38
15 it may not be the best product for a particular 11:24:43
16 consumer; correct? 11:24:45
17 A Yeah. I'll go back to my 5XL shirt. 11:24:48
18 Q Okay. I'm going to ask you to open folder 11:24:54
19 seven now and if we could mark that as Exhibit No. 6. 11:24:57
20 (Defendant's Exhibit 79 was marked for
21 identification by the Certified Shorthand Reporter
22 and is attached hereto.) 11:25:40
23 THE WITNESS: Okay. I've got it opened. 11:25:40
24 BY MR. GRINGER: 11:25:44
25 Q Mr. Hartford, have you ever seen the 11:25:44

1 substance of the email in Exhibit No. 6? 11:25:46

2 A Yeah, this sounds like the introductory to 11:25:48

3 my involvement. 11:26:12

4 Q So you referenced the news blurb earlier. 11:26:14

5 Is Exhibit No. 6 the news blurb you were 11:26:23

6 referencing? 11:26:24

7 A Well, I don't know where this came from, 11:26:26

8 but it certainly looks like it would be -- it would 11:26:28

9 have prompted me to contact the office of Los Angeles 11:26:30

10 city attorney. 11:26:34

11 Q So now if I could ask you to open folder 11:26:37

12 15A? 11:26:46

13 A What was the number? 11:26:49

14 Q 15A. 11:26:50

15 A 15A. 11:26:52

16 Q And we're going to mark that as Exhibit 11:26:53

17 No. 7. 11:26:55

18 (Defendant's Exhibit 80 was marked for

19 identification by the Certified Shorthand Reporter

20 and is attached hereto.) 11:26:56

21 BY MR. GRINGER: 11:26:56

22 Q For the record, Exhibit No. 7 is an email 11:27:06

23 beginning with the Bates No. PEOPLE-LACA-0007472. 11:27:08

24 A Okay. Was there a question? 11:27:42

25 Q Not yet. 11:27:44

Page 82

Page 83

1 Q Now, in Exhibit No. 7 you don't make any 11:31:26
2 reference to seeing a phrase on the TurboTax website, 11:31:30
3 quote, "Tell us about you. We'll recommend the right 11:31:34
4 product," close quote; correct? 11:31:37

5 A I don't see that, no. 11:31:45

6 Q Is there a reason why you didn't make any 11:31:46
7 reference to that phrase in Exhibit No. 7? 11:31:48

8 A I can't think of any. 11:31:56

9 Q In your initial communication in Exhibit 11:32:00
10 No. 7 to the city attorney, you don't make any 11:32:03
11 reference whatsoever to the TurboTax Free File 11:32:05
12 Program software; correct? 11:32:09

13 A Only in that I -- when I got -- let's see, 11:32:15
14 I couldn't go forward to electronically submit my 11:32:18
15 prepared return. I figured I was doing something 11:32:22
16 incorrectly. I backed up a few pages to see if I 11:32:26
17 overlooked a command. 11:32:33

18 Q But does that have anything to do with the 11:32:34
19 TurboTax Free File Program -- the I.R.S. Free File 11:32:37
20 Program? 11:32:42

21 A It just has to do with my experience and it 11:32:42
22 wasn't there. 11:32:45

23 Q When you say, "it wasn't there," what are 11:32:46
24 you referring to? 11:32:49

25 A My -- the reference to the I.R.S. program. 11:32:49

1 Q How do you know it wasn't there? 11:32:59

2 A Well, those are initials, you might as well 11:33:02

3 have them branded on your forehead. I mean, once you 11:33:05

4 see I.R.S., I mean, you zoom right in on that. 11:33:08

5 Q Did you search for the I.R.S. program 11:33:11

6 within TurboTax? 11:33:14

7 A No, there was -- again, as I came to 11:33:16

8 understand it, it was a separate website and I wasn't 11:33:23

9 aware of it. 11:33:27

10 Q And how did you come to understand it then? 11:33:28

11 A At the end of our initial conversation 11:33:35

12 between Mr. Mahmood and myself. 11:33:40

13 Q Did Mr. Mahmood not tell you that there are 11:33:51

14 multiple blogs posts and FAQs on the TurboTax website 11:33:55

15 where you can access the I.R.S. Free File Program? 11:33:59

16 A No. 11:34:03

17 Q All right. If you look at the bottom -- 11:34:04

18 the bottom email on Exhibit No. 7, that's an email 11:34:25

19 from the city attorney's office; is that right? 11:34:28

20 A Yeah. 11:34:30

21 Q And do you see -- that email is also dated 11:34:34

22 June 25th, 2020, in Exhibit No. 7; correct? 11:34:37

23 A Correct. 11:34:41

24 Q In the June 25th, 2020, message from the 11:34:41

25 city attorney, do you see where it says in the last 11:34:45

1 sentence -- second to last sentence, "Due to the 11:34:47
2 volume of messages, we may not be able to respond to 11:34:51
3 everyone individually"? 11:34:54
4 A Yeah. 11:35:01
5 Q Do you agree that language makes it sounds 11:35:01
6 like the city attorney is getting a large volume of 11:35:04
7 responses? 11:35:06
8 A I guess. 11:35:19
9 Q And do you agree with me that if the city 11:35:20
10 attorney actually got very few responses, that 11:35:23
11 language is just defective? 11:35:28
12 MR. MAHMOOD: Objection; form. 11:35:33
13 THE WITNESS: I don't know how I would know 11:35:34
14 that. 11:35:35
15 MR. GRINGER: Right. 11:35:36
16 BY MR. GRINGER: 11:35:36
17 Q You wouldn't know whether they did or did 11:35:36
18 not get a lot of messages because they're the ones 11:35:39
19 who would know; right? 11:35:41
20 A I'm sorry, say that last part again. 11:35:43
21 Q The city attorney would know whether or not 11:35:45
22 he got a lot of messages; correct? 11:35:47
23 A Yes. 11:35:58
24 Q Now, despite responding to the city 11:35:58
25 attorney in Exhibit No. 7 on June 25th, 2020, you 11:36:01

1 didn't hear anything back for almost seven months; 11:36:08
2 correct?

3 A Sounds about right, yeah. 11:36:12

4 Q Do you know why it took seven months for 11:36:14
5 the city attorney to get back to you? 11:36:17

6 A Well, I just figured it was part of the 11:36:18
7 bureaucracy. 11:36:23

8 Q Do you think your memory of using TurboTax 11:36:24
9 would have been clearer if you had been contacted by 11:36:27
10 the city attorney's office sooner? 11:36:31

11 MR. MAHMOOD: Objection; form. 11:36:34

12 THE WITNESS: You know, I understand where 11:36:35
13 you are going with this. But I have to say given 11:36:37
14 that the documents you asked for and the experience I 11:36:41
15 expressed, I don't -- aside from maybe some needling 11:36:45
16 little things as far as dates are concerned, I don't 11:36:58
17 see where it would have made that much difference. 11:37:01

18 BY MR. GRINGER: 11:37:03

19 Q The documents that Intuit asked for, did 11:37:04
20 you review any of those documents before you spoke to 11:37:06
21 Mr. Mahmood? 11:37:10

22 A No. 11:37:11

23 Q Now, can we go to -- can you open folder 11:37:11
24 15C, which we'll mark as Exhibit No. 8. 11:37:17

25 (Defendant's Exhibit 81 was marked for

1 identification by the Certified Shorthand Reporter
2 and is attached hereto.) 11:38:07
3 MR. GRINGER: Okay. 11:38:07
4 BY MR. GRINGER: 11:38:07
5 Q Do you recognize Exhibit No. 8, 11:38:07
6 Mr. Hartford? 11:38:10
7 A Uh-huh. Yes. 11:38:11
8 Q Yes? And for the record Exhibit No. 8 is 11:38:13
9 an email exchange with the Bates number beginning 11:38:18
10 with PEOPLE-LACA-0008317? 11:38:21
11 A I don't see that. 11:38:30
12 Q It's in the bottom right-hand corner. 11:38:31
13 A Oh, yeah. Okay. Got you. 11:38:34
14 Q And so do you see Mr. Mahmood responds to 11:38:37
15 your June 25th, 2020, message on January 14th, 2021? 11:38:41
16 A Okay. 11:38:49
17 Q Do you see that? 11:38:49
18 A Yes. 11:39:02
19 Q Have you spoken to anyone in the 11:39:06
20 Los Angeles City Attorney's Office between your 11:39:08
21 message on June 25th, 2020, and Mr. Mahmood's January 11:39:11
22 14th, 2021, email? 11:39:18
23 A No. 11:39:20
24 Q Mr. Mahmood's response makes no mention of 11:39:20
25 having you sign a declaration; correct? 11:39:30

1	A	Not in this one, no.	11:39:38
2	Q	Did he ever send you an email about a	11:39:40
3		declaration?	11:39:43
4	A	Well, there's a signed declaration in there	11:39:43
5		and I signed it, so there must have been a request at	11:39:46
6		some point in this adventure.	11:39:52
7	Q	Yeah, that's what I'm trying to figure out,	11:39:57
8		too.	11:39:59
9		So how is it that Mr. Mahmood requested	11:40:00
10		that you sign a declaration?	11:40:03
11	A	Well, I included that chain of 17 or 18	11:40:08
12		email exchanges, so I would have thought it would	11:40:15
13		have been in there somewhere.	11:40:18
14	Q	Well, it wasn't there.	11:40:19
15		Do you remember Mr. Mahmood asking you	11:40:20
16		about signing a declaration -- we have you sending	11:40:23
17		the declaration back to Mr. Mahmood, but we don't	11:40:26
18		have how he asked.	11:40:30
19		Do you remember how he asked to you sign a	11:40:33
20		declaration?	11:40:36
21	A	Yeah, it was a conversation where -- I	11:40:37
22		think it was more or less a follow-up where he asked	11:40:42
23		me if the declaration pretty much reflected	11:40:45
24		everything I said. If I wanted to make any changes.	11:40:49
25		And I thought he paraphrased it very well, hence, I	11:40:54

1 signed it and sent it back. 11:41:00

2 Q How did Mr. Mahmood get you the 11:41:01

3 declaration? 11:41:05

4 A Good question. I don't recall. 11:41:10

5 Q Did he mail it to you?

6 A I would assume, something like this, 11:41:14

7 wouldn't it have come like registered letter or 11:41:16

8 certified mail or something? 11:41:21

9 Q Honestly, I'm scratching my head how he got 11:41:22

10 it to you since he didn't produce it in response to 11:41:26

11 our subpoena. 11:41:29

12 I don't -- I don't know how he got it to

13 you and you don't remember; is that fair? 11:41:32

14 A I think that's fair. I don't recall. 11:41:33

15 Q Did he send you a paper copy of the 11:41:34

16 declaration? 11:41:38

17 A Well, it's a wet ink signature or it looks 11:41:39

18 to be. 11:41:44

19 Q Well, the last page is a wet ink signature. 11:41:45

20 But what about the rest of the document? 11:41:48

21 A Oh, that's not here. I don't recall. 11:41:53

22 Q Okay. We'll come back to it. 11:41:59

23 So it's fair to say you don't remember how 11:42:01

24 Mr. Mahmood shared the draft declaration with you? 11:42:04

25 A I -- I don't recall. 11:42:09

1 Q All right. So back to Exhibit No. 8 for a 11:42:14
2 minute. 11:42:18
3 Again, nowhere in this email exchange do 11:42:19
4 you reference seeing a phrase on the TurboTax 11:42:22
5 website, "Tell us about you, we'll recommend the 11:42:25
6 right product"; is that correct? 11:42:30
7 A I'm sorry, start over. What was the 11:42:32
8 question? 11:42:34
9 Q Sure. 11:42:35
10 Nowhere in Exhibit No. 8 do you reference 11:42:36
11 seeing a phrase on the TurboTax website, "Tell us 11:42:38
12 about you, we'll recommend the right product"; is 11:42:41
13 that correct?
14 A What am I looking at? I don't recall that. 11:42:53
15 Q Exhibit No. 8. 11:42:56
16 A Exhibit -- 11:42:58
17 Q Eight? 11:43:01
18 A -- H? 11:43:02
19 Q Eight? 11:43:03
20 A Eight. 11:43:04
21 Q The document that's right in front of you. 11:43:04
22 A Oh, okay. This is eight. All right. 11:43:06
23 Q Yes. 11:43:08
24 A No, just that phrase -- I don't see my 11:43:16
25 reference to it. It's just something that's on the 11:43:18

1 TurboTax website. 11:43:21

2 Q Uh-huh. 11:43:22

3 Now, you do say in the top email of Exhibit 11:43:27

4 No. 8 that you had already filled out the TurboTax 11:43:30

5 questionnaire about your experience this year. 11:43:33

6 What were you referring to? 11:43:35

7 A I imagine that would have been having to do 11:43:36

8 with the PRS scores. 11:43:41

9 Q So you do remember -- does that refresh 11:43:43

10 your recollection about whether you filled out a 11:43:46

11 survey when you completed your TurboTax returns? 11:43:49

12 A Yeah, and I used the word "iffy," so that 11:43:52

13 might have been a -- this was 2021. I don't know 11:43:57

14 whether it aligns with my reading of seven or not. 11:44:05

15 Q But as of January 21st, 2021, you had 11:44:09

16 already used TurboTax for that year; correct? 11:44:14

17 A Yeah. 11:44:18

18 Q All right. Let's now go to folder 15 "D" 11:44:23

19 as in "David," which we'll mark as Exhibit No. 9. 11:44:28

20 (Defendant's Exhibit 82 was marked for

21 identification by the Certified Shorthand Reporter

22 and is attached hereto.) 11:45:00

23 MR. GRINGER: We'll do this document and 11:45:00

24 then we can take a break, Mr. Hartford, if that's 11:45:03

25 okay. 11:45:07

1 THE WITNESS: I'm sorry, what? 11:45:07

2 MR. GRINGER: Yeah, I have some questions 11:45:09

3 about this document and then we can take a break. 11:45:12

4 Does that work and then we can take a break for 11:45:15

5 lunch? 11:45:17

6 THE WITNESS: Oh, yeah, that's fine. 11:45:18

7 MR. GRINGER: For the record, Exhibit No. 9 11:45:19

8 is a multi-page document with a Bates number 11:45:21

9 beginning with PEOPLE-LACA-0006580. 11:45:25

10 THE WITNESS: Correct. 11:45:27

11 BY MR. GRINGER: 11:45:28

12 Q And have you ever seen Exhibit No. 9 11:45:29

13 before? 11:45:31

14 A Oh, well, this looks like it relates to how 11:45:31

15 we got to the declaration, the accuracy of my 11:45:41

16 declaration. 11:45:44

17 Q Well, for now I just want to the ask you if 11:45:48

18 you've seen Exhibit No. 9 before? 11:45:51

19 A You know, this would be part of the email 11:46:01

20 chain. 11:46:03

21 Q Can I ask you to turn to the second page of 11:46:05

22 Exhibit No. 9? 11:46:08

23 A Okay. 11:46:14

24 Q And do you see about a quarter of the way 11:46:15

25 down the page you get an email from the city 11:46:18

Page 93

1 attorney's office, "Would 11:30 a.m. tomorrow work 11:46:20
2 for you"? 11:46:26
3 A Oh, yes, I found it. 11:46:26
4 Q And do you know if you ended up talking to 11:46:44
5 the city attorney's office on or about January 22nd, 11:46:47
6 2021? 11:46:51
7 A I don't recall. I know we had some missed 11:46:52
8 contacts, you know, where we rescheduled getting 11:47:01
9 together, you know, whether it was via email or 11:47:09
10 phone. 11:47:12
11 Q But there was a first time around January 11:47:12
12 21st, 2021, when you spoke to Mr. Mahmood. 11:47:14
13 Is that fair to say? 11:47:22
14 A Looks like it. You know, again, looks like 11:47:23
15 we set something up. 11:47:34
16 Q Okay. Let's look -- let me try and put it 11:47:35
17 this way. 11:47:36
18 There was a first time you spoke to 11:47:37
19 Mr. Mahmood; correct? 11:47:39
20 A Okay. Yes. 11:47:41
21 Q Do you remember if the first time you spoke 11:47:41
22 to Mr. Mahmood was over Zoom? 11:47:47
23 A No, I've never used Zoom. 11:47:49
24 Q Do you know if it was over -- was it a 11:47:54
25 video conference? 11:47:57

Page 95

1 A I know Mr. Mahmood was because he had me 11:49:10
2 slow down and repeat a couple of things. 11:49:14
3 Q Did Mr. Mahmood ask you questions the first 11:49:16
4 time you spoke to him? 11:49:19
5 A Maybe in formatting or and picking apart, 11:49:21
6 you know, what my experience was a little bit. 11:49:38
7 Q Do you remember any of the questions he 11:49:47
8 asked you? 11:49:49
9 A No. 11:49:49
10 Q You said he asked you a question about 11:49:55
11 formatting. 11:49:57
12 What do you mean by that? 11:49:58
13 A Oh, insofar as what this process was as far 11:49:59
14 as my participation. 11:50:03
15 Q What did he say about your participation? 11:50:09
16 A Essentially everything we talked about was 11:50:15
17 my experience, my expectation and how I felt 11:50:25
18 whether -- you know, whether the tax return filing 11:50:29
19 preparation -- you know, I don't feel as if I was 11:50:40
20 lead to conclude anything or -- of that nature. 11:50:49
21 It was simply a matter of I'm going to take 11:50:54
22 this and I'm going to make this available, I'm going 11:50:57
23 to put it in this format and essentially you are 11:51:02
24 going to sign it and away we go. 11:51:05
25 Q During that first conversation you had with 11:51:10

1 Mr. Mahmood he asked you about signing a declaration; 11:51:12
2 correct?
3 A Yeah. 11:51:15
4 MR. MAHMOOD: Objection; attorney work 11:51:16
5 product. 11:51:18
6 THE WITNESS: There would be a -- oh. 11:51:18
7 MR. GRINGER: You can answer. 11:51:20
8 THE WITNESS: Oh, okay. 11:51:21
9 I had that to look forward to, you know, 11:51:24
10 that there would be, you know, a signed declaration 11:51:27
11 submitted as part of this lawsuit. 11:51:29
12 I'm sorry? 11:51:34
13 BY MR. GRINGER: 11:51:36
14 Q Why do you say you had that to look forward 11:51:37
15 to? 11:51:39
16 A Well, it's not, yippie, it's my birthday, 11:51:40
17 there's going to be a party, including a clown. It's 11:51:44
18 just that this takes place here, then this happens 11:51:47
19 and then this happens and then this happens. 11:51:50
20 Q Did Mr. Mahmood mention a motion that 11:51:53
21 Intuit had filed in the lawsuit brought by city 11:51:59
22 attorney? 11:52:03
23 A At some point, yeah, I don't recall that, 11:52:03
24 but I -- I don't know what date it was, but it was 11:52:06
25 something about -- I guess it was something that gave 11:52:08

1 credence to the lawsuit or something. 11:52:11

2 Q That Intuit's motion gave credence to the 11:52:12

3 lawsuit? 11:52:17

4 A No, the denial by the judge of Intuit's 11:52:17

5 motion to dismiss the thing. 11:52:20

6 Q That's what Mr. Mahmood told you? 11:52:23

7 A I -- I believe so. 11:52:28

8 Q Did Mr. Mahmood tell you that the city 11:52:30

9 attorney had a deadline in February of 2021 to 11:52:33

10 respond to Intuit's motion? 11:52:36

11 A Nope, I don't believe so. 11:52:42

12 Q Did Mr. Mahmood seem in a hurry to get you 11:52:43

13 to sign the declaration? 11:52:47

14 A No. 11:52:48

15 Q Did Mr. Mahmood tell you about any of the 11:52:50

16 city attorney's arguments in the lawsuit? 11:52:56

17 A No. 11:52:59

18 Q Did Mr. Mahmood tell you about any of 11:52:59

19 Intuit's arguments in the case? 11:53:02

20 A No. 11:53:04

21 Q Did Mr. Mahmood ask if you had ever filed 11:53:07

22 your taxes for free using TurboTax? 11:53:10

23 A We had that discussion initially. 11:53:12

24 Q What did -- tell me about that discussion. 11:53:20

25 A Well, it was the essence of why I contacted 11:53:22

1 the office. It was like, hey, you know, I -- I 11:53:25
2 thought I was going to get to file for free and then 11:53:30
3 I realized that -- like I had said earlier, there's a 11:53:33
4 difference between tax preparation and tax filing. 11:53:36
5 And somewhere along the line I thought filing my tax 11:53:39
6 return meant filing it, that is to say getting it to 11:53:46
7 the recipients and in order to do that, I had to pay 11:53:50
8 money. 11:53:54

9 Q Did you tell Mr. Mahmood, though, that you 11:53:54
10 had filed your taxes for free in tax year 2014? 11:53:58

11 A No. 11:54:04

12 Q During -- on your first call with 11:54:04
13 Mr. Mahmood, did the phrase, "Tell us about you, 11:54:07
14 we'll recommend the right product" come up? 11:54:13

15 A Once again, I don't recall. 11:54:19

16 Q Okay. Do you recall bringing it up 11:54:26
17 yourself, that phrase? 11:54:29

18 A Only in describing the -- I don't have it 11:54:36
19 here. You know, the free, the elementary version, 11:54:39
20 the next version up and then the -- I guess the 11:54:44
21 Deluxe, you know, the different categories that I 11:54:49
22 could select. 11:54:53

23 Q Anything else? 11:54:58

24 A I can't think of anything. 11:54:59

25 Q Did Mr. Mahmood ask you how you first 11:55:03

1 arrived at the TurboTax website? 11:55:06

2 MR. MAHMOOD: Objection; attorney work 11:55:08

3 product. 11:55:13

4 MR. GRINGER: You can answer. 11:55:14

5 THE WITNESS: And, no, I don't recall. 11:55:14

6 BY MR. GRINGER: 11:55:15

7 Q Did Mr. Mahmood ask to see any written 11:55:16

8 substantiation of anything that you had? 11:55:19

9 MR. MAHMOOD: Objection; attorney work 11:55:23

10 product. 11:55:25

11 THE WITNESS: He had asked for the -- you 11:55:25

12 know, the web page that showed which -- which tax -- 11:55:27

13 TurboTax services were available and I think I 11:55:35

14 forwarded that to him. 11:55:39

15 BY MR. GRINGER: 11:55:40

16 Q Any other written substantiation of 11:55:41

17 anything he said? 11:55:43

18 A No, because I recall when -- when 11:55:47

19 Mr. Chapin contacted me, I had used the word 11:55:52

20 "anecdotal." Everything was pretty much this is what 11:55:56

21 I recall, this is what I did, this is what happened, 11:56:05

22 this is -- this is it, you know. 11:56:08

23 Q Do you -- 11:56:10

24 A Go ahead. 11:56:12

25 Q I was going to ask you: Do you know what 11:56:13

1 purpose your declaration was used for in this 11:56:15
2 lawsuit? 11:56:18
3 A To verify that I felt like I had been taken 11:56:19
4 advantage of by TurboTax. 11:56:26
5 Q Anything else? 11:56:30
6 A No. 11:56:35
7 Q Did you -- well, can I just ask why do you 11:56:36
8 keep using TurboTax if you feel they took advantage 11:56:42
9 of you? 11:56:44
10 A I'm sorry, say that again. 11:56:45
11 Q Why do you keep using TurboTax to prepare 11:56:46
12 your taxes if you feel they took advantage of you? 11:56:48
13 A You know, they're the biggest player on the 11:56:51
14 block. My information is already with them. I 11:56:59
15 didn't care to, you know, start all over again with 11:57:04
16 somebody else. 11:57:06
17 Now that I knew how the game was played, I 11:57:07
18 knew there really wasn't a free thing out there at 11:57:10
19 all and I knew what to expect and, you know, I just 11:57:16
20 paid my money and got my taxes done. 11:57:19
21 Q And when you say TurboTax took advantage to 11:57:22
22 you, what is it you are referring to specifically? 11:57:25
23 A Well, they took -- they took my money, you 11:57:28
24 know, when it was supposed to be a free service. But 11:57:34
25 the way they break it out on the website, they'll 11:57:37

1 prepare your tax, but they won't let you have it 11:57:42
2 unless you pay the money. 11:57:45
3 Q Anything else? 11:57:46
4 A That was pretty much the nut of it, you 11:57:48
5 know. And again, the format that TurboTax uses is so 11:57:50
6 friendly. You know, you just feel like these guys 11:57:56
7 are really helping you. These guys, you know, they 11:57:58
8 do -- you go through the thing and then, oh, no, 11:58:02
9 sorry, wait a minute, you got to -- you got to pony 11:58:04
10 up here. 11:58:11
11 Q Did TurboTax use a less friendly format? 11:58:12
12 A Could they use a less friendly format? 11:58:15
13 Q Should they. Should they use a less 11:58:20
14 friendly format? 11:58:23
15 A Well, that's a good question. Having dealt 11:58:24
16 with forms for so long and a good part of my life, 11:58:31
17 these were refreshing forms to go through. It was 11:58:36
18 easy to understand. 11:58:39
19 But what was lacking was the fact that once 11:58:40
20 we got to the end, they needed money in order for me 11:58:45
21 to close out the transaction. And I think early on, 11:58:49
22 you know, if it had said we'll prepare your taxes, 11:58:57
23 there will be a filing fee, I would have said fine. 11:59:01
24 Q You understood, though, that there were 11:59:05
25 free and paid versions of TurboTax; correct? 11:59:07

Page 103

1 the record? 12:00:17

2 THE VIDEOGRAPHER: Thank you. Stand by, 12:00:18

3 please. This marks the end of Media No. 2. Going 12:00:19

4 off the record at 12:00 p.m. Pacific time. 12:00:22

5 (Lunch recess taken.) 12:31:50

6 THE VIDEOGRAPHER: We are back on the 12:32:57

7 record at 12:33 p.m. Pacific and this marks the 12:33:09

8 beginning of Media No. 3 in the deposition of Paul 12:33:12

9 Hartford. 12:33:15

10 Please proceed, Counsel. 12:33:17

11 BY MR. GRINGER: 12:33:18

12 Q Welcome back, Mr. Hartford. 12:33:19

13 Did you review any documents while we were 12:33:21

14 on our lunch break? 12:33:23

15 A No. 12:33:25

16 Q So you testified just before we went to 12:33:27

17 lunch that your declaration was anecdotal. 12:33:30

18 Do you recall that? 12:33:38

19 A Yeah. 12:33:38

20 Q What do you mean by that? 12:33:38

21 A I told a story. 12:33:40

22 Q Anything else? 12:33:45

23 A No. You know, I told a story. I told them 12:33:47

24 what my experience was. 12:33:54

25 Q Is the story in your declaration, is it 12:33:56

1 just something that happened over one year or are you 12:34:01
2 taking multiple years taken together? 12:34:04

3 A It wasn't the first time that I had, you 12:34:07
4 know, got that impasse situation. 12:34:12

5 Q So let me ask is the story you tell in your 12:34:16
6 declaration, is that a story that unfolded in one 12:34:23
7 year or is that a story that occurred over multiple 12:34:28
8 years? 12:34:31

9 A This is as it related to -- what is it -- 12:34:31
10 tax year 2015 or something. I don't know. 12:34:35

11 Q Okay. And by tax year 2015, what calendar 12:34:37
12 year? 12:34:41

13 A That would have been 2014. 12:34:42

14 Q Did you tell that to Mr. Mahmood that this 12:34:48
15 experience was 2015? I'm sorry, let me ask a better 12:34:54
16 question. 12:34:59

17 Did you tell Mr. Mahmood that the 12:34:59
18 experience you were describing in your declaration 12:35:01
19 occurred in 2014? 12:35:04

20 A I told him it was my most recent 12:35:05
21 experience. I got to tell you this 2015, 2014, yada, 12:35:08
22 yada, yada, I -- you know, I just know that I began 12:35:15
23 to suspect that there wasn't a free lunch out there. 12:35:21
24 You know what I mean? Even know I was being sold 12:35:26
25 that there was. 12:35:29

1 Q So, you just said something I want to 12:35:30
2 follow-up on. 12:35:33
3 You said you told Mr. Mahmood that it was 12:35:33
4 your most recent experience which would have been in 12:35:37
5 2021; right? 12:35:41
6 A Right. 12:35:43
7 Q So when you drafted -- you tell a story in 12:35:44
8 your declaration. 12:35:50
9 What year did that story take place? 12:35:51
10 A Well, that would have been the story of 12:35:54
11 what? 2020 earnings and stuff filed in 2021, if I'm 12:35:56
12 not mistaken. 12:36:08
13 I mean, I couldn't have very well-responded 12:36:10
14 in earlier years because I didn't hear about this 12:36:13
15 lawsuit. 12:36:17
16 Q My question, Mr. Hartford -- and I 12:36:17
17 apologize for not being clear. Not -- I'm not asking 12:36:19
18 what year you sign the declaration. 12:36:23
19 I'm just asking inside the declaration you 12:36:28
20 tell a story. That was your testimony; right? 12:36:31
21 A Yeah. 12:36:36
22 Q And what year did the events in the story 12:36:36
23 happen? 12:36:39
24 A It would have been the tax year preceding 12:36:39
25 whatever the date is on that email where I sent my 12:36:43

1 experience. 12:36:46

2 Q So that would have been the -- so the 12:36:46

3 experience in the story you tell in your declaration 12:36:49

4 would have then happened in 2019; is that correct? 12:36:54

5 A That's fair to say. Again, I don't recall. 12:36:57

6 I don't recall -- you know, if I went back and I 12:37:02

7 reread what that intro was insofar as you are an 12:37:12

8 Intuit customer and you might be entitled to blah, 12:37:17

9 blah, blah or whatever. That's about the only -- 12:37:22

10 only thing that really kind of covers at any 12:37:24

11 particular date. 12:37:28

12 Q And you are referring there to Exhibit 12:37:28

13 No. 7? 12:37:31

14 A Yeah. Because I keep -- you know, I still 12:37:31

15 got that Exhibit No. 5 up on the screen and I look at 12:37:35

16 the -- you know, the tax years and the service that I 12:37:39

17 bought from TurboTax and it just -- you know, it's 12:37:42

18 like one, two, three of the years there say, "Free 12:37:58

19 TTO," and then the same amount say, "Paid Deluxe." 12:38:07

20 So either I got prompted to upgrade in the 12:38:12

21 filing process -- or, excuse me, in the preparation 12:38:15

22 process in those years that I paid for the Deluxe in 12:38:17

23 the years where I thought I was going to get 12:38:20

24 something for free and I didn't, I guess. 12:38:22

25 That's as near as I can figure on this one. 12:38:27

1 Q Is it correct to say that your memory of 12:38:30
2 your TurboTax experience is not perfect? 12:38:33

3 A It's -- it's safe to say that my TurboTax 12:38:36
4 experience hasn't been perfect. 12:38:41

5 As far as my memory is concerned, I would 12:38:44
6 have to do a lot more, you know, digging around and 12:38:51
7 actually look at the tax returns and all like that 12:38:58
8 and, you know, that's partly why I do it online and 12:39:03
9 electronically. I don't want that paperwork. 12:39:07

10 Q Understood and I appreciate your clever 12:39:09
11 rejoinder about your TurboTax experience. 12:39:13

12 A I'm sorry. 12:39:15

13 Q No, no, we're here for listen to you. 12:39:17

14 So my first question is: Is your memory 12:39:20
15 about using -- your memory of your TurboTax 12:39:23
16 experience is not perfect; right? 12:39:25

17 A I think that's safe to say. 12:39:27

18 Q And you just testified that as far as your 12:39:28
19 memory is concerned you would have to do a lot more 12:39:31
20 digging around and actually looking at the tax 12:39:35
21 returns to have a better memory of your TurboTax 12:39:38
22 experience; right? 12:39:40

23 A Yeah. There's a common thread through my 12:39:42
24 experience. 12:39:46

25 Q But the digging around and actually looking 12:39:46

1 at the tax returns to have a better memory of your 12:39:52
2 TurboTax experience, you didn't do that digging 12:39:57
3 before you signed your declaration; correct? 12:39:59
4 A I didn't -- I wasn't called on to do that. 12:40:00
5 Q So, I'm not asking whether you were called 12:40:03
6 on to do it. 12:40:09
7 The digging around and actually looking at 12:40:10
8 the tax returns to have a memory of your TurboTax 12:40:12
9 experience, you didn't do that digging before you 12:40:17
10 signed your declaration; correct? 12:40:19
11 A It wasn't necessary, no. 12:40:20
12 Q So you testified that your declaration was 12:40:22
13 anecdotal. 12:40:29
14 What did you mean by that? 12:40:32
15 A Well, I didn't have charts and graphs and a 12:40:34
16 bunch of receipts and stuff to submit. 12:40:38
17 I didn't have -- you know, knowing what I 12:40:41
18 know now, you know, I should have probably been 12:40:43
19 saving all kinds of screen shares and pictures of all 12:40:46
20 this stuff when I ran into an upgrade requirement or 12:40:51
21 when I was denied this, but I didn't do that. I 12:40:55
22 don't -- I just didn't do that. 12:40:59
23 Q Do you have any personal knowledge about 12:41:06
24 whether your experience of using TurboTax is 12:41:08
25 representative of anybody else's experience of using 12:41:10

1 TurboTax? 12:41:12

2 A I have no experience or I have no -- no, 12:41:12

3 sorry. 12:41:18

4 Q Do you know what The Wayback Machine is? 12:41:25

5 A Do I know what what is? 12:41:30

6 Q The Wayback Machine. 12:41:34

7 A Oh, that's where the dog and boy go back in 12:41:35

8 time on -- what was that? Rocky and Bullwinkle. 12:41:40

9 Q Have you ever heard of the Internet Archive 12:41:44

10 Wayback Machine? 12:41:51

11 A I have to say, no. 12:41:51

12 Q You said you sent Mr. Mahmood a screenshot 12:41:53

13 at some point? 12:41:59

14 A Yeah. 12:42:00

15 Q Do you recall that? What was it a 12:42:00

16 screenshot of? 12:42:04

17 A The level of services available, you know, 12:42:05

18 starting with the Free and then going to the -- each 12:42:09

19 ensuing level of service and, you know, the different 12:42:16

20 price points. 12:42:20

21 Q When did you send that to Mr. Mahmood? 12:42:21

22 A I don't know. 12:42:31

23 Q Do you know why that's not in the 12:42:31

24 production we received? 12:42:33

25 A It should be. It was in an email, wasn't 12:42:36

1 it? 12:42:42

2 Q I don't know, sir. I know we didn't get it 12:42:43

3 from either you or Mr. Mahmood, so I was just trying 12:42:45

4 to figure out -- 12:42:48

5 A I see. 12:42:49

6 Q -- if we should have it. 12:42:50

7 A When I reviewed -- such as it was, when I 12:42:52

8 went back over some of those emails and when I was 12:42:57

9 searching through my email history, I remember seeing 12:42:59

10 it there. 12:43:08

11 Q Well, if you wouldn't mind forwarding it to 12:43:08

12 us after the deposition concludes, that would be very 12:43:12

13 helpful. 12:43:16

14 Do you know where you went to get that 12:43:17

15 image? 12:43:21

16 A I can only assume it was at the TurboTax 12:43:24

17 site. 12:43:28

18 Q So you went to the TurboTax site in 2021? 12:43:29

19 A Yeah. 12:43:32

20 Q You didn't go and access what the TurboTax 12:43:32

21 website looked like in 2015 or 2016; correct? 12:43:40

22 A No, not to my recollection. 12:43:49

23 Q And you certainly didn't go to The Wayback 12:43:51

24 Machine to access that; correct? 12:43:54

25 A No, I was just pleased that I could see my 12:43:55

1 prior years' tax returns, that they were there and so 12:43:59
2 that I could forward them to Chapin. 12:44:04
3 Q At the conclusion of your first call with 12:44:06
4 Mr. Mahmood, did you agree to sign the declaration? 12:44:09
5 A I believe so. 12:44:18
6 Q So, if you go back to Exhibit No. 9, you 12:44:19
7 had a second call with Mr. Mahmood; is that right? 12:44:22
8 A Is that the one dated February third. 12:44:25
9 Q You have an email in your discussion 12:44:28
10 talking the next day. 12:44:35
11 So did you have a second call with 12:44:37
12 Mr. Mahmood? 12:44:39
13 A I must have, yeah, because he asks right 12:44:39
14 there. He wanted to make sure that he got the 12:44:51
15 details right. 12:44:54
16 Q Do you -- do you remember having a second 12:44:55
17 call with Mr. Mahmood, because it could say it in the 12:44:57
18 document, but it could not be true? 12:45:01
19 A Oh, I see. 12:45:03
20 Q So do you recall having a second call with 12:45:04
21 Mr. Mahmood? 12:45:06
22 A I don't recall. I'm sure I did. You 12:45:09
23 just -- you just don't sign something blank. 12:45:12
24 Q So did you -- I should ask: Do you 12:45:19
25 remember how long your first call with Mr. Mahmood 12:45:24

1 was? 12:45:27

2 A Probably half an hour. 12:45:35

3 Q All right. Do you remember anything about 12:45:36

4 your second call with Mr. Mahmood? 12:45:38

5 A Nothing much more than what -- you know, 12:45:40

6 what it transpires here in this email thing. It was 12:45:45

7 a matter of just housekeeping, so to speak, making 12:45:50

8 sure that the declaration as transcribed on his end 12:45:54

9 was reflective of what I -- what I told him. 12:45:57

10 Q So, as of the second time you spoke to 12:46:01

11 Mr. Mahmood, there was already a draft declaration; 12:46:03

12 is that correct?

13 A Yeah, because I was like approving a copy 12:46:08

14 or something. 12:46:13

15 Q Did he show you the copy that you were 12:46:13

16 approving or did he just read it to you? 12:46:16

17 A Oh, no, I'm sure I received a copy of it. 12:46:18

18 Q Do you know how you received a copy of it, 12:46:21

19 of the declaration? 12:46:24

20 A Well, everything that we had thus far has 12:46:24

21 been primarily emails. 12:46:28

22 Q Yes, but I didn't get any -- did 12:46:31

23 Mr. Mahmood ask you not to produce the email he sent 12:46:35

24 with you the draft declaration? 12:46:38

25 A No. 12:46:40

1 Q Is there -- well, we didn't get any draft 12:46:40
2 declarations in your email, so I'm just trying to 12:46:44
3 figure out how it is that the draft declaration got 12:46:48
4 to you? 12:46:52

5 A I see. You know, unless it was just sloppy 12:46:53
6 on my end, I would -- I saw the -- you know, who it 12:46:56
7 went to and the fact that there was, like, 18 emails 12:47:01
8 exchanged and so I clicked forward and I sent it to 12:47:04
9 Mr. Chapin. 12:47:08

10 Q So your second call with Mr. Mahmood, what 12:47:09
11 follow-up questions did he have for you? 12:47:12

12 A Basically, it was just does this -- does 12:47:19
13 this sound like what you told me. You know what I 12:47:22
14 mean? Lawyerly talk for whatever they say when they 12:47:25
15 say is this what you said and I said, yeah. 12:47:34

16 Q On your second call with Mr. Mahmood on the 12:47:43
17 phrase on the TurboTax website, "Tell us about you, 12:47:47
18 we'll recommend the right product" come up? 12:47:50

19 A You know, I've been thinking about that 12:47:53
20 through lunch and I think that that's a recent 12:47:56
21 marketing thing. I don't know when or where that 12:47:58
22 materialized. 12:48:01

23 Q And you are referring here to the phrase, 12:48:02
24 "Tell us about you, we'll recommend the right 12:48:04
25 product"; right? 12:48:07

1 A Yeah, that's like in the opening gambit of 12:48:08
2 doing your taxes. 12:48:12

3 Q You don't remember -- you don't know when 12:48:13
4 that phrase materialized on the TurboTax website? 12:48:20

5 A I really don't. And a lot of that stuff is 12:48:24
6 like, yeah, yeah, yeah, come on, let's get to the 12:48:27
7 meat of this thing, let's move on. And so there may 12:48:30
8 have been, you know, all kinds of flowery language 12:48:34
9 there. I just wanted to get to the meat and 12:48:39
10 potatoes. 12:48:44

11 Q So the flowery language you are referring 12:48:44
12 to again, that's the phrase, "Tell us about you,
13 we'll recommend the right product"? 12:48:48

14 A I think fair to say. 12:48:51

15 Q And so the language, "Tell us about you, 12:48:52
16 we'll recommend the right product," that wasn't 12:48:55
17 language you focused on when you were using TurboTax; 12:48:59
18 correct?

19 A No, it was almost superfluous because you 12:49:02
20 know by virtue of -- at least I knew, because having 12:49:08
21 used TurboTax before, I knew that at one question or 12:49:10
22 another it would prompt additional questions which 12:49:18
23 would move me from, you know, bargain basement to the 12:49:21
24 next step up. 12:49:25

25 Q Did Mr. Mahmood ask to see any written 12:49:33

1 substantiation of what you told him on your second 12:49:38
2 call with him? 12:49:41
3 A No. 12:49:41
4 Q Do you remember anyone, other than 12:49:42
5 Mr. Mahmood, being on the second call? 12:49:43
6 A No. 12:49:47
7 Q Was Mr. Mahmood taking notes on your second 12:49:48
8 call? 12:49:56
9 A I have no idea. 12:49:56
10 Q Did you take any notes of the second call 12:49:57
11 you had with Mr. Mahmood? 12:50:00
12 A No. 12:50:01
13 Q Other than the two conversations with 12:50:01
14 Mr. Mahmood that we've discussed here today, did you 12:50:04
15 have any other discussions with the city attorney 12:50:07
16 before signing a declaration? 12:50:09
17 A No. 12:50:11
18 Q Have you ever heard of a Joe Vaughn-Curry? 12:50:13
19 A No. 12:50:19
20 Q Did the city attorney ever ask to see your 12:50:19
21 tax returns? 12:50:23
22 A No. 12:50:25
23 Q Did the city attorney ever ask to see proof 12:50:25
24 that you had used TurboTax in the years you 12:50:34
25 referenced? 12:50:37

1 A Oh, good question. I don't know. I don't 12:50:37
2 recall. I think that I was just on the big mailing 12:50:39
3 list having been an Intuit customer. 12:50:42
4 Q So I think this is clear, but you know, 12:50:45
5 Mr. Hartford, that a declaration was submitted under 12:50:48
6 your name in this case; right? 12:50:52
7 A Correct. 12:50:56
8 Q How did that end up happening? 12:50:56
9 A It was part and parcel to testifying, you 12:51:00
10 know, that I felt like I got a bone to pick with 12:51:04
11 TurboTax. 12:51:10
12 Q So, anything else? 12:51:12
13 A I can't think of anything. 12:51:16
14 Q Why do you say the declaration was part and 12:51:17
15 parcel with the bone you had to pick with TurboTax? 12:51:24
16 A Well, it comes back to format again. In 12:51:28
17 other words, the City of Los Angeles was taking issue 12:51:32
18 with whether or not there was a free service being 12:51:34
19 offered and if people had, indeed, filed thinking 12:51:37
20 that they were getting free tax filings and they 12:51:40
21 didn't get it. 12:51:43
22 Q And until you heard from the city attorney, 12:51:50
23 you never -- you have no memory of registering any 12:51:52
24 complaints with Intuit about its practice; correct? 12:51:57
25 A No, I just -- you know, I -- no. It -- 12:52:01

1 something that large, they are going to worry about 12:52:04

2 Paul Hartford's tax return and the fact that he had 12:52:08

3 to pay 60, 70, 80 bucks, no. I figured it was a deaf 12:52:11

4 ear. 12:52:23

5 Q I just have to ask this. I assume the 12:52:23

6 answer is no. 12:52:26

7 But you were not offered anything for 12:52:27

8 signing a declaration; correct? 12:52:29

9 A No. 12:52:31

10 Q Sorry about that. 12:52:31

11 A No, I understand. In fact, when I told 12:52:33

12 Diana that this was going to take place, she said, 12:52:36

13 Oh, are you getting any money? And I said, No, I 12:52:40

14 think -- no one has ever talked about money. It's 12:52:43

15 just somebody trying to clean up their business act 12:52:45

16 or something. 12:52:49

17 Q Well, anyway, we do appreciate -- I know 12:52:49

18 all the lawyers on the call appreciate your time 12:52:54

19 today. 12:52:58

20 So who actually wrote the declaration that 12:52:59

21 was submitted under your name in this case? 12:53:02

22 A I'm going to assume that it was 12:53:05

23 Mr. Mahmood. 12:53:08

24 Q It wasn't Mr. Hartford? 12:53:09

25 A No, I didn't write it. No. 12:53:12

1 Q How many drafts of the declaration were 12:53:13
2 there? 12:53:18

3 A Good question. I only saw the one and it 12:53:19
4 reflected my experience. It didn't require any 12:53:24
5 amending. 12:53:27

6 Q How long did you spend reading the draft 12:53:32
7 declaration before you signed it? 12:53:35

8 A Best of my knowledge, probably, you know, 12:53:38
9 three or four minutes. 12:53:51

10 Q Did you do anything to check whether the 12:53:53
11 statements in the draft declaration that was sent to 12:53:56
12 you by the city attorney were accurate? 12:54:00

13 A It was all pretty much my wording with the 12:54:04
14 exception of, you know, the -- the actual grammar 12:54:07
15 part. I mean, I know I used some phrases in there 12:54:15
16 that I won't repeat now but, you know, it was just -- 12:54:23
17 he took a sour pus and made him sound like a grown 12:54:32
18 up. 12:54:38

19 Q The "he" you are referring to is 12:54:39
20 Mr. Mahmood taking the way you sounded and 12:54:43
21 transforming it into the declaration? 12:54:46

22 A Correct. 12:54:49

23 Q Irrespective of how faithful it was of a 12:54:52
24 representation of what you told Mr. Mahmood, my 12:54:58
25 question is: Did you do anything to check whether 12:55:01

1 the statements in the draft declaration sent to you 12:55:03
2 were accurate? 12:55:05
3 A I got to say in reading it over, it sounded 12:55:09
4 like my complaint. It sounded like what I 12:55:13
5 experienced. It didn't require any further amending. 12:55:16
6 Q I think you're trying to answer my 12:55:21
7 question, but let me just make sure. 12:55:24
8 A Okay. 12:55:27
9 Q There's a world in which you could have -- 12:55:27
10 Mr. Mahmood could have written down verbatim 12:55:30
11 everything that you told him. I'm not saying he 12:55:36
12 didn't do that. 12:55:38
13 My question for you, though, is whether 12:55:39
14 even if -- you could tell him something and he could 12:55:41
15 be wrong and you could be wrong. 12:55:44
16 So my question just is: Did you do 12:55:46
17 anything to check the accuracy of what was in the 12:55:48
18 declaration? 12:55:50
19 A No, no further fact checking was required. 12:55:53
20 Q So I want to ask you, Mr. Hartford, about 12:56:03
21 that actually. 12:56:06
22 Is there anything at all in the declaration 12:56:08
23 that you signed that is inaccurate? 12:56:10
24 A I'm going to say no. 12:56:12
25 Q Is there anything at all in the declaration 12:56:14

1 that is important about your experience using 12:56:19
2 TurboTax that is not included in the declaration? 12:56:20
3 A No, I can't -- I can't think of anything. 12:56:22
4 The only thing we touched on today and you kind of 12:56:27
5 got back at me about it was how I felt taken 12:56:30
6 advantage of. I don't think we wrote that down, but 12:56:34
7 that's kind of how I felt. 12:56:38
8 Q Well, I think it's in there. 12:56:42
9 A Okay. 12:56:43
10 Q Let's -- let's go to folder number one, 12:56:43
11 which we will mark as Exhibit No. 10. 12:56:51
12 (Defendant's Exhibit 83 was marked for
13 identification by the Certified Shorthand Reporter
14 and is attached hereto.)
15 THE WITNESS: Oh, okay. 12:57:08
16 MR. GRINGER: All right.
17 BY MR. GRINGER: 12:57:09
18 Q And do you recognize Exhibit No. 10, 12:57:09
19 Mr. Hartford? 12:57:15
20 A Yeah, this is -- this is my -- what do you 12:57:15
21 call it? This is the declaration, isn't it? 12:57:23
22 Q It is, I believe your declaration. 12:57:27
23 Do you recognize it as -- Exhibit No. 10 as 12:57:28
24 your declaration? 12:57:31
25 A Yeah, and on the last page you'll see my 12:57:31

Page 121

1 signature. 12:57:36

2 Q Well, you anticipated my next question 12:57:36

3 which is: Is that signature on the last page of 12:57:40

4 Exhibit No. 10? I take it the answer is yes? 12:57:43

5 A Yes. 12:57:46

6 Q And you see above that you write, "I 12:57:46

7 declare under penalty of perjury that the foregoing 12:57:49

8 is true and correct"? 12:57:51

9 A Correct. 12:57:53

10 Q What do you understand that to mean, "I 12:57:55

11 declare"? 12:58:06

12 A Well, that if I had deliberately set out to 12:58:07

13 insert lies and half-truths or lied by omission or 12:58:10

14 stuff like that, I could be -- what do you call it -- 12:58:15

15 charged with perjury. 12:58:18

16 Q Do you know why the last page, page four of 12:58:21

17 your declaration, looks different than the other 12:58:24

18 three pages? 12:58:26

19 A No, I don't, other than the type is 12:58:31

20 smaller. 12:58:34

21 Q Did you receive all four pages before you 12:58:34

22 signed it in hard copy? 12:58:38

23 A I'm pretty sure I did. 12:58:41

24 Q Let's go to paragraph one of Exhibit No. 10 12:58:50

25 of the declaration. And do you see in paragraph one 12:58:52

Page 122

1 of Exhibit No. 10 it says, "The facts set forth in 12:59:00
2 this declaration are true and correct based upon my 12:59:04
3 own personal knowledge"? 12:59:07
4 A Yeah, I see it. 12:59:12
5 Q Is that something you wrote? 12:59:14
6 A No, that looks like boilerplate stuff. 12:59:17
7 Q Is it true that everything in the 12:59:22
8 declaration is based upon your personal knowledge? 12:59:24
9 A Yes. 12:59:29
10 Q What does it mean to you when you say that 12:59:31
11 you have personal knowledge of something? 12:59:34
12 A What I experienced. 12:59:37
13 Q If the city attorney told you something and 12:59:40
14 you did not seek to verify what they told you, does 12:59:44
15 that mean you have personal knowledge of it? 12:59:47
16 A No, that would be -- that would be some 12:59:50
17 sort of -- I don't know -- fussing around. 12:59:57
18 Q I know you are not a lawyer, but do you 12:59:59
19 know what hearsay is? 13:00:02
20 A Oh, yeah. 13:00:04
21 Q What is hearsay? 13:00:07
22 A Hearsay is when someone testifies to 13:00:09
23 something that they heard someone else say, but it 13:00:15
24 couldn't be verified. 13:00:18
25 Q Is anything in -- 13:00:19

Page 123

Page 124

1 TurboTax that I qualified for. And that's different 13:02:34
2 than the free version I had tried to use. 13:02:39

3 Q Is that something you had personal -- what 13:02:46
4 you just read in paragraph -- the first sentence of 13:02:48
5 paragraph 12 of Exhibit No. 10, is that something 13:02:51
6 that you had personal knowledge of at the time you 13:02:53
7 signed your declaration? 13:02:56

8 A Yeah. 13:02:56

9 Q What was the basis for your personal 13:02:57
10 knowledge about that? 13:02:59

11 A Well, it would have been hearsay because 13:03:02
12 Mr. Mahmood told me that there was one out there and 13:03:05
13 he gave me the address if I wanted to go to it in the 13:03:08
14 future. 13:03:12

15 Q So you didn't have -- you did not have 13:03:12
16 personal knowledge of the first sentence of paragraph 13:03:15
17 12 of your declaration; correct? 13:03:20

18 A Well, I -- are we talking about the tense? 13:03:28
19 "I now know," so yeah, I knew -- I now know. 13:03:32

20 Q That Mr. Mahmood told you, that was the 13:03:38
21 basis of your knowledge; correct? 13:03:41

22 A Yeah. 13:03:43

23 Q Do you have any independent knowledge, 13:03:43
24 apart from Mr. Mahmood telling you, about the first 13:03:44
25 sentence of paragraph 12? 13:03:47

1 A The only other thing that I -- you know, we 13:03:49
2 talked about earlier, was the fact that they were 13:03:53
3 advertising -- and whether it was an email that I got 13:03:57
4 or whether it was something that I saw on the 13:03:59
5 Internet, but that there was a link between TurboTax 13:04:01
6 and the I.R.S. and for some people a simple tax 13:04:05
7 return could be filed for free. 13:04:13

8 Q So did you tell Mr. Mahmood TurboTax 13:04:17
9 actually has a separate website with a different free 13:04:21
10 version of TurboTax that I qualified for and that is 13:04:25
11 different than the free version I tried to use in tax 13:04:28
12 year 2015? 13:04:32

13 A Did I tell him that? 13:04:33

14 Q That's my question. 13:04:36

15 A No. 13:04:37

16 Q What is the separate website that you were 13:04:37
17 referring to in the first sentence of paragraph 12 of 13:04:39
18 the declaration? 13:04:43

19 A Well, if I had it in front of me, I would 13:04:44
20 give it to you, but I don't. 13:04:47

21 It was just a -- maybe some big long URL 13:04:49
22 like you had read out earlier today that would have 13:04:53
23 take me to, I presume, a joint I.R.S., TurboTax 13:04:59
24 website. 13:05:05

25 Q Do you know if Intuit was required to have 13:05:06

1 a separate web page for the software that it donated 13:05:10
2 to the I.R.S. Free File Program? 13:05:13
3 A Oh, good question. I have no idea. 13:05:16
4 Q If Intuit was required by the I.R.S. to 13:05:21
5 have a separate website for the software donated to 13:05:23
6 the I.R.S. Free File Program, would you expect that 13:05:27
7 it would have a separate website for the software 13:05:30
8 donated to the I.R.S. Free File Program? 13:05:33
9 MR. MAHMOOD: Objection; form. 13:05:37
10 THE WITNESS: Actually, you know, my 13:05:38
11 computer knowledge being what it is if -- if we had 13:05:40
12 a -- gosh, I would have expected a hyperlink on the 13:05:49
13 TurboTax website that would take me from the one I 13:05:54
14 was using and let me go to this other website to see 13:05:57
15 if I qualified to use that one because it made it 13:06:03
16 pretty clear. 13:06:08
17 BY MR. GRINGER: 13:06:08
18 Q Do you know if -- 13:06:09
19 A Go ahead. 13:06:10
20 Q Do you know if there was such a hyperlink 13:06:10
21 on the TurboTax website? 13:06:14
22 A I sure didn't see that. 13:06:16
23 Q That wasn't my question. 13:06:17
24 Do you know if there is one? 13:06:19
25 A I don't. 13:06:21

1 Q How do you know that you qualified for a 13:06:22
2 different -- the different free version you 13:06:25
3 referenced in paragraph 12 of the declaration? 13:06:29
4 A Single source income and income limit -- I 13:06:35
5 shouldn't say income limit -- yeah, income limit. 13:06:41
6 I'm -- you know, I'm way down there on the charts. 13:06:44
7 Q Do you know what the income threshold for 13:06:46
8 the program was? 13:06:47
9 A It probably has to do with household count 13:06:48
10 and your gross income, but I don't know what the 13:06:56
11 actual number is. I would imagine it's right 13:06:59
12 around -- go ahead. 13:07:05
13 Q You don't know whether in any particular 13:07:06
14 year your income was below the threshold to use the 13:07:09
15 TurboTax Free File product; correct? 13:07:13
16 A No, I only knew what was on main TurboTax 13:07:15
17 website. 13:07:18
18 Q Your income was not exactly the same to the 13:07:19
19 dollar year over year over year; correct? 13:07:27
20 A No. 13:07:29
21 Q Okay. The second sentence of paragraph 12 13:07:29
22 says, "I also have learned that TurboTax does not 13:07:36
23 include this product on the list of its products on 13:07:39
24 the website that I always used to visit TurboTax." 13:07:44
25 Do you see that? It's the second sentence 13:07:51

1 of paragraph 12 of Exhibit No. 10. 13:07:54

2 A No, where are we? I'm sorry. 13:07:56

3 Q Paragraph 12, Exhibit No. 10, second 13:08:00

4 sentence, "I also have learned." 13:08:03

5 A I can't find it, I'm sorry. I'm on page -- 13:08:26

6 Q Do you have Exhibit No. 10 in front of you? 13:08:30

7 A What's -- what's the page number at the 13:08:35

8 bottom? 13:08:36

9 Q Four. 13:08:36

10 A Okay. 13:08:37

11 Q Paragraph 12. 13:08:37

12 A Got you. 13:08:38

13 Q Second sentence, "I also have learned that 13:08:40

14 TurboTax does not include this product on the list of 13:08:43

15 its products on the website that I'd always used to 13:08:46

16 visit TurboTax." 13:08:54

17 A Okay. I got it. I also have learned that 13:08:55

18 TurboTax does not include the product on the list of 13:09:01

19 its products in the website. 13:09:04

20 Yeah, that would be the kind of reference 13:09:05

21 to that -- 13:09:09

22 Q Let me ask a different a question. 13:09:09

23 A Okay. 13:09:12

24 Q Let me ask you a question first. 13:09:13

25 How did you learn that? 13:09:14

1 A Through using the TurboTax -- I guess by 13:09:16
2 default. 13:09:21

3 Q What product are you referring to when you 13:09:22
4 say, "this product," in the second sentence of 13:09:25
5 paragraph 12 of Exhibit No. 10? 13:09:28

6 A That would be that I.R.S. TurboTax product 13:09:31
7 or service or whatever. 13:09:40

8 Q And do you know if Intuit was allowed by 13:09:43
9 the I.R.S. to include that product on the list you 13:09:48
10 were referring to? 13:09:51

11 A Oh, another good question. 13:09:52
12 You know, I don't know. That would sure be 13:09:56
13 a feather in the cap for Intuit. 13:10:03

14 Q Why do you say that? 13:10:06

15 A Well, any time you can kind of ride the 13:10:08
16 coat tails of some big recognizable thing, you're 13:10:12
17 getting -- you're getting a -- getting validated. 13:10:18

18 Now, in my particular case, I'm not really 13:10:26
19 excited about having a relationship with the I.R.S., 13:10:29
20 so it wouldn't have moved me over much. 13:10:32

21 Q In paragraph 12, the next sentence you 13:10:35
22 write, "TurboTax listed and offered the free edition 13:10:41
23 product on its main website along with all of its 13:10:51
24 other products." 13:10:54

25 Do you see that?

Page 131

1 A Well, I would assume, unless once again 13:12:11
2 they are playing that semantics game, that the tax 13:12:14
3 preparation would have been free and the filing would 13:12:19
4 have been free, as opposed to the tax preparation is 13:12:21
5 free on TurboTax. And, oh, by the way if you want to 13:12:24
6 file this, you got to bump up to the next level, pay 13:12:27
7 some money. 13:12:31

8 Q Do you know if there were differences 13:12:32
9 between the I.R.S. freebie version of TurboTax and 13:12:35
10 the version of TurboTax that you used? 13:12:40

11 A Nope. 13:12:43

12 Q No, you don't know? 13:12:43

13 A No, I don't know. 13:12:47

14 Q Okay. Can I ask you to go back to the 13:12:49
15 first sentence of paragraph 12 of Exhibit No. 10 it 13:12:52
16 says, "I now know that TurboTax actually has a 13:12:55
17 separate website with a different free version of 13:12:58
18 TurboTax that I qualify for and that is different 13:13:01
19 than the free version that I tried to use in tax year 13:13:03
20 2015." 13:13:06

21 Do you see that?

22 A Yeah. 13:13:08

23 Q So how did you -- how do you know that they 13:13:09
24 are different? 13:13:11

25 A I have to say at this point we're coming 13:13:12

1 down to splitting hairs. But obviously if the I.R.S. 13:13:15
2 said it was free and Intuit said it was free, that it 13:13:21
3 would be free. 13:13:25
4 And as far as I'm concerned that is a 13:13:27
5 different product. 13:13:29
6 Q Are you aware of any of the differences 13:13:32
7 between the products? 13:13:35
8 A Am I aware of any of the differences? No. 13:13:36
9 Q So can I ask you a question: If you're not 13:13:41
10 aware of any of the differences between the I.R.S. 13:13:44
11 product on the one hand, the TurboTax commercial 13:13:47
12 products on the other hand, how can you say that the 13:13:51
13 I.R.S. product is the actual best product for you? 13:13:54
14 A Well, I guess just because they said it was 13:13:57
15 free and, you know, it was. You know, it was alleged 13:14:15
16 to be. 13:14:19
17 Q Let me ask you this question. It's, I'll 13:14:21
18 acknowledge, a hypothetical. 13:14:25
19 You see an ad for Joe's Tax Service, free 13:14:28
20 taxes. They do your taxes for free, but they get a 13:14:33
21 lot of things wrong. 13:14:37
22 Is that the actual best product for you? 13:14:38
23 MR. MAHMOOD: Objection; form. 13:14:41
24 THE WITNESS: No. 13:14:42
25 // 13:14:45

1 BY MR. GRINGER:

2 Q So how can you say that the TurboTax, 13:14:45
3 I.R.S. product was the actual best product for you if 13:14:49
4 you don't know anything about it, besides the fact 13:14:52
5 that it was alleged to be free? 13:14:56

6 A That's what -- that's what we're all 13:14:59
7 talking about here is what is and what isn't free and 13:15:02
8 what's included. 13:15:07

9 Q But you didn't say it was the actual free 13:15:08
10 product for me. You said it was -- in your 13:15:11
11 declaration, "It was the actual best product for me." 13:15:12

12 So I'm asking, beyond the fact that it was 13:15:14
13 free, how did you decide that it was the best product 13:15:17
14 for you? 13:15:20

15 A I can only speculate as to why it was the 13:15:21
16 best product for me, because I'm a low income earner, 13:15:24
17 because I only have one source of income, it felt 13:15:30
18 like I qualified. I would have checked all the right 13:15:35
19 boxes. I wouldn't -- you know, they weren't going to 13:15:38
20 have to do a lot of work. 13:15:41

21 Q And so the statement that I.R.S. product 13:15:45
22 was the actual best product for you, which is in your 13:15:49
23 declaration, is based on speculation; correct? 13:15:52

24 MR. MAHMOOD: Objection; form. 13:15:57

25 THE WITNESS: Well, once again, sure. Yes, 13:16:03

1 speculating. 13:16:06

2 BY MR. GRINGER: 13:16:13

3 Q So -- 13:16:14

4 A What if I had used the word "better" 13:16:22

5 instead of "best," would see still be hanging on 13:16:25

6 this? 13:16:29

7 Q It's difficult for me to say, Mr. Hartford. 13:16:29

8 A Okay. 13:16:33

9 Q Is there any other place in this 13:16:33

10 declaration, Exhibit No. 10, where you speculated? 13:16:36

11 A Well, I don't think so. 13:16:40

12 Q So we'll just -- we'll have to go through 13:16:44

13 it. 13:16:48

14 So you never used the TurboTax, I.R.S. 13:16:49

15 product; correct? 13:16:57

16 A No. 13:16:58

17 Q You've never seen the TurboTax, I.R.S. 13:16:58

18 product; correct? 13:17:02

19 A By the time I became in a position to even 13:17:03

20 have a mild amount of curiosity about it, it had been 13:17:06

21 withdrawn from the market, for lack of a better word. 13:17:11

22 Q So at the time you signed this declaration, 13:17:14

23 you didn't even have the slightest bit of curiosity 13:17:16

24 about the I.R.S., TurboTax product?

25 A I didn't even know -- I don't know it 13:17:21

Page 136

1	that they hold would disqualify them.	13:18:34
2	Q Do you understand that -- and so if you	13:18:36
3	don't qualify for the TurboTax Free File Program	13:18:39
4	product, then you can't use it to file your taxes for	13:18:47
5	free; correct?	13:18:50
6	A Yes.	13:18:51
7	Q Do you understand that there are	13:18:51
8	eligibility requirements to use the TurboTax	13:18:52
9	Commercial Free Edition?	13:18:58
10	A I assumed I qualified through that.	13:18:58
11	Q So, you understand that there are	13:19:03
12	qualifications; correct?	13:19:05
13	A Correct.	13:19:07
14	Q And if you me those qualifications, you can	13:19:08
15	file for free; correct?	13:19:13
16	A If when you say the word "filing," you are	13:19:17
17	including preparation and actually electronically	13:19:20
18	translating it into the Netherlands, yeah.	13:19:22
19	Q Okay. And you understand that certain	13:19:28
20	people, such as yourself, do not qualify to use the	13:19:29
21	TurboTax Free Edition software; correct?	13:19:35
22	A No, I didn't say that I don't qualify.	13:19:36
23	Q All right. So if you turn back to Exhibit	13:19:39
24	No. 2, please, paragraph ten, that's on the first	13:19:49
25	page.	13:19:52

Page 138

Page 139

1 TurboTax in tax year 2014 not in the declaration 13:23:26

2 because you filed your taxes for free that year? 13:23:29

3 A I don't know. 13:23:32

4 Q Let's go to paragraph five of Exhibit 13:23:33

5 No. 10? 13:23:45

6 A Okay. This would have a glaring error in 13:23:45

7 it then if, indeed, I filed with 2014. 13:23:48

8 Q The glaring error in paragraph five of 13:23:52

9 Exhibit No. 10 is your statement that you began using 13:24:01

10 TurboTax in tax year 2015? 13:24:05

11 A Right. 13:24:07

12 Q So what follows in your declaration, 13:24:08

13 paragraph five, six, seven, eight, and nine, did any 13:24:10

14 of that happen in tax year 2015? 13:24:19

15 A Here's where your phrase, "Tell us about 13:24:23

16 you," so I must have been aware of it. 13:24:35

17 Q Just answer my question, Mr. Hartford. 13:24:41

18 A I know. I just -- 13:24:44

19 Q Oh, okay. 13:24:46

20 A What was your question? Is any of it true? 13:24:47

21 Q Did any of it happen in tax year 2015? 13:24:50

22 A The way this is broken down, I can only 13:24:56

23 assume so. I began using it in 2015 and the story 13:25:11

24 line goes on and I said I searched Google and 13:25:15

25 TurboTax again, click on the link to TurboTax's 13:25:18

1 website. I remember seeing this full page which 13:25:22
2 is -- this is that thing I was making reference to. 13:25:25
3 Q Let me try asking it a different way, 13:25:31
4 Mr. Hartford. 13:25:35
5 A Okay. 13:25:35
6 Q When we asked you for your tax returns in 13:25:36
7 response to our subpoena, you knew to look on 13:25:38
8 TurboTax for your tax year 2014 returns; correct? 13:25:45
9 A Yes. 13:25:49
10 Q So why didn't you -- 13:25:49
11 A I opened it up and there it was. 13:25:51
12 Q So why didn't do you that before signing 13:25:53
13 this declaration saying you began using TurboTax in 13:25:55
14 tax year 2015? 13:25:58
15 A Because I didn't remember. 13:25:59
16 Q So you remembered when we asked, but you 13:26:01
17 didn't remember when Mr. Mahmood asked? 13:26:05
18 A I couldn't confirm that I'd filed with 2014 13:26:07
19 because there was no 2014 available and that's why I 13:26:12
20 sent that -- whatever that I.R.S. transcript was. 13:26:16
21 And I don't believe it has -- I don't know 13:26:20
22 whether it says where the origins are. I don't know. 13:26:23
23 Q In paragraph five of Exhibit No. 10, you 13:26:27
24 say, "You thought of TurboTax when you decided to 13:26:38
25 file your taxes online, because their marketing had 13:26:41

Page 142

Page 143

1 don't know. 13:29:21

2 Q Okay. So you don't remember how you got to 13:29:21

3 the TurboTax website in tax year 2015; correct? 13:29:24

4 A If I Googled it -- you know how the first 13:29:28

5 few Google entries are usually the ones that are paid 13:29:32

6 for by the -- by the companies and chances are that's 13:29:37

7 where I clicked on it. 13:29:39

8 Q Chances are or you have personal knowledge 13:29:41

9 of how you arrived at the website? 13:29:47

10 A I'm going to say chances are. 13:29:49

11 Q Okay. How come you didn't say, "chances 13:29:51

12 are" in your declaration? 13:29:54

13 A Didn't seem important. And at the same 13:29:55

14 time in rereading it and proofing it from 13:29:59

15 Mr. Mahmood, it reflected what I experienced. 13:30:04

16 Q But you don't know if you experienced it in 13:30:07

17 tax year 2015 or some other period of time; correct? 13:30:12

18 A Absolutely. 13:30:15

19 Q Now, in paragraph six of your declaration, 13:30:15

20 Exhibit No. 10, it says that you went to the website 13:30:19

21 by clicking on a link. 13:30:22

22 Do you see that?

23 A Uh-huh.

24 Q And that came from Google; correct? 13:30:25

25 A I can't say for sure now. You kind of 13:30:31

Page 145

1 Q This is what you sent Mr. Mahmood, this 13:32:00
2 image in paragraph six? 13:32:06
3 A I don't remember if I -- if I just 13:32:07
4 referenced it or if I actually just sent it. I don't 13:32:15
5 recall. 13:32:22
6 THE VIDEOGRAPHER: Sorry for the 13:32:22
7 interruption, Counsel. 13:32:24
8 MR. GRINGER: Yeah. 13:32:26
9 THE VIDEOGRAPHER: Mr. Hartford, I just 13:32:26
10 want to make sure that you are just aware that your 13:32:28
11 face is being cut off when you look down. Just to 13:32:32
12 keep your face in the frame when you give an answer. 13:32:32
13 Thank you so much. 13:32:36
14 THE WITNESS: Thank you. 13:32:37
15 BY MR. GRINGER: 13:32:37
16 Q So, Mr. Hartford, do you see the image 13:32:37
17 references something called The Wayback Machine, the 13:32:42
18 image in paragraph six of your declaration? 13:32:46
19 A No, I don't see that. 13:33:00
20 Q It's under the words "TurboTax's Website." 13:33:02
21 It says, "Internet Archive Wayback Machine." 13:33:05
22 A No, I still don't see it. 13:33:14
23 Q Okay. It's in red and black font. 13:33:16
24 A No. The only red is the -- 13:33:21
25 Q Do you see where it says, "March first, 13:33:33

Page 147

1 recommend the right product"? 13:35:09

2 A Right. 13:35:11

3 Q And then there are a series of little 13:35:11

4 tiles: Single, Have Children, Dependents, Own a 13:35:15

5 Home? 13:35:23

6 A Right. 13:35:23

7 Q Did you ever press any of those tiles? 13:35:24

8 A Are you talking about the dots? 13:35:34

9 Q No, I'm talking about the images that say, 13:35:37

10 "Single," "Have Children," "Dependents," "Own a 13:35:40

11 Home," "Maximize Deductions and Credits." They are 13:35:46

12 little pictures? 13:35:53

13 A Oh, oh, oh. Yeah, I see those. 13:35:54

14 Q Okay. Did you ever press those buttons to 13:35:58

15 receive a recommendation? 13:36:00

16 A I -- I didn't need to. 13:36:02

17 Q So is that a "no" to my last question 13:36:08

18 you've never pressed any of those buttons? 13:36:11

19 A Well, I'd have to say no. I mean, I 13:36:15

20 read -- I looked across them and nothing applied. 13:36:21

21 I no longer own a home. I didn't have any 13:36:23

22 kids. 13:36:26

23 Again, this is, you know, next question. 13:36:33

24 Q Do you see here how there are four products 13:36:39

25 listed on the screen in paragraph -- 13:36:46

Page 148

1 A That was why I focused on this, because I 13:36:49
2 thought this was the whole Megillah here. 13:36:52
3 Q I want to go back actually to your last -- 13:36:59
4 aren't you, in fact, not married, Mr. Hartford? 13:37:03
5 A No, I'm not married. 13:37:04
6 Q So you are single? 13:37:06
7 A Correct. 13:37:07
8 Q Okay. And aren't you self-employed? 13:37:07
9 A Not at the time, no. 13:37:08
10 Q Okay. So there is at least one item that 13:37:10
11 applied to you; correct? 13:37:13
12 A I don't think so. 13:37:18
13 Q Well, single, that's the very first one? 13:37:20
14 A Oh, okay. Yeah, single. 13:37:24
15 Q So it's fair to say you haven't read what's 13:37:26
16 on the page here of paragraph six of Exhibit No. 10 13:37:30
17 very carefully; correct? 13:37:35
18 MR. MAHMOOD: Objection; form. 13:37:36
19 THE WITNESS: I'm going to take issue with 13:37:37
20 that only from the standpoint that as far as getting 13:37:40
21 ready to do my taxes, I didn't see anything there 13:37:42
22 that compelled me to open them. That's not a matter 13:37:46
23 of sloppy reading on my part. It's just, again, a 13:37:49
24 bunch of crap on a website that I didn't need. 13:37:53
25 MR. GRINGER: Fair enough. 13:37:56

1 BY MR. GRINGER: 13:37:57

2 Q Do you see, Mr. Hartford, how there are 13:37:58

3 four products listed on -- in the image on paragraph 13:38:01

4 six of Exhibit No. 10? 13:38:05

5 A Yeah. 13:38:06

6 Q There's Federal Free Edition on the left. 13:38:06

7 Do you see that? 13:38:10

8 A Uh-huh. 13:38:11

9 Q And then there's Deluxe next; correct? 13:38:11

10 A I'm sorry, the what? 13:38:16

11 Q Deluxe. 13:38:17

12 A Oh, okay. Yeah, got you. 13:38:18

13 Q And there's a price listed for Deluxe; 13:38:20

14 correct? 13:38:20

15 A Yeah, 34.99. 13:38:25

16 Q Okay. And then do you see over to the 13:38:28

17 right is Premier? 13:38:31

18 A Correct. 13:38:32

19 Q And there's a price listed for Premier; 13:38:32

20 correct? 13:38:32

21 A Yeah, on this it's discounted to 54.99. 13:38:35

22 Q Okay. And on the far right there's a 13:38:40

23 product called "Home and Business" and that, too, has 13:38:43

24 a price; correct? 13:38:47

25 A Yes. 13:38:48

1 Q So you understood that of the four TurboTax 13:38:48
2 products listed on this page, three of them came with 13:38:51
3 a price; correct? 13:38:57
4 A Correct. 13:38:57
5 Q Okay. And you saw that -- is it your 13:38:57
6 testimony that this was the first page you saw when 13:39:00
7 you arrived at the TurboTax website? 13:39:02
8 A I couldn't tell you that. I have no idea. 13:39:04
9 Q Okay. So now back to the document here, 13:39:10
10 paragraph six, do you see where it says, "Federal 13:39:17
11 Free Edition," do you see below "Federal Free 13:39:20
12 Edition," it says, "Simple Tax Returns"? 13:39:23
13 A Yeah. 13:39:26
14 Q And then beneath "Simple Tax Returns" in 13:39:30
15 parenthesis it says, "1040EZ, slash, 1040A," close 13:39:34
16 parenthesis? 13:39:40
17 A Yeah. Oh, yeah, there I am again. 13:39:41
18 Yes. 13:39:44
19 Q And you know that 1040EZ and 1040A are tax 13:39:44
20 forms or they were tax forms; correct? 13:39:50
21 A Yeah. 13:39:53
22 Q Would you expect when TurboTax says, "Tell 13:39:53
23 us about you, we'll recommend the right product," the 13:40:01
24 recommendation to be one of the four products in 13:40:02
25 Exhibit No. 6? 13:40:09

1 A Yeah, I figured it would be the first one. 13:40:09

2 Q Now, do you see in -- at the bottom of 13:40:11

3 paragraph six, beginning at line 23 it says, "I 13:40:19

4 thought that meant that TurboTax' software was 13:40:22

5 designed to get me to the least expensive product 13:40:24

6 that let me accurately file my taxes"? 13:40:27

7 A That is correct. 13:40:30

8 Q By that, do you mean the least expensive 13:40:30

9 TurboTax product? 13:40:33

10 A Yeah. I mean, that's why we're -- that's 13:40:34

11 why I was on that page. 13:40:42

12 Q Okay. You wouldn't expect to be 13:40:43

13 recommended to get you to the least expensive H&R 13:40:45

14 Block product; correct? 13:40:49

15 A No. 13:40:51

16 Q And you wouldn't expect it to get you to 13:40:51

17 the least expensive tax app product; correct? 13:40:55

18 A No. 13:40:58

19 Q And you wouldn't expect it to get you to 13:40:58

20 the least expensive government program offering free 13:41:01

21 tax preparation; correct? 13:41:04

22 A No, not unless there's a -- some sort of 13:41:05

23 informative, you know, an asterisk, you know, like, 13:41:08

24 oh, and by the way, you know, there's also this. But 13:41:13

25 there isn't that. 13:41:17

1 Q So, as a general matter, though, you would 13:41:17
2 not expect, just like you wouldn't expect it to refer 13:41:20
3 to you a H&R Block product or a tax app product, you 13:41:26
4 wouldn't expect TurboTax to refer you to the least 13:41:30
5 expensive I.R.S. product; correct? 13:41:34

6 MR. MAHMOOD: Objection; form. 13:41:35

7 THE WITNESS: I was going to say, now, if 13:41:36
8 the world were perfect, it might have said you might 13:41:42
9 look into this. But again, I don't know if that was 13:41:47
10 available in 2015. 13:41:50

11 BY MR. GRINGER: 13:41:51

12 Q So you are sophisticated enough, 13:41:51
13 Mr. Hartford, to know that the world is not perfect; 13:41:54
14 correct?

15 A Correct.

16 Q Okay. So my question is: You wouldn't 13:41:57
17 expect TurboTax to refer you, just like you wouldn't 13:41:58
18 expect any other business to refer you, to a 13:42:02
19 government program offering a product for free; 13:42:04
20 correct? 13:42:08

21 MR. MAHMOOD: Objection; form. 13:42:08

22 THE WITNESS: No, I -- if -- if I were -- 13:42:09
23 if I were the head honcho at TurboTax or Intuit or 13:42:12
24 whatever, it would be my duty to tell them that, hey, 13:42:19
25 by the way, there's also this. 13:42:22

1 BY MR. GRINGER: 13:42:26

2 Q Why would it be your duty to do that? 13:42:26

3 A Because that's disclosing everything that's 13:42:29

4 available. 13:42:32

5 Q But you would expect TurboTax to disclose 13:42:33

6 that H&R Block is available? 13:42:37

7 A Well, not that. 13:42:39

8 Q Okay. Well, what about -- why is the 13:42:41

9 I.R.S. program different from H&R Block? 13:42:44

10 MR. MAHMOOD: Objection; form. 13:42:48

11 THE WITNESS: The I.R.S. program is -- 13:42:50

12 they're partnered up with Intuit. 13:42:54

13 BY MR. GRINGER: 13:42:57

14 Q Any other reason? 13:42:57

15 A I can't think of any. 13:42:58

16 Q What was -- did you expect -- at that time 13:43:04

17 you viewed this statement, you didn't know that there 13:43:09

18 was a partnership between TurboTax and the I.R.S.; 13:43:12

19 correct?

20 A No. 13:43:15

21 Q So you had not expectation that you 13:43:15

22 reviewed the statement with respect to the I.R.S.; 13:43:19

23 correct?

24 A No, at the time that I filed my taxes, I 13:43:21

25 went with the -- you know, I went in the cheap seats 13:43:24

1 based on what I saw here. 13:43:28

2 Q Okay. If you go to paragraph eight of 13:43:29

3 Exhibit No. 10, it says that you spent several hours 13:43:35

4 entering all of your information. 13:43:39

5 Do you see that?

6 A Yeah. 13:43:43

7 Q What year are you referring to there? 13:43:44

8 A I'm going to say it was the 2015 tax year. 13:43:49

9 Q Are you -- you are going to say. 13:43:53

10 Do you remember what year it was? 13:43:56

11 A Between -- gosh, from -- and again, I'm 13:43:58

12 not -- I don't want to complicate this, but here's 13:44:09

13 Paul's life. From about 2012 on, I knew I wasn't 13:44:12

14 going to be opening another wood shop, so I started 13:44:16

15 giving stuff away. 13:44:19

16 In 2012 going forward, yeah, I used to 13:44:22

17 think I could still get into my 42 regular suits and 13:44:27

18 sport coats. There was a reality check. Huh-uh. 13:44:32

19 So over the next couple, three years, I was 13:44:35

20 giving away stuff and keeping all of these goodwill 13:44:38

21 receipts and -- you know, when you click on -- I 13:44:41

22 don't know where the hell I was, but, you know, like, 13:44:44

23 if you donated a shirt, you got like a 12 dollar 13:44:46

24 credit, which is like ten dollars more than you could 13:44:50

25 get if you sold it on eBay. 13:44:54

1 So I needlessly, as it turned out, made my 13:44:57
2 tax return take a couple hours to go through and make 13:45:00
3 sure that I included all of these things that I had 13:45:07
4 donated. And I'm talking about hundreds and hundreds 13:45:12
5 dollars of stuff. Possibly thousands of dollars of 13:45:18
6 stuff now that I think about it, but it didn't 13:45:24
7 matter. 13:45:28

8 Q Right. So, I understand completely 13:45:28
9 everything you are saying, Mr. Hartford. 13:45:30

10 A So I can't be pinned down on a date on 13:45:31
11 this, because in my recollection it was probably 13:45:35
12 germane in 2012, 2013, 2014, 2015, all of those 13:45:37
13 years. 13:45:42

14 Q Okay. But the story you tell is specific 13:45:42
15 to a particular -- in your declaration it's specific 13:45:46
16 to a particular year? 13:45:49

17 A 2015, I believe. 13:45:51

18 Q And do you remember that or is it just -- 13:45:52
19 you are just saying that? 13:45:54

20 A Well, again, given the parameters of this 13:45:56
21 lawsuit, what was your experience? Here's my 13:46:02
22 experience. 13:46:05

23 Q So, Mr. Hartford, again, I really 13:46:12
24 appreciate that, but the facts in the declaration are 13:46:13
25 presented in a particular way and I have to defend my 13:46:16

1 client from this lawsuit and your declaration was not 13:46:21

2 presented in the way you just described. 13:46:23

3 It was presented this was a particular 13:46:24

4 experience I had in a specific year, so I'm trying to 13:46:26

5 figure out -- 13:46:28

6 A 2015. 13:46:28

7 Q Okay. That's your testimony under oath 13:46:29

8 that this happened in 2015? 13:46:31

9 A Yeah. Yes, sir. 13:46:38

10 Q Okay. So it says you spent several hours 13:46:38

11 entering your information. 13:46:41

12 What time did you start entering the 13:46:42

13 information? 13:46:47

14 A Well, I'm going to assume it was after 13:46:48

15 dinner, so it would have been around somewhere 7:00 13:46:50

16 in the evening. 13:46:55

17 Q Okay. And do you remember what time you 13:46:55

18 finished? 13:46:57

19 A Not specifically, no. 13:47:01

20 Q Did you transfer your information from the 13:47:02

21 year before when you are describing this experience? 13:47:04

22 A No, because it would have been a whole 13:47:08

23 fresh set of items that were donated. That was the 13:47:12

24 primary thing I was doing. 13:47:15

25 Q Now, in paragraph nine of your declaration, 13:47:20

1 Exhibit No. 10, it says, "I remember feeling like I 13:47:26
2 was being taken advantage of but decided to pay just 13:47:29
3 to get it over with and because I had spent so much 13:47:34
4 time on the process already." 13:47:38

5 Do you see that?

6 A Correct. 13:47:41

7 Q Is that referring to how you felt in -- 13:47:41
8 when you did your 2015 taxes using TurboTax? 13:47:45

9 A I'd have to say more than likely. 13:47:49

10 Q And -- but, in fact, in tax year 2015 you 13:47:56
11 actually gave TurboTax a ten out of ten score; 13:48:02
12 correct?

13 A No, 2015 for 2014 I gave them a ten. 13:48:13

14 Q So it's correct to say that when you 13:48:17
15 actually used TurboTax in tax year 2015 you didn't 13:48:19
16 feel taken advantage of; correct? 13:48:24

17 A No, as long as I did my -- paid for Deluxe, 13:48:26
18 you know, I got -- I was suckered into upgrading. 13:48:30

19 Q So you -- in tax year 2015, the year you 13:48:36
20 gave TurboTax a ten out of ten, you didn't feel taken 13:48:41
21 advantage of; correct? 13:48:45

22 A No, I still felt taken advantage of. But 13:48:47
23 based on the questions that they asked in that survey 13:48:50
24 they performed. 13:48:55

25 Q Why did you give them a ten out of ten if 13:48:56

Page 159

1 THE WITNESS: Are you asking me? 13:50:11

2 MR. GRINGER: Well, I'm saying let's take a 13:50:13

3 five-minute break. 13:50:15

4 THE WITNESS: I'm saying okay. I'm going 13:50:16

5 to go down and -- do I cancel my meeting? 13:50:18

6 THE VIDEOGRAPHER: Stand by, everyone. 13:50:24

7 This marks the end of Media No. 3. Going off the 13:50:26

8 record at 1:50 p.m. Pacific. 13:50:29

9 (Brief interruption in proceedings.) 14:00:46

10 THE VIDEOGRAPHER: We are back on the 14:02:02

11 record at 2:02 p.m. Pacific and this marks the 14:02:07

12 beginning of Media No. 4 in the deposition of Paul 14:02:11

13 Hartford. 14:02:16

14 Please proceed, Counsel. 14:02:17

15 BY MR. GRINGER: 14:02:18

16 Q Mr. Hartford, thank you for your time 14:02:18

17 today. Just a few more questions. 14:02:21

18 If you look at paragraph ten of Exhibit 14:02:22

19 No. 10 of your declaration, beginning at line 19 it 14:02:25

20 says, "I was deceived by TurboTax' promise of guiding 14:02:28

21 me to the right product, which I thought would be the 14:02:32

22 least expensive one, and by TurboTax' advertising of 14:02:36

23 the Free Edition of the product which I selected." 14:02:39

24 Do you see that?

25 A Not yet. 14:02:46

1 Oh, okay. Got you. 14:02:53

2 Q Okay. What advertising are you referring 14:02:55

3 to in that sentence at paragraph ten of the exhibit? 14:02:58

4 A I can't pull out a specific add campaign, 14:03:04

5 but every time I saw TurboTax one of their lead lines 14:03:08

6 has always stuck in my head which, you know, filing 14:03:17

7 your taxes for free. And the other side of the coin 14:03:24

8 was how strong your expertise is, you know, that they 14:03:27

9 are in our corner, you know, to stand by us, blah, 14:03:31

10 blah, blah. 14:03:37

11 Q So, are you referring to in that sentence 14:03:37

12 about advertising in paragraph ten, advertising from 14:03:41

13 any particular year? 14:03:44

14 A I'm going to say no, because by -- I would 14:03:46

15 say obviously by -- well, 2016 -- 2017 doesn't really 14:04:07

16 count because that's when I went elsewhere, but I had 14:04:14

17 established, you know, that I paid the Deluxe in the 14:04:18

18 ensuing years. 14:04:20

19 Q Well, when you first learned about TurboTax 14:04:23

20 Free Edition, did you believe that free edition was 14:04:28

21 free for every taxpayer in the United States? 14:04:31

22 A No. 14:04:33

23 Q Can we go back to the chart that is at 14:04:34

24 Exhibit No. 5, the chart that has the tax year and 14:04:42

25 the start product and the end product? 14:04:47

Page 162

1 recall what your income was in tax year 2015? 14:06:08

2 A No, not off the top of my head. 14:06:12

3 Q And any kind of estimate that you can 14:06:14

4 provide? Was it less than -- 14:06:17

5 A Oh, I would say it was probably 30,000 14:06:19

6 bucks maybe. 14:06:22

7 Q Okay. And do you recall what it might have 14:06:23

8 been in tax year 2018? 14:06:25

9 A Yeah, that was probably within a thousand 14:06:26

10 bucks of the same. Maybe a little less. 14:06:33

11 Q Maybe a little less than 30,000? 14:06:37

12 A Yeah. 14:06:39

13 MR. GRINGER: Object to form. Leading. 14:06:40

14 BY MR. MAHMOOD: 14:06:42

15 Q And how about tax year 2019? 14:06:43

16 A About the same. Twenty-nine to 30,000 14:06:46

17 bucks probably. 14:06:54

18 Q And do you recall for tax year -- your 14:06:54

19 income for tax year 2020? 14:06:59

20 A I don't recall. But it was even less 14:07:01

21 because I didn't -- I didn't do any part-time work or 14:07:04

22 anything. 14:07:08

23 Q Got it. And how about tax year 2021? 14:07:08

24 A Now, that was also amazingly low. 14:07:12

25 Q Thank you. 14:07:15

1 If we could go back to Exhibit No. 10 for a 14:07:17
2 moment. I just want to draw your attention to the 14:07:20
3 image again and the products that are listed. 14:07:33
4 Let me know when you are there and you are 14:07:37
5 looking at the image. 14:07:40
6 A Thank you. 14:07:41
7 Q All right. And do you see the products 14:07:42
8 that are listed on that screenshot? 14:07:44
9 A Uh-huh. 14:07:46
10 Q Do you recall -- 14:07:47
11 A Yes. 14:07:50
12 Q Do you recall in tax year 2015 what product 14:07:51
13 you clicked on? 14:07:54
14 MR. GRINGER: Objection to form. 14:07:56
15 THE WITNESS: I'm a creature of habit. I'm 14:07:58
16 sure I checked the cheapest box. 14:08:04
17 BY MR. MAHMOOD: 14:08:06
18 Q And which one was that? 14:08:07
19 MR. GRINGER: Object to form. 14:08:08
20 THE WITNESS: Oh, Christ, I can't read what 14:08:10
21 it says but -- oh, it says something free edition. 14:08:13
22 The print is too small at the top for my little eyes. 14:08:24
23 Oh, Federal Free -- Federal Free Addition. 14:08:33
24 MR. MAHMOOD: Understood. 14:08:38
25 // 14:08:39

1 BY MR. MAHMOOD:

2 Q And why did you choose the Federal Free 14:08:39
3 Edition? 14:08:43

4 MR. GRINGER: Object to form. 14:08:43

5 THE WITNESS: Because I knew it was going 14:08:44
6 to be a real simple tax return and it wasn't going to 14:08:47
7 require the other services that were provided by 14:08:51
8 TurboTax. 14:08:54

9 BY MR. MAHMOOD: 14:08:55

10 Q Was price a consideration? 14:08:56

11 MR. GRINGER: Objection; leading. 14:09:00

12 THE WITNESS: Oh, absolutely. Yeah. 14:09:01

13 MR. MAHMOOD: I'm sorry, could you restate 14:09:03
14 your response? I think there might have been some 14:09:06
15 overlap there. 14:09:09

16 THE WITNESS: Oh, yeah. I'm sorry. 14:09:10

17 MR. GRINGER: Objection; leading. 14:09:10

18 THE WITNESS: Yeah, I basically tried to 14:09:12
19 get out cheap. 14:09:15

20 BY MR. MAHMOOD: 14:09:18

21 Q And did you have an understanding of 14:09:19
22 whether you would be required to pay money to prepare 14:09:21
23 and file your taxes using TurboTax Federal Free 14:09:23
24 Edition? 14:09:28

25 A In the beginning, no. I thought that free 14:09:28

Page 166

1 TurboTax prompted you to? 14:10:28

2 A No. 14:10:30

3 MR. GRINGER: Objection; leading. 14:10:30

4 BY MR. MAHMOOD: 14:10:34

5 Q Were you ultimately -- or why not? 14:10:35

6 A It didn't seem that I had -- how do I -- I 14:10:37

7 don't think my response required any further delving 14:10:44

8 into it. 14:10:51

9 Q And were you ultimately able to file your 14:10:54

10 taxes for free in tax year 2015? 14:10:57

11 A No, I ended up having to pay to file. 14:11:00

12 Q And why did you have to end up having to 14:11:05

13 pay to file? 14:11:12

14 A Well, I got to the -- you know, the end of 14:11:13

15 the program and, you know, I can't remember 14:11:15

16 specifically whether it said submit. 14:11:16

17 There's a lot of opportunity to go back and 14:11:19

18 verify questions and answers. And after you've done 14:11:24

19 that to the program's satisfaction, then it's time to 14:11:28

20 file and the circumstance was such that nothing 14:11:32

21 happened. 14:11:38

22 There wasn't -- there wasn't an option 14:11:39

23 there to -- to do anything and I think in my 14:11:41

24 declaration I had said I figured sure enough it was 14:11:44

25 go to be operator error. But in scrolling around and 14:11:48

1 scrolling and scrolling it turned out that, no, I had 14:11:55
2 to pay to actually file to submit. 14:11:58

3 Q And did you ultimately pay to file? 14:12:09

4 A Oh, yeah. 14:12:16

5 Q How did you make you feel to pay after you 14:12:16
6 clicked Federal Free Edition? 14:12:19

7 A Well, again, as I stated before it felt 14:12:21
8 like kind of a rip off but -- you know, I guess 14:12:24
9 there's some latitude in how they market their 14:12:32
10 product such that they can say what they say and I 14:12:35
11 was naive to think that, you know, I was going to get 14:12:39
12 something for nothing. 14:12:43

13 Q And did you think you had simple taxes in 14:12:48
14 tax year 2015? 14:12:52

15 A Yeah. 14:12:53

16 Q How about in -- did you think you had 14:12:57
17 simple taxes in tax year 2018? 14:12:59

18 MR. GRINGER: Objection; leading. 14:13:02

19 THE WITNESS: Again, since -- since I quit 14:13:03
20 looking into other little work opportunities and 14:13:13
21 stuff like that, I have no income. Just my Social 14:13:16
22 Security. So every year subsequent to 2015 is 14:13:20
23 simple. 14:13:23

24 BY MR. MAHMOOD: 14:13:30

25 Q If TurboTax had a model called TurboTax 14:13:30

1 Freedom Edition, would you expect them to disclose 14:13:36
2 that on their website? 14:13:38
3 A Yes. 14:13:40
4 MR. GRINGER: Objection; leading. Are 14:13:41
5 these questions that you asked Mr. Hartford when you 14:13:43
6 interviewed him? Was there this much leading? 14:13:44
7 BY MR. MAHMOOD: 14:13:48
8 Q Mr. Hartford, turning to the product 14:13:48
9 recommendation screen again, would you expect 14:13:51
10 TurboTax Freedom Edition to be one of the products 14:13:53
11 listed on that page? 14:13:56
12 A I don't see why not. 14:13:57
13 Q And if TurboTax had a product called 14:14:00
14 TurboTax Free File, would you expect that product to 14:14:04
15 be disclosed? 14:14:07
16 A Yes. 14:14:08
17 Q And would you expect that product to be 14:14:08
18 disclosed -- 14:14:10
19 MR. GRINGER: Objection. I'm just going to 14:14:11
20 make a standing objection to every question you are 14:14:14
21 asking because they are all leading, and it's 14:14:17
22 obviously leading, so I don't have to keep saying, 14:14:19
23 "leading," because you are leading him so quickly, I 14:14:27
24 don't even have time to get -- to interpose an 14:14:30
25 objection, so I'm making a standing objection to 14:14:32

1 every question you are asking as leading. 14:14:34

2 BY MR. MAHMOOD: 14:14:36

3 Q And, Mr. Hartford, would you expect a 14:14:36

4 product to called TurboTax Free File to be disclosed 14:14:38

5 on the product recommendation page that we looked at 14:14:43

6 in your declaration? 14:14:47

7 A Yes. 14:14:48

8 Q All right. I'm just going to look through 14:14:48

9 my notes real quick. I think I might be wrapped up, 14:14:52

10 but just give me one second. I don't want to take up 14:14:58

11 too much more of your time. 14:15:01

12 A You know, in real estate if you are taking 14:15:19

13 a listing and, as broker, I would have to review the 14:15:23

14 listing and my agent would say to me, Do I have to 14:15:27

15 disclose and then it would be whatever it was. The 14:15:32

16 fact that there was wasps in the attic or the fact 14:15:36

17 that the pool hadn't been cleaned. 14:15:40

18 Our standard answer was always if you have 14:15:44

19 to ask a question, it has to be disclosed. So I 14:15:46

20 didn't feel that, you know, if -- if the fellow that 14:15:52

21 bought my house, also retired, copious amounts of 14:15:58

22 money in savings, still doing a lot of stuff, if he 14:16:04

23 had picked that free one, being a property owner and 14:16:08

24 everything else, he would have known just to skip 14:16:12

25 ahead to something else, but he would have had the 14:16:15

1 option to see it. That's all I'm saying. 14:16:19

2 And knowing that there's qualifying issues, 14:16:22

3 again, people that have mattress money. They want to 14:16:25

4 get a loan, but they know they can't put a history on 14:16:32

5 the money they had, I can't get you a conventional 14:16:35

6 loan without a track record of where your money has 14:16:39

7 been for the last "X" number of months. 14:16:43

8 Q Mr. Hartford -- 14:16:46

9 A Okay. I'll be quiet. 14:16:46

10 Q I'm sorry. No, no, please, go ahead. I 14:16:48

11 don't want to cut you off. 14:16:50

12 A No, I'm just saying that being qualified is 14:16:50

13 part of the process and if you know your options, you 14:16:53

14 know, you select it. And if I had picked free 14:16:57

15 federal whatever the thing was that was the -- you 14:17:01

16 know, the outcome of the marrying of Intuit and the 14:17:08

17 I.R.S. and there was something in there that said, 14:17:13

18 no, you don't qualify, okay, move on to the next -- 14:17:16

19 the next column. 14:17:20

20 Q Mr. Hartford, I think I only have like 14:17:22

21 three more questions for you and then I think I'm 14:17:24

22 done. 14:17:26

23 Along the same lines if -- if TurboTax 14:17:26

24 developed a product, a tax filing product, would you 14:17:29

25 expect that to be disclosed on their -- their tax 14:17:34

1 filing website? 14:17:40

2 A Yeah. 14:17:41

3 MR. GRINGER: Object to form. 14:17:41

4 BY MR. MAHMOOD: 14:17:42

5 Q And would you expect that product to be 14:17:42

6 listed on their product recommendations screen? 14:17:44

7 A Yes. 14:17:48

8 MR. GRINGER: Object to form. 14:17:48

9 BY MR. MAHMOOD: 14:17:49

10 Q And if -- if TurboTax had a free tax filing 14:17:54

11 product that they offered in affiliation with the 14:17:59

12 I.R.S., would that prevent you from using the -- 14:18:03

13 would that affiliation with the I.R.S. prevent you 14:18:08

14 from using the product? 14:18:11

15 MR. GRINGER: Object to form. 14:18:13

16 THE WITNESS: Well, as was -- as we 14:18:14

17 discussed earlier, I'm not a big government fan. So 14:18:16

18 with me the jury is out a little bit. No pun 14:18:19

19 intended. 14:18:23

20 You know, I don't know if having an I.R.S. 14:18:24

21 affiliation is a good thing or a bad thing. It would 14:18:26

22 certainly make sense how they were able to offer this 14:18:30

23 product if I -- if I knew about it. 14:18:35

24 BY MR. MAHMOOD: 14:18:38

25 Q Would that affiliation cause you to dismiss 14:18:38

Page 173

1 return that's over a hundred pages? 14:19:33

2 A I don't know that a page count necessarily 14:19:35

3 qualifies as a compilation. 14:19:38

4 Q Do you recall in tax year 2018 reporting 14:19:40

5 business income on a form 1099 MISC? 14:19:46

6 A Maybe. I don't recall. 14:19:49

7 Q Do you recall in tax year 2019 reporting 14:19:51

8 business income on a 1099 MISC? 14:19:54

9 A No. 14:19:59

10 Q There's a lot about your taxes you just 14:19:59

11 don't remember; correct? 14:20:02

12 MR. MAHMOOD: Objection; form. 14:20:03

13 MR. GRINGER: What part of it is form? 14:20:07

14 THE WITNESS: I think it's fair to say, 14:20:09

15 yes, I -- you know, I go through it, I answer the 14:20:11

16 questions, I push a button, I pay my money and I'm 14:20:12

17 done. 14:20:16

18 BY MR. GRINGER: 14:20:17

19 Q Mr. Mahmood asked you a series of 14:20:17

20 questions, what lawyers know as leading questions, 14:20:20

21 are those indicative of the type of questions he 14:20:23

22 asked you when you first talked to him? 14:20:25

23 MR. MAHMOOD: Objection; attorney work 14:20:28

24 product. 14:20:30

25 THE WITNESS: No, there weren't a lot of 14:20:30

Page 174

1 questions. He basically asked me what happened, you 14:20:32
2 know, why I was responding and -- no, I just -- I -- 14:20:35
3 I had to -- I confess that I wasn't -- even though 14:20:46
4 I'm not real good at taxes and I picked a really 14:20:51
5 horrible way to spend twenty years because I hate 14:20:55
6 paperwork but, you know, I just don't know and I'm -- 14:20:59
7 I have to admit I'm a little shocked to think that my 14:21:03
8 tax return ran a hundred pages. 14:21:08

9 Now, when the accountant guys did it, back 14:21:11
10 in the years when I had own property and rental 14:21:13
11 property, you know, and had business expenses, I 14:21:17
12 mean, it was a book when it came back to me and that 14:21:19
13 to me is a hundred pages. Maybe it was 200 pages. I 14:21:22
14 don't know. 14:21:26

15 BY MR. GRINGER: 14:21:26

16 Q Given everything we've talked about today, 14:21:27
17 how comfortable do you feel with a court relying on 14:21:30
18 your declaration in considering the evidence in our 14:21:35
19 lawsuit? 14:21:38

20 MR. MAHMOOD: Objection. 14:21:40

21 THE WITNESS: The declaration is done by a 14:21:40
22 layman. A guy who, you know, felt like he got took 14:21:42
23 advantage of. And if you want to nitpick each line 14:21:46
24 and say, well, if you did this and you didn't do that 14:21:50
25 and you did that but you said it, then I should have 14:21:55

1 probably gone back to night school to learn how to 14:21:58
2 make a declaration that everybody could live with. 14:22:01
3 You know, it wasn't my intent to deceive 14:22:05
4 anybody. 14:22:08
5 MR. GRINGER: I know for a fact it was not 14:22:09
6 your intent to deceive anyone. 14:22:11
7 BY MR. GRINGER:
8 Q But it is correct that there are a number 14:22:17
9 of statements in your declaration that are 14:22:19
10 inaccurate; correct? 14:22:23
11 A Yeah, you want me to do it over? 14:22:23
12 Q A conversation for another day, 14:22:25
13 Mr. Hartford. We're done for today. Thank you. 14:22:34
14 Thank you for your time, sir. 14:22:36
15 THE VIDEOGRAPHER: Okay. Stand by, 14:22:36
16 Mr. Hartford.
17 Is there anything else that the counsels 14:22:38
18 would like to put on the record or the court 14:22:40
19 reporter, please. 14:22:46
20 THE COURT REPORTER: We can go off the 14:22:47
21 record. Thank you. 14:22:48
22 THE VIDEOGRAPHER: Thank you. Allow me to 14:22:49
23 conclude.
24 This concludes today's deposition of Paul 14:22:49
25 Hartford. The total number of media used is four. 14:22:54

1 Going off the record at 2:22 p.m. Pacific Standard 14:22:57

2 Time. 14:23:03

3 MR. GRINGER: Thank you, Mr. Hartford for 14:23:03

4 your time. 14:23:04

5 THE VIDEOGRAPHER: Thank you, everyone. 14:23:44

6 (Deposition ended at 2:22 p.m.)

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PENALTY OF PERJURY CERTIFICATE

I, PAUL HARTFORD, do solemnly declare under penalty of perjury, under the laws of the State of California, that the foregoing is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read same and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

EXECUTED this _____ day of _____,
2022, at _____, California.

PAUL HARTFORD

C E R T I F I C A T E

I, the undersigned, a Certified Shorthand Reporter for the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS THEREOF, I have this date subscribed my name this 14th day of March, 2022.



Lynda L. Fenn

CSR No. 12566

1 PAUL HARTFORD

2 paulsmoney@gmail.com

3 March 14, 2022

4 RE: TURBOTAX FREE FILING CASES

5 February 28, 2022, PAUL HARTFORD, JOB NO. 5058721

6 The above-referenced transcript has been
7 completed by Veritext Legal Solutions and
8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 _X_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of
21 Counsel - Original transcript to be released for signature
22 as determined at the deposition.

23 ___ Signature Waived - Reading & Signature was waived at the
24 time of the deposition.

25

Page 180

1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.
9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 CASE: TURBOTAX FREE FILING CASES

2 WITNESS: PAUL HARTFORD (#JOB NO 5058721)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

5 _____

6 REASON_____

7 PAGE_____ LINE_____ CHANGE_____

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9 REASON_____

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12 REASON_____

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14 _____

15 REASON_____

16 PAGE_____ LINE_____ CHANGE_____

17 _____

18 REASON_____

19 PAGE_____ LINE_____ CHANGE_____

20 _____

21 REASON_____

22 _____

23 _____

24 WITNESS _____ Date _____

25 _____

[& - 213]

&	1040a 151:15,19	19 68:2 83:11	144:3,17 153:10
& 1:6 2:6 75:23	1040ez 151:15,19	160:19	155:8 156:12,17
180:23 181:9	1099 174:5,8	1981 45:9,11 55:9	157:6,8 158:8,10
0	10:31 48:6	1988 21:22	158:13,15,19
0006580 6:11 93:9	10:35 48:1	19cv354178 1:7	163:1 164:12
0006585 6:12	10:37 48:9	2:7 7:25	167:10 168:14,22
0007472 6:4 81:23	11:30 94:1	19stcv15644 1:6	173:13
0007473 6:5	12 34:2,8,9 125:5	2:6 7:24	2016 27:25 61:9
0008317 6:8 88:10	125:17,25 126:17	1:50 160:8	63:11 71:2,12
0008319 6:8	128:3,21 129:1,3	2	111:21 147:1
0074 5:9	129:11 130:5,21	2 42:11,18,22,24	161:15
0075 5:10	131:9,15 132:15	43:3,7,11,14,15	2017 52:17 161:15
0076 5:13	136:6 155:23	44:2 48:10 70:22	2018 52:15 68:2
0077 5:15	121 6:13	104:3 137:24	69:18,20 139:1
0078 5:17	12566 1:25 2:23	20 68:2 71:22	163:8 168:17
0079 5:20	179:25	83:12	174:4
0080 6:3	12:00 104:4	200 3:8 175:13	2019 64:19,21
0081 6:6	12:30 103:22	2000 139:5	69:21 107:4 139:1
0082 6:9	12:33 104:7	20001 4:9	163:15 174:7
0083 6:13	13 159:10	2008 23:9	202 4:10
08 24:3	13,000 45:20 46:3	2012 155:13,16	2020 5:21 6:4
09 24:3	14 66:13 145:5	156:12	72:15,16,20 73:1
1	180:3	2013 156:12	85:22,24 86:25
1 7:19 34:4,18,22	14th 3:8 88:15,22	2014 27:15,17,23	88:15,21 106:11
35:2,5 38:9 39:6	179:20	33:9 51:16 52:20	139:5,11,15
42:18 48:5 181:1	15 66:13 92:18	54:21,24 55:4	163:19
1-50 1:10,17 2:10	145:6	62:25 63:7,9,12,16	2021 6:7,11 72:6
2:17	1523 5:19	63:20 64:3,23	88:15,22 92:13,15
10 121:11,18,23	153 10:13	99:10 105:13,19	94:6,12 98:9
122:4,24 123:1	15a 81:12,14,15	105:21 124:11	106:5,11 111:18
124:4 125:5 129:1	15c 87:24	139:6,12,13 140:1	139:5,11 163:23
129:3,6 130:5	16 61:21 66:13	140:7 141:8,18,19	2022 1:23 2:22
132:15 135:10	83:10	156:12 158:13	5:12,16 7:2,9
138:8,22 140:5,9	162 5:4	2015 33:9 51:16	43:16 62:13
141:23 144:20	17 22:22 63:11	52:19 63:17 64:21	178:14 179:21
145:10,21 147:1	66:13 89:11	65:2 83:10 105:10	180:3,5
147:21,25 149:16	173 5:3	105:11,15,21	2025.520 180:9,12
150:4 155:3 158:1	18 22:22 83:11	111:21 126:12	20287 179:24
159:10 160:19	89:11 114:7	132:20 139:1	21 6:7
164:1	1875 4:8	140:10,14,21,23	213 3:10
		141:14 143:1,13	

[21st - admit]

21st 92:15 94:12	5,000 55:16	81 6:3 87:25	175:9
22nd 94:5	5058721 180:5	82 92:20	accounting 45:17
23 5:21 152:3	182:2	83 121:12	73:20 74:1
23rd 82:11	5067 1:5 2:5 7:24	87 6:6	accuracy 53:19
24 5:16	54.99. 150:21	89 21:23	93:15 120:17
24.95 76:19	5x 59:6	9	accurate 53:15
24th 62:13	5xl 80:17	9 5:3 92:19 93:7	119:12 120:2
25 6:4	6	93:12,18,22 112:6	179:15
25th 82:11 85:22	6 80:19 81:1,5	90012 3:9	accurately 152:6
85:24 86:25 88:15	82:9 151:25	92 6:9	ace 76:16 77:2
88:21	60 37:9 118:3	94510 10:14	78:5
28 1:23 2:22 7:2	61 5:15	95110-1770 3:17	achieved 37:8
180:5	65 5:17	978-1865 3:10	acknowledge
28th 7:9	6500 46:4	9:31 2:21 7:3,8	133:18
299-5900 3:18	663-6443 4:10	9th 3:16	act 118:15
2:02 160:11	67 22:6	a	acting 1:13 2:13
2:22 2:22 7:3	7	a.m. 2:21 7:3,8	action 1:6 2:6 7:24
177:1,6	7 81:17,22 82:2,5,8	48:1,6,9 94:1	8:8 179:17
3	82:15 84:1,7,10	aaron 3:15 9:3	actions 1:5 2:5
3 48:16,24 49:11	85:18,22 86:25	aaron.bloom 3:19	active 20:2
49:15,25 50:3,11	107:13	ability 11:2 12:7	actively 73:16
104:8 160:7	70 3:16 118:3	able 21:3,5 23:10	actual 63:5 119:14
30 61:18 181:1	70s 21:19	31:4 32:24 40:6	128:11 131:10,23
30,000 163:5,11,16	73 22:13	64:15,17 68:18	133:13,22 134:3,9
31 52:12	74 34:5	83:13 86:2 167:9	134:11,22
34 5:9	75 42:12	172:22	ad 133:19
34.99. 150:15	76 48:17	absolutely 30:1	add 68:7 71:12
4	77 61:23	144:18 165:12	161:4 162:7
4 61:22 62:11,20	78 65:9	accents 22:21	addition 27:22
160:12	78,000 45:13,14	access 31:1 54:24	36:12 164:23
40 10:8	46:1	70:20 85:15	additional 30:10
408 3:18	79 80:20	111:20,24	115:22 139:23
42 5:10 155:17	79.95 63:21	accident 62:6	additions 178:10
48 5:13	7:00 157:15	accommodate	address 10:12
5	8	40:8	125:13
5 65:8,16 66:3,11	8 87:24 88:5,8	account 70:24	adjudication 6:15
66:23 67:3 68:6	91:1,10,15 92:4	71:3	adjusting 40:7
69:7,10 71:11	80 5:20 64:1 81:18	accountant 29:11	administrator
107:15 161:24	118:3	73:10,13 74:6,12	5:20
162:4,10		74:17 75:10,10,14	admit 175:7

[ads - assume]

ads 19:5 advance 16:7 advantage 101:4,8 101:12,21 103:8 121:6 158:2,16,21 158:22 159:1 175:23 advent 30:5 adventure 89:6 advertisements 27:10 advertising 27:5 126:3 160:22 161:2,12,12 advice 14:15 69:18 70:2 advised 14:3,5,11 advocate 35:6,21 affiliate 35:24 37:12 affiliation 25:10 25:16,20,24 103:12 172:11,13 172:21,25 affiliations 8:12 afraid 24:16 age 45:7 agencies 44:16 agent 170:14 ago 36:21 70:14 agree 7:17 78:16 86:5,9 112:4 166:21,25 agreements 40:19 aground 72:23 ahead 9:16 20:12 20:18 32:7 72:21 100:24 127:19 128:12 159:9 170:25 171:10	aligned 22:11 aligns 92:14 alleged 133:15 134:5 allow 159:12 176:22 allowable 53:4 allowed 36:17 37:24 38:6 130:8 amazingly 163:24 amending 119:5 120:5 americanized 59:1 amount 13:19 107:19 135:20 amounts 170:21 analogy 76:4 79:2 analysis 54:7 76:3 ancillary 40:17 anderson 75:23 anecdotal 100:20 104:17 109:13 angeles 1:2 2:2 3:5 3:9 6:3,7,10 7:23 8:25 9:2 13:1 81:9 82:6 88:20 117:17 ann 95:8 annex 36:23 answer 6:19 11:1 11:25 12:9 17:15 38:22 60:18 69:22 97:7 100:4 118:6 120:6 122:4 140:17 146:12 166:12 170:18 174:15 answered 30:9 57:7 answering 12:21 17:19	answers 11:23 15:10 42:8 167:18 178:9,11 anticipated 122:2 anybody 19:20 36:4 109:25 138:15 176:4 anymore 37:15 41:15 54:20 63:1 anyway 10:12 14:14 41:20 118:17 apart 96:5 125:24 apologize 29:23 37:2 42:8 65:14 73:25 83:4 106:17 173:9 apology 46:4 app 79:23 152:17 153:3 apparently 62:25 appearances 3:1 4:1 8:12 appearing 3:1 4:1 180:18 181:7 applied 148:20 149:11 apply 55:18 appointed 39:2 appreciate 13:21 46:14 108:10 118:17,18 156:24 166:23 appreciated 32:21 appropriate 145:8 approving 113:13 113:16 apropos 12:4 architectural 21:20 22:21	archive 110:9 142:20 146:21 147:17 archives 162:12 arduous 13:19 area 30:10 78:25 83:17 arguments 98:16 98:19 arm 22:23 arranging 23:5 arrive 142:15,22 arrived 100:1 143:9,14 144:9 151:7 article 72:12 arts 21:16 aside 87:15 asked 15:8 24:23 28:11 40:14 43:19 61:5 63:11 87:14 87:19 89:18,19,22 96:8,10 97:1 100:11 141:6,16 141:17 158:23 166:11 169:5 174:19,22 175:1 178:8 asking 10:15,25 12:9 78:5 89:15 106:17,19 109:5 134:12 141:3 160:1 169:21 170:1 asks 112:13 assets 136:25 assistance 45:1 46:22 associates 75:23 assume 18:16 33:24 56:14 74:1
--	--	---	---

[assume - blah]

82:10 83:8 90:6 111:16 118:5,22 132:1 136:15 140:23 157:14 assumed 137:10 assure 46:12 asterisk 152:23 attached 34:7 42:14 48:19 61:25 65:11 80:22 81:20 88:2 92:22 121:14 attempt 45:4 46:9 attended 21:16 attending 8:2,11 attention 164:2 attic 170:16 attitude 76:23 attorney 3:5 8:13 13:11 14:17 17:13 18:2,3,7,12 26:3 68:15 81:10 84:10 85:25 86:6,10,21 86:25 87:5 97:4 97:22 98:9 100:2 100:9 116:15,20 116:23 117:22 119:12 123:13 162:16 174:23 179:18 attorney's 6:4,7 6:10 8:25 9:2 82:6 85:19 87:10 88:20 94:1,5 98:16 173:7 audible 11:23 audio 7:15,16 audit 44:24 83:22 audited 45:9 automatic 31:18 automatically 31:14,15	available 20:22,24 38:7 47:16 50:17 65:13 75:25 78:7 78:10,20 96:22 100:13 110:17 141:19 153:10 154:4,6 avenue 4:8 aware 28:16,17,21 73:2,6 85:9 133:6 133:8,10 140:16 146:10 ax 57:23	balance 41:23 83:23 ball 31:4 banbury 10:13 bangladesh 58:23 bargain 115:23 barking 37:10 barterers 80:10 base 166:2 based 22:17 32:25 33:15 35:16 72:21 79:22 123:2,8 124:4 134:23 155:1 158:23 basement 115:23 basic 18:15 40:22 162:25 basically 13:16 23:25 39:3 114:12 165:18 175:1 basis 125:9,21 bat 45:17 bates 81:23 88:9 93:8 bathroom 76:18 began 57:9,15 105:22 140:9,23 141:13 beginning 8:13 48:10 50:12 66:19 81:23 88:9 93:9 104:8 152:3 160:12,19 165:25 begins 147:10 behalf 2:21 8:24 9:4,12 believe 44:6 45:3 46:8 49:21 64:5 71:7 98:7,11 112:5 121:22 139:24 141:21	156:17 161:20 belongs 39:13 ben 43:11 beneath 151:14 benefits 30:22 38:6 50:15 71:13 benicia 1:22 2:21 7:1 10:5,7,12 benjamin 5:11,16 5:20 25:8 61:2 62:12 best 11:2,14 12:7 12:11 52:3 64:23 74:22 75:2 79:19 79:19 80:2,11,12 80:15 95:18 119:8 131:10,23 133:13 133:22 134:3,11 134:13,16,22 135:5 better 13:22 22:22 32:7 33:5 36:4 69:6,7,9 105:15 108:21 109:1 135:4,21 beyond 38:6 134:12 bicycle 82:12 big 41:6 117:2 126:21 130:16 172:17 biggest 101:13 bingo 65:23 birthday 97:16 bit 21:11 35:14 62:16 69:15 83:17 96:6 135:23 172:18 black 146:23 blah 107:8,9,9 161:9,10,10
	b		
	b 5:7 6:1 10:13,13 181:1 baby 60:13 back 13:18 17:7 19:6 33:15 41:6 44:14 46:11 47:12 48:1,8,14 49:5 54:21 60:14 61:8 62:8 64:21 68:4 73:19 78:3,4 80:8 80:17 83:9 87:1,5 89:17 90:1,22 91:1 103:2,22 104:6,12 107:6 110:7 111:8 112:6 117:16 121:5 132:14 137:23 149:3 151:9 160:10 161:23 164:1 167:17 173:23 175:9,12 176:1 backed 84:16 background 21:14 31:22 bad 58:13,18 62:7 172:21		

[blank - certain]

blank 112:23 block 60:3 77:13 101:14 142:10 152:14 153:3 154:6,9 blogs 85:14 bloom 3:15 9:3,3 blurb 77:24 81:4,5 boilerplate 123:6 bold 50:1 142:19 bone 117:10,15 bonus 62:2 book 75:25 76:6,6 76:6 175:12 bookstore 75:24 76:4 boom 143:24 border 10:11 bore 35:11 borrowers 78:24 79:4 bother 68:2 142:18 bottom 72:1 82:14 85:17,18 88:12 129:8 152:2 bought 72:22 107:17 170:21 bowl 25:13,24 box 20:17,21 21:3 21:6 164:16 boxes 134:19 boy 110:7 brackets 27:2 branded 85:3 brandon 4:22 8:4 break 12:14,17,21 30:8,9 46:17 47:23 92:24 93:3 93:4 101:25 103:14,22 104:14	159:24 160:3 breakdown 145:17 breaks 12:16 brief 22:6 48:7 160:9 briefly 10:21 briefs 26:2 bringing 99:16 broad 38:18 broken 40:21 140:22 broker 170:13 brother 41:7 brought 97:21 bucking 40:24 bucks 41:21 46:3,4 55:16 64:1 74:11 118:3 163:6,10,17 build 32:24 builder 22:14,16 building 22:10 45:11,12 built 22:17 24:10 40:6 bullwinkle 110:8 bump 132:6 bunch 51:6 109:16 149:24 bureaucracy 36:25 39:1 87:7 business 21:21 22:14 23:14 31:7 32:2,10,15 35:10 35:12 53:2,4 56:5 56:13 75:18,20 78:6,23 79:13 80:5 118:15 150:23 153:18 159:20 174:5,8 175:11	businesses 40:18 78:19 bust 23:12 button 45:7 60:19 174:16 buttons 148:14,18 buy 58:22 59:5 76:22,24 c c 179:1,1 ca 180:9,12,20 cabinetmaker 22:12 cahoots 73:3 cal 5:19 calendar 52:16,19 69:20 105:11 california 1:1,6,13 1:22 2:1,6,13,21 2:25 3:9,17 7:1,23 8:24 10:5 21:16 21:23 22:13 36:20 37:23 38:10,12,24 178:7,14 179:6 call 13:12 16:8 22:9 23:16 58:4 64:8 70:2 95:5,12 95:20 99:12 112:3 112:7,11,17,20,25 113:4 114:10,16 116:2,5,8,10 118:18 121:21 122:14 called 12:25 23:14 23:19 26:5 29:1 109:4,5 146:17 150:23 168:25 169:13 170:4 calls 59:9 camera 70:18	campaign 161:4 canal 33:21 47:12 cancel 160:5 candidate 131:20 cap 130:13 capital 29:14 car 40:1 card 41:22,23 42:2 63:23 71:6 cards 63:22 care 39:11,24,25 40:3 101:15 career 22:3 careful 58:12 carefully 149:17 carpenter 21:19 cars 40:2 case 1:6 2:6 7:23 7:24 13:1 24:11 24:21 25:5 26:3 40:15 44:21 45:5 46:10,14 51:8 74:21 75:1 98:19 117:6 118:21 130:18 143:7 182:1 cases 1:4 2:4 7:22 24:17 180:4 182:1 casually 26:20 catch 29:22 138:5 categories 99:21 category 27:2 cause 172:25 causing 23:12 cco.sccgov.org 3:19 ccp 180:9,12 cell 7:13 certain 21:24 30:9 53:2 137:19
--	---	---	--

[certainly - company]

certainly 69:23 81:8 111:23 172:22 certainty 145:3 certificate 178:1 certified 2:23 34:6 42:13 48:18 61:24 65:10 80:21 81:19 88:1 90:8 92:21 121:13 179:5 certify 179:7,16 cetera 39:12 chain 5:10,15 6:6 6:9 43:8 62:12 89:11 93:20 chamber 76:23 chance 24:12 32:12 chances 144:6,8 144:10,11 change 182:4,7,10 182:13,16,19 changed 29:6 changes 56:19,22 89:24 178:10 changing 77:21 chapin 5:11,16,21 25:8,16 43:11,19 43:23 61:3 62:12 100:19 112:2 114:9 charge 71:5 74:6 charged 122:15 charges 63:25 74:2,2 charging 75:21 charitable 33:15 charity 56:8 chart 65:6,13 83:9 161:23,24	charts 109:15 128:6 chat 70:3,3,4 cheap 154:25 165:19 cheapest 164:16 check 27:8 46:4 119:10,25 120:17 155:18 checked 134:18 164:16 checking 120:19 children 148:4,10 chocolate 59:25 choice 13:7 choices 40:21 73:6 choose 165:2 christ 164:20 circumstance 64:10 83:22 159:14 167:20 circumstances 78:24 79:20 city 3:5 6:3,7,10 8:25 9:2 13:11 26:3 81:10 82:6 84:10 85:19,25 86:6,9,21,24 87:5 87:10 88:20 93:25 94:5 97:21 98:8 98:16 116:15,20 116:23 117:17,22 119:12 123:13 162:16 173:7 civil 180:19,20 clandestine 26:9 26:18 clara 1:13 2:13 3:14 9:4 clarification 145:25	clarita 24:24 clarity 70:6 138:13 classes 21:18,21 classic 36:19 clean 118:15 cleaned 170:17 clear 46:5 68:11 77:1 78:13 106:17 117:4 127:16 clearer 11:15 87:9 clever 108:10 click 45:7 60:18 65:23 140:25 155:21 clicked 77:25 114:8 142:15,22 144:7 164:13 166:6 168:6 clicking 143:10 144:21 client 157:1 clint 4:24 49:5,7 close 77:19 84:4 102:21 124:1,2 151:15 closet 22:21 clown 97:17 clue 47:4 coast 103:15 coat 130:16 coats 155:18 code 5:19 56:18,21 180:9,12,19,20 codes 29:13 coin 161:7 colleague 9:1,5 43:11 colleagues 8:18 collect 39:23	collecting 27:19 college 21:16 60:14 colon 145:11 column 66:10,14 66:23 67:3,9,18 68:5 71:13 171:19 com 138:17,25 combo 131:17 come 31:22 48:1 68:4 78:3 85:10 90:7,22 99:14 103:2,22 114:18 115:6 144:11 comes 19:12 80:8 117:16 159:3 comfortable 175:17 comfortably 37:21 coming 13:22 132:25 command 84:17 comment 80:9 commerce 76:23 commercial 28:3 133:11 137:9 commission 38:10 38:13,25 common 35:4,6,21 35:22 36:3 80:9 108:23 commonplace 59:7 communication 84:9 companies 40:16 144:6 company 22:18 23:8,9 32:24 58:24 63:11
---	---	--	--

[company's - couple]

company's 50:13	confident 73:22	copious 170:21	142:6 144:3,17,24
compelled 149:22	confirm 141:18	copy 42:18 90:15	145:7 149:7,11,17
competition 60:6	confused 124:13	113:13,15,17,18	150:9,14,18,20,24
compilation 174:3	124:14	122:22 124:11	151:3,4,20 152:7
complained 71:8	congress 53:11	159:19	152:14,17,21
complaint 120:4	connected 4:14	corker 40:4	153:5,14,15,20
complaints 24:20	connection 28:15	corner 34:23	154:19,23 158:6
117:24	28:21	88:12 161:9	158:12,14,16,21
complete 11:9	conservative	cornered 59:24	162:2,10 174:11
66:25	35:11	corporate 4:17	176:8,10
completed 92:11	consider 47:14	corporation 1:10	corrections 178:10
180:7,17 181:6	159:13	2:10	180:14,15 181:3,4
completely 156:8	consideration	correct 10:3,6	correctly 79:25
completion 181:10	165:10	11:7,21 13:8,9	corrupted 61:4
complex 76:7,7,8	considering	14:13 17:11 18:7	cost 35:12
complexity 75:6	175:18	18:12,18 27:14	costco 23:23
complicate 155:12	constituency 38:1	30:18 31:17 33:7	costs 53:4 56:14
complicated 55:1	consumer 51:1	34:24 43:11 44:16	counsel 1:14 2:14
comprised 36:24	80:16	54:2 56:5,8,9,11	3:14 4:17 7:20
compromise 55:12	contact 79:7 81:9	56:15,19,23 63:18	8:19 9:16 13:11
55:20	180:9	65:4 71:23 73:1,7	26:3 48:12 104:10
computer 30:6	contacted 63:11	73:11 74:14,19,20	146:7 160:14
32:20 127:11	87:9 98:25 100:19	74:24 75:4 78:7	162:16 180:18,21
computers 13:20	contacts 94:8	78:11,14,21 80:16	181:7
concern 54:3	context 59:15	82:7 83:24 84:4	counsel's 9:5
concerned 44:2	continue 7:16	84:12 85:22,23	24:24
53:18 87:16 108:5	continued 6:1	86:22 87:2 88:25	counsels 8:10
108:19 133:4	continuing 21:18	91:6,13 92:16	176:17
concerns 44:19	21:24	93:10 94:19 97:2	count 128:9
54:4,13	convenience 22:7	102:25 107:4	161:16 173:23
concierge 4:24	conventional	108:1 109:3,10	174:2
42:15 49:4,8,12	78:25 79:3,11	111:21,24 113:12	country 35:21
conclude 96:20	171:5	115:18 117:7,24	countrywide
176:23	conversation	118:8 119:22	79:13
concludes 111:12	15:16 60:9 85:11	122:8,9 123:2	county 1:2,13 2:2
176:24	89:21 96:25	124:19,23 125:17	2:13 3:14 7:23 9:5
conclusion 112:3	145:22 176:12	125:21 128:15,19	10:9 13:11 24:24
conference 94:25	conversations	134:23 135:15,18	26:3 36:24 162:16
confess 175:3	116:13	136:4,24 137:5,12	couple 10:20
confidence 31:8	conversions 22:21	137:13,15,21	18:14,15 23:21
		139:2,4 141:8	45:15 61:3 63:25

[couple - deposition]

67:25 95:18 96:2 155:19 156:2 159:25 court 1:1 2:1 7:22 8:6 9:7,16 10:13 10:25 11:16,24 18:21 175:17 176:18,20 courtesy 16:8 covers 107:10 crafts 21:17 crap 149:24 creature 164:15 credence 98:1,2 credit 23:11 41:22 63:22,23 71:6 155:24 credits 148:11 crisis 24:4 cross 58:12 crossed 30:14 crossing 61:15 csr 1:25,25 2:23 179:25 culminating 27:25 culprit 46:2 curiosity 135:20 135:23 curious 20:13 currency 41:18 current 63:22 curry 116:18 cursory 63:13 customer 50:25 79:8 107:8 117:3 cut 21:22 23:24 73:24 143:18 146:11 171:11 cutler 4:5 8:17,17 8:21	cutoff 63:1 d d 5:1,19 10:2 92:18 damn 36:1,7,9 37:4 dash 49:1,2,2,2,2,3 49:3 data 31:11,14,19 68:9 date 97:24 106:25 107:11 156:10 162:12 179:19 180:16 181:5 182:24 dated 82:11 85:21 112:8 dates 64:21 87:16 david 4:6 8:16 18:20 92:19 david.gringer 4:11 day 45:6 112:10 176:12 178:13 179:20 dc 4:9 deadline 98:9 deaf 118:3 deal 29:19 131:17 dealership 77:11 77:13 dealt 36:18 102:15 deceive 176:3,6 deceived 160:20 december 52:11 decent 58:24 decide 131:22,24 134:13 139:18 decided 141:24 158:2	decides 41:25 declaration 6:13 13:17 14:1,5,12 15:21 16:4,7,20 17:3,8,23 18:6,11 25:19 28:18,23,25 31:21 51:22 64:7 88:25 89:3,4,10,16 89:17,20,23 90:3 90:16,24 93:15,16 97:1,10 98:13 101:1 104:17,25 105:6,18 106:8,18 106:19 107:3 109:3,10,12 112:4 113:8,11,19,24 114:3 116:16 117:5,14 118:8,20 119:1,7,11,21 120:1,18,22,25 121:2,21,22,24 122:17,25 123:2,8 124:3,20 125:7,17 126:18 128:3 134:11,23 135:10 135:22 138:14 139:10,14,19 140:1,12 141:13 143:8 144:12,19 145:10,21 146:18 156:15,24 157:1 157:25 160:19 167:24 170:6 175:18,21 176:2,9 declarations 114:2 declare 29:15 122:7,11 178:5 deduction 32:8 33:6 deductions 148:11	deem 178:11 deemed 55:1 deep 35:6 default 130:2 defective 86:11 defend 156:25 defendant 2:21 8:22 defendant's 34:5 42:12 48:17 61:23 65:9 80:20 81:18 87:25 92:20 121:12 defendants 1:11 1:18 2:11,18 4:3 7:21 9:12 defers 23:1 definitely 65:2 delaware 1:9 2:9 deliberately 122:12 delivered 28:7 deluxe 83:10,11 83:11,12,12 99:21 107:19,22 150:9 150:11,13 158:17 161:17 delving 167:7 democrat 37:12 democrats 35:24 denial 98:4 denied 109:21 department 36:18 dependents 148:4 148:10 depending 75:6 deposed 10:18,22 deposition 1:21 2:20 7:15,20 8:1 10:21,24 13:15 14:12,16,20 15:1,5
---	---	--	---

[deposition - edition]

15:8,11,14,17 16:7 16:17,20 17:4 24:25 43:6 48:10 104:8 111:12 160:12 176:24 177:6 178:7 180:19,22,24 181:8,10 depot 23:22 27:18 36:15 76:20 77:3 depreciations 29:17 depth 54:7 describe 35:4 described 30:15 30:21 71:4 157:2 describing 99:18 105:18 157:21 description 5:8 6:2 68:15 descriptions 162:6 design 21:20 22:18 designating 43:5 designed 60:8 152:5 despite 86:24 details 112:15 determined 180:18,22 181:7 deterred 59:18 develop 56:15 developed 171:24 development 64:10 diana 61:5,16 118:12 die 60:12 diem 37:22 difference 19:1,3 87:17 99:4	differences 132:8 133:6,8,10 different 76:9 99:21 110:19 122:17 124:7,23 124:25 125:1 126:9,11 128:2,2 129:22 132:17,18 132:24 133:5 141:3 154:9 difficult 135:7 difficulties 19:13 digging 108:6,20 108:25 109:2,7,9 digital 41:18 dinner 157:15 direct 75:14 direction 179:14 directly 50:13 disappointed 33:13 68:1 discharged 22:7 disclose 154:5 169:1 170:15 disclosed 169:15 169:18 170:4,19 171:25 disclosing 154:3 discount 78:14 discounted 150:21 discounts 78:7,10 discuss 19:4 discussed 116:14 172:17 discussion 15:13 98:23,24 112:9 discussions 116:15 dismiss 98:5 172:25 display 22:8	displays 22:11 disposal 103:18 disputed 71:5 disqualify 137:1 district 23:17 37:25 document 5:13,17 6:13 42:24 49:6 60:25 66:8 68:15 68:16 72:1 90:20 91:21 92:23 93:3 93:8 112:18 151:9 documentation 62:25 documents 9:23 16:19,24 20:17,20 21:8 64:19 87:14 87:19,20 104:13 dog 62:7 110:7 doing 12:5,9 31:20 33:19,20 35:12 37:14 40:2 53:4 61:13 70:16 84:15 115:2 157:24 170:22 dollar 128:19 155:23 dollars 37:11,11 41:18 74:7 76:21 77:4 155:24 156:5 156:5 domestic 61:19 donated 32:5 67:5 72:10,19,25 127:1 127:5,8 136:14 155:23 156:4 157:23 donating 32:4 donations 33:4 door 33:1	doors 23:11 dorr 4:5 8:17,22 dot 47:7 48:25,25 50:13,21 51:8 138:17,24,25 dots 148:8 dotted 30:14 draft 17:22 90:24 113:11,24 114:1,3 119:6,11 120:1 drafted 106:7 drafts 119:1 drama 21:1 draw 164:2 drove 10:10 due 23:15 86:1 duly 9:13 duty 153:24 154:2
			e
			e 5:1,7 6:1 159:20 179:1,1 180:9,12 181:1 182:3,3,3 ear 118:4 earlier 32:9 72:13 81:4 99:3 106:14 126:2,22 172:17 early 21:19 102:21 earned 52:17 earner 134:16 earnings 52:11,17 55:2 75:7 106:11 ease 29:21,25 30:1 easier 23:19 east 3:16 easy 59:13 102:18 ebay 155:25 editing 18:5 edition 26:6,8,13 26:18 28:12,14,22 124:15,16 130:22 131:7 137:9,21

[edition - expect]

150:6 151:11,12 160:23 161:20,20 164:21 165:3,24 166:7 168:6 169:1 169:10 edits 17:12,22 education 21:15 21:18,25 39:11,19 educational 21:13 effects 22:20 effort 9:22 efforts 33:16 egg 45:24 eight 5:12 91:17 91:19,20,22 140:13 155:2 either 15:2 19:6 24:20 33:9 61:4 70:8 95:10 107:20 111:3 159:19 elected 37:7,9,24 39:2 electronically 64:16 84:14 108:9 137:17 elementary 99:19 eligibility 136:13 137:8 eligible 67:5 else's 109:25 email 5:10,11,15 5:15,20 6:3,6,6,9 6:10 14:22 61:2 62:12,13 78:1 81:1,22 82:4,5,8 82:15 85:18,18,21 88:9,22 89:2,12 91:3 92:3 93:19 93:25 94:9 106:25 110:25 111:9 112:9 113:6,23	114:2 126:3 142:12,15,22 emails 13:17 14:23 16:2 43:9,10,15 111:8 113:21 114:7 143:23 embezzling 45:20 employed 149:8 employee 76:16 77:2 179:18 employment 22:4 empty 35:15 encountered 57:3 ended 94:4 167:11 177:6 enjoy 33:20 enlightening 30:7 30:16,21 ensuing 110:19 161:18 entering 155:4 157:11,12 entire 36:24 entitled 5:13,17 6:13 107:8 entity 39:25 54:8 entries 144:5 envelope 43:1 errata 180:14,16 181:3,5 error 139:20 140:6,8 167:25 esq 3:6,7,15 4:6,7 essence 98:25 essentially 16:11 23:25 33:17 35:20 96:16,23 established 161:17 estate 21:23 23:1,2 23:8,12 24:4 29:15 55:11	170:12 estimate 163:3 et 39:12 evening 157:16 events 106:22 everybody 19:5 23:1,10 54:11 176:2 everybody's 36:5 evid 5:19 evidence 175:18 evolve 53:1 exactly 39:16 128:18 173:5 examination 5:2 9:18 162:23 173:11 examined 9:13 example 36:15,19 41:17 58:6,19 60:12 exception 119:14 excerpt 145:12 exchange 69:22 88:9 91:3 exchanged 14:21 114:8 exchanges 14:22 89:12 excited 130:19 excuse 103:6 107:21 executed 178:13 exhibit 5:9,10,13 5:15,17,20 6:3,6,9 6:13 34:2,3,5,18 34:22 35:2,5 38:9 39:6 42:11,12,17 42:18,22,24 43:2,3 43:7,11,14,15 44:2 48:16,17,24 49:11	49:14,25 50:3,11 61:22,23 62:11,20 65:8,9,16,20,21 66:3,11,23 67:3 68:5 69:7,10 71:11 80:19,20 81:1,5,16,18,22 82:2,4,8,9,11,15 84:1,7,9 85:18,22 86:25 87:24,25 88:5,8 91:1,10,15 91:16 92:3,19,20 93:7,12,18,22 107:12,15 112:6 121:11,12,18,23 122:4,24 123:1 124:3 125:5 129:1 129:3,6 130:5 132:15 135:10 137:23 138:8,22 140:4,9 141:23 144:20 145:10,21 147:1,21,25 149:16 150:4 151:25 155:3 158:1 159:10 160:18 161:3,24 162:3,9 164:1 exhibits 20:18 65:19,21 existed 136:1 expansive 23:24 expect 47:2,19 50:16 54:7 63:6 64:22 75:14,18,24 77:1,5,11 78:18 83:25 101:19 127:6 151:22 152:12,16,19 153:2,2,4,17,18 154:5,16 169:1,9
---	---	---	--

[expect - filing]

169:14,17 170:3 171:25 172:5 expectation 96:17 154:21 expected 127:12 expediency 29:7,8 29:20,24 expenses 23:24 27:3 53:5 175:11 expensive 74:13 74:18,23 75:2 152:5,8,13,17,20 153:5 160:22 experience 16:12 26:20 45:10 56:13 72:21 78:22 82:13 83:15 84:21 87:14 92:5 96:6,17 104:24 105:15,18 105:21 106:4 107:1,3 108:2,4,11 108:16,22,24 109:2,9,24,25 110:2 119:4 121:1 136:3 156:21,22 157:4,21 experienced 120:5 123:12 144:15,16 experiences 60:11 expertise 69:12,13 161:8 experts 57:1 explain 66:8 explained 45:18 76:13 explaining 16:9 expressed 44:19 87:15 extended 79:20 extensive 15:20	extra 59:2 extrapolation 29:10 extremely 45:25 eyes 164:22 f f 10:2 179:1 fabulous 33:14 face 146:11,12 faced 19:17 fact 19:8,25 22:17 25:9 27:14 32:25 33:11,17 36:23 44:5 64:2 102:19 103:1 114:7 118:2 118:11 120:19 126:2 134:4,12 136:1 139:10,25 149:4 158:10 170:16,16 176:5 factor 37:15 factors 29:4 30:3 facts 60:11 123:1 156:24 fair 18:9 27:24 90:13,14,23 94:13 107:5 115:14 149:15,25 174:14 fairness 82:15 faithful 119:23 fall 23:10 falsified 69:24 familiar 38:2 71:19 families 37:21 fan 172:17 faqs 85:14 far 35:9,23 66:11 87:16 96:13 108:5 108:18 113:20 133:4 143:25	149:20 150:22 favor 20:11 feather 61:6 130:13 feature 70:4 82:23 features 68:8 february 1:23 2:22 5:12,16 6:11 7:2,9 43:15 62:13 98:9 112:8 180:5 federal 49:2 103:7 150:6 151:10,11 164:23,23 165:2 165:23 168:6 171:15 181:1,8,9 fee 102:23 feed 19:9 feel 35:17 39:23,23 40:12 41:9 44:10 73:22 96:19 101:8 101:12 102:6 103:8 158:16,20 168:5 170:20 175:17 feeling 158:1 feels 60:9 fellow 170:20 felt 16:8 22:16 31:8 96:17 101:3 117:10 121:5,7 134:17 158:7,22 159:1 168:7 175:22 fenn 1:25 2:23 8:6 179:24 ferret 57:20 pha 79:15 fifth 39:6 figure 27:18 89:7 107:25 111:4 114:3 157:5	figured 27:4 61:1 84:15 87:6 118:3 152:1 167:24 figures 55:15 file 5:13 19:1,12 19:24,25 20:7 28:6 29:2 49:2,23 50:2,11,17 51:10 51:17,20 61:10 64:3 67:6 72:10 72:20 73:1 75:11 75:15 84:11,19,19 85:15 99:2 103:9 127:2,6,8 128:15 132:6 136:14,19 136:23 137:3,4,15 141:25 143:21 152:6 159:12 165:23 167:9,11 167:13,20 168:2,3 169:14 170:4 filed 7:22 24:21 26:22 31:1 53:17 53:25 61:11 75:9 97:21 98:21 99:10 106:11 117:19 126:7 138:21,22 140:2,7 141:18 154:24 159:5,20 files 61:3 filing 1:4 2:4 7:21 19:6,21 26:22 46:22 47:15 49:1 50:12,20 55:8 56:1 96:18 99:4,5 99:6 102:23 103:6 107:21 132:3 137:16 161:6 171:24 172:1,10 180:4 182:1
---	--	--	---

[filings - freebies]

filings 117:20	49:10 50:7 57:18	163:13 164:14,19	39:24,24 40:3,4,13
filled 92:4,10	57:25 124:6 140:4	165:4 166:8 172:3	41:1,11 46:21
filling 67:14	140:8,13 141:23	172:8,15 173:2,18	47:15 49:1,3,23
final 68:5	143:7 159:24	174:5,12,13	50:2,11,17 51:11
finance 23:3 31:7	160:3	format 60:15	51:18,20,25 52:7
financially 8:8	fix 76:18	96:23 102:5,11,12	64:3 67:6 72:10
179:17	fixture 22:14	102:14 117:16	72:19,25 75:12,16
financing 23:5	flew 14:6	formatting 96:5	78:21 84:11,19,19
find 21:3,5 26:22	floor 3:8,16	96:11	85:15 98:22 99:2
30:25 50:16 58:21	flowery 115:8,11	forms 70:9,20	99:10,19 101:18
63:24,25 79:3	focus 16:10 19:6	102:16,17 151:20	101:24 102:25
80:1 124:10,11	focused 115:17	151:20	103:3,5,9 105:23
129:5	149:1	forth 13:18 123:1	107:18,24 110:18
fine 40:16 83:5	foil 42:5	179:9	117:18,20 124:7
93:6 102:23	folder 34:2 42:10	forward 9:22 49:1	124:15,15,16,23
103:24	48:15,16 49:10	49:1 84:14 97:9	124:25 125:2
finish 12:8,9	61:21 65:8 80:18	97:14 112:2 114:8	126:7,9,11 127:2,6
143:16,19	81:11 87:23 92:18	155:16	127:8 128:2,15
finished 67:12,15	121:10	forwarded 100:14	130:22 131:7,11
82:25 157:18	folks 53:12	forwarding	131:18 132:3,4,5
fireplace 24:9	follow 89:22 106:2	111:11	132:17,19 133:2,2
firm 8:4,6 22:18	114:11	found 23:2 68:20	133:3,15,19,20
45:17 73:20 74:1	following 173:3	79:22 94:3 138:2	134:5,7,9,13 136:8
first 9:13 21:19	follows 9:14	145:1	136:14,18,23
26:12 35:5 45:11	140:12 180:8	foundation 68:16	137:3,5,9,15,21
50:10 58:22 64:24	font 146:23	four 37:21 55:16	140:2 150:6
65:3 77:21 94:11	foot 33:1	76:20 77:4 119:9	151:11,11 152:20
94:18,21 95:6,12	football 47:21	122:16,21 129:9	153:19 159:12
96:3,25 99:12,25	foregoing 122:7	147:16 148:24	160:23 161:7,20
105:3 108:14	178:7 179:8,10,15	150:3 151:1,24	161:20,21 164:21
112:3,25 125:4,16	forehead 85:3	176:25	164:23,23 165:2
125:24 126:17	foremost 58:23	fourth 124:5	165:23,25 166:1,4
129:24 132:15	forgot 37:1	frame 146:12	166:7 167:10
137:24 144:4	form 19:18 29:5	francisco 10:9	168:6 169:14
145:6 146:25	32:19 38:14,16,21	frcp 181:1	170:4,23 171:14
149:13 151:6	50:22 56:24 75:5	free 1:4 2:4 5:13	172:10 180:4
152:1 161:19	77:14 78:15 80:3	5:14 7:21 19:6,22	182:1
166:25 174:22	86:12 87:11 127:9	20:1,7,8 25:11	freebie 131:21,23
fit 59:6	133:23 134:24	26:22 27:6,11	132:9
five 5:9 6:13 41:18	149:18 153:6,21	28:2,4,6 29:1	freebies 40:8
47:23 48:15,16	154:10 159:2	39:11,11,11,19,19	

[freedom - gringer]

freedom 26:6,8,13 26:18 28:12,14,22 169:1,10 fresh 157:23 friday 15:2,4,18 16:14 friendly 60:16 102:6,11,12,14 friends 35:14 44:4 44:7,11 front 42:25 91:21 126:19 129:6 full 9:25 32:3 76:19 79:15 141:1 147:21 fund 39:18 further 36:22 64:10 120:5,19 138:15 162:15 167:7 173:6,11 179:14,16 fussing 123:17 future 26:21 125:14	156:12 getting 19:6 30:1,2 30:23 40:3 45:25 54:18,22 86:6 94:8 99:6 117:20 118:13 130:17,17 130:17 149:20 give 11:23 14:15 51:5 58:19 126:20 146:12 158:25 170:10 given 56:13 66:20 87:13 156:20 175:16 gives 35:14 giving 131:18 155:15,20 glad 40:14 glance 63:13 glaring 140:6,8 glitch 42:2 gmail.com 180:2 go 7:17 9:16 10:20 20:12,18,25 25:23 26:21 45:3 46:8 50:16 59:10 60:14 61:21 65:20 70:3 80:17 82:19 83:9 84:14 87:23 92:18 96:24 100:24 102:8,17 103:25 110:7 111:20,23 112:6 121:10 122:24 124:9 125:13 127:14,19 128:12 132:14 135:12 140:4 143:22 147:7 149:3 155:2 156:2 159:9 160:5 161:23 162:14	164:1 167:17,25 171:10 173:23 174:15 176:20 god 61:7,13 goes 44:14 47:12 140:24 going 7:8 10:20,25 12:14,15 19:19,22 20:21,22 32:7 33:14,21 38:17 40:5 41:5,17 43:13 46:12 47:14 48:5,16,22,23 49:17,22 50:13 54:21 57:21 64:8 68:14 70:19 76:4 77:20 78:4 80:18 81:16 82:10 83:8 87:13 96:21,22,22 96:24 97:17 99:2 100:25 104:3 107:23 110:18 118:1,12,22 120:24 134:19 142:24 144:10 149:19 153:7 155:8,9,14,16 157:14 160:4,7 161:14 162:13 165:5,6 166:15 168:11 169:19 170:8 177:1 good 7:7 8:16,20 8:23 9:3,20 30:11 30:16 31:2 41:1 58:13,17 67:25 74:8 82:23 90:4 102:15,16 117:1 119:3 127:3 130:11 172:21 175:4	goodwill 155:20 google 20:12 50:25 140:24 143:8 144:5,24 googled 20:9 144:4 gosh 127:12 142:14 155:11 gotten 59:3 gov 47:7 48:25 50:13,21 51:8 government 22:8 36:2,8,10 37:4,20 39:21 40:12,25 41:7,10,14,24 44:15,17 45:14 53:18 54:1,5,8,14 56:11 75:11,15,19 75:20 78:19 79:1 79:4,12 152:20 153:19 172:17 government's 41:24 grab 25:25 graduate 21:17 graduated 22:5 grammar 119:14 grand 79:24 grandfather 22:11 graphs 109:15 gray 83:17 great 12:11,22 32:23 68:21 grew 22:14 grind 57:23 gringer 4:6 5:3 8:16,16 9:19 17:15,18 18:1 19:23 33:2 34:9 34:12 38:15,20,23 40:11 42:15,19,20
g			
gains 29:14 gambit 115:1 game 47:21 82:25 101:17 132:2 gang 95:16 gears 77:21 general 22:3 78:18 80:7,8 153:1 generally 21:3,5 25:4 58:1 generate 40:2 generated 19:10 78:1 george 76:8 germane 45:8 139:13,15,18			

[gringer - hold]

47:22 48:1,13,20 49:4,7,10,13 51:2 57:2 62:10 65:12 65:15 68:17,21,24 69:3,5 75:8 77:16 78:17 80:6,24 81:21 86:15,16 87:18 88:3,4 92:23 93:2,7,11 97:7,13 100:4,6,15 103:14,21,25 104:11 121:16,17 127:17 134:1 135:2 146:8,15 149:25 150:1 153:11 154:1,13 159:7,23 160:2,15 162:8,15 163:13 164:14,19 165:4 165:11,17 166:8 166:18 167:3 168:18 169:4,19 172:3,8,15 173:2,8 173:12,21 174:13 174:18 175:15 176:5,7 177:3 gross 128:10 ground 10:21 grown 119:17 guaranteed 83:21 guess 21:22 22:9 23:2 47:20 61:8 61:18 74:8 77:25 78:4 86:8 97:25 99:20 107:24 124:5 130:1 131:5 133:14 139:20 168:8 guided 19:10 guiding 160:20	guy 14:8 23:14 24:1,9,14 34:20 76:17 131:20 175:22 guys 13:20 42:6 82:24 102:6,7 103:19 175:9 h h 5:7 6:1 10:2 91:18 182:3 h&r 60:3 142:10 152:13 153:3 154:6,9 habit 164:15 hairs 133:1 hale 4:5 8:17,21 half 45:21 103:17 103:19,20,22 113:2 122:13 hand 9:8 34:23 66:11 88:12 133:11,12 173:1 handle 57:4 handled 180:8 handling 41:24 hang 31:24 hanging 135:5 happen 106:23 140:14,21 happened 100:21 105:1 107:4 157:8 166:6 167:21 175:1 happening 117:8 happens 11:14 97:18,19,19 hard 122:22 147:15 hardware 76:16 77:2 78:5	hartford 1:21 2:20 5:9,15,18 6:3,6,11 6:13 7:20 9:7,11 9:20 10:1 21:12 27:14 30:20 34:1 34:3,10,18 42:4,11 42:21 46:6 48:11 48:14 49:14 61:22 62:3,11 64:2 65:16 68:4,18 80:25 82:5 88:6 92:24 103:16 104:9,12 106:16 117:5 118:24 120:20 121:19 124:14 135:7 140:17 141:4 146:9,16 149:4 150:2 153:13 156:9,23 160:13 160:16 162:16,18 169:5,8 170:3 171:8,20 173:9 176:13,16,25 177:3 178:5,19 180:1,5 182:2 hartford's 118:2 hat 42:5 hate 175:5 head 11:25 14:7 26:23 59:16 60:17 90:9 153:23 161:6 163:2 heading 50:1 health 39:11,24,25 40:3 hear 20:13 21:11 26:12 28:9 42:8 77:21 87:1 106:14 173:19	heard 25:17,20 26:5 28:6,12 29:1 43:24 46:18 110:9 116:18 117:22 123:23 hearing 79:25 hearsay 123:19,21 123:22 124:4 125:11 hedding 3:16 held 31:2,22 hell 155:22 help 21:25 29:19 41:8 54:18,22 helpful 111:13 helping 102:7 hereinafter 138:3 138:8,25 hereto 34:7 42:14 48:19 61:25 65:11 80:22 81:20 88:2 92:22 121:14 hershey's 59:25 hey 23:15,15 69:17 99:1 103:18 153:24 hiccups 45:11 high 21:14 22:4,5 hire 22:18 hired 45:17 history 22:4 66:5 111:9 171:4 hit 64:13 65:19,21 143:24 hitch 82:21,22 83:1,3,14 hits 77:18 hocking 23:23 hold 31:1 38:15 137:1
---	---	---	---

[holding - interior]

<p>holding 31:9 57:1 holds 54:9 home 23:22 27:17 36:12,15 76:20 77:3 148:5,11,21 150:23 honcho 153:23 honest 41:12 honestly 90:9 honorably 22:7 hooks 36:5 hopefully 12:15 162:20 hoping 58:21 horrible 175:5 hour 12:14 47:23 103:17,19,20,22 113:2 hours 12:16 155:3 156:2 157:10 house 8:19 73:17 170:21 household 128:9 142:1 housekeeping 113:7 houses 22:19,25 23:4 housing 22:15 39:12,19 40:4 huh 18:4 43:22 50:4 71:15 88:7 92:2 131:13 144:23 145:14,19 150:8 155:18 159:16 164:9 hundred 41:21 74:11 173:17,23 174:1 175:8,13 hundreds 74:7 156:4,4</p>	<p>hurry 98:12 husband 79:21 hyperlink 127:12 127:20 hypothetical 133:18</p> <hr/> <p>i</p> <hr/> <p>i.r.s. 25:9,15,21 28:6,15,22 29:1 30:2 43:20 44:5,7 44:11,17,20 45:3,9 46:8,18,21,25 47:5 47:5,7 48:25 49:23 50:2,11,13 50:17,21 51:8 55:8,12 56:1 62:23 67:6 72:10 72:19,25 84:19,25 85:4,5,15 103:9,12 124:10 126:6,23 127:2,4,6,8 130:6 130:9,19 131:17 131:21,22 132:9 133:1,10,13 134:3 134:21 135:14,17 135:24 136:3,7,14 141:20 153:5 154:9,11,18,22 171:17 172:12,13 172:20 i.r.s.'s 47:3,7,14 idea 37:14 46:1 116:9 127:3 147:23 151:8 173:15 identification 34:6 42:13 48:18 61:24 65:10 80:21 81:19 88:1 92:21 121:13 iffy 92:12</p>	<p>image 111:15 145:12,20 146:2 146:16,18 147:20 150:3 164:3,5 images 148:9 imagine 19:20 47:4 52:3,10,20 77:7 92:7 128:11 impacted 45:13 impasse 64:14,15 64:18,18 105:4 important 11:1,23 12:5 29:4 30:4 52:22,24 53:7,15 58:17 121:1 144:13 impressed 33:11 inaccurate 120:23 162:4 176:10 include 47:5 128:23 129:14,18 130:9 139:9 included 1:5,6 2:5 2:6 7:24 89:11 121:2 134:8 156:3 180:14 181:3 including 68:8 97:17 137:17 inclusive 1:10,17 2:10,17 139:21 income 27:15,16 27:21,23 29:9,14 39:22 64:9 128:4 128:4,5,5,7,10,14 128:18 134:16,17 136:16,18,22,25 163:1,19 168:21 174:5,8 incorrectly 84:16 incurred 53:3</p>	<p>independent 35:6 35:23 58:4 125:23 indicated 31:21 indicative 174:21 individually 86:3 individuals 58:2,8 industrial 21:19 industry 22:16 information 6:17 19:9 40:18 51:6 101:14 155:4 157:11,13,20 informative 152:23 inheritance 73:16 initial 84:9 85:11 initially 19:13 98:23 initials 47:5 85:2 injured 22:23 ink 90:17,19 input 31:3,10 insert 122:13 inside 106:19 insofar 96:13 107:7 instance 55:9 75:22 instruction 6:19 integration 32:17 32:23 40:15 intended 172:19 intent 176:3,6 interest 46:23 interested 8:8 51:3 179:17 interesting 30:19 79:2 138:2 interfere 7:14 interior 21:20</p>
---	---	--	--

[internet - know]

internet 51:9 110:9 124:17 126:5 146:21 147:17 interpose 169:24 interruption 48:7 146:7 160:9 interviewed 169:6 intro 107:7 introductory 81:2 intuit 1:9,17 2:9 2:17 4:18 5:11 8:18,19,22 31:6 32:10 44:3,6,10,19 45:4 46:9,12 67:5 72:10 87:19 97:21 107:8 117:3,24 126:25 127:4 130:8,13 131:17 133:2 138:16,24 153:23 154:12 171:16 intuit's 6:14 67:4 68:6 98:2,4,10,19 138:23 involved 24:7 73:17 82:17,20 83:7 involvement 81:3 irrespective 23:11 119:23 irs 5:13 issue 16:25 45:18 71:9 117:17 149:19 issues 171:2 item 149:10 itemize 33:12 itemizing 33:6 items 157:23	j james 1:14 2:14 january 6:7 52:11 88:15,21 92:15 94:5,11 jccp 1:5 2:5 7:23 job 37:14 62:2 76:22 79:22 180:5 182:2 jobs 23:22 joe 116:18 joe's 133:19 joesusa 58:23 joined 8:18 joint 126:23 josé 3:17 judge 98:4 jumping 57:16 june 5:21 6:4 82:11 85:22,24 86:25 88:15,21 jury 172:18	k keep 48:22 101:8 101:11 107:14 146:12 169:22 keeping 155:20 key 136:15 kids 148:22 kind 16:9 22:14 23:12 31:4 33:1 38:5 47:12 53:1 53:20,21 54:9 55:11 57:19 59:10 64:11,21 69:19 80:8,12 107:10 121:4,7 129:20 130:15 142:10 144:25 163:3 168:8 173:3	kinds 78:7 109:19 115:8 kleenex 59:24 knew 14:4,12 33:18 50:24 72:22 74:13 83:25 101:17,18,19 115:20,21 125:19 128:16 138:15 141:7 155:13 165:5 172:23 knocked 61:6 know 11:12 12:17 13:16 14:4 16:9 17:7 18:24 19:8,9 19:11,16,24 20:6,9 21:2,21 23:3,4,22 23:23,24 24:3,4 26:19 27:3,4,20 29:11,11,12,17,18 30:5,7,8,12,13,20 30:25 31:3,22 32:2,22,22,23 33:14,15 34:13 36:4,16,19 37:20 38:5 39:2,21 40:1 40:19 41:18 42:6 42:16 44:25,25 45:8,8 46:25 49:22 50:19,24 51:13,20 52:9,11 52:14 54:6,6,25 55:10,23 56:10 57:16,18,19,20 58:15,21,21 59:6,7 59:14,15,25 60:1 60:10,13,16,18,21 60:23,25 61:14 63:2,23 64:13 66:2 69:11,18,22 69:25 70:2,3,6	71:2 73:16 74:7 76:3,8,8,13,13,19 76:23 77:9 78:23 79:8,11,12,14,18 79:20,24 80:9,11 81:7 83:16,18 85:1 86:13,13,17 86:19,21 87:4,12 90:12 92:13 93:19 94:4,7,8,9,14,24 95:5,9,10,17 96:1 96:6,18,19 97:9,10 97:24 99:1,19,21 100:12,22,25 101:13,15,19,24 102:5,6,7,22 103:11 104:23 105:4,10,22,22,24 105:24 107:6,14 107:16,17 108:6,8 109:17,18,18 110:4,5,17,19,22 110:23 111:2,2,14 113:5,18 114:5,6 114:13,19,21 115:3,8,20,23 117:1,4,10,25 118:17 119:8,14 119:15,16 122:16 123:17,18,19 124:6,24 125:19 125:19 126:1,25 127:10,18,20,24 128:1,6,7,10,13 130:8,12,12 131:17 132:8,12 132:13,16,23 133:15,15 134:4 134:19 135:25,25 139:17 140:3,18 141:21,22 142:8

[know - look]

142:17,17,25 143:3,6,11 144:1,4 144:16 145:3,17 147:20 148:23 151:19 152:23,23 152:24 153:9,13 154:17,25 155:21 155:22,22 158:18 161:6,8,9,17 164:4 166:6,10,10 167:14,15 168:8 168:11 170:12,20 171:4,13,14,16 172:20,20 174:2 174:15,20 175:2,6 175:6,11,14,22 176:3,5 knowing 54:9 109:17 171:2 knowledge 109:23 119:8 123:3,8,11 123:15 124:21 125:6,10,16,21,23 127:11 131:2 144:8 known 22:19 170:24 knows 45:24	land 40:6 landing 49:23 language 86:5,11 115:8,11,15,17 large 59:2 86:6 118:1 larger 68:19 latitude 168:9 laughing 76:2 laws 178:6 lawsuit 24:8 44:4 77:22 97:11,21 98:1,3,16 101:2 106:15 156:21 157:1 175:19 lawsuits 24:17,19 lawyer 13:4,7 123:18 138:11 lawyerly 114:14 lawyers 13:10,12 118:18 174:20 layman 175:22 lead 20:2 96:20 161:5 leading 163:13 165:11,17 166:18 167:3 168:18 169:4,6,21,22,23 169:23 170:1 173:2 174:20 learn 129:25 176:1 learned 128:22 129:4,13,17 161:19 learning 13:19 leave 34:9 lee 3:7 9:1 lee.sherman 3:12 left 34:23 35:9 40:6 41:6 66:11 150:6	legal 8:5,7 180:7 legislators 37:22 lenders 79:4,11 lending 78:23,25 letter 90:7 level 22:4 31:8 64:12 110:17,19 132:6 136:22 levels 76:9 lexus 77:9,11 78:5 liberal 35:10 libertarian 35:25 library 75:25 license 21:23 23:1 lied 122:13 lies 122:13 life 20:3 41:8 60:11 102:16 155:13 limit 128:4,5,5 limited 36:16 line 25:10 53:9 99:5 124:6 136:8 138:15 140:24 147:15,15 152:3 160:19 175:23 180:15 181:4 182:4,7,10,13,16 182:19 lines 161:5 171:23 link 126:5 140:25 143:10 144:21 linkedin 5:9 34:21 35:1 42:1 list 30:4 32:5 50:7 117:3 128:23 129:14,18 130:9 131:10 listed 33:4 130:22 131:3 148:25 150:3,13,19 151:2	164:3,8 169:11 172:6 listen 108:13 listing 170:13,14 litigation 5:11 little 21:11 25:25 26:23 34:19 35:14 44:3 62:16 68:1 68:19 69:15 77:24 82:17,20 83:7,16 87:16 96:6 131:19 148:3,12 163:10 163:11 164:22 168:20 172:18 173:19 175:7 live 10:4 12:25 23:19 37:21,22 69:18 70:2 176:2 living 23:24 24:1 llp 4:5 loan 23:11 79:23 80:4 171:4,6 local 76:16,22,24 77:2 located 138:24 locked 180:12 181:1 long 4:16 8:19 15:16 45:16 53:11 56:18 102:16 112:25 119:6 126:21 158:17 longer 29:16 35:24 148:21 look 26:24,25 34:11 50:25 65:7 71:11 72:9,18,24 74:8,9 83:9 85:17 94:16 97:9,14 107:15 108:7 124:10 141:7
I	I 1:25 2:23 179:24 I.a. 14:8 laca 6:4,5,8,8,11 6:12 81:23 88:10 93:9 lacity.org 3:11,12 lack 135:21 lacking 68:16 102:19 lacks 35:21 laid 166:4		

[look - mean]

146:11 153:9 160:18 170:8 looked 23:13 51:12 60:24 72:12 111:21 145:11 147:4,11 148:20 170:5 looking 51:13,17 51:18 58:20,25 61:13 69:8 91:14 108:20,25 109:7 164:5 168:20 looks 43:8 62:11 81:8 82:3,12 90:17 93:14 94:14 94:14 122:17 123:6 138:11 looming 55:24 los 1:2 2:2 3:5,9 6:3,7,10 7:23 8:25 9:2 13:1 81:9 82:6 88:20 117:17 lose 68:22 lost 10:11 27:1 53:24 54:2 lot 16:22 20:4 29:10 32:23 57:20 60:5,6,17 69:9 77:19 86:18,22 108:6,19 115:5 133:21 134:20 142:17 167:17 170:22 174:10,25 lots 19:7 lottery 36:20,25 low 27:2 134:16 136:18,25 163:24 lower 80:14 lunch 93:5 103:17 104:5,14,17 105:23 114:20	lynda 1:25 2:23 8:6 18:20 179:24 m machine 41:16 57:17 110:4,6,10 111:24 146:17,21 147:13,18 179:13 mahmood 3:6 5:4 8:23,23 14:9,11,15 14:19,25 15:3,7,10 15:14,17,22 16:3,6 16:17 17:13,25 18:2 19:18 26:15 26:16 28:2,13,19 32:19 38:14,17 39:17 50:22 56:24 68:14 75:5 77:14 78:15 80:3 85:12 85:13 86:12 87:11 87:21 88:14 89:9 89:15,17 90:2,24 94:12,19,22 95:2,6 95:11 96:1,3 97:1 97:4,20 98:6,8,12 98:15,18,21 99:9 99:13,25 100:2,7,9 105:14,17 106:3 110:12,21 111:3 112:4,7,12,17,21 112:25 113:4,11 113:23 114:10,16 115:25 116:5,7,11 116:14 118:23 119:20,24 120:10 125:12,20,24 126:8 127:9 133:23 134:24 138:13,18 139:22 141:17 144:15 145:22 146:1 149:18 153:6,21	154:10 159:2 162:5,18,24 163:14 164:17,24 165:1,9,13,20 166:14,20 167:4 168:24 169:7 170:2 172:4,9,24 173:6,18 174:12 174:19,23 175:20 mahmood's 78:1 88:21,24 mail 20:18 90:5,8 142:19 mailing 117:2 main 30:13 45:2 128:16 130:23 131:3 maintained 31:3 making 22:25 79:23 113:7 141:2 169:25 malignant 37:17 37:18 mantel 24:10 march 146:25 179:20 180:3 mark 34:3 42:11 48:16 49:6,9 61:22 65:8 80:19 81:16 87:24 92:19 121:11 marked 34:5 42:12,18 48:17 49:11 61:23 65:9 65:19,21 80:20 81:18 87:25 92:20 121:12 market 55:11 59:24 135:21 168:9	marketing 22:18 114:21 141:25 142:7 marking 42:16 marks 48:5,9 104:3,7 160:7,11 married 60:12 61:19 149:4,5 marrying 171:16 mary 95:8,8 mask 36:16 massive 162:12 matching 37:11 materialized 114:22 115:4 math 27:18 matter 7:21 29:7 78:18 79:18 80:7 80:8 96:21 113:7 149:22 153:1 156:7 mattress 171:3 max 71:17,20 maximize 52:22 52:25 54:11 148:11 mean 29:8,21 30:11,13 35:7,8 37:6,20 39:15 41:19,20 42:6 54:10 56:25 60:1 60:5 61:12 73:24 80:12 85:3,4 96:12 104:20 105:24 106:13 109:14 114:14 119:15 122:10 123:10,15 124:9 142:9 145:24 148:19 152:8,10 159:17 162:11
---	---	--	---

[mean - number]

175:12 means 11:12 35:8 37:7 meant 23:16 99:6 152:4 166:1 meat 115:7,9 media 7:19 26:1 35:13 48:5,10 104:3,8 142:8 160:7,12 176:25 meeting 160:5 megillah 149:2 memory 16:25 67:23 87:8 108:1 108:5,14,15,19,21 109:1,8 117:23 mention 88:24 97:20 mentioned 17:2 22:2 26:20 28:19 32:9 33:3 43:23 55:9 57:8 60:23 merchandising 22:9 message 85:24 88:15,21 messages 86:2,18 86:22 microphones 7:10 7:14 mild 135:20 miller 4:22 8:4 mind 9:25 10:15 12:21 17:19 20:13 44:22 46:11 52:16 57:21 59:14 111:11 minute 15:19 47:23 48:22 91:2 102:9 131:19 136:6 138:5	159:24 160:3 minutes 10:8 119:9 mirroring 22:20 misc 174:5,8 missed 94:7 mistaken 106:12 model 168:25 moment 66:8 68:4 164:2 monday 1:23 2:22 7:2 mondo 76:7 money 19:7 22:25 33:15 39:12 40:2 41:16 42:3 45:20 45:22 56:14 82:21 82:25 99:8 101:20 101:23 102:2,20 118:13,14 131:19 132:7 165:22 170:22 171:3,5,6 174:16 monies 39:23 month 70:13 79:24 143:25 months 87:1,4 171:7 morning 7:7 8:16 8:20,23 9:3,20,21 mortgage 23:9 31:7 mother 73:15 motion 6:14 97:20 98:2,5,10 motor 36:19 move 64:11,17 115:7,23 171:18 moved 130:20 multi 93:8	multiple 85:14 95:14 105:2,7 mussed 13:17 n n 5:1 10:13 naive 168:11 name 8:4 9:24,25 14:6 18:20 24:11 24:14 95:7 117:6 118:21 142:1 179:20 named 34:20 44:4 nation 80:10 nature 35:20 96:20 near 65:5 107:25 nearly 23:6 necessarily 174:2 necessary 15:15 109:11 178:10,11 180:14 181:3 need 12:16,17 29:11,12 32:3 33:12 42:8 47:13 83:20 148:16 149:24 needed 29:18 102:20 needless 23:18 needlessly 156:1 needling 87:15 needs 76:18 negatively 45:12 negotiators 80:10 neighborhood 74:10 neil 4:20 9:6 neither 53:20 179:16 nest 45:24	netherlands 137:18 never 25:20 47:6 94:23 117:23 135:14,17 136:2 148:18 new 45:17 49:6 79:22 news 25:4,25 58:6 77:24 81:4,5 night 20:9 176:1 nine 140:13 157:25 163:16 nitpick 175:23 nodding 11:24 noon 103:15 nope 98:11 132:11 normal 38:7 north 3:8 northeast 10:9 northwest 10:8 nos 1:6 2:6 7:24 42:18 notating 180:15 181:4 note 7:10 18:23 notes 15:13 18:19 95:20,25 116:7,10 170:9 notice 2:25 5:20 noticing 8:13 notoriety 37:8 nuances 29:12 number 5:8 6:2 20:6 34:2,8,9 36:16 43:2 57:25 66:12 81:13 88:9 93:8 121:10 128:11 129:7 171:7 176:8,25 180:15 181:4
--	--	---	---

[numbers - order]

numbers 7:23 63:13 numerical 67:18 numerous 166:17 166:19,24 nut 102:4 nw 4:8	offered 46:21 50:15 55:16 117:19 118:7 130:22 159:11 172:11 offering 26:10 83:19 152:20 153:19 offers 50:2,11 office 3:5,14 6:4,7 6:10 8:25 9:2,5 23:13 24:25 25:2 37:9,10 78:1 81:9 82:6 85:19 87:10 88:20 94:1,5 99:1 173:7 180:11 officials 37:24 39:3 oftentimes 78:23 oh 17:16 18:4 21:22 25:25 32:6 34:15,23 37:5 46:1 47:4 59:3,8 61:7,13 62:7,18,23 67:22 69:17 88:13 90:21 91:22 93:6 93:14 94:3 96:13 97:6,8 102:8 110:7 112:19 113:17 117:1 118:13 121:15 123:20 127:3 130:11 131:20 132:5 136:10 138:11 140:19 148:13,13,13 149:14 150:12 151:17 152:24 161:1 163:5 164:20,21,23 165:12,16 166:22	168:4 okay 11:3 12:12 12:18,23 20:11,16 22:5 24:7 32:8 41:5 43:4 47:24 48:2,3 51:24 53:13 59:10 61:20 62:9 66:14 67:22 68:13,21 69:4 71:24 80:18,23 81:24 82:1,22 88:3,13,16 90:22 91:22 92:25 93:23 94:16,20 97:8 99:16 103:25 105:11 120:8 121:9,15 128:21 129:10,17,23 132:14 135:8 136:17 137:19 138:1 139:6,9 140:6,19 141:5 142:4 143:16 144:2,11 146:23 147:14,20 148:14 149:8,10,14 150:12,16,22 151:5,9 152:12 153:16 154:8 155:2 156:14 157:7,10,17 160:4 161:1,2 163:7 166:22 171:9,18 173:6 176:15 old 10:15 36:5 59:23 76:23 omission 122:13 once 10:10 14:21 17:6,9 24:9 29:18 35:8 50:23 55:13 55:14 59:2 77:18	77:18 85:3 99:15 102:19 132:1 134:25 ones 37:7 60:4 86:18 144:5 162:25 online 42:11 59:22 108:8 138:23 141:25 ons 71:12 162:7 open 20:19 21:3,5 23:8 34:2,8 42:10 48:15 61:4 80:18 81:11 87:23 142:18 149:22 opened 21:2,10 23:9,12 34:14,15 80:23 141:11 143:23 opening 48:21,23 115:1 155:14 operated 32:15 operator 167:25 opportunities 168:20 opportunity 20:4 23:7 167:17 opposed 33:6 60:21 76:6,9 132:4 opposition 6:14 opt 40:22 option 50:12,21 54:18,22 131:11 136:8 167:22 171:1 options 47:16 52:7 59:22 171:13 order 39:18 40:23 59:6 99:7 102:20
o			
o 10:2 oath 11:6 157:7 178:8 179:11 object 68:14 163:13 164:19 165:4 166:8 172:3 172:8,15 173:2 objected 18:2 objection 17:13,25 19:18 32:19 38:14 38:21 39:17 50:22 56:24 75:5 77:14 78:15 80:3 86:12 87:11 97:4 100:2 100:9 127:9 133:23 134:24 149:18 153:6,21 154:10 159:2 162:5 164:14 165:11,17 166:18 167:3 168:18 169:4,19,20,25,25 173:18 174:12,23 175:20 obtain 75:19 obviously 20:14 71:1 133:1 143:12 161:15 169:22 occurred 64:19 105:7,19 offer 55:12,20 172:22			

[oregon - people]

oregon 10:11 original 37:2 180:10,21 origins 141:22 outcome 8:9 171:16 outfit 39:4 outside 31:23 overlap 165:15 overlooked 84:17 owed 45:13 55:16 owner 170:23 owns 77:9 oy 24:5	pages 84:16 122:18,21 173:13 173:17,24 174:1 175:8,13,13 180:14,17,17 181:3,6,6 paid 31:24 39:12 45:21 63:19 74:9 82:21,25 83:10,10 83:11,11,12 101:20 102:25 107:19,22 144:5 158:17 161:17 painful 46:1 painless 59:15 paint 55:15 paper 34:11 42:17 59:24 90:15 159:19 paperwork 108:9 175:6 paragraph 82:14 122:24,25 125:4,5 125:16,25 126:17 128:3,21 129:1,3 129:11 130:5,21 131:9,15 132:15 136:6 137:24 138:7,22 140:4,8 140:13 141:23 143:7,9 144:19 145:9,20 146:2,18 147:1,7,8,21,24 148:25 149:16 150:3 151:10 152:3 155:2 157:25 159:8,10 160:18 161:3,12 parameters 156:20	paraphrased 89:25 parasite 37:16,17 37:18 parcel 52:2 117:9 117:15 parenthesis 151:15,16 parking 77:19 part 22:22 23:21 24:18 27:21 29:22 52:2 56:4 86:20 87:6 93:19 97:11 102:16 117:9,14 119:15 136:11 139:21 149:23 163:21 171:13 174:13 participants 8:2 participating 45:5 46:10 participation 44:21 46:13 96:14 96:15 particular 13:22 64:9 74:15,16 80:15 107:11 128:13 130:18 156:15,16,25 157:3 161:13 parties 7:17 179:18 partly 108:8 partner 23:14 partnered 154:12 partners 61:19 partnership 43:21 43:24 154:18 party 8:7 37:12 97:17	passed 73:15 paul 1:21 2:20 5:9 5:15,18 6:3,6,10 6:13 7:20 9:11 10:1 23:16 48:10 62:8 82:5 104:8 118:2 160:12 176:24 178:5,19 180:1,5 182:2 paul's 155:13 paulsmoney 180:2 pay 19:15 76:19 99:7 102:2 118:3 132:6 145:17 158:2 165:22 166:16 167:11,13 168:2,3,5 174:16 paying 39:20 56:17 64:6 76:24 payoff 36:4 payroll 31:24 70:19 pdf 65:24 180:12 181:1 pedrotti 76:16 penalty 122:7 178:1,6 180:16 181:5 pending 12:20 pennsylvania 4:8 people 1:6,12 2:6 2:12 6:4,5,8,8,11 6:12 8:24 9:4 19:24 20:4,6 23:5 35:17 36:17 37:20 39:2 40:8,13 41:1 41:11,15 57:20 81:23 88:10 93:9 95:15,17,18 117:19 126:6 136:17,21,23
<p style="text-align: center;">p</p>			
p.m. 2:22 7:3 103:22 104:4,7 160:8,11 177:1,6 pacific 7:8 48:9 104:4,7 160:8,11 177:1 page 5:2,8,9,9,10 5:13,15,17,20 6:2 6:3,6,9,13 34:21 35:5 38:9 39:6,7 43:14 44:1 48:24 49:23,24 50:2,24 66:2 90:19 93:8 93:21,25 100:12 121:25 122:3,16 122:16 124:6 127:1 129:5,7 137:25 141:1 145:11 147:4,11 147:21 149:16 151:2,6 152:11 169:11 170:5 174:2 180:15 181:4 182:4,7,10 182:13,16,19			

[people - probably]

<p>137:20 171:3 people's 6:14 percent 37:9 perfect 12:10 108:2,4,16 153:8 153:13 performed 158:24 period 23:7 51:23 144:17 180:18 181:7 perjury 122:7,15 178:1,6 180:17 181:6 perpetuating 37:16 41:15 pers 79:16 person 13:23 38:7 46:22 53:2 79:7 95:14 personal 13:12 109:23 123:3,8,11 123:15 124:21 125:3,6,9,16 131:2 144:8 phoebe 4:7 8:18 8:20 phoebe.silos 4:12 phone 59:9 70:15 70:17 94:10 phones 7:13 phrase 51:20 52:6 84:2,7 91:4,11,24 99:13,17 114:17 114:23 115:4,12 138:3 140:15 phrases 119:15 pick 7:11 31:4 117:10,15 picked 170:23 171:14 175:4</p>	<p>pickering 4:5 8:17 8:21 picking 76:17 96:5 picture 55:15 70:8 70:13 pictured 147:6 pictures 109:19 148:12 piece 76:17,17 pile 142:11 pinned 156:10 piss 79:14 place 7:13,17 8:1 45:14 97:18 106:9 118:12 135:9 179:9 placed 179:11 plaintiff 1:7,15 2:7 2:15 3:3 planted 145:1 plateau 19:14 platform 35:13 played 82:25 101:17 player 101:13 playing 132:2 please 7:10,12,13 9:7 11:25 48:4,15 74:25 104:3,10 137:24 160:14 171:10 176:19 pleased 111:25 plumbing 76:18 pocket 41:6,19,21 podcasts 34:19 point 27:19 64:9 89:6 97:23 110:13 132:25 pointed 14:17 points 110:20</p>	<p>politics 35:18 pontificate 37:1 pony 102:9 pool 170:17 pop 65:20 popular 58:22 populated 31:14 31:15 population 31:19 position 135:19 possible 31:23 45:6 70:25 possibly 95:13 156:5 post 21:14 38:9 39:6 41:25 posts 34:25 85:14 pot 79:15 potatoes 115:10 poverty 53:9 practice 117:24 preceding 106:24 premier 150:17,19 preparation 17:3 26:22 29:5 41:1 41:11 56:15 59:22 66:20 96:19 99:4 103:6 107:21 132:3,4 137:17 138:23 142:9 152:21 159:13 prepare 13:14 16:20 19:2,8 52:21 53:14 54:5 54:14,19 55:3 63:9 64:25 65:3 72:5 73:5,10,14 74:2,22,23 75:2,3 101:11 102:1,22 103:9 165:22</p>	<p>prepared 30:24 54:22 55:4 84:15 preparing 41:9 46:22 54:11 72:3 74:13,18 138:14 present 8:10 159:4 presented 156:25 157:2,3 press 148:7,14 pressed 148:18 presume 126:23 pretty 27:25 30:6 30:11,11,16,16,21 35:9,10 38:18 63:21 68:12 89:23 100:20 102:4 119:13 122:23 127:16 prevail 36:3 prevent 172:12,13 previous 31:3,10 31:11,19 38:22 price 76:25 79:19 80:2,11,14 110:20 150:13,19,24 151:3 165:10 primarily 113:21 primary 157:24 print 20:24 64:16 68:12 142:8,19 164:22 printed 48:25 printout 43:8 prior 82:10 112:1 173:4 179:11 privacy 40:19,23 probably 10:23 17:6 27:17 37:9 57:17 103:19 109:18 113:2 119:8 128:9</p>
--	---	--	---

[probably - question]

156:11 163:5,9,17 176:1 problem 46:2 problems 55:7 56:1 procedure 180:19 180:20 proceed 48:12 104:10 160:14 proceeding 10:24 proceedings 48:7 160:9 179:8,10,12 process 19:11 96:13 107:21,22 158:4 171:13 produce 90:10 113:23 produced 9:12 173:22 product 17:14 18:3,7 22:8,16 23:23 25:10 26:5 26:18 28:3 58:9 58:16 66:15,18,19 66:24,24 69:23 76:10 80:12,14,15 84:4 91:6,12 97:5 99:14 100:3,10 114:18,25 115:13 115:16 128:15,23 129:14,18 130:3,4 130:6,9,23 131:3 131:10,14,23 133:5,11,13,13,22 134:3,3,10,11,13 134:16,21,22 135:15,18,24 136:3,8,19,23 137:4 148:1 150:23 151:23 152:5,9,14,17	153:3,3,5,19 159:11 160:21,23 161:25,25 164:12 166:7,16 168:10 169:8,13,14,17 170:4,5 171:24,24 172:5,6,11,14,23 174:24 production 110:24 products 31:6 32:10 68:7 128:23 129:15,19 130:24 131:6,6 133:7,12 148:24 150:3 151:2,24 164:3,7 169:10 professional 44:25 profit 56:5 program 28:7 29:2 33:18 40:25 41:10 46:19 49:23 50:18 53:18 54:1 54:5,14 60:8 67:6 72:11,13,20 73:1 79:1,5,8,12,16,17 84:12,19,20,25 85:5,15 103:9 127:2,6,8 128:8 136:14 137:3 152:20 153:19 154:9,11 167:15 program's 167:19 programs 30:6 39:9 75:11,15,19 78:19 79:15 promise 160:20 promote 22:18 prompt 115:22 166:12 prompted 16:21 25:8 81:9 107:20	166:16 167:1 prompts 64:8 proof 116:23 proofing 144:14 properly 40:7 74:19,24 75:3 159:12,17 properties 29:16 40:9 property 37:25 38:3 170:23 175:10,11 props 22:10 prospect 77:18 provide 11:8 15:11 40:17 60:25 63:4 138:18 163:4 provided 31:11 165:7 180:19 181:8 provider 22:20 70:4 provides 41:10 64:12 providing 9:22 40:13 41:1 62:24 159:19 prs 67:9,18 92:8 public 36:21 38:10 38:12,24 pull 161:4 pulled 61:10 162:12 pun 172:18 purchased 59:1 purpose 101:1 pursuant 2:25 5:18 41:10 pursuing 55:19 pus 119:17	push 174:16 put 9:22 21:8 25:15 33:18 34:2 42:5 57:25 61:2 94:16 96:23 138:14 143:21 171:4 176:18
q			
q&a 166:10,15 qualifications 137:12,14 qualified 125:1 126:10 127:15 128:1 131:11 134:18 137:10 171:12 qualifies 174:3 qualify 78:12,14 79:9 131:5 132:18 136:24 137:3,20 137:22 171:18 qualifying 171:2 quarter 93:24 question 11:11,15 12:8,10,20,21 17:20 37:2,3 38:16,22 46:7 60:15,18 69:1 70:5 78:4 81:24 90:4 91:8 96:10 102:15 105:16 106:16 108:14 115:21 117:1 119:3,25 120:7,13 120:16 122:2 126:14 127:3,23 129:22,24 130:11 133:9,17 140:17 140:20 143:12 148:17,23 153:16 166:13 169:20			

[question - reflected]

170:1,19 173:4 questionnaire 67:15 92:5 questions 11:1,2 11:23 15:7 18:15 21:9 30:10 38:18 42:7 46:16 55:5 93:2 96:3,7 114:11 115:22 158:23 159:25 160:17 162:17,20 166:12 167:18 169:5 171:21 173:6,8 174:16,20 174:20,21 175:1 178:8 quick 170:9 quickbooks 32:11 32:17 quickly 162:21 169:23 quiet 171:9 quietly 35:11 quit 168:19 quote 84:3,4 136:8	58:17 59:11,17,21 113:16 125:4 126:22 138:15 147:19 148:20 149:15 164:20 178:9 reading 58:3 92:14 119:6 120:3 149:23 180:23 181:9 ready 62:9 149:21 real 21:23 23:1,1,8 23:12 24:3 29:15 29:19 51:1,4 55:10 58:22 165:6 170:9,12 175:4 realities 40:5 reality 155:18 realized 23:13 55:17 99:3 really 16:15 23:2 40:4 41:19 53:11 55:14 57:21 58:15 62:2 63:15 83:18 101:18 102:7 107:10 115:5 124:15,16 130:18 156:23 161:15 175:4 reason 11:8 47:9 47:11 74:16 84:6 139:9,25 154:14 182:6,9,12,15,18 182:21 recall 15:6 49:19 54:25 59:11 64:13 65:5 67:11,13,14 69:23 70:1,8,16 71:10 74:8 77:23 90:4,14,21,25 91:14 94:7 97:23	99:15,16 100:5,18 100:21 104:18 107:5,6 110:15 112:20,22 117:2 138:20 139:8 146:5 163:1,7,18 163:20 164:10,12 174:4,6,7 receipt 31:23 receipts 109:16 155:21 receive 122:21 148:15 received 17:6 20:17 110:24 113:17,18 142:12 receiving 50:14 recess 104:5 recipients 99:7 reclaim 53:5 recognizable 130:16 recognize 32:14 34:16,18 43:7 62:20 82:2 88:5 121:18,23 162:7 recollection 49:16 52:4 58:11 64:24 92:10 95:19 111:22 156:11 166:9 recommend 84:3 91:5,12 99:14 114:18,24 115:13 115:16 148:1 151:23 recommendation 148:15 151:24 169:9 170:5 recommendations 172:6	recommended 152:13 record 7:8,18 8:12 9:25 43:15 46:5 48:6,9,24 49:18 61:18 81:22 88:8 93:7 104:1,4,7 160:8,11 171:6 176:18,21 177:1 179:12 recorded 7:19 11:20 recordings 7:16 records 5:18 66:4 66:6,19 67:4 68:6 red 146:23,24 147:17 refer 52:15,16 153:2,4,17,18 reference 84:2,7 84:11,25 91:4,10 91:25 129:20 141:2 162:13 referenced 72:13 81:4 116:25 128:3 146:4 180:6 references 146:17 referencing 81:6 referring 29:25 30:17 31:10 32:11 51:7 75:22 83:6 84:24 92:6 101:22 107:12 114:23 115:11 119:19 126:17 130:3,10 131:14 142:7 155:7 158:7 161:2 161:11 reflected 89:23 119:4 144:15
r			
r 1:14 2:14 10:2,2 10:13 179:1 182:3 182:3 r&s 181:1,9 rachel 4:20 9:6 raise 9:8 ran 109:20 175:8 random 44:24 rate 79:19 reach 41:5 reached 19:14 read 24:20 25:4,6 25:23 26:2 48:22 49:18,20 50:10 57:9,12,14,18 58:9			

[reflective - right]

reflective 113:9	174:11	requirement	return 19:10,21,25
reflects 66:18,24	remembered	109:20	27:6 31:12 54:12
67:4	95:16 141:16	requirements	59:9 61:10 63:5
refresh 16:24	remote 1:21 2:20	136:13 137:8	75:7 82:20 83:1
67:23 92:9	18:14	requires 21:24	83:14 84:15 96:18
refreshing 102:17	remotely 8:3,11	64:10	99:6 118:2 124:12
refund 52:22,25	12:5	reread 13:16,25	126:7 147:15
registered 90:7	rent 23:15	14:5,11 49:17	156:2 165:6 166:5
registering 117:23	rental 29:16	107:7	173:25 174:1
regular 155:17	175:10	rereading 144:14	175:8 180:17
rejoinder 108:11	repeat 96:2 119:16	rescheduled 94:8	181:6
related 8:7 27:3	reported 1:25 2:23	rescheduling	returns 16:21
40:10 105:9	reporter 2:24 8:6	14:22	27:12 31:1 63:7
relates 93:14	9:7,16 11:16,24	respect 154:22	64:16 82:16 83:7
relationship 33:10	18:21 34:6 42:13	respected 40:7	83:18 92:11 103:7
44:8 130:19	48:18 61:24 65:10	respond 86:2	108:7,21 109:1,8
relative 179:17	80:21 81:19 88:1	98:10	112:1 116:21
relatively 162:21	92:21 121:13	responded 77:25	141:6,8 151:12,14
released 180:21	176:19,20 179:6	106:13	173:14,22
relevance 39:17	reporting 174:4,7	responding 82:9	review 15:23 16:6
relevant 38:19	reports 25:5	86:24 175:2	16:19 17:5 57:18
relocated 79:22	representation	responds 88:14	57:19,19 58:14
relying 175:17	119:24	response 9:23	87:20 104:13
remember 24:11	representative	20:14 61:2 88:24	170:13 180:8,10
24:14,18 33:8	83:21,21 109:25	90:10 141:7	180:13 181:2
43:19 52:12 55:11	representing	165:14 167:7	reviewed 15:21,25
57:12,14 58:3	14:18	responses 35:16	17:2,9 111:7
63:19 64:6,7,15	represents 24:24	86:7,10	154:22
67:17 69:14 70:5	republican 37:13	responsibility	reviewing 16:24
70:7,19 77:24	republicans 35:24	76:21	17:12 18:6,10
89:15,19 90:13,23	request 16:21 89:5	responsible 79:7	reviews 50:25
92:9 94:21 96:7	requested 6:17	rest 68:23 90:20	51:13 57:9,12,14
111:9 112:16,25	89:9 181:1,9,10	restate 165:13	58:1,4,9,13,18,25
113:3 115:3 116:4	requests 61:1	result 50:14,14	59:11,17,21 67:25
141:1,15,17	require 29:10	retail 22:8	ride 130:15
143:14 144:2	44:25 60:17 119:4	retired 23:25	right 9:8 10:5 13:5
145:10,15 146:3	120:5 165:7	170:21	13:13 14:6 17:10
147:4,5,11 155:10	required 120:19	retirement 23:19	17:23 21:7 25:12
156:18 157:17	126:25 127:4	retribution 44:3	27:12 31:16 35:2
158:1 162:2,9	165:22 167:7	44:20,22 45:4	39:14 42:9,21
167:15 173:13,16		46:9,13	43:16 49:12 55:22

[right - seek]

56:6 57:5 58:21 59:10,19 62:14 63:17 64:20 65:6 66:1 84:3 85:4,17 85:19 86:15,19 87:3 88:12 91:1,6 91:12,21,22 92:18 99:14 103:13 106:5,6,20 108:16 108:22 112:7,13 112:15 113:3 114:18,24,25 115:13,16 117:6 121:16 128:11 134:18 136:19,20 137:23 138:11 139:1 140:11 143:17,24 145:25 147:3 148:1,2,6 150:17,22 151:23 156:8 159:6,13 160:21 164:7 170:8 rip 168:8 rocky 110:8 room 18:16 32:3 35:15 36:11 70:3 rooms 8:10 root 33:21 47:12 round 55:15 rpr 1:25 rubber 39:3 rules 10:21 159:4 181:8 run 35:21 72:23 running 19:13 runs 19:5	safe 44:18 57:24 57:24 108:3,17 sales 82:23 sample 58:12 san 3:17 10:9 santa 1:13 2:13 3:14 9:4 24:24 sat 49:5 satisfaction 167:19 satisfied 83:14,23 save 31:18,20 saving 109:19 savings 170:22 savior 36:21 savvy 32:21 saw 82:9 114:6 119:3 126:4 131:19 151:5,6 155:1 161:5 saying 27:8 67:24 69:24,25 80:1 95:25 120:11 141:13 156:9,19 160:2,4 169:22 171:1,12 says 39:11,16 43:2 68:3 85:25 123:1 124:6 128:22 132:16 136:7 138:21 141:22 143:8,9 144:20 145:9,10 146:21 146:25 147:3,24 151:10,12,15,22 152:3 155:3 157:10 158:1 160:20 164:21,21 scales 83:19 scary 41:3,4	schedule 180:10 school 21:14 22:6 176:1 schools 36:22 score 67:18,19 158:11 scores 67:10 92:8 scratching 60:17 90:9 screen 20:22,25 34:11 65:13,17 70:13 107:15 109:19 148:25 162:1 169:9 172:6 screenshot 110:12 110:16 164:8 scrolling 16:1,22 167:25 168:1,1 se 23:5 29:11 39:22 sealed 62:1 search 51:22,25 52:5 85:5 searched 51:9,23 140:24 143:8 searching 52:6 111:9 seats 154:25 second 43:13 44:1 49:24 50:2 78:3 86:1 93:21 112:7 112:11,16,20 113:4,10 114:10 114:16 116:1,5,7 116:10 128:21,25 129:3,13 130:4 147:8 170:10 security 24:1 27:8 27:16,19,22 53:12 168:22	see 22:5 32:22 34:22 39:10 43:18 47:15 50:1,8 51:1 64:18 65:16,24 66:10,16 67:24 68:9 69:6,7,8 71:14,16 74:9 76:5 82:4,14 84:5 84:13,16 85:4,21 85:25 87:17 88:11 88:14,17 91:24 93:24 100:7 111:5 111:25 112:19 114:5 115:25 116:20,23 121:25 122:6,25 123:4 127:14,22 128:25 130:25 131:12 132:21 133:19 135:5 136:7 142:2 142:5 144:22 145:13 146:16,19 146:22,25 147:3 147:10,12,12,14 147:17,24 148:13 148:24 149:21 150:2,7,16 151:10 151:11 152:2 155:5 158:5 159:15 160:24 164:7 169:12 171:1 seed 145:1 seeing 40:20 41:25 84:2 91:4,11 111:9 141:1 142:10 145:11 147:4,5,11 seek 44:3,20,25 45:4 46:9 123:14
s			
s 5:7,19 6:1 182:3 sacramento 30:2			

[seen - social]

seen 32:16 45:14 49:14 66:3 80:25 93:12,18 135:17 select 99:22 171:14 selected 160:23 selecting 29:5 self 21:25 37:5,16 41:15 149:8 sell 22:17 40:17 76:20 77:20 selling 23:4 73:17 semantics 55:14 132:2 send 89:2 90:15 110:21 sending 89:16 sense 12:2 16:12 35:5,6,21,22 36:3 56:25 67:7 80:9 172:22 sensitive 7:11 sent 90:1 106:25 110:12 113:23 114:8 119:11 120:1 141:20 146:1,4 sentence 86:1,1 125:4,16,25 126:17 128:21,25 129:4,13 130:4,21 131:15 132:15 147:8,10,15 159:18 161:3,11 separate 19:7 85:8 124:7,22,25 126:9 126:16 127:1,5,7 132:17 separately 61:11 separating 23:3	series 148:3 174:19 serves 41:14 service 22:6 40:23 58:16,18 64:12 70:20 75:19 76:7 76:9 78:20 101:24 103:4,5 107:16 110:19 117:18 130:7 133:19 159:13 services 40:17 100:13 110:17 165:7 serving 37:5 set 13:20 94:15 122:12 123:1 157:23 179:9 seven 63:14 80:19 87:1,4 92:14 140:13 147:5 seventy 10:17 shaking 11:24 share 34:3 42:17 65:21 70:13 shared 90:24 139:22 shares 109:19 sharing 24:2 sherman 3:7 9:1 shirt 58:24,25 59:1 59:5 80:17 155:23 shirts 58:20,23 shit 61:8 shocked 173:19 175:7 shop 47:20 78:24 80:2 155:14 shopping 79:19 131:6	short 39:22 45:16 46:17 shorthand 2:24 34:6 42:13 48:18 61:24 65:10 80:21 81:19 88:1 92:21 121:13 179:5,13 shouting 35:15 show 20:21 65:22 66:19 113:15 showed 100:12 showing 34:16 side 23:4 38:5 66:11 68:17 161:7 sign 40:19,22 88:25 89:10,19 96:24 98:13 106:18 112:4,23 180:16 181:5 signature 90:17,19 122:1,3 179:24 180:21,23,23 181:9 signed 17:8 18:11 25:19 28:18,23,25 35:25 89:4,5 90:1 97:10 109:3,10 119:7 120:23 122:22 124:20 125:7 135:22 139:10 significant 61:17 70:23 signing 15:22 89:16 97:1 116:16 118:8 141:12 silence 7:13 silos 4:7 8:18,20 8:21 simple 19:21,24 27:5,12 60:16	76:7 126:6 151:12 151:14 165:6 168:13,17,23 173:25 simpler 27:7 simply 96:21 single 66:2 128:4 148:4,10 149:6,13 149:14 sir 13:22 18:3 34:17 65:25 111:2 157:9 173:17 176:14 site 58:6 111:17,18 situation 19:16 55:21 105:4 situations 57:3 six 5:15 6:9 58:1 74:10 140:13 143:9 144:19 145:9,20 146:2,18 147:1,7,8,8,21,25 149:16 150:4 151:10 152:3 sizings 59:1 skip 170:24 slash 44:3 49:1,1 151:15 slightest 135:23 sloppy 114:5 149:23 slow 96:2 slowly 7:12 small 66:1 68:12 164:22 smaller 122:20 snippets 34:19 social 20:3 24:1 25:25 27:8,16,19 27:22 35:13 53:12 168:21
---	--	---	---

[society's - subscribed]

society's 39:8 socking 45:23 software 30:6,8,15 30:23 31:2,9 32:6 32:18 33:5 50:17 56:15,22 67:5,12 67:16,20 68:8 70:10 72:10,19,25 84:12 127:1,5,7 136:13 137:21 138:23 152:4 solano 10:9 sold 36:20 105:24 155:25 solemnly 178:5 solution 39:8 solutions 8:5,7 180:7 somebody 70:5 95:7 101:16 118:15 someone's 39:20 57:22 sooner 87:10 sophisticated 153:12 soros 76:8 sorry 14:6 21:4 42:6,23 47:10 49:4 61:16 62:7 62:18 69:2 73:23 86:20 91:7 93:1 97:12 101:10 102:9 105:15 108:12 110:3 118:10 129:2,5 143:16 146:6 150:10 165:13,16 171:10 sort 25:9 54:7 123:17 152:22	sorts 25:11 44:9 sound 95:24 114:13 119:17 sounded 119:20 120:3,4 sounds 58:13 70:22 81:2 86:5 87:3 sour 119:17 source 31:23 128:4 134:17 sources 27:23 speak 7:12 19:20 20:5 113:7 special 22:20 26:11 specific 63:24 156:14,15 157:4 161:4 specifically 51:10 77:23 101:22 157:19 167:16 speculate 134:15 speculated 135:10 speculating 135:1 speculation 134:23 136:11 spend 37:9 119:6 175:5 spent 13:18 18:10 18:12 155:3 157:10 158:3 splitting 133:1 spoke 87:20 94:12 94:18,21 95:2,6,12 96:4 113:10 136:2 spoken 88:19 spokesperson 79:6 sponsored 53:18 54:1,5,14	sponsoring 47:21 sport 155:18 spring 3:8 stamp 39:3 stand 48:3 104:2 160:6 161:9 176:15 standard 7:8 32:7 33:6 170:18 177:1 standing 169:20 169:25 standpoint 149:20 star 57:18,18,19 start 21:13 53:12 66:15,18 91:7 101:15 157:12 161:25 started 22:13 27:19 32:3 33:9 63:3 155:14 166:10 starting 21:14 110:18 162:25 state 1:1,6,12 2:1,6 2:12,24 7:22 8:11 8:24 11:25 37:22 48:23 49:22 103:7 131:9 178:6 179:6 180:9,12 stated 168:7 statement 134:21 140:9 154:17,22 statements 119:11 120:1 176:9 states 161:21 stating 9:25 stay 19:15 staying 136:6 steal 39:9 stealing 45:22	steering 79:7 step 72:22 115:24 stint 22:6 stipulation 180:20 stop 64:11 store 36:17 63:1 story 59:4,23 104:21,23,25 105:5,6,7 106:7,9 106:10,20,22 107:3 140:23 156:14 stossel 34:20 stream 39:22 street 3:8,16 strike 54:17 strong 161:8 strs 79:16 structured 60:10 stuck 59:16 161:6 stuff 21:25 22:11 31:4,25 40:20 51:1 61:14,14,15 70:7 75:7 76:18 78:1 79:17 106:11 109:16,20 115:5 122:14 123:6 155:15,20 156:5,6 168:21 170:22 subcontractor 22:15 submit 83:13 84:14 109:16 167:16 168:2 submitted 82:21 83:1,2 97:11 117:5 118:21 subpoena 9:23 90:11 141:7 subscribed 179:20
--	--	--	---

[subsequent - taxes]

subsequent 131:7 168:22 subsidiary 39:25 substance 81:1 substantial 32:5 substantiation 100:8,16 116:1 suckered 158:18 sudden 42:1 sue 24:9 sued 24:15 suggest 15:7,10 16:6 68:18 162:3 suggested 15:22 suggestion 20:15 suggests 68:6 suit 32:2 suits 155:17 sukorina 61:5,16 summarize 17:17 summary 5:18 6:15 66:4 sums 33:14 super 25:12,24 superfluous 115:19 superior 1:1 2:1 7:22 support 6:14 69:23 suppose 83:16 supposed 25:11 101:24 103:3,5 143:17 sure 14:3 18:9,24 21:10 38:20 47:25 61:8 63:21 67:8 73:18 75:1 78:8 91:9 103:19,21 112:14,22 113:8 113:17 120:7	122:23 124:18 127:22 130:12 134:25 143:15 144:25 146:10 156:3 164:16 167:24 surgery 22:23 survey 67:11,19 92:11 158:23 suspect 105:23 suv 77:12 sworn 8:14 9:13 system 36:20,25 166:11 t t 5:7 6:1 10:2 46:19 179:1,1 182:3,3 t's 30:14 table 147:6 tails 130:16 take 7:17 12:14 15:13 46:17 47:6 47:23 48:22 59:17 65:7 78:24 79:12 92:24 93:3,4 95:20 96:21 103:14,19,21 106:9 116:10 118:12 122:4 126:23 127:13 149:19 156:2 159:23 160:2 162:19 170:10 taken 2:20 7:20 21:17 53:11 66:5 101:3 103:8 104:5 105:2 121:5 158:2 158:16,20,22 159:1 179:8	takes 97:18 talk 12:6 14:19,25 20:4 41:17 114:14 138:11 talked 15:4 16:4 16:13,16 17:17 25:1 31:9 68:10 96:16 118:14 126:2 139:7 174:22 175:16 talking 12:8 14:4 14:13 52:19 94:4 112:10 125:18 134:7 138:16 143:17 145:23 148:8,9 156:4 tangent 38:18 target 44:5 tax 16:21 19:8,9 19:21,24 26:22 27:2,5,12 29:5,12 29:19 31:11 41:1 41:11 47:15 52:7 52:9,15,18 56:15 56:18,21 59:22 61:10 63:5 64:16 65:2 66:13,20 68:1 69:18,20 70:9,20 71:2,11,22 74:15 76:7 83:9 96:18 99:4,4,5,10 100:12 102:1 103:7 105:10,11 106:24 107:16 108:7,20 109:1,8 112:1 116:21 117:20 118:2 124:11 126:6,11 132:2,4,19 133:19 138:23,25 140:1 140:10,14,21	141:6,8,14 142:9 142:25 143:13 144:3,17 145:4,5,5 151:12,14,19,20 152:17,21 153:3 155:8 156:2 158:10,15,19 159:13 161:24 163:1,8,15,18,19 163:23 164:12 165:6 166:4 167:10 168:14,17 171:24,25 172:10 173:14,22,25 174:4,7 175:8 taxes 5:13 19:6,25 20:7 30:23 31:20 33:20 39:20 40:13 41:10 46:23 49:3 51:10,18 52:1,21 53:14,15,17,19,25 54:2,5,11,14,19,23 55:3,4,8,21,23,24 56:2,17 57:4 61:10 63:9,16,20 64:3,23,25 65:2,4 66:25 72:3,5,15,16 72:20 73:1,6,10,14 74:3,14,19,22,23 75:2,3,9,11,16 82:21 98:22 99:10 101:12,20 102:22 103:10 115:2 133:20,20 137:4 138:21,22 139:11 139:16,23 140:2 141:25 145:5 149:21 152:6 154:24 158:8 159:5,12,20 161:7 165:23 167:10
--	--	--	--

[taxes - times]

168:13,17 174:10 175:4 taxing 53:12 taxpayer 161:21 taxpayers 27:12 46:21 tech 42:16 68:17 technically 124:5 telephone 95:3 television 142:8 tell 10:23 28:2 32:6 49:8 54:25 57:22 59:23 62:1 75:10,18,24 76:21 77:2,11,15 78:19 79:4 84:3 85:13 91:5,11 98:8,15,18 98:24 99:9,13 105:5,14,17,21 106:7,20 107:3 114:17,24 115:12 115:15 120:14 126:8,13 140:15 147:25 151:8,22 153:24 156:14 telling 125:24 ten 42:10 43:2 79:23 136:9 137:24 155:24 158:11,11,13,20 158:20,25,25 160:18 161:3,12 tense 125:18 terminated 28:10 terms 19:1 terrific 13:24 testified 9:14 104:16 108:18 109:12 testifies 123:22	testify 12:25 testifying 10:25 11:5 117:9 179:11 testimonial 10:24 testimony 11:9,17 11:19 68:15 106:20 124:19 151:6 157:7 thank 8:15 9:20 12:4 24:2 34:16 42:19 46:15 48:4 68:3,20,24 104:2 146:13,14 160:16 162:15 163:25 164:6 176:13,14 176:21,22 177:3,5 theme 54:10 thereabouts 38:1 thereof 179:15,19 thereto 178:9 thing 18:23 25:6 30:12,13 37:16 40:15 41:2,3 45:2 47:13 50:10 51:21 74:8 76:20 77:3 98:5 101:18 102:8 107:10 113:6 114:21 115:7 121:4 126:1 130:16 139:14 141:2 157:24 171:15 172:21,21 things 14:23 16:22 23:4 29:9 32:5 39:19 50:7 53:2 77:24 87:16 96:2 133:21 156:3 think 13:23 26:9 27:7 36:1,9 37:3 38:17,19 40:25 41:14,15 44:18	45:2,6 46:6 47:8 50:20 53:10 54:16 56:17 57:8,24 60:3,4 64:18 68:13 71:2 73:4 76:11 84:8 87:8 89:22 90:14 95:17 99:24 100:13 102:21 103:15 108:17 114:20 115:14 117:2,4,13 118:14 120:6 121:3,6,8 131:18 135:11 149:12 154:15 155:17 156:6 159:6 165:14 167:7,23 168:11,13,16 170:9 171:20,21 173:25 174:14 175:7 thinker 35:6,23 thinking 114:19 117:19 third 38:9 112:8 thomas 4:24 thorn 38:5 thought 19:21 22:24 26:23 32:8 33:14 60:24 63:2 63:10,14 82:23 89:12,25 99:2,5 107:23 141:24 149:2 152:4 160:21 165:25 thoughtful 9:22 thousand 163:9 thousands 156:5 thread 108:23 three 5:13 6:6,11 10:17 40:21 57:18	76:24 107:18 119:9 122:18 151:2 155:19 171:21 threshold 128:7 128:14 136:22 thursday 15:2,4 15:17 16:14 tiles 148:4,7 time 7:9 9:21 12:17 13:19 15:25 17:7,21 18:10,11 19:12 23:7,21,24 24:3 25:12,24 27:21 28:16,18,18 28:19,22,25 29:18 31:20 35:9 37:10 45:20 46:1,14 56:18,19 58:14 64:24 69:17,17,17 94:11,18,21 95:6 95:12 96:4 104:4 105:3 110:8 113:10 118:18 124:20 125:6 130:15 135:19,22 143:22 144:14,17 145:6 149:9 154:16,24 157:12 157:17 158:4 160:16 161:5 162:19 163:21 166:25 167:19 169:24 170:11 176:14 177:2,4 179:9 180:10,18 180:24 181:7 times 7:12 14:19 17:5 59:8 76:24 166:17,19,24
---	--	---	---

[tin - turns]

tin 42:5	track 171:6	118:15 120:6	126:23 127:13,21
tipped 83:18	trades 45:12	124:11 157:4	128:15,16,22,24
tissue 59:24	trained 77:8	tto 107:19	129:14,16,18
title 68:6	training 21:18	turbotax 1:4 2:4	130:1,6,22 131:3
titled 66:14,23	transaction	5:18 7:21 16:2,12	131:10 132:5,9,10
67:9	102:21	19:25 20:8 25:7,9	132:16,18 133:11
today 11:6,9,17	transcribed 113:8	25:15,20 26:6,8,10	134:2 135:14,17
13:4,8,15 16:20	179:14	26:12,17 27:11	135:24 136:3,7,14
18:17 20:18,21	transcript 141:20	28:3,7,12,14,22	136:18,23 137:3,8
23:25 53:7,9	180:6,8,10,13,13	30:17,23 31:2,16	137:21 138:3,9,16
116:14 118:19	180:21 181:2,2	32:6,17 33:5,10,12	138:16,19,24,24
121:4 126:22	transcription	35:19 43:20 44:2	138:25 139:4,7
160:17 175:16	179:15	51:12,18,20,23	140:1,10,25 141:8
176:13	transfer 68:9	52:2,6,18 54:8,24	141:13,24 142:10
today's 15:8 17:3	157:20	55:25 56:4,7,10,22	142:13,16,18,23
176:24	transforming	57:4,10,15 59:12	143:8,14,21,21
told 9:24 10:4	119:21	59:18,25 60:1,7	144:3 145:2,5,6
26:17 33:5,12	translating 137:18	61:9 62:25 63:6,8	147:22 151:1,7,22
45:13 61:11 98:6	transpire 16:10	63:19 64:4,12,24	152:4,9 153:4,17
104:21,23,23	transpires 113:6	65:3 66:5,18,24	153:23 154:5,18
105:20 106:3	tried 36:11 125:2	67:12,15,19 68:8	158:8,11,15,20
113:9 114:13	126:11 132:19	70:10,23 71:1,5,8	159:11 160:20,22
116:1 118:11	165:18	71:12,16,19 72:5	161:5,19 165:8,23
119:24 120:11	trough 37:8	72:16,19,25 73:5,7	167:1 168:25,25
123:13,14 125:12	true 19:17 33:24	74:2,6 82:16,24	169:10,13,14
125:20	74:21 112:18	83:15,21,24 84:2	170:4 171:23
tomorrow 94:1	122:8 123:2,7	84:11,19 85:6,14	172:10 180:4
tons 142:14	140:20	87:8 91:4,11 92:1	182:1
tonya 4:16 8:19	truly 28:4 131:11	92:4,11,16 98:22	turbotax's 66:4,6
tools 32:3	136:8	100:1,13 101:4,8	66:19 140:25
top 39:7 62:13	trust 41:12,13	101:11,21 102:5	143:22 146:20
82:4,8 92:3	44:17	102:11,25 103:12	turn 38:8 39:5
142:11 163:2	trusted 33:17	107:17 108:2,3,11	43:13 45:19 49:24
164:22	trusting 44:14	108:15,21 109:2,8	62:18 93:21
topic 46:17	truth 36:22	109:24 110:1	137:23
total 176:25	truthful 11:9	111:16,18,20	turned 62:5 156:1
touched 121:4	truths 122:13	114:17 115:4,17	168:1
tough 24:3	try 63:24 94:16	115:21 116:24	turning 62:15
toughy 57:16	141:3	117:11,15 121:2	169:8
toyota 77:9,12	trying 55:12 60:4	124:6,8,22,23,24	turns 59:5
	89:7 111:3 114:2	125:1 126:5,8,10	

[tv - washington]

tv 27:5 twenty 23:6 163:16 175:5 two 5:10,20 6:3 15:19 24:23 107:18 116:13 138:7,22 ty 66:11 type 30:12 51:21 122:19 174:21	unemployed 23:18 unfair 40:8 unfolded 105:6 united 161:21 university 22:12 unpaid 55:21,23 unpleasant 45:10 untrue 69:11 updated 63:23 upgrade 56:22 107:20 109:20 166:16,25 upgrades 131:8 upgrading 158:18 uploading 70:9 upside 55:11 url 47:2 48:25 49:17,20 126:21 138:18 use 22:10 29:20,21 29:25 30:1 40:23 58:18 59:13 67:5 70:17,18 72:4,15 73:13,20,22 74:1 102:11,12,13 103:9,20 125:2 126:11 127:15 128:14 132:19 136:13,18,22 137:4,8,20 138:19 useful 59:8 user 31:6 60:16 uses 102:5 usually 57:22 79:19 144:5 utilities 38:10,13 38:25	va 79:15 vacaville 23:17 valid 38:21 validated 130:17 value 32:16 54:18 54:22 76:22 various 27:23 39:19 78:7 vaughn 116:18 vehicles 36:19 venting 26:19 verbally 12:1 verbatim 120:10 179:12 verified 123:24 verify 101:3 123:14 167:18 veritext 8:2,5,6 180:7,9,11 version 63:24 99:19,20 124:8,23 124:25 125:2 126:10,11 128:2 132:9,10,17,19 versions 102:25 vay 24:5 vicinity 40:9 video 7:16,19 11:20,22 62:6 94:25 videoconference 3:1 4:1 videographer 4:22 7:7 8:5 48:3,8 62:3,5 104:2,6 146:6,9 160:6,10 176:15,22 177:5 videotaped 1:21 2:20 view 38:12,24	viewed 154:17 virtual 8:2 virtue 115:20 visit 128:24 129:16 visited 47:7 visual 22:9 vita 46:18 voice 7:12 35:14 57:21 volume 62:15,18 86:2,6 voluminous 66:4
u			w
u 10:13 u.s.a. 58:22 uh 18:4 43:22 50:4 71:15 88:7 92:2 131:13 144:23 145:14,19 150:8 155:18 159:16 164:9 ultimately 167:5,9 168:3 undersigned 179:5 understand 11:5 11:12,16,19 13:10 18:8 28:11,14 45:21 56:4,7,14,18 56:21 76:11 78:6 78:9 85:8,10 87:12 102:18 118:11 122:10 136:12,17,21 137:2,7,11,19 143:11 156:8 understandably 79:14 understanding 80:1 165:21 166:2 understood 27:11 32:22 68:24 102:24 108:10 151:1 164:24	v		w 48:25,25,25 70:22 wait 102:9 138:5 waived 180:23,23 waiving 180:20 walk 22:3 30:7 66:7 want 19:3 21:9 38:8 41:7 46:3 65:7 68:22 76:22 93:17 106:1 108:9 120:20 132:5 146:10 149:3 155:12 159:5 162:19 164:2 170:10 171:3,11 175:23 176:11 wanted 18:24 19:15 21:11 66:7 73:18 89:24 112:14 115:9 125:13 143:19 wardrobe 32:2 wash 40:1 washing 40:2 washington 4:9 38:1

[wasps - yeah]

wasps 170:16	144:3,9,20 145:7	62:4,7 68:20,22	workplace 20:3
watched 27:10	145:25 146:20	69:1,4 75:6 77:15	21:18
water 23:17	147:22 149:24	78:16 80:4,23	works 40:15,16
way 10:10 27:4	151:7 169:2 172:1	86:13 87:12 93:1	world 120:9 153:8
30:9 35:13,17	websites 58:15	93:6,10 97:6,8	153:13
36:5,23 53:1	weekend 58:20	100:5,11 103:18	worried 54:1
60:10 74:22,23	weeks 17:7	103:24 121:15	143:18
75:2,3 93:24	weird 69:19	127:10 133:24	worry 53:23 118:1
94:17 101:25	welcome 48:14	134:25 146:14	worth 55:19
119:20 128:6	104:12	149:19 153:7,22	wrap 162:21
132:5 140:22	went 22:2 23:3,16	154:11 159:3	wrapped 170:9
141:3 145:1,2,21	32:4 35:12 45:17	160:1,4 162:6	write 37:25 38:2
152:24 153:25	47:20 58:19 61:8	164:15,20 165:5	43:18 44:1 118:25
156:25 157:2	62:23 63:22 72:21	165:12,16,18	122:6 130:22
166:4 175:5	73:19 104:16	166:9,19 168:19	159:11
wayback 57:17	107:6 111:8,14,18	172:16 173:3,19	written 26:2 100:7
110:4,6,10 111:23	114:7 144:20	174:14,25 175:21	100:16 115:25
146:17,21 147:13	145:6 154:25,25	179:19 180:13,16	120:10
147:17	161:16	181:2,5 182:2,24	wrong 38:15 40:10
ways 74:13,18	west 3:16 103:15	witnesses 179:10	120:15,15 133:21
we've 14:21 23:15	wet 90:17,19	wood 155:14	162:10
47:22 80:9 116:14	wh 5:11	word 29:20 32:23	wrote 27:1 79:23
175:16	whatnot 29:10	43:5 51:19 59:14	82:3,13 118:20
web 48:24 100:12	whatsoever 84:11	92:12 100:19	121:6 123:5
127:1	whispering 7:11	135:4,21 137:16	x
website 26:11,21	wife 45:19 59:2	159:17	x 5:1,7 6:1 171:7
28:3 46:25 47:3,7	79:21,21	wording 119:13	180:12
47:15 50:13 51:6	williams 1:14 2:14	words 67:25 83:7	y
51:7 62:23 84:2	wilmer 4:5 8:17	83:20 117:17	y 10:13
85:8,14 91:5,11	8:21	146:20	yada 105:21,22,22
92:1 100:1 101:25	wilmerhale.com	work 13:19 17:13	yeah 13:13,25
111:21 114:17	4:11,12	18:3,6 20:23	14:14 18:9 26:19
115:4 124:7,10,22	window 22:8,10	23:16 27:3 50:2	27:8,13,25 28:8
124:25 126:9,16	wing 3:16 41:6	50:11 58:20 93:4	31:13,13,21 32:13
126:24 127:5,7,13	withdrawn 57:7	94:1 97:4 100:2,9	34:9,19,23 35:3,15
127:14,21 128:17	135:21	103:23 134:20	37:5 38:4,11
128:24 129:15,19	witness 8:13 9:12	163:21 168:20	39:10 43:8,17
130:23 131:4	13:1 17:16 19:19	174:23	46:11 52:10 56:12
132:17 138:24	32:20 34:8 39:18	worked 22:8 55:17	57:11 58:10,14
141:1 142:16,23	42:17 47:25 48:2	working 27:17	59:10 62:15 63:10
143:10,14,22	50:23 56:25 62:1	39:20 44:8	

[yeah - zoom]

65:24 66:1,2,13,13	105:11,12 106:9
66:17 67:2 68:12	106:18,22,24
69:8 71:18 72:7,8	126:12 128:14,19
77:10 78:12 80:5	128:19,19 132:19
80:17 81:2 82:3	140:1,2,10,14,21
82:10,12 85:20	141:8,14 142:25
86:4 87:3 88:13	143:13,25 144:3
89:7,21 92:12,17	144:17 145:5,5
93:2,6 97:3,23	155:7,8,10 156:16
104:19 106:21	157:4,21 158:10
107:14 108:23	158:15,19,19
110:14 111:19	161:13,24 163:1,8
112:13 113:13	163:15,18,19,23
114:15 115:1,6,6,6	164:12 167:10
121:20,25 123:4	168:14,17,22
123:20 124:13	174:4,7
125:8,19,22 128:5	year's 31:19 75:7
129:20 131:1,25	years 22:22 23:6
132:22 137:18	27:23 29:6 31:3
138:8 143:22	36:21 45:15 61:18
145:8,16 146:8	63:14 66:13 67:25
148:13 149:14	70:24 73:5 82:16
150:5,12,15,21	82:20 83:6,8,13
151:13,17,17,21	105:2,8 106:14
152:1,10 155:6,16	107:16,18,22,23
157:9 162:14	112:1 116:24
163:9,12 165:12	138:25 139:3,23
165:16,18 168:4	155:19 156:13
168:15 172:2	161:18 175:5,10
176:11	yelp 57:21
year 20:7 28:8	yesterday 17:7
31:10,11,15 33:4,8	yippie 97:16
52:9,10,15,16,18	yosef 3:6 8:23
52:19 53:6 54:11	yosef.mahmood
55:2 63:3 65:2,3	3:11
66:20 68:1,9,9	z
69:20,21 71:2,12	zip 10:13
71:22,22 72:4,5	zoned 40:7
73:9,13 74:15	zoom 85:4 94:22
83:10 92:5,16	94:23
99:10 105:1,7,10	

California Code of Civil Procedure
Article 5. Transcript or Recording
Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a seasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

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RX 73

Pages 1 - 47

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Charles R. Breyer, Judge

FEDERAL TRADE COMMISSION,

Plaintiff,

VS.

INTUIT, INC.,

Defendant.

NO. C 22-01973 CRB

San Francisco, California

Thursday, April 21, 2022

TRANSCRIPT OF PROCEEDINGS

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(APPEARANCES CONTINUED ON THE FOLLOWING PAGE)

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United States District Court - Official Reporter

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Thursday - April 21, 2022

10:25 a.m.

P R O C E E D I N G S

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THE CLERK: Court is now in session. The Honorable Charles R. Breyer is presiding. You may be seated.

Our court reporter can't be in two places at once.

THE COURT: She can't?

THE CLERK: She is appearing by phone. She went from Zoom to phone.

THE COURT: Apparently we don't have an in-person court reporter, but we have a remote court reporter. We will see how remote it is in a minute.

But I would appreciate if the parties, when they address the Court or each other, identify themselves and so we will have a record of it.

Why are all the lights out in this courtroom? What is going on?

THE CLERK: I think it's for effect because it was a little too bright.

THE COURT: I like a little sunshine. Sunshine in the judicial process, isn't that -- doesn't that just make everyone's day?

THE CLERK: Okay, let me call the case, Judge.

THE COURT: Apparently I'm like an airline. Masks are optional, so I leave it up to you. Except if you are not

1 vaccinated, please wear a mask.

2 **THE CLERK:** Calling civil action C22-1973 Federal
3 Trade Commission versus Intuit, Inc.

4 Counsel, please state your appearances in the microphone
5 for the Court. Thank you.

6 **MR. ANGUIZOLA:** Good morning, Your Honor, I am Roberto
7 Anguizola on behalf of the Federal Trade Commission, and with
8 me is co-counsel James Evans.

9 **THE COURT:** Good morning.

10 **MR. WAXMAN:** Good morning, Your Honor, I'm Seth Waxman
11 representing Intuit. And with me at counsel table are my
12 colleagues Sonal Mehta, David Gringer and Jonathan Paikin.

13 **THE COURT:** Good morning. And Counsel can remain
14 seated unless you want to come up to the podium. Not
15 necessary. But make sure your remarks are before a microphone.

16 So this matter is on based upon the FTC's request for
17 injunctive relief, and it was initially filed -- well, I don't
18 have the date of its filing -- but about two weeks ago; is that
19 correct?

20 **MR. ANGUIZOLA:** March 28th, Your Honor.

21 **THE COURT:** March 28th. And it was assigned at that
22 time to Judge Davila that related to this Court.

23 And the question -- the initial question was when to
24 conduct the hearing on the proposed injunctive relief.

25 The hearing I think was scheduled -- originally scheduled

1 for April 18th; is that right or am I off on that?

2 **MR. ANGUIZOLA:** It was originally scheduled for
3 March -- no, April 14th.

4 **THE COURT:** April 14th.

5 **THE CLERK:** Counsel, please don't forget to state your
6 name.

7 **THE COURT:** Yeah, state your name.

8 And if my memory services me correctly, it's like
9 April 15th is when taxes are due or was there some extension to
10 April 18th? I couldn't quite figure out what day tax day is.
11 It will live in infamy. What day is tax day?

12 **MR. ANGUIZOLA:** Your Honor, this is Roberto Anguizola.
13 And tax day this year was Monday April 18th.

14 **THE COURT:** Oh, so it was the IRS, Internal Revenue
15 Service, they gave you a weekend to collect your assets. Yes.

16 **MR. WAXMAN:** I think it was -- this is Seth Waxman
17 speaking. I think it was the confluence of tax day and Good
18 Friday.

19 **THE COURT:** Ah, okay.

20 **MR. WAXMAN:** That led --

21 **THE COURT:** There you go. Sorry. Exactly. Yeah, I'm
22 sure that's correct. I'm sure that's correct. So that's fine.
23 But anyway you know, it was the 18th.

24 You know, the way it hit me was actually in Mr. Waxman's
25 brief was, you got to have an emergency of some weight in order

1 to invoke the injunctive powers of the Court and not
2 basically -- an injunction is not to disrupt a satisfactory
3 status quo.

4 In other words, I can understand that an injunctive relief
5 can be given to stop a particular harm when the particular harm
6 is a serious particular harm that is about to occur.

7 But the way I looked at it -- and you can correct me --
8 the FTC can correct me if I'm wrong -- was that this is a harm
9 that was, quote, known -- a potential harm -- I'm not passing
10 judgment on the merits of whether it is a harm or not -- but it
11 was a -- it was known to the FTC for a considerable period of
12 time, and they didn't seek injunctive relief until shortly
13 before tax day.

14 And after all, I mean, we know what the case is about.
15 The case is about filing for taxes.

16 So it is a particular -- it is a particular remedy geared
17 to a particular time of the year that is of significance here.

18 And so when I got it, I looked at it and thought why wait?
19 What was the -- what was the reason for waiting?

20 Because the problem is if we wait on something like this,
21 first of all, if there is harm, much of it is accrued.

22 And secondly, it becomes in and of itself entirely
23 disruptive to a company that is operating a particular way.

24 Third, it probably minimizes -- has a minimal impact on
25 damages if there are damages because it is -- you wait so late.

1 So, the FTC did respond and their response was -- well,
2 let's see, how should I put it? How about this: They were
3 simply out lawyered in this case. They were out lawyered in
4 that they waited, waited for responses and they weren't
5 forthcoming; and ultimately there were -- they were unable to
6 arrive at a disposition. And so time elapsed -- time passed
7 and here we are.

8 And it really wasn't their fault because they operated in
9 good faith trying to achieve a result. They thought they were
10 going to achieve a result or didn't -- I don't know -- and --
11 and time passes, which, of course, happens. I understand that.

12 And it is not -- it is not the sort of thing where I would
13 say that, you know, somebody is operating in good faith and
14 somebody is operating in bad faith.

15 I don't know that I need to get into that because the fact
16 of the matter is regardless of whose fault it was, here we are.
17 Here we are.

18 And -- and the request for emergency relief is -- it is
19 basically mooted, notwithstanding the merits of the situation.

20 Now, I haven't heard from you. And I'm quite sure the FTC
21 wants to respond to this, so I will, of course, listen. But
22 I'm giving you my impression after reading hundreds of pages of
23 argument on this subject.

24 So, go ahead. Come on up, if you would like.

25 **MR. ANGUIZOLA:** Good morning again. Again,

1 Your Honor, Roberto Anguizola, for the record, on behalf of the
2 U.S. FTC.

3 **THE COURT:** Right.

4 **MR. ANGUIZOLA:** And here we are. The reason why it
5 was appropriate for an emergency before tax day -- and I don't
6 want to spend a lot of time on that because here we are after
7 tax day -- can be found in -- before I get into this, I want to
8 address a housekeeping matter, which is that a lot of the
9 material -- I think a lot of the material is under seal here,
10 and I think it is difficult for me to address your very
11 specific questions about the timing and whether this matters
12 without referring to that material.

13 And I don't know whether there is anybody in the courtroom
14 that should not be hearing this information. So that's a
15 question that I pose to Intuit's Counsel.

16 **THE COURT:** Well, I don't want a secret hearing. I
17 mean, this is a public proceeding.

18 **MR. ANGUIZOLA:** Okay.

19 **THE COURT:** You know, just -- and really, all I do
20 generally seal is personal identification information, privacy
21 concerns and so forth.

22 In terms of overall strategy and so forth, I'm not so
23 inclined to -- to somehow burden a party with trying to make an
24 argument when, in fact, the argument is based on under seal
25 documents. I doubt if Intuit has a problem with that.

1 **MR. WAXMAN:** Your Honor, Seth Waxman for Intuit.

2 **THE COURT:** Yes.

3 **MR. WAXMAN:** I don't see -- if we are talking about
4 the issues of exigency, nothing has been filed addressed under
5 seal. Some confidential business documents have been filed
6 under seal. And, of course, Your Honor received a sealed
7 filing yesterday.

8 But, on the question of what the exigency is or isn't, I
9 just can't imagine any confidential company information being
10 relevant.

11 **THE COURT:** Well, okay. Give your free-wheeling
12 argument and let me hear it.

13 **MR. ANGUIZOLA:** Okay. With your permission, I will,
14 Your Honor.

15 So our case was filed March 28th. And that's important
16 because if you -- if the Court looks at Government Exhibit 298,
17 at Intuit FFA-FTC 105770, it -- it's a chart that maps out
18 Intuit's season and when most -- most consumers purchase
19 products -- tax preparation products from Intuit.

20 And the biggest point -- the peak of the season is the two
21 weeks prior to the tax day.

22 And so, you mentioned earlier that we got out lawyered and
23 maybe we got snookered by the company and its lawyers, but it
24 became clear to us that Intuit wanted to delay this case until
25 after tax day. That became clear to us --

1 **THE COURT:** When did that become clear to you?

2 **MR. ANGUIZOLA:** It became clear to us around March.

3 **THE COURT:** Well, become clear to me -- if it's true,
4 if they did -- and I'm not commenting on whether they did or
5 not -- it would occur to me much earlier than that, I would
6 think that knowing that April 15th or 18th is tax day, knowing
7 that -- and after all, the FTC does have a calendar. We know
8 that -- I would think that if I was in defense strategy here
9 having embarked upon a particular marketing plan that was set
10 well in advance of tax day, that maybe they don't want any
11 disruption in their marketing plan because it is geared to the
12 generation of income given that they know that most people,
13 myself included, file around April 15th.

14 That's when we owe the government some money. Much rather
15 have the money in my pocket than Uncle Sam's pocket.

16 So I --

17 **MR. ANGUIZOLA:** Yes, Your Honor --

18 **THE COURT:** I mean, really, it seems to me it is sort
19 of a -- somewhat naive, if I may use that word without the
20 pejorative effect, to think that of course they want to run it
21 out.

22 Their strategy, whether legal or not legal or whether
23 appropriate or inappropriate -- and I'm not passing judgment on
24 that -- it is their strategy. And they want to keep it in
25 effect without a disruption. And so I think that was obvious

1 pre-March, wasn't it?

2 And by the way, you had conversations with them before
3 that time. So, I don't know what those conversations were, but
4 my guess is that that they didn't -- they didn't bring about
5 the changes that you thought appropriate in your duty as a
6 member of the FTC staff in a timely manner and that unfolded.

7 But it was somewhat predictable given that there is an
8 inertia of a company to try to change things at a particular
9 time when their income, their revenues, depend upon a plan.

10 **MR. ANGUIZOLA:** And that's correct. And that's --
11 obviously our position and hope was that the TRO hearing would
12 happen well in advance of -- with enough advance to prevent the
13 greatest harm, which is the two weeks prior to tax day.

14 I want to address where we are now, which is --

15 **THE COURT:** Okay.

16 **MR. ANGUIZOLA:** -- after tax day.

17 **THE COURT:** Yeah.

18 **MR. ANGUIZOLA:** If you turn to that same document,
19 Intuit 10577 at Government Exhibit 298, there is still harm to
20 be had.

21 So between now and the automatic extension date for --
22 for -- filing an -- a late tax return, which consumers can do
23 between now and October, Intuit as of tax year 2019 generated
24 \$35 million of revenue from consumers in that category.

25 And so even though we can agree to disagree on how naive

1 we were and the timing and whether the Defense Counsel out
2 lawyered us, there is still harm occurring now.

3 And we filed a third declaration of FTC investigator Diana
4 Shiller -- it is Government Exhibit 319 at docket 57-3 -- which
5 demonstrates that the advertising at issue, the deceptive free
6 claims that are at the core of this case, are still being made
7 by Intuit as part of their post-season strategy.

8 So, yes, we -- we wish that we could have prevented the
9 harm that would have happened at the peak, but there is still a
10 lot of harm that can be prevented now.

11 **THE COURT:** Okay. So let's move on. Let's move on to
12 your argument. Tell me -- let's assume that, you know, bygones
13 be bygones, and there are certain changes -- it is a clean
14 slate.

15 You come in -- let's say you just discovered this. Who
16 cares. You come in and you say, you know, Judge, between
17 April 15th and October 15th, if that's the date, you know, this
18 tool, this method, is going to be disseminated to prospective
19 filers; and we feel -- the FTC feels that the representations
20 or the method by which filers are advised as to the mechanics
21 of how the system works is unfair -- is unfair, inappropriate.

22 And it is inappropriate in the following way: It entices
23 or encourages or represents to a taxpayer that he or she will
24 have paid free service when, in fact, the reality is they will
25 not or the reality is that they will be so deeply involved in

1 the filing system that they will at that point elect to pay
2 compensation to Intuit as distinct from disassociating itself
3 from the website.

4 I think those are the arguments that I sort of got --

5 **MR. ANGUIZOLA:** And that's correct. And that
6 behavior, despite the fact that Intuit has knowledge of this
7 action and very well knows that the FTC's concerns with it and
8 should know the illegality of it, the deception that is
9 happening, they -- the very next day after tax day -- if you
10 look at Shiller declaration. It is on the docket 57-3 at
11 paragraph 14 -- she has an image of a blog published by
12 TurboTax. "Did you miss the tax deadline?"

13 And then there is a representation "you can start for
14 free." And when you click that, if you go to paragraph 15, you
15 land on the TurboTax website. And there is the free claims,
16 "free, zero, zero, zero."

17 The truth of the matter is -- and we have laid this out in
18 our matter -- two-thirds of American consumers are ineligible
19 to file for free using TurboTax. And that's deception.

20 Intuit's answer is: Well, we tell them "simple returns
21 only" or something of that ilk.

22 And we have conducted a survey to determine is that a good
23 disclaimer. And we have consulted with Professor Novemsky from
24 Yale University at GX -- Government Exhibit 302.

25 His survey shows that 55 percent of consumers that have

1 not -- have not used TurboTax in the past -- he refers to that
2 as group A -- 55 percent of those people think that they have a
3 simple tax return even though they would -- based on the
4 questions in the survey they would be ineligible.

5 So the majority of consumers or at least a significant
6 minority, which is the standard, go in and don't understand
7 that disclaimer. And that disclaimer contradicts the -- the
8 very claim even if it was understood.

9 It is also confusing because we have laid out how -- the
10 disclaimer itself -- Intuit's definition of what "simple tax
11 return" means changes from year to year to year.

12 So I -- shortly after filing this case, I received an
13 e-mail from a consumer saying "Yes, I got snookered this year
14 because last year I had unemployment benefits and last year a
15 simple return under Intuit's definition would include
16 unemployment." And he was able to file for free.

17 This year, simple return means something else, and it is
18 not included. So this year he went in; entered all the data;
19 wasted his time and ended -- faced with a decision, "Do I now
20 start all over or do I pay and stop wasting my time?"

21 And the harm that happens is you create -- they are
22 creating a marketplace where the consumers don't -- you know,
23 they think it is a dishonest marketplace, and this is
24 ultimately what we are trying to avoid here.

25 So the conduct is ongoing. And now they have -- they have

1 had a chance to correct it and they haven't.

2 **THE COURT:** Well, is your quarrel -- I'm trying to
3 figure out exactly what your quarrel is with.

4 Are you saying they shouldn't say "simple" because
5 "simple" is one of those terms that means -- it is in the eye
6 of the beholder; that something is either simple. Something to
7 one person may seem simple, to the other person may be
8 complicated. And therefore, it is not a defining term that
9 would give guidance to a person to understand that he or she
10 would not be required to pay a fee for the services that are
11 rendered.

12 It is just not -- it is not exact enough. And, in fact,
13 it is misleading in that -- in that it just has too many things
14 in the common parlance of its understanding that would pull
15 people in and that's why it's deceptive.

16 **MR. ANGUIZOLA:** Well, it begins with the use of the
17 word "free." Simple return is a --

18 **THE COURT:** Well, free -- listen, I have no problem
19 with the word "free." My problem is with the word "simple."

20 I mean, free is free. Free means no paying. Do not pay
21 and don't have to pay. That's what free means. It doesn't
22 mean anything else. It doesn't mean sort of free. Pay a
23 dollar, \$10, \$20. Free is free.

24 But that's not -- is that the deception? Are you saying
25 it is really not free? It is not free in the sense that they

1 charge? And, therefore, it is not free.

2 **MR. ANGUIZOLA:** It is not free --

3 **THE COURT:** But they come back and they say: Look, we
4 didn't say our system is free to everybody. We said it's free
5 if the return is a simple return. That's what we said.

6 Now, so the deception, I think, at one level has to be
7 with the term "simple" and not "free," I think.

8 Have I got it wrong? Tell me I got it wrong.

9 **MR. ANGUIZOLA:** I don't think --

10 **THE COURT:** What?

11 **MR. ANGUIZOLA:** I don't think you have it exactly,
12 right. The deception --

13 **THE COURT:** Okay.

14 **MR. ANGUIZOLA:** -- begins with the word "free," and
15 then there are different variations of their ad.

16 So the question is: Is there some language that modifies
17 the claim free and -- in other words, a disclaimer? And is
18 that disclaimer clear and conspicuous?

19 So the Novemsky survey went to the question of whether the
20 disclaimer "simple return" is clear. It is not clear. People
21 don't understand what that means, and it is a -- and it is a
22 moving goalpost because Intuit changes it all the time.

23 **THE COURT:** I understand that argument.

24 **MR. ANGUIZOLA:** It is also not --

25 **THE COURT:** Why am I wrong in saying the confusion

1 arises out of the term "simple?" It doesn't arise out of the
2 term "free."

3 Free gets you there. Free gets you in the door. But
4 there is a disclaimer. They don't say it is free to everybody,
5 and nobody thinks it is free to everybody.

6 **MR. ANGUIZOLA:** The survey data shows otherwise,
7 Your Honor, but you are not completely wrong for all of the
8 ads.

9 **THE COURT:** Well, okay. That is virtue.

10 **MR. ANGUIZOLA:** But what -- part of the issue deals
11 with conspicuousness. So if we turn back to the television ads
12 that they have now pulled -- conveniently pulled at the end of
13 the season when they knew that they were going to get sued --
14 and you can call that shrewd and good lawyering -- but that's
15 what they did.

16 In those ads simple return is a blurry microprint at the
17 end of the ad at the bottom. Sometimes they have a voiceover.
18 They say 30, 40 times or however many times. And so in that
19 instance it is not conspicuous.

20 They get closer -- even if they were able to argue that in
21 some of the space constrained ads or in some of the internet
22 ads, that they get closer to simple returns -- return -- the
23 simple return disclaimer being conspicuous, it is not clear.
24 And that's where the Novemsky survey illustrates that it is not
25 a good disclaimer because people don't understand what they

1 mean.

2 So there are two problems. One, in a lot of the ads, the
3 ads that started the case, it is not conspicuous at all.

4 So the consumer will just take in the promise that it is
5 going to be free without ever seeing the disclaimer.

6 And then the second problem is even when consumers can see
7 and comprehend that there is a disclaimer, they don't
8 understand what that means. And it contradicts the central
9 claim, which is that is free.

10 So there is -- there are those two distinctions, and there
11 is -- it is a moving target. There's different kinds of ads,
12 but even the current ads that they are running have a problem
13 because that disclaimer is just not clear. It is not
14 understood.

15 **THE COURT:** All right. Well, let me hear from
16 Mr. Waxman, unless you just want to submit it?

17 **MR. WAXMAN:** Your Honor, Seth Waxman for Intuit. I
18 mean, I -- no, I don't want to, of course, just submit it.

19 I do want to address the merits and particularly this
20 issue of the confusion involving "simple" on a going forward
21 basis, but I think I need to say a few things in response to
22 misrepresentations that were made before.

23 This notion that we have tried to snooker the FTC is so
24 utterly false, and the paper trail -- there is an exhaustive
25 paper trail that will demonstrate some of which is already in

1 the record.

2 This investigation was begun in a very public way three
3 tax seasons ago. Every single time there was a request for
4 production of documents, witnesses, et cetera, we have provided
5 them with alacrity.

6 We have attempted to, over the course of those years, make
7 changes -- the screen that you were just shown is from the 2019
8 tax year. We have made any number of changes to the ads that
9 they claim were deceptive in an effort to satisfy them.

10 We have asked them -- in fact, literally, quote, begged
11 the FTC since they filed its -- sent its draft complaint to us
12 almost a year ago to explain to us what it is -- on what basis
13 they believe these ads are deceptive.

14 These are ads that say very prominently -- you can see in
15 the screen you just saw on the very first line -- "for simple
16 returns only" which is hyperlinked. When you click on that
17 hyperlink, it tells you exactly who qualifies and who doesn't.

18 It then says -- right after "for simple returns only",
19 quote, "see if you qualify at turbotax .com."

20 And when you go to turbotax .com, you get a screen, which
21 was also displayed by Mr. Evans, that has the tile of things
22 saying: "Tell us about you." Do you --

23 **THE COURT:** Why don't you walk me through this? Walk
24 me through this in terms of a current -- I mean, current as of
25 today, a year or so --

1 **MR. WAXMAN:** Yeah.

2 **THE COURT:** Here is -- let's -- let's talk about what
3 we are going to talk about. I'm not concerned about the past,
4 though I think it is entirely appropriate for you to respond.
5 For the record and so forth --

6 **MR. WAXMAN:** I understand. There is one more thing I
7 do want to say.

8 **THE COURT:** Go ahead because I don't want to cut you
9 off.

10 **MR. WAXMAN:** We have asked them over and over and over
11 again in the past year to tell us what is still objectionable
12 about the changed ads, none of which are running.

13 They have told us repeatedly: "We are not going to get
14 into that with you."

15 We went to them in November and said, look, let's get an
16 agreement on some -- what it is that you want so we can do this
17 before tax season.

18 We are a consumer product company. We don't want to be on
19 the wrong side of the government. We rely on repeat business.

20 If there is something that is confusing to a significant
21 part of the population, we want to conclude it; and we were
22 told repeatedly "We are not willing to discuss that."

23 "We are not willing to discuss that."

24 The very first time we heard anything was about two weeks
25 before the hearing before the complaint was filed when we met

1 first with the Career Chief and then with the Chair of the
2 Commission who told us what it is that she still found
3 objectionable.

4 And that very day we wrote to her and said: Look, we will
5 pull all of the television, video, Facebook, online ads; okay.
6 And in response to that a few days later we got this lawsuit.

7 Now, this lawsuit is a request not that Your Honor decide
8 the merits of whether what we are doing on a going forward
9 basis is -- does or doesn't violate the FTC Act.

10 They have noticed this under Section 5 for a hearing in
11 September. The FTC is going to decide that issue.

12 They filed a complaint with you seeking only the following
13 relief: A temporary restraining order and a preliminary
14 injunction pending the September hearing to prevent us from
15 running the ads which had already stopped.

16 They now have, not in any pleading, a new exigency, which
17 as it turns out that some people missed the filing deadline and
18 they have to file by October.

19 And so their request here today is that you enter a 14-day
20 temporary restraining order and then have some hearing on a
21 preliminary injunction based on a showing that utterly does not
22 exist.

23 I mean, as Your Honor stated at the outset, preliminary
24 injunctive relief is -- as the Supreme Court has explained, is
25 extraordinary and a drastic remedy. And what is extraordinary

1 about this case is how completely insubstantial the
2 Government's papers are.

3 They have attached -- we have some testimony today from my
4 colleague about somebody who supposedly called him to say he
5 was snookered. We have a complaint, a temporary restraining
6 order, and a reply brief that doesn't attach or reference a
7 single consumer declaration.

8 They have represented that of the tens of millions of
9 people who use TurboTax, both the free edition and the various
10 paid editions, they have received 23 complaints about the
11 advertisements.

12 We don't have those complaints. We don't know whether a
13 single one of those complaints has to do with some
14 misconception about whether you could or couldn't file for
15 free.

16 The only thing they have produced -- although we have
17 declarations and declarations and declarations saying that they
18 had to spend years talking with experts and consultants about
19 surveys -- what we have is some gossamer survey that was done
20 the week before -- start to finish the week before they filed
21 their complaint that purports to test whether people who see
22 the ads, which are not running anymore, believe that everyone
23 can file for free.

24 And yet, the survey did not show any one of the challenged
25 ads to anybody. It just asked people: If you were told that

1 it's free if you file a simple return, do you think your return
2 is simple?

3 And so that survey says nothing whatsoever about the
4 challenge in this case, which is that our ads were deceptive.

5 It doesn't say anything about the ads at all because not
6 one person was shown any of these ads. And that is the sum and
7 substance of the Government's representations here.

8 And it requires not only a denial of the TRO and the
9 preliminary injunction but dismissal because that is the only
10 relief that is requested.

11 Now, the Government --

12 **THE COURT:** Are you then -- let me try to posit a bit.
13 Are you saying that those ads that have been pulled, if that's
14 the right word, discontinued, in light of FTC concerns and
15 discussion and so forth, is that as to that category of ads,
16 they will not be disseminated, published, going forward?

17 So there really isn't the -- the prospect of a, quote,
18 continued -- merits aside -- a continuing harm?

19 So this -- you are saying this motion has to fail for a
20 variety of reasons but one of which is there isn't an ad out
21 there that we are publishing that is the subject of a complaint
22 by the FTC.

23 We don't even know exactly what they are talking about.
24 They haven't viewed -- criticized or put into the record a
25 present ad that would be susceptible of that interpretation.

1 And secondly, there is no consumer evidence, if I can use
2 that term, to show that there is a deception or a confusion as
3 it relates to that particular ad. Is that a fair summary?

4 **MR. WAXMAN:** Yes. Yes, it is even better than that
5 because although they have no evidence whatsoever that the --
6 that the television, video and online ads -- that we have
7 represented will not ever run again. We aren't even
8 planning -- we have undertaken not to run any television or
9 video or online ads until next tax season, which would be after
10 the FTC conducts its Section 5 hearing and makes a ruling.

11 **THE COURT:** So then what is the -- what is your
12 response to the -- to the question: Between now and
13 October 15th, how then is Intuit or TurboTax, whatever you want
14 to call yourselves, how are you presenting the product to the
15 public effective on April 18th to December -- to October? How
16 is it being shown to the public?

17 **MR. ANGUIZOLA:** Right. So it is shown to the public
18 on our website. And Your Honor can -- we have invited
19 Your Honor on paper and now orally to go to www.turbotax.com,
20 which is what the previous ad said you should do to see if you
21 qualify, and you can see for yourself that it makes lavishly,
22 promiscuously clear that it has four different editions.

23 There is a free edition, which 14 million people use each
24 year, totally for free; and that the free edition is for simple
25 returns only, which is a hyperlinked statement. And when you

1 go to the hyperlink, it will give you the list of eligibility
2 for filing for free.

3 And it then says: To see if you qualify, go to
4 turbotax.com. And when you go to turbotax .com, you will
5 see -- Mr. Evans put it up on the page -- a display of tiles
6 that says tell me about -- tell us about yourself to decide
7 which edition you should use.

8 And if you click on, for example, "I sold stocks. I have
9 a rental property. I have childcare expenses. I -- I have
10 donated more than \$300 in charitable contributions," it
11 automatically tells you that you cannot use the free edition.
12 You have to use either basic or one of the other higher-grade
13 things.

14 And so, leaving aside the complete absence of proof -- the
15 complaint in this case addressed three or four TV ads.

16 The very first time that we were told in a meeting with
17 Chair Lina Khan what it was that the Commission still thought
18 was misleading, that very day we undertook to pull the ads, and
19 the ads have been pulled since then.

20 They are now saying: Well, we ran into court asking for a
21 TRO and a PI because tax day was coming. They now say: Well,
22 some people, some very small percentage of people, missed the
23 deadline and they are on extension.

24 And it's true that none of the ads that are in our
25 complaint are running anymore, but you can still -- and you can

1 look at the latest declaration from their paralegal -- if you
2 Google "online free tax" --

3 **THE COURT:** Isn't my answer to it: Okay, I'm going to
4 allow you to amend your complaint. Go amend your complaint and
5 gear it towards -- I'm not granting the TRO. I'm not granting
6 the preliminary injunction. Times have changed.

7 We are now talking about those people who are going to
8 take advantage of the April 18th to October 15th extension.

9 If -- if you feel that there are deceptive ads out there
10 now, put them in your amended complaint and then we will talk
11 about it. They will either be there or they won't.

12 I mean, I don't, like, to know really what to do in the
13 sense that I'm not going to do what they want to do basically
14 because I think it is moot. And I'm not passing any judgment
15 on the merits. But it is moot.

16 I mean, I don't think it is appropriate for a Court to
17 say: Well, it is moot. But let me tell you how I really feel.
18 I like to do that but --

19 (Laughter)

20 **THE COURT:** -- I'm not supposed to. I'm not supposed
21 to do that, so I'm not going to do that.

22 But I think that because they are talking about, one, a
23 serious matter. I don't treat this as not a serious matter.
24 Two, that people should have an opportunity to come to court,
25 the Government included if, in fact, they feel that they have a

1 basis for it. So I ask you, Mr. Waxman, what is wrong with
2 that?

3 **MR. WAXMAN:** I think if Your Honor were to dismiss the
4 complaint and deny the relief and give them the opportunity,
5 which they have in any event to file a new complaint; and they
6 can file a complaint with a TRO that not only says that these,
7 you know, Google and Bing hits are misleading but actually
8 adduce a modicum of evidence that would allow Your Honor to --

9 **THE COURT:** They have to.

10 **MR. WAXMAN:** Yeah.

11 **THE COURT:** I mean, whether --

12 **MR. WAXMAN:** So --

13 **THE COURT:** It is not Sunday school. You know, I
14 mean, they have to follow the rules. So let me ask -- this is
15 fabulous to have in-live, person-to-person argument in the
16 courtroom -- but I want to ask the FTC.

17 So, what is wrong with that? In other words, I simply
18 dismiss -- I deny your request for injunctive relief. I
19 dismiss with leave to amend. I think I dismiss with leave to
20 amend. I don't think I simply -- I don't know how else you get
21 to a leave to amend unless it is dismissed. Give me your
22 views. Come on up. We will chance it.

23 **MR. ANGUIZOLA:** This is Roberto Anguizola. They are
24 mischaracterizing the complaint. So --

25 **THE COURT:** Okay.

1 **MR. ANGUIZOLA:** The complaint -- they would like the
2 Court to believe that the complaint was only about television
3 ads. And it is correct. We highlighted the television ads
4 because at the time that the complaint was filed the television
5 ads were ongoing, and the television ads were particularly
6 egregious.

7 But from the very get-go, if you look at paragraph 30 of
8 the complaint -- I believe it is docket 1 -- it says: Intuit
9 has employed ads including via television, YouTube and other
10 social media marketing the premium version of TurboTax
11 including but not limited to those in the absolute zero and
12 free, free, free campaigns. They have pulled the free, free,
13 free campaigns.

14 We were looking at ads beyond television. It's in black
15 and white in paragraph 30. We were looking at ads beyond those
16 particular television campaigns.

17 Then if we turn to paragraph 126, reads: The FTC has
18 reasons to believe that Defendant is violating or is about to
19 violate laws enforced by the Commission.

20 And 126(c) says: Intuit has continued engaging in many of
21 the challenged acts and practices even after learning it was
22 the subject of Government investigations; and (d), during the
23 pendency of the FTC's investigation, Intuit has continued its
24 deceptive free advertising which is ongoing.

25 Then, Count One -- again, none of -- that all envisions a

1 situation where there is harm at the time a complaint is filed
2 and there is harm beyond television and there is harm that --
3 there is a belief that it is going to keep going on.

4 Then Count One is not limited to television. I'm not
5 going to read it, but it -- it deals with -- it is broader than
6 television.

7 It deals with instances in connection with advertising,
8 marketing, promotion, offering for sale or sale of online tax
9 preparation products or services including through the means
10 described in paragraphs 16 through 126.

11 That is beyond television. The paragraphs 16 through 126
12 deal with the website. They deal with social media. They do
13 deal with television.

14 So what they did was take out a subsegment of it, and now
15 they would like the Court to believe that our complaint doesn't
16 cover the ongoing conduct.

17 \$35 million of revenue between now and October maybe is a
18 drop in the bucket for Intuit, but in my career at the FTC,
19 most of my cases involve harm that is far less than that. And
20 it still merits --

21 **THE COURT:** Your argument is your complaint is
22 adequate in that regard and that there is no necessity of
23 amending your complaint because it stands for and accuses
24 Intuit of engaging in deceptive practices, which are ongoing.

25 **MR. ANGUIZOLA:** Correct.

1 **THE COURT:** And there is a real harm because of the
2 existence of post-April filers.

3 I don't think that they missed the deadline. I have
4 been -- my tax accountant says: No, you are not missing a
5 deadline. You are taking advantage of a different date.

6 So it is not that. It is another way -- assuming one
7 qualifies, it is another way of collecting revenue under the
8 law. So you are saying that is ongoing -- your complaint is
9 adequate.

10 **MR. ANGUIZOLA:** That's correct.

11 **THE COURT:** What about Mr. Waxman's point, you know,
12 you don't have anyone complaining here basically? What are you
13 talking about? You know, is this just a theory that people
14 don't understand it because if they didn't understand it, you
15 know, why -- how many clients do you have in roughly in the
16 last year? How many people?

17 **MR. ANGUIZOLA:** So in the last tax season 14 million
18 people filed for free.

19 **THE COURT:** No. But the whole thing.

20 **MR. ANGUIZOLA:** The whole thing is -- free is the
21 biggest category.

22 **THE COURT:** Yeah.

23 **MR. ANGUIZOLA:** But I don't know, maybe 40, 50 million
24 people use it.

25 **THE COURT:** Out of there -- out of there, there would

1 be a substantial number of people who have -- if it is true --
2 have a level of dissatisfaction with the way the product is
3 being presented to them.

4 And Mr. Waxman's point, as I understand it, is it's not
5 there and that's a pretty good indication, isn't it, that it is
6 not -- that it is not deceptive?

7 People come in, after all, and they look at cans of food
8 on Safeway counters which say "all natural," and they say wait,
9 a minute the propellant that takes out -- that's not all
10 natural. I mean, they say: What are you supposed to assume,
11 that, like, Old Faithful is propelling the material out?

12 And I get those. I get: Is all butter all butter? Is
13 all natural all natural? What does that mean? I never quite
14 got it.

15 But I think the saying is that people aren't shy about
16 grievances that they have if they feel they have been deceived
17 and especially within the context of where they are paying
18 money and required by law to pay money.

19 So if they think that they have been hoodwinked, where are
20 those declarations?

21 **MR. ANGUIZOLA:** A couple things on that. He has
22 misstated the evidence. So we decided to proceed more
23 efficiently here and conduct a survey rather than rely on
24 consumer declarations.

25 And according to the survey, 52.7 percent of people in

1 group A, they mistakenly think that they can file for --
2 TurboTax for free.

3 So those -- there is a significant minority -- I would say
4 majority -- but the standard is significant minority that are
5 under the misimpression they can file for free even though the
6 people that were surveyed would not have been eligible for
7 that.

8 And when they are asked what was the source of that
9 belief, 46 percent stated they received that belief based on
10 TurboTax advertisements; and 46.9 received that misimpression
11 from the TurboTax website. And if we combine the source of
12 the -- the ads and the website causing the confusion, it goes
13 up to 72.3 percent.

14 And these are people that are ineligible and they are
15 saying: Why am I confused? Because I either saw an ad or I
16 went to the website.

17 And Professor Novemsky explains why he didn't do a
18 traditional copy-test in this case. And the reason for that
19 is: First, he thought it was appropriate to do a perception
20 survey because the ads have been running for so long and
21 have -- and the deception has been so pervasive that he wanted
22 to know am I dealing with a pool of people where a traditional
23 copy-test which is designed to just test particular claims in a
24 particular ad -- is the pool of people so confused, through no
25 fault of their own and they are identifying Intuit, TurboTax,

1 as the source of that confusion -- is that group so confused
2 that we can't do a traditional copy-test?

3 And that's why they didn't do that and they went with this
4 perception survey, which is powerful in and of itself.

5 Defendants didn't copy-test or if they did copy-test, they
6 didn't provide it to the FTC and haven't provided it to the
7 Court.

8 And the reason for that, I suspect, that they probably did
9 a perception survey -- they have no -- they can do that through
10 a consulting expert -- and decided that a copy-test was not
11 appropriate. So you don't have copy tests from either side.

12 And to go -- in terms of the consumer complaints, we have
13 the declaration of Diana Shiller, which is at docket 12-655,
14 where she summarizes the consumer complaints; and there is many
15 more than what they -- what they describe.

16 As of March 28, 2022, the FTC had received 571 consumer
17 complaints about free TurboTax.

18 From January 1, 2021 to March 28, 2022, the FTC received
19 152 complaints.

20 She summarizes the 57 complaints that have been filed from
21 November 1, 2021 to March 28, 2022; 55 of the 57 consumers
22 thought that they could file for free; 23 of the 57 consumers
23 mentioned they saw advertising indicating that their tax filing
24 would be free; and 54 to 57 consumers paid TurboTax when they
25 thought their filing -- even though they initially went there

1 because they thought the filing was going to be for free.

2 Traditionally the consumer complaints that we receive are
3 the tip of the iceberg.

4 I have done cases with zero consumer complaints. You
5 don't need consumer complaints, but there is a lot of them and
6 we did a survey instead.

7 The ads covered by the current complaint are ongoing as of
8 a couple days ago and --

9 **THE COURT:** Can you run me through one of these ads --

10 **MR. ANGUIZOLA:** Sure.

11 **THE COURT:** -- on my computer here or whatever it is
12 called?

13 **MR. ANGUIZOLA:** Sure.

14 **THE COURT:** It is nice to talk about it.

15 **MR. ANGUIZOLA:** Yeah.

16 **THE COURT:** It is also nice to see it, so --

17 **MR. ANGUIZOLA:** You just go to --

18 **THE COURT:** Here we go, [www.turbotax .com](http://www.turbotax.com).

19 **MR. ANGUIZOLA:** And one thing that is missing is this
20 is a deceptive door opener case. And so what that means is
21 there are ads disseminated all over the internet, all over
22 social media. They have stopped television. But up until the
23 eve of the filing of this case television and even after that,
24 they could not --

25 **THE COURT:** Well, I watched the Super Bowl. I think

1 there were some ads in there.

2 **MR. ANGUIZOLA:** And they had ads -- they had an ad
3 that violated -- that covered --

4 **THE COURT:** I have no comment on --

5 **MR. ANGUIZOLA:** -- during the Academy Awards.

6 **THE COURT:** -- what happened with the Super Bowl.

7 The 49ers should have been in that. I mean, that was the
8 violation in the Super Bowl.

9 **MR. ANGUIZOLA:** So if you turn to paragraph 6 of the
10 Shiller declaration, docket 57-3, there is an example of a
11 Google ad. File an extension for free. Free tax filing.

12 **THE COURT:** Okay.

13 **MR. ANGUIZOLA:** So that's on the screen. That's one
14 example. That's ongoing. That one is April 19th. That's the
15 same day that she filed her declaration.

16 **MR. WAXMAN:** I'm sorry. What paragraph is that?

17 **MR. ANGUIZOLA:** Paragraph 6, docket 57-3.

18 If we turn to paragraph 8, there is a TurboTax banner ad
19 in the Milwaukee Journal Sentinel. That was as of April 14th.
20 That one is before the deadline.

21 If we go to paragraph 10 and then scroll down, scroll down
22 further, there is an example of a Facebook ad. Then
23 paragraph --

24 **MR. WAXMAN:** Excuse me. That is not an ad that is
25 running and you know it.

1 **MR. ANGUIZOLA:** That is an ad from the Facebook --

2 **MR. WAXMAN:** -- library.

3 **MR. ANGUIZOLA:** Right.

4 **THE COURT:** I'm sorry. What is the distinction?

5 I'm --

6 **MR. WAXMAN:** It is an ad from the past that has been
7 documented.

8 **THE COURT:** Oh, okay. No, no, I get it.

9 **MR. WAXMAN:** -- in a library of prior publications.

10 **MR. ANGUIZOLA:** I think Facebook pulled the ads from
11 the past. It has the recent ones. But even if they are not on
12 Facebook, they are on Google. They are on Apple News.

13 **THE COURT:** Well, what I'm asking you for is this, if
14 you can show me an ad that was running as of April 18th or
15 19th; and I can look at it and I can understand what you are
16 complaining about. That's all I need to see.

17 **MR. ANGUIZOLA:** So paragraph 9 is an April 18th --

18 **THE COURT:** Now, looking at this one -- looking at
19 this one as an example it says -- so maybe I am taking the air
20 out of Mr. Waxman's presentation -- but it says "TurboTax free
21 edition, for simple tax returns only*"

22 That's what it is. Okay, and it's your position that
23 that's not explanatory enough that that's -- that's an
24 inadequate disclosure.

25 **MR. ANGUIZOLA:** That's correct.

1 **THE COURT:** That's an inadequate disclosure. If I'm
2 there, I see this ad and I say: Oh, boy, free, great. So then
3 I see TurboTax free edition. That is fabulous. For simple tax
4 returns only. Oh, I say: What does that mean? I don't
5 understand what that means.

6 What then do I do as a consumer? What is my
7 responsibility as a consumer to do anything with respect to
8 this ad, which tells me that it is limited to simple tax
9 returns?

10 **MR. ANGUIZOLA:** The problem is that the consumers --
11 the survey results don't show that the consumers don't know
12 that what means. They think they know what it means, and they
13 think their returns are simple even when they are not simple by
14 Intuit's definition.

15 And so if you -- they are making a zero or free claim --
16 if you scroll down, James, I think one of the things that is
17 missing and that is more prominent on the screen if you look at
18 the language underneath the file date to file, it says free
19 in -- that's more prominent.

20 It is zero, zero, zero, which is the same as free; and the
21 only disclaimer is "for simple tax returns only" and consumers
22 believe that their returns are simple even when they are not.

23 **THE COURT:** So your statement is the disclaimer is
24 meaningless?

25 **MR. ANGUIZOLA:** Exactly.

1 **THE COURT:** So you can put anything in that
2 disclaimer, like "just kidding" or "it only works if you are a
3 lifelong Libertarian." Whatever it says you think the
4 disclaimer is irrelevant to the infraction; that is, the wrong
5 that has been committed.

6 So your suggestion to me -- I can stop -- Judge, just
7 stop. Once they say "free, free, free," they are on the hook.
8 Doesn't make any difference what we say underneath.

9 **MR. ANGUIZOLA:** There may be instances that --

10 **THE COURT:** When you say "simple tax return," which I
11 always thought the problem is that people don't understand what
12 "simple" means. Simple to one person isn't simple to another.

13 That is the deception; that people will think that
14 "simple" means something which it doesn't mean which it -- like
15 somebody says: Oh, well, I have a -- I have some interest. I
16 have a government loan or I have got unemployment benefits or
17 dat, dat, dat. Nothing is simpler than that.

18 And they say: Oh, no, no, no, we think that is simple but
19 it is not actually simple.

20 So the term "simple" doesn't -- doesn't appropriately
21 elucidate, appropriately encompass the disclaimer that ought to
22 be considered by the consumer when the consumer gets on this
23 website. That's the FTC's --

24 **MR. ANGUIZOLA:** That's absolutely correct.

25 **THE COURT:** Well, then I think I can try to figure it

1 out from that point.

2 **MR. ANGUIZOLA:** And we lay out the FTC black letter
3 law on disclaimers, when they are appropriate.

4 If the disclaimer -- first of all, Intuit came into it
5 backward. They looked at the .com disclosure guide and found
6 instances where the FTC says "for certain disclaimers you can
7 use a hyperlink."

8 What they didn't -- what they omitted, and they omitted to
9 file this with the Court, were the first ten pages of the guide
10 that talk about instances where the disclaimer -- the
11 information that is being disclaimed is so central to the claim
12 such as where you have cost information that you can't --

13 **THE COURT:** So the disclaimer you would actually
14 entertain, it would be a disclaimer in this ad which would say
15 "TurboTax free edition but probably not for you."

16 **MR. ANGUIZOLA:** That would be one -- there is -- and
17 our order doesn't --

18 **THE COURT:** I mean, that would certainly be fair.

19 **MR. ANGUIZOLA:** Our proposed order is not
20 prescriptive. They can certainly come up with a different way
21 to do it, but this is from the part of the guides on . com
22 disclosures that they omitted.

23 Disclosures that are an integral part of a claim or
24 inseparable from it should not be communicated through a
25 hyperlink. Instead, they should be placed on the same page and

1 immediately next to the claim and be sufficiently prominent so
2 that the claim and the disclosure are read at the same time.

3 **THE COURT:** Why isn't that this? I mean, it is right
4 there; isn't it? I mean, it is right under the word "free,
5 free, free" or "zero, zero, zero," it says "TurboTax free
6 edition, for simple tax returns only."

7 **MR. ANGUIZOLA:** We go back to simple tax --

8 **THE COURT:** I understand that. They are saying the
9 disclosure is inadequate.

10 **MR. ANGUIZOLA:** That's correct.

11 **THE COURT:** It should say "but not for you." Okay. I
12 got it. I understand. It seems like we are rewriting the
13 issues of disclosure.

14 **MR. ANGUIZOLA:** Your Honor, if I may, Your Honor,
15 first of all --

16 **THE COURT:** I will return to you.

17 **MR. ANGUIZOLA:** I had one more --

18 **THE COURT:** Well, then go right ahead and then I will
19 give it to Mr. Waxman. We have plenty of time.

20 **MR. ANGUIZOLA:** At paragraph 15, this is the latest
21 ad, and that one is squarely dealing with the people that
22 missed tax day.

23 And Your Honor more correctly described it as you get an
24 automatic extension, so it is not that you are in violation but
25 there is that group of people. And this conduct from now until

1 October is going to generate \$35 million of revenue.

2 And this is a problem. When they click on "start for
3 free," then you can turn to paragraph 15, and you get right
4 back to a free claim and an inadequate disclaimer that doesn't
5 do its job.

6 **THE COURT:** The disclaimer in the one you just showed
7 me is a hyperlink which says "simple tax refund only."

8 **MR. ANGUIZOLA:** Right. And hyperlinking is not
9 recommended for essential claims involving costs.

10 **THE COURT:** No. The irony is in this case, of course,
11 I have already ruled that the hyperlink for the arbitration
12 clause was inadequate.

13 And the Circuit in its wisdom reversed me. And then, of
14 course, Intuit came in and said: Oh, by the way, we don't want
15 arbitration. But that's not this case.

16 **MR. WAXMAN:** You wouldn't know it isn't this case
17 since 60 paragraphs of this complaint are complaining about the
18 IRS free file program, which the FTC well knows both Intuit and
19 H&R Block withdrew from following the 2019 tax year. But
20 nonetheless, we are subjected to pages and pages of allegations
21 about it.

22 But let's look at the examples that he just gave. And,
23 Your Honor, I think net-net the best thing to do is for you to
24 just follow those links.

25 Let's look at them in reverse order. The one that he

1 identified on paragraph 15, it has: Did you miss the deadline?
2 And it says, you know -- the very next page.

3 **THE COURT:** Put it up on the board here so I can see
4 it, please. Thank you. Okay.

5 **MR. WAXMAN:** I don't think I can stay at the mic
6 and -- so here is one that -- this is actually one that is
7 still running. It is on a blog. It is not a video ad or
8 anything.

9 It says: Did you miss the deadline? And then right
10 underneath it -- if you just scroll up the page, Mr. Evans --
11 it says: I clicked on -- no, down, I'm sorry -- I clicked on
12 the affiant, the start for free button and it directed me to
13 the page following, which is on the next page.

14 And this I think is important because this is exactly what
15 happens. It says: Let's find the right tax solution for you.

16 And if you click on "I donated \$300 or more," you will see
17 that it tells you right off the bat you can't use for free.

18 If you click on "I own a home" or "I have rental income"
19 or "I sold stocks" or "I am self-employed," it tells you just
20 by clicking on the information -- the tabs that they are asking
21 for -- which product is available or not available.

22 If we go back to the ad that my friend was referencing, I
23 think it was paragraph -- I think it was paragraph 9, yes, 9
24 where Your Honor pointed out that in the ad -- or this is an
25 e-mail -- it says TurboTax free edition for simple tax returns

1 only, asterisk.

2 Now, my friend and the affiant didn't bother to display
3 for Your Honor the rest of the page which has the asterisk.
4 And the asterisk says -- I guess I have lost this already on my
5 telephone -- the asterisk says --

6 **THE COURT:** Well, can you do it?

7 **MR. WAXMAN:** Yeah. "Simple" --

8 **THE COURT:** Give it to somebody under --

9 **MR. WAXMAN:** Not under 70.

10 **THE COURT:** Okay.

11 (Laughter)

12 **MR. WAXMAN:** The asterisk at the bottom of the page
13 says "a simple tax return is form 1040 only."

14 "Situations covered in TurboTax free edition, TurboTax
15 live basic and TurboTax live full service basic are the
16 following: W2 income, limited interest and dividend income
17 reported on a 1099 INT, claiming the standard deduction, earned
18 income credit, child tax credits, and student loan interest
19 deduction."

20 Those are the instances, the asterisk, that explains to
21 you what a simple tax return is.

22 Now, on this notion that -- it is difficult to unscramble
23 all this. Professor Novemsky's one-week survey which showed
24 nobody any of these ads, either the ones that are now in
25 response to a Google search request or the TV video ads,

1 purports to answer the question whether people are confused
2 when they see the ads about whether they can or can't file for
3 free.

4 And what Professor Novemsky basically said is: I'm not
5 going to show anybody the ads. I'm just going to collect a
6 bunch of people who say they have never used the TurboTax
7 product and just ask them the question: Do you think you file
8 a simple tax return; so just like you and I were sitting in a
9 cafe on Market Street and just asked everybody who walked by.

10 The question is whether these ads are deceptive. The word
11 that Your Honor pointed to -- the only thing that could be
12 deceptive is some understanding about what "simple" means.

13 Now, "simple" is how the California Franchise Tax Board
14 describes its free filing surveys for simple returns only. And
15 we have that in the record in this case.

16 It is also exactly the same terminology that Intuit's
17 commercial competitors -- H&R Block, TaxSlayer and TaxEdge --
18 all use the term "for simple returns only."

19 And in the outset of this investigation three years ago,
20 we changed it to say "simple returns only." We hyperlinked it.

21 If you go to any of these websites and you follow the
22 Google hit and you click on the TurboTax file for free thing,
23 you will see pop up what I just read you. This is available
24 only for the following types of categories.

25 We added the words "visit turbotax .com to see if you

1 qualify;" and if you click on that hyperlink, it gives you this
2 menu of things where you can say -- you know, if you click "I
3 own a home" or if you click "I made more than \$300 in
4 charitable contributions" or "I sold stocks" or "I had rental
5 income," you don't qualify.

6 I mean, this isn't a case in which they are entitled to
7 extraordinary preliminary injunctive relief pending a hearing
8 that they themselves have set in which they just say "this is
9 confusing."

10 You need -- in order to have a drastic or extraordinary
11 remedy of preliminary injunctive relief pending their merits
12 hearing, you not only need evidence. They need to carry their
13 burden that the evidence shows that they are likely to succeed
14 on the merits. And they have nothing.

15 I just want to correct two things. My friend said: Oh,
16 well, there were 571 complaints. That is a typo and they well
17 know that. It was 57 total of which 23 related to the ads.
18 But we don't know what people -- why they were complaining
19 about the ads; 571 is just the typo. Otherwise, the numbers
20 don't add up.

21 Second of all, they say: Well, you know, Professor
22 Novemsky didn't really think that he could properly do a
23 copy-test by which they mean how people the ads that they are
24 claiming are irretrievably deceptive to a reasonable person.
25 And they say we didn't do that either. I don't know what they

1 are talking about.

2 We provided them long before they filed the lawsuit a
3 survey and report done by a woman named -- I forget her first
4 name but her last name is Kirk Fair, who the FTC routinely uses
5 as its own expert in these cases, who did a copy-test result
6 (sic) and reported that people were not confused. The level of
7 confusion was minuscule.

8 And this notion that oh, well, we couldn't do it because
9 so many people have some preconception about what a simple tax
10 return is -- I mean, it is just ridiculous.

11 **THE COURT:** Thank you. Anything further?

12 **MR. ANGUIZOLA:** If you go to the website and you look
13 at the information after that asterisk, it is not clear and
14 conspicuous. It is in mouse print. And a consumer that
15 scrolls through is not going to see that especially in light of
16 the more prominent free claim that happens above.

17 I think also a consumer is not necessarily going to go
18 through the little cards and know to pick those when there is a
19 big prominent claim that says "free" and they can click on an
20 orange button that says "file for free."

21 There is no typo. There is -- there were different date
22 ranges that the investigator provided in the declaration.

23 So the 571 consumer complaints deal with a different date
24 range than the 57.

25 **THE COURT:** Thank you. Submitted. Thank you.

1 **MR. ANGUIZOLA:** Thank you, Your Honor.

2 **MR. WAXMAN:** Thank you.

3 (Proceedings adjourned at 11:38 a.m.)

4 ---oOo---

5
6 **CERTIFICATE OF REPORTER**

7 I certify that the foregoing is a correct transcript
8 from the record of proceedings in the above-entitled matter.

9
10 DATE: Wednesday, April 27, 2022

11
12
13 *Marla Knox*
14 _____

15 Marla F. Knox, CSR No. 14421, RPR, CRR, RMR
16 United States District Court - Official Reporter
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RX 74

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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 FEDERAL TRADE COMMISSION,

9 Plaintiff,

10 v.

11 INTUIT INC.,

12 Defendant.

Case No. [22-cv-01973-CRB](#)

**ORDER DENYING MOTION FOR
EMERGENCY RELIEF**

13 Plaintiff Federal Trade Commission (FTC) moves for a Temporary Restraining
14 Order and a Preliminary Injunction under Section 13(b) of the FTC Act, arguing that
15 Defendant Intuit Inc. is deceptively advertising TurboTax Free Edition in violation of
16 Section 5(a). See Emergency Mot. (dkt. 28); Compl. (dkt. 1). The FTC alleges that Intuit
17 advertises that TurboTax Free Edition is “free free free free” and includes only a small and
18 vague disclaimer that it is “for simple returns only” or to “see details at TurboTax.com.”
19 Taxpayers whose returns do not meet Intuit’s definition of “simple” eventually run into a
20 message on the TurboTax website informing them that they must pay to file.

21 Under Section 13(b) of the FTC Act, a district court may grant a preliminary
22 injunction “[u]pon a proper showing that, weighing the equities and considering the
23 Commission’s likelihood of ultimate success, such action would be in the public interest.”
24 15 U.S.C. § 53(b); see FTC v. Affordable Media, 179 F.3d 1228, 1233 (9th Cir. 1999). A
25 defendant engages in deceptive acts or practices under Section 5(a) of the FTC Act if it (1)
26 made a representation, omission, or practice, (2) which was likely to mislead consumers
27 acting reasonably under the circumstances, and (3) which was material. FTC v.
28 Stefanchik, 559 F.3d 924, 928 (9th Cir. 2009); 15 U.S.C. § 45(a).

1 The Court denies the FTC's motion for emergency relief for three reasons. First,
2 Tax Day, which was April 18, 2022, has passed. Most taxpayers have already filed their
3 taxes. Intuit represented in its briefing and at oral argument that its advertising is largely
4 done for this tax season. See Opp. (dkt. 45) at vi. Any prospective harm is therefore
5 attenuated. Second, even before Tax Day, Intuit had removed several of the most
6 plausibly deceptive advertisements—that is, three videos that repeated the word “free” a
7 dozen or more times over 30 seconds before a very brief disclaimer. See Shiller decl. (dkt.
8 7-13, GX 301) ¶¶ 16-31 (describing these ads); Ryan decl. (dkt. 45-3) ¶¶ 16-26 (noting
9 their removal). Third, to the extent other advertisements might violate the FTC Act, the
10 Court notes that the FTC has brought an administrative proceeding against Intuit, with a
11 hearing set for September 14, 2022. See 15 U.S.C. § 45(b); AMG Cap. Mgmt., LLC v.
12 Fed. Trade Comm'n, 141 S. Ct. 1341, 1346 (2021) (detailing the administrative process).
13 An Administrative Law Judge (ALJ) with expertise in these matters will hear (and likely
14 rule) before Intuit resumes its advertising campaign in the lead-up to Tax Day 2023.

15 For the foregoing reasons, the Court DENIES the FTC's Emergency Motion for a
16 Temporary Restraining Order and a Preliminary Injunction.¹ However, if Intuit resumes
17 its full advertising campaign before the ALJ releases her § 45(b) report, or the facts on the
18 ground change significantly, the FTC may return to this Court to request relief.

19 **IT IS SO ORDERED.**

20 Dated: April 22, 2022



CHARLES R. BREYER
United States District Judge

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28 ¹ The administrative motion for emergency relief on the briefs (dkt. 50) is DENIED AS MOOT.

RX 75

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

TURBOTAX FREE FILING CASES

JCCP No. 5067

Included Actions:

Included Action Case No. 19STCV15644

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

INTUIT INC., a Delaware Corporation; and
DOES 1-50, inclusive,

Defendants.

FILED
Superior Court of California
County of Los Angeles

06/25/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. Mata Deputy

PEOPLE OF THE STATE OF CALIFORNIA,
acting by and through Santa Clara County
Counsel James R. Williams,

Plaintiff,

v.

INTUIT INC., and DOES 1-50, inclusive,

Defendants.

Included Action Case No. 19CV354178

**~~PROPOSED~~ FINAL JUDGMENT AND
PERMANENT INJUNCTION**

Assigned for All Purposes to
The Hon. Maren Nelson
Dept.: 17

Complaints filed: May 6, 2019; Sept. 5, 2019
Trial Date: None Set

1 The People of the State of California (“People”), acting by and through, Rob Bonta,
2 Attorney General of the State of California; Michael N. Feuer, the Los Angeles City Attorney;
3 and James R. Williams, the County of Santa Clara County Counsel; and Intuit Inc. (“Intuit” or
4 “Defendant”), appearing through its attorney, David Z. Gringer of Wilmer Cutler Pickering Hale
5 and Dorr LLP, having stipulated to the entry of this Judgment by the Court without the taking of
6 proof and without trial or adjudication of any fact or law, without this Judgment constituting
7 evidence of or an admission by Defendant regarding any issue of law or fact alleged in the
8 People’s Complaints, without Defendant admitting any liability regarding allegations of
9 violations that occurred prior to entry of this Judgment, and with all parties having waived their
10 right to appeal, and the Court having considered the matter and good cause appearing:

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

12 1. This Court has jurisdiction over the allegations and subject matter of the People’s
13 Complaints filed in these coordinated cases and the parties to these cases; venue is proper in this
14 County; and this Court has jurisdiction to enter this Judgment.

15 2. Nothing in this Judgment alters the requirements of federal or state law to the
16 extent they offer greater protection to consumers.

17 **DEFINITIONS**

18 3. For the purpose of this Judgment, the following definitions apply:

19 A. **“Advertisement”** or **“Advertising”** means any written or verbal statement,
20 illustration, or depiction that promotes the sale or use of a consumer good or service, or is
21 designed to increase consumer interest in a brand, good, or service. Advertising media includes,
22 but is not limited to promotional materials; print; television; radio; and Internet, Paid Display
23 Advertisements, Paid Search Advertisements, display, social media, and other digital content.

24 B. **“Clearly and Conspicuously”** means that a required disclosure is difficult
25 to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all
26 of the following ways.

27 1) In any communication that is solely visual or solely audible, the disclosure
28 must be made through the same means through which the communication

1 is presented. In any communication made through both visual and audible
2 means, such as a television Advertisement, the disclosure must be
3 presented in both the visual and audible portions of the communication
4 even if the representation requiring the disclosure is made in only one
5 means (the disclosures in the visual and audible portions of the
6 communication in Space-Constrained Video Advertisements are not
7 required to be identical).

8 2) A visual disclosure, by its size, contrast, location, the length of time it
9 appears, and other characteristics, must stand out from any accompanying
10 text or other visual elements so that it is easily noticed, read, and
11 understood.

12 3) An audible disclosure, including by telephone or streaming video, must be
13 delivered in a volume, speed, and cadence sufficient for ordinary
14 consumers to easily hear and understand it.

15 4) In any communication using an interactive electronic medium, such as the
16 Internet or software, the disclosure must be unavoidable.

17 5) The disclosure must use diction and syntax understandable to ordinary
18 consumers and must appear in each language in which the representation
19 that requires disclosure appears.

20 6) The disclosure must comply with these requirements in each medium
21 through which it is received, including all electronic devices and face-to-
22 face communications.

23 7) The disclosure must not be contradicted or mitigated by, or inconsistent
24 with, anything else in the communication.

25 8) When the representation or sales practice targets a specific audience, such
26 as children, the elderly, or the terminally ill, “ordinary consumers” includes
27 reasonable members of that group.

28 C. “Close Proximity” means that the disclosure is very near the triggering

1 representation and that the disclosure is made simultaneously with the triggering representation
2 and remains or is repeated throughout the duration of the Advertisement. For example, a
3 disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in Close
4 Proximity to the triggering representation.

5 D. **“Effective Date”** means the date on which the Court enters this Judgment.

6 E. **“Intuit IRS Free File Product”** means Intuit’s TurboTax Free File
7 Program, TurboTax Freedom Edition, IRS Free File Program delivered by TurboTax or any other
8 Intuit product or service that was or in the future may be provided pursuant to a memorandum of
9 understanding or an agreement between Free File, Inc. (or any successor entity) and the IRS for
10 the provision of free online tax preparation and e-filing services.

11 F. **“Oversight Committee”** shall mean the following Attorneys General:
12 Florida, Illinois, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and
13 Washington.

14 G. **“Paid Display Advertisement”** means an online Advertisement in which
15 Intuit pays, or causes another to pay, to have an Advertisement displayed on a website and pays
16 for the Advertisement, regardless of whether consumers click on the Advertisement.

17 H. **“Paid Search Advertisement”** means an online Advertisement in which
18 Intuit pays, or causes another to pay, to have an Advertisement displayed with search engine
19 results for a particular search term and pays for the Advertisement only when consumers click on
20 the Advertisement.

21 I. **“Covered Consumer”** means any individual, or individuals if a joint return
22 was filed, who in Tax Years 2016, 2017, or 2018 was (1) eligible to use an Intuit IRS Free File
23 Product; (2) began his or her tax returns using a TurboTax Free Edition Product; (3) was
24 informed that he or she was ineligible to use a TurboTax Free Edition Product; (4) subsequently
25 paid to use a TurboTax Paid Product, and (5) had not used the Intuit IRS Free File Product in a
26 previous tax year.

27 J. **“Space-Constrained Advertisement”** means any online Advertisement
28 (including but not limited to Paid Display Advertisements and Paid Search Advertisements) or

any Video Advertisement that has space, time, format, size, or technological restrictions that limit Intuit from being able to make the disclosures required by this Judgment. Intuit bears the burden of showing that there is a constraint or insufficient space and time to make a required disclosure that is Clear and Conspicuous and in Close Proximity to the triggering term. Space-Constrained Advertisements do not include Advertisements on a TurboTax Website.

K. **“TurboTax Free Edition Product”** means any online software product offered by Intuit that allows consumers, without paying a fee, to prepare and file federal tax returns, state tax returns, or both, including but not limited to “TurboTax Free Edition” and “Federal Free Edition.” “TurboTax Free Edition Product” does not include any Intuit IRS Free File Product, any TurboTax Paid Product, TurboTax Live, or any products sold or offered within the TurboTax Free Edition Product, such as Audit Defense.

L. **“TurboTax Paid Product”** means the online tax preparation software products offered by Intuit that allow consumers, for a fee, to prepare and file federal tax returns, state tax returns, or both, for themselves. “TurboTax Paid Product” does not include products sold or offered in addition to a TurboTax Paid Product.

M. **“TurboTax Website”** means turbotax.intuit.com, any subdomain of turbotax.intuit.com, and any other website owned, operated, or controlled partially or wholly by Intuit that provides or offers TurboTax Paid Products or TurboTax Free Edition Products.

N. **“Upgrade Screen”** means any display within the product flow of the TurboTax Free Edition Product that appears when consumers using that product indicate they have income, credits, deductions, or other tax situations not covered by the TurboTax Free Edition Product, and offers consumers the option of using a TurboTax Paid Product to prepare and file their federal and/or state tax returns.

O. **“Video Advertisement”** means any Advertisement made via television or made online using video.

INJUNCTION

4. The injunctive provisions of this Judgment are imposed under Business and Professions Code section 17203 and shall apply to Defendant as well as its subsidiaries,

1 successors, and the assigns of all or substantially all of the assets of its business, and, their
2 directors, officers, employees, agents, independent contractors, partners, associates, and
3 representatives of each of them.

4 **I. GENERAL COMPLIANCE**

5 5. Intuit shall comply with California's consumer-protection laws, including the
6 Unfair Competition Law, Business and Professions Code section 17200 et seq., and the False
7 Advertising Law, Business and Professions Code section 17500.

8 **II. PROHIBITION AGAINST MISREPRESENTATIONS**

9 6. Intuit, Intuit's officers, agents, employees, and attorneys, and all other persons in
10 active concert or participation with any of them, who receive actual notice of this Judgment,
11 whether acting directly or indirectly, in connection with promoting or offering any online tax
12 preparation products, must not misrepresent, expressly or by implication:

13 A. That consumers can only file their taxes online accurately if they use a
14 TurboTax Paid Product or TurboTax Free Edition Product.

15 B. That consumers can only claim a tax credit or tax deduction if they use a
16 TurboTax Paid Product or TurboTax Free Edition Product.

17 C. That consumers must upgrade to a TurboTax Paid Product to file their
18 taxes online if they are eligible to use the TurboTax Free Edition Product.

19 D. That consumers can continue using and file their taxes for free with the
20 TurboTax Free Edition Product when that is not the case, including by stating expressly or
21 impliedly to consumers on an Upgrade Screen that they can continue using the TurboTax Free
22 Edition Product through a "keep free" button or another button using similar language. Intuit may
23 give consumers the option of continuing to use the TurboTax Free Edition Product on an Upgrade
24 Screen, so long as a disclosure is made, Clearly and Conspicuously on the Upgrade Screen and in
25 Close Proximity to any button, link, or option on the Upgrade Screen that permits the consumer to
26 exercise the option of continuing to use the TurboTax Free Edition Product, that the current tax
27 information entered by the consumer indicates that the consumer will need to upgrade to a
28 TurboTax Paid Product to file his or her taxes.

1 E. Any other fact material to consumers concerning any tax preparation
2 product or service, such as the price; total cost; any material restrictions, limitations, or
3 conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

4 **III. REQUIRED DISCLOSURES AND BUSINESS PRACTICES FOR ADVERTISING AND**
5 **MARKETING OF FREE PRODUCTS**

6 7. As soon as reasonably practicable, but no later than August 1, 2022, in connection
7 with advertising, marketing, promoting, offering, naming, or describing, or assisting in the
8 advertising, marketing, promotion, offering, naming, or describing of any tax preparation
9 products as free, whether directly or indirectly, Intuit must make the following disclosures about
10 taxpayer eligibility for such free products and comply with the following terms:

11 A. In any non-Space-Constrained Advertisement of free tax preparation
12 products other than on a TurboTax Website, Intuit must disclose, Clearly and Conspicuously, and
13 in Close Proximity to the representation that the product is free: (1) the existence and category of
14 material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers
15 qualify for the free product.

16 B. In any Space-Constrained Advertisement of free tax preparation products
17 other than Space-Constrained Video Advertisements, Intuit must disclose that eligibility
18 requirements apply. If made online, Intuit must also (1) Clearly and Conspicuously include a
19 hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously
20 contains full disclosure of all material eligibility restrictions or (2) link by clicking on the
21 Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and
22 Conspicuously sets forth full disclosure of all material eligibility restrictions.

23 C. For a period of ten (10) years, in any Space-Constrained Video
24 Advertisements of free tax preparation products, Intuit must visually disclose, Clearly and
25 Conspicuously, and in Close Proximity to the representation that the product is free: (1) the
26 existence and category of material limitations on a consumer's ability to use that free product; and
27 (2) that not all taxpayers qualify for the free product. In addition, for a period of ten (10) years, in
28 any Space-Constrained Video Advertisements of free tax preparation products except for such

1 Advertisements that are 8 seconds or shorter, Intuit must verbally disclose, Clearly and
2 Conspicuously and in Close Proximity to the representation that the product is free, that not all
3 taxpayers qualify.

4 D. In any Advertisement of free tax preparation products on a TurboTax
5 Website, and any space on a TurboTax Website listing, describing, offering, or promoting such
6 free products, Intuit must disclose (1) Clearly and Conspicuously and very near to the
7 representation all material limitations on a consumer's ability to use that free product, including,
8 but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is
9 very near to the representation, (ii) that indicates that there are material limitations on a
10 consumer's ability to use that free product, and (iii) that links to a landing page or webpage that
11 Clearly and Conspicuously sets forth all material limitations on a consumer's ability to use that
12 free product, including, but not limited to, eligibility criteria for that free product.

13 E. Intuit must disclose Clearly and Conspicuously to consumers, at the
14 earliest point at which it is reasonably possible to determine, that they do not qualify to file a tax
15 return for free with the TurboTax Free Edition Product.

16 F. Intuit must take reasonable steps to design all TurboTax products to
17 inform, at the earliest point it is reasonably possible, consumers using the TurboTax Free Edition
18 Product whether they will or will not be able to file for free using that product.

19 G. Intuit must not publish, or cause to be published, in any medium (1) its
20 "free, free, free" Video Advertisements (see Appendix A for a list of such advertisements) and (2)
21 Video Advertisements that are substantially similar in their repetition of the word free. Intuit must
22 comply with this Subparagraph immediately upon the Effective Date, notwithstanding any
23 contradictory language in the introduction to Section III above.

24 **IV. PROHIBITION AGAINST DATA-CLEARING PRACTICES**

25 8. Effective December 1, 2022, Intuit must permit consumers who enter a TurboTax
26 Paid Product through an Upgrade Screen to return to the TurboTax Free Edition Product without
27 being required to re-enter the data they provided when using the TurboTax Free Edition Product.

28

V. VOLUNTARY WITHDRAWAL FROM AND INJUNCTION AGAINST REJOINING THE IRS FREE FILE PROGRAM

9. In recognition of Intuit's voluntary withdrawal from the IRS Free File Program effective October 2021 and Intuit's representation and commitment that it will not rejoin the IRS Free File Program, and in lieu of this Judgment containing specific injunctive provisions concerning Intuit's potential future participation in the IRS Free File Program and conduct related thereto:

A. Intuit must not seek to rejoin or participate in the IRS Free File Program.

B. This term may only be modified by amending this Judgment.

VI. PAYMENT TO THE SETTLEMENT FUND AND ADMINISTRATION FUND

10. Within thirty (30) days of the Effective Date, Intuit shall pay the total sum of One Hundred Forty-One Million Dollars (\$141,000,000)¹ (the "Required Payment") as described herein. The Required Payment shall be made in two installments: (1) the first payment, in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Administration Fund"), shall be made by Intuit to an account for the payment of costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund; (2) the second payment, in the amount of One Hundred Thirty-Eight Million Two Hundred and Fifty Thousand Dollars (\$138,250,000) (the "Settlement Fund"), shall be made by Intuit to an account for the use of the fund administrator selected by the Oversight Committee (the "Fund Administrator"), for the purpose of providing restitution to Covered Consumers as described hereunder, who shall be responsible for the administration of the Settlement Fund. The Required Payment installments shall be made by wire transfer in accordance with instructions provided by the Oversight Committee. After transfer of the Required Payment, Intuit shall have no right, title, interest, or other legal claim in the transferred funds.

11. This Judgment does not provide this Court with jurisdiction or authority over the Oversight Committee, the Fund Administrator, or the administration or distribution of the

¹ From this amount, a total of Two Hundred and Fifty Thousand Dollars (\$250,000) will be allocated for fees and costs to a certain previously designated State. This Two Hundred and Fifty Thousand Dollars (\$250,000) will be paid into the Settlement Fund by Intuit and will be distributed by the Oversight Committee.

1 Settlement Fund. The Oversight Committee shall have sole discretion concerning the
2 administration and distribution of the Settlement Fund, which may include determining the
3 Covered Consumers who are entitled to payments from the Settlement Fund; the nature, timing,
4 and amount of such payment; directing the Fund Administrator to make payments to these
5 consumers; the timing and content of communications from the Fund Administrator to Covered
6 Consumers concerning the Settlement Fund; directing the Fund Administrator to make payments
7 of fees or costs from the Settlement Fund to one or more Attorneys General; and transferring
8 funds from the Settlement Fund to the Administration Fund. Attached for informational purposes
9 only as Appendix C is a preliminary calculation of each States' percentage of the total population
10 of Covered Consumers; the Oversight Committee is not required to distribute the Settlement Fund
11 according to these preliminary percentages. If the Oversight Committee directs the Fund
12 Administrator to make a payment of fees or costs to a State, that payment shall be deducted from
13 the share of the Settlement Fund that is allocated to that State. Any payment of fees or costs to
14 California shall be deposited in the Attorney General's Litigation Deposit Fund and used at the
15 sole discretion of the Attorney General.

16 12. All costs and expenses incurred or charged by the Fund Administrator in
17 administering the Settlement Fund shall be paid out of the Administration Fund. The Oversight
18 Committee shall have sole discretion concerning the administration and distribution of any money
19 that remains in the Administration Fund after payment of all costs and expenses incurred or
20 charged by the Fund Administrator in administering the Settlement Fund. In no event shall the
21 Attorneys General be liable for any costs associated with administering the Settlement Fund. The
22 administration of the Settlement Fund shall, include, but not be limited to, the following:

23 A. Identifying the current mailing address of each Covered Consumer, which
24 shall be provided by Intuit and/or through the use of publicly-available databases, commercially-
25 available databases, and public records;

26 B. Preparing and sending, by mail and email, communications to Covered
27 Consumers relating to the settlement, including notice of the settlement and reminder notices to
28 all Covered Consumers who had been sent a check but not yet cashed it;

- 1 C. Distributing restitution to each Covered Consumer by check, and reissuing
2 checks as necessary, including for checks that have been returned;
- 3 D. Establishing a process by which Covered Consumers may elect to receive
4 their payments through an electronic payment processor such as Venmo, PayPal, or Zelle instead
5 of by check;
- 6 E. Maintaining a website that contain the terms and conditions of the
7 settlement;
- 8 F. Providing and hosting a toll free number to provide information to Covered
9 Consumers relating to the settlement during distribution of the restitution;
- 10 G. Contacting, by mail, email, or phone, Covered Consumers regarding
11 uncashed checks;
- 12 H. Reporting to the Oversight Committee on the status of the administration
13 of the Settlement Fund and responding to requests by the Oversight Committee for documentation
14 and information necessary to confirm the proper administration of the Settlement Fund; and
- 15 I. Providing all other services necessary for the proper administration of the
16 Settlement Fund.

17 13. Within sixty (60) days of the Effective Date, Intuit must submit to the Oversight
18 Committee for review and non-objection its proposed contract with the Fund Administrator that
19 includes a comprehensive Statement of Work consistent with Section VI.12 and all other terms of
20 this Judgment. The Oversight Committee will have the discretion to make a determination of non-
21 objection to the Statement of Work or direct Intuit to revise it. If the Oversight Committee directs
22 Intuit to revise the Statement of Work, Intuit must revise and resubmit the contract to the
23 Oversight Committee within thirty (30) days. After receiving notification that the Oversight
24 Committee has made a determination of non-objection to the Statement of Work, Intuit and the
25 Settlement Administrator must implement and adhere to the steps, recommendations, deadlines,
26 and timeframes outlined in the Statement of Work.

27 14. Intuit shall promptly provide the Fund Administrator (and the Oversight
28 Committee, if requested by the Oversight Committee) with all information the Oversight

1 Committee deems necessary to permit the Fund Administrator to distribute funds to Covered
2 Consumers as directed by the Oversight Committee, including, but not limited to, the following
3 for each consumer: full name; last known and prior mailing addresses, email addresses, and
4 telephone numbers; and for each of Tax Years 2016, 2017, and 2018, the TurboTax Paid Product
5 used by the consumer, if any, the amount the consumer paid to Intuit for said TurboTax Paid
6 Product, and the amount of any credits, chargebacks, or settlement amounts already paid by Intuit
7 or received by such consumer for the TurboTax Paid Product. In carrying out the foregoing, Intuit
8 agrees to provide such information as soon as possible but in no event more than thirty (30)
9 calendar days of the Oversight Committee's request.

10 15. Intuit shall warrant to the Oversight Committee at the time of supplying
11 information to the Fund Administrator that the information is complete and accurate to the best of
12 its knowledge and capability. Intuit's duty to provide complete and accurate information
13 regarding Covered Consumers shall continue throughout the administration process.

14 16. After the Fund Administrator has completed the administration of the Settlement
15 Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a
16 reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be
17 voided. Once such uncashed checks have been voided, these funds shall be distributed to state
18 unclaimed property funds, to any other fund or agency if so required by law, or to any other fund
19 or agency as lawfully directed by the Attorney General of the respective state, based on the last
20 known state residence of the payee. The Fund Administrator must distribute uncashed funds, or
21 any other remaining funds in the Settlement Fund, pursuant to instructions provided by the
22 Oversight Committee.

23 17. Covered Consumers who receive a payment from the Settlement Fund shall not be
24 required to return or discontinue the use of any Intuit goods or services, and receipt of any such
25 payment shall not be tied to any other commitment.

26 18. To the extent not already provided elsewhere, Intuit shall, upon request by the
27 Oversight Committee, provide all documentation and information necessary for the Oversight
28 Committee to confirm compliance with the Judgment. To the extent not already provided

1 elsewhere, Intuit shall ensure that all communications with the Fund Administrator regarding the
2 administration of the Settlement Fund shall include at least one representative of the Oversight
3 Committee.

4 19. The Attorneys General shall have no liability whatsoever to Intuit, the Fund
5 Administrator, or any Covered Consumer in connection with the administration of the Settlement
6 Fund or for any action by Intuit or the Claims Administrator with respect to the monies deposited.

7 **VII. ACKNOWLEDGMENTS**

8 20. Intuit, within seven (7) days of the Effective Date, (1) must submit to the
9 Oversight Committee an acknowledgment of receipt of this Judgment sworn under penalty of
10 perjury; and (2) must identify to the Oversight Committee the primary physical, postal, and email
11 address and telephone number, as designated points of contact, that the Oversight Committee may
12 use to communicate with Intuit.

13 21. For five (5) years after the Effective Date, Intuit must deliver a copy of this
14 Judgment to (1) all principals, officers, and directors; (2) all employees having managerial
15 responsibilities for Advertisements for any TurboTax Free Edition Product; the online search and
16 search engine optimization strategies and practices for any TurboTax Free Edition Product and
17 any TurboTax Paid Product; the representations made on the TurboTax Website regarding any
18 TurboTax Free Edition Product; and customer service inquiries regarding any TurboTax Free
19 Edition Product; and (3) any business entity resulting from any change in structure as set forth in
20 the Section titled Compliance Reporting. Delivery must occur within seven (7) days of the
21 Effective Date for current personnel. For all others, delivery must occur before they assume their
22 responsibilities.

23 22. From each individual or entity to which Intuit delivered a copy of this Judgment,
24 Intuit must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this
25 Judgment.

26 **VIII. COMPLIANCE REPORTING**

27 23. One (1) year after the Effective Date, Intuit must submit to the Oversight
28 Committee a compliance report, sworn under penalty of perjury, in which Intuit must identify all

1 of Intuit's tax preparation businesses by all of their names, telephone numbers, and physical,
2 postal, email, and Internet addresses and describe in detail whether and how Intuit is in
3 compliance with each Section of this Judgment.

4 24. For five (5) years after the Effective Date, Intuit must submit to the Oversight
5 Committee a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any
6 change in the following: (a) any designated point of contact; or (b) the structure of Intuit that may
7 affect compliance obligations arising under this Judgment, including: creation, merger, sale, or
8 dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices
9 subject to this Judgment.

10 25. Intuit must submit to the Oversight Committee notice of the filing of any
11 bankruptcy petition, insolvency proceeding, or similar proceeding by or against Intuit within
12 fourteen (14) days of its filing.

13 26. Any submission to the Oversight Committee required by this Judgment to be
14 sworn under penalty of perjury must be true and accurate, such as by concluding: "I declare under
15 penalty of perjury under the laws of the United States of America that the foregoing is true and
16 correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable),
17 and signature.

18 27. Unless otherwise directed by a representative of the Oversight Committee in
19 writing, all submissions to the Oversight Committee pursuant to this Judgment must be made in
20 accordance with the terms in Section XII. All submissions shall have a subject line that must
21 begin: Attorneys General v. Intuit Inc.

22 **IX. RECORDKEEPING**

23 28. Intuit must create certain records for ten (10) years after the Effective Date, and
24 retain each such record for five (5) years. Specifically, Intuit must create and retain the following
25 records:

26 A. Accounting records showing: (1) the revenues from all TurboTax Paid
27 Products and any add-on products such as Audit Defense; and (2) the revenues from all TurboTax
28 Paid Products and any add-on products such as Audit Defense that were received from consumers

1 who began the process of preparing their returns in any TurboTax Free Edition Product;

2 B. Records of all consumer complaints and refund requests concerning the
3 subject matter of this Judgment, whether received directly or indirectly, such as through a third
4 party, and any response;

5 C. All records necessary to demonstrate full compliance with each provision
6 of this Judgment, including all submissions to the Oversight Committee; and

7 D. To the fullest extent possible, a copy of each unique Advertisement or
8 other marketing material relating to any TurboTax Free Edition Product.

9 **X. COMPLIANCE MONITORING**

10 29. For a period of five (5) years, and for the purpose of monitoring Intuit's
11 compliance with this Judgment: Within thirty (30) days of receipt of a written request from the
12 Oversight Committee, Intuit must submit additional compliance reports or other requested
13 information, which must be sworn under penalty of perjury.

14 30. Nothing in this Judgment limits any State's lawful use of compulsory process,
15 pursuant to applicable state law.

16 **XI. RELEASE**

17 31. By entry of this Judgment, and upon Intuit's compliance with its terms including
18 the payments required in Section VI, the People release and forever discharge Intuit and its past
19 and present officers, directors, employees, agents, affiliates, parents, subsidiaries, operating
20 companies, predecessors, assigns, and successors from all civil consumer-protection or unfair-
21 trade-practices claims that the People are authorized by law to bring that arise from or relate to
22 the allegations in the Complaints.

23 32. Nothing contained in this Judgment shall be construed to limit the ability of the
24 People to enforce the obligations that Intuit has under this Judgment. Further, nothing in this
25 Judgment shall be construed to waive or limit any private rights of action.

26 33. Notwithstanding Paragraph 31, or any other term of this Judgment, the following
27 claims are specifically reserved: (1) claims based on violations of securities laws, including
28 claims based on the offer, sale, or purchase of securities; (2) claims of regulatory agencies having

specific regulatory jurisdiction that are separate and independent from the regulatory enforcement of the Attorneys General; and (3) claims that arise from Intuit's actions that take place after the Effective Date.

XII. GENERAL PROVISIONS

34. This Judgment shall not be construed as an approval or sanction by the People of Intuit's business practices, nor shall Intuit represent that this Judgment constitutes an approval or sanction of its business practices. Any failure by the People to take any action in response to information submitted pursuant to this Judgment shall not be construed as an approval or sanction of any representations, acts, or practices indicated by such information, nor shall it preclude action thereon at a later date.

35. Nothing in this Judgment shall be construed as relieving Intuit of the obligation to comply with all applicable state and federal laws, regulations, and rules, nor shall any of the provisions of this Judgment be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

36. To the extent that there are any, Intuit shall pay all court costs associated with the filing (if legally required) of this Judgment. No court costs, if any, shall be taxed against the People.

37. If any clause, provision, or section of this Judgment shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Judgment, which shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or provision had not been contained herein.

38. Unless otherwise directed by the People, whenever Intuit shall provide notice to the People under this Judgment, that requirement shall be satisfied by sending notice to the email and postal address of the following individuals:

Nicklas A. Akers
Senior Assistant Attorney General
California Department of Justice
455 Golden Gate Ave, 11th Fl.
San Francisco, CA 94102

Bernard A. Eskandari
Supervising Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

bernard.eskandari@doj.ca.gov

Maureen E. Nelson
JUDGE OF THE SUPERIOR COURT

APPENDIX A – “FREE, FREE, FREE” ADVERTISEMENTS²

- **“Big Kick”**

- The “Big Kick” advertisement depicts a high school football placekicker and his supportive father. In the moments before an important kick, the son flashes back to a memory from his youth of his father encouraging him; returning to the present, the son converts the field goal attempt while his father looks on. However, instead of featuring conventional dialogue, the characters in “Big Kick” repeat only the word “free” throughout the ad.



- **“Credits”**

- In the “Credits” advertisement, a John McClane-type action hero utters a wisecrack (here, the word “free” several times) as he drops a lighter onto a streak of gasoline, which triggers the explosion of a batter white van. As flames explode into the air, the action hero strides towards the camera in slow motion, prompting the credits to roll on screen, with every actor and role consisting of one or more uses of the word “free.”

² This Appendix addresses all versions of the listed advertisements, *i.e.*, 15-second, 30-second, and 60-second versions of the advertisements, to the extent they exist.



- “Crossword”

- In “Crossword,” a white-haired couple completes a crossword puzzle in which every clue and every answer is one or more uses of the word “free.”



- “Game Show”

- The “Game Show” advertisement depicts a 70s-era game show in which a woman must guess what activity or concept her male partner is miming. Every one of the woman’s answers is correct and consists of one or more uses of the word “free.”



- "Lawyer"

- In "Lawyer," an attorney delivers an impassioned closing argument to the jury as dramatic music swells, with every word of the attorney's argument being "free." After he finishes, a member of the jury leads a standing ovation, as various jurors repeat the word "free" several times.



- “Spelling Bee”

- The “Spelling Bee” advertisement shows a middle school-aged boy correctly spelling the word “free” in a spelling bee. Aside from the boy’s spelling out the letters “F-R-E-E,” every line dialogue spoken by the boy and by the judge of the spelling bee consists entirely of the word “free.”



- “Echo”

- In “Echo,” a hiker shouts “free” from the top of a mountain, with the word “free” reverberating back to her as a result.



- “Auctioneer”

- In “Auctioneer,” a fleet-tongued auctioneer rattles off prices and bids to a collection of ranchers and cowboys. Instead of conventional dialogue, the auctioneer repeatedly utters the word “free.”



- “Dance Workout”

- The “Dance Workout” advertisement depicts an instructor leading an enthusiastic dance workout class. Instead of conventional words of encouragement and instruction, the instructor repeats the word “free.”



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APPENDIX B

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APPENDIX C – PRELIMINARY STATE PERCENTAGES OF COVERED CONSUMERS

State	Number of Covered Consumers	Percentage of Covered Consumers
AK	14,135	0.32
AL	53,656	1.20
AR	34,487	0.77
AZ	100,213	2.24
CA	371,403	8.30
CO	82,967	1.85
CT	39,078	0.87
DC	9,356	0.21
DE	13,247	0.30
FL	335,246	7.50
GA	134,480	3.01
HI	14,521	0.32
IA	33,167	0.74
ID	27,237	0.61
IL	133,990	3.00
IN	94,163	2.11
KS	38,075	0.85
KY	54,406	1.22
LA	55,578	1.24
MA	75,091	1.68
MD	66,669	1.49
ME	22,650	0.51
MI	115,565	2.58
MN	60,322	1.35
MO	81,427	1.82
MS	35,053	0.78
MT	16,072	0.36
NC	139,028	3.11
ND	9,270	0.21
NE	25,780	0.58
NH	22,074	0.49
NJ	70,164	1.57
NM	28,535	0.64
NV	49,883	1.12
NY	176,712	3.95
OH	163,367	3.65
OK	52,399	1.17
OR	68,253	1.53

PA	158,779	3.55
RI	13,577	0.30
SC	67,238	1.50
SD	13,455	0.30
TN	111,658	2.50
TX	465,793	10.41
UT	44,289	0.99
VA	111,613	2.50
VT	9,361	0.21
WA	121,102	2.71
WI	76,682	1.71
WV	23,533	0.53
WY	8,790	0.20
Other*	329,199	7.36
Totals	4,472,788	100.00

* The “Other” category includes Covered Consumers for whom there currently is no information available on their state affiliation and consumers in U.S. territories and foreign countries, including U.S. military mail codes.

TURBOTAX FREE FILING CASES
Lead Case No. JCCP No. 5067
Included Action Case No. 19CV354178
ELECTRONIC PROOF OF SERVICE

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On June 16, 2022, I served a true copy of the foregoing document described as:

1. Intuit Proposed Final Judgment (FINAL) (REVISED); and

2. Intuit Proposed Final Judgment (FINAL) (REVISED) REDLINE

on the interested parties in this action pursuant to the most recent Omnibus Service List by submitting an electronic version of the document via file transfer protocol (FTP) to CaseAnywhere through the upload feature at www.caseanywhere.com.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on June 16, 2022, at Los Angeles, California.

J.F. Aguin
Declarant

/s/ J.F. Aguin
Signature

RX 76

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance¹ (the “Assurance”) is entered into by the Attorneys General of the States and Commonwealths of Alaska, Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Idaho, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey,

¹ This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of Discontinuance. The Attorneys General have authority to execute this Assurance. *See generally* N.Y. EXEC. LAW § 63(15); TENN. CODE ANN. § 47-18-107; FLORIDA STATUTES SECTION 501.207(6); ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/6.1; N.J.S.A. 56:8-1 to -227; P.A. UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW 73 P.S. § 201-5; TEX. BUS. & COM. CODE § 17.58; RCW 19.86.100; ALASKA STAT. § 45.50.511; ALA. CODE § 8-19-4; ARKANSAS CODE ANNOTATED § 4-88-114; ARIZ. REV. STAT. § 44-1530; C.R.S. § 6-1-110(2); CONN. GEN. STAT. § 42-110j; D.C. CODE 28-3909(c)(6); 29 DEL. C. § 2525(a) (authorizing cease and desist orders by agreement); O.C.G.A. § 10-1-402; HAW. REV. STAT. SECT. 487-12; IOWA CODE § 714.16; IOWA ADMIN. CODE R. 61-38.1; IDAHO CODE § 48-610; IND. CODE § 24-5-0.5-7; KENTUCKY REVISED STATUTES 367.230; UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, LA. R.S. § LA. R.S. 51:1410; M.G.L. C. 93A, SEC. 5.; MD. CODE ANN., COM. LAW § 13-402; 5 M.R.S.A. § 210; MICH. COMP. LAWS § 445.906; MINN. STAT. § 8.31, SUBD. 2B; §407.030 RSMo; MISSISSIPPI CONSUMER PROTECTION ACT, MS CODE ANN. §75-24-27(1)(g); MONT. CODE ANN. § 30-14-112; N.D.C.C. 51-15-06.1; NEB. REV. STAT. § 59-1610 AND NEB. REV. STAT. § 87-202.05(2); N.H. REV. STAT. ANN. § 358-A:1-7; NEW MEXICO UNFAIR PRACTICES ACT NMSA 1978, §57-12-9 (1971); NEV. REV. STAT. 598.0995; OHIO REVISED CODE 1345.06(F); 15 O.S. § 756.1; ORS 646.632; R.I. GEN. LAWS § 6-13.1-6; SOUTH CAROLINA CODE § 39-5-60; SDCL 37-24-19; UTAH CODE § 13-2-1, *et seq.*; VA. CODE ANN. § 59.1-202; 9 V.S.A. § 2459; WIS. STAT. § 100.18(11)(e); W. VA. CODE § 46A-7-107; and WYO. STAT. ANN. § 40-12-107.

This Assurance of Voluntary Compliance is a Settlement Agreement for the purposes of the North Carolina Unfair and Deceptive Practices Act, N.C. GEN. STAT. § 75-1.1 *et seq.*

The State of California is simultaneously entering into a settlement in a form consistent with the requirements of California law. That settlement incorporates the substantive terms of this Assurance and any differences between California’s settlement and this Assurance arise from the differences as to form.

The State of Connecticut is represented by the Connecticut Attorney General, acting at the request of the Commissioner of Consumer Protection. CONN. GEN. STAT. §§ 42-110j and 42-110m.

Hawaii is represented on this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General’s Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity purposes, the entire group will be referred to as the “Attorneys General” or individually as “Attorney General” and the designations, as they pertain to Hawaii, refer to the Executive Director of the State of Hawaii’s Office of Consumer Protection.

Maryland is represented by the Consumer Protection Division of the Office of the Attorney General of Maryland. For simplicity purposes, the entire group will be referred to as the “Attorneys General” or individually as “Attorney General” and the designations, as they pertain to Maryland, refer to the Consumer Protection Division of the Office of the Attorney General of Maryland. The Consumer Protection Division has authority to enter into this Assurance pursuant to MD. CODE. ANN., COM. LAW § 13-402.

Herein, no state-specific language or provision included in a footnote or appendix, or any state-specific portion thereof, shall affect the interpretation, construction, or enforcement of the Assurance with respect to any signatory State not referenced in such footnote or appendix, or any state-specific portion thereof.

Intuit understands each State may conform the form of the Assurance in accordance with statute, rule, or practice and may add a cover page, caption, or appendix to the document.

New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Vermont, Washington, Wisconsin, West Virginia, and Wyoming, the District of Columbia, and the Executive Director of the State of Hawaii Office of Consumer Protection (the “Attorneys General” or the “States”) and Intuit Inc. (“Intuit”; together with the “Attorneys General,” the “Parties”) to resolve an investigation of the Attorneys General into Intuit’s marketing, advertising, promotion, and sale of certain online tax preparation products and whether Intuit’s conduct constituted deceptive or unfair business acts or practices in violation of the States’ consumer protection laws.² In consideration of their mutual agreements to the terms of this Assurance, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the Parties hereby enter into this Assurance and agree as follows:

DEFINITIONS

For the purpose of this Assurance, the following definitions apply:

² See generally N.Y. EXEC. LAW § 63(12); N.Y. GEN. BUS. LAW §§ 349-50; TENN. CODE ANN. §§ 47-18-104; FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, CHAPTER 501, PART II, FLORIDA STATUTES; ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/1, *et seq.*; N.C.G.S. § 75-1.1; N.J.S.A. 56:8-2; P.A. UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, 73 P.S. §§ 201-1 – 201-9.2; TEX. BUS. & COM. CODE ANN. §§ 17.41 through 17.63; RCW 19.86.020; ALASKA STAT. § 45.50.471; ALA. CODE § 8-19-1 *et seq.*; ARKANSAS CODE ANNOTATED § 4-88-107(A); ARIZ. REV. STAT. §§ 44-1521 TO 1534; CAL. BUS. & PROF. CODE § 17200 *et seq.*, § 17500 *et seq.*; C.R.S. § 6-1-101 *et seq.*; C.R.S. § 6-1-105(1); CONN. GEN. STAT. § 42-110b (a); D.C. CODE 28-3904; 6 DEL. C. § 2513; O.C.G.A. § 10-1-390 *et seq.*; HAW. REV. STAT. CHPTS. 480 AND 481A; IOWA CODE § 714.16; IDAHO CONSUMER PROTECTION ACT, TITLE 48, CHAPTER 6, IDAHO CODE; IND. CODE § 24-5-0.5-0.1, *et seq.*; K.S.A. § 50-623 *et seq.*; KENTUCKY REVISED STATUTES 367.170; UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, LA. R.S. §§ 51:1401 *et seq.*; M.G.L. C. 93A, SECS 2 & 4.; MD. CODE ANN., COM. LAW §§ 13-101 through 13-501; 5 M.R.S.A. § 205-A *ET SEQ.*; MICH. COMP. LAWS § 445.903; MICH. COMP. LAWS § 445.901 *et seq.*; MINN. STAT. §§ 325D.44; 325F.69, SUBD. 1; §407.020 RSMo; MISSISSIPPI CONSUMER PROTECTION ACT, MS CODE ANN. § 75-24-1 *et seq.*; MONT. CODE ANN. § 30-14-103; N.D. CENT. CODE § 51-15-01 *et seq.*; NEB. REV. STAT. §§ 59-1601 to 59-1622 AND NEB. REV. STAT. §§ 87-301 to 87-306.; N.H. REV. STAT. ANN. § 358-A:1-7; NEW MEXICO UNFAIR PRACTICES ACT NMSA 1978, §57-12-1 *et seq.* (1967); NRS 598.0903 *et al.*; OHIO CONSUMER SALES PRACTICES ACT (“CSPA”), OHIO REVISED CODE 1345.01 *et seq.*, AND ITS SUBSTANTIVE RULES, 109-4-3-01, *et seq.*; OKLAHOMA CONSUMER PROTECTION ACT, 15 O.S. §§ 751 *et seq.*; OREGON’S UNLAWFUL TRADE PRACTICES ACT, ORS 646.605 to 646.652; ORS 646.608(1)(b), (c), (e), and (s); R.I. GEN. LAWS § 6-13.1-1 *et seq.*; SOUTH CAROLINA CODE § 39-5-10 *et seq.*; SDCL CHAPTER 37-24; UTAH CODE § 13-11-4; VA. CODE ANN. §§ 59.1-196 to 59.1-207; 9 V.S.A. § 2453; FRAUDULENT REPRESENTATIONS. WIS. STAT. § 100.18(1); W. VA. CODE §§ 46A-1-101, *et seq.*; WYO. STAT. ANN. § 40-12-101 through -114 (the “Consumer Protection Acts”).

A. **“Advertisement”** or **“Advertising”** means any written or verbal statement, illustration, or depiction that promotes the sale or use of a consumer good or service, or is designed to increase consumer interest in a brand, good, or service. Advertising media includes, but is not limited to promotional materials; print; television; radio; and Internet, Paid Display Advertisements, Paid Search Advertisements, display, social media, and other digital content.

B. **“Clearly and Conspicuously”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- 1) In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television Advertisement, the disclosure must be presented in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means (the disclosures in the visual and audible portions of the communication in Space-Constrained Video Advertisements are not required to be identical).
- 2) A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

- 3) An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- 4) In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- 5) The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires disclosure appears.
- 6) The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- 7) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
- 8) When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

C. **“Close Proximity”** means that the disclosure is very near the triggering representation and that the disclosure is made simultaneously with the triggering representation and remains or is repeated throughout the duration of the Advertisement. For example, a disclosure made through a hyperlink, pop-up, interstitial, or other similar technique is not in Close Proximity to the triggering representation.

D. **“Effective Date”** means the date on which all of the Parties have signed this Assurance.

E. **“Intuit IRS Free File Product”** means Intuit’s TurboTax Free File Program, TurboTax Freedom Edition, IRS Free File Program delivered by TurboTax or any other Intuit product or service that was or in the future may be provided pursuant to a memorandum of understanding or an agreement between Free File, Inc. (or any successor entity) and the IRS for the provision of free online tax preparation and e-filing services.

F. **“Oversight Committee”** shall mean the following Attorneys General: Florida, Illinois, New Jersey, New York, North Carolina, Pennsylvania, Tennessee, Texas, and Washington.

G. **“Paid Display Advertisement”** means an online Advertisement in which Intuit pays, or causes another to pay, to have an Advertisement displayed on a website and pays for the Advertisement, regardless of whether consumers click on the Advertisement.

H. **“Paid Search Advertisement”** means an online Advertisement in which Intuit pays, or causes another to pay, to have an Advertisement displayed with search engine results for a particular search term and pays for the Advertisement only when consumers click on the Advertisement.

I. **“Covered Consumer”** means any individual, or individuals if a joint return was filed, who in Tax Years 2016, 2017, or 2018 was (1) eligible to use an Intuit IRS Free File Product; (2) began his or her tax returns using a TurboTax Free Edition Product; (3) was informed that he or she was ineligible to use a TurboTax Free Edition Product; (4) subsequently paid to use a TurboTax Paid Product, and (5) had not used the Intuit IRS Free File Product in a previous tax year.

J. **“Space-Constrained Advertisement”** means any online Advertisement (including but not limited to Paid Display Advertisements and Paid Search Advertisements) or

any Video Advertisement that has space, time, format, size, or technological restrictions that limit Intuit from being able to make the disclosures required by this Assurance. Intuit bears the burden of showing that there is a constraint or insufficient space and time to make a required disclosure that is Clear and Conspicuous and in Close Proximity to the triggering term. Space-Constrained Advertisements do not include Advertisements on a TurboTax Website.

K. **“TurboTax Free Edition Product”** means any online software product offered by Intuit that allows consumers, without paying a fee, to prepare and file federal tax returns, state tax returns, or both, including but not limited to “TurboTax Free Edition” and “Federal Free Edition.” “TurboTax Free Edition Product” does not include any Intuit IRS Free File Product, any TurboTax Paid Product, TurboTax Live, or any products sold or offered within the TurboTax Free Edition Product, such as Audit Defense.

L. **“TurboTax Paid Product”** means the online tax preparation software products offered by Intuit that allow consumers, for a fee, to prepare and file federal tax returns, state tax returns, or both, for themselves. “TurboTax Paid Product” does not include products sold or offered in addition to a TurboTax Paid Product.

M. **“TurboTax Website”** means turbotax.intuit.com, any subdomain of turbotax.intuit.com, and any other website owned, operated, or controlled partially or wholly by Intuit that provides or offers TurboTax Paid Products or TurboTax Free Edition Products.

N. **“Upgrade Screen”** means any display within the product flow of the TurboTax Free Edition Product that appears when consumers using that product indicate they have income, credits, deductions, or other tax situations not covered by the TurboTax Free Edition Product, and offers consumers the option of using a TurboTax Paid Product to prepare and file their federal and/or state tax returns.

O. **“Video Advertisement”** means any Advertisement made via television or made online using video.

FINDINGS

1. Intuit is a Delaware corporation with its principal place of business in Mountain View, California.

2. Intuit transacts or has transacted business in each State and throughout the United States. At all times relevant to this Assurance, acting alone or in concert with others, Intuit has advertised, marketed, distributed, or sold TurboTax, a tax preparation software that enables users to prepare and file their taxes through the internet, to consumers throughout the United States.

I. **Intuit’s Free TurboTax Products**

3. From at least 2016 to October 2021, Intuit offered two TurboTax online tax filing products that were available for free to consumers who met certain eligibility requirements. Each of these products had different eligibility requirements.

A. **TurboTax’s “Freemium” Product: TurboTax Free Edition**

4. Since at least 2016, Intuit has engaged in what it calls a “freemium” business strategy that monetizes free products.

5. This “freemium” business strategy involves, in part, growing Intuit’s customer base by offering free products to consumers to whom Intuit sells separate add-on products and inducing customers to upgrade to paid versions of TurboTax.

6. Since at least 2017, Intuit has called its “freemium” product “TurboTax Free Edition.” In 2016, Intuit called its “freemium” product “Federal Free Edition.”

7. This TurboTax “freemium” product is only available to consumers with “simple” tax returns, as defined by Intuit; other consumers are required to upgrade to paid products to file through Intuit.

8. For consumers filing their 2016 and 2017 taxes, Intuit defined a “simple” tax return as a return that could be filed using a 1040A or 1040EZ tax form.

9. Since 2019, when consumers filed tax returns for Tax Year (“TY”) 2018 income, Intuit has defined a “simple” tax return as a return that could be filed on a Form 1040, with no attached schedules, regardless of the consumer’s income.

B. Intuit’s Free File Product

10. From 2003 to October 2021, Intuit offered a free version of its online tax preparation products through its participation in the United States Internal Revenue Service (“IRS”) Free File Program, a public-private partnership formed in 2002 between a consortium of tax preparation software companies and the IRS pursuant to a Memorandum of Understanding (“MOU”). Under the MOU, participating companies offer free online tax preparation products to low- and middle-income Americans. In exchange, the IRS agreed not to compete with the participating companies in providing free, online tax return preparation and filing services to American consumers.

11. Historically, consumer participation in the IRS Free File Program has been low.

12. The IRS has set eligibility thresholds for participation in the Free File Program based on consumers’ adjusted gross income (“AGI”). Consumers with an AGI equal to or less than 70% of the U.S. consumer population are meant to be eligible for the program. The MOU, however, requires that no company offer its Free File product to more than 50%, or less than 10%, of eligible consumers. Each company is free to set its own eligibility requirements to stay within that range.

13. From 2017 (filings on TY 2016 income) to 2021 (filings on TY 2020 income), Intuit made its Free File product available to all consumers who were eligible for the earned income tax credit.

14. From 2017 to 2021, Intuit also made its Free File product available to all consumers with an AGI that does not exceed specified AGI thresholds:

Tax Year	Maximum AGI
2016 (returns filed in 2017)	\$33,000
2017 (returns filed in 2018)	\$33,000
2018 (returns filed in 2019)	\$34,000
2019 (returns filed in 2020)	\$36,000
2020 (returns filed in 2021)	\$39,000

15. From 2017 to 2021, Intuit also made its Free File product available to all active duty military service members with an AGI that does not exceed specified AGI thresholds:

Tax Year	Maximum AGI
2016 (returns filed in 2017)	\$64,000
2017 (returns filed in 2018)	\$66,000
2018 (returns filed in 2019)	\$66,000
2019 (returns filed in 2020)	\$69,000
2020 (returns filed in 2021)	\$72,000

16. Although consumers primarily accessed Intuit's Free File product via IRS.gov, they have also accessed it directly via Intuit's internet landing page for the product, which is different from the landing page for its "freemium" and paid products.

17. Intuit changed the name of its Free File product several times. Intuit also used different names for its Free File product at the same time, depending on where the product was being marketed.

18. Prior to TY 2018, Intuit called its Free File product "TurboTax Freedom Edition."

19. For TY 2018, Intuit changed the name of its Free File product to "TurboTax Free File Program."

20. From at least TY 2016 through and including TY 2018, Intuit used a different name to market its Free File product on the IRS.gov website. On the IRS.gov website, Intuit marketed its Free File product as “TurboTax All Free SM.”

21. For TY 2019 and 2020, Intuit changed the name of its Free File product to “IRS Free File Program Delivered by TurboTax.” This change was required by an amendment to the MOU between the IRS and the participating tax preparation companies that required uniform naming of all IRS Free File Program products.

C. The Tension Between Intuit’s Free File and “Freemium” Products and Related Consumer Confusion

22. Intuit’s Free File product yielded benefits to the company as part of its efforts to avoid government “encroachment” into the tax preparation industry.

23. Indeed, Intuit has acknowledged publicly the competitive threat of a government-run free e-filing system, including in Securities and Exchange Commission filings.

24. Intuit has recognized that high participation in the IRS Free File Program would dent its bottom line, but that, at the same time, it had to keep Free File enrollments above a certain level to prevent government “encroachment.”

25. For several years prior to TY 2018, Intuit employees tasked with overseeing the marketing strategy for both Intuit’s Free File and “freemium” products considered changing the name of Intuit’s Free File product.

26. Intuit knew that consumers were confused by the similarity of the names of these products. Intuit chose to name its commercial freemium product TurboTax “Free Edition,” even though it is only free for approximately one-third of taxpayers, while it named its Free File product “Freedom Edition,” which does not indicate that it is free despite being part of a program that is free for 70 percent of taxpayers.

27. In 2018, Intuit knew that consumers were still confused about the differences between its Free File and “freemium” products.

28. Although Intuit changed the name of its Free File product to TurboTax Free File Program for TY 2018, it continued to market its Free File product on the IRS.gov website using the trademarked name TurboTax All Free. Moreover, Intuit was aware that changing the name to TurboTax Free File Program would not create any additional clarity for its customers and that consumers would be confused between the Free File Program and TurboTax Free Edition, especially due to the company’s focus on the use of “free” in marketing its products.

29. In 2019, this time pursuant to the MOU with the IRS, Intuit again changed the name of its Free File product, renaming it to IRS Free File Program Delivered by TurboTax.

II. Online Search Practices

A. For TY 2018, Intuit Hid Its Free File Landing Page from Search Engines for Approximately Five Months During the Peak of Tax Season

30. In 2018, Intuit employees responsible for marketing strategy feared the name change of Intuit’s Free File product could negatively impact the ranking of the company’s “freemium” product in online search engine results, leading to a loss in revenue.

31. For TY 2018, Intuit blocked the landing page for its newly named Free File product so that it would not be indexed (listed) by internet search engines. That block was in place from November 13, 2018, to April 26, 2019. This timeframe covered the vast majority of Intuit’s 2019 tax filing season, which is the time it received revenue from consumers using TurboTax products to file tax returns for TY 2018.

32. For TY 2019, Intuit stopped blocking its Free File product landing page from online search engines, and 2,070,778 consumers filed their federal tax returns using Intuit’s Free File product, representing growth of 73% over TY 2018.

B. Intuit Used Paid Search Terms to Direct Consumers Searching for the IRS Free File Program to Intuit’s “Freemium” and Paid Products

33. As part of its advertising and marketing practices, Intuit has bid on paid search terms with search engines such as Google and Bing. When a consumer queried a search engine for a search term and Intuit won the search engine’s instant auction for that paid search term, the consumer would be served an ad selected by Intuit that included a hyperlink directing the consumer to a specific website.

34. For many years, including TY 2018 while Intuit had blocked the landing page for its Free File product from appearing in online search results, Intuit bid on search terms relevant to the IRS Free File Program.

35. In many instances, these search terms indicated consumers were likely searching for information about, or links to reach the website for, the IRS Free File Program. For example, Intuit bid on the following 13 search terms:

- free file
- free file irs
- free file taxes
- free file taxes online
- free file turbotax
- free file turbo tax
- irs free file
- irs.gov/freefile
- irs.gov/freefile.
- irs.gov free file
- irs.gov/free file
- turbo tax free file
- turbotax free file program

36. For each of the 13 search terms referenced in paragraph 35, during TY 2018—while Intuit had blocked the landing page for its Free File product from appearing in search results—Intuit’s online ads directed consumers to Intuit’s commercial website with its “freemium” product, rather than the IRS.gov website for the IRS Free File Program or the landing page for Intuit’s Free File product.

37. During TY 2018, Intuit directed consumers towards the website for “freemium” and paid products when consumers searched for its Free File product by its exact name: Turbo Tax Free File Program.

38. If a taxpayer knew to type “TurboTax Freedom” in a search engine, she would receive a paid advertisement which, during the 2019 filing season, would direct her to a landing page with a button link that said “See If You Qualify” that eventually lead to the Freedom Edition website. However, the landing page also included a prominent link that said “Start for Free,” which directed the user to TurboTax’s commercial and paid products.

39. Intuit knew that some of its customers were misled by these practices.

III. Advertising Practices: Intuit’s Advertisements Misrepresented that Consumers Were Eligible for a Free Version of Its Products

40. Since at least 2016, Intuit has extensively promoted its TurboTax products through advertising in a variety of mediums touting that it offers a free service.

41. Among its “do-it-yourself” online software products, Intuit used ads, including television and social media ads, to promote its “freemium” TurboTax product.

42. Intuit also has engaged in an ad campaign it calls “Free, Free, Free” in which “free” is essentially the only word spoken by the actors in the commercials, until the voice over at the end of the advertisement. Intuit used at least six different advertisements in this campaign.

43. Many of Intuit’s ads contain a fine print disclaimer at the end of the commercial informing consumers that the offer is limited to consumers with “simple tax returns” or “simple U.S. returns only.” This fine print disclaimer was not conveyed audibly.

44. The disclaimers are inadequate to cure the express representation that the advertised products are free.

45. A reasonable consumer could believe that the products Intuit advertises as free are free for them, given that online products in many industries, including in online tax preparation, are routinely offered to consumers completely free of any charge.

46. Intuit's false statements or representations that TurboTax is free, without adequately disclosing the limitations of its free offer, have induced consumers to begin using TurboTax and, after discovering they are not eligible for Intuit's "freemium" product (as described below), to pay for paid TurboTax products.

IV. Website Practices

A. Intuit's TurboTax Home Page Misled Consumers into Believing They Were Eligible for Its "Freemium" Product

47. When consumers who saw Intuit's advertisements visited the TurboTax website, the website's home page failed to adequately disclose the limitations on eligibility for Intuit's "freemium" product.

48. For example, for TY 2018, the TurboTax home page contained a screen that mimicked the "free, free free free" ad campaign.

49. The screen failed to disclose adequately the limitations on eligibility.

50. Consumers who proceeded with the "freemium" product would be brought to a login screen and then start an online, automated "interview" to begin entering information to file their taxes. Consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

51. For TY 2019, the TurboTax home page used a similar screen, with an even greater emphasis that consumers were "guaranteed" a free product. Again, consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they

had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

52. For TY 2020 and 2021, Intuit has continued to employ a customer interview model in which consumers who were not eligible for Intuit's "freemium" TurboTax product would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their personal tax information into the TurboTax product.

B. Intuit's TurboTax Products and Pricing Screen Failed to Disclose Intuit's Free File Product, Further Impeding Consumers from Learning of Its Existence

53. Intuit's TurboTax website has featured a screen Intuit calls its "Products and Pricing" screen. For TY 2018, the headline on this screen informed consumers: "Tell us about you – we'll recommend the right tax solution."

54. When consumers clicked on one of the options on this screen, the TurboTax website would then recommend one of four products: (1) its "freemium" product, marketed as Free Edition; (2) Deluxe; (3) Premier; or (4) Self-Employed—the latter three being Intuit's paid do-it-yourself tax products. At the bottom of the screen, all four products were displayed, with the recommended product highlighted.

55. This screen never displayed or recommended the TurboTax Free File product to consumers, even when they were ineligible for the "freemium" product, TurboTax Free Edition.

56. In fact, in TY 2019, the TurboTax website had a site index at the bottom of the home page with a link to "All online tax preparation software." That link brought consumers to the Products and Pricing screen, which did not disclose Intuit's Free File product. Likewise, during TY 2020, the TurboTax app contained a similar list of "all products" that did not include Intuit's Free File product.

57. For eligible consumers based on their AGI, Intuit's former Free File product covered all tax situations, forms, and deductions, thus providing coverage equal to Intuit's most expensive TurboTax online product, Self-Employed.

C. The TurboTax Interview Process Used "Hard Stops" to Induce Consumers to Upgrade from Free to Paid Products

58. Intuit represented to consumers who are not eligible for the "freemium" product that they must provide their payment information and pay Intuit in order to file their tax returns online with TurboTax, even if the consumer was eligible to file for free through Intuit's former Free File product. Intuit informed consumers of these required upgrades using screens its employees call "Hard Stops." Intuit still employs Hard Stops in its "freemium" product.

59. When consumers use the TurboTax "freemium" product, Intuit's software asks them a series of questions on successive webpages about their financial situation. These questions enable Intuit to determine whether consumers are eligible for the "freemium" product and include, among other things, whether the consumer paid student loan interest or was self-employed.

60. After supplying the information, consumers are prompted to input their income by category. When consumers indicate that they need to report income on a Form 1099-MISC (for example, because entities that paid them classified them as independent contractors), the TurboTax "freemium" product displays a Hard Stop informing them that they cannot proceed for free. For example, Intuit's TY 2019 "Business Income Upgrade" Hard Stop told consumers: "To accurately report this income, you'll need to upgrade."

61. Hard Stop screens then offer consumers the option to upgrade and pay for a paid TurboTax product, such as TurboTax Deluxe or TurboTax Self-Employed. At various times

during TY 2018 and 2017, Intuit charged \$59.99 for TurboTax Deluxe and \$119.99 for TurboTax Self-Employed.

62. The Business Income Hard Stop was likely to deceive or mislead consumers who were eligible for Intuit's former Free File product.

63. The headline in the Business Income Hard Stop states that consumers must upgrade to a paid product to "accurately report this income." That statement was false at the time for a large percentage of TurboTax customers—those who were eligible for Intuit's Free File product.

64. The Business Income Hard Stop was also misleading because it included a button that says "keep free" below the column for TurboTax Free Edition, even though the consumer could not actually continue using TurboTax Free Edition and report all of her income to the IRS.

65. Upon clicking on the "keep free" button, consumers were put into a feedback loop that ended only if they upgraded to a paid product or chose not to report their 1099 income.

66. Intuit has used and is using many other Hard Stops to induce consumers to upgrade based on certain types of income, such as income from a farm, farm rental or farm equipment; selling a home; a prior year state tax refund; or investments. All of these Hard Stops misled consumers eligible for Intuit's former Free File product to provide their payment information and buy paid TurboTax products.

67. Overall, for all Hard Stops from TY 2016 through TY 2018, millions of consumers started in "freemium," encountered a Hard Stop, and then upgraded to and filed in a paid product. Many of those who were shown a Hard Stop were eligible at the time for Intuit's Free File product. These Free File-eligible consumers who upgraded in response to a Hard Stop paid Intuit more than \$100 million to file their federal tax returns.

68. From at least 2017 to October 2021, when consumers encountered these Hard Stops, Intuit failed to disclose to consumers that they may have been or were eligible to use Intuit's Free File product to accurately report their income or claim certain tax deductions.

V. Conclusion

69. Based on these Findings, the Attorneys General have reason to believe that Intuit has engaged in deceptive and unfair acts and practices in violation of the States' Consumer Protection Acts, in the marketing, advertising, promotion, and sale of online tax preparation products.

70. Intuit voluntarily withdrew from the IRS Free File Program effective October 2021 and would be able to seek to rejoin the IRS Free File Program at any time but for the provisions of this Assurance. Intuit could not rejoin the IRS Free File Program without approval of the IRS and the Director of the Free File Alliance.

71. Solely for purposes of this Assurance, Intuit neither admits nor denies any of the Findings in paragraphs 3 through 70 of this Section.

INJUNCTIVE RELIEF

I. General Compliance

Intuit shall comply with the Consumer Protection Acts and any amendments to those laws, regulations, and rules that may be adopted by the States subsequent to the Effective Date of this Assurance.

II. Prohibition Against Misrepresentations

Intuit, Intuit's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Assurance, whether acting directly or indirectly, in connection with promoting or offering any online tax preparation products, must not misrepresent, expressly or by implication:

A. That consumers can only file their taxes online accurately if they use a TurboTax Paid Product or TurboTax Free Edition Product.

B. That consumers can only claim a tax credit or tax deduction if they use a TurboTax Paid Product or TurboTax Free Edition Product.

C. That consumers must upgrade to a TurboTax Paid Product to file their taxes online if they are eligible to use the TurboTax Free Edition Product.

D. That consumers can continue using and file their taxes for free with the TurboTax Free Edition Product when that is not the case, including by stating expressly or impliedly to consumers on an Upgrade Screen that they can continue using the TurboTax Free Edition Product through a “keep free” button or another button using similar language. Intuit may give consumers the option of continuing to use the TurboTax Free Edition Product on an Upgrade Screen, so long as a disclosure is made, Clearly and Conspicuously on the Upgrade Screen and in Close Proximity to any button, link, or option on the Upgrade Screen that permits the consumer to exercise the option of continuing to use the TurboTax Free Edition Product, that the current tax information entered by the consumer indicates that the consumer will need to upgrade to a TurboTax Paid Product to file his or her taxes.

E. Any other fact material to consumers concerning any tax preparation product or service, such as the price; total cost; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III. Required Disclosures and Business Practices for Advertising and Marketing of Free Products

As soon as reasonably practicable, but no later than August 1, 2022, in connection with advertising, marketing, promoting, offering, naming, or describing, or assisting in the advertising, marketing, promotion, offering, naming, or describing of any tax preparation

products as free, whether directly or indirectly, Intuit must make the following disclosures about taxpayer eligibility for such free products and comply with the following terms:

A. In any non-Space-Constrained Advertisement of free tax preparation products other than on a TurboTax Website, Intuit must disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers qualify for the free product.

B. In any Space-Constrained Advertisement of free tax preparation products other than Space-Constrained Video Advertisements, Intuit must disclose that eligibility requirements apply. If made online, Intuit must also (1) Clearly and Conspicuously include a hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously contains full disclosure of all material eligibility restrictions or (2) link by clicking on the Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously sets forth full disclosure of all material eligibility restrictions.

C. For a period of ten (10) years, in any Space-Constrained Video Advertisements of free tax preparation products, Intuit must visually disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer's ability to use that free product; and (2) that not all taxpayers qualify for the free product. In addition, for a period of ten (10) years, in any Space-Constrained Video Advertisements of free tax preparation products except for such Advertisements that are 8 seconds or shorter, Intuit must verbally disclose, Clearly and Conspicuously and in Close Proximity to the representation that the product is free, that not all taxpayers qualify.

D. In any Advertisement of free tax preparation products on a TurboTax Website, and any space on a TurboTax Website listing, describing, offering, or promoting such free products, Intuit must disclose (1) Clearly and Conspicuously and very near to the representation all material limitations on a consumer's ability to use that free product, including, but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is very near to the representation, (ii) that indicates that there are material limitations on a consumer's ability to use that free product, and (iii) that links to a landing page or webpage that Clearly and Conspicuously sets forth all material limitations on a consumer's ability to use that free product, including, but not limited to, eligibility criteria for that free product.

E. Intuit must disclose Clearly and Conspicuously to consumers, at the earliest point at which it is reasonably possible to determine, that they do not qualify to file a tax return for free with the TurboTax Free Edition Product.

F. Intuit must take reasonable steps to design all TurboTax products to inform, at the earliest point it is reasonably possible, consumers using the TurboTax Free Edition Product whether they will or will not be able to file for free using that product.

G. Intuit must not publish, or cause to be published, in any medium (1) its "free, free, free" Video Advertisements (see Appendix A for a list of such advertisements) and (2) Video Advertisements that are substantially similar in their repetition of the word free. Intuit must comply with this Section III.G immediately upon the Effective Date, notwithstanding any contradictory language in the introduction to Section III above.

IV. Prohibition Against Data-Clearing Practices

Effective December 1, 2022, Intuit must permit consumers who enter a TurboTax Paid Product through an Upgrade Screen to return to the TurboTax Free Edition Product without being required to re-enter the data they provided when using the TurboTax Free Edition Product.

V. Voluntary Withdrawal From and Injunction Against Rejoining the IRS Free File Program

In recognition of Intuit's voluntary withdrawal from the IRS Free File Program effective October 2021 and Intuit's representation and commitment that it will not rejoin the IRS Free File Program, and in lieu of this Assurance containing specific injunctive provisions concerning Intuit's potential future participation in the IRS Free File Program and conduct related thereto:

- A. Intuit must not seek to rejoin or participate in the IRS Free File Program.
- B. This term may only be modified by amending this Assurance pursuant to Section XII(H).

VI. Payment to the Settlement Fund and Administration Fund

A. Within thirty (30) days of the Effective Date, Intuit shall pay the total sum of One Hundred Forty-One Million Dollars (\$141,000,000)³ (the "Required Payment") as described herein. The Required Payment shall be made in two installments: (1) the first payment, in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Administration Fund"), shall be made by Intuit to an account for the payment of costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund; (2) the second payment, in the amount of One Hundred Thirty-Eight Million Two Hundred and Fifty Thousand Dollars (\$138,250,000) (the "Settlement Fund"), shall be made by Intuit to an account for the use of the fund administrator selected by the Oversight Committee (the "Fund Administrator"), for the purpose of providing restitution to Covered Consumers as described hereunder, who shall be responsible for the administration of the Settlement Fund. The Required Payment installments shall be made by wire transfer in accordance with instructions provided by the Oversight

³ From this amount, a total of Two Hundred and Fifty Thousand Dollars (\$250,000) will be allocated for fees and costs to a certain previously designated State. This Two Hundred and Fifty Thousand Dollars (\$250,000) will be paid into the Settlement Fund by Intuit and will be distributed by the Oversight Committee.

Committee. After transfer of the Required Payment, Intuit shall have no right, title, interest or other legal claim in the transferred funds.

B. The Oversight Committee shall have sole discretion concerning the administration and distribution of the Settlement Fund, which may include determining the Covered Consumers who are entitled to payments from the Settlement Fund; the nature, timing, and amount of such payment; directing the Fund Administrator to make payments to these consumers; the timing and content of communications from the Fund Administrator to Covered Consumers concerning the Settlement Fund; directing the Fund Administrator to make payments of fees or costs from the Settlement Fund to one or more Attorneys General; and transferring funds from the Settlement Fund to the Administration Fund. Attached for informational purposes only as Appendix C is a preliminary calculation of each States' percentage of the total population of Covered Consumers; the Oversight Committee is not required to distribute the Settlement Fund according to these preliminary percentages. If the Oversight Committee directs the Fund Administrator to make a payment of fees or costs to a State, that payment shall be deducted from the share of the Settlement Fund that is allocated to that State. Individual States may, at their discretion, append a State-specific appendix to their copy of this Assurance that sets forth the payment from the Settlement Fund that has been allocated to the Covered Consumers in that State and any payment of fees or costs to that State.

C. All costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund shall be paid out of the Administration Fund. The Oversight Committee shall have sole discretion concerning the administration and distribution of any money that remains in the Administration Fund after payment of all costs and expenses incurred or charged by the Fund Administrator in administering the Settlement Fund. In no event shall the

Attorneys General be liable for any costs associated with administering the Settlement Fund. The administration of the Settlement Fund shall, include, but not be limited to, the following:

1. Identifying the current mailing address of each Covered Consumer, which shall be provided by Intuit and/or through the use of publicly-available databases, commercially-available databases, and public records;
2. Preparing and sending, by mail and email, communications to Covered Consumers relating to the settlement, including notice of the settlement and reminder notices to all Covered Consumers who had been sent a check but not yet cashed it;
3. Distributing restitution to each Covered Consumer by check, and reissuing checks as necessary, including for checks that have been returned;
4. Establishing a process by which Covered Consumers may elect to receive their payments through an electronic payment processor such as Venmo, PayPal, or Zelle instead of by check;
5. Maintaining a website that contain the terms and conditions of the settlement;
6. Providing and hosting a toll free number to provide information to Covered Consumers relating to the settlement during distribution of the restitution;
7. Contacting, by mail, email, or phone, Covered Consumers regarding uncashed checks;
8. Reporting to the Oversight Committee on the status of the administration of the Settlement Fund and responding to requests by the Oversight Committee for documentation and information necessary to confirm the proper administration of the Settlement Fund; and

9. Providing all other services necessary for the proper administration of the Settlement Fund.

D. Within sixty (60) days of the Effective Date, Intuit must submit to the Oversight Committee for review and non-objection its proposed contract with the Fund Administrator that includes a comprehensive Statement of Work consistent with Section VI.C and all other terms of this Assurance. The Oversight Committee will have the discretion to make a determination of non-objection to the Statement of Work or direct Intuit to revise it. If the Oversight Committee directs Intuit to revise the Statement of Work, Intuit must revise and resubmit the contract to the Oversight Committee within thirty (30) days. After receiving notification that the Oversight Committee has made a determination of non-objection to the Statement of Work, Intuit and the Settlement Administrator must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Statement of Work.

E. Intuit shall promptly provide the Fund Administrator (and the Oversight Committee, if requested by the Oversight Committee) with all information the Oversight Committee deems necessary to permit the Fund Administrator to distribute funds to Covered Consumers as directed by the Oversight Committee, including, but not limited to, the following for each consumer: full name; last known and prior mailing addresses, email addresses, and telephone numbers; and for each of Tax Years 2016, 2017, and 2018, the TurboTax Paid Product used by the consumer, if any, the amount the consumer paid to Intuit for said TurboTax Paid Product, and the amount of any credits, chargebacks, or settlement amounts already paid by Intuit or received by such consumer for the TurboTax Paid Product. In carrying out the foregoing, Intuit agrees to provide such information as soon as possible but in no event more than thirty (30) calendar days of the Oversight Committee's request.

F. Intuit shall warrant to the Oversight Committee at the time of supplying information to the Fund Administrator that the information is complete and accurate to the best of its knowledge and capability. Intuit's duty to provide complete and accurate information regarding Covered Consumers shall continue throughout the administration process.

G. After the Fund Administrator has completed the administration of the Settlement Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be voided. Once such uncashed checks have been voided, these funds shall be distributed to state unclaimed property funds, to any other fund or agency if so required by law, or to any other fund or agency as lawfully directed by the Attorney General of the respective state,⁴ based on the last

⁴ For Arizona: Any funds distributed to the Arizona Attorney General's Office shall be deposited into the Consumer Restitution and Remediation Revolving Fund, pursuant to A.R.S. § 44-1531.02(B). The Arizona Attorney General's Office will have sole discretion as to how and when restitution funds are distributed to consumers. In the event that any portion of those funds is not distributed to eligible consumers, such portion will be deposited by the Arizona Attorney General's Office into the Consumer Protection-Consumer Fraud Revolving Fund, pursuant to A.R.S. § 44-1531.02(B), and used for the purposes specified in A.R.S. § 44-1531.01.

For Colorado: Intuit shall pay to the Colorado Attorney General the total amount of any and all refund amounts that remain outstanding, whether because they were returned as undeliverable, unclaimed, uncashed, undeposited, or otherwise. For any such payments to the Colorado Attorney General, they shall be in the form of a certified check, cashier's check, or money order made payable to the "Colorado Department of Law," shall reference "Intuit-TurboTax" and shall be delivered to: Emily Lujan, Program Assistant, Consumer Protection Section, Colorado Department of Law, 1300 Broadway, 7th Floor, Denver, Colorado 80203. Such payments shall be held, along with any interest thereon, in trust by the Colorado Attorney General to be used in the Colorado Attorney General's sole discretion for reimbursement of attorneys' fees and costs, the payment of consumer restitution, if any, and for consumer or creditor educational purposes, for future consumer credit or consumer protection enforcement, or public welfare purposes.

For Delaware: All payments to the Delaware Attorney General pursuant to this Assurance shall be made to the Consumer Protection Unit of the Delaware Department of Justice ("CPU"). The CPU shall place all funds received in the State of Delaware's Consumer Protection Fund, and such funds may be utilized for any lawful purpose.

For New Mexico: For those funds allocated to New Mexico, such funds shall be directed to the New Mexico Office of the Attorney General's ("NMOAG's") consumer settlement fund. The funds shall be expended, at the sole discretion of the NMOAG, (i) to enhance the NMOAG's law enforcement efforts to prevent and prosecute elder fraud, consumer fraud, and/or other unfair or deceptive acts or practices, (ii) to investigate, enforce, and prosecute other illegal conduct related to deceptive online advertising, deceptive use of "dark patterns," and/or violations of other consumer protection laws, and/or (iii) for any other lawful purpose, at the sole discretion of the NMOAG.

For Ohio: After the Fund Administrator has completed the administration of the Settlement Fund (including making reasonable attempts to contact payees of uncashed checks and waiting a reasonable period of time not less than ninety (90) calendar days), all uncashed checks may be voided. Once such uncashed checks have been voided, these funds shall be distributed and delivered to the office of the Ohio Attorney General. The money received by the

known state residence of the payee. The Fund Administrator must distribute uncashed funds, or any other remaining funds in the Settlement Fund, pursuant to instructions provided by the Oversight Committee.

H. Covered Consumers who receive a payment from the Settlement Fund shall not be required to return or discontinue the use of any Intuit goods or services, and receipt of any such payment shall not be tied to any other commitment.

I. To the extent not already provided elsewhere, Intuit shall, upon request by the Oversight Committee, provide all documentation and information necessary for the Oversight Committee to confirm compliance with the Assurance. To the extent not already provided elsewhere, Intuit shall ensure that all communications with the Fund Administrator regarding the administration of the Settlement Fund shall include at least one representative of the Oversight Committee.

J. The Attorneys General shall have no liability whatsoever to Intuit, the Fund Administrator, or any Covered Consumer in connection with the administration of the Settlement Fund or for any action by Intuit or the Claims Administrator with respect to the monies deposited.

office of the Ohio Attorney General pursuant to this paragraph may be used by the office of the Ohio Attorney General for purposes that may include, but are not limited to, attorney's fees and other costs of investigation and litigation, or may be placed in, or applied to, any consumer protection law enforcement fund, consumer education, litigation or local consumer aid fund, or for such other uses permitted by Ohio law, at the sole discretion of the Ohio Attorney General.

For Washington: The total amount of any and all uncashed checks that had been direct to a payee whose last known residence was in the State of Washington that remain outstanding shall be paid to the Washington Attorney General's Office. For any such payments to the Washington Attorney General, they shall be made in good funds by wire transfer or valid check payable to "State of Washington Attorney General's Office," delivered to the Office of the Attorney General, Attention: Margaret Farmer, Litigation Support Manager, 800 Fifth Avenue, Suite 2000, Seattle, WA 981104. Such payments shall be used for recovery of the state's fees and costs in investigating this matter, monitoring compliance with this Assurance of Discontinuance, future enforcement of the Consumer Protection Act, or for any lawful purpose in the discharge of the state's Attorney General's duties at the sole discretion of the Attorney General.

K. The Attorney General of the State of New York shall satisfy the reporting obligations of the States under Section 6050X of the Internal Revenue Code of 1986, as amended, with respect to Intuit's payments hereunder. Intuit is fully responsible for the payment of its taxes, including in the event any deductions for amounts paid under this settlement agreement are disallowed, as well as any fines or penalties imposed by the Internal Revenue Service with respect to such taxes.

VII. Assurance Acknowledgements

A. Intuit, within seven (7) days of the Effective Date, (1) must submit to the Oversight Committee an acknowledgment of receipt of this Assurance sworn under penalty of perjury; and (2) must identify to the Oversight Committee the primary physical, postal, and email address and telephone number, as designated points of contact, that the Oversight Committee may use to communicate with Intuit.

B. For five (5) years after the Effective Date, Intuit must deliver a copy of this Assurance to (1) all principals, officers, and directors; (2) all employees having managerial responsibilities for Advertisements for any TurboTax Free Edition Product; the online search and search engine optimization strategies and practices for any TurboTax Free Edition Product and any TurboTax Paid Product; the representations made on the TurboTax Website regarding any TurboTax Free Edition Product; and customer service inquiries regarding any TurboTax Free Edition Product; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of the Effective Date for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Intuit delivered a copy of this Assurance, Intuit must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Assurance.

VIII. Compliance Reporting

A. One (1) year after the Effective Date, Intuit must submit to the Oversight Committee a compliance report, sworn under penalty of perjury, in which Intuit must identify all of Intuit's tax preparation businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses and describe in detail whether and how Intuit is in compliance with each Section of this Assurance.

B. For five (5) years after the Effective Date, Intuit must submit to the Oversight Committee a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following: (a) any designated point of contact; or (b) the structure of Intuit that may affect compliance obligations arising under this Assurance, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Assurance.

C. Intuit must submit to the Oversight Committee notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Intuit within fourteen (14) days of its filing.

D. Any submission to the Oversight Committee required by this Assurance to be sworn under penalty of perjury must be true and accurate, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a representative of the Oversight Committee in writing, all submissions to the Oversight Committee pursuant to this Assurance must be made in accordance with the terms in Sections XII(L) and (M). All submissions shall have a subject line that must begin: *Attorneys General v. Intuit Inc.*

IX. Recordkeeping

Intuit must create certain records for ten (10) years after the Effective Date, and retain each such record for five (5) years. Specifically, Intuit must create and retain the following records:

A. Accounting records showing: (1) the revenues from all TurboTax Paid Products and any add-on products such as Audit Defense; and (2) the revenues from all TurboTax Paid Products and any add-on products such as Audit Defense that were received from consumers who began the process of preparing their returns in any TurboTax Free Edition Product;

B. Records of all consumer complaints and refund requests concerning the subject matter of this Assurance, whether received directly or indirectly, such as through a third party, and any response;

C. All records necessary to demonstrate full compliance with each provision of this Assurance, including all submissions to the Oversight Committee; and

D. To the fullest extent possible, a copy of each unique Advertisement or other marketing material relating to any TurboTax Free Edition Product.

X. Compliance Monitoring

A. For a period of five (5) years, and for the purpose of monitoring Intuit's compliance with this Assurance: Within thirty (30) days of receipt of a written request from the Oversight Committee, Intuit must submit additional compliance reports or other requested information, which must be sworn under penalty of perjury.

B. Nothing in this Assurance limits any State's lawful use of compulsory process, pursuant to applicable state law.

XI. Releases

A. By execution of this Assurance, and upon Intuit's compliance with its terms including the payments required in Section VI, the States release and forever discharge Intuit and its past and present officers, directors, employees, agents, affiliates, parents, subsidiaries, operating companies, predecessors, assigns, and successors from all civil consumer-protection or unfair-trade-practices claims each Attorneys General is authorized by law to bring that arise from or relate to the findings contained herein.

B. Nothing contained in this Assurance shall be construed to limit the ability of any Attorney General to enforce the obligations that Intuit has under this Assurance. Further, nothing in this Assurance shall be construed to waive or limit any private rights of action.

C. Notwithstanding the releases in Subsection A of this Section, or any other term of this Assurance, the following claims are specifically reserved and not released by this Assurance: (1) claims based on violations of securities laws, including claims based on the offer, sale, or purchase of securities; (2) claims of regulatory agencies having specific regulatory jurisdiction that are separate and independent from the regulatory enforcement of the Attorneys General; and (3) claims that arise from Intuit's actions that take place after the Effective Date.

XII. General Provisions

A. The Parties understand and agree that the Attorneys General have defined jurisdiction under the laws, or assert jurisdiction under the common law, of their respective States for the enforcement of state Consumer Protection Acts.

B. The Parties understand and agree that this Assurance shall not be construed as an approval or sanction by the Attorneys General of Intuit's business practices, nor shall Intuit

represent that this Assurance constitutes an approval or sanction of its business practices. The Parties further understand and agree that any failure by the Attorneys General to take any action in response to information submitted pursuant to this Assurance shall not be construed as an approval or sanction of any representations, acts, or practices indicated by such information, nor shall it preclude action thereon at a later date.

C. Nothing in this Assurance shall be construed as relieving Intuit of the obligation to comply with all applicable state and federal laws, regulations, and rules, nor shall any of the provisions of this Assurance be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

D. To the extent that there are any, Intuit agrees to pay all court costs associated with the filing (if legally required) of this Assurance by any State. No court costs, if any, shall be taxed against any State.

E. This Assurance may be executed by any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart thereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

F. This Assurance contains the complete agreement between the Parties. The Parties have made no promises, representations, or warranties other than what is contained in this Assurance. This Assurance supersedes any prior oral or written communications, discussions, or understandings.

G. For the purposes of construing the Assurance, this Assurance shall be deemed to have been drafted by all Parties.

H. This Assurance may not be amended except by an instrument in writing signed on behalf of all Parties to this Assurance.

I. This Assurance is entered into voluntarily and solely for the purpose of resolving the claims and causes of action against Intuit. Each Party and signatory to this Assurance represents that it freely and voluntarily enters into this Assurance without any degree of duress or compulsion.

J. Any failure by any Party to this Assurance to insist upon the strict performance by any other Party of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions of this Assurance, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Assurance.

K. If any clause, provision, or section of this Assurance shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Assurance, which shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or provision had not been contained herein.

L. Whenever Intuit shall provide notice to any Attorneys General under this Assurance, that requirement shall be satisfied by sending notice to the email and postal address for each respective Attorneys General identified in Appendix B in accordance with the following paragraph.

M. All notices or other documents to be provided under this Assurance shall be sent by U.S. mail, certified mail return receipt requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the notice


or document, and shall have been deemed to be sent upon mailing. Additionally, any notices or documents to be provided under this Assurance shall also be sent by electronic mail if an email address has been provided for notice. Any party may update its address by sending written notice to the other party.

N. If a court of competent jurisdiction determines that Intuit has breached this Assurance, Intuit shall pay to the Attorneys General the cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

IN WITNESS WHEREOF, this Assurance is executed by the Parties hereto on the dates set forth below:


[Parties' signature pages continued in the following pages]


For Intuit Inc.

By: 
Date: 28 April, 2022
Gregory N. Johnson
Executive Vice President and General Manager

For New York State Attorney General Letitia James

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By: 
Date: May 4, 2022
Clark P. Russell
Deputy Bureau Chief
Bureau of Internet and Technology

By: 
Date: May 4, 2022
Joseph P. Mueller
Assistant Attorney General
Bureau of Consumer Frauds and Protection

APPENDIX A – “FREE, FREE, FREE” ADVERTISEMENTS⁵

- “Big Kick”
 - The “Big Kick” advertisement depicts a high school football placekicker and his supportive father. In the moments before an important kick, the son flashes back to a memory from his youth of his father encouraging him; returning to the present, the son converts the field goal attempt while his father looks on. However, instead of featuring conventional dialogue, the characters in “Big Kick” repeat only the word “free” throughout the ad.



- “Credits”
 - In the “Credits” advertisement, a John McClane-type action hero utters a wisecrack (here, the word “free” several times) as he drops a lighter onto a streak of gasoline, which triggers the explosion of a batter white van. As flames explode into the air, the action hero strides towards the camera in slow motion, prompting the credits to

⁵ This Appendix addresses all versions of the listed advertisements, *i.e.*, 15-second, 30-second, and 60-second versions of the advertisements, to the extent they exist.

roll on screen, with every actor and role consisting of one or more uses of the word “free.”



- “Crossword”
 - In “Crossword,” a white-haired couple completes a crossword puzzle in which every clue and every answer is one or more uses of the word “free.”



- “Game Show”
 - The “Game Show” advertisement depicts a 70s-era game show in which a woman must guess what activity or concept her male partner is miming. Every one of the woman’s answers is correct and consists of one or more uses of the word “free.”



- “Lawyer”
 - In “Lawyer,” an attorney delivers an impassioned closing argument to the jury as dramatic music swells, with every word of the attorney’s argument being “free.”

After he finishes, a member of the jury leads a standing ovation, as various jurors repeat the word “free” several times.



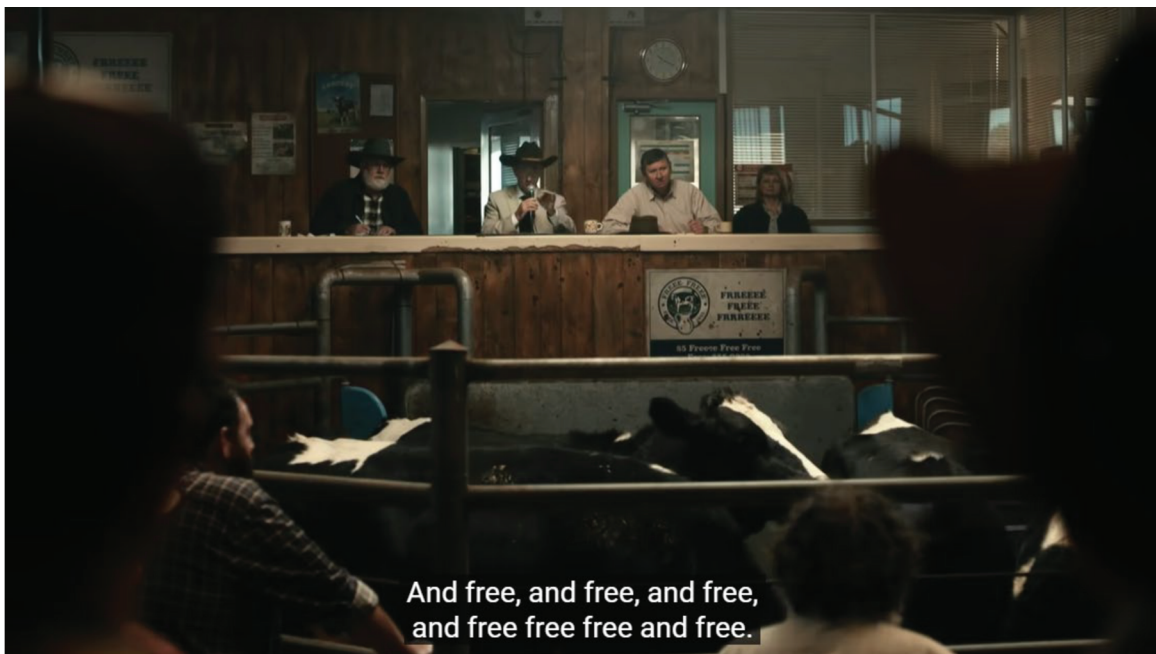
- “Spelling Bee”
 - The “Spelling Bee” advertisement shows a middle school-aged boy correctly spelling the word “free” in a spelling bee. Aside from the boy’s spelling out the letters “F-R-E-E,” every line dialogue spoken by the boy and by the judge of the spelling bee consists entirely of the word “free.”



- “Echo”
 - In “Echo,” a hiker shouts “free” from the top of a mountain, with the word “free” reverberating back to her as a result.



- “Auctioneer”
 - In “Auctioneer,” a fleet-tongued auctioneer rattles off prices and bids to a collection of ranchers and cowboys. Instead of conventional dialogue, the auctioneer repeatedly utters the word “free.”



- “Dance Workout”
 - The “Dance Workout” advertisement depicts an instructor leading an enthusiastic dance workout class. Instead of conventional words of encouragement and instruction, the instructor repeats the word “free.”



APPENDIX B – STATE NOTICES

Alaska	1031 West 4th, Ave., Suite 200 Anchorage, AK 99501 consumerprotection@alsaka.gov
Alabama	501 Washington Avenue Montgomery, AL 36130 Olivia.Martin@AlabamaAG.gov
Arkansas	323 Center Street, Suite 200 Little Rock, AR 72201
Arizona	Alyse Meislik Consumer Protection & Advocacy Section 2005 N. Central Ave. Phoenix, AZ 85004 Alyse.Meislik@azag.gov consumer@azag.gov
California	300 South Spring Street, Suite 1702 Los Angeles, CA 90013 bernard.eskandari@doj.ca.gov
Colorado	1300 Broadway Denver, CO 80203 abigail.hinchcliff@coag.gov
Connecticut	Brendan T. Flynn, AAG Office of the Connecticut Attorney General 165 Capital Ave. Hartford, CT 06106 Brendan.Flynn@ct.gov
District of Columbia	Office of Consumer Protection Public Advocacy Division ATTN: Tim Shirey, Investigator D.C. Office of the Attorney General 400 6th Street NW Washington D.C. 20001 Timothy.Shirey@dc.gov
Delaware	820 N. French St., 5th Floor Wilmington, DE 19801 katherine.devaney@delaware.gov
Florida	Edward Moffitt

	Chief Investigator, MSPB & Cyber Fraud Bureau Office of the Florida Attorney General 135 West Central Boulevard, Suite 670 Orlando, FL 32801 Edward.Moffitt@myfloridalegal.com
Georgia	2 Martin Luther King, Jr. Drive, Suite 356E Atlanta, GA 30334 dzisook@law.ga.gov
Hawaii	235 S. Beretania Street #801 Honolulu, Hawaii 96813 ltong@dcca.hawaii.gov rtolenti@dcca.hawaii.gov
Illinois	100 W. Randolph St., 12th Fl. Chicago, IL 60601 Daniel.edelstein@ilag.gov
Iowa	William Pearson Iowa Department of Justice 1305 E. Walnut, 2nd Floor Des Moines, IA 50319 William.pearson@ag.Iowa.gov
Idaho	P.O. Box 83720 Boise, ID 83720-0010 stephanie.guyon@ag.idaho.gov
Indiana	302 W. Washington St. IGCS, 5th Floor Indianapolis, IN 46204 Michelle.Alyea@atg.in.gov
Kansas	120 SW 10th Avenue, 2nd floor Topeka, KS 66612 sarah.dietz@ag.ks.gov
Kentucky	1024 Capital Center Drive, Suite 200 Frankfort, KY 40601 Christian.Lewis@ky.gov
Louisiana	1885 N 3rd Street Baton Rouge, LA 70802 MughalA@ag.louisiana.gov
Massachusetts	One Ashburton Place, 18th Floor

	<p>Boston, MA 02108 Glenn.kaplan@mass.gov</p>
Maryland	<p>Consumer Protection Division of the Office of the Attorney General of Maryland Elizabeth Stern Assistant Attorney General 200 Saint Paul Place Baltimore, MD 21202 estern@oag.state.md.us</p> <p>With a copy to:</p> <p>Chief, Consumer Protection Division 200 Saint Paul Place Baltimore, MD 21202 consumer@oag.state.md.us</p>
Maine	<p>6 State House Station Augusta, Maine 04333-0006 christina.moylan@maine.gov</p>
Michigan	<p>525 W. Ottawa St. PO Box 30736 Lansing, MI 48909 Levina@michigan.gov</p>
Minnesota	<p>445 Minnesota Street, Suite 1200 Saint Paul, MN 55101 alex.baldwin@ag.state.mn.us</p>
Missouri	<p>815 Olive Street, Suite 200 St. Louis, MO 63101 Michael.Schwalbert@ago.mo.gov</p> <p>with an additional hard copy to: 207 W. High St. P.O. Box 899 Jefferson City, MO 65102</p>
Mississippi	<p>Post Office Box 220 Jackson, MS 39205 caleb.pracht@ago.ms.gov consumer@ago.ms.gov</p>
Montana	<p>215 N Sanders Street Helena, MT 59601</p>

	ocpinvestigations@mt.gov
North Carolina	PO Box 629 Raleigh, NC 27602
North Dakota	1720 Burlington Drive, Suite C Bismarck, ND 58504-7736 pgrossman@nd.gov
Nebraska	2115 State Capitol Building Lincoln, NE 68509 michaela.hohwieler@nebraska.gov
New Hampshire	33 Capitol St. Concord, NH 03301
New Jersey	124 Halsey St. - 5th Floor P.O. Box 45029 Newark, NJ 07102 monica.finke@law.njoag.gov zeyad.assaf@law.njoag.gov
New Mexico	Lawrence Otero Brian McMath Assistant Attorneys General Consumer & Environmental Protection Division New Mexico Office of the Attorney General P.O. Box 1508 Santa Fe, New Mexico 87504 lotero@nmag.gov bmcmath@nmag.gov
Nevada	100 North Carson Street Carson City, NV 89701 MNewman@ag.nv.gov and 8945 W. Russell Road, Suite 204 Las Vegas NV 89148 Sforbes@ag.nv.gov
New York	28 Liberty St. New York, NY 10005 joseph.mueller@ag.ny.gov clark.russell@ag.ny.gov
Ohio	1 Government Center 640 Jackson St., Suite 1340

	Toledo, Ohio 43604 Timothy.Effler@OhioAGO.gov
Oklahoma	313 NE 21st St. Oklahoma City, OK 73105 Malisa.McPherson@oag.ok.gov
Oregon	Oregon Department of Justice Attn: Althea Cullen, AAG 100 SE Market Street Portland, OR 97201 Althea.d.cullen@doj.state.or.us
Pennsylvania	John Abel Assistant Director for Multistate and Special Litigation Pennsylvania Office of Attorney General 15th Floor, Strawberry Square Harrisburg, PA 17120 jabel@attorneygeneral.gov
Rhode Island	150 South Main St. Providence RI 02903 sprovazza@riag.ri.gov
South Carolina	P.O. Box 11549 Columbia, SC 29211 rhartner@scag.gov
South Dakota	1302 E. Hwy 14, Suite 1 Pierre, SD 57501 Consumerhelp@state.sd.us
Tennessee	PO Box 20207 Nashville, TN 37202-0207 Kelley.groover@ag.tn.gov
Texas	PO Box 12548 (MC-010) Austin, Texas 78711 patrick.abernethy@oag.texas.gov
Utah	160 East 300 South, 5th Floor PO Box 140872 Salt Lake City, UT 84114-0872 kmclean@agutah.gov
Virginia	202 N. 9th St. Richmond, VA 23219

	jscott@oag.state.va.us
Vermont	109 State St. Montpelier, VT 05609 james.layman@vermont.gov
Washington	Mina Shahin Washington State Attorney General's Office 800 Fifth Ave, Suite 200 Seattle, WA 98104 mina.shahin@atg.wa.gov
Wisconsin	17 West Main Street, PO Box 7857 Madison WI 53707 myszkowskiga@doj.state.wi.us
West Virginia	PO Box 1789 Charleston, WV 25326 Ann.L.Haight@wvago.gov
Wyoming	2320 Capitol Avenue Cheyenne, WY 82002 william.young@wyo.gov and 109 State Capitol Cheyenne, WY 82002 misha.westby@wyo.gov

APPENDIX C – PRELIMINARY STATE PERCENTAGES OF COVERED CONSUMERS

State	Number of Covered Consumers	Percentage of Covered Consumers
AK	14,135	0.32
AL	53,656	1.20
AR	34,487	0.77
AZ	100,213	2.24
CA	371,403	8.30
CO	82,967	1.85
CT	39,078	0.87
DC	9,356	0.21
DE	13,247	0.30
FL	335,246	7.50
GA	134,480	3.01
HI	14,521	0.32
IA	33,167	0.74
ID	27,237	0.61
IL	133,990	3.00
IN	94,163	2.11
KS	38,075	0.85
KY	54,406	1.22
LA	55,578	1.24
MA	75,091	1.68
MD	66,669	1.49
ME	22,650	0.51
MI	115,565	2.58
MN	60,322	1.35
MO	81,427	1.82
MS	35,053	0.78
MT	16,072	0.36
NC	139,028	3.11
ND	9,270	0.21
NE	25,780	0.58
NH	22,074	0.49
NJ	70,164	1.57
NM	28,535	0.64
NV	49,883	1.12
NY	176,712	3.95
OH	163,367	3.65
OK	52,399	1.17

OR	68,253	1.53
PA	158,779	3.55
RI	13,577	0.30
SC	67,238	1.50
SD	13,455	0.30
TN	111,658	2.50
TX	465,793	10.41
UT	44,289	0.99
VA	111,613	2.50
VT	9,361	0.21
WA	121,102	2.71
WI	76,682	1.71
WV	23,533	0.53
WY	8,790	0.20
Other*	329,199	7.36
Totals	4,472,788	100.00

* The “Other” category includes Covered Consumers for whom there currently is no information available on their state affiliation and consumers in U.S. territories and foreign countries, including U.S. military mail codes.

RX 77

Lessons Learned from IRS Free Filers: Capturing Young Taxpayers for a Lifetime of Electronic Filing



David C. Cico and Courtney L. Howard Olson
IRS Wage & Investment Research and Analysis
IRS Research Conference – June 12, 2008



Internal Revenue Service

Research Objectives

In this study, the researchers strive to accomplish two main objectives:

1. determine whether the Free File program acts as a gateway to electronic filing.
2. identify market segments with the greatest potential for increasing participation in the Free File program and consequently increasing the number of electronic returns filed.



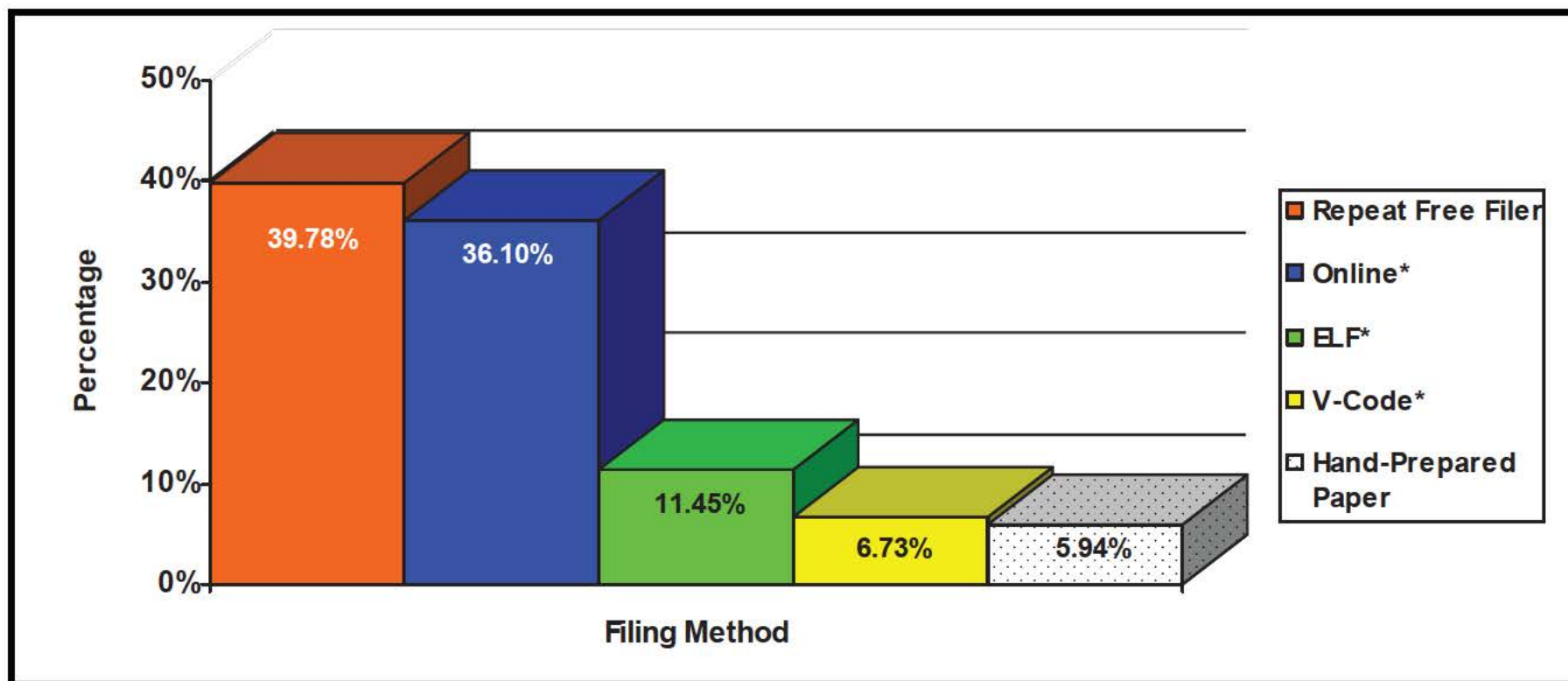
IRS Free File Program

- Free federal income tax preparation and electronic filing program for eligible taxpayers.
- For tax year (TY) 2006, qualified taxpayers had an adjusted gross income of \$52,000 or less.
- More than 91 million, or approximately 70 percent, of the TY 2006 taxpaying population qualified for the Free File Program.
- A partnership between the IRS and Free File Alliance, a group of industry leading private sector tax preparation companies.
- Available in English and Spanish.
- All tax returns are transmitted using secure technologies and taxpayers receive an e-mail from the tax preparation company letting them know if the IRS accepted their return.



Internal Revenue Service

For those Taxpayers who Free Filed in TY 2005 and were Eligible to Free File in TY 2006, what TY 2006 Filing Method did they Choose?



Source: ETA IMF Marketing Database Full Tax Year 2005 and 2006.

Notes: *V-Coded returns are mailed-in, computer generated tax returns.

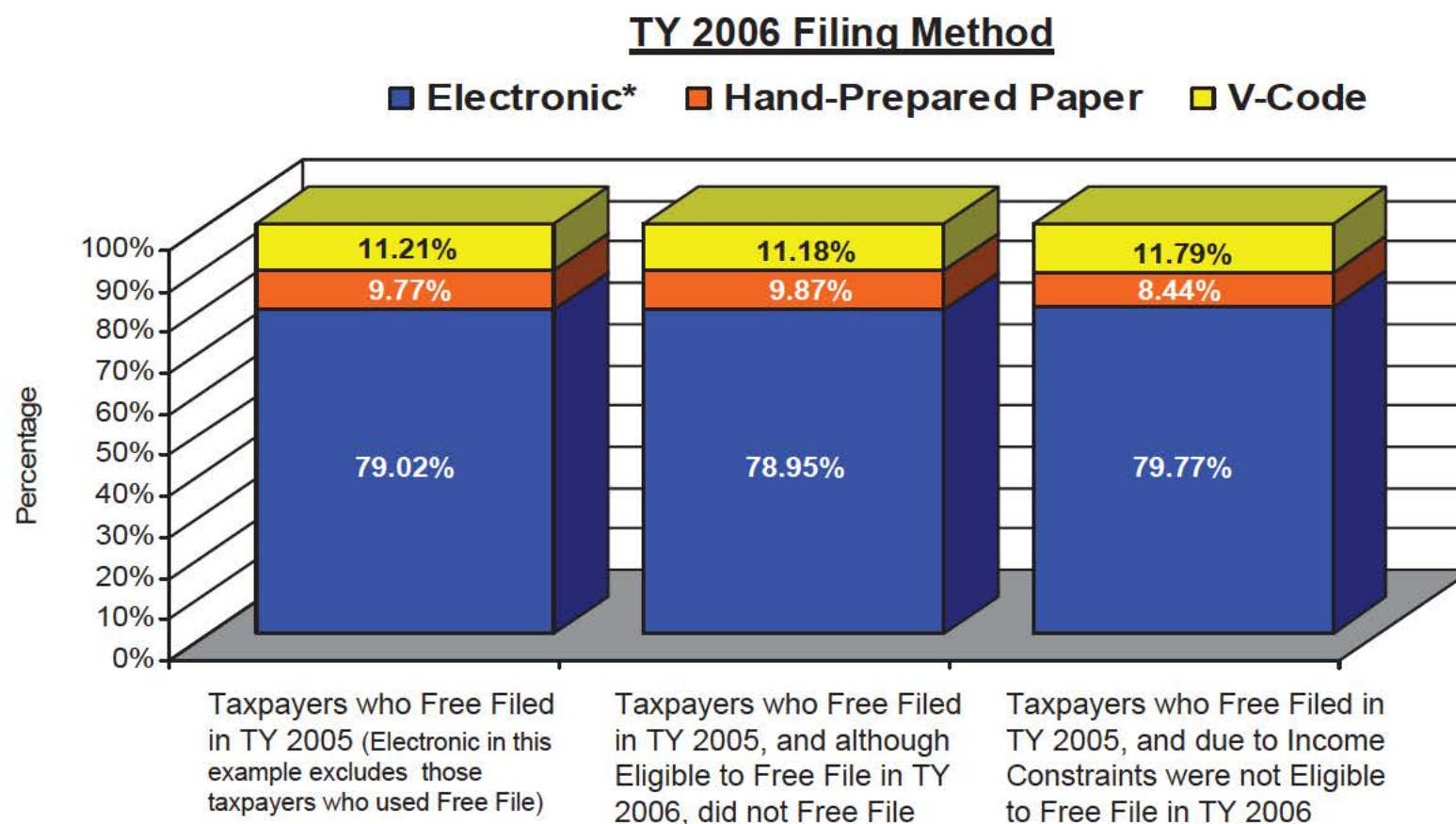
*ELF returns are electronically filed tax returns by a paid preparer.

*Online returns are self-prepared, online tax returns. In this example, online does not include Free Filed returns.



Internal Revenue Service

Free File Migration: What TY 2006 Filing Method did Non-Repeat Free Filers Choose?



Source: ETA IMF Marketing Database Full Tax Years 2005 and 2006.

Note: *Electronic is comprised of self-prepared, online returns and electronically filed returns by a paid preparer.



Internal Revenue Service

TY 2006 Filing Method of TY 2005 Free File Taxpayers by TY 2004 Filing Method

		<i>Filed a Paper Return in TY 2004</i>	<i>Filed a TeleFile Return in TY 2004</i>	<i>Filed an ELF Return in TY 2004</i>	<i>Filed an Online Return in TY 2004</i>
		<i>Free Filed in TY 2005</i>			
TY 2006 Filing Method	<i>Hand-Prepared, Paper</i>	57,947 (9.75%)	56,496 (9.43%)	12,097 (3.59%)	43,923 (3.14%)
	<i>V-Coded</i>	65,375 (11.00%)	40,085 (6.69%)	19,062 (5.66%)	70,545 (5.04%)
	<i>Electronic</i>	471,255 (79.26%)	502,245 (83.87%)	305,556 (90.75%)	1,283,857 (91.81%)

Source: ETA IMF Marketing Database Full Tax Years 2004, 2005, and 2006.

Free File Program as a Gateway to Electronic Filing: For each of the TY 2004 filing methods identified, TY 2005 Free Filers overwhelmingly continued to file electronically in TY 2006.



Internal Revenue Service

TY 2006 Filing Method of Entire Taxpayer Population

	<i>COUNT (*)</i>	<i>Percentage</i>
<i>Hand-Prepared, Paper</i>	17,865,323	13.29%
<i>V-Coded</i>	36,559,559	27.21%
<i>Electronic</i>	79,956,548	59.50%

Source: ETA IMF Marketing Database Full Tax Year 2006.

- Approximately 59.5 percent of the general taxpayer population filed an electronic tax return in TY 2006. Electronic returns are comprised of electronically filed returns by a paid preparer (ELF = 57,360,987) and self-prepared, electronic returns (Online = 22,595,561).
- In comparison, 87.04 percent of TY 2005 Free Filers continued to file electronically in TY 2006.



Case Study: IRS TeleFile Program

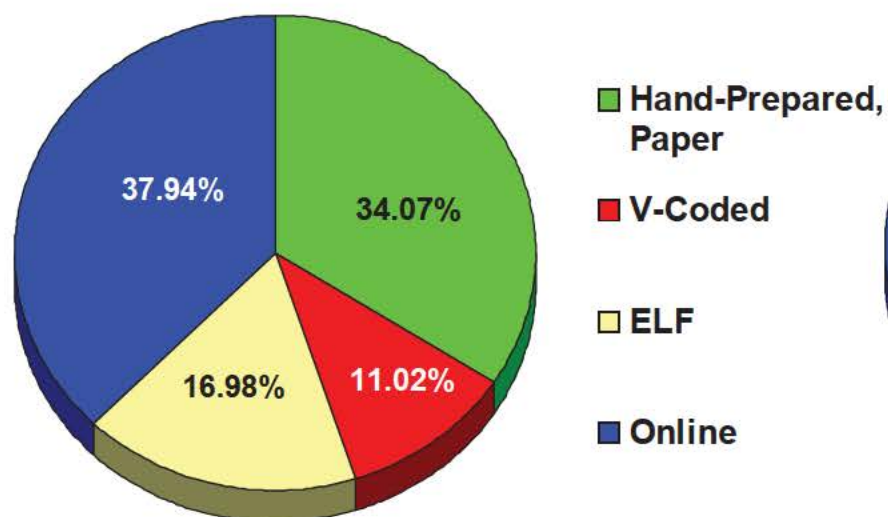
- Allowed taxpayers with simple individual or joint tax returns to file at no cost by using a telephone keypad.
- The TeleFile pilot program was launched on a limited basis in 1992 and later became available nationally to single Form 1040EZ filers in 1997.
- The program expanded to support the telephone filing of Form 941, Form 4868, and selected Forms 1040EZ and state individual tax returns.
- The IRS officially ended the TeleFile program on August 16, 2005 citing the following factors as contributing to the decision:
 - Increased costs of maintaining the system,
 - Declining use of federal TeleFile,
 - Declining use and discontinuance of state TeleFile programs,
 - Growth of other electronic filing alternatives, such as Free File.



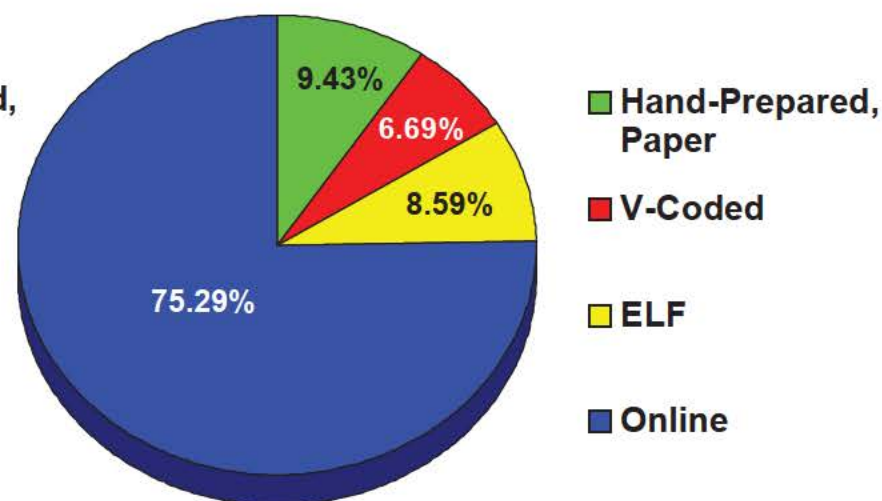
A Comparison of TY 2004 TeleFilers Post Filing Methods

- TY 2004 TeleFilers who Free Filed in TY 2005 overwhelmingly continued to file electronically in TY 2006 (83.88 percent for Online and ELF).
- Only 54.92 percent of the entire TY 2004 TeleFile population filed an electronic return in TY 2006.

**TY 2006 Filing Method
of TY 2004 TeleFilers**



**TY 2006 Filing Method
of TY 2004 TeleFilers who
Free Filed in TY 2005**



Source: ETA IMF Marketing Database Full Tax Years 2004, 2005, and 2006.



Internal Revenue Service

Tax Year 2006 Free File Participation Rates

TAXPAYER CLASSIFICATION	COUNT (*)	Percentage of All Filers
Free Filers	3,854,549	2.87%
Potential Free Filers	91,187,455	67.86%
All Filers	134,381,430	100.00%
Free File Eligible, Non-Participants	87,332,906	64.99%



Overall Free File Participation Rate* of 4.23 Percent

Source: ETA IMF Marketing Database Full Tax Year 2006.

Highest Participation Rates

State	Free File Participation Rate*
WA	5.99%
OH	5.92%
SD	5.80%
WI	5.75%
ME	5.59%

Source: ETA IMF Marketing Database Full Tax Year 2006.

Lowest Participation Rates

State	Free File Participation Rate*
NY	2.51%
NJ	2.65%
CA	2.82%
HI	3.29%
RI	3.43%

Source: ETA IMF Marketing Database Full Tax Year 2006.

Source: ETA IMF Marketing Database Full Tax Year 2006.

Note: *Free File Participation Rate equals Actual Free File Population Divided by Potential Free File Population.



Internal Revenue Service

Free Filers: Simple, Refund Returns

<i>Tax/Refund</i>	<i>Free Filers</i>	<i>Potential Free Filers</i>	<i>All Filers</i>	<i>Free File Eligible, Non-Participants</i>
Refund	3,653,001 (94.77%)	77,641,697 (85.15%)	107,655,577 (80.11%)	73,988,696 (84.72%)
Balance Due	173,751 (4.51%)	12,088,417 (13.26%)	25,192,384 (18.75%)	11,914,666 (13.64%)
Even	27,797 (0.72%)	1,457,341 (1.60%)	1,533,469 (1.14%)	1,429,544 (1.64%)
TOTAL	3,854,549	91,187,455	134,381,430	87,332,906

<i>Return Complexity</i>	<i>Free Filers</i>	<i>Potential Free Filers</i>	<i>All Filers</i>	<i>Free File Eligible, Non-Participants</i>
Simple	2,312,490 (59.99%)	36,237,870 (39.74%)	41,087,496 (30.58%)	33,925,380 (38.85%)
Intermediate	1,045,075 (27.11%)	30,033,112 (32.94%)	47,972,301 (35.70%)	28,988,037 (33.19%)
Complex	496,984 (12.89%)	24,916,473 (27.32%)	45,321,633 (33.73%)	24,419,489 (27.96%)
TOTAL	3,854,549	91,187,455	134,381,430	87,332,906

Source: ETA IMF Marketing Database Full Tax Year 2006.



Internal Revenue Service

Marketing Free File: Focus on Young Taxpayers

- Low Free File Participation Rate for taxpayers under 25-years-old $\approx 7\%$ (PR = Free Filers / Potential Free Filers)

Age	Free Filers	Potential Free Filers	All Filers	Participation Rate
Under 25	1,576,831	22,115,850	22,479,489	7.13%

Source: ETA IMF Marketing Database Full Tax Year 2006.

- Taxpayers under 25-years-old are the largest percentage of Free File Eligible, Non-Participants $\approx 24\%$
- Conclusion: Taxpayers < 25-years-old have the greatest potential to increase Free File Program participation volume.

Age	Free Filers	Potential Free Filers	All Filers	Free File Eligible, Non-Participants
Under 25	40.91%	24.25%	16.73%	23.52%
25 to 34	28.39%	21.09%	18.77%	20.76%
35 to 44	14.28%	16.14%	18.75%	16.23%
45 to 54	9.90%	14.32%	18.48%	14.52%
55 to 64	4.29%	10.28%	13.39%	10.54%
65 & Over	2.23%	13.92%	13.89%	14.43%
TOTAL	100.00%	100.00%	100.00%	100.00%

Source: ETA IMF Marketing Database Full Tax Year 2006.



Marketing Free File: Focus on Students

Students:

- Age 18 to 24
- Adjusted Gross Income \$0 to \$16,999
- Claimed No Earned Income Tax Credit (EITC)



<i>TY 2006 Filing Method</i>	<i>Students</i>	<i>All Filers</i>
Paper	5,604,655 (47.93%)	54,424,882 (40.50%)
ELF	3,587,282 (30.68%)	57,360,987 (42.69%)
Online	2,501,380 (21.39%)	22,595,561 (16.81%)
<i>TOTAL</i>	11,693,317	134,381,430

Source: ETA IMF Marketing Database Full Tax Year 2006.



Internal Revenue Service

Marketing Free File to Students Simple Returns with Refunds

<i>Tax/Refund</i>	<i>Students</i>	<i>All Filers</i>
Refund	10,433,122 (89.22%)	107,655,577 (80.11%)
Balance Due	1,037,128 (8.87%)	25,192,384 (18.75%)
Even	223,067 (1.91%)	1,533,469 (1.14%)
<i>TOTAL</i>	11,693,317	134,381,430


<i>Return Complexity</i>	<i>Students</i>	<i>All Filers</i>
Simple	9,217,128 (78.82%)	41,087,496 (30.58%)
Intermediate	1,296,400 (11.09%)	47,972,301 (35.70%)
Complex	1,179,789 (10.09%)	45,321,633 (33.73%)
<i>TOTAL</i>	11,693,317	134,381,430

Source: ETA IMF Marketing Database Full Tax Year 2006.



Internal Revenue Service

A Potential Free File Target Market: More than 4.3 Million Young, Self-Prepared, V-Coded, Free File Eligible Taxpayers

AGE	Self-Prepared, V-Coded, Potential Free Filers	Percentage	<div> } 4,303,710 (50.89%) </div> <div>  <div>Over half of these self-prepared, V-Coded, Free File eligible taxpayers are age 34 or younger.</div> </div>
Under 25	2,793,296	33.03%	
25 to 34	1,510,414	17.86%	
35 to 44	1,087,976	12.87%	
45 to 54	1,069,808	12.65%	
55 to 64	825,933	9.77%	
65 and Older	1,169,196	13.83%	
TOTAL	8,456,623	100.00%	

Source: ETA IMF Marketing Database Full Tax Year 2006.



Internal Revenue Service

Self-Prepared, V-Coded, Free File Eligible Taxpayers

Tax/Refund	Self-Prepared, V-Coded, Potential Free Filers	Free File Eligible, Non-Participants
Refund	6,561,176 (77.59%)	73,988,696 (84.72%)
Balance Due	1,664,627 (18.32%)	11,914,666 (13.64%)
Even	230,820 (2.73%)	1,429,544 (1.64%)
<i>TOTAL</i>	8,456,623	87,332,906

Return Complexity	Self-Prepared, V-Coded, Potential Free Filers	Free File Eligible, Non-Participants
Simple	3,979,805 (47.06%)	33,925,380 (38.85%)
Intermediate	2,333,189 (27.59%)	28,988,037 (33.19%)
Complex	2,143,629 (25.35%)	24,419,489 (27.96%)
<i>TOTAL</i>	8,456,623	87,332,906

Source: ETA IMF Marketing Database Full Tax Year 2006.



Internal Revenue Service

Summary/Conclusions

Free File as a Gateway to Continued Future Electronic Filing

Free File migration data supports the hypothesis that past participation in the Free File Program acts as a gateway to continued future electronic filing.

- Data migration analysis reveals that approximately **79.8 percent** of individuals who Free Filed in TY 2005 and although no longer eligible to Free File in TY 2006 due to the income constraints of the Free File Program continued to file electronically.

Young Taxpayers/Students and Young, Self-Prepared, V-Coded, Potential Free Filers

A majority of the taxpayers in these two market segments file simple returns with refunds and tend to be computer literate.

- V-Coders electronically prepare their own tax returns on a computer.
- Taxpayers under age 30 report a strong preference for using the internet to find tax forms/publications and get tax return preparation guidance.*

Potential for high return on marketing dollars.

- Young taxpayers are expected to file a tax return for many more years.
- 11.69 million students and 8.46 million self-prepared, V-Coded potential Free Filers in TY 2006.

Source: *Taxpayer Preference for IRS Service, W&I Strategic Forecasting & Analysis Group and The 2006 Taxpayer Assistance Blueprint, Phase 1, April 24, 2006.



Internal Revenue Service

ETA IMF Marketing Database Tax Year 2005

Definitions

Free Filer (TY 2005): a taxpayer who participated in the IRS Free File Program, had an adjusted gross income of \$50,000 or less, and filed their return online. For TY 2006, adjusted gross income increased to \$52,000 and taxpayer is also no longer allowed to receive a refund anticipation loan (RAL) or refund anticipation check (RAC).

Potential Free Filer (TY 2005): encompasses the entire universe of taxpayers who filed a return with an adjusted gross income of \$50,000 or less (included in this universe are taxpayers who participated in the Free File Program). For TY 2006, adjusted gross income increased to \$52,000.

Free File Eligible (TY 2005): taxpayers with an adjusted gross income of \$50,000 or less (i.e., Potential Free Filer). For TY 2006, adjusted gross income increased to \$52,000.

All Filers: captures all taxpayers who filed a return in a particular tax year.

Free File Eligible, Non-Participants: taxpayers who qualified for, but did not participate in the Free File Program.

Free File Participation Rate: equals the actual Free File population divided by the Potential Free File population.



ETA IMF Marketing Database Tax Year 2005

Definitions Continued . . .

Free File Eligibility Rate: equals the number of Potential Free Filers in a state divided by total filer population of the state.

V-Coded: computer generated return filed as paper.

Self-Prepared: self or VITA prepared tax return.

Simple Return: Form 1040, 1040A, or 1040EZ, without any schedules.

Intermediate Return: Form 1040A with Schedules or 1040 with Schedules A, B, D, Additional Child Tax Credit, Educational Credits, Child Care Credit, Credit for the Elderly, or Earned Income Credits.

Complex Return: Form 1040 with Schedules C, E, F, or other Schedules and all other specific Forms 1040 (i.e., 1040PR, etc.).

Online Return: returns prepared online by a taxpayer (self-prepared).

ELF Return: electronically filed returns by a paid preparer.

Electronic Returns: the sum of online returns and ELF returns.



RX 78



United States Government Accountability Office

Report to Congressional Requesters

APRIL 2022

IRS FREE FILE PROGRAM

IRS Should Develop Additional Options for Taxpayers to File for Free

GAO Highlights

Highlights of [GAO-22-105236](#), a report to congressional requesters

Why GAO Did This Study

IRS and FFI offer free tax filing services to a large majority of taxpayers. Historically, IRS had agreed that it would not develop its own online filing services in exchange for the participating companies offering free services to eligible taxpayers.

GAO was asked to examine the Free File program. This report (1) describes demographic characteristics of Free File users; (2) evaluates IRS's oversight of taxpayer experience provisions; and (3) identifies key challenges and alternative approaches that may exist for IRS to help taxpayers file online at no cost.

GAO analyzed IRS data; evaluated IRS's oversight of agreements with FFI and compared these to federal digital service guidelines; reviewed IRS documents and studies; and used interviews with selected authors of studies (called stakeholders) and IRS officials to inform the analysis.

What GAO Recommends

GAO is making three recommendations to IRS, including that it add relevant practices from federal guidelines into its next agreement with FFI, and that it identify and develop additional options for free online filing by the time the current Free File agreement expires. IRS agreed with the recommendation to add relevant practices to improve the taxpayer experience into the next FFI agreement. IRS did not agree with the other recommendations, including that it develop additional free filing options. GAO maintains that developing such options would help mitigate risks identified with the Free File program.

View [GAO-22-105236](#). For more information, contact James R. McTigue, Jr. at (202) 512-6806 or mctiguej@gao.gov.

April 2022

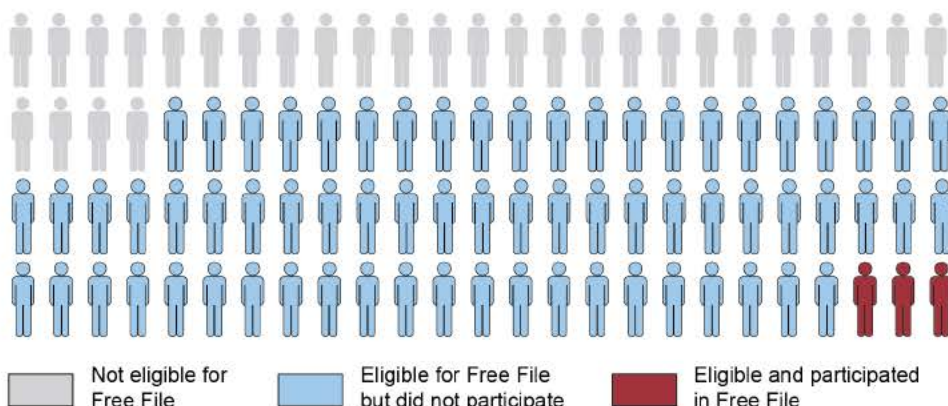
IRS FREE FILE PROGRAM

IRS Should Develop Additional Options for Taxpayers to File for Free

What GAO Found

Taxpayers whose incomes are below a certain threshold can use the Free File program provided by IRS and Free File, Inc. (FFI), a consortium of tax preparation companies, to electronically prepare and file their federal tax returns for free. GAO found that the vast majority of taxpayers eligible for the program used other filing methods, which they may have paid to use. Of those who did use the program, 44 percent had an adjusted gross income of \$17,000 or less.

Individual Taxpayers' Filing Methods for Tax Year 2020



Source: GAO analysis of IRS data. | GAO-22-105236

IRS and FFI have an agreement that governs the program, including provisions intended to improve the taxpayer experience. IRS checks the companies' compliance with this and certain other provisions. GAO compared the current Free File agreement with federal guidelines for digital services and found differences. Through negotiation between IRS and FFI, opportunities may exist to better align the current agreement with the federal guidelines, such as ensuring access for taxpayers with disabilities.

IRS and FFI recently extended the current agreement to October 2023; however, short-term extensions have not addressed mounting challenges. For example, two large companies recently left the program with one citing the taxpayer experience requirements. IRS data through most of the 2022 filing season shows that fewer taxpayers are using the program in the year following the departure of one of these companies last year. Stakeholders had different views on whether maintaining the current program or IRS developing its own online filing system would provide a better experience for taxpayers. Regardless, IRS is not managing the risk of relying on the Free File program as the way it helps taxpayers file for free online. Under the terms of the agreement, individual companies can leave the Free File program at any time, and FFI can end the program if IRS develops a system of its own. By not managing these risks through the development of additional free online filing options for taxpayers, IRS may be unable to achieve its strategic goal to empower all taxpayers to meet their tax obligations.

Contents

Letter		1
	Background	4
	Few Eligible Taxpayers Use Free File and They Tend to Be Young, Have No Dependents, and Have Lower Income Levels	9
	IRS Has Taken Steps to Improve the Taxpayer Experience with Free File, but Opportunities Exist to Better Align with Government-wide Guidelines	15
	IRS Faces Mounting Risks by Continuing to Rely on Industry to Provide Free Tax Filing Services	25
	Conclusions	38
	Recommendations for Executive Action	39
	Agency Comments, Third-Party Views, and Our Evaluation	39
Appendix I	Additional Demographic Characteristics of Taxpayers Who Have Recently Used the IRS Free File Program	42
Appendix II	Comments from the Internal Revenue Service	46
Appendix III	GAO Contact and Staff Acknowledgments	49
Tables		
	Table 1: Free File Returns by U.S. State Tax Year (TY) 2020	43
	Table 2: Education Tax Credit Claimed Tax Year (TY) 2019 Free File Returns	44
	Table 3: Child and Dependent Care Expenses Claimed Tax Year (TY) 2019 Free File Returns	45
Figures		
	Figure 1: Individual Taxpayers' Filing Methods by Percentage of Returns for Tax Year 2020	9
	Figure 2: Number of Free File Returns for Tax Years 2015–2020 and as a Percentage of All Individual Returns	12
	Figure 3: Selected Demographic Characteristics of Free File Taxpayers for Tax Year 2019	13

Figure 4: Percentage of Free File Tax Returns by IRS-Determined Levels of Complexity for Tax Year 2019	14
Figure 5: One Taxpayer's Potential Journey through the Free File Program and Examples of Taxpayer Experience Provisions	16
Figure 6: Availability of State-Level Free File Program as of 2021	19
Figure 7: Market Share of the Largest Companies Serving Traditional Free File Taxpayers between Tax Years 2014 and 2020	26
Figure 8: Tracking Filing Methods of Taxpayers Who Used Free File for Tax Year 2014 across Later Years	29

Abbreviations

FFI	Free File, Inc.
IRS	Internal Revenue Service
MOU	Memorandum of understanding
OMB	Office of Management and Budget
RAL	Refund anticipation loan
Treasury	Department of the Treasury
21st Century IDEA Act	21st Century Integrated Digital Experience Act

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

April 28, 2022

The Honorable Jon Ossoff
Chair
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Tom Carper
United States Senate

Filing a tax return is one of the most common ways ordinary Americans interact with the federal government. About 70 percent of Americans can electronically file a tax return for free if they choose to use the Internal Revenue Service's (IRS) Free File program. This program's services are delivered by private companies that have an agreement with IRS to provide free electronic tax preparation and filing for taxpayers who have incomes below a certain threshold. The Free File program provides eligible taxpayers with access to non-IRS websites where they are guided through the process of preparing their tax return. IRS believes this program has encouraged many taxpayers to shift from filing on paper to filing electronically. We have previously identified challenges the program faces. Such challenges include low participation among eligible taxpayers and provisions in the agreement with participating companies that constrained IRS's ability to expand its online services.¹

You asked us to review the Free File program. This report (1) describes the demographic characteristics of taxpayers who have recently used Free File; (2) evaluates how IRS oversees, enforces, and updates taxpayer experience provisions of the Free File program; and (3) identifies key challenges facing the program and highlights alternative approaches for providing taxpayers with free tax preparation and filing services.

To calculate the program's participation rate, we reviewed IRS data on all individual and Free File returns submitted for tax years 2015 to 2020. To summarize taxpayer filing methods, we used IRS data from tax year 2020 returns. To summarize the demographic characteristics of Free File taxpayers, we reviewed IRS's demographic analysis of Free File tax returns for tax years 2015 to 2019, which were the most recent data

¹GAO, *Tax Administration: Taxpayer Input Could Strengthen IRS's Online Services*, [GAO-20-71](#) (Washington, D.C.: Dec. 19, 2019).

available. Appendix I summarizes use of the program by state and other characteristics. We determined IRS's data were sufficiently reliable for our use in this report by reviewing IRS's documented processes for tracking Free File returns, looking for potential outliers or unusual patterns in the data, and interviewing IRS officials.

To evaluate how IRS oversees, enforces, and updates taxpayer experience provisions for Free File program participants, we reviewed the current and prior versions of the Free File memorandum of understanding (MOU) to identify provisions that directly impact a taxpayer's experience, such as requiring companies to design their websites in certain ways or prohibiting companies from engaging in certain marketing practices.² We reviewed IRS documents and interviewed officials to describe how IRS oversees the program and monitors participating companies' compliance with the taxpayer experience provisions.

Continuing this evaluation, we identified the level of service that federal agencies are expected to provide to their customers by reviewing Office of Management and Budget (OMB) guidelines.³ While these guidelines are only required for federal agencies' websites, we examined the extent to which IRS has negotiated with participating companies to incorporate the guidelines into updates to the Free File MOU. We did this by reviewing IRS records and interviewing officials.

We also reviewed the 21st Century Integrated Digital Experience Act which includes requirements related to optimizing services for mobile devices.⁴ We also reviewed the recently issued executive order that contains directives for all federal agencies to improve federal services.⁵ We considered relevant findings and recommendations drawn from a literature review. Finally, we interviewed officials with Free File, Inc. (FFI),

²There are other provisions in the MOU that could affect the taxpayer's experience preparing and filing a tax return through Free File, including those that relate to the design and security of the program. However, for the purposes of this analysis we focused on provisions that directly affect the taxpayer's experience using the service to prepare and electronically file a tax return.

³Office of Management and Budget, *Memorandum for the Heads of Executive Departments and Agencies: Policies for Federal Agency Public Websites and Digital Services*, M-17-06 (Washington, D.C.: Nov. 8, 2016); and OMB, Circular No. A-11, pt. 6, § 280 *Managing Customer Experience and Improving Service Delivery* (2021).

⁴Pub. L. No. 115-336, §3(a)(8), 132 Stat. 5025, 5026 (2018), *codified* at 44 U.S.C. § 3501 note.

⁵Exec. Order No. 14058, *Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government*, 86 Fed. Reg. 71357 (Dec. 16, 2021).

the consortium of companies participating in the program, to obtain their perspective on the taxpayer experience provisions of the Free File MOU.⁶

To identify potential challenges facing the program, we reviewed IRS data on the number of Free File returns prepared by participating companies, and data on the extent to which Free File program participants return the following year. We determined these data were reliable for the purposes of our report. We also interviewed IRS officials and stakeholders, as discussed below.

To identify alternative approaches for providing taxpayers with free electronic tax preparation and filing services, along with the potential advantages and disadvantages of each compared to the status quo, we first conducted a literature search. We searched relevant databases to identify studies published from January 2011 through September 2021.⁷ We also asked IRS officials and FFI officials for relevant studies. The studies we identified were used in conjunction with case studies of selected foreign and state revenue agencies we conducted in 2019 as part of an evaluation of online services IRS provides individual taxpayers.⁸

We selected four authors of the relevant studies representing a range of perspectives on the Free File program to interview. We asked each for their views on the benefits of the program, challenges it may face, and any recommendations for IRS and the Free File Program as well as other studies to consider. We use the term “stakeholders” throughout this report to refer to these authors because of their knowledge about or involvement with the Free File program or with tax administration more generally. Although their views are not necessarily representative of all stakeholders, they provided a range of perspectives on the program.

⁶In 2002, the organization’s name was the Free File Alliance, LLC. We will refer to it as FFI for clarity. See Internal Revenue Service, *Free Online Electronic Tax Filing Agreement* (Washington, D.C.: Oct. 30, 2002).

⁷An example of a database was ProQuest. We had also identified relevant studies during our background research and the authors of these studies were considered for possible selection.

⁸For the 2019 report, we selected three countries—Australia, New Zealand, and the United Kingdom—and three states—Alabama, California, and New York—because they offer multiple online services that allow revenue agencies and taxpayers to exchange personalized information electronically and for other considerations. The three countries were selected from among a group of countries participating in the Organization for Economic Cooperation and Development’s Forum on Tax Administration—an international forum intended to share leading practices among revenue agencies. To select individual countries, we considered recommendations from forum staff and also considered the availability of documentation in English. For more information, see [GAO-20-71](#).

To obtain historical perspective on the program, we interviewed a fifth stakeholder—the IRS Commissioner who oversaw its creation. While the former commissioner was unfamiliar with recent developments related to the program, our analysis determined that potential challenges he identified remain relevant today. As criteria for our review of the program, we relied upon IRS’s strategic goal of empowering taxpayers to meet their tax obligations and laws requiring many Americans to file a tax return as criteria.

We conducted this performance audit from May 2021 to April 2022 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Free File program provides free guided electronic tax preparation and filing services to taxpayers whose adjusted gross income is up to 70 percent of all U.S. taxpayers.⁹ For tax year 2021 (the 2022 filing season), IRS has set the adjusted gross income limit at \$73,000.¹⁰ Using the Free File program involves a number of steps for taxpayers who are willing and able to use a “do it yourself” method:

- From IRS’s website, taxpayers may go directly to a participating company’s website or they can use an IRS tool to determine which company’s website they should use, based on their characteristics and needs.
- On the selected company’s website, taxpayers answer questions about their tax situations. The company uses the responses to complete the required tax forms for the respective taxpayer.
- The taxpayer confirms the information is correct.
- The company electronically transmits the return to IRS.

⁹Adjusted gross income is a taxpayer’s income from all sources minus any adjustments or deductions. See 26 U.S.C. § 62.

¹⁰Taxpayers filing for tax year 2019 were eligible with an adjusted gross income of \$69,000 or less.

-
- IRS processes the return in the same manner as all returns filed electronically.¹¹

IRS refers to this experience as traditional Free File and it is the focus of this report.¹²

In 2002, IRS signed the original agreement for FFI to provide free electronic tax preparation and filing services for eligible taxpayers.¹³ This agreement created a marketplace to connect eligible taxpayers with tax preparation companies that were willing and able to prepare and electronically file a federal tax return at no cost to the taxpayer. In return, IRS agreed to not offer its own free, online tax return preparation and filing services. One likely reason why the companies participate in the program and provide free service is to help ensure the federal government does not create its own online tax filing system, which could then compete with them. For example, one company which chose to participate in Free File noted in one of its annual reports that a potential government-run online filing system could adversely affect its future financial results.¹⁴

IRS and FFI signed the first Free File program MOU in 2006, which expanded on the initial program requirements established in 2002. IRS and FFI have renewed the MOU seven times with modest changes (see appendix I for more information). The current MOU was scheduled to expire in October 2021; however, IRS and FFI agreed to a series of extensions. The most recent was announced in January 2022 and extends the MOU until October 2023.¹⁵

¹¹IRS employees must physically process paper returns.

¹²In addition to traditional Free File, the program also provides a service called Free File Fillable Forms delivered by one of the companies participating in Free File. However, this experience is different because a taxpayer completes the tax forms directly instead of by answering interview-style questions. The website only does the arithmetic for the taxpayer and then electronically transmits the return to IRS. This service is open to all individual taxpayers regardless of income, but IRS.gov directs eligible taxpayers to the traditional Free File program.

¹³IRS' *Intent to Enter Into an Agreement With Free File Alliance, LLC (i.e., Free File Alliance)*, 67 Fed. Reg. 67247 (Nov. 4, 2002).

¹⁴Intuit, *Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal year ended July 31, 2003*.

¹⁵2020 Amendment to the Eighth Memorandum of Understanding on Service Standards and Disputes between the Internal Revenue Service and Free File Inc. (December 2020); 2021 Amendment to the Eighth Memorandum of Understanding on Service Standards and Disputes between the Internal Revenue Service and Free File Inc. (December 2021).

As of January 2022, eight tax preparation companies participate in the Free File program: 1040Now.Net, ezTaxReturn.com, FreeTaxReturn.com INC, FileYourTaxes.com, On-Line Taxes at OLT.com, TaxAct, FreeTaxUSA, and TaxSlayer. Taxpayers can find a participating company's website by using the look-up tool on the IRS.gov Free File web page. This tool asks taxpayers questions about their tax situations and then provides links to the websites of participating companies which meet their criteria. Once the taxpayer chooses a company, the taxpayer is guided through the task of preparing a tax return on the selected company's website.

The Free File program has been a focus of oversight organizations, research groups, and the media. In 2019, a media outlet published a series of articles about how participating companies were marketing their Free File services, and the tax preparation and filing services they were selling outside of the program. Following this reporting, various entities, including the Senate Permanent Subcommittee on Investigations and the MITRE Corporation, conducted reviews of the program.

Subsequently, IRS and FFI agreed in an addendum to the MOU that participating companies would be prohibited from engaging in any practice that would exclude their Free File webpage from search engines.¹⁶ This is intended to ensure that taxpayers who wish to find the Free File program can do so. Further, there is now a requirement that taxpayers who used a participating company's Free File service the prior year will receive a "welcome back" email from the company inviting them to use Free File again.¹⁷ During the filing season, IRS provides a prominent link on its home page for information about Free File. It uses social media, news releases, and other communications to promote the program to potential users.

IRS pays neither FFI nor the companies participating in FFI for their services. Participating companies pay dues to FFI to cover its

¹⁶Addendum to the Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Inc. (December 2019) (2019 Free File MOU Addendum), para. 1.

¹⁷Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (October 2018) (2018 Free File MOU), para. 4.32.4.

administrative expenses.¹⁸ Originally, FFI and the participating companies agreed to provide services in exchange for IRS's commitment that it would not develop its own online tax return preparation and filing services. Securing IRS's agreement on that point was a priority for industry officials who stated that an IRS-run online filing system could adversely affect their commercial businesses. This provision was removed in a 2019 addendum to the MOU.¹⁹ Companies participating in FFI subsidize their costs through revenue generated from the services they provide to taxpayers not using Free File.

While providing free services may appear to be an unusual strategy for participating companies to pursue, the MITRE Corporation identified several possible incentives for companies to participate. For example, there may be marketing benefit, or an implied endorsement from IRS, for the company's name to appear on IRS.gov.²⁰ Additionally, a taxpayer who is initially eligible for Free File, but whose income grows or circumstances change so that the taxpayer becomes ineligible, may choose to stick with the same tax preparation and filing company and become a paying customer. The MOU contains requirements specific to the Free File program. It also incorporates by reference certain statutory and regulatory requirements that generally apply to all providers of electronic filing services.²¹ IRS's Wage and Investment Division oversees the Free File program and works with other IRS offices, such as the Office of Online Services to administer the program.

¹⁸The MOU refers to the participating companies as members. This report uses the term "participating companies" because a taxpayer using Free File views the entity as a company. This report uses the term "industry" to refer to all companies in the electronic tax preparation and filing sector of the economy.

¹⁹2019 Free File MOU Addendum, para. II.

²⁰IRS.gov states in more detailed information provided about the program that there is no endorsement of any participating company.

²¹2018 Free File MOU, para. 4.1.3(iv).

All executive agencies are required by statute to manage customer experience and improve service delivery using “best practices.”²² Congress, OMB, and the U.S. Digital Service have established various guidelines intended to improve federal agencies’ digital services. According to OMB guidelines, “[f]ederal websites and digital services should always meet and maintain high standards of effectiveness and usability and provide quality information that is readily accessible to all.”²³ The U.S. Digital Service Playbook reiterates this goal and states that “[t]he American people expect to interact with government through digital channels, such as websites, email, and mobile applications.”²⁴ As such, the U.S. Digital Service developed a set of guidelines that are drawn from successful practices to help government build effective digital services.

Customer experience is defined by OMB as a “combination of factors that result from touchpoints between an individual, business, or organization and the federal government over the duration of an interaction and relationship.” Some examples include ease, efficiency, equity, and transparency of the process; effectiveness and perceived value of the service itself; interaction with any employees; and perceived responsiveness to individual needs and feedback.²⁵ In December 2021, the President signed Executive Order 14058 which states that every interaction between the federal government and the public should be seen as an opportunity for the government to save an individual’s time; the customer experience should be driven by the voice of the customer; and that agencies must deliver services more equitably and effectively, especially for those who have been historically underserved.²⁶ OMB guidance uses filing a tax return as an example of an interaction where the federal government has an obligation to help citizens.

²²Pub. L. No. 115-336, § 6, 132 Stat. at 5027–5028. Specifically, the Chief Information Officer of each executive agency or a designee is required to, among other things, (1) coordinate and ensure alignment of the internal and external customer experience programs and strategy of the executive agency; (2) continually examine the digital service delivery strategy of the agency to the public and submit recommendations to the head of the agency providing guidance and best practices suitable to the mission of the executive agency; and (3) using qualitative and quantitative data obtained from across the agency relating to the experience and satisfaction of customers, identify areas of concern that need improvement and improve the delivery of customer service.

²³OMB, M-17-06 (2016).

²⁴U.S. Digital Service, “The Digital Services Playbook” accessed September 7, 2021, <https://playbook.cio.gov/#play1>.

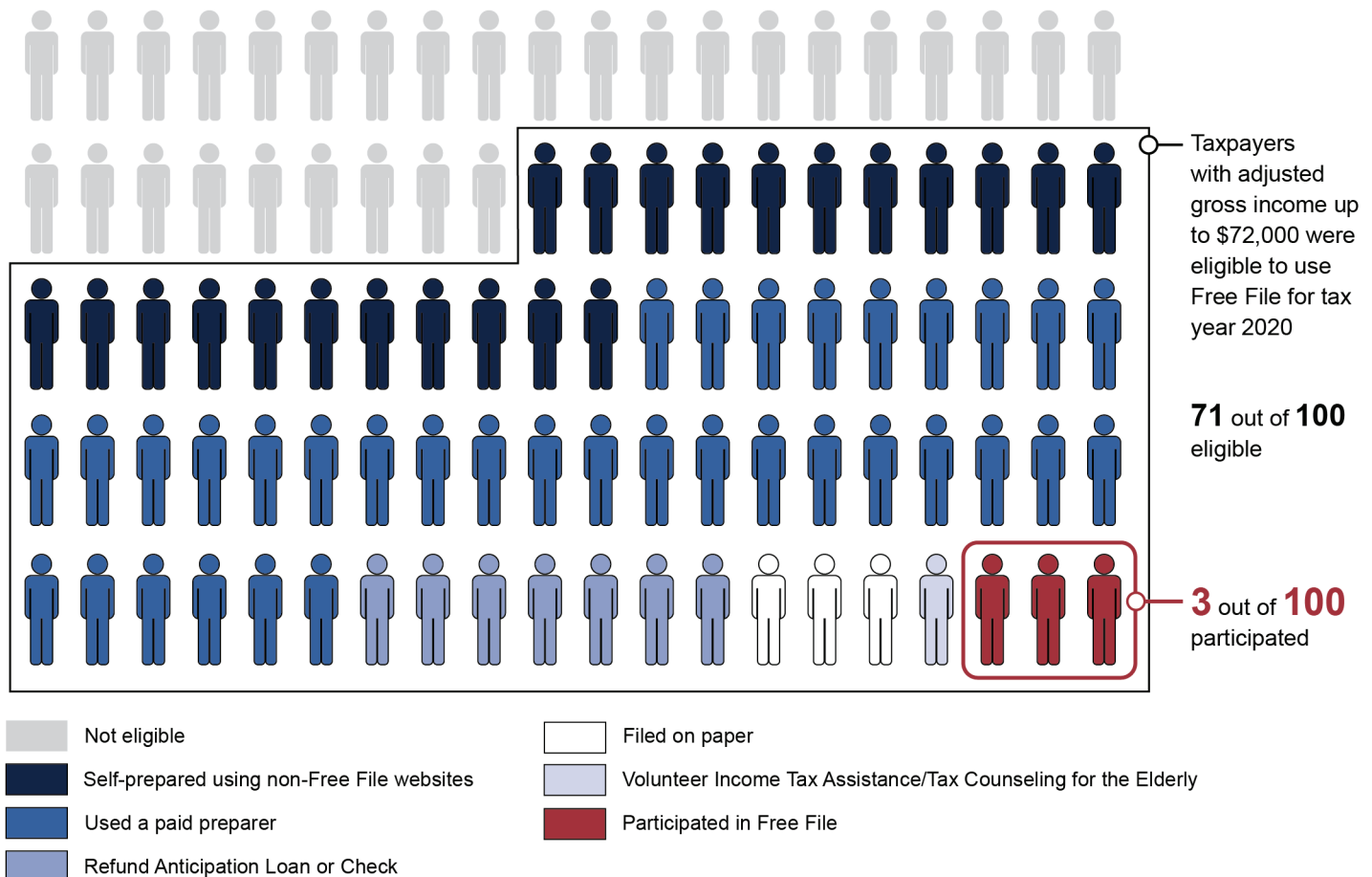
²⁵OMB, Circular A-11, pt. 6, § 280.3 (2021).

²⁶Exec. Order No. 14058, 86 Fed. Reg. at 71357–71358.

Few Eligible Taxpayers Use Free File and They Tend to Be Young, Have No Dependents, and Have Lower Income Levels

Although Free File is designed to serve the majority of taxpayers, few taxpayers participate in the program. For tax year 2020, approximately 4.2 million or about 4 percent of eligible individual taxpayers used the program to file their federal return. As shown in figure 1, this is about 3 percent of all individual taxpayers.

Figure 1: Individual Taxpayers' Filing Methods by Percentage of Returns for Tax Year 2020



Source: GAO analysis of IRS data. | GAO-22-105236

Notes: (1) Figures were rounded to have all filing methods add up to the percentage of eligible taxpayers. (2) While the target is 70 percent of individual taxpayers, 71 percent of taxpayers were eligible to use Free File for tax year 2020.

Most taxpayers who were potentially eligible for Free File used other options that likely would have required a fee to complete their tax returns. For example, using a paid preparer or self-preparing using a commercial website outside of the Free File program may require payment. Our analysis shows that for roughly every 71 taxpayers who qualified for Free File, approximately 64 used a filing method that may have required payment, with just seven out of 71 taxpayers using free methods. Other than Free File, the only other free filing methods are the Volunteer Income Tax Assistance or Tax Counseling for the Elderly programs and filing on paper.²⁷

FFI officials told us that taxpayers who use a commercial website outside of the Free File program may find an offer that allows them to complete their returns for free. Officials explained that a company may offer free tax preparation and filing outside of the program to sell ancillary services to taxpayers receiving the free assistance. However, companies are under no obligation to provide tax preparation and filing services for free outside of the IRS Free File program.²⁸

Our review of relevant research and discussions with IRS officials found no definitive answer as to why the majority of eligible taxpayers used another filing method. An IRS analysis of the benefits and costs of the Free File program suggested that taxpayer confusion and a lack of awareness about the Free File program may play a role in taxpayers' use of other filing methods. IRS's analysis found that taxpayers may confuse Free File with commercial products outside the program. The analysis also noted that commercial products are widely advertised unlike the Free File program.

The Department of the Treasury's (Treasury) Inspector General for Tax Administration reported in February 2020 that IRS had taken insufficient

²⁷These programs offer free in-person tax return preparation to individuals who generally make \$57,000 or less, persons with disabilities, limited English-speaking taxpayers, or persons who are 60 years of age or older. Filing on paper is free except for the cost of postage.

²⁸Participating companies have collectively provided IRS with the number of taxpayers who receive a free return outside of the Free File program; however, we are not reporting these figures because we could not verify the reliability of the process used to collect the underlying data.

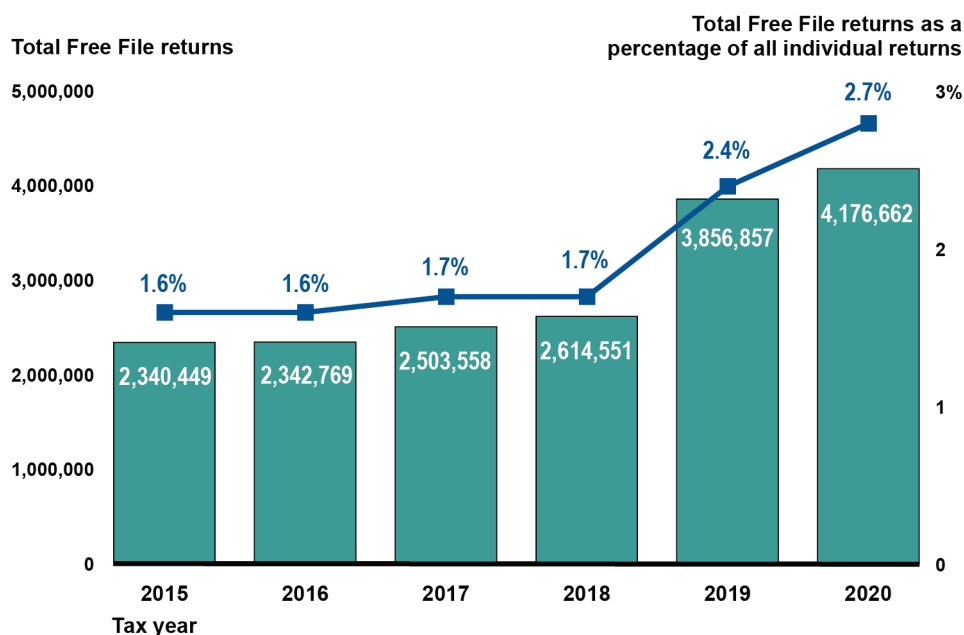
action to increase awareness of Free File, and that IRS lacked a formal strategy to promote the program.²⁹ Additionally, almost a third of Free File-eligible taxpayers surveyed who had paid a fee to file their taxes were unaware of Free File or how to access it. IRS agreed with the Inspector General's recommendation that it should develop a comprehensive communication plan. When asked about the status of this recommendation, IRS officials shared their 2020 Free File communication plan. The plan identified various marketing activities, including press releases, social media outreach, radio interviews, IRS.gov, and recorded messages for taxpayers waiting to speak with an IRS employee. IRS also sent 2.5 million postcards to paper filers encouraging taxpayers to switch to Free File in February 2021. IRS continues to promote the program through press releases, social media, and IRS.gov.

Use of Free File Is Growing but Remains Limited

The share of Free File returns has remained a small percentage of total individual tax returns filed during the 6 most recent tax years. However program usage experienced a substantial increase between tax years 2018 and 2020 as shown in figure 2.

²⁹Treasury Inspector General for Tax Administration, *Complexity and Insufficient Oversight of the Free File Program Result in Low Taxpayer Participation*, 2020-40-009 (Washington, D.C.: Feb. 3, 2020).

Figure 2: Number of Free File Returns for Tax Years 2015–2020 and as a Percentage of All Individual Returns



Source: GAO analysis of IRS data. | GAO-22-105236

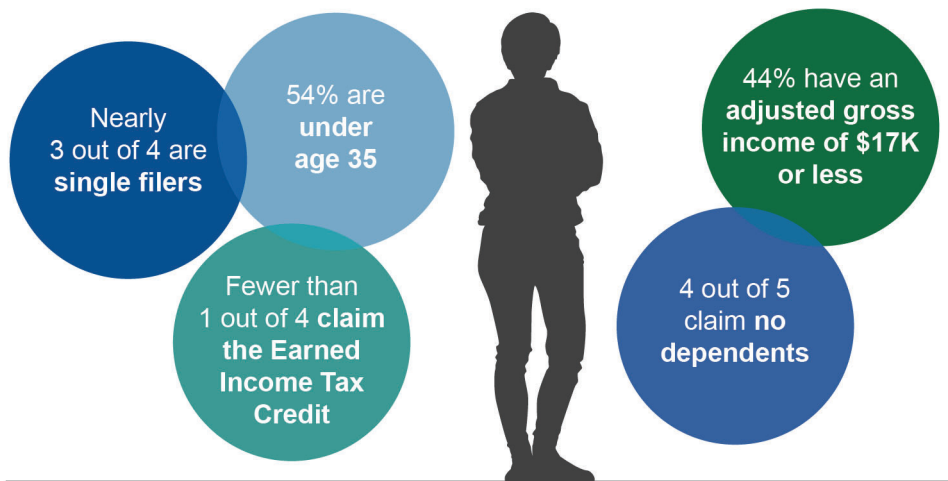
IRS officials stated that they believe the recent increase could be due in part to effects of the COVID-19 pandemic, and the resulting lower employment that may have given taxpayers an incentive to find free services and more time to investigate Free File. Additionally, the officials suggested that other possible explanations for the recent increase in participation could include IRS using social media to increase awareness of the program, and changes made to IRS.gov, which will be discussed later in this report.

IRS officials cautioned that there may be challenges in comparing the Free File participation rate across multiple years. This is because for tax years 2019 and 2020, millions of Americans who do not normally file a tax return filed a simple return outside of the Free File program to receive economic impact payments. These payments were distributed to eligible individuals to address financial stress due to the pandemic.³⁰

³⁰Pub. L. No. 116-136, § 2201, 134 Stat. 281, 335–340 (2020); Pub. L. No. 116-260, § 272, 134 Stat. 1182, 1965–1976 (2020); Pub. L. No. 117-2, § 9601, 135 Stat. 4, 138–144 (2021).

IRS prepares an annual analysis of the demographic characteristics of taxpayers who use Free File. IRS's most recent analysis is based on tax year 2019 data. The characteristics summarized in figure 3 for tax year 2019 were similar for tax years 2015 through 2018.

Figure 3: Selected Demographic Characteristics of Free File Taxpayers for Tax Year 2019

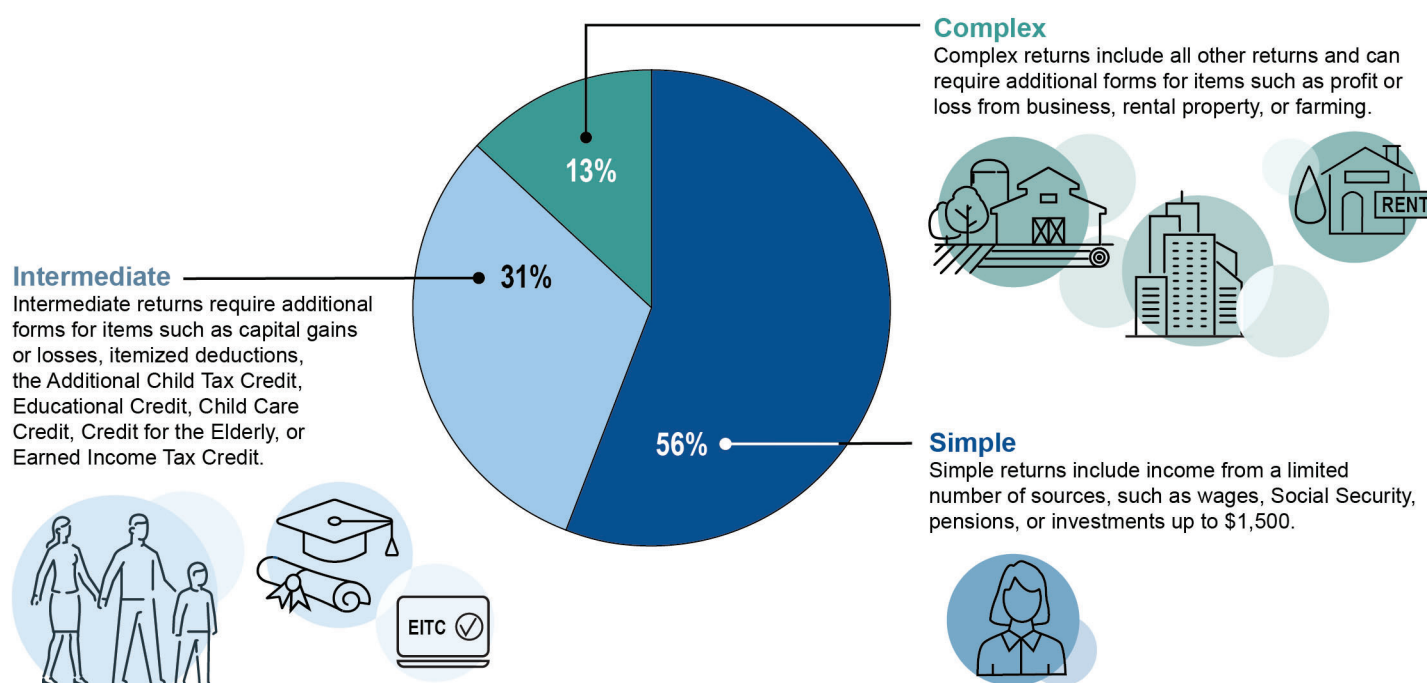


Source: GAO analysis of IRS data. Image from Rawpixel/stock.adobe.com. | GAO-22-105236

IRS collects demographic data that are directly related to administering the tax code. For example, a taxpayer's age, marital status, and whether the person has dependents may affect whether the taxpayer qualifies to use the standard deduction or itemize deductions. However, IRS officials noted that some demographic data, such as race and gender, are not collected because these characteristics are not needed to administer the tax code. The data IRS provided on the Free File program tabulate each demographic characteristic separately. The data provided are summary-level data and do not allow for analysis of the extent to which a characteristic, such as filing status, may be correlated with other characteristics, such as age. However, one potential factor that could contribute to the prevalence of single filing status is that eligibility for Free File is based on the adjusted gross income of the household filing a return. Married taxpayers who file a joint return and may have two incomes are still subject to the same income limit as a single filer.

Similarly, we were unable to determine how many Free File taxpayers were eligible for the Earned Income Tax Credit but did not claim it.³¹ IRS data provide some perspective on the extent to which Free File taxpayers claim credits and deductions by classifying returns into three levels of complexity. As shown in figure 4, IRS classifies a return as simple, intermediate, or complex based on which, if any, schedules are attached.

Figure 4: Percentage of Free File Tax Returns by IRS-Determined Levels of Complexity for Tax Year 2019



Source: GAO analysis of IRS data. Image from turbodesign/stock.adobe.com. | GAO-22-105236

Note: IRS defines the categories by accompanying schedules or additional forms associated with specific tax credits. Simple returns are without any schedules. Intermediate returns are with schedules A, B, D, and forms associated with the Additional Child Tax Credit, Educational Credit, Child Care Credit, Credit for the Elderly, or Earned Income Tax Credit. Complex returns are all other returns, including returns with schedules C, E, F, or other schedules.

Although the data show that the majority of Free File taxpayers file simple returns and do not claim dependents or tax credits, more than 40 percent of Free File taxpayers had intermediate or complex returns. For example, a Free File taxpayer who earns wage income and claims the Earned Income Tax Credit would be classified by IRS as having a return of

³¹Appendix I provides additional data on how many Free File taxpayers claim other tax credits for which IRS has data.

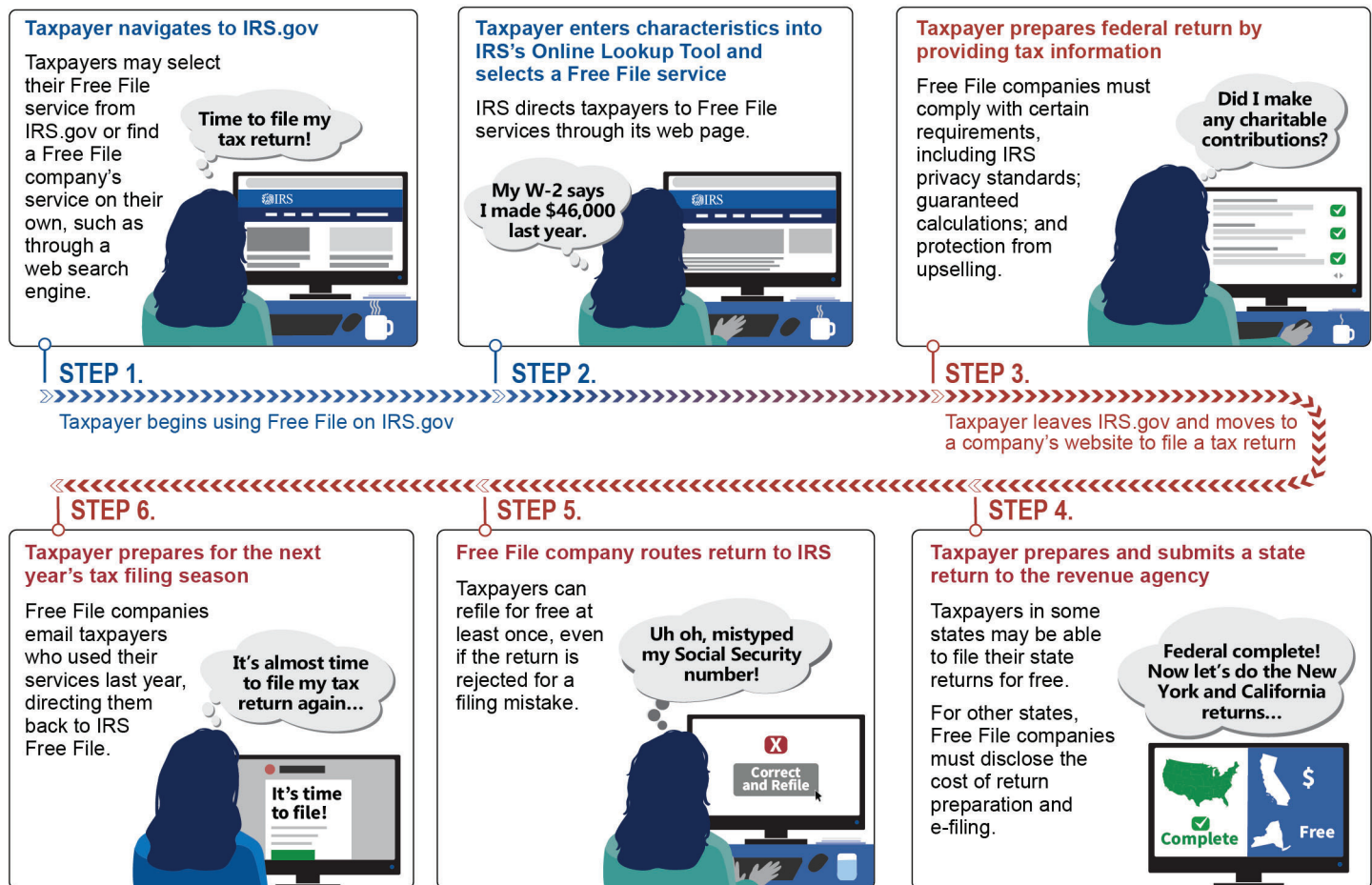
intermediate complexity. An example of a Free File taxpayer who could be classified as having a complex return might be an individual who earns wage income while also owning a rental property.

IRS Has Taken Steps to Improve the Taxpayer Experience with Free File, but Opportunities Exist to Better Align with Government-wide Guidelines

IRS Has Tried to Strengthen Taxpayer Experience Requirements in Response to Feedback

The Free File MOUs between IRS and FFI have contained a variety of requirements for participating companies which address taxpayer experience and other topics, such as security standards. The MOU has been periodically updated and renewed, including changes that strengthened the taxpayer experience requirements. We found that the current MOU and its 2019 addendum included 52 provisions that affect taxpayer experience. Our analysis of the MOU and IRS.gov identified six steps an eligible taxpayer may take to file a federal and, in some cases, state tax return. Each step is governed by requirements in the MOU which participating companies must follow (see figure 5).

Figure 5: One Taxpayer's Potential Journey through the Free File Program and Examples of Taxpayer Experience Provisions



Source: GAO analysis of IRS data. | GAO-22-105236

Note: Taxpayer may need to follow up with the state revenue agency if the state return is rejected.

As illustrated in the following examples, IRS has periodically negotiated changes to the MOU that have resulted in taxpayer experience improvements:

Prohibit the Marketing of Paid Products. Beginning early in the program's history, IRS and FFI changed the Free File MOU to limit participating companies' ability to market paid commercial products to Free File users. The original MOU allowed a participating company to offer a refund anticipation loan (RAL). RALs are short-term loans that provide taxpayers with the amount of their refund in advance subject to

finance charges and conditions.³² The original MOU also allowed participating companies to offer Free File users other paid commercial services unrelated to tax preparation.³³

IRS stated in a December 2006 news release that while a small percentage of Free File users surveyed reported purchasing an ancillary service, nearly half said they had not intended to do so.³⁴ In 2007, IRS and FFI agreed to explicitly prohibit companies from any selling activity with a few specifically defined exceptions, including certain state returns.³⁵ IRS and FFI also agreed to prohibit the use of RALs.³⁶ According to FFI and IRS leadership, eliminating the marketing of RALs and other ancillary services from the Free File program was a major step forward in improving the taxpayer's experience with the program.

IRS has continued to restrict participating companies from advertising paid services to taxpayers using their Free File websites. In 2018, IRS reached agreement with FFI to prohibit value-add buttons that link to commercial services of the participating companies and include paid products.³⁷ In a January 2019 press release, IRS stated that this change was "designed to improve the transparency of the program, and to make the navigation easier."³⁸ These requirements may mean that participating

³²Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC, (January 2006) (2006 Free File MOU), para. 4.2. For more information on RALs, see GAO, *Tax Refund Products: Product Mix Has Evolved and IRS Should Improve Data Quality*, [GAO-19-269](#) (Washington, D.C.: Apr. 5, 2019).

³³2006 Free File MOU, para. 4.12. Commercial services not related to tax preparation could be offered with the taxpayer's consent.

³⁴Internal Revenue Service, *RALs Removed on Free File; 93 Million Eligible for Program*, IR-2006-187 (Washington, D.C.: Dec. 5, 2006).

³⁵Second Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2007) (2007 Free File MOU), para. 4.28.

³⁶2007 Free File MOU, para. 4.28(c); 2018 Free File MOU, para. 4.32.3.

³⁷2018 Free File MOU, para. 4.32.6.

³⁸Internal Revenue Service, *IRS Free File opens today in advance of tax season: Changes strengthen program; Free File can also help navigate new tax law provisions*, IR-2019-02 (Washington, D.C.: Jan. 11, 2019).

companies must design the Free File sections of their websites differently from the commercial sections intended for paying customers.

Gather Feedback from Free File Taxpayers. The original MOU between IRS and FFI required participating companies to provide resources for surveying Free File users about their experiences with the program.³⁹ This requirement has continued through to the current MOU.⁴⁰ However, in 2018, the National Taxpayer Advocate found that IRS was not using these resources. This limited IRS's ability to oversee the program and make any necessary improvements.⁴¹

Following the Advocate's report, IRS and FFI re-committed in the 2019 addendum to surveying taxpayers "regarding their customer experience and satisfaction," and included more specific requirements for customer surveys.⁴² Participating Free File companies must now use a statistically valid method to randomly select and survey Free File users who completed the process of filing their tax returns and provide the results to IRS, which they did for the 2020 and 2021 filing seasons. The summary results FFI officials provided showed that taxpayers were generally satisfied with their experience. In addition, the vast majority said they would use Free File again.

Finally, while the MOU does not require IRS to survey taxpayers who used the IRS look-up tool to find a participating company, the Office of Online Services has introduced a random, voluntary user survey to gather real-time feedback about the tool. For the 2021 filing season, the Free File program staff held monthly meetings with the Office of Online Services staff to discuss these survey results and use them to improve the tool.

Regulate State Tax Return Marketing. Taxpayers' experiences with filing their state tax returns vary. Taxpayers with income in 22 states may use participating companies' state preparation and electronic filing services for free (see figure 6). The MOU says that FFI offers free

³⁹2006 Free File MOU, para. 4.26.8.

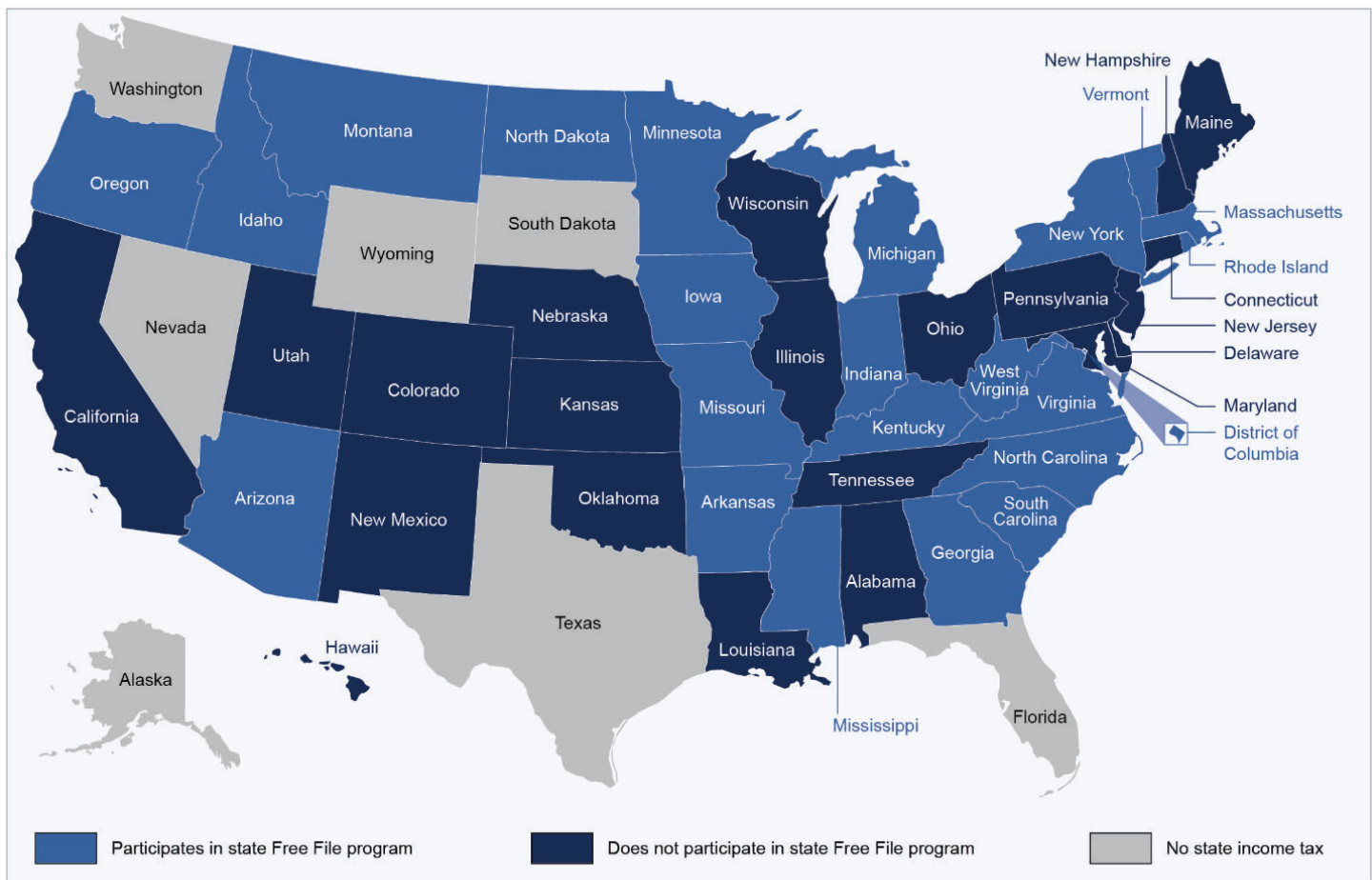
⁴⁰The MOU says they will provide the "necessary support." See 2018 Free File MOU, para. 4.28.

⁴¹The National Taxpayer Advocate, *Annual Report to Congress 2018*, vol. 1 (Washington, D.C.: 2018), 70.

⁴²2019 Free File MOU Addendum, para. VII.

preparation and electronic filing of state individual tax returns based on criteria materially consistent with the federal program. The MOU further says that these state governments do not provide taxpayer funded websites for preparing and filing a state tax return.

Figure 6: Availability of State-Level Free File Program as of 2021



Source: IRS, Free File, Inc., and GAO analysis of selected state laws and Tax Foundation documents. | GAO-22-105236

Notes: (1) While New Hampshire does not tax wage income, residents are required to pay income taxes on interest and dividend income. (2) As of January 1, 2021, Tennessee repealed its tax on dividends and interest. Thus, it no longer has income tax. (3) The District of Columbia no longer participates in the state-level free file program as of 2022. (4) Under state statute, as of January 1, 2022, Washington State taxes certain capital gains; however, a state court held in March 2022 that the statute violated the state constitution. Washington State is currently seeking direct review of the order by the Washington Supreme Court (Order Granting Plaintiffs' Motion for Summary Judgment and Denying Defendants' Motion for Summary Judgment at 3, *Quinn v. State of Washington* (No. 21-2-00075-09), 2022).

For taxpayers with income in the states that do not participate in the state Free File program, the MOU does not require FFI to provide free state tax filing services.⁴³ The MOU allows participating companies to charge taxpayers to prepare and file a state tax return for these non-Free File states—one of only two opportunities the MOU provides for participating companies to earn revenue.⁴⁴ However, IRS officials told us that two of the participating companies will prepare and file a return for any state with an income tax at no cost to the taxpayer.

While IRS has taken a number of steps to improve taxpayer experiences with the Free File program, some provisions remain in the MOU that can limit use of the program. For example, we found in 2019 that taxpayers in 21 non-Free File states may be able to prepare and file state tax returns on their state revenue agencies' websites.⁴⁵ However, the MOU prohibits IRS from providing links to these state revenue agency websites.⁴⁶

Further, another MOU provision says that if IRS were to provide such links, it would be grounds for FFI to immediately dissolve the obligations established by the MOU.⁴⁷ In other words, IRS cannot connect taxpayers with free state filing options without putting the entire program at risk. Documents IRS provided on its MOU negotiations with FFI do not discuss the reasons for these provisions. IRS's Advisory Council recommended the agency explore mandating that participating companies offer free state returns for all users either through the companies' websites or a free state electronic filing alternative.⁴⁸

IRS Has Expanded Free File Oversight Activities

IRS monitors participating companies' compliance with taxpayer experience requirements and has initiated new activities in recent years. Before the filing season begins, IRS officials visit each participating company's Free File web pages to perform and document checks to

⁴³2018 Free File MOU, para. 4.32.1.

⁴⁴The other selling opportunity participating companies have is that they may offer their paid federal tax preparation and e-filing commercial services to taxpayers who do not qualify for their Free File product. 2018 Free File MOU, para. 4.32.5.

⁴⁵[GAO-20-71](#). A change since the 2019 report is that FFI officials told us the District of Columbia no longer participates in Free File.

⁴⁶2018 Free File MOU, para. 4.21.

⁴⁷2018 Free File MOU, para. 4.22.

⁴⁸Internal Revenue Service Advisory Council, *Public Report*, Publication 5316 (Washington, D.C.: November 2018), 18.

ensure that the company is complying with a variety of MOU provisions, including 27 of the 52 taxpayer experience provisions.

We found that IRS's review focuses on taxpayer experience provisions that affect the quality of the service being provided or which limit participating companies' ability to market paid commercial products. For example, officials check that the company's service does not include a "value-add" button by looking for an icon, link, or any other functionality that would offer a Free File user access to the company's commercial products or services. Officials also conduct checks on other aspects of the websites, such as potential security vulnerabilities. However, an example of a provision IRS does not check is whether taxpayers with limited vision can complete the CAPTCHA authentication (a security check intended to prove a human is using the service) required by the MOU.⁴⁹ In preparing for the 2021 filing season, IRS documentation shows that reviewers encountered and resolved a variety of issues when testing participating companies' services. When IRS officials identify a discrepancy between the MOU requirements and the company's web page, officials say they work with the company to resolve it.

In addition to checking websites of participating companies, IRS also developed a program management plan in 2017 to better retain institutional knowledge about the Free File program. The management plan describes program activities and general timelines to prepare for each filing season, including a review for compliance with the MOU. The plan also identifies the IRS official or other party responsible for each task and the general time frame for initiating and completing the task.

While the management plan does include most of the important program oversight tasks, we found that it has not been updated to reflect new provisions in the 2019 addendum. For example, it neither mentions when IRS should receive customer satisfaction survey results from FFI nor how the agency should use this information as part of its oversight activities. IRS officials told us in early 2022 that they have not finished updating the plan due to resource constraints and recent retirements, but that they have started the task and expect to finish by June 2022. Officials told us they will review the current MOU and its 2019 addendum to identify which provisions are checked as part of their current compliance reviews and which other provisions, including taxpayer experience provisions, should

⁴⁹2018 Free File MOU, para. 4.6.8.

be checked for compliance. IRS officials said they plan to document which provisions they are unable to review and the reasons why.

Opportunities May Exist to Better Align the Taxpayer Experience of Free File with Guidelines for Federal Digital Services

IRS has used existing statutory authority to impose certain requirements on all tax preparation software providers, including providers participating in Free File.⁵⁰ However, any changes specific to the Free File program must be negotiated between IRS and FFI. IRS documentation shows that officials have compiled a list of recommended changes to the program. However, IRS is unable to implement many of these recommendations on its own. Based on the Free File agreement, implementing the recommendations first requires negotiation and agreement with FFI. These recommendations include changes that the National Taxpayer Advocate, the MITRE Corporation, the IRS Advisory Council, and Treasury Inspector General for Tax Administration have suggested to improve the taxpayer experience as well as other aspects of the program.⁵¹ For example, the Advisory Council's report prepared at IRS's request included a recommendation that the MOU be revised to limit third-party advertising on participating companies' websites. The council's members believed such activity may be confusing and potentially misleading depending on the content of the advertising.⁵² Other recommendations that would affect taxpayer experience also remain unaddressed.

Another emerging challenge is how to address guidelines OMB has issued on how agencies should improve the customer experience for those using federal digital services.⁵³ These guidelines are based on leading practices for online customer experience. While IRS officials emphasized that they address the 21st Century Integrated Digital Experience Act (21st Century IDEA Act) requirements on IRS.gov, IRS does not have plans to discuss with FFI officials how to address these

⁵⁰26 U.S.C. § 6011(e)(1). Specifically, electronically filed returns must be made in accordance with applicable revenue procedures and publications. See 26 C.F.R. § 301.6011-2; IRS Pub. 4164.

⁵¹National Taxpayer Advocate, 78; IRS Advisory Council, 17-18; MITRE Corporation, *Independent Assessment of the Free File Program: Free File Program Assessment Final Report* (McLean, Va.: October 3, 2019), xvi-xxii; and Treasury Inspector General for Tax Administration, 14-18.

⁵²IRS Advisory Council, 18.

⁵³OMB, Circular A-11, pt. 6, § 280.7 (2021); OMB M-17-06 (2016).

and OMB guidelines for participating companies' Free File websites. As private companies, they are not required to follow the OMB guidelines.

Our analysis identified several differences between MOU requirements and federal guidelines:

Optimizing Free File for Mobile Devices. The current MOU does not require participating companies to ensure their services are optimized for mobile devices. However, this is an area where Congress and OMB have signaled that agencies should improve. The 21st Century IDEA Act contains a provision requiring that new executive branch agency websites or digital services (or redesigns of legacy sites or services) be fully functional and usable on common mobile devices.⁵⁴ OMB guidelines contain a similar directive.⁵⁵

While the 21st Century IDEA Act and OMB guidelines do not apply to the companies that provide Free File's tax preparation and filing services, they do apply to the IRS.gov Free File look-up tool and related IRS.gov Free File web pages. Recent data show the importance of mobile optimization in the Free File program. In fiscal year 2021, visits from a mobile device or smart tablet made up nearly half of all visits to the IRS.gov Free File look-up tool according to IRS data. IRS officials suggested that some of these taxpayers may be browsing and not ready to prepare their return. IRS officials expressed skepticism that people use mobile devices to prepare and file their tax returns. However, according to data from the Pew Research Center, U.S. adults from low income households—a group that is eligible to use the Free File program—are more likely to rely on mobile devices to access the internet.⁵⁶

In December 2021, IRS officials told us they thought all the participating companies had mobile-friendly (optimized) web pages; however, IRS had only asked participating companies to report whether their websites are accessible on a mobile device. Making a web page accessible to a mobile

⁵⁴Pub. L. No. 115-336, § 3(a)(8), 132 Stat. at 5026.

⁵⁵OMB M-17-06 (2016), 6.

⁵⁶More than a quarter of U.S. adults from households with annual incomes lower than \$30,000 relied on smartphones for online access in 2021, according to the Pew Research Center. See, Pew Research Center, "Internet/Broadband Fact Sheet" (Washington, D.C.: Apr. 7, 2021), accessed December 9, 2021, <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/?menuitem=480dace1-fd73-4f03-ad88-eae66e1f4217>.

device is not the same as optimizing it for a mobile device. The latter task involves ensuring that a web page performs equally well on mobile devices and tablets as the site does for desktop users.⁵⁷ According to FFI officials, as of February 2022, seven of the eight participating companies' Free File services are mobile optimized.

Access for Taxpayers with Disabilities. The MOU contains one requirement addressing service for taxpayers who have disabilities. As mentioned above, the MOU requires participating companies to take steps so that taxpayers with limited vision can access and complete the authentication.⁵⁸ However, the MOU does not cover other issues that may affect taxpayers with disabilities, such as a person who may use a screen reader to navigate a website. FFI officials told us in February 2022 that they have not surveyed participating companies concerning the extent to which they may take additional steps to allow taxpayers with disabilities to use their Free File websites and have not compiled data on this topic.

The 21st Century IDEA Act includes a requirement that new or redesigned federal websites be accessible to individuals with disabilities.⁵⁹ OMB guidance says the experience in using federal services should be comparable for all users regardless of whether the person has a disability.⁶⁰

Languages and Free File. The MOU does not require participating companies to provide services in any foreign languages. According to IRS, a Spanish-language version of Free File is available.⁶¹ IRS's Commissioner has stated that IRS should serve taxpayers in many languages.⁶² According to IRS officials, the IRS.gov website is available in seven non-English languages: Spanish, Russian, Korean, Vietnamese, Simplified Chinese, Traditional Chinese, and Haitian Creole. Users can both navigate the website and access content in these languages.

⁵⁷OMB M-17-06 (2016), 6.

⁵⁸2018 Free File MOU, para. 4.6.8.

⁵⁹Pub. L. No. 115-336, § 3(a)(1), 132 Stat. at 5025. This provision references section 508 of the Rehabilitation Act of 1973, which is codified as amended at 29 U.S.C. § 794d.

⁶⁰OMB, M-17-06 (2016), at 15.

⁶¹The MOU states that participating companies that provide their services in Spanish should attach an indicator to those returns. 2018 Free File MOU, para. 4.25.

⁶²Internal Revenue Service, *IRS expands help to taxpayers in multiple languages with new forms, communication preferences*, IR-2021-56 (Mar. 16, 2021).

IRS.gov also features limited tax information in several additional languages, including Arabic, Portuguese, and Tagalog.

However, FFI officials told us few taxpayers use the Spanish language version of Free File. They expressed skepticism about the costs and benefits of adding additional languages. According to FFI officials, participating companies would only agree to offer Free File services in other languages if they provided commercial offerings outside the program in these languages.

IRS has made progress in implementing program recommendations and improving the taxpayer experience. It has collected more customer feedback, added a Spanish language Free File option, and restricted participating companies' ability to sell commercial products to Free File users. Pursuing further improvements, such as mobile optimization, accessibility, and non-English language versions, will require negotiation with FFI. The participating companies may view additional changes as burdensome, not commercially feasible, and not part of their existing commercial products. However, further implementing recommended taxpayer experience changes and incorporating leading practices from OMB's guidelines for federal digital services may allow IRS to further improve the program. Taxpayers who rely on the Free File program to file their federal tax returns—which is required by law and necessary to claim important government benefits such as the Earned Income Tax Credit and Child Tax Credit—may have a better experience to the extent IRS can successfully negotiate and implement these changes to the program.

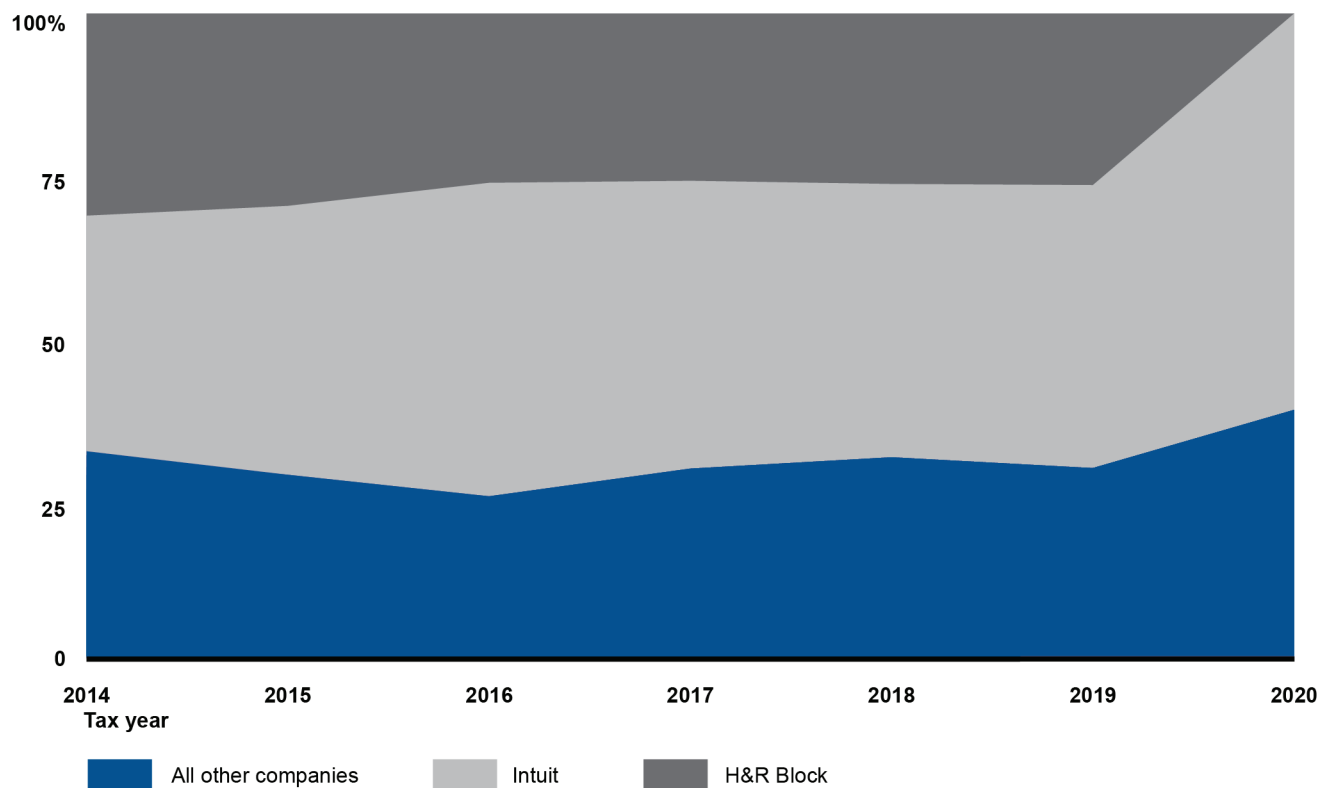
IRS Faces Mounting Risks by Continuing to Rely on Industry to Provide Free Tax Filing Services

The Largest Companies Have Stopped Participating in Free File

Between 2016 and 2021, IRS officials reported that five companies left the Free File program. Two of these companies—H&R Block and Intuit—together served approximately 70 percent of Free File taxpayers for tax year 2019, as shown in figure 7. H&R Block left the program at the end of the 2020 tax filing season (when taxpayers filed their tax year 2019 returns); Intuit left at the end of the 2021 season (when taxpayers filed their tax year 2020 returns).

Figure 7: Market Share of the Largest Companies Serving Traditional Free File Taxpayers between Tax Years 2014 and 2020

Percentage market share



Source: GAO analysis of IRS data. | GAO-22-105236

Note: The other companies participating in Free File, Inc. had smaller market shares and were consolidated into one category. For tax year 2020, there were eight companies consolidated.

The MOU between IRS and FFI states that a participating company may provide written notice that it does not wish to be listed on the Free File website, continue in the Free File program, or both.⁶³ The MOU also states that each participating company must make its services available to not less than 10 percent and not more than 50 percent of individual taxpayers.⁶⁴ In other words, no single participating company can offer its services to every eligible taxpayer. Despite this effort to prevent one

⁶³2018 Free File MOU, para. 6.1.5.

⁶⁴2018 Free File MOU, para. 4.1.3(i). This provision exempts active duty military personnel from this cap provided that their adjusted gross income is no more than 70 percent of all U.S. taxpayers.

company from dominating the program, the IRS Free File program was heavily dependent on two companies which are no longer participating in the program.

After noting its long participation in the Free File program, Intuit stated that it left the program due to “limitations of the Free File program and conflicting demands from those outside the program.”⁶⁵ For example, while Intuit wants to provide taxpayers with access to financial services, the company says the Free File program’s “focus [is] solely on tax preparation and [electronic] filing with strict requirements for user experiences.” Further, Intuit stated in a regulatory filing that its departure from the Free File program may increase the likelihood that the program ends. This could lead to IRS developing its own online filing system and competing with the tax preparation industry.⁶⁶ Intuit’s statement shows how efforts to strengthen the taxpayer experience may affect participating companies’ participation in the program, leaving taxpayers with fewer options.

H&R Block officials said on an earnings call in June 2020 that they will continue to offer opportunities for taxpayers to file for free outside of the Free File program. They said leaving was in the best interests of the company.⁶⁷ Representatives from both companies declined our request to discuss their experience in the program.

IRS and FFI officials told us they are confident that the remaining eight Free File companies will be able to handle the volume of returns during the 2022 filing season. Nonetheless, the number of companies in the Free File program, and thus the number of choices for taxpayers, is smaller.

⁶⁵Intuit, “Accelerating Technology Innovation to Better Help Consumers Solve Their Most Pressing Financial Problems,” (July 15, 2021). Available from <https://www.intuit.com/blog/news-social/accelerating-technology-innovation-to-better-help-consumers-solve-their-most-pressing-financial-problems/> (accessed August 31, 2021).

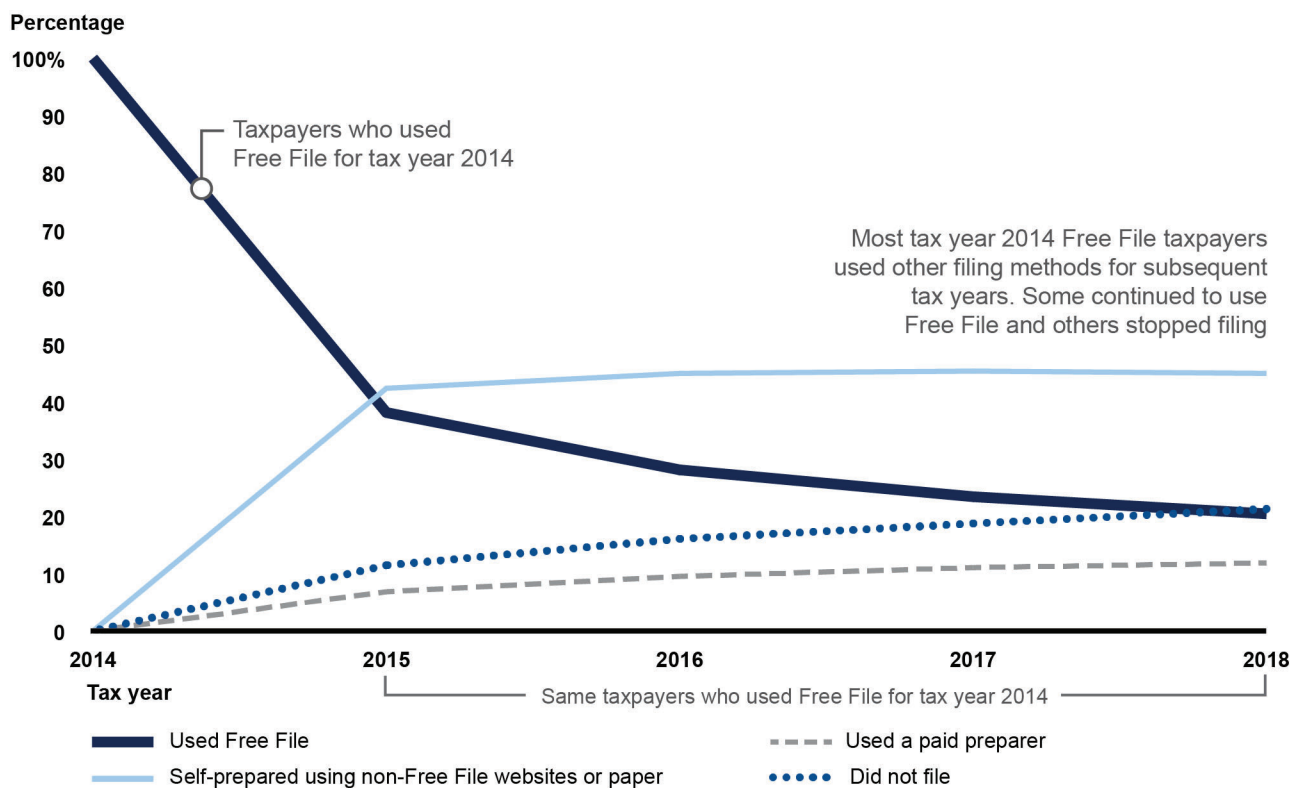
⁶⁶Intuit, *Form 10-K: Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934: For the fiscal year ended July 31, 2021* (Mountain View, Calif.: Sept. 8, 2021).

⁶⁷The Motley Fool Transcribers, “H&R Block, Inc. (HRB) Q4 2020 Earnings Call Transcript: HRB earnings call for the period ending April 30, 2020” (Alexandria, VA: Jun. 16, 2020), accessed January 18, 2022, <https://www.fool.com/earnings/call-transcripts/2020/06/16/hr-block-inc-hrb-q4-2020-earnings-call-transcript.aspx>.

Preliminary IRS data suggest that Intuit's departure from the program has coincided with a decrease in the number of taxpayers using Free File. As of April 12, 2022, IRS had accepted approximately 1.83 million Free File returns compared to approximately 2.85 million returns accepted at the same point during the 2021 filing season. The 2021 filing season was the final one Intuit participated in as a member of FFI. IRS's data do not track the extent to which Intuit's Free File customers from the 2021 filing season may have used another participating company's website. In addition, the data do not track the number of taxpayers who may have paid to continue filing with Intuit's commercial services. Some participating companies have had noticeable increases in taxpayers using their website through the Free File program during the 2022 filing season. However, the data show that none of the current participating companies have replaced the volume of Free File users who previously used Intuit's website.

Many Taxpayers Do Not Return to the Program

Another challenge the program faces is retaining Free File users. IRS data show that many taxpayers do not come back to the program. For taxpayers who used Free File for their tax year 2014 return, more than 40 percent of those continued to use a "do it yourself" method for the following year's tax return, but they used options outside of the program, as shown in figure 8. The pattern continues in the subsequent years.

Figure 8: Tracking Filing Methods of Taxpayers Who Used Free File for Tax Year 2014 across Later Years

Source: GAO analysis of IRS data. | GAO-22-105236

Note: A small proportion of taxpayers not shown in this figure subsequently used Free File Fillable Forms, the Volunteer Income Tax Assistance program, or Tax Counseling for the Elderly program.

IRS's data do not provide information on how many taxpayers may have seen their incomes increase, which could have made them subsequently ineligible for Free File. However, as noted earlier, the typical Free File user has an income well below the eligibility limit. This suggests that relatively few taxpayers would "outgrow" the program in a year. Regarding Free File users who no longer file a return, officials said possible explanations include a taxpayer who passes away or a single taxpayer who gets married and whose combined income then becomes higher than the Free File program limit. The officials also noted some taxpayers enter and leave the workforce. For example, a taxpayer may go back to school and no longer have an income high enough to trigger the filing requirement.

More recent IRS data show that the retention rate has improved. For tax year 2017 (the most recent available data), 56 percent of taxpayers returned to Free File to prepare their 2018 returns compared to 38

percent of tax year 2014 taxpayers who returned to the program in 2015. However, data are unavailable on the filing method these taxpayers used in subsequent years.

The MOU does not specify a goal for retaining taxpayers from year to year. IRS officials said their research shows that taxpayers tend to stick with the same filing method once they find one that works. Thus, some Free File taxpayers may follow the companies out of the program. Further, officials said taxpayers who leave the program may be finding free offers from companies outside the program. The IRS data do not track the extent to which taxpayers leaving the program found free offers elsewhere.

Stakeholders Differed on Whether IRS Should Continue to Rely on Industry or Develop Additional Online Filing Options

Our prior work reviewing the experiences of selected foreign countries and states, analysis of the literature, and discussions with stakeholders identified two plausible options for ensuring continued access to free tax preparation and filing services for a majority of taxpayers: (1) maintaining the status quo with Free File or a similar program, or (2) IRS developing its own online filing system for preparing and filing a return as a supplement or alternative to Free File.⁶⁸ These two options are not mutually exclusive. The MOU no longer prohibits IRS from offering its own online filing system, but we will discuss below a provision of the MOU which would present significant risks to the interests of IRS and taxpayers if the government funded an alternative system. Given that the law generally requires taxpayers to file a return, and because many federal benefits are only available to those who file, it is reasonable to expect the federal government to help citizens with their filing obligations at the lowest possible cost.

Potential Advantages of Continuing Free File. One stakeholder said that the Free File program has influenced tax preparation and software companies to be more civically minded than they would otherwise have been citing the filing services they provide for free outside of the program.⁶⁹ This stakeholder believed that the government has trouble keeping up with technology and said IRS has too few staff and resources. Further, this stakeholder suggested that policymakers consider how an IRS-run system could affect taxpayers who presently obtain a free federal return outside of Free File. The stakeholder noted that not all of these

⁶⁸GAO-20-71.

⁶⁹John N. Friedman, "The IRS Free File Program: Tip of the Iceberg for Free Federal Returns-Follow-Up Study: October 2015" [unpublished study.] The author states that the research was supported by funding from FFI.

taxpayers would immediately move to an IRS-run system. In addition, the stakeholder cautioned that an IRS-run system could discourage future innovation by the private sector.

While not all stakeholders agreed with the perspective summarized above, we heard from other stakeholders that the program has provided some benefits. For example, one stakeholder believed that the program helped increase electronic filing, which is widely recognized for reducing IRS's costs and helping reduce errors. Further, this stakeholder believed the program had improved collaboration between IRS, industry, and state revenue agencies in combating identify theft refund fraud.⁷⁰

Potential Advantages of IRS Developing Its Own Online Filing System. Three other stakeholders we spoke with had different perspectives and said IRS should help taxpayers prepare and file a return electronically more directly. For example, one stakeholder believed that IRS is in the best position to help taxpayers with low incomes, those with limited financial literacy, and those who speak a language other than English. This stakeholder noted that IRS will not try to sell additional services to taxpayers.

This stakeholder stated that IRS has an informational advantage compared to industry, referring to the data IRS receives from third parties, such as employers reporting wages paid to an employee. Two stakeholders discussed the possibility of IRS potentially prepopulating tax returns—which means that the revenue agency automatically enters third-party information into a taxpayer's return. Our analysis of the MOU shows that prepopulating tax returns potentially could be done within the existing Free File program. However, laws intended to ensure the privacy of taxpayer information would make it easier for IRS to offer this capability than industry. The 2015 and 2018 Free File MOUs encourage participating companies to incorporate information from the taxpayers' prior year return into the current year return when a taxpayer revisits the same company's website.⁷¹ For example, a taxpayer who lives at the same address could save time because that address would already be in

⁷⁰In 2015, IRS formed the Security Summit to protect the nation's taxpayers and the tax system from identity theft refund fraud. The summit has representatives from IRS, state tax administrators, and industry including the software industry, tax professional associations, and payroll and tax financial product processors. GAO, *Taxpayer Information: IRS Needs to Improve Oversight of Third-Party Cybersecurity Practices*, [GAO-19-340](#) (Washington, D.C.: May 9, 2019).

⁷¹2018 Free File MOU, para. 4.36.1; 2015 Free File MOU, para. 4.37.1

the system. FFI officials noted this is consistent with commercial practices.

Another provision of the 2015 and 2018 MOUs states that companies should incorporate technology that permits taxpayers to upload information from forms such as Form W-2 for wages paid and taxes withheld by employers and Form 1099 used to document miscellaneous income.⁷² This information is reported to both the taxpayer and IRS. Federal law generally prohibits IRS from sharing taxpayer information with outside entities.⁷³ This is why the taxpayer must upload the information to a participating company's website. FFI officials added that this same consideration applies to returns that industry prepares outside of Free File. Thus, IRS is in a stronger position than industry to pre-populate returns because it has direct access to taxpayer data.

Having IRS prepopulate returns would come with challenges, as a 2003 Treasury study reported.⁷⁴ Treasury found that many taxpayers surveyed were interested in having IRS prepare their returns, but noted that IRS would face challenges, including getting third-party data in a timely manner. Taxpayers would also need to check the returns IRS prepared for accuracy, which raises the possibility of refunds being delayed. According to the study, such a delay eroded support among taxpayers for this kind of approach. While these challenges remain relevant today and could make it difficult for IRS to reduce the taxpayer burden, some third party information is now provided to IRS earlier in the filing season. The Protecting Americans from Tax Hikes Act of 2015 moved the deadline for filing information returns for wages and nonemployee compensation forward to allow IRS to check the information before issuing refunds.⁷⁵

⁷²2018 Free File MOU, para. 4.36.2; 2015 Free File MOU, para. 4.37.2. This provision further states that FFI will make a good faith effort to obtain this technology for free and, if successful, will offer this technology to participating companies for free. It also allows participating companies to use their own technology for this purpose.

⁷³26 U.S.C. § 6103.

⁷⁴The Internal Revenue Service Restructuring and Reform Act of 1998 required Treasury to develop procedures for the implementation of a return-free system in the United States for "appropriate" individuals by 2007. Pub. L. No. 105-206, § 2004, 112 Stat. 685, 726 (1998). Department of the Treasury, *Report to the Congress on Return-Free Tax Systems: Tax Simplification Is a Prerequisite* (Washington, D.C.: Dec. 23, 2003).

⁷⁵Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div. Q, § 201, 129 Stat. 2242, 3076 (2015). Prior to enactment of the Act, the deadlines were the end of February for paper-filed returns and the end of March for electronically filed returns.

IRS Capacity and Potential Costs. Our discussions with the former IRS commissioner—a fifth stakeholder we interviewed and who oversaw the creation of the Free File program in the early 2000s—provides a cautionary perspective on IRS’s capacity to develop its own website. The former commissioner told us that IRS, in the early 2000s, lacked the capacity to develop tax return preparation and filing software comparable to industry. Furthermore, at that time, IRS was already having difficulty providing an acceptable level of service to taxpayers calling for assistance. Thus, it could not provide the necessary level of customer support for an IRS-developed tax preparation and filing system.

While the former commissioner did not consider Free File to be a completely satisfactory solution, he said it leveraged the companies’ concerns that IRS might establish its own online filing system to create a free option for eligible taxpayers. The former commissioner’s observations about IRS’s customer service challenges remain relevant today. We reported earlier this year that IRS has continued to struggle to provide customer service due to long-standing challenges exacerbated by the COVID-19 pandemic.⁷⁶

The MOU divides customer service responsibilities between participating companies and IRS. Participating companies are required to list their customer service options. The MOU stipulates that options listed must be free.⁷⁷ IRS is permitted to provide phone-based, web-based, or electronic customer service for issues once a return has been accepted by IRS.⁷⁸ Calls today can go to either IRS or participating companies depending on when the issue arises in the tax-filing process. If IRS took a more direct role in helping taxpayers file online, more taxpayers would likely call IRS seeking assistance.

Regarding potential capacity challenges for IRS, stakeholders who said IRS should help taxpayers prepare and file a return electronically more directly offered several comments. One stakeholder praised IRS’s Office of Online Services for its recent work. Further, stakeholders believed that IRS could gain additional capacity by collaborating with the U.S. Digital Service which helps agencies with specific modernization efforts.

⁷⁶GAO, *Tax Filing: Preliminary Observations on IRS’s Efforts to Address Persistent Challenges*, [GAO-22-105802](#) (Washington, D.C.: Feb. 17, 2022).

⁷⁷2018 Free File MOU, para. 4.15.4.

⁷⁸2018 Free File MOU, para. 4.36.4.

Stakeholders also mentioned Code for America as a not-for-profit organization which IRS could work with.⁷⁹ One stakeholder suggested IRS issue a request for proposals which would help it define the product. The stakeholder said that IRS could then work with other federal agencies or industry to develop the product.

IRS and Treasury's recent experience distributing economic impact payments and advanced payments of the expanded Child Tax Credit during the COVID-19 pandemic involved working with FFI and later with Code for America. In April 2020, IRS worked with FFI to develop a website where people who do not normally file a tax return could file simplified returns and receive their economic impact payments.⁸⁰ The new website was based on the Free File Fillable Forms website (also part of the Free File program) which helped accelerate the process.

While IRS and FFI's efforts helped millions of Americans quickly obtain their payments, we found that eligible individuals who relied on a mobile device faced challenges with accessibility and navigation.⁸¹ Further, we found this same challenge continued into the second year of the pandemic when in 2021 FFI developed for IRS the Child Tax Credit Non-filer Sign-Up Tool. An added challenge for some individuals was the absence of a Spanish-language version of the tool.⁸²

More recently, the Executive Office of the President and Treasury collaborated with Code for America to help taxpayers complete a simplified tax return to claim advance payments of the expanded Child Tax Credit. Code for America stated that its website is intended to offer new capabilities, such as being mobile friendly and providing more

⁷⁹Code for America, founded in 2009, is a civic tech nonprofit organization that focuses on improving government digital services for all.

⁸⁰IRS, *Treasury, IRS launch new tool to help non-filers register for Economic Impact Payments*, IR-2020-69 (Washington, D.C.: Apr. 10, 2020).

⁸¹GAO, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, [GAO-20-701](#) (Washington D.C.: Sept. 21, 2020).

⁸²GAO, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, [GAO-22-105051](#) (Washington, D.C.: Oct. 27, 2021).

guidance to help taxpayers understand the credit's requirements.⁸³ These examples illustrate new options that IRS and Treasury have used to expand their capacity to help Americans file a tax return and access social benefits.

In 2007, we examined the benefits and costs state revenue agencies experienced in developing their own systems for electronically filing a state tax return.⁸⁴ We found that states' costs for setting up their own electronic filing systems were modest and that the benefits varied depending on the number of taxpayers using the system. We also noted that IRS's costs could be higher given that the federal tax system is more complex and its potential to realize savings would depend, in part, on the cost and the number of taxpayers converted from paper to electronic filing. In 2021, IRS completed a benefit cost analysis of the Free File Program but did not estimate the cost to develop an alternative.

IRS Is Not Managing the Potential Risks of Its Current Reliance on the Free File Program

Currently, IRS does not plan to develop additional options for free online filing if participating companies in Free File continue to leave the program. In addition, there are limitations on its ability to do so. While the MOU originally contained a provision constraining IRS from trying to develop additional options to supplement or replace Free File, IRS and FFI agreed to remove this language in 2019. However, the 2018 MOU still contains another provision requiring IRS to notify FFI immediately if it commits funding "to offer services for free to taxpayers." FFI then has the option of promptly ending the MOU.⁸⁵ Such a decision on the part of FFI would end a guaranteed free filing option for taxpayers. Even if taxpayers who formerly used Free File found a website where they could prepare and file their returns for free, they would no longer benefit from the program's taxpayer experience provisions, such as restrictions on marketing paid products.

Compounding this issue is the risk IRS faces that individual companies can suddenly leave the Free File program, as the recent departures of

⁸³Code for America, "Ensuring Families Who Qualify for the Child Tax Credit Aren't Left Behind," (San Francisco, Calif.: August 5, 2021), accessed March 2, 2022, <https://codeforamerica.org/news/ensuring-families-who-qualify-for-the-child-tax-credit-arent-left-behind/>.

⁸⁴GAO, *Taxpayer Service: State Experiences Indicate IRS Would Face Challenges Developing an Internet Filing System with Net Benefits*, GAO-07-570 (Washington, D.C.: Apr. 5, 2007).

⁸⁵2018 Free File MOU, para. 10.3. This provision requires a transition period allowing the current filing season to be completed if IRS gives notice during the filing season.

H&R Block and Intuit illustrate. There is no requirement in the 2018 MOU that FFI or participating companies give notice to IRS if they are planning to leave the program. Thus, while IRS must notify FFI if it takes certain steps toward creating its own system for online filing, IRS risks sudden changes to the program from companies departing, which can affect taxpayer options. Indeed, three stakeholders we interviewed expressed concern that the structure of the Free File program makes IRS too dependent on industry.

The remaining provision described above also constrains IRS's efforts to respond to new developments. For example, the President signed an executive order in December 2021 that directed the Secretary of the Treasury to consider expanded automatic direct deposit refunds based on prior year tax returns, tax credit eligibility tools, and expanded electronic filing options.⁸⁶ IRS officials said in January 2022 that they yet to address this order, but noted that any decisions that would mean funding services for free to taxpayers would potentially jeopardize the Free File program. Without eliminating this remaining provision from the MOU, IRS will continue to be constrained in undertaking efforts to explore or develop additional online filing options for taxpayers.

IRS faces the risk of companies leaving Free File or other disruptions to the program because it has limited leverage over the participating companies. While there is always the risk that an arrangement between a company and federal agency will fail for some reason (e.g., the company declares bankruptcy), IRS is at particularly high risk because it does not pay FFI or the participating companies for their services. Initially, companies saw value in IRS pledging not to develop its own online filing system, but this provision was removed from the MOU.⁸⁷ Participating companies may have taxpayers referred to them by the IRS.gov Free File look-up tool, which may help boost their name recognition. However, beyond this referral service, IRS has little leverage in asking companies for a long-term commitment or additional taxpayer experience improvements. A breakdown of the program could leave some taxpayers scrambling to find another online filing option with a taxpayer experience comparable to Free File.

⁸⁶Exec .Order No. 14058, 86 Fed. Reg. at 71359.

⁸⁷2019 Free File MOU Addendum, para II.

One of IRS's strategic goals is to empower and enable all taxpayers to meet their tax obligations, which includes simplifying the processes for tax filing.⁸⁸ IRS also issued an information technology modernization plan in 2019 that includes an objective stating that IRS will expand digital options for individual taxpayers.⁸⁹ IRS's Taxpayer Experience Office has recently published a roadmap stating that expanding electronic filing options and making tax forms digital are among the top capabilities that could improve the taxpayer experience.⁹⁰

We have noted in prior work that a strategic plan should identify key external factors that could significantly affect the achievement of the agency's goals and objectives.⁹¹ Changes in the Free File program could present such risks to IRS, but there is no discussion of the program in IRS's current strategic plan. While IRS has signed short-term extensions of the MOU with FFI, there is no vision outlined for how IRS plans to move forward with the program and mitigate any potential risks. IRS's current MOU was recently extended through October 2023 with no changes and no plans for developing additional online filing options that could supplement the Free File program. IRS has not considered the potential risks of relying on companies to continue providing tax filing services for free. Strategic plans are intended to help agencies manage risks, but IRS's plan does not explain how it intends to persuade companies to continue participating in Free File, or what additional options could be pursued that would provide free online filing to taxpayers.

Developments since 2018 make such planning even more important. A provision of the MOU which FFI and companies used to view as compensation is gone. Two major companies, which served 70 percent of program users, have left the program. While the long history of the Free File program may make IRS officials believe it will continue, assuming that a program will continue is risky. Further, Treasury has shown in recent years that there may be potential opportunities to think more

⁸⁸Internal Revenue Service, *Strategic Plan: FY2018-2022* (Washington, D.C.: 2018).

⁸⁹Internal Revenue Service, *IRS Integrated Modernization Business Plan*, Publication 5336 (Washington, D.C.: April 2019).

⁹⁰Internal Revenue Service, *Taxpayer Experience Strategy Roadmap—Overview* (Washington, D.C.: Sept. 30, 2021).

⁹¹GAO, *Agencies' Strategic Plans Under GPRA: Key Questions to Facilitate Congressional Review*, [GAO/GGD-10.1.16](#) (Washington, D.C.: May 1, 1997).

broadly about organizations that may be able help taxpayers prepare and file tax returns online.

IRS's recent report to Congress on its taxpayer experience strategy briefly notes that the agency works with organizations which provide volunteer, in-person assistance in helping individuals who meet certain eligibility criteria complete a tax return. This example and Treasury's work with a not-for profit organization on an online filing system for taxpayers show that potential exists for exploring additional online filing options. Exploring such options could help millions of taxpayers who want to prepare and file their returns for free online while also ensuring IRS does not have to solely rely on the Free File program.

Conclusions

In 2022, IRS's Free File program will mark its 20th anniversary of providing free federal tax return preparation and electronic filing for taxpayers. The program has reduced the costs for eligible taxpayers, reduced IRS administrative costs by aiding the adoption of online filing, and facilitated access to critical social benefits, such as the Earned Income Tax Credit. The creation of the Free File Program in 2002 sent an important signal that it was time to move from paper to electronic filing.

The current Free File program presents a number of challenges for IRS and taxpayers. IRS has pursued some changes to improve the taxpayer experience, however additional opportunities to do so by incorporating guidelines for federal digital services are present. For example, these guidelines help taxpayers with disabilities access services. Negotiating and making such improvements to the taxpayer experience may come at the cost of certain companies deciding to no longer participate in the program. Two major companies departed in each of the previous 2 years, which challenges IRS's efforts to maintain the program. However, continuing to implement recommended taxpayer experience changes and incorporating leading practices from OMB's guidelines for federal digital services may allow IRS to further improve the program and provide the best taxpayer experience possible.

Looking ahead, stakeholders provided a range of views on whether industry or IRS can provide a better experience for taxpayers. One view is that government cannot effectively develop and manage technology solutions. So, IRS should continue to rely on industry to provide tax preparation and electronic filing services. Furthermore, IRS has long-standing challenges providing customer service, which is an integral component of online tax filing. Another view is that an IRS-run system could simplify tax filing by prepopulating tax returns and help low-income taxpayers access social benefits. These stakeholders believed IRS can

expand its capacity by working with other federal agencies and with organizations outside the government.

While both perspectives should be considered, IRS should work to manage the risk of taxpayers having fewer options to electronically file their federal taxes for free. IRS's mission is to help taxpayers meet their filing obligations. Ensuring that taxpayers have readily available options to file for free through IRS.gov is essential to achieving its mission. IRS's new taxpayer experience strategy demonstrates that IRS leadership has started to think more broadly about diverse strategic partnerships and innovative approaches to provide additional online filing options for taxpayers. By developing additional options, IRS can help ensure that the government secures ways for eligible taxpayers to prepare and file their tax returns online at no cost with a robust taxpayer experience.

Recommendations for Executive Action

We are making the following three recommendations to IRS:

The Commissioner of IRS should seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services, such as the 21st Century Integrated Digital Experience Act requirements regarding access for users with disabilities. (Recommendation 1)

The Commissioner of IRS should seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers. (Recommendation 2)

The Commissioner of IRS should, before the expiration of the current Free File MOU in October 2023, work with relevant stakeholders to identify and develop additional options for free online filing of tax returns that would reflect current guidelines for federal digital services. (Recommendation 3)

Agency Comments, Third-Party Views, and Our Evaluation

We provided a draft of this report to IRS for review and comment. In its comments, reproduced in appendix II, IRS agreed with our first recommendation to seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services.

IRS disagreed with our second recommendation to seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers. IRS stated that it believes this provision is necessary to maintain trust and transparency with industry. We understand IRS's concerns about maintaining trust in the program and our report recognizes officials' efforts to communicate and coordinate with FFI.

However, under the terms of the MOU, individual companies have always had the flexibility to leave the program if they choose, as Intuit and H&R Block did in recent years. In contrast, should IRS start to develop a supplemental or alternative option to Free File, the MOU gives FFI the option to end the agreement and the entire Free File program. This would cause even more disruption than the departure of individual companies as taxpayers would be left with no guaranteed free option until IRS completed work on developing an alternative. We continue to believe that IRS should work to eliminate this provision so that IRS can freely pursue new filing options for taxpayers as resources and technology permit. Eliminating the provision would in no way prohibit IRS from choosing to discuss its plans with FFI to maintain transparency and trust.

IRS also disagreed with our third recommendation to work with relevant stakeholders to identify and develop additional options for free online filing of tax returns. IRS stated that it currently does not believe a public free filing option would significantly improve the taxpayer experience and it does not have sufficient funding to do this. IRS leaves open the possibility that it would reconsider its position if Congress enacted new legislation and provided funding. We understand this would be a new area for IRS and it would likely take time for IRS to develop a high-quality service. However, we believe that IRS may be understating its potential to improve certain aspects of the taxpayer experience. As noted in the report, IRS has an information advantage over private tax preparation and filing companies that could simplify the filing process. Further, IRS would not necessarily need to develop new filing options on its own. Stakeholders we interviewed suggested ways IRS could address resource challenges by leveraging entities such as the U.S. Digital Service and Code for America.

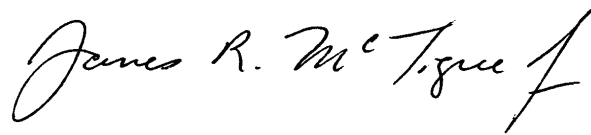
Also, IRS did not outline specific steps to mitigate the risks we identified. The departure of the two largest companies from the program raises questions about its continued viability. While IRS expressed concern about the resources required to develop an alternative, such concern needs to be weighed against the potential of an abrupt end to the program and the customer service challenges it would present. Working to identify and develop options in line with our recommendation could help IRS avoid such an outcome. IRS's new taxpayer experience strategy emphasizes the need to put taxpayers first and address their service expectations. Ensuring IRS is well positioned to offer free online filing services to taxpayers would help mitigate the risks and uncertainty associated with the Free File program.

IRS also provided technical comments, which we incorporated as appropriate.

We provided relevant sections of this report to FFI officials for review and comment. They provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Commissioner of the IRS, the Executive Director of FFI, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or mctiguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



James R. McTigue, Jr.
Director, Tax Policy and Administration, Strategic Issues

Appendix I: Additional Demographic Characteristics of Taxpayers Who Have Recently Used the IRS Free File Program

The Internal Revenue Service (IRS) and Free File, Inc. (FFI) signed the first Free File program memorandum of understanding (MOU) in 2006. This agreement expanded on the initial program requirements established in 2002. IRS and FFI have renewed the MOU seven times with modest changes.¹

Among the states, Oregon has the highest participation rate with 3.8 percent of its taxpayers using the Free File program for their federal returns. New Jersey has the lowest rate at 1.7 percent (see table 1). States participating in the Free File program had on average 3.0 percent of their taxpayers participate in the federal Free File program. This compares to an average of 2.5 percent of taxpayers participating in the remaining states with a state income tax, but not part of the program. Tables 2 and 3 show the percentage of taxpayers who used Free File and claimed the education tax credit or child and dependent care expenses—two tax provisions for which IRS tracks usage among Free File users.

¹IRS and FFI officials continue to sign documents called agreements. In recent years, the more detailed taxpayer requirements are established in the MOUs which are referenced in the agreements. There have been eight MOUs in total. Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC, (January 2006) (2006 Free File MOU); Second Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2007) (2007 Free File MOU); Third Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2008); Fourth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (January 2009) (January 2009 Free File MOU); Fifth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (November 2009); Sixth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File Alliance, LLC (May 2014); Seventh Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (March 2015); Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (October 2018) (2018 Free File MOU). The 2018 Free File MOU has had one Addendum which contains taxpayer experience provisions. Addendum to the Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Inc. (December 2019) (2019 Free File MOU Addendum).

**Appendix I: Additional Demographic
Characteristics of Taxpayers Who Have
Recently Used the IRS Free File Program**

Table 1: Free File Returns by U.S. State Tax Year (TY) 2020

State	Total Free File Returns TY 2020	Total Individual Returns TY 2020	Free File Returns as a Percentage of Individual Returns TY 2020
Alabama	56,779	2,115,582	2.7%
Alaska†	8,458	340,098	2.5%
Arizona*	105,774	3,277,692	3.2%
Arkansas*	40,827	1,285,632	3.2%
California	425,706	18,426,530	2.3%
Colorado	77,788	2,791,298	2.8%
Connecticut	38,114	1,772,618	2.2%
Delaware	12,450	476,936	2.6%
District of Columbia*	10,683	332,885	3.2%
Florida†	249,815	10,640,982	2.3%
Georgia*	149,365	4,744,980	3.1%
Hawaii	14,339	669,903	2.1%
Idaho*	25,291	827,705	3.1%
Illinois	145,415	5,975,821	2.4%
Indiana*	105,389	3,200,594	3.3%
Iowa*	35,032	1,493,924	2.3%
Kansas	33,517	1,343,606	2.5%
Kentucky*	60,191	1,989,082	3.0%
Louisiana	55,414	1,981,984	2.8%
Maine	19,836	673,852	2.9%
Maryland	71,599	2,911,580	2.5%
Massachusetts*	82,744	3,435,229	2.4%
Michigan*	126,026	4,799,428	2.6%
Minnesota*	76,710	2,767,102	2.8%
Mississippi *	42,188	1,274,218	3.3%
Missouri*	89,740	2,841,019	3.2%
Montana*	16,415	527,402	3.1%
Nebraska	22,672	917,728	2.5%
Nevada†	37,266	1,512,182	2.5%
New Hampshire	17,338	706,469	2.5%
New Jersey	76,026	4,421,963	1.7%
New Mexico	28,631	944,729	3.0%
New York*	262,115	9,654,456	2.7%
North Carolina*	150,388	4,772,821	3.2%
North Dakota*	9,367	361,373	2.6%

**Appendix I: Additional Demographic
Characteristics of Taxpayers Who Have
Recently Used the IRS Free File Program**

State	Total Free File Returns TY 2020	Total Individual Returns TY 2020	Free File Returns as a Percentage of Individual Returns TY 2020
Ohio	174,065	5,687,137	3.1%
Oklahoma	50,253	1,679,721	3.0%
Oregon*	75,753	1,981,180	3.8%
Pennsylvania	164,047	6,263,996	2.6%
Rhode Island*	13,825	551,904	2.5%
South Carolina*	78,163	2,370,831	3.3%
South Dakota†	10,066	428,821	2.3%
Tennessee	91,866	3,171,326	2.9%
Texas†	311,079	13,162,304	2.4%
Utah	38,361	1,424,717	2.7%
Vermont*	11,326	328,606	3.4%
Virginia*	131,052	3,978,838	3.3%
Washington†	107,585	3,676,285	2.9%
West Virginia*	24,825	786,935	3.2%
Wisconsin	78,693	2,877,689	2.7%
Wyoming†	5,903	274,598	2.1%
Other ^a	30,392	1,010,292	3.0%
Total	4,176,662	155,864,583	

Source: GAO analysis of IRS data. | GAO-22-105236

Notes: 1) One asterisk (*) indicates a state with a Free File program. 2) A dagger mark (†) indicates a state without an income tax. 3) The District of Columbia no longer participates in the state-level free file program as of 2022.

^a“Other” includes domestic foreign military bases (Armed Forces Americas, Armed Forces Europe, Armed Forces Pacific), domestic territories and possessions, and foreign countries/unknown state codes.

Table 2: Education Tax Credit Claimed Tax Year (TY) 2019 Free File Returns

Education Tax Credit	Number of Free File Returns TY 2019	Percentage of Free File Returns TY 2019
Education Tax Credit Claimed	269,389	7
No Education Tax Credit Claimed	3,587,468	93

Source: GAO analysis of IRS data. | GAO-22-105236

**Appendix I: Additional Demographic
Characteristics of Taxpayers Who Have
Recently Used the IRS Free File Program**

Table 3: Child and Dependent Care Expenses Claimed Tax Year (TY) 2019 Free File Returns

Child & Dependent Care Expenses	Number of Free File Returns TY 2019	Percentage of Free File Returns TY 2019
Credit for Child and Dependent Care Expenses Claimed	76,045	2
Credit for Child and Dependent Care Expenses not Claimed	3,780,812	98

Source: GAO analysis of IRS data. | GAO-22-105236

Appendix II: Comments from the Internal Revenue Service



DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 11, 2022

Mr. James R. McTigue
Director, Tax Policy and Administration
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. McTigue:

I have reviewed the draft report entitled *Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free* (GAO-22-105236) and appreciate the opportunity to provide comments.

The 2022 filing season will mark the twentieth year of the IRS Free File Program providing free online tax filing options to taxpayers through a unique public-private partnership with a consortium of private tax preparation software companies. The services provided through the Free File Program include online guided tax preparation and filing, and a fillable forms product. This program serves as a gateway to help taxpayers meet their tax obligations by providing greater access to taxpayers, with an emphasis on meeting the needs of economically disadvantaged and underserved populations, at little to no cost for the federal government.

During the pandemic, we collaborated with Free File Inc. (FFI) and industry partners to assist qualifying individuals, who did not otherwise have a filing requirement, obtain Economic Impact Payments and advanced payments of the Child Tax Credit. These individuals were offered the opportunity to provide the basic information needed to determine their eligibility for the two initiatives and to issue the payments. This service was provided at no cost to the participants through the Free File program.

We take the concerns discussed about the Free File Program in the report seriously. We appreciate the Government Accountability Office's assessment of the program and the value it provides to taxpayers. The IRS continues to collaborate with the FFI to identify and explore ways to better help low-income to moderate-income taxpayers. The IRS is also looking at opportunities to promote the Free File Program and improve the overall taxpayer experience.

**Appendix II: Comments from the Internal
Revenue Service**

2

Our responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact Dietra D. Grant, Director, Customer Account Services, at 470-639-3504.

Sincerely,

Douglas W.
O'Donnell

 Digitally signed by Douglas W.
O'Donnell
Date: 2022.04.11 16:42:22 -04'00'

Douglas W. O'Donnell
Deputy Commissioner for
Services and Enforcement

Enclosure

Appendix II: Comments from the Internal Revenue Service

Enclosure

Recommendations for Executive Action

We are making the following three recommendations to IRS:

RECOMMENDATION 1

The Commissioner of IRS should seek agreement with FFI on incorporating recommended taxpayer experience improvements and relevant practices from guidelines for federal digital services, such as the 21st Century IDEA Act requirements regarding access for users with disabilities.

COMMENTS

We agree with this recommendation. The IRS will continue to look at opportunities to improve both the taxpayer experience and satisfaction with the Free File Program. We will discuss with Free File, Inc. (FFI), possible areas of improvement to enhance the taxpayer experience with using digital services.

RECOMMENDATION 2

The Commissioner of IRS should seek agreement with FFI on eliminating the MOU provision requiring IRS to notify FFI immediately if it commits funding to offer services for free to taxpayers.

COMMENTS

We disagree with this recommendation. In the spirit of the public-private partnership that has existed over the last 20 years, we believe this provision, which requires notification but does not prohibit the IRS from developing its own service offerings, is necessary to maintain a level of trust and transparency with our industry partners.

RECOMMENDATION 3

The Commissioner of IRS should, before the expiration of the current Free File MOU in October 2023, work with relevant stakeholders to identify and develop additional options for free online filing of tax returns that would reflect current guidelines for federal digital services.

COMMENTS

We disagree with this recommendation. Currently, the IRS does not believe a public free-filing option would significantly improve the taxpayer experience nor do we have sufficient funding to develop this solution. If new legislation and funding were approved, then the IRS would expect to assess the feasibility and utility of offering additional free tax preparation and filing options.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

James R. McTigue, Jr., (202) 512-6806 or mctiguej@gao.gov.

Staff Acknowledgments

In addition to the individual named above, Jason Vassilicos (Assistant Director), Michael O'Neill (Analyst in Charge), Zachary Conti, Gina Hoover, Roshan Khan, Amalia Konstas, Krista Loose, Andrew J. Stephens, Leanne Violette, and Alicia White made significant contributions to the report.

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RX 79



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Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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State of California
Franchise Tax Board

Introduction

ReadyReturn is a free direct-to-government filing option that uses wage and withholding data that we already have in our databases to provide a pre-filled state income tax return to taxpayers who file simple returns. Taxpayers may accept the return as completed, make any needed changes, and e-file directly to us, or choose to use another filing method entirely.

The information on the ReadyReturn comes from:

- The name and address information from our account records.
- The filing status, exemptions, and number of dependents from the taxpayer's previous year California individual income tax return.
- The current tax year wage and withholding information that employers report to the Employment Development Department (EDD).

FTB deployed the ReadyReturn program as a pilot for tax years 2004 and 2005. Following the completion of the pilot, the three-member Franchise Tax Board directed staff to offer the program to all eligible taxpayers, beginning with tax year 2007.

ReadyReturn has grown in popularity by over 600 percent since its first fully implemented filing season. In 2007, 10,945 ReadyReturns were filed, and in 2013, 77,611 ReadyReturns were filed.

In 2014, approximately 2 million taxpayers qualify for ReadyReturn. The service is available from January 2, 2014 through December 15, 2014. We will update ReadyReturn with final 2013 wage information from January 14, 2014 through December 14, 2014.

For more information, go to ftb.ca.gov and search **ReadyReturn**.



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Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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Tax Board

Eligibility

About 2 million taxpayers are eligible in 2014. Taxpayers may qualify for ReadyReturn if they filed a 2012 California resident return with:

- Single or head of household filing status.
- Income only from wages.
- No more than five dependents.
- No credits other than the renter's credit.
- Standard deduction.

In 2013, eligible taxpayers must have had only one employer and earned less than \$172,615 if single, or \$258,927 if head of household. Taxpayers who can claim the blind or senior exemption, or can be claimed as a dependent on another person's tax return, qualify for ReadyReturn.

How does a taxpayer find out if they are eligible?

We offer two ways for taxpayers to find out if they qualify:

- **Online** – Go to ftb.ca.gov/ReadyReturn and enter their last name and social security number. Taxpayers can sign up to receive an email once their ReadyReturn is available.
- **By phone** – Call 800.338.0505. Select Personal Income Tax, and then select ReadyReturn. Taxpayers enter their social security number and mailing address.

Does a taxpayer have to use ReadyReturn if they qualify?

No. ReadyReturn is a voluntary program. Taxpayers can choose to use ReadyReturn or the filing method of their choice.



**Your California tax return,
ready and waiting for you.**

Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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Revenue Tax Board

Benefits

Taxpayer benefits:

- Free – Direct-to-government e-filing option.
- Fast – Refunds usually in less than one week with direct deposit.
- Easy – Login, review and make changes, then submit.

State benefits:

- ReadyReturn speeds up return processing because the initial information already matches our records.
- ReadyReturn saves the state money by reducing the number of return correction notices we need to mail.
- ReadyReturn introduces taxpayers to e-file, which saves the state \$2.25 per return.

For more information, go to ftb.ca.gov and search **ReadyReturn**.

Testimonials

"I found ReadyReturn to be very simple to use and it made me feel more secure knowing that I was actually using a government site and not a third party. I will use ReadyReturn again next year. Made filing easier."

"Easy to understand and navigate secure web based forms made filing a snap! I will use ReadyReturn in the future for sure dude! "

"Very Easy, took me literally three minutes!!!"

"I am very, very grateful that the FTB provides this service to people like me, who cannot afford the price it costs to file a State tax return. Thank you."

"Nice to see that the return amount was exactly what it would have been had the website I had gone to originally been able to get over its issues. This was free and fast. Thank you."



**Your California tax return,
ready and waiting for you.**

Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



Connect With Us



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Tax and Finance Tax Board

FAQs

How much do taxpayers pay to use ReadyReturn?

Nothing. ReadyReturn is free e-file for all taxpayers who qualify to use it.

What software is required to use ReadyReturn?

- Adobe Reader to view and print the return. Taxpayers can download the latest version of Adobe Reader for free from [Adobe](#).
- A [compatible browser and operating system](#).

What should a taxpayer do if their ReadyReturn is not correct?

Because ReadyReturns are based on information from the taxpayer's previous tax return, some information may have changed. ReadyReturn guides the taxpayer through changing their address, reporting additional income, itemizing their deductions, and claiming tax credits they qualify for.

Why are some ReadyReturns not ready?

We begin updating our records on January 14, 2014. After that, we update our wage information every day. However, when we receive taxpayers' individual information depends on when their employer provides it to the EDD.

Employers are required to provide taxpayers with their Form W-2 by January 31. Employers often provide this information to EDD around the same time they mail it to taxpayers. We generally receive about 50% of all taxpayer wage information by mid-February, with 90% of the information received by mid-March. Taxpayers can provide an email address where we can reach them once their ReadyReturn is available. We will send a letter to taxpayers who do not provide an email address.

When can a taxpayer expect their refund with ReadyReturn?

Taxpayers can expect their refund in less than one week when they e-file their ReadyReturn and choose direct deposit.

If taxpayers owe money, can they use ReadyReturn?

Yes. Taxpayers who use ReadyReturn and owe money, can choose to pay by check, credit card, or send the payment electronically with their return. They can e-file their return now, and schedule their electronic payment for a later date. The taxpayer can also visit our website and use [Web Pay](#) to make a payment after they use ReadyReturn to e-file their return.

[More FAQs on our website](#)



**Your California tax return,
ready and waiting for you.**

Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



Connect With Us



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Revenue and Tax Board

Statistics and Feedback

Statistics for Tax Year 2012:

- 2 million taxpayers were initially eligible.
- 1 million returns were “readied” (meaning they hadn’t already filed and had not been excluded for any reason when we received their 4th quarter data).
- More than 77,000 ReadyReturns filed.
- Projections: 80,000 for tax year 2013.
- CalFile* and ReadyReturn made up 11% of all do-it-yourself e-file returns filed in 2013.

ReadyReturn user feedback for Tax Year 2012:

- **99%** stated they were satisfied with ReadyReturn.
- **97%** stated this is the type of service government should provide.
- **96%** stated it was more convenient than how they filed in the past.
- **95%** stated it saved them time.
- **97%** stated they would use it again.

Program Costs

- Annual Maintenance: \$80,000.
- Average Cost to Process a ReadyReturn: **\$0.34**.
- Average Cost to Process a Paper Return: **\$2.59**.
- ReadyReturn is expected to produce a net savings in 2014:

Cost to Process if Filed on Paper (80,000 x \$2.59)	\$207,200
Cost to Process ReadyReturns (80,000 x \$0.34)	\$27,200
Estimated Cost Savings/Avoidance	\$180,000
Projected 13/14 ReadyReturn Maintenance Costs	\$80,000
Net Savings to State due to ReadyReturn	\$100,000

* CalFile is FTB's secure, free, direct, online program for taxpayers to complete and e-file their personal income tax returns.



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Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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California
Franchise Tax Board

Article

Available to copy and use in your newsletter, publication, or website.

Franchise Tax Board's ReadyReturn Simplifies State Tax Filing

A Free, Pre-Filled California Tax Return May Be Ready and Waiting Online

The Franchise Tax Board (FTB) offers ReadyReturn, a free, direct-to-government filing option that presents taxpayers with a pre-filled tax return online for their final approval and submission. FTB uses information already received from taxpayers' W-2s and previously-filed tax returns.

ReadyReturn simplifies tax filing by guiding the taxpayer through changing their address, reporting additional income, itemizing their deductions, and claiming tax credits they qualify for.

"This tax return was the easiest I have ever had to complete. All I have to do is verify and I am done. I will definitely recommend this to others," said a ReadyReturn survey participant.

About 2 million taxpayers qualify for ReadyReturn in 2014. Taxpayers must have filed a 2012 California resident return with single or head of household filing status, income only from wages, no more than five dependents, no credits other than the renter's credit, and the standard deduction. In 2013, they must have had only one employer. Taxpayers who can claim the blind or senior exemption, or can be claimed as a dependent on another person's tax return, qualify for ReadyReturn.

Taxpayers can check their eligibility online using their name and social security number or by calling 800.338.0505 with their name and address. They can sign up to receive an email once their ReadyReturn is available. Taxpayers will need to enter their FTB-assigned Customer Service Number to have secure access to their ReadyReturn online.

Taxpayers can e-file their return now, receive a refund within a week with direct deposit, or schedule their electronic payment for a later date.

ReadyReturn has grown in popularity by over 600 percent since its first fully implemented filing season. Ninety-nine percent of users reported they are satisfied with ReadyReturn and would use it again to file their taxes.

For more information, go to **ftb.ca.gov** and search for **ReadyReturn**.



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Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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Logos

Click on the links below to open different variations of the ReadyReturn logo.

- Low Resolution (for web) - jpeg. file
[Color ReadyReturn logo](#)
[Black and White ReadyReturn logo](#)
- High Resolution - jpeg. file
[Color ReadyReturn logo](#)
[Black and White ReadyReturn logo](#)

Videos

Click on the links below to open the ReadyReturn videos (links to our YouTube page).

[File your CA State Taxes with ReadyReturn in 3 Easy Steps \(HD\)](#)

[Quotes from Real ReadyReturn Users \(HD\)](#)

[Tax Shortcut \(HD\)](#)

[I Want My ReadyReturn](#)

[Simply ReadyReturn](#)

[California State Controller John Chiang on ReadyReturn](#)

To see other videos, visit our [Franchise Tax Board YouTube](#) page.



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Introduction

Eligibility

Benefits | Testimonials

FAQs

Statistics and Feedback

Article

Logos | Videos



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RX 80



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The Best Online Tax Filing Software

By [Melanie Pinola](#) Updated April 18, 2022

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Illustration: iStock, Wirecutter

Doing your taxes may never be fun, but the right tool can turn the worst annual chore into a manageable—and, dare we say, rewarding—afternoon. The best tax software ensures you get all the credits and deductions you deserve, without dragging you through forms hell. After testing six online tax apps, we can say with confidence that [TurboTax Free Edition](#) is the most sophisticated, accurate, and straightforward tool for the job.

Because of its superior step-by-step tax guidance, TurboTax has been one of our top picks since we started testing tax software in 2013. But there are two cases where we think you should take a different route:

- **If you have a very complicated return**—for example, you're self-employed or you have rental income or bought and sold stocks—we suggest skipping tax software altogether and [finding a tax professional](#). A professional service is more expensive, but it will save you time and stress and potentially uncover hidden tax breaks that even the best tax software might not surface. For in-person assistance, you might qualify for the [IRS's free tax-preparation services](#).
- **If you have student loan debt or college tuition payments and an otherwise simple return** (say, just a W-2 and an interest statement from the bank), file with [H&R Block Free Online](#). Unlike TurboTax Free Edition, H&R Block Free Online covers the student loan interest deduction and the tuition and fees statement, so you'll save about \$40 on your federal return plus another \$40 on your state return (at this writing), if you have only those additional forms to file.

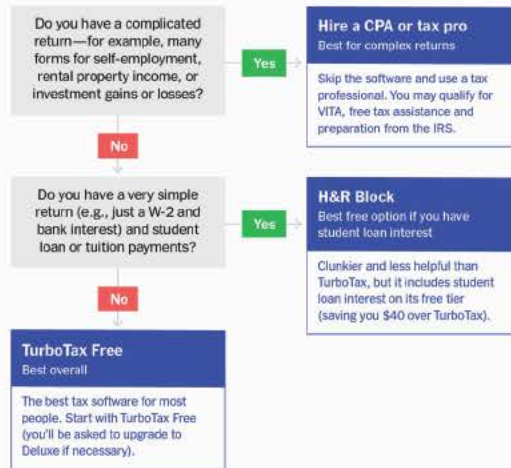
Confused yet? Here's a flowchart of the options we recommend this year:

FYI

We've added warnings about [TurboTax](#) and [H&R Block](#) requesting that you share your personal tax information for marketing reasons.

April 18, 2022

Which tax software is best for you?



Finally, if you absolutely do not want to spend any money to file your tax return—regardless of how badly the software might make you want to rip your hair out—[MyFreeTaxes](#) (sponsored by United Way and using TaxSlayer as the platform) is completely free and has no income or age limitations. It isn't the most user-friendly software, so we recommend it only if you're comfortable researching tax information yourself rather than getting assistance from the software. You can learn more about that option in our [Notable competition](#) section.

Our pick

TurboTax Free Edition
The best online tax software for most people

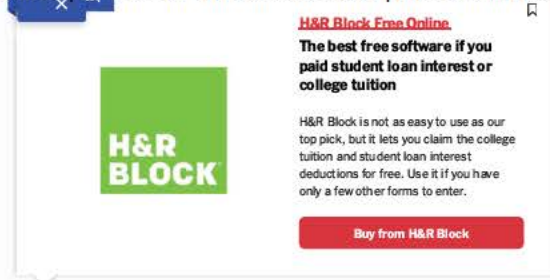
TurboTax Free Edition is the most polished tax app around, and most people don't have to pay for Deluxe if they take the standard deduction.

Buy from Intuit TurboTax

TurboTax is the best online tax software because of its thorough and intelligent interview process. Although TurboTax bills its [Free Edition](#) “for simple tax returns only” and recommends [TurboTax Deluxe](#) if you want to “maximize tax deductions and credits” (who doesn't?), we think most people should start with the Free Edition. Even if you might have some deductible expenses, such as mortgage interest or charitable donations, it's better to start here and upgrade to Deluxe only if you're required to.

The reason is simple, although not obvious if you've never used TurboTax before: If you start with TurboTax Deluxe and enter all your information only to find that the standard deduction is more valuable than itemizing, you'll have to either pay the Deluxe fee (\$39 at this writing, plus \$40 per state) or [clear out all the information and start over](#) with the Free Edition. Thanks to the Tax Cut and Jobs Act passed a few years ago, most people will benefit from taking the standard deduction ([90% of taxpayers filed with the standard deduction](#) in 2019).

There's one exception, though. If you have a simple return and student loan interest or tuition payments, you should file for free with H&R Block Free Online instead. TurboTax Free Edition doesn't cover filing with those deductions.



Student loan interest and higher-education tuition and fees are valuable deductions you can take even if you file with the standard deduction. Unfortunately, our top pick, TurboTax Free Edition, doesn't support filing those forms. [H&R Block Free Online](#) does. If you have those student forms and only a handful of other forms to file, such as a W-2 and bank interest income, this is the best way to file for free.

In our tests, we found H&R Block's help screens and in-app guidance to be nearly as good as TurboTax's. However, the software was also more error-prone, especially as the complexity of returns increased. We ran into a couple of problems trying to hunt down stray forms, and the automated chat help was ineffective. For those reasons, we recommend using H&R Block Free Online to save money only when you're filing a basic return with a student loan or tuition deduction.

Our recommendation for self-employed individuals and complicated returns: A certified public accountant (CPA) or an enrolled agent (EA)



When You Should Hire a CPA or Tax Pro

When should you hire a CPA or tax preparer, and when can you do your taxes yourself? A look at the costs, advantages, and disadvantages of hiring a tax pro.

As with auto repair, home improvement, and first aid, there are situations in which it makes sense to DIY and then there are situations that are better left to the pros. If you freelance or own a business, if you manage rental property, or if you have investments more complex than interest or dividend payouts, you can save yourself time and stress by [finding a good tax professional](#).

Though a tax preparer's services will likely cost you more than even the most expensive tier of DIY tax software—[CPA fees vary depending on where you live and the complexity of your return](#)—you get a lot of value from that higher price tag. Once you turn over your forms and documents, the pro enters your data for you, which not only saves you time but also prevents DIY errors. Plus, their pricing is often more up front than that of most online software, which usually tries to upsell you midway through the filing process. Building a relationship with a pro that you can count on for years to come is also invaluable.

The research

Missing stimulus payments and other tax software concerns

Why you should trust us

Who this is for

How we picked and tested

Our pick for most tax filers: TurboTax Free Edition

For simple tax returns with student loan interest or college tuition: H&R Block Free Online

For small-business owners and complicated returns: A certified public accountant (CPA) or an enrolled agent (EA)

Other good tax software

Tax privacy and security tips

The competition

Looking for something else?



How to Find the Best CPA or Tax Accountant Near You



When You Should Hire a CPA or Tax Pro

Why you should trust us

We'd be remiss if we didn't address the concerns many people have with major tax software companies like TurboTax and H&R Block. Both companies have faced [multiple lawsuits and investigations](#) regarding their marketing, lobbying, and other business practices. Adding to that public distrust, many people who filed their 2019 tax returns with these companies [did not receive their stimulus payments](#) (though [according to the IRS](#), this was often because payments were made to bank accounts that were closed or no longer active).

It's not quite the same thing, and we're not trying to make excuses for shady business practices, but just as [all printers suck](#), all tax software options are flawed. TurboTax is arguably the easiest yet most thorough and accurate way to file your taxes on your own. But if you have qualms about using that service and want to do your own taxes, you could use [MyFreeTaxes](#) (which is really a free version of TaxSlayer, sponsored by United Way), use one of the IRS's [Free File partners](#), or manually fill out the IRS's [Free File Fillable Forms](#) (even the government likes alliteration, apparently). These options provide less hand-holding and have more frustrating interfaces than TurboTax and H&R Block, which means you could potentially make more errors, but they're completely free. For live help, the IRS's [Volunteer Income Tax Assistance \(VITA\)](#) and [Tax Counseling for the Elderly \(TCE\)](#) programs provide assistance from certified volunteers for those who qualify. (Generally, you need to make \$57,000 or less, have a disability, or speak limited English.)

Why you should trust us

This is Wirecutter's eighth year testing and recommending online tax-preparation software, and it's my second time working on the guide as a senior staff writer at Wirecutter. For over five years before joining Wirecutter, I wrote extensively about personal finance for sites such as Lifehacker, SmartAsset, and MyBankTracker. Topics I covered included when to hire a tax pro, the biggest deductions you should claim, what to do to make the audit process less stressful, and, yes, head-to-head tax software comparisons.

Over the years, I've personally used various tax-prep software and worked with tax pros to file complex returns involving self-employment income, business deductions (including home-office expenses), stock gains and losses, homeownership, education credits, and dependent care. I'm one of the [34% of Americans who actually like or love doing their taxes](#), but I also sympathize with those who just want to get their taxes over with. In doing research for this guide, I've kept up with major tax changes for the 2020 tax year, subscribing to riveting alerts from the IRS.

Who this is for

The best way to file your tax return is electronically, and you should do it as soon as possible. It will get you your refund quickly, and it [can help thwart identity theft](#). For the 2022 tax year, you should do this especially if you're [missing any stimulus payments](#); this also applies to households that don't normally have to file federal taxes. Need further convincing you should file electronically? The IRS still has a backlog of over 10 million mailed-in paper tax returns from the previous year, coupled with the nightmare of the pandemic.

Online tax software can simplify the chore of doing your taxes on your own and filing electronically, and it's less expensive than hiring a pro. A few companies offer desktop tax software, but these packages tend to be more expensive and worth the investment only if you must work offline or have several returns to file (the [TurboTax Basic downloadable program](#), \$40 at this writing, is comparable to TurboTax Free Edition except it includes five federal e-files, with state e-filing additional). You would also need to buy the desktop software again each year to keep up with tax changes.

The online tax apps we recommend here are best for people with simple returns (a few standard forms), as well as those who might benefit from itemizing common deductions such as home ownership, dependent care expenses, tuition or student loans, large charitable deductions, a health savings account, or medical expenses. Most people take the standard deduction, but if itemizing makes more sense, the software helps you fill in the appropriate forms and informs you when you need to upgrade in order to file for those deductions or credits.



How the New Tax Law May Affect Your 2018 Taxes



Gear for a Paperless Home Office

Read more from [Office](#)

estate situations are best served by a professional tax preparer. In these cases, there are simply more chances to miss valuable deductions if you prepare your return yourself, and the results probably aren't worth the time you'd spend entering all the info.

How we picked and tested

Under the hood, every tax software platform—even those that tax pros use—fills in the same IRS forms and (usually) uses the same math to calculate the amount you owe or the amount of your refund. But they don't all offer the same experience. The biggest differences among the tax-filing options lie in how thorough their questions are, whether they ask the right questions, and how pleasant or taxing (pun intended) the experience is.

For the 2020 filing period, we retested four major online tax apps—H&R Block, TaxAct, TaxSlayer, and TurboTax—and two we hadn't tested before that are part of the IRS's Free File Program, FileYourTaxes.com and OLT. We decided not to retest Credit Karma Tax, our previous pick for filing simple returns, due to multiple negative reports we received regarding the program's accuracy and its ability (or rather its inability) to handle different tax situations, including filing state returns in more than one state. You can learn more about the reported issues with Credit Karma Tax in [the Competition](#).

To test these apps, we created three fictional filers to represent a range of situations. These were the same ones we used previously, but slightly updated to include more common scenarios for many people in 2020—things like getting unemployment income, not receiving their stimulus payments, or making charitable contributions. (For 2020, you can deduct charitable cash contributions up to \$300 even if you don't itemize. In our testing, some tax apps pointed out this fact more clearly than others.)

Our fictional filers:

- **Simple return:** A single filer who rents an apartment in Florida, has \$32,000 in W-2 income, has unemployment income to report, paid student loan interest, and received interest savings from a bank account.
 - We tested this return with both an HSA (Health Savings Account) and without one; in most tax apps, the HSA required an upgrade to a higher (paid) tier for us to claim the deduction.
- **Deluxe return:** A couple filing jointly who have \$100,000 in W-2 income, own a home in Ohio, have two children who went to daycare, made charitable contributions of over \$300, and contributed to a state-sponsored college savings plan. They didn't receive their stimulus payments in 2020.
- **Premium return:** A single filer with \$150,000 in self-employment income in Massachusetts. She uses her car for work, has a home office, contributes to a SEP IRA (a retirement plan for business owners), and has many business deductions.

We ran these tax-return situations through the apps but stopped short halfway through the premium return because the questions there, as in previous years' tests, were more involved and trickier than what we were comfortable navigating on our own. For example, for us to claim a deduction on using a car for business, TurboTax had several screens requesting details such as gasoline expenses, maintenance expenses, vehicle depreciation, and which "Modified Accelerated Cost Recovery System (MACRS)" we used when we first started using the car for business. We decided to leave the fictional filer to consult their fictional tax professional instead.

We proceeded with more common tax-filing situations. These are the key distinctions we considered during testing:

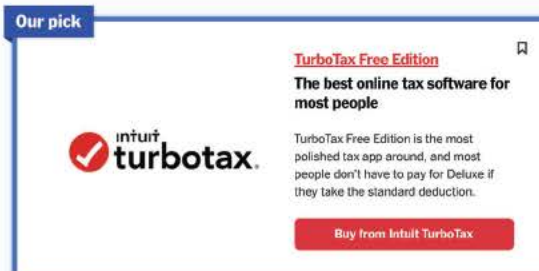
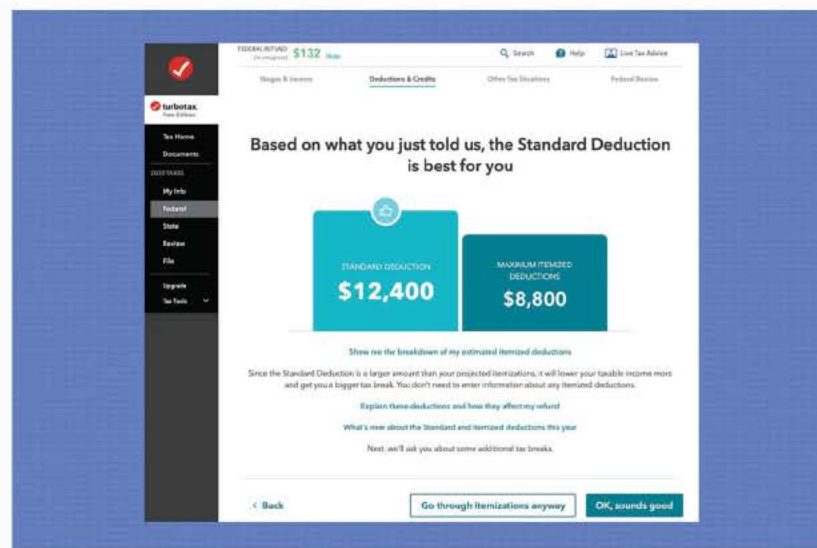
- **Accurate, effective interview and guidance:** The best tax-prep software identifies both common and uncommon circumstances in your life and shows you the relevant buttons and questions to catch the necessary stuff while discarding irrelevant bits. It's a difficult balancing act.
- **Clear, accessible language:** Friendly prompts and jargon-free explanations go a long way toward accurate numbers and a stress-free experience. We looked unfavorably on screens filled with unexplained tax terms or vaguely labeled fields, and we gave credit when software made it easier to understand something tricky.
- **Interface and design:** If a tax app is poorly made and hard to use, it doesn't just cause annoyance—it can produce errors that cost money and time. In tax software, everything should be labeled unambiguously, text should be generously sized for easy reading, and navigation should be

benefits.

- **Service and support:** Thorough, clearly written help screens are crucial when you're uncertain about what counts and what doesn't for income and deductions. You should be able to find clear answers to common problems quickly. Some services offer live chat or (at higher-priced tiers) on-demand support from a CPA or an EA. Where possible, we tested these support services, too, spending nearly four hours in live chat with customer support for the apps we tested.
- **A wide variety of supported forms:** People who need to file only the most basic, common forms (such as a W-2) can expect to file for free with any major tax app. For more complex situations, we gave bonus points to the online tax apps that covered more forms in their free or lower-priced tiers.
- **Import options:** For our top picks, we also looked at import options, such as connecting to your bank for interest statements, letting you upload a photo of your W-2, or allowing you to file on your phone. Such options can be convenient and save you time, but we prioritized the features above first, since many people will still have to enter their information manually if their financial institution isn't supported.

In 2022, we ~~removed our pick for IRS Free File~~ because Intuit TurboTax no longer supports it. After making sure no drastic changes happened between the 2020 and 2021 filing years, we continue to stand by our other picks.

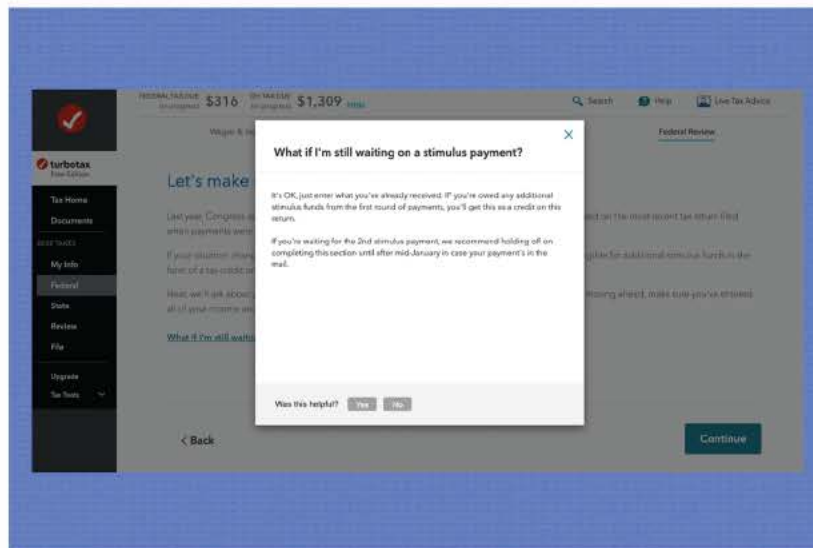
Our pick for most tax filers: TurboTax Free Edition



Unless you already know you're going to need to work with a CPA, or you have student loan debt or college tuition payments and want to file for free, you should start with TurboTax Free Edition. Its software interview process, support, and interface are best-in-class, and it does a better job than other tax apps of asking questions that are easy to understand, offering in-depth explanations for any terms or calculations that might be confusing and telling you whether each thing is a common concern or a rare issue. For people who aren't sure whether they'd be better off itemizing or taking the standard deduction, TurboTax helps you figure that out. Even if you think you might want to itemize, start with the Free Edition; you'll be able to

deduction (HSA) deduction.

Since tax time can be stressful for even the most organized people, in our testing we favored tax-preparation software that offered reassuring guidance throughout the filing process. Unlike the experience with other tax software, which can make you feel like you're being interviewed by someone who forgets your answers as soon as you tell them, using TurboTax feels like collaborating with a professional. It asks the right questions—no more, no less than are needed—in contrast to other apps, which tend to ask for irrelevant details.



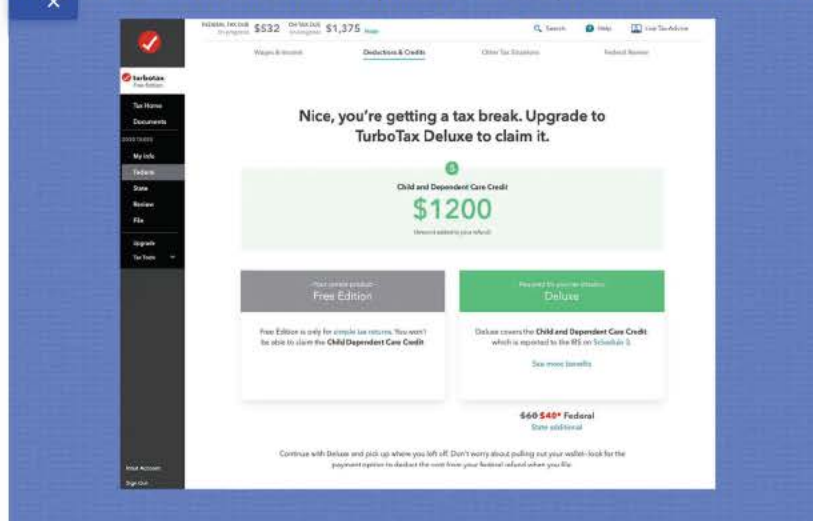
TurboTax's explanations may not seem revelatory, but they can help to assure you that you're filing correctly and potentially catch typos or glitches.

Clicking any of the numerous question-mark boxes inside TurboTax's web app opens a pop-up that usually answers any questions you might have about the given subject. The search function should cover most everything else, as TurboTax staff and community members have answered a litany of questions about even the smallest of details.

TurboTax also does a great job of keeping you engaged in the process and preventing you from mindlessly clicking past important details. Its entry forms switch between boxes that look like nicer IRS forms, nested lists of categories you can explore, animated loading screens, and yes-or-no or multiple-choice questions. The large buttons and fonts are also more accessible to tax filers than in competing software; we found that the not-so-user-friendly design of other apps made an already painful task more painful.

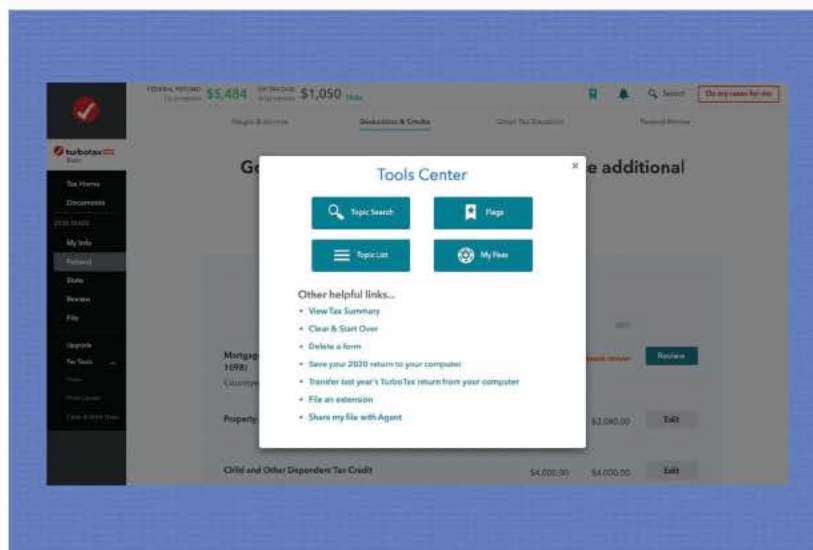
TurboTax's flow made the most sense and had the least errors, very rarely dumping us back to a top-level menu when we clicked the Back button and never trapping us in endless loops due to missing information (as some other apps, like TaxSlayer, did). In our tests, most other tax apps had runs of five or more similar questions asked in succession, or very long lists of dozens of irrelevant deductions or topics to click.

If your tax situation requires you to use TurboTax Deluxe, the software will tell you once you've entered information that triggers the upgrade. You can avoid surprises and see which forms are available for each version of TurboTax on its [comparison page](#).



To claim some credits or deductions, you may be required to upgrade to TurboTax Deluxe.

We especially liked TurboTax's Tools Center, which lets you jump to any form, delete a form, see your tax summary, and clear everything to start over—features that many tax programs don't offer. For taxpayers who like a more hands-on approach to filing, it's nice to take a peek under the hood.



TurboTax's Tools Center gives you a central place to manage common tax-prep tasks.

We upgraded to [TurboTax's live support service](#)—an add-on of about \$50, paid when you file—and within a couple of minutes got in touch with a professional tax preparer via online chat. They walked us through questions such as how to verify we were getting all the right credits and why TurboTax estimated a lower refund than [a different tax app](#) did. Paying for live support isn't something most people need to do, but this was the best live-support experience we had with all of the tax software we've tested in the past two years. For the right person, who knows the right questions to ask about their return, using a service such as this could be a smart middle-ground option between DIY filing and hiring a tax pro. But since the experience can be highly variable depending on the chat agent you're assigned, we hesitate to make it a blanket recommendation.

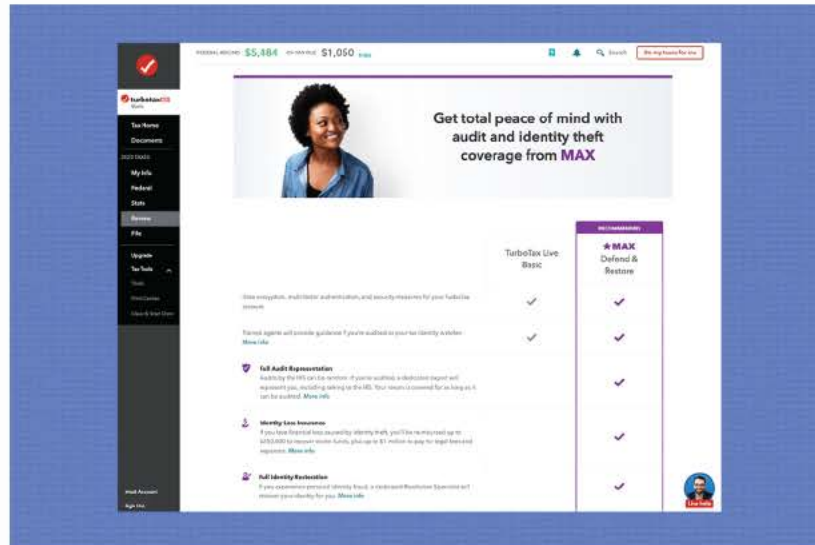
TurboTax also offers a service to have a CPA or other tax professional review your return and file it for you, for about \$100 more. If you're uncertain that you've done everything right or extracted the most from your return, this service could provide added peace of mind, but it's not something most people need.

Flaws but not dealbreakers

More than any other tax-prep software we reviewed, TurboTax kept prompting us to add services such as more advanced support or identity-theft insurance—things that are unnecessary for the majority of households that have basic returns covered by TurboTax Free Edition. This means you

Original as you did through each screen in order to avoid falling for the unnecessary upsell.

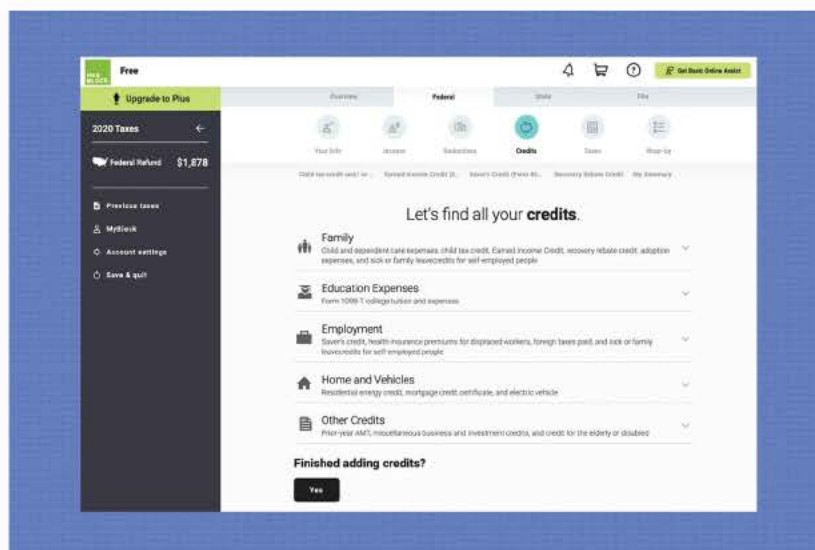
As reported in *The Washington Post*, TurboTax now asks for additional permissions when setting up your account, which it claims will “enrich your financial profile, communicate with you about Intuit’s services, and provide insights to you and others.” In reality, it’s a way for Intuit to use your tax information to offer you more personalized ads. We strongly urge you to decline this request in order to keep your data as safe as possible. If you’ve inadvertently accepted and want to prevent Intuit from using your data, you can email privacy@intuit.com and let them know that you’d like to revoke your “consent for use of tax return information.”

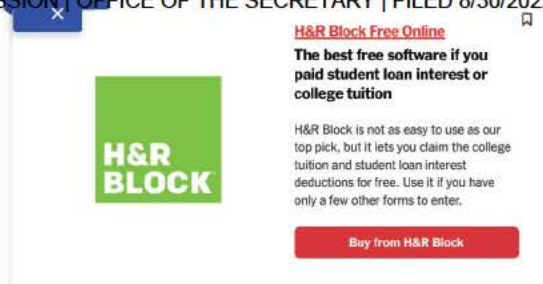


TurboTax's upsell game is strong—watch out for pitches to sign up for packages you're unlikely to need.

TurboTax's mobile site is clean, uncluttered, and as easy to use as the desktop browser version. However, some modern features—such as uploading a PDF or an image of a W-2—didn't work in our tests, on mobile or desktop. The program seemed to hang while processing an image file, so we just gave up and entered the information manually. Although it imported information from a PDF, it created some duplicate entries, which we then had to delete; we had the same experience with H&R Block. (Remember: If you use the import feature in any tax software, it's always a good idea to double-check all the information it brings in, just to ensure accuracy.)

For simple tax returns with student loan interest or college tuition: H&R Block Free Online





H&R Block Free Online

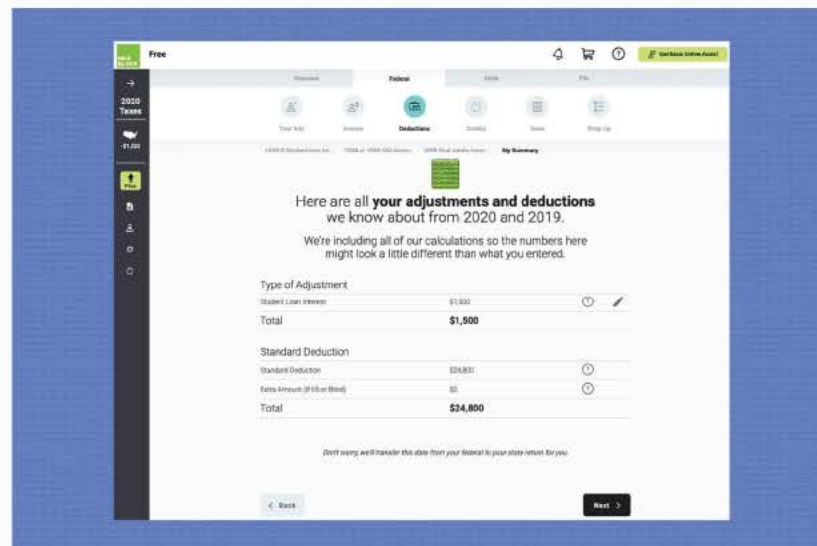
The best free software if you paid student loan interest or college tuition

H&R Block is not as easy to use as our top pick, but it lets you claim the college tuition and student loan interest deductions for free. Use it if you have only a few other forms to enter.

[Buy from H&R Block](#)

H&R Block Free Online supports two common forms for students that TurboTax Free Edition doesn't: the student loan interest deduction (1098-E) and the tuition and fees statement (1098-T). These are valuable "above the line" deductions that can reduce the amount of taxes you owe or increase your refund even if you take the standard deduction. If you have a simple return and you paid interest on a student loan or paid for college tuition, H&R Block Free Online is the best way to file for free.

H&R Block's interview process and guidance are nearly as good as TurboTax's. The software points out when some selections are uncommon to help you avoid checking the wrong boxes; for example, when we entered a dependent, H&R Block told us it's uncommon to report that the child has an individual taxpayer identification number. After each major section, the program provides a summary of what you've entered so far. And at any time, you can click the shopping cart icon to see if you'll need to pay for the program.



Free

Here are all **your adjustments and deductions** we know about from 2020 and 2019.

We're including all of our calculations so the numbers here might look a little different than what you entered.

Type of Adjustment	Amount
Student Loan Interest	\$1,500
Total	\$1,500

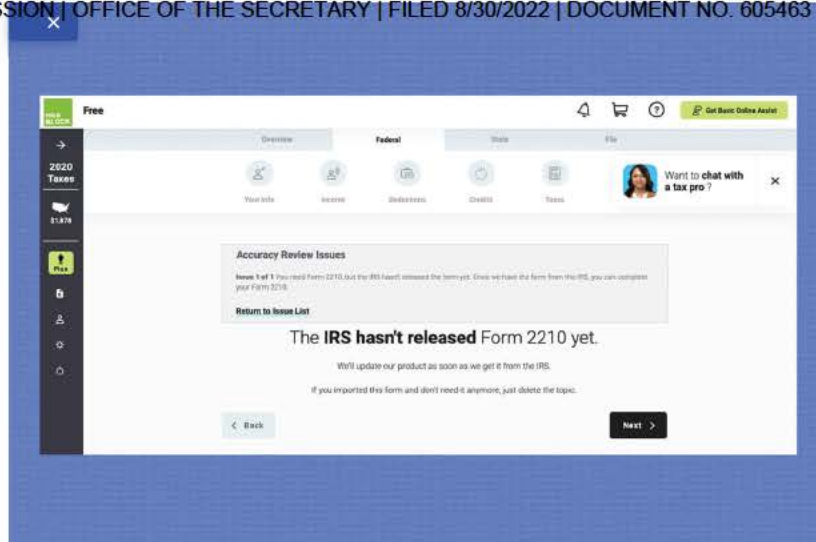
Standard Deduction	Amount
Standard Deduction	\$24,800
Extra Amount (if 1098 or 1098-E)	\$0
Total	\$24,800

Don't worry, we'll transfer this data from your federal to your state return for you.

[Back](#) [Next](#)

H&R Block's summary screens act as milestones within the tax-preparation process.

However, we ran into a bug in this year's testing that we also saw last year: The program can sometimes generate forms that are irrelevant to your situation, which can prevent you from continuing until you hunt them down and delete them. During testing, after we entered our fake filer's income, the program calculated that we needed to pay the tax-underpayment penalty and generated the associated form (Form 2210). But after continuing the interview process, entering our deductions and credits, we discovered that our fictitious filer should have gotten a refund, which made that underpayment penalty unnecessary. H&R Block didn't automatically remove the form, and in the accuracy-review tests it insisted we fill out the form (which at the time was not yet available from the IRS). It took us multiple attempts—more than half an hour in total—to find the form and fix the problem. And unlike TurboTax, H&R Block doesn't provide an easy way for you to see all the forms and worksheets the program creates.



H&R Block insisted that we complete a form that wasn't needed. Then we had to hunt that form down to delete it.



We contacted support over chat, but as we found in 2019's testing, the automated help was not helpful. It misunderstood our issue and then refused to transfer us to a live agent.

Because of these problems, we wouldn't recommend using H&R Block for returns that involve more than just a couple of common forms. But the software does provide a better experience than the majority of cheap online tax tools we've tested, with solid in-app help explanations and a user-friendly interface (for the most part). If you have a simple return and don't want to pay just to deduct student loan interest or college tuition, we recommend using the free version of H&R Block.

Like TurboTax, H&R Block is also now asking for [permission to use the specific information in your tax return](#) to target you with personalized ads. Since H&R Block will still file your taxes even if you don't agree to provide these permissions, we strongly suggest you decline.

For small-business owners and complicated returns: A certified public accountant (CPA) or an enrolled agent (EA)



Illustration: Sarah MacReading



When You Should Hire a CPA or Tax Pro

When should you hire a CPA or tax preparer, and when can you do your taxes yourself? A look at the costs, advantages, and disadvantages of hiring a tax pro.

In recent years tax laws have undergone major revisions that could

your tax needs take you beyond what TurboTax Deluxe can handle, you should seriously consider hiring a tax professional or [getting live help from an IRS-certified volunteer \(if you qualify\)](#) rather than upgrading to TurboTax Premier or Self-Employed. A pro can not only capture all of your deductions accurately but also set you up for future tax strategies and savings.

A good tax professional can handle:

- self-employed filers and small-business owners with deductions, inventories, or employees
- investors with complicated portfolios and tax strategies
- income from partnerships or small companies with K-1 forms
- big life events such as getting married or divorced, sending kids to college, buying or selling a home, or receiving inheritance
- advice for future tax planning

With a tax professional, you don't have to do form-by-form price comparisons or hope that you fit inside an income or age cap—they'll take whatever you have, and most are clear up front about what they'll charge based on your specific situation.

The average cost of professional tax preparation ranges from \$220 to \$903, depending on the complexity of the returns and where you live, according to the [2020-2021 Income and Fees Survey](#) from the National Society of Accountants. That could make even the cost of TurboTax Self-Employed—which starts at \$130 to file one federal and one state return—look appealing, but there are many factors beyond sticker price to consider.

Having prepared over two dozen fake returns in testing over the past two years (and personally preparing my own for over a decade), I've learned that the chance of making mistakes and missing deductions increases dramatically as you add more forms and complications. And in many advanced tax situations, such as when you need to record capital gains and losses or business expenses, you'll likely have to report a boatload of information. When I was freelancing for multiple clients and ran my own business, preparing my taxes took the better part of a weekend—sometimes two weekends, plus a lot of back-and-forth emails with tax pros to clarify some details.

The average cost of professional tax preparation ranges from \$220 to \$903 depending on the complexity of the returns.

Most of the software we've tested or recommended can handle any tax scenario. If you're confident in your bookkeeping, if you're willing to put the time into entering all of your data, and if you have experience filing taxes for your operations, online tax programs may work for you.

But given the cost, time commitment, and [changes to income taxes in tax year 2018](#), we think more people should consider [hiring a CPA or tax professional](#) they can meet with face-to-face (or at least by videoconference). Although online tax apps mimic the process by which tax professionals interview their clients, according to CPAs we've interviewed, software has problematic limitations: For example, it can't hear the uncertainty in your voice or guess that, based on where you live, you might be due a historic-renovation credit. Plus, the tax pro does most of the dirty work for you: Just hand them (or upload) a stack of documents, and they sort through everything much faster than you ever could.

Both TurboTax and H&R Block offer a service where you can start your return online and then have a tax pro review your information and file for you. These services cost about \$100 in addition to the regular software fee plus \$40 to \$50 per state—pushing them closer to the cost of using your own tax preparer.

This option might be a good middle ground if you want a tax pro to handle your return and you also want to save money, but it's really ideal only if you are familiar with all the tax credits and deductions you're entitled to, including tricky things such as what you can expense for business deductions. In my experience using CPAs, enrolled agents, and these add-on services to file my taxes, the ones I hired directly were more thorough and worked more diligently at minimizing my tax burden. For example, one CPA I worked with recommended investing in an IRA to reduce the amount of taxes I owed; he also pointed out when the deductions I was claiming were lower than common for my household. Your mileage may vary, of course, and finding a good accountant or tax pro can take work. (As with finding a trustworthy dentist or home improvement contractor, asking people you know for references is a good way to go.)

person you can count on every year. A tax pro who knows you can provide personalized advice and help you save money in future tax years. Should you have any problems with the IRS, your CPA or EA will be available to help (sometimes for an additional fee, and sometimes as part of their normal responsibilities).

Other good tax software

MyFreeTaxes runs on the **TaxSlayer** platform. It's completely free—no income, age, or geographic limitations. What's the catch? As far as we can tell, there isn't one, except that we don't particularly like TaxSlayer's interface. This is a service provided by the charitable organization **United Way** to anyone and everyone. But the software is clunky, and the guidance is less thorough than what you get from our picks, so we recommend it primarily for those who are willing to spend extra time puzzling over how to enter their info in exchange for totally free federal and state filing.

TaxSlayer's commercial offerings are attractively priced: The Classic edition, which includes all forms, is \$17 for a federal return and \$32 for each state tax return. (TurboTax Deluxe, in contrast, costs \$39

for a federal return and \$40 for each state tax return, and it doesn't include every form.) But if you go through MyFreeTaxes, you get the same TaxSlayer service for free. (Be sure to check which forms are included before beginning.)

We wouldn't recommend paying for TaxSlayer. Unlike other apps, which provide contextual help in a sidebar to the right, TaxSlayer places the help panel to the left, on top of the form you're working on, which makes understanding the topic harder. The help text is largely copied and pasted from IRS publications, making it less helpful than our picks' more plainspoken explanations, and sometimes during our testing the help panel was completely blank and we were unable to close it. We had problems with the interview process and navigating through the software, too: Sometimes we needed to click through multiple redundant screens, and we found ourselves starting the return all over again when we hit the Back button.

An added concern: A screen at the beginning of the interview process asks you to "sign" a privacy policy to continue entering your information. This step actually grants TaxSlayer the permission to use your info to provide you with offers, from the company or from third parties. Other tax software does this, too, but TaxSlayer doesn't make it clear that agreeing is entirely optional; we recommend that you skip this page.

On the plus side, TaxSlayer lets you preview your return as a PDF file, and it offers live phone support (which we did not test). For knowledgeable tax preparers and DIYers, it also offers the option to select specific forms to work on rather than going through the guided wizards. And if you made less than \$57,000 last year and didn't have any income from a rental property or from a farm, it presents an option to have your taxes prepared for you for free through [GetYourRefund.org](https://www.getyourrefund.org).

To gain access to the completely free version of TaxSlayer, you need to enter your name and email address and accept email communications from

Tax privacy and security tips

One understandable concern we've heard from readers is the desire to know how these tax tools protect your privacy and financial information. The good news is, the government has been taking steps to make sure that doing your taxes online is more secure. For example, in 2020, the IRS mandated multi-factor authentication for all online tax-prep tools (for example, you have to verify your identity via a code sent by text message or email if you log on from a new device). We also looked at the privacy and security policies for the tax software we tested and asked the companies for information on how they safeguard customer data. The answer: All of them encrypt the data when it's stored on their systems and follow the IRS's standards for electronically sending returns securely. (For more information, here are TurboTax's privacy and security policies, and H&R Block's privacy and security policies.)

The bad news is that the nature of the internet means there's no such thing as 100% secure tax filing, and tax-prep services are especially common targets for hackers. We looked into software breaches from previous years at TurboTax and H&R Block and found that the breaches were caused by "credential stuffing"—identity thieves used passwords and usernames stolen from other services to log in to the tax software. The best thing you can do to protect yourself is to follow strong security practices, which includes never reusing the same password for different accounts. A password manager can help you create a strong, unique password for all of your accounts. Other recommendations:

- File early once you have all your tax paperwork, and consider opting in to the IRS's IP PIN service to protect your identity.
- Do not store tax documents with services such as Dropbox or Google Drive unless you encrypt the files, and always encrypt your local drive.
- Shred documents after you no longer need them. You can scan W-2s and encrypt them, for example, and then use a good shredder to make sure your personal information doesn't get into the wrong hands. The IRS recommends keeping records for three years in most situations.
- Note that the IRS will never call or email you demanding payment or access to your account (The IRS will almost never email you at all, in fact, so do not click any link in an email that appears to be from the IRS.) Do not give passwords or other details out over the phone.
- Using a VPN, or virtual private network, is another great way to add a layer of protection over online activities. It works by encrypting your web activities.

The competition

We previously recommended IRS Free File tax software provided by Intuit TurboTax. Intuit has declined to offer it in 2022. This year, the IRS offers its Free File service through eight other providers (including OLT and FileYourTaxes.com, which we do not recommend). But since we haven't tried them all yet, we don't feel comfortable recommending any of them.

Credit Karma's tax filing service, which was our previous pick for filing a simple return, has been sold to Square and rebranded as Cash App Taxes. It has a clean interface and is completely free (though you need an account with Credit Karma, which might use your information to suggest financial services). We dismissed it in 2021 because of several reports of issues with the program. Wirecutter readers and staff, as well as commenters on the Better Business Bureau site, have noted frustrating problems such as missing deductions on state returns or forms that fail with no explanation. Credit Karma also doesn't support multi-state filing and a few common forms such as for underpayment of estimated tax, and it doesn't offer live support. Its help knowledgebase seemed to have changed in 2021, but not for the better. Without clarity on what it supports or doesn't support for state returns, we can't recommend it this year.

TaxAct peppers helpful tips throughout its program, such as advice to use a Flexible Spending Account to reduce your income for the next year, but working through the program is tedious. To enter interest income from a 1099-INT statement, for example, we were forced to click through six screens, compared with the single screen in most other apps. It also produced an error in our state return, carrying over just one W-2 instead of both, which would have resulted in a higher tax bill. In addition, TaxAct is

Wirecutter's most tax programs rounded our entries up or down according to IRS rules, taxAct sometimes combined totals (such as two W-2s) and then rounded. This resulted in a \$1 difference in the refund—not a significant difference, but even though [the IRS allows this method](#), it isn't typical practice. (We spoke with a tax preparer, who said that it's more common to round each entry first.)

OLT (OnLine Taxes) offers free federal returns and \$10 state returns. Some of its questions gave us pause, requiring information such as our driver's license number or state ID card, which no other program required. Its help topics often just linked to IRS publications or were filled with tax jargon, and the tedious interface made us somehow miss inputting some key forms, such as for dividend income.

Besides having an outdated interface, [FileYourTaxes.com](#) charges \$45 to file a federal return, even if you have a simple return.

Last year, we dismissed [eSmartTax](#) because all of our email messages to the company bounced back, and we eliminated [FreeTaxUSA](#) for its barebones interface and jargony help documentation.

This article was edited by Ben Keough and Erica Ogg

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About your guide



Melanie Pinola

Melanie Pinola previously covered all things home office as a senior staff writer at Wirecutter. She has contributed to print and online publications such as The New York Times, Lifehacker, and PCWorld, specializing in tech, productivity, and lifestyle/family topics. She's thrilled when those topics intersect—and when she gets to write about them in her PJs.

Further reading



How to Find the Best CPA or Tax Accountant Near You

Here are tips and recommendations on how to hire a CPA or tax accountant near you—or further afield, if your local options are limited.



When You Should Hire a CPA or Tax Pro

When should you hire a CPA or tax preparer, and when can you do your taxes yourself? A look at the costs, advantages, and disadvantages of hiring a tax pro.



How the New Tax Law May Affect Your 2018 Taxes

The Tax Cuts and Jobs Act of 2017 may lead to big changes in your taxes, especially if you work from home, live in a high-tax state, or have dependents.



Gear for a Paperless Home Office



that is the year and the date that we at Wirecutter moved to a cloud-based, a paper-based home office to an all-digital filing and storage system.

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SamChuckID · 5 months ago

Maybe I missed it, but what is the quality comparison of the TurboTax mobile app vs desktop version? Thanks!

^ | v · Reply · Share



C_29 · 5 months ago

Has anyone ever handled buying and selling investment properties through a 1031 exchange on Turbo Tax, or is that best left to the professionals?

1 ^ | v · Reply · Share



Jim Erickson · 5 months ago

Turbotax Free is deceptive and inequitable. It waited until we had filled out the entire form before telling us that buying healthcare from the national marketplace disqualifies you from free edition. So we gained a measly \$9 credit for filling in the 1095-A and then they wanted to charge \$59. The only people who get free edition are those with employer insurance, and they do not tell you this up front-deceptive! Intuit is levying a poverty tax on anyone who has to buy their health care on the marketplace! CashApp's adaptation of CreditKarma's platform was the system that worked for us.

2 ^ | v · Reply · Share



thlackout · 5 months ago · edited

I've tried em all, TurboTax, H&R Block, TaxAct, etc. If you have some experience & kinda know what you're doing, go with FreeTaxUSA, it's simple & clean & they explain everything as you go. After using FreeTaxUSA I learned that I been doing a few things wrong on other platforms. I might have to go back & amend a few years. TurboTax just looks cool like a video game or something. But if it's your first time, go with TurboTax once or twice, then head on over to FreeTaxUSA, I love it

2 ^ | v · Reply · Share



Jeffrey Kaufman · 5 months ago

Based on the Times' recommendation, I chose H&R Block software to help a relative with taxes for 2021. Unique issues were residence in two states, tuition payment, and capital gains from sale of some mutual fund shares. In the context of MA taxes, HRB was a total failure. Even with the premium version online, it was impossible to properly complete the submission. We dropped to a paper submission.

Overall HRB had many "cute" features, but in terms of handling the various financial aspects of a tax return, it seems OK for a relatively basic federal return, but it lacks versatility for state returns. Therefore, overall, I cannot recommend it. In previous years, I used TurboTax for the same relative's returns, and it seemed to work better.

I wish the various software companies could tell the user what specific aspects of tax submission they can't do. The user could then choose to drop to paper or to see an accountant. People should also understand the fee schedules and extra costs before they start the process. It would be simple for each vendor, when one signs up, to have a table of fees by state and complexity, including access to real-time help.

1 ^ | v · Reply · Share



thlackout · Jeffrey Kaufman · 5 months ago

that'll be FreeTaxUSA

^ | v · Reply · Share



jvzm · 5 months ago

Turbotax has a lengthy list of 2022 tax forms it will not fully support until 3/30/2022. I have used Turbotax for more than 15 years, and this is the first time they had such software development delays.

^ | v · Reply · Share



Brendan · 5 months ago

Completely untrue that Turbotax Free Version is free even for very simple investment income. Somehow have a 1099-B from an automatic unmanaged investment account through Chase and TurboTax is telling me that I need to upgrade. Also, TurboTax is an objectively evil company, a true leech on American society; and intentionally buried their (now defunct) free file system. Could you at least mention how the whole tax prep industry is a scam and only exists because these companies have lobbied congress to death? The IRS can (and wants to) do this all for us if not for the greedy thieves at turbotax.

1 ^ | v · Reply · Share























Ellen H · Brendan · 5 months ago











I just finished our 2021 return on Turbo Tax, having started with Turbo Tax Free File. It cost me \$142 total. TT is coy about stating charges up front: they don't. It's your problem to find out what they will charge you and you are only given a peek at the costs until after you have completed many pages of questions. Then it is your option to simply cancel the whole mess, with no opportunity to save any of your work, or pay up. The coyness about pricing should have tipped me off but I really wanted to finish the job today. You are assured payment to TT can be made from your refund. At the very end you discover the fee to you for payment from the refund is \$39.00. Robbers!

^ | v · Reply · Share



Adam Pillard · 6 months ago

-  **000** gets directed to TaxSlayer, otherwise it uses Cash App Taxes.
^ |  
-  **Kate** · 6 months ago
Hi, it doesn't look like you successfully removed IRS Free File by TurboTax as your top pick.
^ |  
-  **Michelle** Community ·  **Kate** · 6 months ago
Our current top pick is TurboTax Free Edition. The IRS Free File by TurboTax didn't have the "upgrade now" ads and included more forms (student loans, business profit/loss and investment capital), but if you don't need these forms, TurboTax Free Edition is our recommended option.
^ |  
-  **Conner V** ·  **Michelle** · 5 months ago
Except that it's not free for most people. Reading through a lot of the comments here, I've got to agree that you've completely missed the fact that both the FTC and FTC have accused TurboTax of deceptive advertising. Not a good look to eliminate a system like FreeTaxUSA for being "barebones." Why does doing your taxes have to be flashy?
1 ^ |  
-  **Thomas Stevens** · 6 months ago
How you could recommend Turbo Tax is something I will never understand. Being a poor college student and trying to file them would have left me with huge fees. I did end up using H&R Block without being charged fees although I did find that I owed the IRS different amounts than had I filed using Turbo Tax if I had paid their fees. I found the same thing last year and until Turbo Tax gets their act together, I will never use them. Taking advantage of poor college students, while not illegal, is definitely immoral, but Turbo Tax seems to have a different moral compass than the rest of us.
^ |  
-  **TechToReview** · 6 months ago
Anne Pro 2 Software manage the illumination, open the mobile App and choose a pre-programmed scheme or design your own pattern, with a distinct colour for each key if desired. The programmes are easy to use and work on both Mac and PC.
1 ^ |  
-  **K. Fredriksson** · 6 months ago
I think [freetaxusa.com](https://www.freetaxusa.com) is terrific. It guides you through every step, makes the whole thing practically effortless.
7 ^ |  
-  **KW Crosby** ·  **K. Fredriksson** · 5 months ago
I am so glad that OLT wouldn't let me get past the "are you a human" box (no idea what their problem is) because then I tried Freetaxusa. SO much better IMO than Turbo Tax is these days. Not only was it entirely free, while TurboTax wanted \$89 because I had an eensy tiny dividend, but I found out that I'd been entering something entirely wrong in TurboTax. It was so much clearer in Freetaxusa. I was getting about \$150 more refund in TurboTax that I wasn't entitled to. I've checked it out online, and I'm sure. I feel like I dodged a bullet. I'll use Freetaxusa again next year, no question.
1 ^ |  
-  **KW Crosby** ·  **KW Crosby** · 5 months ago
Also this is the first time I've used software to file my state taxes because TurboTax always charged - my state has pretty good e-file, so I used that. But Freetaxusa filed my state return for free as well, and it took practically no time at all.
1 ^ |  
-  **Lori S.** ·  **K. Fredriksson** · 6 months ago
I used it last year after more than a decade of using TurboTax; I got fed up with the rising price of TurboTax and some of their deceptive advertising. FreeTaxUSA was great! If your returns are nearly the same every year and you are used to using TurboTax, definitely try FreeTaxUSA. I was used to dealing with these sorts of online tax programs and I noticed very little difference. At this point, I would only recommend TurboTax if you are new to doing taxes online or have some new complicated elements to your return. Even then, you can fill out both TurboTax and FreeTaxUSA and make sure they are in agreement and file with whichever is cheaper (almost certainly FreeTaxUSA if you have itemized deductions). TurboTax really does hold your hand if you are nervous. OTOH, they also offer 10,000 unnecessary and costly additions to their service while you are in the midst of inputting info and it can be easy to agree to those wasteful additions if you are new to doing this online. They have pretty scummy business practices.

TaxAct, though, I tried one year and they really messed up my state return - they missed a HUGE deduction I was entitled to (and not some oddball thing at all!). Avoid them. I don't think they do due diligence on different state tax laws.
2 ^ |  
-  **yippees999** · 6 months ago
I tried Turbo Tax once. I found it horrible. While I'm intelligent, numbers and legalese and any forms that come from The Government, give me a headache. I've no patient for bureaucracy and forms that are utterly confusing. I believe I then tried to call Turbo Tax...if I recall they provided a 1-800 number to call, and I got nowhere. So I went right back to my having to fork out a few hundred every year, all so someone who can do such things in their sleep, can complete my Very Basic taxes. It's all very frustrating.
^ |  
-  **Mass Engineer** · 6 months ago
Re "OLT (OnLine Taxes)" Some of its questions gave us pause, requiring information such as our driver's license number or state ID card, which no other program required.
I've used Turbo Tax Premier for years, and near the end, just before you file, they require your driver's license number. As I recall they say this is for identity reasons (fairly obvious); I forget if they say it's required by the IRS. Anyway, don't knock OLT for this, they apparently just ask it earlier in the process than they need to, and it's just something your testing didn't pick up since you can't actually e-file your hypothetical tax returns.
1 ^ |  
-  **KW Crosby** ·  **Mass Engineer** · 5 months ago
I was going to use OLT, but after filling out the log in details and typing the ghost letters, it just kept kicking me back to do it again. You'd think it was because maybe my account was already in there, but it wasn't. I gave up and went to Freetaxusa (and glad I did)
1 ^ |  
-  **Joseph** · 6 months ago
TurboTax is no longer offered through the IRS Free File program.
6 ^ |  
-  **Michelle** Community ·  **Joseph** · 6 months ago
Uff Thanks for letting us know. It looks like the last date TurboTax offered the IRS

the last day to use the TurboTax IRS Free File was today, 2/15). We're looking into this and will update with corrections as soon as we are able to.

1 ^ | v - Reply - Share -

Derek Williams - Joseph - 6 months ago

Yeah, I have trouble believing they "combed through this guide to make sure our picks still offered the same features" when their Top Pick literally doesn't exist anymore and they didn't seem to notice?

2 ^ | v - Reply - Share -

Patrick in Easton - 7 months ago - edited

The Preview 1040 option in TaxAct is tricky to locate. Here's how to get to it: in the left menu, select My Return/Return Details. This brings up a pop-up window. Select View Summary which will bring up the Federal Summary. Scroll down till you see the Preview 1040 button.

^ | v - Reply - Share -

Patrick in Easton - 7 months ago - edited

I've used TurboTax, TaxAct and FreeTaxUSA over the last 15-17 years. The more you do this yourself, the more you learn, understand the various interfaces. Quick observations: the last 2 provide a preview of your form. TaxAct gives a bare minimum, FreeTax shows a lot more including worksheets. Turbo doesn't provide a PDF preview so that's a big minus for me. I file with FreeTax but use the other two to check against. One big plus for Turbo: a phenomenal knowledgebase of questions and answers.

I wish the interfaces on all weren't so damned linear at times or hung up on asking every question. I tried HR Block and was put off by their insistence on having every piece of personal information. Hello? I'm trying out your service. If I like it, you can have my name and SS number when I file.

2 ^ | v - Reply - Share -

Bruce Wayne - 7 months ago

We have an in-house team of experts who can help a small business with tax preparation services or any big business to ensure that your taxes are up-to-date with the ever-evolving state/local tax laws and federal tax laws.

^ | v - Reply - Share -

Varun Madiath - 7 months ago

Seems like MyFreeTaxes is redirecting people to Cash App Taxes if their income is above \$73,000.

1 ^ | v - Reply - Share -

Brian J Henry - 7 months ago

FYI: "Intuit has elected not to renew its participation in the IRS Free File Program and will no longer be offering IRS Free File Program delivered by TurboTax."

1 ^ | v - Reply - Share -

doctorxoo79 - a year ago

HEADS UP! H&R BLOCK is NOT participating in Free File any more! "We're no longer participating in the IRS Free File Program, so we don't have any IRS Free File Program offers this year."

1 ^ | v - Reply - Share -

Erin Price - doctorxoo79 - a year ago

That's correct. H&R Block is not part of the Free File program. H&R Block's free option that we recommend, H&R Block Free Online, is not offered through the Free File program.

^ | v - Reply - Share -

Michael Byers - a year ago - edited

Sad to hear about Credit Karma. I didn't realize that Intuit got their grubby little hands in them too now. For what it is worth I still used Credit Karma in March 2021 to do my 2020 taxes and it went easy and I had no problems doing state of Oregon and federal taxes.

1 ^ | v - Reply - Share -

Armina H - Michael Byers - 5 months ago

Credit Karma Tax was bought by another company and is now Cash App Tax. Only the Credit Karma was bought by Turbo Tax, not their tax filing part.

^ | v - Reply - Share -

Ken Sternberg - a year ago

I just completed my taxes. Pretty straightforward. Just me, my wife, our W2 incomes plus our home mortgage interest and property taxes. Some charity donations, too. I used both TurboTax and HR Block.

I found that both were easy to use and appeared to be thorough. But HR Block came out ahead. Both federal and state returns were free, where TurboTax charged for state returns. And Block's system just felt a little easier and normal people friendly. Try it before paying for TurboTax.

^ | v - Reply - Share -

everytomorrow - 2 years ago

I just got an email from TurboTax that unless I file by Feb 28, the price will be increasing.

Sucks to be me because one of my banks isn't even posting tax forms until March 2, so it's impossible for me to file before the price hike. My tax situation isn't very complicated, but I'm forced into an expensive version because I sold stock in 2020. :/

^ | v - Reply - Share -

KenFromOC - 2 years ago

I need to ask regarding TurboTax, etc.

It seems almost weekly we are hearing of new deductions coming up for 2020 because of Covid, etc. (working from home write-offs, child credits, PPE and masks needed if you went to work and needed protection, air purifiers, etc., unemployment credits for that extra fed money... on and on.

So, how current are these online tax systems if a lot of this is changing every few days, and may change depending on what Congress does in the coming weeks???

Thank you!

^ | v - Reply - Share -

Janet T. - KenFromOC - 2 years ago

All of the deductions and credits for 2020 should already have been finalized, since the IRS started accepting returns on February 12th. Here's the IRS's list of the changes that could affect filing this year: <https://www.irs.gov/newsroom>.

If you're still concerned something might change (though that's not likely), you could consider waiting until April 15th to file, although if you're waiting on a refund or a stimulus payment you haven't received yet, you may not want to wait that long.

^ | v - Reply - Share -

KenFromOC - 2 years ago

I used TurboTax last year (the online version whereby you pay when you file, which was reasonable and a whole lot less than we formally paid to a CPA).

As we all know, the filing date last year was extended, good... but we filed out everything and we owe to the feds we waited to file and pay. TurboTax kept badgering us to file "did you forget something?", etc.. (leave me alone, I'll file when I'm ready thank you!)

They kept saying we missed something - but we didn't! We at first were going to itemize certain work expenses but then decided not to (and just take the standard deduction), but TurboTax over and over again wanted us to fill in something that we not relevant to us!

We first opted to mail the returns and printed them out (actually created a PDF), but then changed our mind to Efile, and that was very difficult. You would think there would be a simple option to just choose "I want to Efile", but no. I had to call and be talked through going backwards and basically redoing the return. Dumb!

So TurboTax is good, but not perfect!

^ | v - Reply - Share



Brandon Marshall · 2 years ago

What if I have very basic taxes otherwise (W2 and 1099-INT) but also bought/sold cryptocurrencies? TurboTax Premier seems like overkill for that

^ | v - Reply - Share



Janet T. → Brandon Marshall · 2 years ago

I asked the reviewer, Melanie Pinola, about this. She said it does end up being pretty spendy to use TurboTax for just a simple return + cryptocurrencies. If you don't need a lot of tax help, she suggested going with MyFreeTaxes. If you've got the time/incination, it might be worth entering the info into both MyFreeTaxes and TurboTax to compare the refund amount/amount owed (without actually filing) just in case, to make sure you're getting the best outcome.

^ | v - Reply - Share



Rico S. · 2 years ago

I think you should take another look at FreeTaxUSA. I used turbotax for a decade and decided to stop because of their government lobbying efforts.. FreeTaxUSA felt like the exact same thing to me, and was cheaper all around.

6 ^ | v - Reply - Share



Jim → Rico S · 2 years ago

FreeTaxUSA has always worked well for me too

2 ^ | v - Reply - Share



Jacob Clark → Rico S · 2 years ago · edited

I'll second this even if it's already being looked into. FreeTaxUSA was simple for me to use as a first-time non-dependent filer with Schedule C income. I'd say it's place in the tax software market is analogous to Bitwarden's position among password managers: you're getting a ton for little/no money, and the features that aren't there but are in other players' products are non-essential if you're OK with a little extra management/manual data entry.

2 ^ | v - Reply - Share



Janet T. → Rico S · 2 years ago

I'll let the team know you think we should take another look!

2 ^ | v - Reply - Share



Josh dyson → Janet T. · 7 months ago

Please consider people who object to TurboTax for ideological reasons, not functionality. In my experience, it's been a VERY good application, and I'll never use it again, after learning about their lobbying practice.

1 ^ | v - Reply - Share



Obi Talk · 2 years ago

I used HR Block last year to file my taxes for 2019 and apparently this year they pulled out of the IRS Free File. I started my 2020 taxes with them anyway and I had a 1099-B and as soon as I chose that option I was prompted to pay \$49. So I went back to IRS Free File Turbo Tax

1 ^ | v - Reply - Share



Irene · 2 years ago · edited

I'm shocked Credit Karma is on this list. I've used TurboTax for years (for a very simple return, single, no dependents, one W-2). This year, I tried to go with Credit Karma based on this review. But I'm extremely frustrated with the product and customer service. No matter how many browsers or computers or OS's I try or how many times I refresh my cache, etc., I'm not able to get past the "updating your credit info" screen. I've contacted their Customer Service only to be told they are "looking into it." It's been almost a month of back and forth and they've yet to provide any help. I'm deleting my account and happily paying Turbo Tax the \$45 bucks or whatever it is this year.

^ | v - Reply - Share



Bud → Irene · 2 years ago

Had the exact same experience with Credit Karma!

^ | v - Reply - Share



Obi Talk → Irene · 2 years ago

Well its owned by Intuit now so Im surprised they even have a tax return option now, unless its just a reskinned version of Turbotax

^ | v - Reply - Share

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RX 81



Questions and Answers about the 2018 Form 1040



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1. Why was it necessary to change the Form 1040?

Following the most expansive tax law changes in 30 years, Treasury asked the IRS to look at ways to improve the 1040 filing experience. The IRS reviewed the set of 1040 forms (i.e. the Forms 1040, 1040EZ and 1040A) with the goal of simplifying this experience for taxpayers and its partners in the tax industry.

Treasury approved a new approach that provides flexibility in how IRS will be able to manage future changes to the Form 1040 and reduce the number of 1040 forms from which taxpayers must choose, to one basic Form 1040 that all taxpayers will use. This form uses a "building block" approach so taxpayers with straightforward tax situations only need to file Form 1040, while those who need to provide supplemental information can use the new numbered schedules they need.

2. How did the IRS develop the Form 1040 and its schedules?

The IRS released the first early draft of this form in late June 2018. To make the transition to this new form as seamless as possible, the IRS [shared this early draft](#) form and schedules, as well as the subsequent versions of these, with its partners in the tax industry to get their input during development.

3. How do I know if I need to file more than the Form 1040?

The 2018 Form 1040 uses a "building block" approach so the federal tax return could be reduced to a single, simple form. Taxpayers can supplement this form with new numbered schedules, if needed. These new schedules are:

- [Form 1040 \(Schedule 1\), Additional Income and Adjustments to Income](#) [PDF](#)

Taxpayers use this schedule to report items such as capital gains, unemployment, compensation, prize or

award money, gambling winnings or to claim deductions, such as student loan interest deduction, self-employment tax and educator expenses.

- [Form 1040 \(Schedule 2\), Tax](#) [PDF](#)

Taxpayers use this schedule to report amounts they owe for the Alternative Minimum Tax (AMT) or when they need to make an excess advance premium tax credit repayment.

- [Form 1040 \(Schedule 3\), Non-refundable Credits](#) [PDF](#)

Taxpayers use this schedule to claim a nonrefundable credit other than the child tax credit or the credit for other dependents, such as the foreign tax credit, education credits, general business credit

- [Form 1040 \(Schedule 4\), Other Taxes](#) [PDF](#)

Taxpayers use this schedule to report other taxes they owe and must pay, such as self-employment tax, household employment taxes, additional tax on IRAs or other qualified retirement plans and tax-favored accounts.

- [Form 1040 \(Schedule 5\), Other Payments and Refundable Credits](#) [PDF](#)

Taxpayers use this schedule to claim a refundable credit other than the earned income credit, American opportunity credit, or additional child tax credit or have other payments, such as an amount paid with a request for an extension to file or excess social security tax withheld.

- [Form 1040 \(Schedule 6\), Foreign Address and Third-Party Designee](#) [PDF](#)

Taxpayers who have a foreign address or a third-party designee (other than a paid preparer) use this schedule to report this information.

4. Will filing the 2018 Form 1040 be different?

With nearly 90 percent of people now using tax software, the IRS expects these changes will be seamless for taxpayers who take advantage of the benefits of e-filing, and the IRS expects e-file use to continue to increase.

The 2018 Form 1040 has been redesigned. Some lines have been combined or shifted to other forms and schedules. Some items that remain basically unchanged are:

- the spaces for names and Social Security numbers,
- the spaces for signatures remain on page one,
- the checkboxes for selecting the Filing Status and
- the checkboxes for the Presidential election campaign.

The checkbox for reporting full year health care coverage or exemption is on page one of the 2018 Form 1040.

5. What do I need to do when I prepare and file my federal tax returns?

The 2018 Form 1040 uses a "building block" approach that reduces the federal income tax return to one simple form that is supplemented with new numbered schedules if needed. Taxpayers with straightforward tax situations will only need to file the Form 1040 with no numbered schedules. Since nearly 90 percent of taxpayers now use tax software, the IRS expects the change to this form and new schedules to be seamless for those who take advantage of the benefits of e-filing because the tax return preparation software will automatically use taxpayer answers to the tax questions to complete the 2018 Form 1040 and any needed numbered schedules. In fact, many taxpayers who use software or the services of a tax preparer and file electronically may not even realize that the 2018 Form 1040 is different until they see a downloaded or printed copy when they file.

Individuals who filed paper tax returns last year or who use paper tax forms to prepare their returns for electronic filing will notice some changes. However, the most commonly used lines from last year's Form 1040 are still on the 2018 Form 1040. These Q&As provide guidance that will help taxpayers see how less commonly

used lines were moved to the new numbered schedules and are organized by general categories, such as income and adjustments to income, nonrefundable credits, taxes, payments, and refundable credits.

6. Where can I find more information about the new schedules and the types of information are reported on them?

Review [this information](#) about the 2018 Form 1040 on IRS.gov.

7. Where can I find more information about the Form 1040 and tax reform?

Review [this information](#) about the 2018 Form 1040 and [IRS.gov/getready](#) webpages on IRS.gov, as well as information in [Publication 5307, Tax Reform: Basics for Individuals and Families](#) [PDF](#) and [About Publication 17, Your Federal Income Tax](#).

They may also want to use the [Online Tools](#), [Interactive Tax Assistant](#), [Tax Topics](#) and [IRS Tax Trails](#) on IRS.gov, as well as the [IRS Tax Map](#), to help them find answers to their tax questions and to find tax help.

8. What form should I use if I need to file a tax return for a year prior to 2018?

You should use and file the Form 1040, 1040A or 1040EZ for that tax year. Prior year tax forms and instructions can be [downloaded](#) from IRS.gov. Information on filing these types of returns is available on the [Filing Past Due Tax Returns](#) webpage on IRS.gov.

9. What form should I use if I need to amend my return?

If you who discover a mistake on your tax returns after filing you can file an amended tax return to correct it. This includes changing the filing status and dependents, or correcting income, credits or deductions. The instructions for [Form 1040X, Amended U.S. Individual Income Tax Return](#), list more reasons to amend a return. You can use the [Should I File an Amended Return? tool](#) on IRS.gov to determine if you need to file a Form 1040X. You do not need to file an amended return to fix math errors, as the IRS will correct those.


10. How do I compare last year to this year's F1040?

See the 2018 Form 1040 instructions and the answer to question 3 above.

11. Where can I order pre-printed forms?

All IRS forms, instructions and publications are available on IRS.gov, which continues to be the best way to get tax forms and publications. It's quick, easy, free and always available. Tax products are usually available on IRS.gov six to eight weeks before the paper versions are available. Taxpayers can download and view popular tax publications and Form 1040 Instructions on mobile devices such as a tablet at no charge. eBook, PDF and HTML versions are also available. Taxpayers can visit www.irs.gov/forms-pubs/ebook for a listing of all eBook publications.

You can order tax forms, instructions and publications you need to complete your 2018 tax return. We will process your order and ship it by U.S. mail when the products become available. Most products should be available by the end of January 2019. Information about [ordering forms and publications by mail](#) is available on [IRS.gov](#).

 *This page is designated as historical and is no longer updated.*

Page Last Reviewed or Updated: 20-Nov-2020

RX 82



TaxAct Free

Simple filers with dependents, college expenses, unemployment income, or retirement income file their federal taxes for free.

\$ 0⁰⁰

State Additional

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Pay only when you file

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Our Products are Easy-to-Use and Guarantee Accuracy

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Save time and reduce errors key data from last year's TaxAct returns in one simple step.

Import from TurboTax® or H&R Block®

TaxAct can import data from PDF files of 1040 returns prepared by TurboTax® and H&R Block®.

Step-by-step guidance through your return

Just answer simple questions, and TaxAct will do the rest. Your return is guaranteed 100% accurate, backed by \$100k, and you'll get your maximum refund the fastest way possible with free IRS e-file.

Best-in-Class Security

Free to prepare, free to print, free to e-file®

Pay absolutely nothing to prepare, print and e-file your simple federal return. You get everything you need and nothing you don't, so you can file your 1040 return quickly and easily.

Fast, friendly service when you need it

TaxAct is here to make e-filing easier and faster than ever! Get unlimited help accessing your account, retrieving your username and password, updating your preferences, and more. We're available via chat, email, and phone.

Real-Time Refund Status

See how your entries impact your refund or amount due in real time. Your refund amount updates as you prepare your return so you can always see that you're getting your guaranteed maximum refund.

Complete tax glossary

We utilize state-of-the-art technology and monitoring processes so you can be confident your information is safe.

Get the definitions for nearly 300 tax terms, linked directly from the TaxAct interview process right when you need them.

Bookmarks

Navigate your return on your terms. Simply Bookmark a question to return to it at any time.

Finish your state return in minutes

Your federal information automatically flows into your state tax forms so you can finish and file your state return in minutes!

Free e-file for fast, accurate return filing & confirmation

E-file for free and get notification via email and/or text as soon as your return has been processed by the state.

FAFSA Assistance

TaxAct makes it easy to complete the FAFSA. Prepare and print a worksheet with the tax info you need to get your financial aid.

Step-by-step guidance for maximum refund

Your return is guaranteed 100% accurate, and you'll get your maximum refund the fastest way possible with e-file.

TaxAct Alerts

Steer clear of problems. TaxAct Alerts meticulously inspects your return for any errors, omissions, and valuable tax-saving opportunities you may have missed.



\$100K Accuracy Guarantee

Our accuracy guarantee is more than our word—it's backed by \$100k. Because your peace of mind is priceless.



Maximum Refund Guarantee

Get your biggest refund guaranteed with TaxAct on accepted federal e-filed returns.



7 years of access to your return

Easily access and print copies of your prior returns for seven years after the filing date.

*Offer Details & Disclosures



TaxAct Costs Less: "File for less" and percentage savings claims based on comparison with TurboTax federal pricing for paid consumer online 1040 filing products on 07/07/2022.

Maximum Refund Guarantee: If an error in our software causes you to receive a smaller refund or larger tax liability than you receive using the same data with another tax preparation product, we will pay you the difference in the refund or liability up to \$100,000 and refund the applicable software fees you paid us. Find out more about our [Maximum Refund Guarantee](#).

\$100k Accuracy Guarantee: If you pay an IRS or state penalty or interest because of a TaxAct calculation error, we'll pay you the difference in the refund or liability up to \$100,000. This guarantee applies only to errors contained in our consumer prepared tax return software; it doesn't apply to errors the customer makes. Find out more about our [\\$100k Accuracy Guarantee](#).

Satisfaction Guarantee: If you are not 100% satisfied with any TaxAct product, you may stop using the product prior to printing or filing your return. We are unable to refund fees after you print or e-file your return.

TaxAct Xpert Assist: TaxAct Xpert Assist is available as an added service to certain users of TaxAct's online, consumer prepared 1040 product. Unlimited access to refers to an unlimited quantity of Xpert Assist contacts available to each customer. Service hours limited to designated scheduling times and by expert availability. Some tax topics or situations may not be included as part of this service. Return review is broad, does not extend to source documents and not intended to be comprehensive; expert is available to address specific questions raised by the customer. View full [TaxAct Xpert Assist Terms and Conditions](#). Offer for Free TaxAct® Xpert Assist may expire at any time without notice.

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Edition Pricing: Actual prices are determined at the time of payment, print, or e-file and are subject to change without notice. Add sales tax for applicable orders. Offers may end at any time and promotional offers may not be combined.

Deduction Maximizer: TaxAct's Deduction Maximizer guides you step by step through the process of completing your return in a way that helps you uncover additional tax advantages and helps you maximize your deductions by checking dozens of additional deductions we know from experience folks don't think to look for. Each deduction you claim may reduce the amount of tax you owe, resulting in a lower IRS bill overall.

All-Inclusive: All-inclusive is a collection of select products and services that may be used to enhance your DIY 1040 tax preparation and filing experience. The offer does not include additional state(s) returns or TaxAct Full ServiceSM where a tax professional prepares a return on your behalf. TaxAct® Xpert Assist Offer for free TaxAct Xpert AssistTM may expire at any time without notice. TaxAct Xpert AssistTM available as an added service. If you choose to pay for your bundle using Refund Transfer, then the Refund Transfer is no additional cost to you and will be included in the bundle price. 50% savings based on a la carte pricing. Final price, including added sales taxes, is determined at the time of filing and subject to change without notice.

My TaxPlanTM: Your customized My TaxPlan features potential refund-growing opportunities and easy-to-follow instructions based on information you provide for your current tax return. Refund boost claimed in advertising calculated using recent IRS statistics and trade press regarding contributions to retirement accounts. We will highlight other potential savings, too, so your refund boost could be bigger.

Refund Transfer: Refund Transfers are fee- based products offered by Republic Bank & Trust Company, Member FDIC. A Refund Transfer Fee and all other authorized amounts will be deducted from the taxpayer's tax refund.

Audit Defense: See [Audit Defense provided by Tax Protection Plus \(PDF\)](#) for further details of services and requirements. May not apply to certain forms and credits. Certain customers may not qualify for services based on past tax audit history, residency, or other factors. Audit Defense is not insurance. Audit Defense is subject to [terms and conditions \(PDF\)](#) located on Tax Protection Plus's [website](#).

Refer-A-Friend: Offer valid through October 15, 2022. For each friend you refer to TaxAct who did not prepare and file using us last year, you get a \$20 Amazon.com Gift Card after they file their taxes using TaxAct's 2021 Deluxe, Premier or Self-Employed product. Even better, they get 20% off our federal tax filing products by using the share link you provide! It's not every day you get to be somebody's hero and make money doing it.

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This offer is for TaxAct's consumer prepared, federal, online 1040 returns and is subject to specific terms and conditions. See [terms and conditions](#) for more information. Offer is subject to change. The value of your gift card is dependent on the offer available at the time you make the referral.

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Over 85 Million Returns Filed: Based on e-filed federal returns through TaxAct Consumer and TaxAct Professional software since 2000.

Return Import: TaxAct can import the data you filed last year with us or your return from PDF files of 1040 returns prepared by many but not all tax prep software solutions.

Quick Start Options: Quick start options include PDF import, prior year import, and W-2 photo capture. To import your prior year return, you must either have a PDF copy of a return available or have filed your return the previous year with TaxAct. To capture your W-2 with a camera with your phone, you must be able to download and install TaxAct's mobile app and grant it the necessary camera and image privileges. To ensure accuracy, we will ask you to review any information we're able to import (either through PDF import, prior year import, or W-2 photo capture) and review it for accuracy. These quick start options save time by not requiring you to enter some of your information manually.

Most Popular: TaxAct Deluxe is our most popular product among our online customers with more complex tax situations.

Refund Amounts Shown: Actual refund amounts vary based on your tax situation. Number shown in illustrations are based on IRS published data stating that average 2021 tax refunds were more than \$2800. See [IRS article](#) for more information.

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RX 83



Tax information center : Filing : Filing online

Online tax return – filing your tax return online

Tax return online vs. traditional methods

Filing an online tax return is often presented as an easy alternative to traditional filing practices, but that doesn't necessarily mean that the process is self-explanatory.

There are a number of important factors to consider when choosing the right service provider and taking advantage of deduction opportunities.

How to file taxes online

Wondering how to file taxes online? You can do it a number of ways with the help of H&R Block:

- 1 - **Free online:** File simple returns for free with H&R Block. This option is ideal for students, W-2 employees, and those receiving unemployment income.
- 2 - **Deluxe:** This option to file taxes online is ideal for those looking to maximize credits & deductions, plus HSA contributions.
- 3 - **Premium:** Gain access to tax-saving tools for investments and expenses.
- 4 - **Self-employed:** Do you work for yourself or have gig income? Use our self-employment program to file taxes online.

Tips to file taxes online

While there are many options to file a tax return online, you should be mindful of some key best practices to e-file taxes. Start with these tips on how to file taxes online for a successful experience:

1 – Only choose IRS-authorized e-filers

Tax identity theft continues with the growth of e-filing tax services. In many cases, the problem involves using an e-file tax platform that isn't authorized by the IRS. There are important steps to take to help safeguard your information if you're working directly with a tax pro. For one, make sure to take advantage of the authorized IRS e-file provider locator, which allows you to contact an IRS-authorized tax professional in your area who has an approved electronic filing program. You can also refer to the [Directory of Federal Tax Return Preparers with Credentials](#) and select qualifications.



2 – Take advantage of IRA contributions and other tax deductions

Say you went through the whole e-file process and aren't exactly happy with the figure you got. One thing you can do to lower the amount of tax due is to make a deductible IRA contribution. With most tax deductions, the deadline for your tax return is December 31 of the previous year. However, those who qualify for IRA contributions can make them up until the tax deadline the following year. Choosing this method can help you keep more of your money in the long run.

3 – Maximize available tax credits

Tax credits are potential refund boosters. In fact, they reduce your taxes dollar-for-dollar of taken.

So, if you have a \$500 credit, you reduce your taxes by \$500. Many taxpayers don't even realize potential tax credit opportunities. Here are some common tax credits:

- [American Opportunity Tax Credit](#)
- [Child Tax Credit](#)
- [Child and Dependent Care Credit](#)
- [Earned Income Tax Credit](#)
- [Lifetime Learning Credit](#)
- [Retirement Savings Contributions Credit](#)
- [Residential Energy Efficient Property Credit](#)
- [Health Coverage Tax Credit](#)
- [Recovery Rebate Credit](#)
- [Premium Tax Credit](#)

4 – Choose direct deductions and deposits

One of the most convenient aspects of filing a tax return online is that you can pay with a debit or credit card or take the funds directly from your bank account. Direct deduction and deposit is typically the fastest way to undergo the process, while also reducing the risk of identity theft and processing errors.

Hands-on help to file a tax return online

H&R Block is an IRS-approved center for filing tax returns online. If you have questions or concerns about getting everything covered before filing, our tax professionals would be happy to help you optimize your tax return online. With over 11,000 locations across the country, you can count on easy accessibility and maximum convenience.

File by yourself from any device, any time, with expert help if you need it.

[Make an appointment.](#)

★ RELATED RESOURCES

Filing for a Deceased Taxpayer

If you need help handling an estate, we're here to help. Learn how to file taxes for a deceased loved one with H&R Block.

What's Your Filing Status?

Choosing the wrong filing status is a common mistake. Do you know what your tax filing status is? Read on to learn about filing statuses with H&R Block.

Don't Overlook the 5 Most Common Tax Deductions

From retirement account contributions to self-employment expenses, learn more about the five most common tax deductions with the experts at H&R Block.

New Baby, New House or New Spouse? How Major Life Changes Affect Your Taxes

Getting married? Having a baby? Buying a house? Go through your life events checklist and see how each can affect your tax return with the experts at H&R Block.

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2. Free In-person Audit Support is available only for clients who purchase and use H&R Block desktop software solutions to prepare and successfully file their 2021 individual income tax return (federal or state). It does not provide for reimbursement of any taxes, penalties, or interest imposed by taxing authorities and does not include legal representation. Additional terms and restrictions apply. See **Free In-person Audit Support** for complete details.
3. H&R Block tax software and online prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
4. H&R Block is a registered trademark of HRB Innovations, Inc.
5. Emerald Cash Rewards™ are credited on a monthly basis. Rewards are in the form of a cash credit loaded onto the card and are subject to applicable withdrawal/cash back limits. Merchants/Others vary.
6. If you discover an error in the H&R Block tax preparation software that entitles you to a larger refund (or smaller liability), we will refund the software fees you paid to prepare that return and you may use our software to amend your return at no additional charge. To qualify for the H&R Block Maximum Refund Guarantee, the refund claim must be made during the calendar year in which the return was prepared and the larger refund or smaller tax liability must not be due to incomplete, inaccurate, or inconsistent information supplied by you, positions taken by you, your choice not to claim a deduction or credit, conflicting tax laws, or changes in tax laws after January 1, 2022.
7. If the online tax preparation or tax software makes an arithmetic error that results in your payment of a penalty and/or interest to the IRS that you would otherwise not have been required to pay, H&R Block will reimburse you up to a maximum of \$10,000. Terms and conditions apply; see Accurate Calculations Guarantee for details.
8. H&R Block is a registered trademark of HRB Innovations, Inc. TurboTax® and Quicken® are registered trademarks of Intuit, Inc. TaxAct® is a registered trademark of TaxAct, Inc. Windows® is a registered trademark of Microsoft Corporation.
9. Prices based on hrblock.com, turbotax.com and intuit.taxaudit.com (as of 11/28/17). TurboTax® offers limited Audit Support services at no additional charge. H&R Block Audit Representation constitutes tax advice only. Consult your attorney for legal advice. Power of Attorney required. Does not provide for reimbursement of any taxes, penalties or interest imposed by taxing authorities. Terms and conditions apply.
11. The audit risk assessment is not a guarantee you will not be audited.
14. Audit Defense only available in TurboTax Max bundle.
15. Receive 20% off next year's tax preparation if we fail to provide any of the 4 benefits included in our "No Surprise Guarantee" (Upfront Transparent Pricing, Transparent Process, Free Audit Assistance, and Free Midyear Tax Check-In). Limitations apply. Description of benefits and details at hrblock.com/guarantees.

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20. State e-file available within the program. An additional fee applies for online. State e-file not available in NH. Additional state programs are extra. Most state programs are available in January. Release dates vary by state. Online AL, DC and TN do not support nonresident forms for state e-file. Software DE, HI, LA, ND and VT do not support part-year or nonresident forms.
21. H&R Block prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
23. H&R Block online tax preparation and Tax Pro Review prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
24. A simple tax return excludes self-employment income (Schedule C), capital gains and losses (Schedule D), rental and royalty income (Schedule E), farm income (Schedule F) shareholder/partnership income or loss (Schedule K-1), and earned income credit (Schedule EIC).
25. State programs can be added within the program for an additional cost. Most state programs available in January. Release dates vary by state. The following states do not support part-year/nonresident forms: AL, DC, HI and MT.
26. Enrolled Agents do not provide legal representation, signed Power of Attorney required. Audit services constitute tax advice only. Consult an attorney for legal advice. Void where prohibited.
27. Starting December 1, 2017
28. Does not include in-person audit representation, which is sold separately. H&R Block does not provide legal advice.
29. View terms and conditions.
31. ©2017-2021 and TM, NerdWallet, Inc. All Rights Reserved. H&R Block Free Online, NerdWallet's 2021 winner for Best Online Tax Software for Simple Returns.

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Full Site Disclaimers	40. State e-file not available in NH. E-file fees do not apply to NY state returns. State e-file available for \$19.95.
File Online	41. Personal state programs are \$39.95 each (state e-file available for \$19.95). Most personal state programs available in January; release dates vary by state. State e-file not available in NH. E-file fees do not apply to NY state returns.
• Tax Software	Additional disclaimer for business e-files: State e-file for business returns only available in CA, CT, MI, NY, VA, WI
Retail	42. Additional state programs are extra. Most state programs available in January; release dates vary by state.
Financial Services	43. All prices are subject to change without notice.
Income Tax Course	44. One state program can be downloaded at no additional cost from within the program. Additional state programs extra.
	45. One personal state program and unlimited business state program downloads are included with the purchase of this software. Additional personal state programs extra.

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79. **Subject to \$125 minimum charge.**
Offer valid for tax preparation fees for new clients only. A new client is an individual who did not use H&R Block office services to prepare his or her 2016 tax return. Valid receipt for 2016 tax preparation fees from a tax preparer other than H&R Block must be presented prior to completion of initial tax office interview. May not be combined with other offers. Offer period March 1 – 25, 2018 at participating offices only. To qualify, tax return must be paid for and filed during this period. Visit hrblock.com/halloff to find the nearest participating office or to make an appointment. OBTP# B13696 ©2018 HRB Tax Group, Inc.
80. Results vary. All tax situations are different. Fees apply if you have us file a corrected or amended return. The IRS allows taxpayers to amend returns from the previous three tax years to claim additional refunds to which they are entitled. Applies to individual tax returns only. At participating offices.
81. Price for Federal 1040EZ may vary at certain locations. See local office for pricing.
82. Type of federal return filed is based on taxpayer's personal situation and IRS rules/regulations. Form 1040EZ is generally used by single/married taxpayers with taxable income under \$100,000, no dependents, no itemized deductions, and certain types of income (including wages, salaries, tips, taxable scholarships or fellowship grants, and unemployment compensation). Additional fees apply with Earned Income Credit and you file any other returns such as city or local income tax returns, or if you select other products and services such as Refund Transfer. Available at participating U.S. locations.
83. If H&R Block makes an error on your return, we'll pay resulting penalties and interest.
84. If you discover an H&R Block error on your return that entitles you to a larger refund (or smaller tax liability), we'll refund the tax prep fee for that return and file an amended return at no additional charge. Refund claims must be made during the calendar year in which the return was prepared.
85. By authorizing H&R Block to e-file your tax return, or by taking the completed return to file, you are accepting the return and are obligated to pay all fees when due.
86. H&R Block will explain the position taken by the IRS or other taxing authority and assist you in preparing an audit response. Does not include Audit Representation.
87. H&R Block provides tax advice only through Peace of Mind® Extended Service Plan, Audit Assistance and Audit Representation. Consult your own attorney for legal advice. Power of Attorney required. Void where prohibited. Conditions apply. See Peace of Mind® Terms for details.
88. Available only at participating H&R Block offices. CAA service not available at all locations. H&R Block does not provide immigration services. An ITIN is an identification number issued by the U.S. government for tax reporting only. Having an ITIN does not change your immigration status. You are required to meet government requirements to receive your ITIN. Additional fees and restrictions may apply.
89. For tax years beginning after 2017, applicants claimed as dependents must also prove U.S. residency unless the applicant is a dependent of U.S. military personnel stationed overseas. A passport that doesn't have a date of entry won't be accepted as a stand-alone identification document for dependents.
90. Supporting Identification Documents must be original or copies certified by the issuing agency. Original supporting documentation for dependents must be included in the application.
91. At participating offices. Results may vary. Only available for returns not prepared by H&R Block. All tax situations are different and not everyone gets a refund. Fees apply if you have us file an amended return. The IRS allows taxpayers to amend returns from the previous three tax years to claim additional refunds to which they are entitled. Applies to individual tax returns only.
92. Starting price for simple federal return. Price varies based on complexity. Starting price for state returns will vary by state filed and complexity.
93. Audit services only available at participating offices.
94. Comparison based on paper check mailed from the IRS.
95. Amended tax returns not included in flat fees. A separate agreement is required for all Tax Audit & Notice Services. Tax Audit & Notice Services include tax advice only. Consult your own attorney for legal advice. A Power of Attorney may be required for some Tax Audit & Notice Services.
96. Qualifying individuals only. See www.irs.gov for qualifications.
97. Important Terms, Conditions and Limitations apply. See **Tax Identity Shield Terms, Conditions and Limitations** for complete details.
99. Valid for an original 2019 personal income tax return for our Tax Pro Go service only. Must provide a copy of a current police, firefighter, EMT, or healthcare worker ID to qualify. No cash value and void if transferred or where prohibited. Offer valid for returns filed 5/1/2020 - 5/31/2020. If the return is not complete by 5/31, a \$99 fee for federal and \$45 per state return will be applied.
102. H&R Block does not provide audit, attest or public accounting services and therefore is not registered with the board of accountancy of the State in which the tax professional prepares returns.
103. The tax identity theft risk assessment will be provided in January 2019. The tax identity theft risk assessment is based on various data sources and actual risk may vary beyond factors included in analysis.
104. Due to federally declared disaster in 2017 and/or 2018, the IRS will allow affected taxpayers an extended filing date to file and pay for their 2017 taxes. See IRS.gov for details.
105. Free ITIN application services available only at participating H&R Block offices, and applies only when completing an original federal tax return (prior or current year). CAA service not available at all locations.
106. The Send A Friend coupon must be presented prior to the completion of initial tax office interview. A new client is defined as an individual who did not use H&R Block or Block Advisors office services to prepare his or her prior-year tax return. Discount valid only for tax prep fees for an original 2017 personal income tax return prepared in a participating office. May not be combined with any other promotion including Free 1040EZ. Void if sold, purchased or transferred, and where prohibited. No cash value. Must be a resident of the U.S., in a participating U.S. office. Expires 4/10/2018. Referring client will receive a \$20 gift card for each valid new client referred, limit two. Gift card will be mailed approximately two weeks after referred client has had his or her taxes prepared in an H&R Block or Block Advisors office and paid for that tax preparation. Referred client must have taxes prepared by 4/10/2018. H&R Block employees, including Tax Professionals, are excluded from participating.
107. Available at participating offices and if your employer(s) participate in the W-2 Early Access™ program.
108. Valid for 2017 personal income tax return only. Return must be filed January 5 - February 28, 2018 at participating offices to qualify. Type of federal return filed is based on your personal tax situation and IRS rules. Form 1040EZ is generally used by single/married taxpayers with taxable income under \$100,000, no dependents, no itemized deductions, and certain types of income (including wages, salaries, tips, some scholarships/grants, and unemployment compensation). Additional fees apply for Earned Income Credit and certain other additional forms, for state and local returns, and if you select other products and services. Visit hrblock.com/ez to find the nearest participating office or to make an appointment. OBTP#B13696 ©2017 HRB Tax Group, Inc.

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• Income Tax Course

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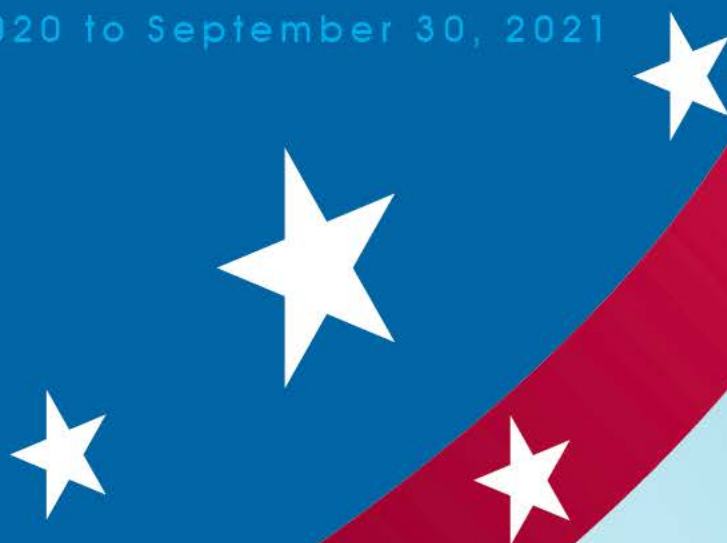
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2021

INTERNAL
REVENUE
SERVICE

DATA BOOK

October 1, 2020 to September 30, 2021



Department of the Treasury Internal Revenue Service

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The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Internal Revenue Service

Data Book, 2021

This report describes activities conducted by the Internal Revenue Service during Fiscal Year 2021 (October 1, 2020, through September 30, 2021). It provides information on returns filed and taxes collected, enforcement, taxpayer assistance, the IRS budget and workforce, and other selected activities.

When using information from this report, cite the *Internal Revenue Service Data Book, 2021*, as follows—

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Data Book, 2021
Publication 55–B
Washington, DC
May 2022

Contents

Acknowledgments	v
Letter from the Commissioner	vi
IRS Response to the COVID-19 Pandemic	viii
Taxpayer Attitudes and Service Channel Preferences	x
List of Statistical Tables	xii
Returns Filed, Taxes Collected, and Refunds Issued	1
Service to Taxpayers	21
Compliance Presence	33
Collection Activities, Penalties, and Appeals	57
Chief Counsel	63
IRS Budget and Workforce	69
Data Sources, by Subject Area and Table Number	75
Principal Officers of the Internal Revenue Service	76
Principal Officers of the Internal Revenue Service Office of Chief Counsel	78
Commissioners of Internal Revenue	79
Chief Counsels for the Internal Revenue Service	80
Internal Revenue Service Organization	<i>inside back cover</i>

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The Internal Revenue Service Data Book Online

The *Internal Revenue Service Data Book* tables for the current year and previous years may be found online at <https://www.irs.gov/statistics/soi-tax-stats-irs-data-book>. An archive of historical *Data Books* and its predecessor from 1863 to 2021 is also available on the site. For additional information, contact Statistical Information Services at 202-803-9285 or e-mail sis@irs.gov.

Letter from the Commissioner

I'm pleased to present the Fiscal Year 2021 *Internal Revenue Service Data Book*. This publication will give everyone an idea of the important work that takes place at the IRS, year in and year out, to help taxpayers. We also hope it will help illustrate our accomplishments over the past year and the many ways IRS employees provide service to the nation.

Sharing these data will give readers insights into the broad scope of our work. My experience as Commissioner has strengthened my belief that a fully functioning IRS is critical to the success of our nation. Each year, the IRS collects more than \$3 trillion in taxes and generates approximately 96 percent of the funding that supports the Federal Government's ability to perform its vital functions, helping fund the great work of our nation on everything from education to defense. We serve and interact with more Americans than any other public or private organization.

The COVID-19 pandemic continued to present some of the greatest challenges in our agency's history, and the way our employees responded illustrates the significant role that the IRS plays in the overall health of our country. Thanks to the agility and flexibility of our workforce, the IRS continues to operate in a virtual work environment, with the majority of employees working remotely to protect their safety.

During Fiscal Year (FY) 2021, IRS employees processed more than 261.0

million tax returns and other forms, including 167.9 million individual income tax returns, an increase of 6.8 percent from FY 2020. Electronically filed individual returns accounted for 90.0 percent (151.1 million) of these. More than 12.2 million business returns were filed, an increase of 7.7 percent from last year. Of these returns, 10.6 million were filed electronically, up from 10.4 million in FY 2020.

Again in 2021, we were called on to provide economic relief during this national crisis while also fulfilling our agency's core responsibilities of tax administration. IRS employees answered Congress' call to deliver two more rounds of Economic Impact Payments. The IRS also implemented changes to the Earned Income Tax Credit, the Child Tax Credit, and other refundable credits as part of the American Rescue Plan Act passed by Congress in March 2021.

An important aspect of our work in FY 2021 has been enhancing the taxpayer experience. This year's *Data Book*, as in years past, includes insights on taxpayers' opinions from the long-running Comprehensive Taxpayer Attitude Survey that has helped inform IRS service improvements since 1999. The IRS continued to implement provisions of the Taxpayer First Act and engaged in thoughtful conversations with taxpayers and employees to improve IRS operations and our interactions with customers. In January 2021, we

took a major step on this journey by issuing our Report to Congress. This document is our roadmap for making major innovations in serving taxpayers, continuing to enforce the tax laws in a fair and impartial manner, collaborating across the agency, and training IRS employees.

We are committed to providing meaningful services of a nature and quality that every American deserves, which is why we continued working to improve those services during FY 2021, even with ongoing challenges related to the pandemic. Our live toll-free call volume increased 21.2 percent to more than 21.7 million calls answered, up from almost 17.9 million in FY 2020. Capabilities to provide in-person assistance remained limited because of the pandemic, but contacts at Taxpayer Assistance Centers increased slightly to almost 1.1 million.

However, we realize that more work remains. Despite valiant efforts by our employees, who are handling large portfolios and new responsibilities, at the end of 2021 we were still working through processing tax returns filed that year, and we were unable to answer an unprecedented number of telephone calls. In other words, in many areas we have been unable to deliver the level of service and enforcement that our taxpayers and tax system need and deserve. IRS employees want to do more for all taxpayers, and we will continue to do everything possible with the

limited resources available to us.

Knowing the difficulties of providing immediate assistance in person or on the phone to many customers, we conducted extensive outreach to educate taxpayers about the tools and guidance available at IRS.gov. Our website usage continued to rise on a historic trajectory, with just shy of 2.0 billion site visits in FY 2021, up 24.7 percent from last year's record-breaking numbers. We also had close to 632.4 million inquiries on our "*Where's My Refund?*" online tool that enables taxpayers to check the status of their tax refund.

In FY 2021, we continued emphasizing service to diverse communities and took important steps to further improve the amount of assistance we provide in multiple languages. For the first time in the history of the IRS, the Form 1040 was available in Spanish during the 2021 tax filing season. We also debuted Schedule LEP, giving taxpayers with limited English proficiency the opportunity to indicate whether they wanted to be contacted by the IRS in a language other than English. Using Schedule LEP, taxpayers could choose from 20 different languages!

In addition to expanding our multilingual offerings, we improved the taxpayer experience by providing new virtual services and online tools to tax professionals so they can better assist their clients when there is a need to interact with the IRS. A great

example of these efforts is the new electronic option for tax professionals to obtain digital signatures from individual and business clients and submit authorization forms to the IRS. Furthermore, during 2021, we introduced an online account for tax professionals and will continue to add functionality, enabling more types of transactions to be completed online in a secure environment.

In the enforcement area, we continued to develop innovative approaches to understanding, detecting, and resolving potential noncompliance, in order to maintain taxpayer confidence in the tax system. We are working to improve examination selection and our processes by expanding the use of data analytics and artificial intelligence. We have taken additional steps to improve coordination of enforcement efforts across the agency, including creating an Office of Fraud Enforcement and an Office of Promoter Investigations. These and other steps will help us do a better job of rooting out tax fraud, especially with shutting down abusive tax avoidance transactions, such as syndicated conservation easements, micro-captive insurance arrangements, and abusive transactions involving virtual and cryptocurrencies.

While on the subject of enforcement, I want to say how proud I am of our Criminal Investigation (CI) division, which continues to make great strides investigating tax and financial fraud

in all forms. I'm especially proud of their efforts in conjunction with the dark web illicit marketplace known as Silk Road. CI special agents tracked cryptocurrency transactions from Silk Road, which led to the Justice Department seizing more than \$1 billion in cryptocurrency related to Silk Road's closure.

While this *Data Book* includes many interesting statistics, there's more to the IRS story. Beyond the numbers that quantify our operations, it's important to also discuss how much IRS employees care. The IRS is made up of people who give back to their communities and help one another. Our employees provide significant support for those devastated by hurricanes, wildfires, and other natural disasters, and across the nation, they continued to do amazing work in their communities to help those impacted by COVID-19. You can read more about this in the *IRS 2021 Progress Update*, an annual report on IRS.gov covering the same period as the *Data Book*.

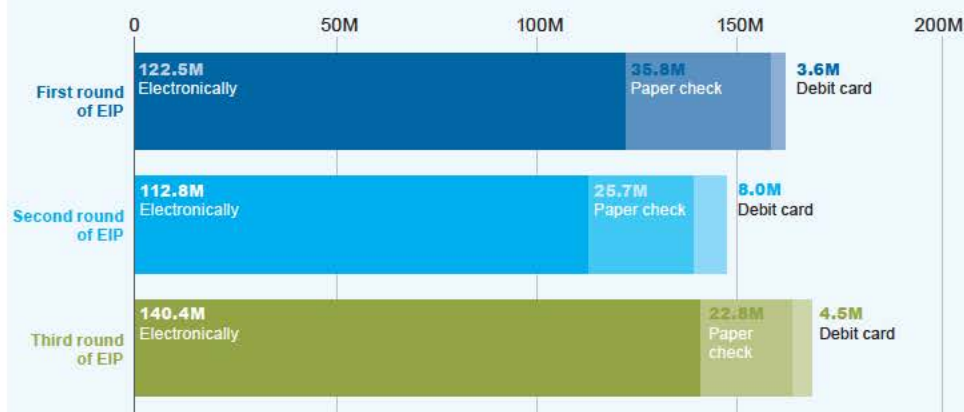
I am very proud of what our employees accomplished in FY 2021, but everyone at the IRS wants to do more to improve service to taxpayers and the nation. I continue to believe the greatest strength of the IRS is its hardworking, dedicated people. They are why I'm prouder than ever to be able to say, "I'm Chuck Rettig, and I work with the Internal Revenue Service."

Chuck Rettig

Commissioner of Internal Revenue

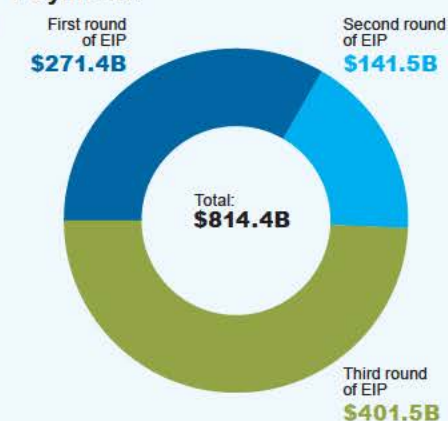
INTERNAL REVENUE SERVICE DATA BOOK, 2021

Number of Economic Impact Payments by Type



SOURCE: RS, RAAS, March 2022

Amount of Economic Impact Payments



IRS Response to the COVID-19 Pandemic

As the COVID-19 pandemic continued into 2021, the IRS persisted in providing tax administration relief to millions of taxpayers and served an essential role by implementing legislative programs that provided financial assistance for Americans, all while continuing to operate in a manner that protected the health and safety of its employees and taxpayers. For the second year in a row, the IRS extended the deadline for individuals to file and pay Federal income tax—from April 15, 2021, to May 17, 2021. Highlights of other activities are described below.

Protecting Employees and Providing Administrative Relief to Taxpayers

The IRS's top priority throughout the COVID-19 pandemic continues to be protecting the health and safety of taxpayers and the IRS workforce. With critical support from our Information Technology Division, we set records by having more than 61,000 employees teleworking at one time. The IT Division provided the equipment necessary to allow thousands of our customer service representatives to telework, which gave crucial help to the IRS in its efforts

to provide phone assistance during a period of overwhelming demand. In FY 2021, Congress provided the IRS with \$2.4 billion in supplemental funding to support its role in the nation's recovery from the COVID-19 pandemic.

Facilitating Further Financial Assistance to Taxpayers

The IRS, in coordination with the Bureau of the Fiscal Service, issued more than 476.1 million payments through three rounds of Economic Impact Payments (EIPs), totaling more than \$814.4 billion during 2020 and 2021. Employees in various IRS offices collaborated to improve delivery of each round of payments. The American Rescue Plan Act of 2021 authorized a third round of payments (EIP 3), which was signed into law on March 11, 2021. The IRS started issuing checks the very next day—March 12, 2021—providing immediate help to people across the country. The 2020 Recovery Rebate Credits allowed individuals who did not receive their first- or second-round EIPs, or who received less than the amounts they were eligible for, to claim the credits when they filed their 2020 tax return.

IRS employees also worked hard to implement changes to the Earned Income Tax Credit, the Child Tax Credit (CTC), and other refundable credits as part of the American Rescue Plan. One very important change allowed up to half of the Tax Year 2021 CTC to be disbursed as advance payments to eligible families from July through December. As a result, during the second half of 2021, more than 37 million families—covering more than 61 million qualifying children—received more than \$93 billion in advance CTC payments. For information on EIPs and advance CTC payments issued by State during Fiscal Year 2021, see Tables 7 and 8 in this publication.

Providing Tax Relief for Businesses Affected by the Pandemic

Throughout the pandemic, the IRS continued to administer legislative provisions that provided economic relief to businesses. Refundable tax credits were available to small and mid-sized businesses that provided paid sick and family leave to employees who took leave between April 1, 2020, and March 31, 2021, because they were unable to

INTERNAL REVENUE SERVICE DATA BOOK, 2021

COVID-19 Employer Credits Claimed, by Type of Credit

(Money amounts are in billions of dollars)

Type of credit	Number of employers	Employer credit amount reported on Forms 941, 943, 944, and CT-1	Number of Forms 7200 processed	Advance amount paid to employers using Form 7200
	(1)	(2)	(3)	(4)
Total [1]	1,163,228	69.3	109,532	18.6
Employee retention credit	457,856	58.2	n.a.	n.a.
Sick and family leave credit	781,094	10.1	n.a.	n.a.
COBRA premium assistance credit	23,030	1.0	n.a.	n.a.

n.a. not available

[1] Some Form 941 filers reported multiple credits; however, filers (employers) are only counted once toward the total. Therefore, the total number of credits claimed exceeds the total number of employers.

NOTES:

Includes credits reported on the following forms: 941 (employer's quarterly tax return); 943 (employer's tax return for agricultural employees); 944 (employer's annual tax return); and CT 1 (railroad retirement tax return). Form 7200 (advance payment of employer credits due to COVID 19) allowed employers to request an advance payment, which would then be reconciled on the appropriate employment tax return. The last day to file Form 7200 was January 31, 2022. While counts include all credits claimed, amounts include only the amounts paid, not the amounts claimed.

Includes all returns processed as of March 31, 2022.

SOURCE: Small Business/Self Employed, Examination Deputy Operations, Headquarters Examination, Specialty Exam Policy.

work for reasons such as mandated COVID-19 quarantines, were caring for someone with COVID-19, or were unable to work due to childcare issues, such as school or daycare closures. Credits were also made available for employers providing leave to obtain and recover from receiving COVID-19 vaccines from April 1, 2021, through September 30, 2021.

The Employee Retention Credit was designed to encourage businesses with full or partial suspensions due to government orders or certain declines in gross income to keep employees on their payroll. Eligible employers could claim a refundable tax credit equal to a portion of qualified wages (including health plan expenses) that were paid after March 12, 2020, and before January 1, 2022.

The COBRA health benefit premium

assistance tax credit allowed employers to be reimbursed for COBRA premiums paid to provide coverage to qualifying individuals. COBRA provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health coverage at group rates. As of March 31, 2022, nearly 1.2 million employers total had received one or more of these credits, totaling almost \$70.0 billion.

Serving Taxpayers With New Online Tools and Webpages

To help taxpayers claim COVID-19-related relief payments and tax credits, and stay informed about issues related to the pandemic, IRS released online tools and published new COVID-19 pages on IRS.gov. Furthermore, the IRS released a new Online Account (OLA) feature that enabled individuals

to retrieve information on the amounts of EIP 1 and EIP 2 they received for the purpose of preparing 2020 tax returns.

In addition to COVID-19-related tax relief, the IRS provided vital online tools to support the 2021 advance CTC payments and reduce child poverty. These online tools included:

- The Child Tax Credit Non-filer Signup Tool, which helped eligible families who were not required to file tax returns register for the monthly payments.
- The Advance Child Tax Credit Eligibility Assistant, to help families verify whether they qualified for advance CTC payments.
- The Child Tax Credit Update Portal, which enabled families to verify their eligibility, update their bank account information and mailing address, and provide other information to the IRS.

Selected COVID-19 Relief Webpages and Online Tools, Calendar Year 2021

Webpage [1]	Pageviews	Self-serve tool	Session visits
/coronavirus/get my payment	728,165,941	Get My Payment	677,698,852
/coronavirus/economic impact payments	94,371,134	Child Tax Credit Update Portal	33,497,924
/coronavirus/get my payment frequently asked questions	89,914,779	Child Tax Credit Nonfiler Tool [2]	3,126,764
/credits deductions/child tax credit update portal	82,446,679		
/credits deductions/advance child tax credit payments in 2021	82,283,913		
/coronavirus tax relief and economic impact payments	70,233,822		
/newsroom/recovery rebate credit	56,410,823		

[1] Reflects pageviews over the entire calendar year; however, not all webpages existed the entire year. For example, web traffic for Economic Impact Payment pages was highest in January through March, while the advance Child Tax Credit pages were not created until June.

[2] The Child Tax Credit Nonfiler Tool redirected visitors to an external website. Therefore, this represents the number of visitors who clicked the link from an IRS.gov webpage.

SOURCE: Online Services data derived from Google Analytics.

Taxpayer Attitudes and Service Channel Preferences

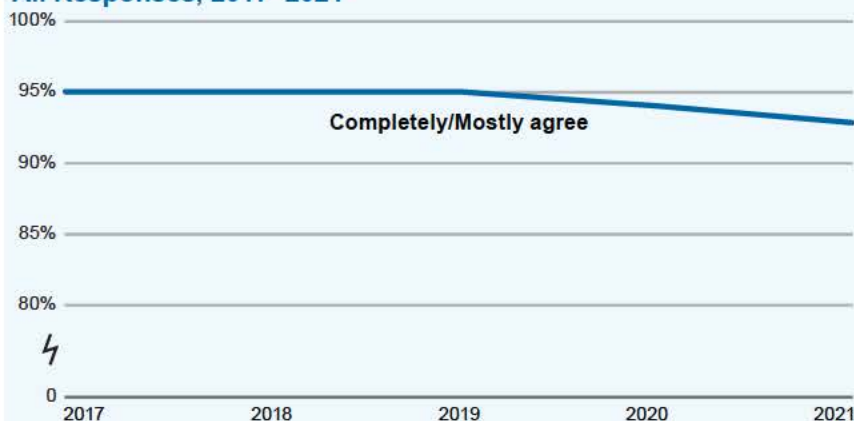
The Comprehensive Taxpayer Attitude Survey (CTAS) provides important information that has informed IRS decision-making since 1999. In 2021, CTAS asked more than 2,000 taxpayers about their points of view and service channel preferences using cell phone, landline phone, and online interviews.

Highlights of the Data

It Is Every American's Civic Duty To Pay Taxes

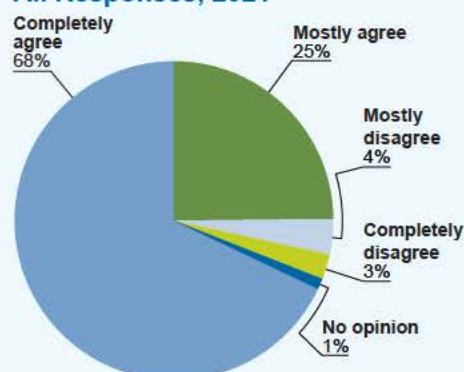
- Most taxpayers still view paying their fair share of taxes as their civic duty, but in 2021, this perspective continued a one-point decline that began in 2020.

All Responses, 2017–2021



NOTE: Blended phone and online responses began in 2017.
SOURCE: 2021 IRS Comprehensive Taxpayer Attitude Survey

All Responses, 2021

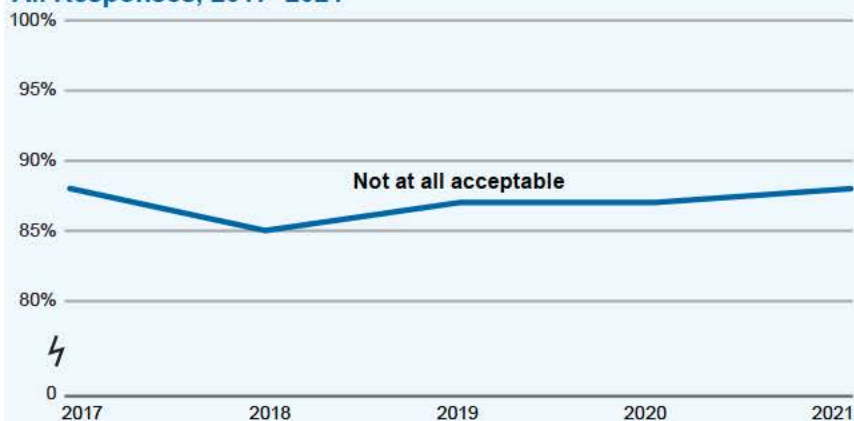


NOTES: Responses include both phone and online survey responses. No opinion includes: Don't know/Not applicable/No response. Pie chart does not total 100% due to rounding.

What Is an Acceptable Amount To Cheat on Income Taxes?

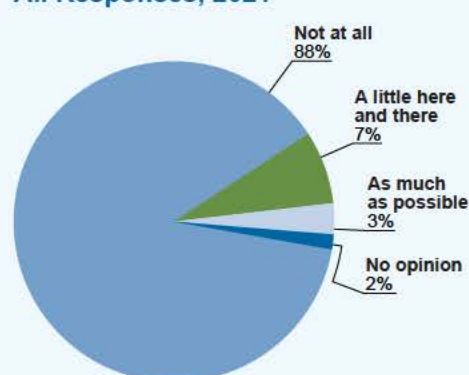
- Most taxpayers still agree that cheating on their income taxes is not at all acceptable. The percentage agreeing increased one point this year.

All Responses, 2017–2021



NOTE: Blended phone and online responses began in 2017.
SOURCE: 2021 IRS Comprehensive Taxpayer Attitude Survey

All Responses, 2021

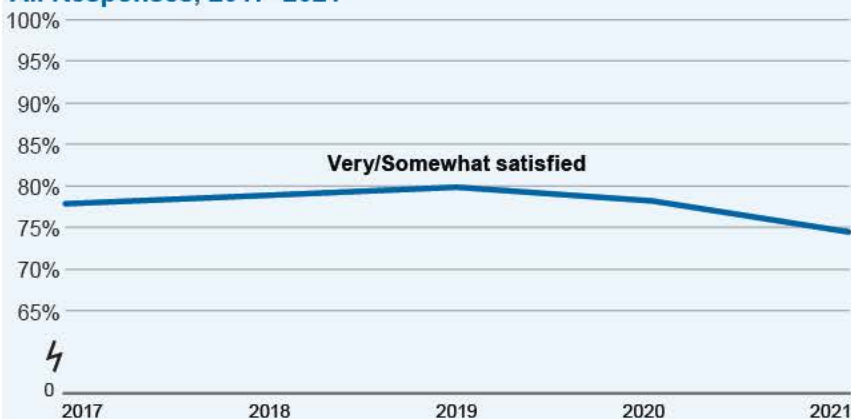


NOTES: Responses include both phone and online survey responses. No opinion includes: Don't know/Not applicable/No response.

Satisfaction with Personal Interactions with the IRS

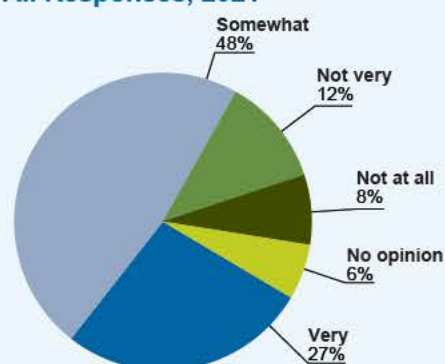
- Though most taxpayers are satisfied with their personal interactions with the IRS, the percentage of those who are satisfied declined a statistically significant three points.

All Responses, 2017–2021



NOTE: Blended phone and online responses began in 2017.
SOURCE: 2021 IRS Comprehensive Taxpayer Attitude Survey

All Responses, 2021

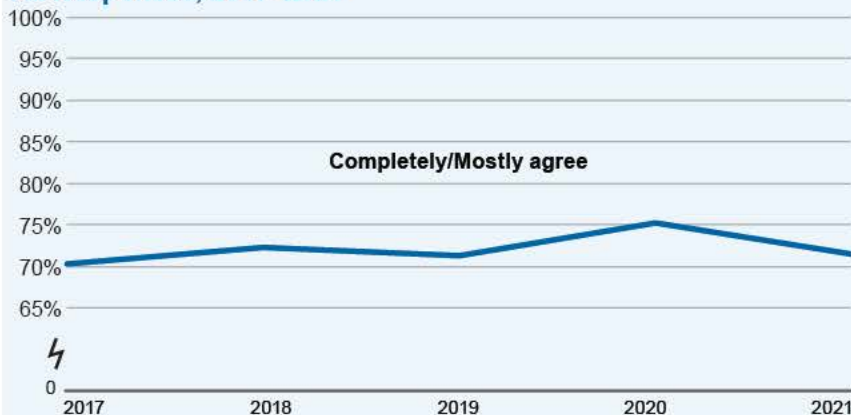


NOTES: Responses include both phone and online survey responses.
No opinion includes: Don't know/Not applicable/No response. Pie chart does not total 100% due to rounding.

Trust in the IRS To Protect Tax Records from Cyber Criminals

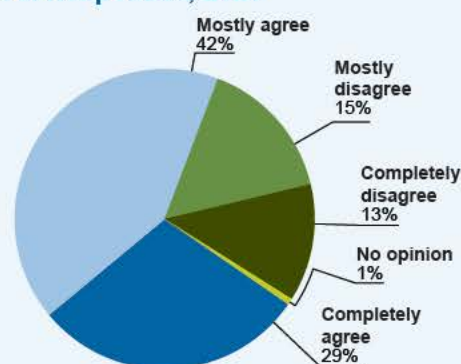
- The percentage of taxpayers agreeing that they trust the IRS to protect tax records from cyber criminals decreased a statistically significant four points in 2021.

All Responses, 2017–2021



NOTE: Blended phone and online responses began in 2017.
SOURCE: 2021 IRS Comprehensive Taxpayer Attitude Survey

All Responses, 2021



NOTES: Responses include both phone and online survey responses.
No opinion includes: Don't know/Not applicable/No response.

List of Statistical Tables

Returns Filed, Taxes Collected, and Refunds Issued

	Page
Table 1. Collections and Refunds, by Type of Tax, Fiscal Years 2020 and 2021	3
Table 2. Number of Returns and Other Forms Filed, by Type, Fiscal Years 2020 and 2021	4
Table 3. Number of Returns and Other Forms Filed, by Type and State, Fiscal Year 2021	5
Table 4. Number of Returns and Other Forms Filed Electronically, by Type and State, Fiscal Year 2021	8
Table 5. Gross Collections, by Type of Tax and State, Fiscal Year 2021	11
Table 6. Gross Collections, by Type of Tax, Fiscal Years 1960–2021	14
Table 7. Number of Refunds Issued, by Type of Refund and State, Fiscal Year 2021	16
Table 8. Amount of Refunds Issued, Including Interest, by Type of Refund and State, Fiscal Year 2021	18

Service to Taxpayers

Table 9. Selected Taxpayer Assistance and Education Programs, by Type of Assistance or Program, Fiscal Year 2021	24
Table 10. Selected Online Taxpayer Assistance, by Type of Assistance, Fiscal Year 2021	25
Table 11. Taxpayer Advocate Service: Post-filing Taxpayer Assistance Program, by Type of Primary Issue and Relief, Fiscal Year 2021	27
Table 12. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2021	28
Table 13. Receipts of Forms 8976, Notices of Intent To Operate Under Section 501(c)(4), Fiscal Year 2021	29
Table 14. Tax-Exempt Organizations, Nonexempt Charitable Trusts, and Nonexempt Split-Interest Trusts, Fiscal Year 2021	30
Table 15. Determination Letters Issued on Employee Retirement Plans, by Type and Disposition of Plan, Fiscal Year 2021	31
Table 16. Technical Activities and Voluntary Compliance Closures, Fiscal Year 2021	32

Compliance Presence

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019	36
Table 18. Examination Coverage: Recommended Additional Tax, and Returns with Unagreed Additional Tax, After Examination, by Type and Size of Return, Fiscal Year 2021	46
Table 19. Examination Coverage: Returns Examined Involving Protection of Revenue Base, by Type and Size of Return, Fiscal Year 2021	49

Compliance Presence—continued

Page

Table 20. Examination Coverage: Returns Examined Resulting in Refunds, by Type and Size of Return, Fiscal Year 2021	51
Table 21. Examinations of Tax-Exempt Organizations, Employee Retirement Plans, Government Entities, and Tax-Exempt Bonds, by Type of Return, Fiscal Year 2021	53
Table 22. Information Reporting Program, Fiscal Year 2021	54
Table 23. Math Errors on Individual Income Tax Returns, by Type of Error, Fiscal Year 2021	55
Table 24. Criminal Investigation Program, by Status or Disposition, Fiscal Year 2021	56

Collection Activities, Penalties, and Appeals

Table 25. Delinquent Collection Activities, Fiscal Years 2020 and 2021	59
Table 26. Civil Penalties Assessed and Abated, by Type of Tax and Type of Penalty, Fiscal Year 2021	60
Table 27. Appeals Workload, by Type of Case, Fiscal Year 2021	62

Chief Counsel

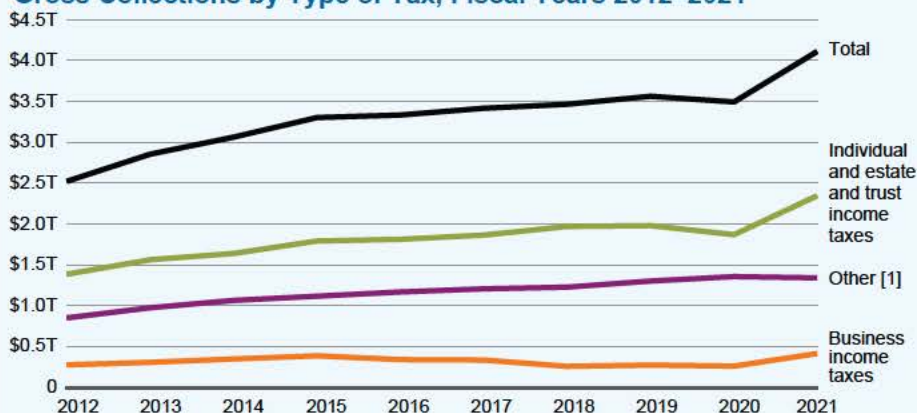
Table 28. Chief Counsel Workload: All Cases, by Office and Type of Case, Fiscal Year 2021	64
Table 29. Chief Counsel Workload: Tax Litigation Cases, by Type of Case, Fiscal Year 2021	67

IRS Budget and Workforce

Table 30. Costs Incurred by Budget Activity, Fiscal Years 2020 and 2021	71
Table 31. Collections, Costs, Personnel, and U.S. Population, Fiscal Years 1992–2021	72
Table 32. Personnel Summary, by Employment Status, Budget Activity, and Selected Personnel Type, Fiscal Years 2020 and 2021	73
Table 33. Internal Revenue Service and Chief Counsel Labor Force, Compared to National Totals for Federal and Civilian Labor Forces, by Gender, Race/Ethnicity, Disability, and Veteran Status, Fiscal Year 2021	74

INTERNAL REVENUE SERVICE DATA BOOK, 2021

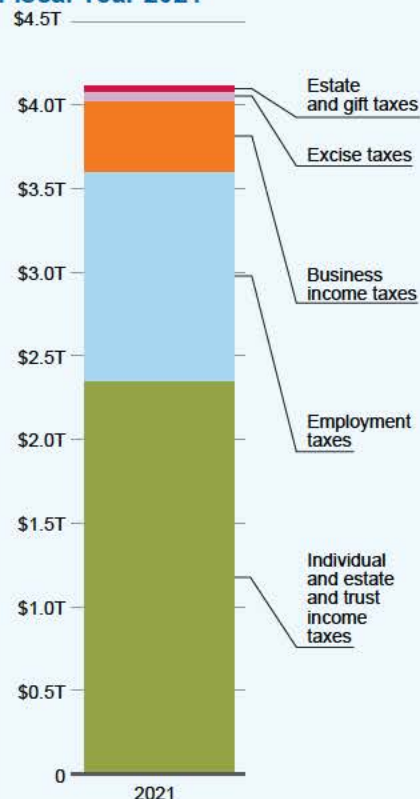
Gross Collections by Type of Tax, Fiscal Years 2012–2021



[1] Includes employment, estate and gift, and excise taxes.

SOURCE: Selected IRS Data Books, Table 1

Gross Collections by Type of Tax, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 1

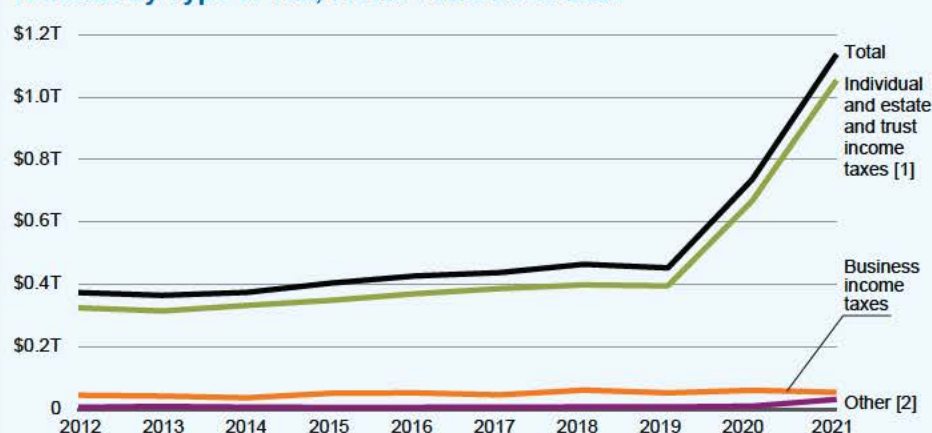
Returns Filed, Taxes Collected, and Refunds Issued

This section of the *Data Book* provides a broad overview of the main functions performed by the IRS: processing Federal tax returns and collecting revenue. It also provides additional details on returns filed, returns filed electronically, gross collections, and tax refunds by State and type of tax.

Highlights of the Data

- The IRS collected more than \$4.1 trillion in gross taxes in Fiscal Year (FY) 2021 (Tables 1 and 5) and issued almost 600.1 million refunds (Table 7), amounting to more than \$1.1 trillion (Tables 1 and 8).
- Individual income tax withheld and tax payments, combined, totaled more than \$2.3 trillion before refunds (Tables 1 and 6).
- The IRS also collected \$419.0 billion in income taxes, before refunds, from businesses in FY 2021 (Tables 1 and 6).

Refunds by Type of Tax, Fiscal Years 2012–2021

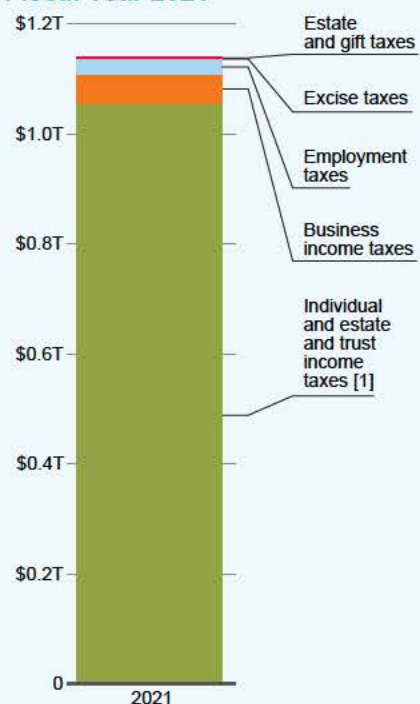


[1] The IRS issued nearly \$585.7 billion in payments to taxpayers in Fiscal Year (FY) 2021 as a result of legislation passed by Congress in response to the COVID-19 pandemic. Of this, \$539.3 billion were classified as economic impact payments (EIPs) and \$46.4 billion were considered advance child tax credits. These payments are considered advance refundable tax credits for returns to be filed for Tax Years 2020 and 2021 and, therefore, are classified as refunds issued during FY 2021.

[2] Includes employment, estate and gift, and excise taxes.

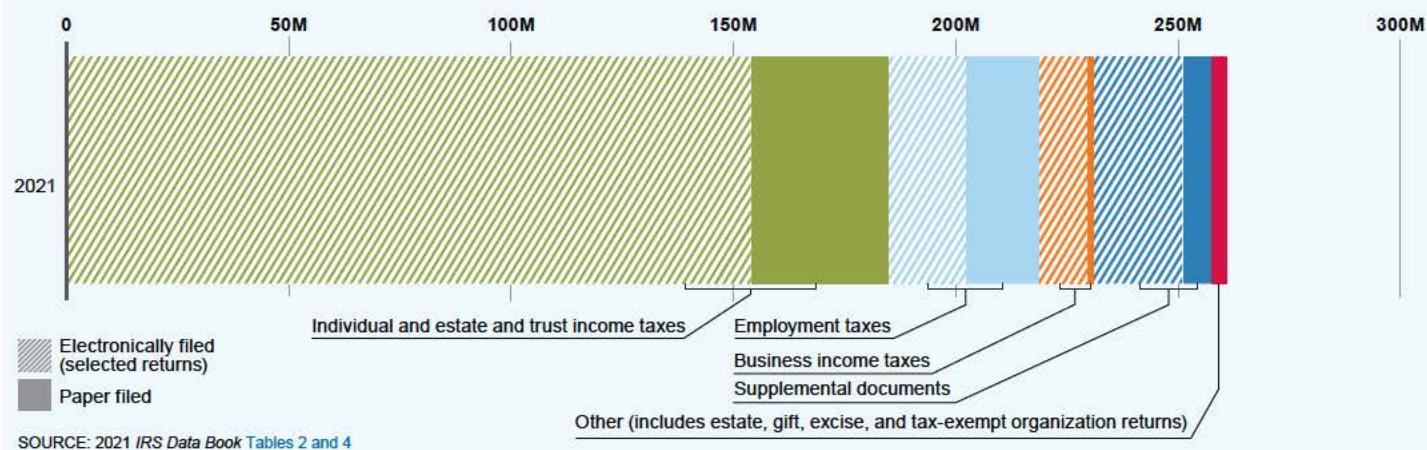
SOURCE: Selected IRS Data Books, Table 1

Refunds by Type of Tax, Fiscal Year 2021



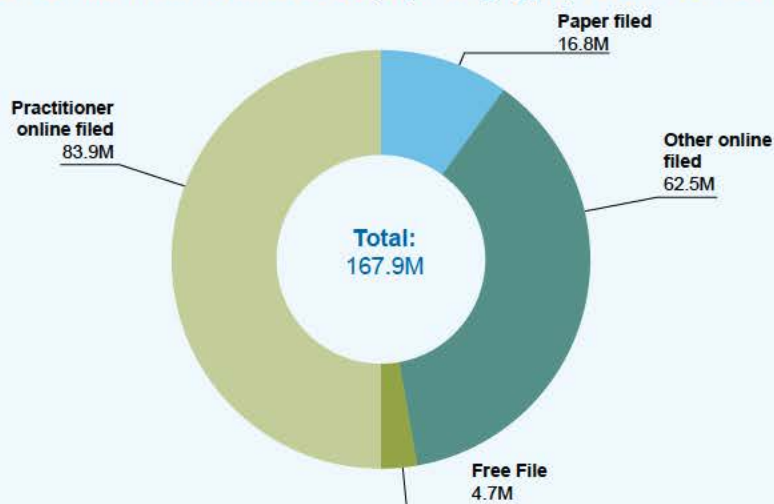
INTERNAL REVENUE SERVICE DATA BOOK, 2021

Number of Returns Filed, by Return Type, Fiscal Year 2021



- The IRS processed more than 261.0 million Federal tax returns and supplemental documents (Tables 2 and 3) in FY 2021.
- The IRS issued almost 596.9 million refunds to individuals in FY 2021, totaling just over \$1.0 trillion (Tables 7 and 8).
- Paid preparers filed more than 83.9 million individual tax returns electronically, and taxpayers filed almost 4.7 million returns using the IRS Free File program (Table 4).
- In FY 2021, nearly 18.3 million tax refunds included a refundable child tax credit and more than 26.4 million included a refundable earned income tax credit (Table 7).
- Nearly 203.6 million returns and other forms were filed electronically. These represented almost 78.0 percent of all filings. For individual tax returns, 90.0 percent were filed electronically (Table 4).
- The IRS collected the most total tax (before refunds) from California, New York, and Texas in FY 2021, while California, Texas, and Florida had the largest total refunds issued (Tables 5 and 8).

Number of Individual Returns Filed, by Filing Type, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Tables 3 and 4

Table 1. Collections and Refunds, by Type of Tax, Fiscal Years 2020 and 2021

(Money amounts are in thousands of dollars)

Type of tax	Gross collections [1]			Refunds [2]		Net collections	
	2020	2021	Percentage of 2021 total	2021	2021	Percentage of 2021 total	
	(1)	(2)	(3)	(4)	(5)	(6)	
United States, total	3,493,067,956	4,111,569,512	100.0	1,137,821,285	2,973,748,227	100.0	
Business income taxes	263,563,107	419,008,841	10.2	53,086,665	365,922,176	12.3	
Corporation income tax	262,619,583	417,824,136	10.2	n.a.	n.a.	n.a.	
Tax exempt organization unrelated business income tax	943,524	1,184,705	[3]	n.a.	n.a.	n.a.	
Individual and estate and trust income taxes [4]	1,871,170,827	2,348,054,224	57.1	[5] 1,053,963,150	1,294,091,074	43.5	
Individual income tax withheld	1,269,498,820	1,531,700,915	37.3	n.a.	n.a.	n.a.	
Individual income tax payments [6]	567,944,758	762,349,659	18.5	n.a.	n.a.	n.a.	
Estate and trust income tax [7]	33,727,249	54,003,650	1.3	4,061,859	49,941,791	1.7	
Employment taxes	1,268,076,594	1,258,170,886	30.6	27,409,790	1,230,761,096	41.4	
Old Age, Survivors, Disability, and Hospital Insurance (OASDHI), total [4]	1,256,622,090	1,246,588,732	30.3	27,220,135	1,219,368,597	41.0	
Federal Insurance Contributions Act (FICA)	1,186,906,549	1,174,597,439	28.6	n.a.	n.a.	n.a.	
Self Employment Insurance Contributions Act (SECA)	69,715,541	71,991,293	1.8	n.a.	n.a.	n.a.	
Unemployment insurance	6,281,575	6,275,547	0.2	144,270	6,131,277	0.2	
Railroad retirement	5,172,929	5,306,607	0.1	45,385	5,261,222	0.2	
Estate and gift taxes	18,197,587	28,045,739	0.7	949,178	27,096,561	0.9	
Estate	17,115,476	23,425,026	0.6	922,326	22,502,700	0.8	
Gift	1,082,111	4,620,713	0.1	26,853	4,593,860	0.2	
Excise taxes [8]	72,059,841	58,289,822	1.4	2,412,501	55,877,321	1.9	

n.a. Not available.

[1] Gross collections include penalties and interest in addition to taxes.

[2] Includes overpayment refunds, refunds resulting from examination activity, refundable tax credits, and other refunds required by law. Also includes \$3.0 billion in interest, of which \$1.1 billion was paid to corporations and \$1.9 billion was paid to all others (related to individual, employment, estate, gift, and excise tax returns). Excludes refunds credited to taxpayer accounts for tax liability in a subsequent year.

[3] Less than 0.05 percent.

[4] Collections of withheld individual income tax are not reported by taxpayers separately from Old Age, Survivors, Disability, and Hospital Insurance (OASDHI) taxes on salaries and wages (under the Federal Insurance Contributions Act or FICA) and on self employment income (under the Self Employment Insurance Contributions Act or SECA). The OASDHI tax collections and refunds shown in this table are based on estimates made by the Secretary of the Treasury pursuant to the provisions of Section 201(a) of the Social Security Act as amended and include all OASDHI taxes. Amounts shown for individual income tax withheld and individual income tax payments were derived by subtracting the FICA and SECA tax estimates from total individual income tax withheld and individual income tax payments. Refund estimates, and, therefore, net collection estimates, were not made for the components of income and OASDHI taxes.

[5] The IRS issued nearly \$585.7 billion in payments to taxpayers in Fiscal Year (FY) 2021 as a result of legislation passed by Congress in response to the COVID 19 pandemic. Of this, \$539.3 billion were classified as economic impact payments (EIPs) and \$46.4 billion were considered advance Child Tax Credits. These payments are considered advance refundable tax credits for returns to be filed for Tax Years 2020 and 2021 and, therefore, are classified as refunds issued during FY 2021. The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act), Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), and the American Rescue Plan Act of 2021 (ARPA) included provisions to distribute economic impact payments (EIPs) to qualified taxpayers. The CARES Act authorized an EIP for eligible taxpayers of up to \$1,200 for individuals and \$2,400 for individuals filing a joint tax return, and up to an additional \$500 for each eligible child added. The CRRSAA created a second round of EIPs of up to \$600 for individuals and \$1,200 for individuals filing a joint tax return, and up to an additional \$600 for each eligible child. The ARPA created a third round of EIPs of up to \$1,400 for individuals, and \$2,800 for individuals filing a joint tax return, and up to an additional \$1,400 for each qualifying dependent. Additionally, under the ARPA, the Advance Child Tax Credit provision increased the child tax credit from \$2,000 to \$3,000 for Tax Year (TY) 2021. In the case of a qualifying child who was under the age of 6 as of the close of the calendar year, the credit was increased to \$3,600. Advance payments of up to half the TY 2021 Child Tax Credit were sent to eligible taxpayers from July 2021 through December 2021. This table includes only those payments issued through the end of the fiscal year, i.e., September 30, 2021.

[6] Includes collections of estimated income tax and payments made in conjunction with individual income tax return filings.

[7] Includes collections of estimated estate and trust income taxes and payments made in conjunction with estate and trust tax return filings.

[8] Excludes excise taxes collected by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. The Internal Revenue Service collected taxes on alcohol and tobacco until Fiscal Year 1988 and taxes on firearms until Fiscal Year 1991. Beginning with Fiscal Year 2015, some refunds, which had been classified as excise tax refunds in prior years, were reclassified as corporate tax refunds.

NOTES:

Detail may not add to totals because of rounding.

All money amounts are in current dollars.

Collection and refund data may not be comparable for a given fiscal year because payments made in prior years may be refunded in the current fiscal year.

Partnership, S corporation, regulated investment company, and real estate investment trust data are not shown in this table since these entities generally do not have a tax liability. Instead, they pass any profits or losses to the underlying owners, who include these profits or losses on their income tax returns.

SOURCE: Chief Financial Officer, Financial Management.

Table 2. Number of Returns and Other Forms Filed, by Type, Fiscal Years 2020 and 2021

[For Fiscal Year 2021 data by State, see Table 3]

Type of return or form	2020	2021	Percentage change
	(1)	(2)	
United States, total [1]	240,160,843	261,017,434	8.7
Income taxes, total	189,562,923	197,225,579	4.0
C or other corporation [2]	1,819,301	2,143,717	17.8
S corporation, Form 1120-S	5,044,303	5,355,449	6.2
Partnership, Form 1065	4,470,095	4,710,457	5.4
Individual, total [3]	157,195,302	167,915,264	6.8
Forms 1040, 1040 A, 1040 EZ, 1040 SR	156,580,123	166,902,984	6.6
Forms 1040 C, 1040 NR, 1040NR EZ, 1040 PR, 1040 SS	615,179	1,012,280	64.6
Individual estimated tax, Form 1040-ES	17,579,898	13,215,644	-24.8
Estate and trust, Form 1041	2,820,317	3,241,024	14.9
Estate and trust estimated tax, Form 1041-ES	633,707	644,024	1.6
Employment taxes [4]	28,028,002	33,865,353	20.8
Estate tax [5]	15,023	28,473	89.5
Gift tax, Form 709	158,095	282,054	78.4
Excise taxes [6]	902,342	1,276,921	41.5
Tax-exempt organizations [7]	1,360,719	1,722,803	26.6
Supplemental documents [8]	20,133,739	26,616,251	32.2

[1] Excludes information returns (e.g., Forms 1098, 1099, 5498, W 2 and W 2G, and Schedule K 1); tax exempt bond returns (Forms 8038, 8038 B, 8038 CP, 8038 G, 8038 GC, 8038 T, 8038 TC, and 8328); and employee retirement benefit plan returns (Forms 5500, 5500 EZ, and 5500 SF). See Table 21 for information on tax exempt bond returns. See Tables 15 and 21 for information on employee retirement benefit plans. See Table 22 for data on information returns.

[2] Includes Form 1066 (real estate mortgage investment conduit income tax return) and the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (cooperative association income tax return); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 FSC (foreign sales corporation income tax return); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); 1120 POL (income tax return for certain political organizations); 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); and 1120 SF (income tax return for settlement funds). Form 1120 X (amended corporation income tax return) is included with Supplemental documents in this table.

Excludes Form 1120 S (S corporation income tax return), shown separately. Also excludes Form 990 T (tax exempt organization unrelated business income tax return), which is included under Tax exempt organizations in this table, although the tax reported on these returns is combined with Business income taxes in other tables.

[3] Includes the Form 1040 series as follows: 1040 (individual income tax return); 1040 A (individual income tax return, short form); 1040 C (income tax return for departing aliens); 1040 EZ (individual income tax return for single and joint filers with no dependents); 1040 NR (nonresident alien income tax return); 1040NR EZ (income tax return for certain nonresident aliens with no dependents); 1040 PR (self employment income tax return for Puerto Rico residents); 1040 SR (tax return for seniors) and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents). Form 1040 X (amended individual income tax return) is included with Supplemental documents in this table. As a result of the Tax Cuts and Jobs Act of 2017, the Form 1040 was redesignated for Tax Year 2018, making Forms 1040 A and 1040 EZ obsolete. However, as prior year tax returns continue to be filed, the IRS may continue to see these forms.

[4] Includes Forms 940 (employer's Federal unemployment tax return); 940 EZ (employer's Federal unemployment tax return, short form); 940 PR (unemployment tax return for Puerto Rico residents); 941 (employer's quarterly tax return for income and Social Security taxes withheld for other than household and agricultural employees); 941 PR/SS (employer's quarterly tax return for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 943 (employer's tax return for agricultural employees); 943 PR/SS (employer's tax return for agricultural employees for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 944 (employer's annual tax return); 944 PR/SS (employer's annual tax return for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); and 945 (tax return of withheld income tax from nonpayroll distributions). Also includes Forms 1042 (tax return of withheld income tax on U.S. source income of foreign persons); and CT 1 (railroad retirement tax return). Forms 941 X (adjusted employer's tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 X (adjusted employer's tax return for agricultural employees); 944 X (adjusted employer's annual tax return or claim for refund); 945 X (adjusted annual return of withheld Federal income tax or claim for refund); and CT 1X (adjusted railroad retirement tax return) are included in Supplemental documents in this table.

[5] Includes the Form 706 series as follows: 706 (estate and generation skipping transfer tax return); 706 GS(D) (generation skipping transfer tax return for distributions); 706 GS(T) (generation skipping transfer tax return for terminations); and 706 NA (estate and generation skipping transfer tax return for nonresident aliens). The Tax Cuts and Jobs Act of 2017 increased the filing threshold for estate tax returns beginning with Tax Year 2018.

[6] Includes Forms 11 C (occupational tax and registration for wagering return); 720 (excise tax return); 730 (excise tax return for wagering); 2290 (heavy highway vehicle use tax return); and 5330 (excise taxes related to employee retirement benefit plans return). Excludes excise tax returns filed with U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Form 4720 (excise tax return of charities and other persons) is included with Tax exempt organizations in this table.

[7] Includes the Form 990 series as follows: 990 (tax exempt organization information return, long form); 990 EZ (tax exempt organization information return, short form); 990 N (electronic notice (e Postcard) for tax exempt organizations not required to file Forms 990 or 990 EZ); 990 PF (private foundation information return); and 990 T (tax exempt organization unrelated business income tax return). Also includes Forms 4720 (excise tax return of charities and other persons); 5227 (split interest trust information return); and 8872 (political organization report of contributions and expenditures). Tax collected on Form 990 T is combined with Business income taxes in other tables.

[8] Includes Forms 941 X (adjusted employer's tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 X (adjusted employer's tax return for agricultural employees); 944 X (adjusted employer's tax return or claim for refund); 945 X (adjusted annual return of withheld Federal income tax or claim for refund); 1040 X (amended individual income tax return); 1041 A (information return of charitable contribution deductions by certain trusts); 1120 X (amended corporation income tax return); 4868 (automatic filing extension for individuals); 5558 (filing extension for certain employee retirement plan returns); 7004 (automatic filing extension for corporations); 8752 (required payment or refund for certain S corporations and partnerships); 8868 (automatic filing extension for tax exempt organizations); and CT 1X (adjusted railroad retirement tax return).

NOTES:

Detail may not add to totals because of rounding. Percentage changes are based on rounded data.

Due to continued challenges related to the COVID 19 pandemic and processing center shutdowns to protect the health and safety of employees, the IRS continues to experience processing delays for paper filed forms.

SOURCE: Research, Applied Analytics, and Statistics; Statistics of Income.

Table 3. Number of Returns and Other Forms Filed, by Type and State, Fiscal Year 2021

State or area	Total [1]	C or other corporation income tax [2]	S corporation	Partnership	Individual income tax [3]	Individual estimated income tax	Estate and trust income tax
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
United States, total	261,017,434	2,143,717	5,355,449	4,710,457	167,915,264	13,215,644	3,241,024
Alabama	3,374,265	13,780	54,634	55,401	2,278,837	217,790	30,655
Alaska	558,995	2,712	10,587	8,650	366,721	5,058	4,679
Arizona	5,050,188	30,285	104,836	96,563	3,534,695	42,563	50,531
Arkansas	2,136,209	9,545	43,422	36,631	1,376,193	132,684	17,326
California	30,496,245	317,063	653,739	483,761	20,045,890	355,477	328,099
Colorado	4,750,628	30,640	134,997	117,279	2,999,659	40,270	52,628
Connecticut	3,068,160	21,880	30,618	71,720	1,891,174	318,444	55,308
Delaware	901,242	15,939	15,796	21,088	512,768	72,155	32,209
District of Columbia	629,922	11,974	7,055	14,060	364,992	51,887	7,245
Florida	19,723,616	218,678	707,315	370,088	11,458,934	1,269,658	208,828
Georgia	7,975,843	51,199	194,725	124,410	5,112,651	423,832	52,918
Hawaii	1,063,888	11,237	17,674	15,112	735,316	15,035	15,015
Idaho	1,373,473	6,573	34,617	33,256	875,291	9,915	10,733
Illinois	10,224,534	94,187	280,383	149,423	6,441,481	565,125	210,475
Indiana	5,004,782	20,594	93,798	69,542	3,392,012	397,427	38,648
Iowa	2,561,988	16,496	45,462	45,782	1,585,215	271,451	29,771
Kansas	2,105,798	12,704	37,815	44,335	1,430,119	16,994	28,125
Kentucky	3,154,322	12,714	53,810	49,551	2,115,739	237,188	24,955
Louisiana	3,325,996	19,541	55,130	63,715	2,175,612	185,352	21,686
Maine	1,220,409	6,628	24,510	15,607	719,781	108,723	40,127
Maryland	5,020,474	39,662	84,050	80,073	3,205,308	401,212	54,301
Massachusetts	6,013,221	55,959	101,921	91,478	3,708,415	560,531	144,766
Michigan	7,224,974	49,087	147,825	117,286	5,139,204	54,823	78,340
Minnesota	4,625,894	24,229	95,874	75,801	2,929,181	309,492	44,715
Mississippi	1,974,350	9,039	28,862	31,595	1,364,837	106,142	10,701
Missouri	4,956,039	23,737	72,649	82,518	3,061,479	372,451	87,541
Montana	969,777	8,189	28,106	24,790	558,048	10,695	13,274
Nebraska	1,646,338	9,259	35,353	32,712	967,732	13,509	16,718
Nevada	2,411,112	22,753	53,092	50,524	1,634,081	16,162	44,357
New Hampshire	1,204,943	9,527	11,979	19,704	753,155	124,084	19,800
New Jersey	7,969,874	65,088	117,152	197,102	4,768,952	645,503	194,205
New Mexico	1,413,899	7,231	21,368	20,791	1,024,532	10,975	11,182
New York	16,983,173	293,241	417,066	374,513	10,315,935	1,058,725	298,461
North Carolina	7,838,796	54,577	156,807	120,732	5,117,233	554,827	58,380
North Dakota	603,817	3,368	12,455	15,969	383,600	6,391	6,906
Ohio	8,508,974	47,707	129,146	141,591	6,027,452	53,551	102,871
Oklahoma	2,919,169	14,302	60,172	60,093	1,817,634	181,506	30,434
Oregon	3,249,616	16,891	62,569	57,160	2,145,710	31,397	33,801
Pennsylvania	10,422,552	50,941	172,900	165,944	6,672,714	988,988	142,567
Rhode Island	927,273	5,395	18,375	12,808	583,495	79,098	23,125
South Carolina	3,819,387	21,040	72,789	59,075	2,531,789	273,651	27,268
South Dakota	728,918	3,848	15,888	19,003	450,614	8,182	17,631
Tennessee	4,869,725	29,744	40,513	85,673	3,375,081	330,576	42,677
Texas	21,482,256	157,897	372,585	464,379	14,124,658	1,020,191	222,556
Utah	2,465,847	12,626	74,743	90,130	1,519,819	12,744	19,943
Vermont	601,637	4,452	10,661	8,512	348,693	72,105	7,508
Virginia	6,698,662	49,728	126,668	100,650	4,300,169	560,034	58,069
Washington	5,849,174	32,590	116,164	94,809	3,948,414	65,480	69,331
West Virginia	1,191,645	5,921	13,092	14,313	833,557	94,628	9,668
Wisconsin	4,601,151	26,081	67,166	65,824	3,040,557	331,205	71,649
Wyoming	530,348	7,801	15,284	21,123	292,529	3,680	9,689
Puerto Rico	522,237	554	369	2,035	228,865	53,148	436
Other [9]	2,071,679	56,884	883	25,773	1,328,742	72,930	8,193

Footnotes at end of table.

Table 3. Number of Returns and Other Forms Filed, by Type and State, Fiscal Year 2021—Continued

State or area	Estate and trust estimated income tax	Employment taxes [4]	Estate tax [5]	Gift tax	Excise taxes [6]	Tax exempt organizations [7]	Supplemental documents [8]
	(8)	(9)	(10)	(11)	(12)	(13)	(14)
United States, total	644,024	33,865,353	28,473	282,054	1,276,921	1,722,803	26,616,251
Alabama	6,384	379,651	182	2,305	18,595	19,190	296,861
Alaska	1,081	87,766	43	485	3,081	4,918	63,214
Arizona	9,147	603,163	381	4,450	13,991	23,281	536,302
Arkansas	3,948	263,973	94	1,102	14,774	12,154	224,363
California	74,822	4,226,707	4,646	33,963	102,531	178,724	3,690,823
Colorado	11,971	741,518	427	6,118	16,593	29,860	568,668
Connecticut	14,995	363,000	646	6,225	9,341	20,391	264,418
Delaware	7,107	114,918	80	779	2,980	8,060	97,363
District of Columbia	2,544	78,730	96	1,039	603	13,428	76,269
Florida	47,663	2,602,410	2,117	27,509	71,832	99,903	2,638,681
Georgia	12,148	1,026,787	558	5,547	46,215	40,683	884,170
Hawaii	3,602	128,243	147	1,273	1,482	7,437	112,315
Idaho	2,135	230,102	90	1,161	11,295	7,912	150,393
Illinois	34,237	1,399,545	1,225	10,437	72,353	68,196	897,467
Indiana	7,699	579,661	289	3,932	34,093	35,255	331,832
Iowa	4,206	329,286	459	2,325	34,344	27,247	169,944
Kansas	6,541	300,342	268	2,515	22,482	15,641	187,917
Kentucky	6,598	366,506	184	2,399	18,145	17,553	248,980
Louisiana	4,326	428,645	175	1,944	16,115	17,244	336,511
Maine	3,640	178,765	88	1,315	6,989	10,120	104,116
Maryland	15,863	570,837	547	5,258	14,302	31,289	517,772
Massachusetts	28,710	753,663	1,357	11,330	16,530	43,932	494,629
Michigan	17,024	953,138	438	6,256	34,143	45,937	581,473
Minnesota	9,433	630,277	556	6,027	43,157	38,425	418,727
Mississippi	2,712	221,014	70	893	15,733	11,684	171,068
Missouri	13,268	708,433	431	4,152	32,815	48,100	448,465
Montana	1,556	178,893	97	1,098	10,092	9,490	125,449
Nebraska	3,299	230,756	292	1,540	27,898	53,207	254,063
Nevada	6,795	279,879	205	2,189	9,788	15,299	275,988
New Hampshire	5,082	153,402	113	1,797	5,668	8,945	91,687
New Jersey	22,167	1,039,632	1,002	9,612	29,084	53,562	826,813
New Mexico	2,556	169,602	74	1,165	7,533	8,757	128,133
New York	41,891	2,465,249	1,954	23,462	32,364	104,572	1,555,740
North Carolina	12,559	990,665	847	6,886	42,680	43,091	679,512
North Dakota	1,183	101,956	86	1,218	16,299	5,425	48,961
Ohio	18,764	988,680	659	8,240	47,148	106,263	836,902
Oklahoma	5,810	381,438	158	1,785	12,975	16,733	336,129
Oregon	7,353	497,049	617	4,197	15,712	22,916	354,244
Pennsylvania	25,850	1,240,663	982	11,624	49,201	82,903	817,275
Rhode Island	3,611	120,788	207	1,013	2,723	9,881	66,754
South Carolina	5,871	457,972	272	3,609	19,047	18,732	328,272
South Dakota	3,462	116,785	125	967	16,395	6,227	69,791
Tennessee	10,961	534,355	370	4,066	24,389	26,697	364,623
Texas	59,688	2,478,244	1,418	18,120	119,160	104,388	2,338,972
Utah	3,382	385,502	108	1,455	9,805	10,921	324,669
Vermont	2,190	90,694	61	828	3,446	6,162	46,325
Virginia	15,354	825,473	649	7,259	24,715	42,523	587,371
Washington	15,606	831,663	814	8,889	28,005	36,312	601,097
West Virginia	1,922	134,630	44	681	5,630	9,209	68,350
Wisconsin	11,949	584,258	434	5,622	30,937	36,352	329,117
Wyoming	2,863	95,884	59	1,045	4,671	4,654	71,066
Puerto Rico	59	206,949	37	104	101	1,581	27,999
Other [9]	437	17,212	1,195	2,844	6,941	1,437	548,208

Footnotes on next page.

Table 3. Number of Returns and Other Forms Filed, by Type and State, Fiscal Year 2021—Continued**Footnotes**

- [1] Excludes information returns (e.g., Forms 1098, 1099, 5498, W 2 and W 2G, and Schedule K 1); tax exempt bond returns (Forms 8038, 8038 B, 8038 CP, 8038 G, 8038 GC, 8038 T, 8038 TC, and 8328); and employee retirement benefit plan returns (Forms 5500, 5500 EZ, and 5500 SF). See Table 21 for information on tax exempt bond returns. See Tables 15 and 21 for information on employee retirement benefit plans. See Table 22 for data on information returns.
- [2] Includes Form 1066 (real estate mortgage investment conduit income tax return) and the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (cooperative association income tax return); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 FSC (foreign sales corporation income tax return); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); 1120 POL (income tax return for certain political organizations); 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); and 1120 SF (income tax return for settlement funds). Form 1120 X (amended corporation income tax return) is included with Supplemental documents in this table.
- Excludes Form 1120 S (S corporation income tax return), shown separately. Also excludes Form 990 T (tax exempt organization unrelated business income tax return), which is included under Tax exempt organizations in this table, although the tax reported on these returns is combined with Business income taxes in other tables.
- [3] Includes the Form 1040 series as follows: 1040 (individual income tax return); 1040 A (individual income tax return, short form); 1040 C (income tax return for departing aliens); 1040 EZ (individual income tax return for single and joint filers with no dependents); 1040 NR (nonresident alien income tax return); 1040NR EZ (income tax return for certain nonresident aliens with no dependents); 1040 PR (self employment income tax return for Puerto Rico residents); 1040 SR (tax return for seniors); and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents). Form 1040 X (amended individual income tax return) is included with Supplemental documents in this table. As a result of the Tax Cuts and Jobs Act of 2017, the Form 1040 was redesigned for Tax Year 2018, making Forms 1040 A and 1040 EZ obsolete. However, as prior year tax returns continue to be filed, the IRS may continue to see these forms.
- [4] Includes Forms 940 (employer's Federal unemployment tax return); 940 EZ (employer's Federal unemployment tax return, short form); 940 PR (unemployment tax return for Puerto Rico residents); 941 (employer's quarterly tax return for income and Social Security taxes withheld for other than household and agricultural employees); 941 PR/SS (employer's quarterly tax return for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 943 (employer's tax return for agricultural employees); 943 PR/SS (employer's tax return for agricultural employees for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 944 (employer's annual tax return or claim for refund); 944 PR/SS (employer's annual tax return for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); and 945 (tax return of withheld income tax from nonpayroll distributions). Also includes Forms 1042 (tax return of withheld income tax on U.S. source income of foreign persons); and CT 1 (railroad retirement tax return). Forms 941 X (adjusted employer's tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 X (adjusted employer's tax return for agricultural employees); 944 X (adjusted employer's tax return); 945 X (adjusted annual return of withheld Federal income tax or claim for refund); and CT 1X (adjusted railroad retirement tax return) are included in Supplemental documents in this table.
- [5] Includes the Form 706 series as follows: 706 (estate and generation skipping transfer tax return); 706 GS(D) (generation skipping transfer tax return for distributions); 706 GS(T) (generation skipping transfer tax return for terminations); and 706 NA (estate and generation skipping transfer tax return for nonresident aliens). The Tax Cuts and Jobs Act of 2017 increased the filing threshold for estate tax returns beginning with Tax Year 2018.
- [6] Includes Forms 11 C (occupational tax and registration for wagering return); 720 (excise tax return); 730 (excise tax return for wagering); 2290 (heavy highway vehicle use tax return); and 5330 (excise taxes related to employee retirement benefit plans return). Excludes excise tax returns filed with the U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Form 4720 (excise tax return of charities and other persons) is included with Tax exempt organizations in this table.
- [7] Includes the Form 990 series as follows: 990 (tax exempt organization information return, long form); 990 EZ (tax exempt organization information return, short form); 990 N (electronic notice (e Postcard) for tax exempt organizations not required to file Forms 990 or 990 EZ); 990 PF (private foundation information return); and 990 T (tax exempt organization unrelated business income tax return). Also includes Forms 4720 (excise tax return of charities and other persons); 5227 (split interest trust information return); and 8872 (political organization report of contributions and expenditures). Tax collected on Form 990 T is combined with Business income taxes in other tables.
- [8] Includes Forms 941 X (adjusted employer's tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 X (adjusted employer's tax return for agricultural employees); 944 X (adjusted employer's annual tax return or claim for refund); 945 X (adjusted annual return of withheld Federal income tax or claim for refund); 1040 X (amended individual income tax return); 1041 A (information return of charitable contribution deductions by certain trusts); 1120 X (amended corporation income tax return); 4868 (automatic filing extension for individuals); 5558 (filing extension for certain employee retirement plan returns); 7004 (automatic filing extension for corporations); 8752 (required payment or refund for certain S corporations and partnerships); 8868 (automatic filing extension for tax exempt organizations); and CT 1X (adjusted railroad retirement tax return).
- [9] Includes U.S. Territories other than Puerto Rico, U.S. Armed Service members overseas, and international.

NOTES:

Detail may not add to totals because of rounding.

Classification by State is based on the individual's address (or, in the case of businesses, the location of the principal office or place of business). However, some individuals may use the address of a tax attorney or accountant. Sole proprietors, partners in a partnership, or shareholders in an S corporation may use their business addresses. Such addresses could have been located in a State other than the State in which the individual resided. Similarly, taxes withheld reported by employers located near a State boundary might include substantial amounts withheld from salaries of employees who reside in a neighboring State. Also, while taxes of corporations may be paid from the principal office, the operations of these corporations may be located in one or more State(s).

Due to continued challenges related to the COVID 19 pandemic and processing center shutdowns to protect the health and safety of employees, the IRS continues to experience processing delays for paper filed forms.

SOURCE: Research, Applied Analytics, and Statistics; Statistics of Income.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

[Download XLSX](#)**Table 4. Number of Returns and Other Forms Filed Electronically, by Type and State, Fiscal Year 2021**

State or area	Total [1]	C or other corporation income tax [2]	S corporation	Partnership	Individual income tax	
					Total individual returns [3]	Online
						Total filed [4]
	(1)	(2)	(3)	(4)	(5)	(6)
United States, total	203,590,236	1,522,151	4,880,504	4,206,285	151,135,568	67,188,098
Alabama	2,618,672	10,099	50,866	49,558	2,077,422	901,493
Alaska	432,497	1,663	9,744	7,498	325,766	178,897
Arizona	4,169,275	16,483	92,715	81,083	3,175,271	1,613,080
Arkansas	1,638,864	7,535	40,253	32,508	1,259,536	533,046
California	25,348,265	251,564	615,165	442,957	18,031,449	6,459,213
Colorado	3,828,958	18,854	121,954	100,521	2,712,522	1,441,669
Connecticut	2,307,053	15,104	28,796	66,568	1,718,504	733,452
Delaware	675,018	11,780	13,709	18,622	463,873	230,609
District of Columbia	475,172	3,649	6,339	12,642	324,272	174,716
Florida	14,961,453	154,921	626,755	324,721	10,185,768	4,418,531
Georgia	6,338,038	31,842	176,836	112,918	4,676,865	2,215,035
Hawaii	808,373	7,033	14,275	10,886	631,006	275,830
Idaho	1,097,134	4,009	32,425	30,008	803,333	379,852
Illinois	7,915,590	57,511	238,218	129,689	5,837,143	2,444,422
Indiana	3,880,864	12,092	82,940	60,423	3,126,186	1,528,699
Iowa	1,861,472	12,616	42,822	39,810	1,455,146	544,444
Kansas	1,743,156	9,856	35,421	39,428	1,330,435	599,572
Kentucky	2,416,435	7,798	47,475	42,851	1,961,888	848,372
Louisiana	2,520,073	14,699	49,611	54,686	1,942,510	890,106
Maine	896,508	3,887	22,124	13,843	647,983	330,400
Maryland	3,751,998	20,704	74,179	68,545	2,814,466	1,335,417
Massachusetts	4,663,965	35,556	97,296	86,777	3,370,261	1,385,254
Michigan	5,961,151	34,384	134,904	104,498	4,684,724	1,996,068
Minnesota	3,595,089	14,407	88,869	66,477	2,706,858	1,142,819
Mississippi	1,537,573	7,276	26,730	28,302	1,240,632	540,298
Missouri	3,674,212	16,704	67,064	72,112	2,792,741	1,310,857
Montana	756,443	5,663	26,227	22,129	514,770	227,321
Nebraska	1,225,215	7,766	33,594	29,490	904,150	399,729
Nevada	2,009,082	16,326	48,482	44,070	1,480,277	689,143
New Hampshire	889,977	5,539	10,763	17,086	681,170	368,846
New Jersey	6,145,309	51,458	111,363	184,670	4,342,046	1,383,101
New Mexico	1,139,982	4,414	19,035	17,325	919,351	480,137
New York	13,659,424	242,479	397,538	360,128	9,668,480	3,183,604
North Carolina	6,016,068	29,917	139,555	105,544	4,666,284	2,288,362
North Dakota	475,730	2,494	11,457	14,115	356,578	150,038
Ohio	7,035,955	30,521	110,856	120,074	5,519,669	2,698,133
Oklahoma	2,204,290	10,134	54,430	52,518	1,667,590	791,049
Oregon	2,661,871	11,820	58,096	50,163	1,938,149	1,061,931
Pennsylvania	7,773,963	34,388	155,771	147,983	6,025,188	2,736,512
Rhode Island	725,118	3,575	16,955	11,658	537,829	204,187
South Carolina	2,963,236	11,535	66,284	52,960	2,319,562	1,098,198
South Dakota	576,389	3,017	15,097	17,472	420,539	178,882
Tennessee	3,825,504	19,999	37,079	77,853	3,105,227	1,564,669
Texas	16,523,879	119,742	335,473	407,268	12,585,757	6,366,678
Utah	2,058,300	8,232	69,989	80,878	1,400,863	696,383
Vermont	424,438	2,376	9,910	7,606	317,831	153,589
Virginia	5,090,385	28,026	117,817	91,503	3,890,843	2,096,746
Washington	4,726,820	21,414	107,001	81,969	3,569,821	2,031,814
West Virginia	878,308	3,859	10,971	11,212	753,348	393,374
Wisconsin	3,579,325	18,299	64,184	61,574	2,808,574	1,261,901
Wyoming	410,761	6,113	14,106	18,640	269,024	129,147
Puerto Rico	99,306	304	262	1,024	46,501	11,451
Other [11]	598,300	40,715	724	21,442	129,587	91,022

Footnotes at end of table.

Table 4. Number of Returns and Other Forms Filed Electronically, by Type and State, Fiscal Year 2021—Continued

State or area	Individual income tax continued		Estate and trust income tax	Employment taxes [7]	Excise taxes [8]	Tax exempt organizations [9]	Supplemental documents [10]
	Online continued	Practitioner filed [6]					
	Free File [5]						
	(7)						
United States, total	4,655,683	83,947,470	2,783,518	17,227,173	821,129	1,244,121	19,769,787
Alabama	62,962	1,175,929	25,723	139,812	13,641	16,374	235,177
Alaska	9,797	146,869	3,898	28,229	522	3,920	51,257
Arizona	113,218	1,562,191	37,270	333,518	8,875	18,464	405,596
Arkansas	42,967	726,490	15,317	79,550	9,867	10,266	184,032
California	468,690	11,572,236	286,179	2,671,103	77,278	124,887	2,847,683
Colorado	89,466	1,270,853	43,405	360,076	8,878	23,468	439,280
Connecticut	44,994	985,052	42,998	219,778	4,391	16,507	194,407
Delaware	14,454	233,264	27,061	64,110	1,798	5,411	68,654
District of Columbia	13,077	149,556	5,611	58,666	111	10,660	53,222
Florida	278,764	5,767,237	181,827	1,425,439	59,076	63,563	1,939,383
Georgia	157,728	2,461,830	46,389	532,438	36,704	33,559	690,487
Hawaii	16,170	355,176	11,331	55,901	683	5,777	71,481
Idaho	27,193	423,481	9,247	84,174	4,016	6,635	123,287
Illinois	171,754	3,392,721	186,850	694,039	53,286	50,648	668,206
Indiana	111,817	1,597,487	30,997	267,840	19,682	27,499	253,205
Iowa	37,825	910,702	22,570	109,193	18,701	23,584	137,030
Kansas	38,924	730,863	24,725	124,533	12,116	12,601	154,041
Kentucky	64,237	1,113,516	20,840	119,600	11,896	14,453	189,634
Louisiana	62,670	1,052,404	17,942	171,377	11,562	14,653	243,033
Maine	22,338	317,583	10,802	106,214	3,280	8,207	80,168
Maryland	87,243	1,479,049	43,442	328,842	8,393	25,565	367,862
Massachusetts	94,429	1,985,007	129,515	522,400	9,016	30,508	382,636
Michigan	135,645	2,688,656	66,981	412,572	19,701	37,263	466,124
Minnesota	82,610	1,564,039	37,330	318,843	22,646	27,490	312,169
Mississippi	44,576	700,334	9,400	60,176	12,121	10,266	142,670
Missouri	96,953	1,481,884	78,742	284,560	21,305	27,677	313,307
Montana	17,485	287,449	12,108	57,151	5,550	8,136	104,709
Nebraska	25,734	504,421	14,448	79,340	14,238	10,524	131,665
Nevada	41,625	791,134	37,937	156,792	5,487	10,200	209,511
New Hampshire	20,304	312,324	16,425	83,809	2,329	6,950	65,906
New Jersey	88,269	2,958,945	181,970	637,354	19,899	33,444	583,105
New Mexico	32,410	439,214	9,314	60,833	6,303	7,421	95,986
New York	278,168	6,484,876	280,389	1,360,407	15,955	82,378	1,251,670
North Carolina	159,291	2,377,922	47,498	451,420	20,752	34,971	520,127
North Dakota	10,398	206,540	6,100	28,947	11,394	4,375	40,270
Ohio	199,507	2,821,536	86,095	485,199	28,755	51,320	603,466
Oklahoma	54,276	876,541	25,654	145,075	8,157	13,604	227,128
Oregon	83,609	876,218	29,085	266,351	8,365	18,463	281,379
Pennsylvania	188,596	3,288,676	118,551	622,640	27,229	56,184	586,029
Rhode Island	15,408	333,642	20,833	79,044	1,403	7,016	46,805
South Carolina	83,165	1,221,364	23,398	204,002	13,258	15,229	257,008
South Dakota	11,364	241,657	16,303	31,316	10,530	5,072	57,043
Tennessee	101,648	1,540,558	36,948	234,286	17,126	22,067	274,919
Texas	353,127	6,219,079	189,832	1,270,285	94,278	87,007	1,434,237
Utah	44,040	704,480	17,110	199,983	6,577	8,393	266,275
Vermont	12,191	164,242	6,397	42,728	796	5,033	31,761
Virginia	148,099	1,794,097	50,105	423,315	14,873	34,483	439,420
Washington	124,153	1,538,007	59,023	362,241	16,722	29,509	479,120
West Virginia	26,502	359,974	7,754	30,850	3,052	7,749	49,513
Wisconsin	92,547	1,546,673	58,925	264,685	13,063	28,743	261,278
Wyoming	6,937	139,877	7,916	30,696	2,815	4,016	57,435
Puerto Rico	2,690	35,050	206	40,727	0	1,044	9,238
Other [11]	43,639	38,565	6,802	4,714	2,678	885	390,753

Footnotes on next page.

Table 4. Number of Returns and Other Forms Filed Electronically, by Type and State, Fiscal Year 2021—Continued**Footnotes**

- [1] Excludes returns that do not have the requirement or option of filing electronically; information returns (e.g., Forms 1098, 1099, 5498, W-2 and W-2G, and Schedule K-1); tax-exempt bond returns (Forms 8038, 8038-B, 8038-CP, 8038-G, 8038-GC, 8038-T, 8038-TC, and 8328); and employee retirement benefit plan returns (Forms 5500, 5500-EZ, and 5500-SF).
- [2] Includes Forms 1120 (corporate income tax return); 1120-F (foreign corporate income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); and 1120-POL (income tax return for certain political organizations). Excludes Form 1120-S (S corporation income tax return), shown separately.
- [3] Includes some of the Form 1040 series as follows: 1040 (individual income tax return); 1040-A (individual income tax return, short form); 1040-EZ (individual income tax return for single and joint filers with no dependents); 1040-PR (self-employment income tax return for Puerto Rico residents); 1040-SR (tax return for seniors); and 1040-SS (self-employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents). As a result of the Tax Cuts and Jobs Act of 2017, the Form 1040 was redesigned for Tax Year 2018, making Forms 1040-A and 1040-EZ obsolete. However, as prior year tax returns continue to be filed, the IRS may continue to see these forms.
- [4] Online e-filing is an option that allows taxpayers to prepare and file tax returns using a personal computer. Online returns can be filed through one of two processes: taxpayers either complete a tax return on a website without downloading any software, or taxpayers purchase and load software onto their personal computers, prepare their returns, and transmit them to the IRS through an online filing company.
- [5] Includes two Free File income tax preparation and electronic filing options: (1) all taxpayers could use Free File Fillable Forms, an electronic version of paper returns that performs simple mathematical calculations; and (2) taxpayers with adjusted gross incomes of \$72,000 or less could prepare and file their Tax Year 2020 taxes using commercial online software provided through a partnership between the Internal Revenue Service and Free File Alliance, LLC, a group of private sector tax software companies. The Free File Fillable Forms and Free File commercial online software were both available through IRS.gov.
- [6] Includes cases in which a taxpayer transmitted the return via an authorized e-file provider, who was, in most cases, also the return preparer.
- [7] Includes Forms 940 (employer's Federal unemployment tax return); 941-PR/SS (employer's quarterly tax return for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 943 (employer's tax return for agricultural employees); 943-PR/SS (employer's tax return for agricultural employees for Puerto Rico residents, or for U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands residents); 944 (employer's annual tax return or claim for refund); and 945 (tax return of withheld income tax from nonpayroll distributions).
- [8] Includes Form 720 (excise tax return) and Form 2290 (heavy highway vehicle use tax return).
- [9] Includes some of the Form 990 series as follows: 990 (tax-exempt organization information return, long form); 990-EZ (tax-exempt organization information return, short form); 990-N (electronic notice (e-Postcard) for tax-exempt organizations not required to file Forms 990 or 990-EZ); and 990-PF (private foundation information return). Also includes Form 8872 (political organization report of contributions and expenditures).
- [10] Includes Forms 4868 (automatic filing extension for individuals); 7004 (automatic filing extension for corporations); and 8868 (automatic filing extension for tax-exempt organizations).
- [11] Includes U.S. Territories other than Puerto Rico, U.S. Armed Service members overseas, and international.

NOTES:

Detail may not add to totals because of rounding.

Classification by State is based on the individual's address (or, in the case of businesses, the location of the principal office or place of business). However, some individuals may use the address of a tax attorney or accountant. Sole proprietors, partners in a partnership, or shareholders in an S corporation may use their business addresses. Such addresses could have been located in a State other than the State in which the individual resided. Similarly, taxes withheld reported by employers located near a State boundary might include substantial amounts withheld from salaries of employees who reside in a neighboring State. Also, while taxes of corporations may be paid from the principal office, the operations of these corporations may be located in one or more State(s).

SOURCE: Research, Applied Analytics, and Statistics; Statistics of Income.

Table 5. Gross Collections, by Type of Tax and State, Fiscal Year 2021

(Money amounts are in thousands of dollars)

State or area	Total Internal Revenue collections [1]	Business income taxes [2]	Individual income tax, employment taxes, and estate and trust income tax		
			Total	Individual income tax withheld and FICA tax [3]	Individual income tax payments and SECA tax [3]
	(1)	(2)	(3)	(4)	(5)
United States, total	4,111,569,512	419,008,841	3,606,225,111	2,706,298,354	834,340,953
Alabama	30,414,043	1,789,113	28,274,112	21,344,407	6,458,156
Alaska	5,750,254	110,764	5,586,675	4,136,457	1,221,779
Arizona	57,665,724	4,432,494	52,501,743	37,834,324	14,139,212
Arkansas	35,972,165	4,927,594	30,264,467	25,473,942	4,391,033
California	587,616,657	65,066,736	514,225,414	371,599,766	137,607,076
Colorado	68,472,777	4,868,635	62,443,561	45,618,384	16,173,538
Connecticut	60,261,678	8,257,986	51,150,585	34,855,159	14,960,466
Delaware	32,381,553	14,457,765	17,742,178	12,704,425	1,768,298
District of Columbia	34,603,494	9,681,512	24,759,137	20,022,307	4,113,481
Florida	252,326,047	13,405,263	235,308,576	155,129,112	74,895,369
Georgia	107,277,935	13,578,019	90,770,973	70,617,128	18,997,889
Hawaii	9,494,260	601,545	8,729,103	6,046,869	2,563,458
Idaho	14,060,403	783,783	13,074,503	9,139,651	3,840,042
Illinois	183,723,676	20,425,855	160,056,372	121,183,267	33,660,594
Indiana	65,173,208	5,212,457	59,048,268	49,227,806	9,386,398
Iowa	28,294,030	1,888,858	26,005,740	20,721,892	5,121,878
Kansas	29,153,251	2,155,461	25,275,953	19,087,758	5,867,922
Kentucky	36,700,830	3,052,297	33,175,948	27,726,600	5,045,792
Louisiana	39,377,708	790,192	38,127,686	31,659,564	6,148,234
Maine	9,817,142	561,919	9,083,043	6,690,827	2,236,941
Maryland	88,931,955	3,663,308	84,541,288	68,382,902	14,981,988
Massachusetts	144,305,270	10,495,896	131,977,531	101,472,890	28,710,993
Michigan	94,064,899	7,851,833	85,202,411	66,163,343	17,918,380
Minnesota	108,280,490	14,868,515	92,336,158	79,274,386	12,449,851
Mississippi	12,651,646	615,839	11,683,251	8,814,220	2,742,148
Missouri	74,537,986	7,833,967	65,783,626	54,096,970	10,670,524
Montana	7,844,890	401,440	7,373,470	4,835,017	2,441,013
Nebraska	28,527,699	7,124,615	21,114,724	16,150,115	3,888,133
Nevada	28,819,160	1,194,925	27,242,290	13,712,389	9,714,420
New Hampshire	14,463,648	453,066	13,461,082	9,082,992	3,809,216
New Jersey	156,156,339	25,125,133	128,036,155	99,236,908	27,108,061
New Mexico	10,300,315	234,252	9,921,459	7,070,768	2,763,772
New York	330,143,910	34,875,229	289,779,883	204,436,834	80,709,260
North Carolina	107,138,440	11,999,849	94,321,564	76,126,825	17,399,121
North Dakota	7,589,067	543,507	6,988,456	5,094,477	1,847,019
Ohio	163,091,560	15,279,818	140,836,335	121,513,224	17,819,899
Oklahoma	28,563,746	999,036	23,986,618	18,150,968	4,800,417
Oregon	40,067,022	2,390,821	37,031,079	28,167,959	8,546,726
Pennsylvania	154,308,909	15,473,529	135,405,433	107,610,300	25,389,980
Rhode Island	16,491,561	3,807,910	12,550,328	10,272,657	2,068,800
South Carolina	31,110,135	1,524,268	29,139,683	20,659,148	8,193,445
South Dakota	11,525,074	305,260	11,098,890	5,558,579	2,285,640
Tennessee	82,362,552	8,873,150	71,574,197	57,381,302	13,405,006
Texas	312,071,886	27,143,965	265,528,807	195,608,052	63,921,566
Utah	31,536,915	1,587,041	29,258,588	21,301,494	7,647,818
Vermont	5,001,910	200,988	4,754,993	3,498,300	1,174,403
Virginia	108,067,359	15,945,150	91,460,782	70,120,960	20,044,052
Washington	119,862,452	12,672,565	105,826,738	81,227,528	23,620,739
West Virginia	7,143,579	246,126	6,835,618	5,370,363	1,407,132
Wisconsin	61,583,211	6,451,803	54,221,067	42,029,599	10,682,741
Wyoming	6,089,795	177,625	5,670,216	2,467,247	2,596,619
U.S. Armed Service members overseas and Territories other than Puerto Rico	690,853	4,757	682,529	534,758	141,363
Puerto Rico	4,007,519	22,477	3,979,869	3,220,998	725,930
International	13,941,163	2,967,012	10,719,392	5,002,489	5,673,582
Undistributed [6]	11,759,761	-394,081	10,296,565	1,831,752	8,443,640

Footnotes at end of table.

Table 5. Gross Collections, by Type of Tax and State, Fiscal Year 2021—Continued

[Money amounts are in thousands of dollars]

State or area	Individual income tax, employment taxes, and estate and trust income tax continued			Estate tax	Gift tax	Excise taxes [5]
	Unemployment insurance tax	Railroad retirement tax	Estate and trust income tax [4]			
	(6)	(7)	(8)	(9)	(10)	(11)
United States, total	6,275,547	5,306,607	54,003,650	23,425,026	4,620,713	58,289,822
Alabama	68,231	3,420	399,899	84,615	4,399	261,804
Alaska	11,257	794	216,389	3,324	226	49,264
Arizona	110,045	1,377	416,786	129,204	45,055	557,229
Arkansas	130,855	3,601	265,035	64,677	83,606	631,822
California	737,964	9,575	4,271,034	4,044,190	520,281	3,760,036
Colorado	89,081	20,506	542,053	315,989	66,606	777,986
Connecticut	59,246	5,852	1,269,862	508,551	60,363	284,194
Delaware	26,660	49,403	3,193,392	50,767	9,096	121,747
District of Columbia	14,952	438,374	170,024	116,071	3,440	43,333
Florida	422,879	553,374	4,307,842	2,130,259	490,842	991,106
Georgia	226,700	50,549	878,706	448,201	38,795	2,441,947
Hawaii	14,960	0	103,815	29,286	1,352	132,974
Idaho	35,523	171	59,116	116,108	18,999	67,010
Illinois	263,382	351,989	4,597,140	804,290	90,501	2,346,657
Indiana	102,149	30,241	301,674	276,091	15,992	620,401
Iowa	50,359	12,191	99,421	110,383	3,242	285,807
Kansas	62,504	109,091	148,677	235,833	14,711	1,471,293
Kentucky	63,437	15,471	324,648	94,465	144,064	234,056
Louisiana	62,186	5,263	252,440	156,850	537	302,443
Maine	18,657	3,849	132,770	120,700	19,751	31,730
Maryland	100,455	15,755	1,060,187	260,651	350,150	116,558
Massachusetts	163,571	38,722	1,591,354	547,714	196,393	1,087,735
Michigan	192,398	11,572	916,716	628,546	67,985	314,124
Minnesota	173,317	90,123	348,482	220,678	5,859	849,280
Mississippi	30,741	1,819	94,322	186,785	6,522	159,250
Missouri	140,307	110,022	765,803	208,747	25,959	685,687
Montana	15,906	30,764	50,770	33,068	14,133	22,779
Nebraska	36,797	917,069	122,610	139,759	39,734	108,868
Nevada	42,808	65	3,772,608	216,479	18,520	146,946
New Hampshire	20,532	85	548,258	150,573	5,283	393,645
New Jersey	188,068	176,448	1,326,671	948,443	94,263	1,952,345
New Mexico	19,710	134	67,075	64,808	17,565	62,232
New York	304,320	582,298	3,747,172	2,673,615	966,573	1,848,610
North Carolina	182,325	12,937	600,356	523,605	71,295	222,127
North Dakota	12,882	8,254	25,824	11,020	1	46,084
Ohio	236,864	25,630	1,240,718	539,625	73,226	6,362,557
Oklahoma	62,781	3,083	969,369	134,158	14,907	3,429,027
Oregon	69,248	2,636	244,510	163,501	62,857	418,764
Pennsylvania	255,163	72,808	2,077,182	918,963	71,260	2,439,724
Rhode Island	27,949	22	180,900	22,445	6,776	104,101
South Carolina	51,198	2,012	233,880	118,896	8,728	318,561
South Dakota	14,926	721	3,239,024	50,781	18,678	51,466
Tennessee	176,021	2,355	609,513	286,707	18,736	1,609,762
Texas	513,398	1,004,275	4,481,516	1,996,227	259,352	17,143,535
Utah	64,866	3,687	240,724	50,303	4,498	636,485
Vermont	8,824	3,009	70,457	15,678	4,747	25,504
Virginia	160,275	501,865	633,629	452,704	67,436	141,288
Washington	235,691	14,823	727,956	235,308	93,732	1,034,107
West Virginia	13,512	723	43,888	14,096	1,764	45,975
Wisconsin	120,521	2,796	1,385,410	230,742	69,369	610,229
Wyoming	7,543	625	598,182	121,708	40,857	79,390
U.S. Armed Service members overseas and Territories other than Puerto Rico	5,559	0	849	100	1,967	1,500
Puerto Rico	31,404	0	1,538	632	1,035	3,506
International	5,484	2,363	35,474	95,357	27,781	131,621
Undistributed [6]	19,154	2,018	0	1,322,751	260,918	273,609

Footnotes on next page.

Table 5. Gross Collections, by Type of Tax and State, Fiscal Year 2021—Continued**Footnotes**

- [1] Gross collections include penalties and interest in addition to taxes.
- [2] Includes taxes on corporation income (Form 1120 series) and unrelated business income from tax exempt organizations (Form 990 T).
- [3] Collections of withheld individual income tax are not reported by taxpayers separately from Old Age, Survivors, Disability, and Hospital Insurance (OASDHI) taxes on salaries and wages (under the Federal Insurance Contributions Act or FICA) and individual income tax payments along with taxes on self employment income (under the Self Employment Insurance Contributions Act or SECA). Thus, while Table 1 shows these amounts separately for the United States total, separate amounts are not available by State.
- [4] Includes collections of estimated estate and trust income taxes and payments made in conjunction with estate and trust tax return filings.
- [5] Excludes excise taxes collected by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. The Internal Revenue Service collected taxes on alcohol and tobacco until Fiscal Year 1988, and taxes on firearms until Fiscal Year 1991.
- [6] Includes tax and excess withholding payments not classified by State as of the end of the fiscal year because they had not been applied to taxpayer accounts. Undistributed amounts may be negative when adjustments to taxpayer accounts have not been completed.

NOTES:

Detail may not add to totals because of rounding.

Partnership, S corporation, regulated investment company, and real estate investment trust data are not shown in this table since these entities generally do not have a tax liability. Instead, they pass through any profits or losses to the underlying owners, who include these profits or losses on their income tax returns.

This table shows gross collections. Gross collections less refunds equal net collections. See Table 1 for refunds and net collections.

Collection and refund data may not be comparable for a given fiscal year because payments made in prior years may be refunded in the current fiscal year. Adjustments to prior year refunds made in Fiscal Year 2021 may result in negative amounts when such adjustments exceed current year collections. See Table 8 for refund data.

Classification by State is based on the individual's address (or, in the case of businesses, the location of the principal office or place of business). However, some individuals may use the address of a tax attorney or accountant. Sole proprietors may use their business addresses. Such addresses could have been located in a State other than the State in which the individual resided. Similarly, taxes withheld and reported by employers located near a State boundary might include substantial amounts withheld from salaries of employees who reside in a neighboring State. Also, while taxes of corporations may be paid from the principal office, the operations of these corporations may be located in one or more other State(s).

SOURCE: Chief Financial Officer, Financial Management.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

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Table 6. Gross Collections, by Type of Tax, Fiscal Years 1960–2021

[Money amounts are in thousands of dollars]

Fiscal year	Total	Income taxes				Employment taxes [4]	Estate tax	Gift tax	Excise taxes [5]
	Internal Revenue collections [1]	Total	Business income taxes [2]	Individual income tax [3]	Estate and trust income tax [3]				
	(1)	(2)	(3)	(4)	(5)				
1960	91,774,803	67,125,126	22,179,414	44,945,711	[3]	11,158,589	1,439,259	187,089	11,864,741
1961	94,401,086	67,917,941	21,764,940	46,153,001	[3]	12,502,451	1,745,480	170,912	12,064,302
1962	99,440,839	71,945,305	21,295,711	50,649,594	[3]	12,708,171	1,796,227	238,960	12,752,176
1963	105,925,395	75,323,714	22,336,134	52,987,581	[3]	15,004,486	1,971,614	215,843	13,409,737
1964	112,260,257	78,891,218	24,300,863	54,590,354	[3]	17,002,504	2,110,992	305,312	13,950,232
1965	114,434,634	79,792,016	26,131,334	53,660,683	[3]	17,104,306	2,454,332	291,201	14,792,779
1966	128,879,961	92,131,794	30,834,243	61,297,552	[3]	20,256,133	2,646,968	446,954	13,398,112
1967	148,374,815	104,288,420	34,917,825	69,370,595	[3]	26,958,241	2,728,580	285,826	14,113,748
1968	153,636,838	108,148,565	29,896,520	78,252,045	[3]	28,085,898	2,710,254	371,725	14,320,396
1969	187,919,560	135,778,052	38,337,646	97,440,406	[3]	33,068,657	3,136,691	393,373	15,542,787
1970	195,722,096	138,688,568	35,036,983	103,651,585	[3]	37,449,188	3,241,321	438,755	15,904,264
1971	191,647,198	131,072,374	30,319,953	100,752,421	[3]	39,918,690	3,352,641	431,642	16,871,851
1972	209,855,737	143,804,732	34,925,546	108,879,186	[3]	43,714,001	5,126,522	363,447	16,847,036
1973	237,787,204	164,157,315	39,045,309	125,112,006	[3]	52,081,709	4,338,924	636,938	16,572,318
1974	268,952,254	184,648,094	41,744,444	142,903,650	[3]	62,093,632	4,659,825	440,849	17,109,853
1975	293,822,726	202,146,097	45,746,660	156,399,437	[3]	70,140,809	4,312,657	375,421	16,847,741
1976	302,519,792	205,751,753	46,782,956	158,968,797	[3]	74,202,853	4,875,735	431,730	17,257,720
1976 [6]	75,462,780	49,567,484	9,808,905	39,758,579	[3]	19,892,041	1,367,935	117,312	4,518,008
1977	358,139,417	246,805,067	60,049,804	186,755,263	[3]	86,076,316	5,649,460	1,775,866	17,832,707
1978	399,776,389	278,438,289	65,380,145	213,058,144	[3]	97,291,653	5,242,080	139,419	18,664,949
1979	460,412,185	322,993,733	71,447,876	251,545,857	[3]	112,849,874	5,344,176	174,899	19,049,504
1980	519,375,273	359,927,392	72,379,610	287,547,782	[3]	128,330,480	6,282,247	216,134	24,619,021
1981	606,799,103	406,583,302	73,733,156	332,850,146	[3]	152,885,816	6,694,641	215,745	40,419,598
1982	632,240,506	418,599,768	65,990,832	352,608,936	[3]	168,717,936	8,035,335	108,038	36,779,428
1983	627,246,793	411,407,523	61,779,556	349,627,967	[3]	173,847,854	6,077,202	148,675	35,765,538
1984	680,475,229	437,071,049	74,179,370	362,891,679	[3]	199,210,028	6,024,985	151,682	38,017,486
1985	742,871,541	474,072,327	77,412,769	396,659,558	[3]	225,214,568	6,303,418	276,284	37,004,944
1986	782,251,812	497,406,391	80,441,620	416,964,771	[3]	243,978,380	6,814,417	380,538	33,672,086
1987	886,290,590	568,311,471	102,858,985	465,452,486	[3]	277,000,469	7,164,681	502,989	33,310,980
1988	935,106,594	583,349,120	109,682,554	473,666,566	[3]	318,038,990	7,348,679	435,766	25,934,040
1989	1,013,322,133	632,746,069	117,014,564	515,731,504	[3]	345,625,586	8,143,689	829,457	25,977,333
1990	1,056,365,652	650,244,947	110,016,539	540,228,408	[3]	367,219,321	9,633,736	2,128,202	27,139,445
1991	1,086,851,401	660,475,445	113,598,569	546,876,876	[3]	384,451,220	10,237,247	1,235,894	30,451,596
1992	1,120,799,558	675,673,952	117,950,796	557,723,156	[3]	400,080,904	10,411,450	1,067,666	33,565,587
1993	1,176,685,625	717,321,668	131,547,509	585,774,159	[3]	411,510,516	11,433,495	1,457,470	34,962,476
1994	1,276,466,776	774,023,837	154,204,684	619,819,153	[3]	443,831,352	13,500,126	2,106,667	43,004,794
1995	1,375,731,835	850,201,510	174,422,173	675,779,337	[3]	465,405,305	13,326,051	1,818,343	44,980,627
1996	1,486,546,674	934,368,068	189,054,791	745,313,276	[3]	492,365,178	15,350,591	2,241,226	42,221,611
1997	1,623,272,071	1,029,513,216	204,492,336	825,020,880	[3]	528,596,833	17,595,484	2,760,917	44,805,621
1998	1,769,408,739	1,141,335,868	213,270,011	928,065,857	[3]	557,799,193	21,314,933	3,316,029	45,642,716
1999	1,904,151,888	1,218,510,654	216,324,889	1,002,185,765	[3]	598,669,865	23,627,320	4,758,287	58,585,763
2000	2,096,916,925	1,372,732,596	235,654,894	1,137,077,702	[3]	639,651,814	25,618,377	4,103,243	54,810,895
2001	2,128,831,182	1,364,941,523	186,731,643	1,178,209,880	[3]	682,222,895	25,289,663	3,958,253	52,418,848
2002	2,016,627,269	1,249,171,681	211,437,773	1,037,733,908	[3]	688,077,238	25,532,186	1,709,329	52,136,835
2003	1,952,929,045	1,181,355,176	194,146,298	987,208,878	[3]	695,975,801	20,887,883	1,939,025	52,771,160
2004	2,018,502,103	1,220,868,119	230,619,359	990,248,760	[3]	717,247,296	24,130,143	1,449,319	54,807,225
2005	2,268,895,122	1,414,595,831	307,094,837	1,107,500,994	[3]	771,441,662	23,565,164	2,040,367	57,252,098
2006	2,518,680,230	1,617,183,944	380,924,573	1,236,259,371	[3]	814,819,218	26,717,493	1,970,032	57,989,543
2007	2,691,537,557	1,761,777,263	395,535,825	1,366,241,437	[3]	849,732,729	24,557,815	2,420,138	53,049,612
2008	2,745,035,410	1,780,306,008	354,315,825	1,400,405,178	25,585,005	883,197,626	26,543,433	3,280,502	51,707,840
2009	2,345,337,177	1,415,864,347	225,481,588	1,175,421,788	14,960,969	858,163,864	21,583,131	3,094,191	46,631,646
2010	2,345,055,978	1,453,926,748	277,937,220	1,163,687,589	12,301,939	824,188,337	16,930,741	2,820,095	47,190,057
2011	2,414,952,112	1,589,030,349	242,848,122	1,331,160,469	15,021,758	767,504,822	[7] 2,506,991	6,572,384	49,337,563
2012	2,524,320,134	1,669,298,095	281,461,580	1,371,402,290	16,434,225	784,396,853	12,340,655	2,109,594	56,174,937
2013	2,855,059,420	1,876,348,448	311,993,954	1,539,658,421	24,696,073	897,847,151	14,051,771	5,778,377	61,033,674
2014	3,064,301,358	1,996,765,080	353,141,112	1,614,213,171	29,410,796	976,223,247	17,572,338	2,582,617	71,158,076
2015	3,302,677,258	2,183,074,421	389,888,722	1,759,740,317	33,445,382	1,022,358,916	17,952,938	2,089,101	77,201,882
2016	3,333,449,083	2,161,371,562	345,552,427	1,786,123,738	29,695,397	1,073,907,715	19,879,671	2,457,466	75,832,669
2017	3,416,714,139	2,205,956,951	338,529,154	1,838,403,489	29,024,308	1,123,473,137	21,831,660	1,948,783	63,503,608
2018	3,465,466,627	2,234,683,225	262,742,024	1,933,485,246	38,455,955	1,133,199,527	22,664,503	1,201,166	73,718,206
2019	3,564,583,961	2,258,708,451	277,057,735	1,942,182,201	39,468,515	1,207,553,842	16,001,974	1,563,070	80,756,624
2020	3,493,067,956	2,134,733,934	263,563,107	1,837,443,578	33,727,249	1,268,076,594	17,115,476	1,082,111	72,059,841
2021	4,111,569,512	2,767,063,065	419,008,841	2,294,050,574	54,003,650	1,258,170,886	23,425,026	4,620,713	58,289,822

Footnotes on next page.

Table 6. Gross Collections, by Type of Tax, Fiscal Years 1960–2021—Continued**Footnotes**

- [1] Gross collections include penalties and interest in addition to taxes.
- [2] Includes taxes on corporation income (Form 1120 series) and on unrelated business income from tax exempt organizations (Form 990 T).
- [3] Income tax reported for estates and trusts is included in individual income tax in Fiscal Years (FY) 1960–2007. Beginning with FY 2008, estate and trust income tax is reported separately.
- [4] Includes taxes for Old Age, Survivors, Disability, and Hospital Insurance (OASDHI); unemployment insurance under the Federal Unemployment Tax Act (FUTA); and railroad retirement under the Railroad Retirement Tax Act (RTTA).
- [5] Excludes excise taxes collected by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. The Internal Revenue Service collected taxes on alcohol and tobacco until FY 1988, and taxes on firearms until FY 1991.
- [6] Represents fiscal year transitional period, July 1976 through September 1976, resulting from redefinition of the term “fiscal year.” FY 1976 covered July 1975 through June 1976 (earlier years were similarly defined). FY 1977 covered October 1976 through September 1977 (subsequent years are similarly defined).
- [7] The estate tax was temporarily repealed for deaths in Calendar Year (CY) 2010 before being reinstated retroactively with a \$5 million exemption as part of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. As a result of this legislation, the estates of CY 2010 decedents could elect to file either Form 706 (estate and generation skipping transfer tax return), due September 19, 2011, or Form 8939 (allocation of increase in basis for property acquired from a decedent), due January 17, 2012. The law also provided a \$5 million exemption for the estates of CY 2011 decedents. These tax law changes significantly reduced estate tax gross collections in FY 2011 relative to other fiscal years.

NOTES:

Detail may not add to totals because of rounding.

All money amounts are in current dollars.

Partnership, S corporation, regulated investment company, and real estate investment trust data are not shown in this table since these entities generally do not have a tax liability. Instead, they pass any profits or losses to the underlying owners, who include these profits or losses on their income tax returns.

This table shows gross collections. Gross collections less refunds equal net collections. See Table 1 for data on refunds and net collections.

SOURCE: Chief Financial Officer, Financial Management.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

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Table 7. Number of Refunds Issued, by Type of Refund and State, Fiscal Year 2021

State or area	Total Internal Revenue refunds [1]	Business income taxes [2]	Individual income tax				Estate and trust income tax	Employment taxes [5]	Estate tax	Gift tax	Excise taxes [6]
			Total refunds	Traditional refunds	Economic impact payments [3]	Advance child tax credit payments [4]					
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	
United States, total	600,089,659	426,052	596,880,307	247,437,667	312,725,802	36,716,838	413,023	2,239,490	3,183	825	126,779
Alabama	9,123,785	3,603	9,085,614	3,609,296	4,905,645	570,673	4,670	28,069	d	d	1,799
Alaska	1,314,564	827	1,304,510	552,137	668,643	83,730	641	8,246	d	d	335
Arizona	12,838,665	6,525	12,786,968	5,157,790	6,817,601	811,577	6,280	37,042	36	18	1,796
Arkansas	5,601,051	2,646	5,575,441	2,188,477	3,032,482	354,482	2,160	19,642	10	12	1,140
California	67,835,322	65,257	67,418,792	28,000,634	35,068,565	4,349,593	47,704	290,502	609	105	12,353
Colorado	10,033,294	6,928	9,971,573	4,124,086	5,237,946	609,541	7,794	44,984	67	13	1,935
Connecticut	6,274,017	3,991	6,238,602	2,672,313	3,199,473	366,816	7,867	22,162	55	10	1,330
Delaware	1,791,606	2,233	1,777,048	724,279	944,387	108,382	4,985	6,664	d	d	664
District of Columbia	1,152,914	2,018	1,143,700	486,872	595,992	60,836	1,400	5,479	d	d	305
Florida	41,382,504	33,178	41,167,191	16,856,944	21,965,519	2,344,728	29,704	145,007	325	78	7,021
Georgia	19,491,282	10,535	19,410,802	8,174,547	9,941,882	1,294,373	7,551	58,731	57	18	3,588
Hawaii	2,561,828	2,613	2,547,537	1,020,417	1,375,956	151,164	2,420	8,823	d	d	411
Idaho	3,206,490	1,786	3,185,982	1,275,771	1,697,401	212,810	1,349	16,486	d	d	875
Illinois	22,385,882	17,098	22,248,254	9,302,683	11,556,408	1,389,163	24,278	90,190	112	23	5,927
Indiana	12,487,567	5,460	12,437,053	5,184,197	6,479,201	773,655	4,886	37,433	20	13	2,702
Iowa	5,676,125	5,161	5,644,071	2,290,773	3,004,712	348,586	2,324	22,672	17	0	1,880
Kansas	5,064,470	3,796	5,034,542	2,046,710	2,660,723	327,109	3,420	20,938	20	14	1,740
Kentucky	8,489,997	3,314	8,458,347	3,347,245	4,599,287	511,815	3,691	23,090	17	28	1,510
Louisiana	8,787,821	4,656	8,744,744	3,605,400	4,577,505	561,839	3,119	33,760	d	d	1,518
Maine	2,562,070	2,089	2,548,734	967,383	1,448,122	133,229	2,019	8,427	d	d	791
Maryland	10,542,803	7,146	10,490,488	4,435,383	5,361,700	693,405	8,541	34,821	68	13	1,726
Massachusetts	11,894,472	9,131	11,825,483	5,006,864	6,142,010	676,609	17,223	40,015	87	25	2,508
Michigan	18,506,270	12,812	18,411,256	7,606,541	9,752,382	1,052,333	13,333	65,328	60	16	3,465
Minnesota	9,902,738	8,094	9,844,067	4,052,304	5,173,837	617,926	5,505	41,964	39	21	3,048
Mississippi	5,754,378	2,285	5,732,064	2,327,108	3,029,991	374,965	1,583	17,158	d	d	1,281
Missouri	11,229,861	7,440	11,163,178	4,498,957	5,988,686	675,535	8,913	47,676	d	d	2,618
Montana	1,973,029	3,005	1,955,491	757,350	1,086,037	112,104	1,132	12,729	d	d	657
Nebraska	3,441,495	4,058	3,418,389	1,396,082	1,796,029	226,278	1,802	15,719	12	0	1,515
Nevada	6,075,900	4,313	6,045,176	2,550,932	3,134,301	359,943	5,577	19,179	d	d	1,619
New Hampshire	2,479,185	1,956	2,464,142	999,142	1,330,783	134,217	2,876	9,560	d	d	635
New Jersey	15,554,404	11,029	15,467,012	6,574,152	7,895,183	997,677	12,887	60,267	88	20	3,101
New Mexico	3,859,596	1,916	3,841,123	1,522,661	2,081,237	237,225	1,609	14,361	d	d	578
New York	35,609,253	32,874	35,384,443	14,613,762	18,733,837	2,036,844	27,231	158,373	346	94	5,892
North Carolina	18,989,239	10,126	18,907,384	7,649,722	10,052,893	1,204,769	8,945	59,224	d	d	3,477
North Dakota	1,353,979	1,056	1,342,677	556,761	701,379	84,537	589	8,695	d	d	954
Ohio	22,031,825	14,110	21,939,032	8,843,734	11,833,015	1,262,283	13,741	60,279	42	16	4,605
Oklahoma	7,136,369	4,122	7,101,206	2,838,440	3,798,520	464,246	4,177	25,069	d	d	1,768
Oregon	7,614,420	5,581	7,569,515	2,999,806	4,145,754	423,955	4,838	32,646	36	20	1,784
Pennsylvania	23,646,558	13,089	23,532,539	9,681,449	12,520,256	1,330,834	18,311	76,130	104	21	6,364
Rhode Island	2,060,503	1,171	2,050,112	859,657	1,079,925	110,530	3,263	5,299	d	d	638
South Carolina	9,507,492	4,189	9,471,113	3,765,635	5,116,990	588,488	4,079	26,487	d	d	1,603
South Dakota	1,607,623	1,547	1,593,989	638,146	856,419	99,424	2,278	9,127	d	d	677
Tennessee	12,855,282	5,410	12,797,740	5,142,196	6,876,830	778,714	6,188	43,388	36	21	2,499
Texas	52,695,764	33,900	52,417,547	22,584,057	26,157,345	3,676,145	35,812	196,665	228	54	11,558
Utah	5,380,723	3,210	5,349,942	2,268,861	2,683,850	397,231	2,439	24,142	d	d	975
Vermont	1,181,235	981	1,172,848	457,389	654,243	61,216	1,285	5,665	d	d	449
Virginia	14,709,659	9,833	14,637,294	6,066,973	7,621,446	948,875	9,212	50,376	73	14	2,857
Washington	13,557,900	9,092	13,467,874	5,689,971	6,968,078	809,825	9,735	68,575	65	30	2,529
West Virginia	3,369,086	1,236	3,356,094	1,273,971	1,899,094	183,029	1,183	9,780	d	d	781
Wisconsin	10,650,209	7,317	10,588,091	4,298,220	5,675,420	614,451	8,392	42,920	d	d	3,445
Wyoming	1,037,868	1,413	1,027,234	419,309	544,239	63,686	1,436	7,350	d	d	424
U.S. Armed Service members overseas and Territories other than Puerto Rico	571,519	59	568,719	568,719	n.a	n.a	d	2,665	d	0	40
Puerto Rico	173,549	270	157,662	157,662	n.a	n.a	d	15,531	d	0	40
International	2,760,570	8,567	2,746,229	2,746,229	n.a	n.a	573	3,980	150	22	1,049
Recovery Rebates funding provided to U.S. possessions [7]	2,312,081	N/A	2,312,081	N/A	2,256,643	55,438	N/A	N/A	N/A	N/A	N/A
Undistributed [8]	1,568	0	1,568	1,568	0	0	0	0	0	0	0
Child tax credit [9]	18,276,724	N/A	18,276,724	18,276,724	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Earned income tax credit [9]	26,414,760	N/A	26,414,760	26,414,760	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Footnotes on next page.

Table 7. Number of Refunds Issued, by Type of Refund and State, Fiscal Year 2021—Continued**Footnotes**

- d Not shown to avoid disclosure of information. However, the data are included in the appropriate totals.
- n.a. Not available.
- N/A Not applicable.
- [1] Includes overpayment refunds, refunds resulting from examination activity, refundable tax credits, and other refunds required by law. Excludes refunds credited to taxpayer accounts for tax liability in a subsequent year.
- [2] Includes refunds of taxes on corporation income (Form 1120 series) and on unrelated business income from tax exempt organizations (Form 990 T).
- [3] The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), and the American Rescue Plan Act of 2021 (ARP Act) included provisions to distribute economic impact payments to qualified taxpayers. These payments are considered advance refundable credits for returns to be filed for Tax Years 2020 and 2021, and therefore are classified as refunds issued during Fiscal Year (FY) 2021.
- [4] The ARP Act included provisions to distribute monthly advance child tax credit payments to qualified taxpayers from July 2021 through December 2021. These payments are considered advance refundable credits for returns to be filed for Tax Year 2021, and therefore are classified as refunds issued during FY 2021. This table includes only those payments issued through the end of the fiscal year, i.e., September 30, 2021.
- [5] Includes refunds on self employment income taxes under the Self Employment Insurance Contributions Act (SECA); railroad retirement taxes under the Railroad Retirement Tax Act (RRTA); unemployment insurance taxes under the Federal Unemployment Tax Act (FUTA); and Old Age, Survivors, Disability and Hospital Insurance (OASDHI) taxes on salaries and wages under the Federal Insurance Contributions Act (FICA).
- [6] Excludes refunds of excise taxes collected by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Beginning with FY 2015, some refunds, which had been classified as excise tax refunds in prior years, were reclassified as corporate tax refunds.
- [7] The CARES Act, CRRSAA, and ARP Act included provisions to distribute Recovery Rebate benefits directly to U.S. territories. These funds were classified as Economic Impact Payments and Advance Child Tax Credit payments by the IRS for accounting purposes.
- [8] Includes refunds of tax and excess withholding payments not classified by State as of the end of the fiscal year because they had not yet been applied to taxpayer accounts.
- [9] Reflects refundable portions of credits only. Shown separately for information purposes. Counts are included in the State figures and U.S. totals.

NOTE:

Classification by State is based on the individual's address (or, in the case of businesses, the location of the principal office or place of business). However, some individuals may use the address of a tax attorney or accountant. Sole proprietors, partners in a partnership, or shareholders in an S corporation may use their business addresses. Such addresses could have been located in a State other than the State in which the individual resided. Similarly, taxes withheld and reported by employers located near a State boundary might include substantial amounts withheld from salaries of employees who reside in a neighboring State. Also, while taxes of corporations may be paid from the principal office, the operations of these corporations may be located in one or more States.

SOURCE: Chief Financial Officer, Financial Management.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

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Table 8. Amount of Refunds Issued, Including Interest, by Type of Refund and State, Fiscal Year 2021

(Money amounts are in thousands of dollars)

State or area	Total Internal Revenue refunds [1]	Business Income taxes [2]	Individual income tax [3]				Advance Child Tax Credit payments [5]	Estate and trust income tax	Employment taxes [6]	Estate tax	Gift tax	Excise taxes [7]
			Total refunds	Traditional refunds	Economic impact payments [4]							
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)		
United States, total	1,137,821,285	53,086,665	1,049,901,291	464,235,270	539,305,783	46,360,238	4,061,859	27,409,790	922,326	26,853	2,412,501	
Alabama	15,425,803	481,823	14,678,605	5,423,727	8,535,637	719,241	20,102	232,095	d	d	12,520	
Alaska	2,320,908	34,898	2,227,841	919,813	1,190,989	117,039	7,145	48,323	d	d	1,941	
Arizona	21,632,383	453,016	20,769,443	7,728,790	11,978,722	1,061,931	41,658	336,395	9,455	185	22,232	
Arkansas	9,432,701	187,341	9,078,085	3,250,905	5,364,519	462,661	16,696	139,369	3,297	23	7,890	
California	117,874,111	4,373,013	109,042,877	44,084,029	59,653,354	5,305,494	357,012	3,762,507	203,452	5,967	129,281	
Colorado	17,803,395	990,583	16,202,421	6,559,887	8,878,748	763,786	45,868	494,260	18,704	1,609	49,950	
Connecticut	11,782,391	967,657	10,401,370	4,727,414	5,245,741	428,215	104,838	281,400	14,414	326	12,385	
Delaware	3,790,720	639,598	2,874,160	1,131,250	1,608,638	134,272	147,220	119,464	d	d	8,182	
District of Columbia	2,152,594	290,892	1,728,069	820,019	839,518	68,532	9,586	118,011	d	d	4,144	
Florida	71,138,200	1,530,481	67,870,859	28,286,202	36,765,479	2,819,178	310,473	1,305,036	79,439	4,547	37,364	
Georgia	33,595,105	1,221,074	31,336,796	12,141,959	17,578,594	1,616,243	54,608	852,321	17,858	472	111,975	
Hawaii	4,350,479	98,248	4,110,877	1,556,441	2,359,736	194,700	12,676	111,691	d	d	13,441	
Idaho	5,482,530	41,890	5,350,461	1,802,543	3,240,932	306,986	5,611	79,253	d	d	5,055	
Illinois	42,538,458	3,035,766	37,344,114	15,756,118	19,856,157	1,731,839	400,619	1,510,504	33,009	721	213,725	
Indiana	21,842,404	605,554	20,743,261	8,051,818	11,668,401	1,023,042	36,920	415,912	8,536	532	31,688	
Iowa	10,206,544	526,469	9,421,675	3,517,148	5,429,670	474,857	10,846	185,240	359	0	61,955	
Kansas	9,295,291	482,543	8,455,507	3,141,500	4,869,677	444,330	20,514	282,361	1,311	2	53,053	
Kentucky	14,528,676	552,036	13,653,087	4,983,534	8,006,058	663,495	19,486	276,843	4,360	851	22,014	
Louisiana	15,213,720	409,446	14,429,538	5,794,115	7,944,390	691,033	26,793	321,499	d	d	15,329	
Maine	4,194,790	118,296	4,010,196	1,448,958	2,397,339	163,899	8,185	54,586	d	d	2,542	
Maryland	18,002,891	549,179	16,862,602	7,022,619	9,007,870	832,113	92,360	467,909	11,329	1,049	18,464	
Massachusetts	21,523,926	1,336,189	19,251,787	8,666,067	9,813,140	772,580	123,667	776,059	6,008	325	29,890	
Michigan	32,364,030	1,291,810	30,196,191	11,961,950	16,871,764	1,362,477	76,847	757,456	14,510	-1,282	28,499	
Minnesota	19,955,939	3,308,067	16,022,487	6,052,394	9,149,441	820,652	31,465	525,544	9,110	341	58,925	
Mississippi	9,490,352	111,657	9,224,284	3,426,406	5,332,205	465,673	10,058	138,127	d	d	5,129	
Missouri	19,574,566	694,719	18,282,921	6,860,236	10,534,807	887,878	60,951	494,357	d	d	14,695	
Montana	3,205,822	21,268	3,112,823	1,065,149	1,895,850	151,824	4,065	62,041	d	d	2,193	
Nebraska	6,190,316	277,408	5,752,279	2,111,255	3,327,676	313,348	11,491	139,450	1,045	0	8,643	
Nevada	10,863,692	523,951	9,889,373	4,117,704	5,312,162	459,507	107,168	306,312	d	d	22,124	
New Hampshire	4,311,298	108,709	4,022,318	1,668,292	2,194,346	159,680	62,644	109,761	d	d	6,741	
New Jersey	28,821,008	2,052,569	25,638,068	11,134,514	13,325,934	1,177,620	137,204	947,332	26,398	491	18,946	
New Mexico	6,411,980	36,931	6,208,057	2,324,497	3,577,903	305,657	16,908	141,188	d	d	2,441	
New York	64,649,106	3,173,677	58,427,303	25,253,316	30,692,979	2,481,008	296,802	2,438,871	145,271	3,015	164,166	
North Carolina	31,910,043	1,060,579	30,125,385	11,157,703	17,469,749	1,497,933	71,537	625,879	d	d	12,865	
North Dakota	2,405,307	31,892	2,300,584	924,009	1,260,586	115,989	2,444	63,793	d	d	4,562	
Ohio	37,529,781	1,209,353	35,203,014	13,412,434	20,132,644	1,657,936	106,896	798,789	10,915	44	200,770	
Oklahoma	14,028,552	1,654,827	12,003,763	4,511,067	6,867,928	624,768	100,845	220,168	d	d	44,236	
Oregon	12,268,273	207,446	11,680,545	4,234,103	6,905,900	540,542	24,817	329,530	14,528	-320	11,727	
Pennsylvania	41,734,438	2,016,959	38,522,562	15,707,319	21,141,267	1,673,976	122,045	1,017,641	20,693	-363	34,900	
Rhode Island	3,365,017	45,718	3,226,378	1,352,326	1,742,674	131,378	13,256	73,921	d	d	4,009	
South Carolina	15,492,659	227,771	14,990,787	5,359,202	8,888,387	743,198	23,010	233,966	d	d	13,083	
South Dakota	2,932,108	42,010	2,714,593	999,941	1,573,875	140,777	128,591	43,659	d	d	2,937	
Tennessee	23,541,635	1,458,242	21,376,075	8,415,040	11,966,137	994,898	56,237	612,706	9,780	101	28,494	
Texas	103,450,691	8,570,639	91,608,894	38,888,347	47,941,026	4,779,521	441,604	2,181,357	58,617	150	589,429	
Utah	10,247,571	391,365	9,537,730	3,499,449	5,432,957	605,324	20,187	199,746	d	d	96,096	
Vermont	1,971,985	22,572	1,874,043	717,700	1,081,759	74,584	5,541	67,110	d	d	617	
Virginia	25,782,566	1,084,279	23,969,026	9,655,463	13,145,576	1,167,987	76,980	622,422	14,761	349	14,750	
Washington	25,385,461	2,102,885	22,347,558	9,443,730	11,877,679	1,026,149	71,483	771,992	17,602	390	73,552	
West Virginia	5,563,450	63,440	5,436,346	1,972,540	3,229,085	234,721	4,909	54,279	d	d	3,601	
Wisconsin	18,962,835	1,182,290	17,142,267	6,424,120	9,911,252	806,895	58,416	524,456	d	d	45,181	
Wyoming	1,922,831	16,217	1,809,737	727,479	994,243	88,015	40,746	54,390	d	d	1,016	
U.S. Armed Service members overseas and Territories other than Puerto Rico	1,120,735	1,475	1,079,628	1,079,628	n.a.	n.a.	d	18,875	d	0	203	
Puerto Rico	359,044	2,744	290,624	290,624	n.a.	n.a.	d	64,745	d	0	816	
International	2,900,568	1,013,887	1,742,799	1,742,799	n.a.	n.a.	3,594	100,010	8,281	28	31,969	
Recovery Rebates funding provided to U.S. possessions [8]	3,369,540	N/A	3,369,540	N/A	3,294,683	74,857	N/A	N/A	N/A	N/A	N/A	
Advance Premium Tax Credit/Cost Sharing Reduction/Basic Health Program [9]	66,365,461	N/A	66,365,461	66,365,461	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Undistributed [10]	5,244,605	153,320	4,564,217	4,564,217	0	0	0	498,878	27,232	793	165	
Child tax credit [11]	32,755,383	N/A	32,755,383	32,755,383	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Earned income tax credit [11]	60,756,927	N/A	60,756,927	60,756,927	N/A	N/A	N/A	N/A	N/A	N/A	N/A	

Footnotes on next page.

Table 8. Amount of Refunds Issued, Including Interest, by Type of Refund and State, Fiscal Year 2021—Continued**Footnotes**

d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.

n.a. Not available.

N/A Not applicable.

- [1] Includes overpayment refunds, refunds resulting from examination activity, refundable tax credits, and other refunds required by law. Also includes \$3.1 billion in interest, of which \$1.1 billion was paid to corporations and \$2.0 billion was paid to all others (related to individual, employment, estate, gift, and excise tax returns). Excludes refunds credited to taxpayer accounts for tax liability in a subsequent year.
- [2] Includes refunds of taxes on corporation income (Form 1120 series) and on unrelated business income from tax exempt organizations (Form 990 T).
- [3] The average individual income tax refund (based on Forms 1040, 1040 A, and 1040 EZ) was \$1,691.
- [4] The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), and the American Rescue Plan Act of 2021 (ARP Act) included provisions to distribute economic impact payments (EIPs) to qualified taxpayers. These payments are considered advance refundable tax credits for returns to be filed for Tax Year 2020 and 2021, and therefore are classified as refunds issued during Fiscal Year 2021. In FY 2021, the IRS disbursed \$539.3 billion of payments to eligible taxpayers based upon the criteria in each Act. The CARES Act authorized an EIP for eligible taxpayers of up to \$1,200 for individuals and \$2,400 for individuals filing a joint tax return, with up to an additional \$500 for each eligible child added. The CRRSAA created an additional EIP of up to \$600 for individuals and \$1,200 for individuals filing a joint tax return, with up to an additional \$600 for each eligible child. Additionally, the ARP created an additional EIP of up to \$1,400 for individuals, and \$2,800 for individuals filing a joint tax return, with up to an additional \$1,400 for each qualifying dependent. This includes \$3.4 billion in EIPs that were distributed to U.S. possessions through the Recovery Rebate credit in FY 2021.
- [5] The ARP Act included provisions to distribute monthly advance child tax credit payments to qualified taxpayers from July 2021 through December 2021. These payments are considered advance refundable credits for returns to be filed for Tax Year 2021, and therefore are classified as refunds issued during Fiscal Year 2021. This table includes only those payments issued through the end of the fiscal year, i.e., September 30, 2021.
- [6] Includes refunds of self employment income taxes under the Self Employment Insurance Contributions Act (SECA); railroad retirement taxes under the Railroad Retirement Tax Act (RRTA); unemployment insurance taxes under the Federal Unemployment Tax Act (FUTA); and Old Age, Survivors, Disability, and Hospital Insurance (OASDHI) taxes on salaries and wages under the Federal Insurance Contributions Act (FICA).
- [7] Excludes refunds of excise taxes collected by U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Beginning with Fiscal Year (FY) 2015, some refunds, which had been classified as excise tax refunds in prior years, were reclassified as corporate tax refunds.
- [8] The CARES Act, CRRSAA, and ARP Act included provisions to distribute Recovery Rebate benefits directly to U.S. territories. These funds were classified as Economic Impact Payments and Advance Child Tax Credit by the IRS for accounting purposes.
- [9] The Advanced Premium Tax Credit (APTC) and Cost Sharing Reduction (CSR) are provisions of the Patient Protection and Affordable Care Act of 2010. Beginning with Fiscal Year 2018, an executive order was issued to discontinue CSR payments to insurance companies. The APTC data included in this table are advance payments of a refundable tax credit that helps taxpayers pay for their health insurance premiums on a monthly basis. The APTC is available when taxpayers purchase health insurance through the Health Insurance Marketplace and meet other specific criteria. The Basic Health Program provides states with the option to establish and operate a health benefit coverage program for low income individuals as an alternative to Health Insurance Marketplace coverage under the Affordable Care Act.
- [10] Includes refunds of tax and excess withholding payments not classified by State as of the end of the fiscal year because they had not been applied to taxpayer accounts. Undistributed amounts may be negative when adjustments to taxpayer accounts have not been completed.
- [11] Reflects refundable portions of credits only. Shown separately for information purposes. Refund amounts are included in the State figures and U.S. totals.

NOTES:

Detail may not add to totals because of rounding.

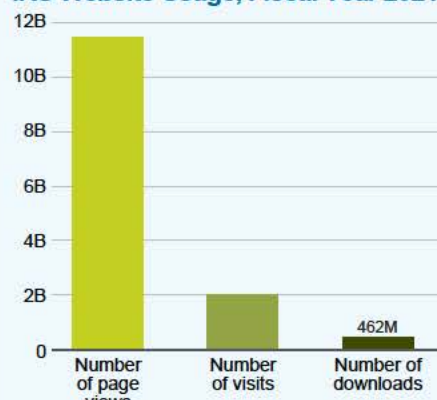
Collection and refund data may not be comparable for a given fiscal year because payments made in prior years may be refunded in the current fiscal year.

Adjustments to prior year returns made in Fiscal Year 2021 may result in negative amounts when such adjustments exceed current year refunds. See Table 5 for collections data.

Classification by State is based on the individual's address (or in the case of businesses, the location of the principal office or place of business). However, some individuals may use the address of a tax attorney or accountant. Sole proprietors, partners in a partnership, or shareholders in an S corporation may use their business addresses. Such addresses could have been located in a State other than the State in which the individual resided. Similarly, taxes withheld and reported by employers located near a State boundary might include substantial amounts withheld from salaries of employees who reside in a neighboring State. Also, while taxes of corporations may be paid from the principal office, the operations of these corporations may be located in one or more States.

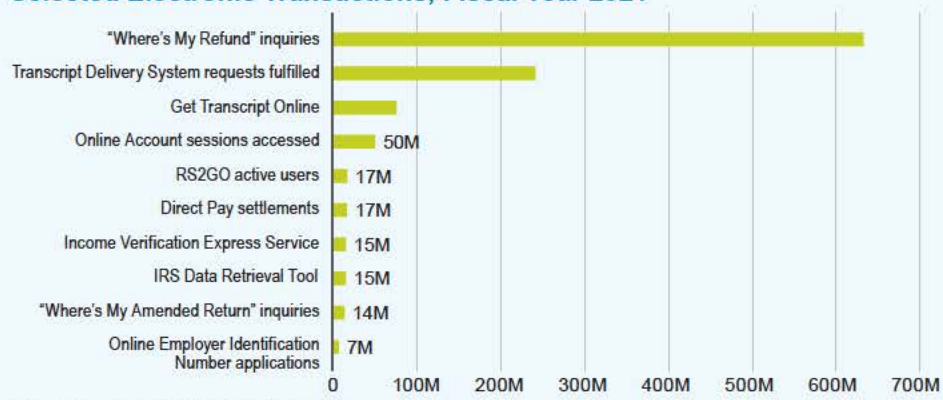
SOURCE: Chief Financial Officer, Financial Management.

IRS Website Usage, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 10

Selected Electronic Transactions, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Tables 9 and 10

Service to Taxpayers

This section of the *Data Book* provides information on the scope and composition of the ways the IRS provides assistance, not only to taxpayers but also to tax-exempt organizations and government entities. The IRS assists taxpayers in meeting their Federal tax return filing and payment obligations through its telephone helplines, via the Internet, at IRS Taxpayer Assistance Centers, and through volunteer-provided income tax assistance.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers resolve problems

with the IRS, protects taxpayers' rights under the Taxpayer Bill of Rights, and recommends changes that will prevent the problems. Taxpayers may request TAS's assistance.

In addition to helping taxpayers meet their tax responsibilities, the IRS devotes significant resources to meeting the special needs of tax-exempt organizations, employee retirement plans, and government entities in complying with tax laws. While these entities are not subject to Federal income tax, they nonetheless represent a significant aspect of tax administration.

Highlights of the Data

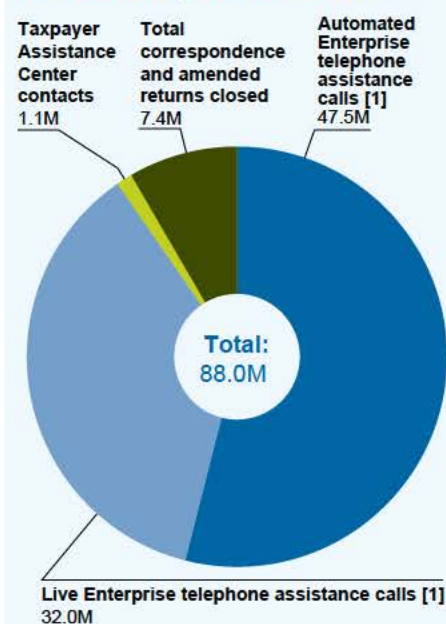
- In Fiscal Year (FY) 2021, the IRS assisted nearly 88.0 million taxpayers through correspondence, its enterprise-wide telephone helplines, or at Taxpayer Assistance Centers (Table 9).
- In FY 2021, the IRS provided self-assistance to taxpayers through almost 2.0 billion visits to IRS.gov, including 632.4 million inquiries to the "Where's My Refund" application, and 16.8 million active IRS2GO mobile app users (Table 10).
- Taxpayers downloaded more than 461.7 million files (such as tax forms and instruction documents) from IRS.gov during FY 2021 (Table 10).
- During Fiscal Year 2021, the IRS issued 4.8 million Identity

Number of Identity Protection PINs Generated, Filing Seasons 2012–2021



SOURCE: Selected IRS Data Books, Table 9

Taxpayer Assistance, by Type of Assistance, Fiscal Year 2021



[1] Includes calls answered by Account Management toll-free lines.

SOURCE: 2021 IRS Data Book Table 9

INTERNAL REVENUE SERVICE DATA BOOK, 2021

Federal Returns Prepared Through Volunteer Income Tax Assistance and Tax Counseling for the Elderly Programs, Fiscal Years 2012–2021



SOURCE: Selected IRS Data Books, Table 9

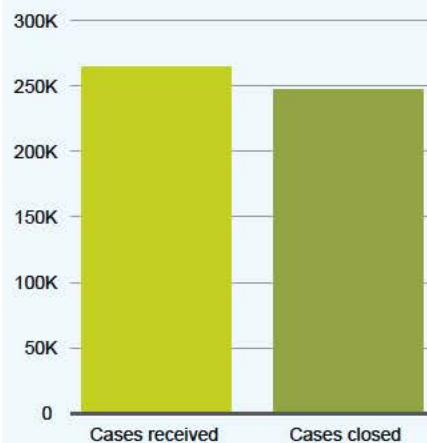
Protection Personal Identification Numbers (PINs) to taxpayers. Of these, 617,865 were issued through IRS.gov (Tables 9 and 10).

- In FY 2021, IRS.gov processed more than 16.5 million Direct Pay settlements. Taxpayers established or revised nearly 1.5 million online installment agreements, and 78.1 million taxpayers were able to request, via IRS.gov, to receive their tax transcripts either online or by mail (Table 10).
- In FY 2021, the IRS held 1,194 taxpayer outreach events for small business and self-employed taxpayers,

many of them virtual, attracting 189,070 participants (Table 9).

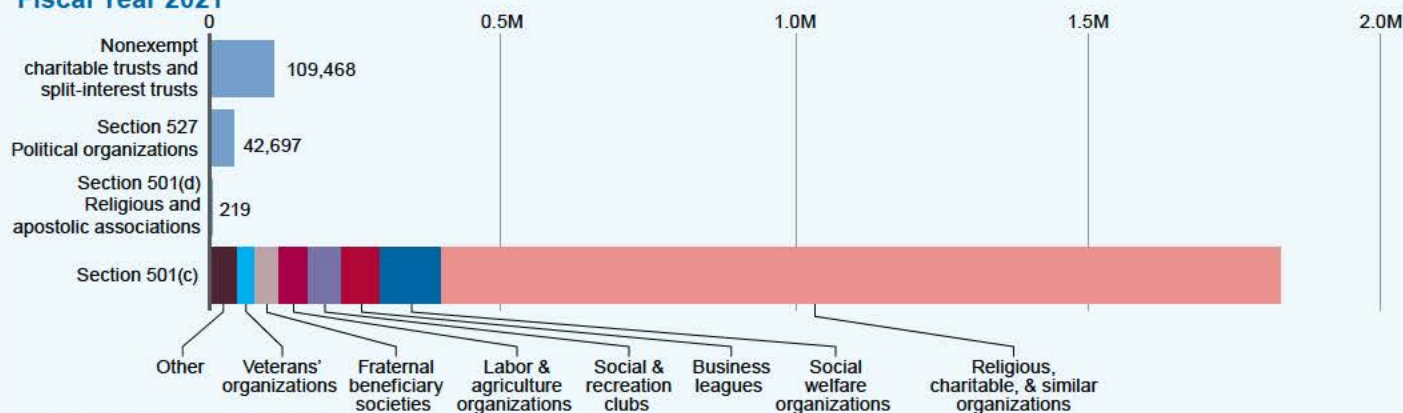
- The IRS provided return preparation assistance through its Volunteer Income Tax Assistance and Tax Counseling for the Elderly programs, preparing almost 2.0 million returns aided by 52,874 volunteers in FY 2021 (Table 9).
- In FY 2021, TAS received 264,343 new requests for assistance and closed 246,702 cases, including those received in prior fiscal years. Of these new requests, 17.3 percent were for assistance regarding pre-refund wage verification holds (Table 11).

Taxpayer Advocate Service, Cases Received and Cases Closed, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 11

Tax-Exempt Organizations, Nonexempt Charitable Trusts, and Nonexempt Split-Interest Trusts, Fiscal Year 2021

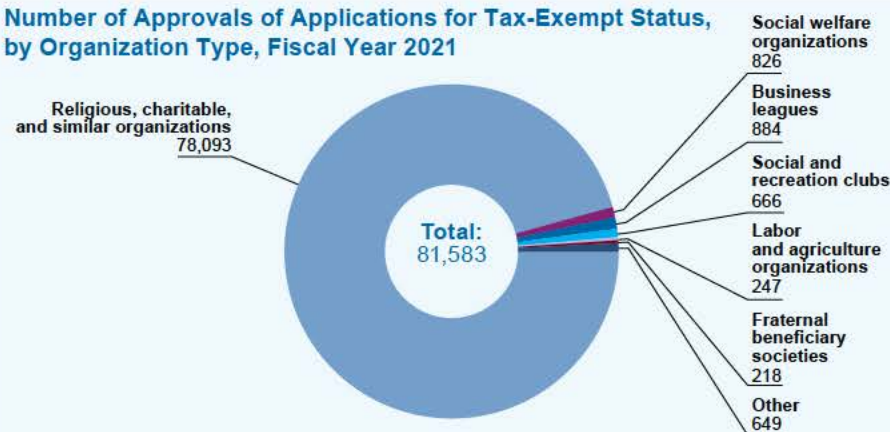


SOURCE: 2021 IRS Data Book Table 14

Tax-Exempt Activities

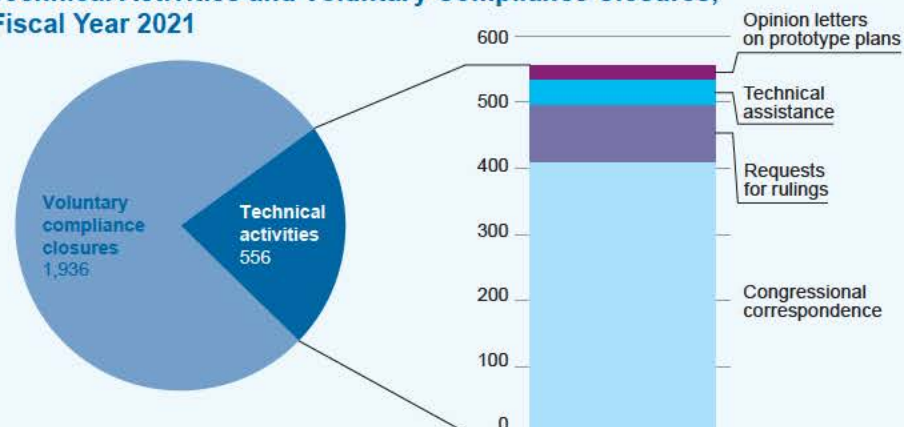
- The IRS closed 94,466 applications for tax-exempt status in FY 2021. The IRS approved tax-exempt status for 86.4 percent of these applications (Table 12).
- In FY 2021, the IRS recognized nearly 2.0 million organizations, including new determinations, as tax exempt. More than 1.8 million of these organizations were exempt under Internal Revenue Code section 501(c), with 1.4 million of these qualifying as tax exempt under Internal Revenue Code Section 501(c)(3) (Table 14).

Number of Approvals of Applications for Tax-Exempt Status, by Organization Type, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 12

Technical Activities and Voluntary Compliance Closures, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 16

INTERNAL REVENUE SERVICE DATA BOOK, 2021

[Download XLSX](#)**Table 9. Selected Taxpayer Assistance and Education Programs, by Type of Assistance or Program, Fiscal Year 2021**

Type of assistance or program	Number or percentage
Enterprise telephone assistance, total [1]	79,528,630
Automated	47,489,080
Live	32,039,550
Enterprise telephone level of service (percentage) [2]	21.3
Average speed of answer for live telephone assistance (minutes)	22.8
Customer Service Representative toll-free telephone assistance, total [3]	67,766,295
Automated	46,044,327
Live	21,721,968
Customer Service Representative level of service (percentage) [4]	18.5
Average speed of answer for live toll free telephone assistance (minutes)	21.4
Toll free assistance customer satisfaction rate (percentage) [5]	80.0
Taxpayer Assistance Center contacts [6]	1,078,799
Accuracy of toll-free telephone assistance:	
Tax law questions (percent accurate)	92.8
Account questions (percent accurate)	93.0
Taxpayer correspondence:	
Total correspondence and amended returns closed [7]	7,378,099
Correspondence customer satisfaction rate (percentage) [8]	n.a.
Forms and publications (paper products):	
Orders for forms, publications, and other paper products	1,372,614
Number of non IRS outlets stocking paper products [9]	6,792
Disaster and emergency assistance:	
Disaster incidents:	
Federally declared incidents [10]	24
Areas qualifying for relief [11]	844
Taxpayers assisted [12]:	
Number of toll free disaster hotline calls	52,680
Number of taxpayers assisted at Disaster Recovery Centers	0
Taxpayer education and tax return preparation for individual taxpayers:	
Federal returns prepared through Volunteer Income Tax Assistance and Tax Counseling for the Elderly programs	1,977,465
Volunteers assisting in taxpayer education and return preparation programs	52,874
Volunteer Tax Preparation Assistance sites	8,874
Volunteer Income Tax Assistance and Tax Counseling for the Elderly (percent accurate) [13]	96.4
Identity Protection Personal Identification Numbers issued [14]	4,800,000
Taxpayer outreach for small business and self-employed taxpayers:	
Number of events [15]	1,194
Number of participants	189,070
Electronic newsletter subscriptions:	
Number targeted to small business owners	421,824
Number targeted to payroll providers	145,761
Number targeted to tax professionals:	
e-News for Tax Pros	403,508
IRS Outreach Connection	133,984

n.a. Not available

[1] Includes calls answered across the Service, including telephone lines serving individuals, small business/self employed, large business and international, and tax exempt and government entities.

[2] The Enterprise level of service measures the relative success rate of taxpayers calling to speak with an IRS Assistor.

[3] Includes calls answered by Accounts Management (AM) Customer Service Representatives (CSR) and automated calls. These telephone lines serviced 85 percent of all telephone traffic in Fiscal Year (FY) 2021.

[4] The Customer Service Representative (CSR) level of service measures the relative success rate of taxpayers calling to speak with a CSR. The CSR level of service includes telephone lines answered by AM CSRs only. This is the IRS's official measure for telephone level of service.

[5] Based on a telephone survey of customers who called an IRS AM toll free number to assess their satisfaction with the service they received during their calls.

[6] Includes contacts at 358 IRS Taxpayer Assistance Centers (TACs) and 25 Virtual Service Delivery sites. Excludes Volunteer Income Tax Assistance and Tax Counseling for the Elderly sites, which are shown separately in this table.

[7] Beginning with FY 2016, includes all individual and business taxpayer correspondence for domestic and international taxpayers, injured spouse, penalties, Affordable Care Act, exempt organizations, and amended returns processed in Accounts Management, Wage and Investment Division.

[8] The results for FY 2021 are not available. The percentage shown in this table represents the results from the Accounts Management Customer Satisfaction (Adjustments) survey and reflects the level of customer satisfaction with adjustment processing and handling of customer account correspondence, claims, and amended returns.

[9] Represents the number of organizations that distribute paper forms and publications or make reproducible forms and publications available. Some organizations may have multiple sites.

[10] Reflects events where the Federal Emergency Management Agency (FEMA) designated disaster areas, and the IRS granted administrative tax relief. COVID 19 pandemic related relief is not included.

[11] Following a disaster, the Governor of the affected State must request a declaration by the President. Therefore, while a disaster incident is declared for a State or Territory, typically only a few counties, parishes, municipalities, independent cities, etc. receive relief for each event.

[12] The number of toll free disaster hotline calls increased and the number of taxpayers assisted decreased due to the COVID 19 pandemic. IRS did not provide any face to face assistance during FY 2021; however, the IRS provided FEMA with a one page resource document, which included IRS Disaster Hotline information and disaster publications, for Disaster Recovery Center site managers to use at their drive thru sites.

[13] Represents the accuracy of Federal returns prepared at Volunteer Income Tax Assistance and Tax Counseling for the Elderly sites.

[14] Represents the number of Identity Protection Personal Identification Numbers (IP PINs) assigned to qualified taxpayers.

[15] Includes tax practitioner institutes, small business forums, small business tax workshops, tax practitioner and payroll provider meetings, governmental contacts, and miscellaneous stakeholder meetings and events. Includes virtual technology based sessions.

SOURCES: Wage and Investment, Strategy and Finance, Program Management Office; Online Services, Online Engagement, Operations and Media; Small Business/ Self Employed, Communications, Outreach, Systems and Solutions; Communications and Liaison, National Public Liaison.

Table 10. Selected Online Taxpayer Assistance, by Type of Assistance, Fiscal Year 2021

Type of assistance	Number or percentage
Assistance provided through IRS.gov:	
IRS Website usage [1]:	
Number of visits	1,999,988,189
Number of page views	11,452,583,281
Number of downloads	461,732,059
IRS Video Portal views [2]	21,823,259
Electronic transactions, total	1,097,135,621
Direct Pay settlements [3]	16,517,988
Get Transcript Online [4]	75,800,782
Get Transcript Mail [5]	2,335,174
ID Verify Web tool [6]	588,026
Identity Protection Personal Identification Numbers issued [7]	617,865
Income Verification Express Service [8]	15,370,941
Interactive Tax Assistant [9]	2,238,380
IRS Data Retrieval Tool [10]	15,310,299
IRS2GO active users [11]	16,774,987
Online Account sessions accessed [12]	50,436,259
Online Employer Identification Number applications	7,149,006
Online Installment Agreements [13]	1,483,003
Tax Withholding Estimator tool [14]	5,163,606
Transcript Delivery System requests fulfilled [15]	241,350,879
"Where's My Refund" inquiries	632,361,686
"Where's My Amended Return" inquiries	13,636,740
Enterprise Taxpayer Self-Assistance Participation Rate (percentage) [16]	92.3

[1] Online assistance is reported as visits, page views, and downloads. A website visit is a session that begins when a user views his or her first web page and ends when the user leaves the IRS.gov Website. Users may access multiple web pages during a single visit to the IRS Website; these are counted as page views. Of the total number of visits and page views, 71 percent of sessions and 65 percent of page views were conducted using a smartphone or tablet. A download is the process of copying a file, such as Form 1040, from the IRS.gov Website to the user's personal computer.

Due to continued challenges presented by the COVID 19 pandemic, IRS.gov experienced increased traffic in part due to the automatic filing extensions for Tax Years 2019 and 2020, as well as for the IRS's role in the distribution of Economic Impact Payments and Advance Child Tax Credits. For additional information on the pandemic response, see page viii.

[2] The IRS Video Portal provides information through audio and video presentations, as well as webinars (web based seminars) on a variety of tax related topics.

[3] Represents the total count of payment settlements plus payment reversals.

[4] Taxpayers may access the Get Transcript Online application by visiting the IRS.gov Website and selecting the "Get Your Tax Record" link. Taxpayers are granted access to Get Transcript Online after completing Secure Access eAuthentication. After successfully registering, taxpayers may select available transcripts (tax return, tax account, record of account, wage and income, and/or verification of nonfiling letter) based on the type and year. Transcripts may be viewed online, printed, and/or downloaded. Multiple transcripts may be ordered in one session.

[5] Taxpayers may access the Get Transcript by Mail application by visiting the IRS.gov Website and selecting the "Get Your Tax Record" link. Taxpayers are granted access to Get Transcript by Mail after completing Secure Access eAuthentication. After successfully registering, the taxpayer may order a tax return transcript and/or a tax account transcript based on the type and year. The transcript will be delivered by mail to the address on file with the IRS.

[6] Represents the number of successful online taxpayer verifications completed. The ID Verify Web tool allows victims of identity theft who have not filed a current return to resolve issues with their accounts online. Taxpayers no longer have to travel to a Taxpayer Assistance Center or call the IRS.

[7] Represents the number of Identity Protection Personal Identification Numbers (IP PINs) issued online only. Additional IP PINs were issued through other means; see Table 9 for information on all IP PINs issued.

[8] Represents the number of transcript requests received electronically from registered participants. The Income Verification Express Service (IVES) allows third or fourth party businesses (participants) to send requests for transcripts electronically for income verification purposes.

[9] Represents the number of interactions completed using the Interactive Tax Assistant (ITA). The ITA is a tax law resource that takes taxpayers through a series of questions and provides answers to their tax law questions.

[10] The IRS Data Retrieval Tool is an application that allows taxpayers to share their tax return data with the Department of Education Website in order to complete a Free Application for Federal Student Aid (FAFSA) online, and apply for an Income Driven Repayment (IDR) plan online.

[11] Includes the number of users who opened the IRS2GO mobile application at least once during the fiscal year.

[12] Represents the count of total sessions of authorized users accessing the Online Account application. Typically, taxpayers may access their Online Account to view tax payoff amounts, remaining balances for each tax year, 24 months of payment history, and key information from current tax year returns as originally filed. Taxpayers may also access Direct Pay through their Online Account.

[13] Includes the number of individual and business installment agreements established or revised online. It also includes the number of short term extensions (30, 60, and 120 days) and the number of agreements that required the taxpayer to pay the balance immediately. For information on all Installment Agreements, see Table 25.

[14] Represents the number of sessions in which a user interacted with the application through to the results screen (i.e., does not include visits that were abandoned prior to results).

Footnotes continued on next page.

Table 10. Selected Online Taxpayer Assistance, by Type of Assistance, Fiscal Year 2021—Continued**Footnotes continued**

- [15] The Transcript Delivery System enables authorized tax practitioners to order tax account, tax return transcript, and other tax information for their business and individual clients. Requests are returned to the practitioner's computer through a secure online connection within minutes of the request. Beginning FY 2017, the count changed from counting requests received to actual requests delivered or resolved. The change was made to be consistent with other transcript applications offered.
- [16] The percentage of taxpayers using self assistance tools for their service needs. Beginning FY 2017, IRS replaced the Taxpayer Self Assistance Rate with a new metric, Enterprise Taxpayer Self Assistance Participation Rate. The new metric includes established self service channels such as Where's My Refund, Online Employer Identification Number applications, Interactive Tax Assistant, Where's My Amended Return, Get Transcript Online or by Mail, Federal Student Aid verification, Transcript Delivery System, income verification express service, electronic payments, and online payment agreements. The metric also includes automated calls to the IRS. The metric demonstrates IRS's progress towards providing more service options, and taxpayers' adoption of self assistance. As new self assistance applications are provided to the public, they will be added to the methodology.

SOURCES:

Online Services, Online Engagement, Operations and Media; Communications and Liaison, National Public Liaison; Wage and Investment, Strategy and Finance, Program Management Office.

Table 11. Taxpayer Advocate Service: Post-filing Taxpayer Assistance Program, by Type of Primary Issue and Relief, Fiscal Year 2021

Type of primary issue and relief	Number	Percentage of total
Taxpayer Advocate Service cases received, top fifteen receipts by type of primary issue [1]:		
Total	264,343	100.0
Pre Refund Wage Verification Hold	45,665	17.3
Unpostable and Rejected Return	36,937	14.0
Earned Income Tax Credits	20,961	7.9
Affordable Care Act [2]	14,820	5.6
Processing Original Return	14,766	5.6
Other Refund Inquiries/Issues [3]	14,588	5.5
Processing Amended Return	11,642	4.4
Taxpayer Protection Program Issues [4]	11,412	4.3
Identity Theft	9,234	3.5
Injured Spouse Claim	4,983	1.9
Open Examination	4,848	1.8
Returned and Stopped Refunds	4,591	1.7
Levies	4,433	1.7
Refund Hold	4,289	1.6
Installment Agreements	3,923	1.5
All Others	57,251	21.7
Taxpayer Advocate Service cases closed, by type of relief [1]:		
Total	246,702	100.0
Relief provided to taxpayer, total	197,230	79.9
Taxpayer Assistance Order issued [5]	1,806	0.7
No Taxpayer Assistance Order issued [5]	195,424	79.2
Full relief	174,068	70.6
Individual taxpayer issue [6]	159,836	64.8
Systemic issue [7]	14,232	5.8
Partial relief	21,356	8.7
Individual taxpayer issue [6]	19,716	8.0
Systemic issue [7]	1,640	0.7
No relief provided to taxpayer, total	49,472	20.1
Taxpayer Assistance Order rescinded [5]	50	[8]
No Taxpayer Assistance Order issued [5]	49,422	20.0
No response from taxpayer	17,923	7.3
No relief provided by Taxpayer Advocate Service [9]	21,355	8.7
Taxpayer withdrew application for assistance	1,997	0.8
Tax law precluded relief	686	0.3
Hardship not related to revenue laws	504	0.2
Hardship not validated	344	0.1
All others	6,613	2.7

[1] This table displays the total number of cases received by the Taxpayer Advocate Service (TAS) in Fiscal Year (FY) 2021, as well as the top fifteen types of primary issues. TAS cases can have more than one issue but they are categorized by their primary issue. TAS generally receives cases from any of the following sources: IRS employee referrals based on IRS guidance; direct taxpayer requests for assistance (by phone, in person, outreach activities, or through correspondence); practitioners; and congressional office referrals. Of the 264,343 TAS case receipts, 66,453 receipts (25.1 percent), were from congressional offices on behalf of their constituents. Cases may be received in one fiscal year and closed in another. Cases closed does not include subsequent reopened cases.

The COVID 19 pandemic and related shutdowns resulted in processing delays throughout the Service, which contributed to the fluctuation of TAS receipts and closures. Additionally, this disruption in service caused taxpayers to reach out to Congressional representatives, contributing to an 88.5 percent increase in TAS congressional cases compared to FY 2020.

[2] Affordable Care Act (ACA) issues include cases involving the ACA Premium Tax Credit, the ACA Individual Shared Responsibility Payment, and other ACA related tax provisions.

[3] Includes cases related to erroneous, decedent, and document fee refunds along with reimbursement of bank charges due to IRS error.

[4] Implemented in FY 2016 and includes cases detected through the Taxpayer Protection Program process as potential stolen identity returns.

[5] The National Taxpayer Advocate has the authority to issue a Taxpayer Assistance Order (TAO) when a taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the Internal Revenue laws are being administered if relief is not granted. A TAO directs an IRS organizational unit to take a specific action or to review, expedite consideration of, or reconsider a taxpayer's case. In the majority of cases, the Taxpayer Advocate Service can resolve taxpayers' issues without issuing TAOs. However, the COVID 19 pandemic and related shutdowns resulted in processing delays throughout the Service, which contributed to TAS issuing 699.1 percent more TAOs to address a backlog of unprocessed original and amended returns. A TAO may be issued in one fiscal year and closed in another.

[6] An individual taxpayer issue is a single issue (applicable to an individual, corporation, or other entity) that requires a change or modification to an account.

[7] A systemic issue requires a change or modification to an established IRS procedure, process, or operation (e.g., computer program) that potentially impacts more than one taxpayer.

[8] Less than 0.05 percent.

[9] Another IRS division provided relief before Taxpayer Advocate Service intervention.

NOTES:

Detail may not add to totals because of rounding.

The Taxpayer Advocate Service is an independent organization within the IRS that helps taxpayers resolve problems with the IRS, protects taxpayers' rights under the Taxpayer Bill of Rights, and recommends changes that will prevent the problems.

SOURCE: Taxpayer Advocate Service, Business Assessment.

Table 12. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2021

Type of organization, Internal Revenue Code section	Closures of applications for tax exempt status [1]			
	Total	Approved	Disapproved	Other [2]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [3]	94,466	81,589	84	12,793
Section 501(c) by subsection, total	94,460	81,583	84	12,793
(2) Title holding corporations	101	86	d	d
(3) Religious, charitable, and similar organizations [4]	90,461	78,093	64	12,304
(4) Social welfare organizations	1,013	826	8	179
(5) Labor and agriculture organizations	283	247	0	36
(6) Business leagues	973	884	8	81
(7) Social and recreation clubs	772	666	d	d
(8) Fraternal beneficiary societies	239	218	0	21
(9) Voluntary employees' beneficiary associations	70	65	0	5
(10) Domestic fraternal beneficiary societies	89	83	d	d
(11) Teacher's Retirement Fund Associations	50	42	0	8
(12) Benevolent life insurance associations	130	121	0	9
(13) Cemetery companies	d	0	0	d
(14) State chartered credit unions	d	d	0	0
(17) Supplemental unemployment compensation trusts	d	d	0	0
(19) Veterans' organizations	230	205	0	25
(25) Holding companies for pensions and other entities	45	d	0	d
Section 501(d) Religious and apostolic associations	d	d	0	0
Section 521 Farmers' cooperatives	d	d	0	0

d Not shown to avoid disclosure of information about specific organizations. However, the data are included in the appropriate totals.

[1] Reflects all case closures of applications for the Exempt Organizations function. These include not only initial applications for tax exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax exempt status.

[2] Includes applications withdrawn by organizations, applications that did not include the required information, incomplete applications, IRS correction disposals, and others.

[3] No applications were closed for corporations organized under an Act of Congress (section 501(c)(1)); teacher's retirement fund associations (section 501(c)(11)); corporations organized to finance crop operations (section 501(c)(16)); employee funded pension trusts (section 501(c)(18)); black lung benefit trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State sponsored high risk health insurance (section 501(c)(26)); State sponsored workers' compensation reinsurance organizations (section 501(c)(27)); the National Railroad Retirement Investment Trust (section 501(c)(28)); and qualified non-profit health insurance issuers (section 501(c)(29)). Tax exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations and nonexempt charitable trusts (section 4947(a)(1)). Not all organizations described in section 501(c)(3) must apply for recognition of tax exempt status, including churches, interchurch organizations of local units of a church, integrated auxiliaries of a church, conventions or associations of churches, and organizations (other than private foundations as described in section 509(a)) that have normal gross receipts in each taxable year of not more than \$5,000. In addition, organizations may be recognized as tax exempt under section 501(c)(3) without filing an application if they are included in a group exemption letter given to an affiliated parent organization.

NOTE:

Organizations that meet the requirements of Internal Revenue Code section 501(a) are exempt from Federal income taxation. Organizations may request a determination regarding recognition of their tax exempt status by completing and submitting the appropriate application form. Information regarding the requirements for recognition of exemption and the forms used to request a determination can be found in Publication 557, *Tax-Exempt Status for Your Organization*, and Revenue Procedure 2022 5.

SOURCE: Tax Exempt and Government Entities.

Table 13. Receipts of Forms 8976, Notices of Intent To Operate Under Section 501(c)(4), Fiscal Year 2021

Type of notification	Notices of intent to operate under Section 501(c)(4)		
	Total received [1]	Acknowledged	Rejected [2]
	(1)	(2)	(3)
Notice of Intent To Operate Under Section 501(c)(4), Form 8976 [3]	3,334	2,718	465

[1] Includes notifications received, but not yet acknowledged or rejected. The number of notices acknowledged and rejected may also include notices received in the prior fiscal year.

[2] Examples of notices that would be rejected include notices from organizations not required to file Form 8976 (e.g., organizations that filed Form 990, *Return of Organization Exempt from Income Tax*, Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*, or Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or Form 990-EZ*, or Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, on or before July 8, 2016, or organizations already exempt under other Internal Revenue Code subsections) or where the IRS cannot confirm an organization's Employer Identification Number.

[3] The Protecting Americans from Tax Hikes (PATH) Act of 2015 instituted Internal Revenue Code section 506, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization within 60 days of formation. These organizations (civic leagues, organizations operated exclusively to promote social welfare, and local associations of employees) notify the IRS by electronically submitting Form 8976, *Notice of Intent To Operate Under Section 501(c)(4)*, along with the appropriate user fee. Submission of the Form 8976 does not constitute a request for a determination letter for recognition as tax exempt under 501(c)(4) nor is the acknowledgment of receipt of an organization's Form 8976 a determination of tax exempt status by the IRS. An organization that submits a notification on Form 8976 has the option to subsequently request a determination of tax exempt status by filing Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4)* of the Internal Revenue Code. Organizations that intend to operate as Section 501(c)(4) organizations are also required to file Form 990, Form 990-EZ, or Form 990-N.

SOURCE: Tax Exempt and Government Entities.

Table 14. Tax-Exempt Organizations, Nonexempt Charitable Trusts, and Nonexempt Split-Interest Trusts, Fiscal Year 2021

Type of organization, Internal Revenue Code section	Number of organizations
Tax-exempt organizations, nonexempt charitable trusts, and split-interest trusts, total	1,980,571
Recognized section 501(c) by subsection, total [1]	1,828,187
(1) Corporations organized under an Act of Congress	779
(2) Title holding corporations	4,687
(3) Religious, charitable, and similar organizations [2]	1,431,266
(4) Social welfare organizations	103,958
(5) Labor and agriculture organizations	48,093
(6) Business leagues	66,358
(7) Social and recreation clubs	58,583
(8) Fraternal beneficiary societies	42,660
(9) Voluntary employees' beneficiary associations	5,890
(10) Domestic fraternal beneficiary societies	16,737
(12) Benevolent life insurance associations	5,774
(13) Cemetery companies	10,738
(14) State chartered credit unions	2,152
(15) Mutual insurance companies	760
(17) Supplemental unemployment compensation trusts	87
(19) Veterans' organizations	28,965
(25) Holding companies for pensions and other entities	611
Other 501(c) subsections [3]	89
Recognized section 501(d) Religious and apostolic associations	219
Section 527 Political organizations	42,697
Nonexempt charitable trusts and split-interest trusts	109,468

[1] The number of organizations, by 501(c) subsections, includes organizations that applied for and received recognition of tax exempt status, or that are exempt by virtue of a tax treaty.

[2] Includes private foundations and organizations that are recognized as tax exempt under section 501(c)(3) without filing an application because they are included in a group exemption letter given to an affiliated parent organization. Not all organizations described in section 501(c)(3) must apply for recognition of tax exempt status, including churches, interchurch organizations of local units of a church, integrated auxiliaries of a church, conventions or associations of churches, and organizations (other than private foundations as described in section 509(a)) that have normal gross receipts in each taxable year of not more than \$5,000. Section 501(c)(3) organizations that have not applied for recognition of tax exempt status are not included in this number.

[3] Includes teachers' retirement funds (section 501(c)(11)); corporations organized to finance crop operations (section 501(c)(16)); employee funded pension trusts (section 501(c)(18)); black lung benefit trusts (section 501(c)(21)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State sponsored high risk health insurance organizations (section 501(c)(26)); State sponsored workers' compensation reinsurance organizations (section 501(c)(27)); and qualified nonprofit health insurance issuers (section 501(c)(29)). Tax exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

SOURCE: Tax Exempt and Government Entities.

Table 15. Determination Letters Issued on Employee Retirement Plans, by Type and Disposition of Plan, Fiscal Year 2021

Disposition of plan, number of plans and number of employees	Defined benefit plans [1]			Defined contribution plans [2]				
	Total	Traditional [3]	Hybrid/ PEP [4]	Total	Section 401(k) [5]	ESOP [6]	Profit sharing [7]	Other [8]
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total:								
Number of qualified plans [9]	1,329	513	816	628	216	313	91	8
Initial qualifications:								
Number of qualified plans	111	44	67	327	41	232	d	d
Number of participating employees [10]	136,852	47,154	89,698	131,339	71,181	48,312	3,565	8,281
Amendments:								
Number of qualified plans	998	341	657	65	45	13	7	0
Number of participating employees [10]	7,226,118	236,498	6,989,620	1,497,251	985,257	511,906	88	0
Terminations:								
Number of qualified plans	220	128	92	236	130	68	d	d
Number of participating employees [10]	108,002	55,766	52,236	36,729	14,902	15,268	4,309	2,250

d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.

- [1] A defined benefit plan is a retirement plan that does not maintain individual account balances that reflect the accrued benefits of each plan participant. Instead, the accrued benefits are determined by a formula stated in the plan.
- [2] A defined contribution plan is a retirement plan that provides an individual account for each participant. Benefits are based solely on amounts contributed to the participant's account and any earnings on these contributions.
- [3] A traditional defined benefit plan is a retirement plan that does not maintain individual account balances (unlike Hybrid/PEP) that reflect the accrued benefits of each plan participant. Instead, the accrued benefits are determined by a formula stated in the plan.
- [4] The types of plans in the Hybrid/PEP include cash balance plans, pension equity plans (PEP), and any other nonallocable or nonspecified plans. A cash balance plan is a defined benefit plan under which the benefit formula is expressed as the current balance of a hypothetical account maintained for the participant. A PEP is a defined benefit plan under which the benefit formula is expressed as the value of an accumulated percentage of the participant's final average compensation.
- [5] A 401(k) plan is a retirement plan in which employees may make salary deferral (salary reduction) contributions on a post tax and/or pretax basis. Employers may make matching or nonelective contributions to the plan on behalf of eligible employees and may also add a profit sharing feature to the plan.
- [6] There are two types of employee stock ownership plans (ESOPs): a "leveraged" employee stock ownership plan and a "nonleveraged" employee stock ownership plan. A leveraged ESOP is a retirement plan in which a company leverages its credit to borrow money to fund the retirement plan. The company uses the borrowed funds to purchase shares from the company's treasury for the retirement plan and makes annual contributions to repay the original loan. A nonleveraged ESOP is a retirement plan in which a company contributes either cash to purchase outstanding shares of company stock or contributes a certain amount of shares from the company's treasury to employee accounts.
- [7] A profit sharing plan is a retirement plan that gives employees a share in the profits of the company. Contributions to employee retirement accounts are determined as a percentage of annual company profits.
- [8] Other plans are defined contribution plan types not included in this table. In FY2021, these were Money Purchase plans and Stock Bonus plans. A money purchase retirement plan is a retirement plan under which employer contributions are based on a fixed percentage of compensation. Contributions are required every year, regardless of earnings and profits. A stock bonus plan is a retirement plan that is funded by employer contributions of corporate stock.
- [9] Reflects retirement plans for which IRS issued determination letters. Regardless of plan type, all plans in this table also satisfied the qualification requirements of Federal pension law. No adverse determination letters were issued in Fiscal Year 2021.
- [10] Totals may be overstated to the extent that employees who participate in more than one plan may be counted more than once.

NOTES:

Some determination letter data reported in this table are not comparable to data reported in the *IRS Data Book* prior to Fiscal Year 2020.

The staggered determination letter application process can cause significant differences in the data from year to year.

SOURCE: Tax Exempt and Government Entities.

Table 16. Technical Activities and Voluntary Compliance Closures, Fiscal Year 2021

Activity	Number completed
Total [1]	2,492
Technical activities, total:	556
Requests for rulings [2]	87
Technical assistance [3]	38
Opinion letters on prototype plans [4]	21
Congressional correspondence [5]:	
Tax exempt organizations	398
Employee retirement plans	12
Voluntary compliance closures, total:	1,936
Tax exempt bonds	14
Employee retirement plans	1,922

[1] The counts provided pertain to employee retirement plans except where noted.

[2] Includes only closures of the requests for rulings over which the Employee Plans program has authority. See Table 28 for Tax Exempt and Government Entities letter rulings issued by Associate Chief Counsel (Employee Benefits, Exempt Organization and Employment Taxes).

[3] Includes assistance provided to other IRS Business Operating Divisions, Associate Chief Counsel and Division Counsel, Department of Treasury, Department of Labor, and Pension Benefit Guaranty Corporation, among others.

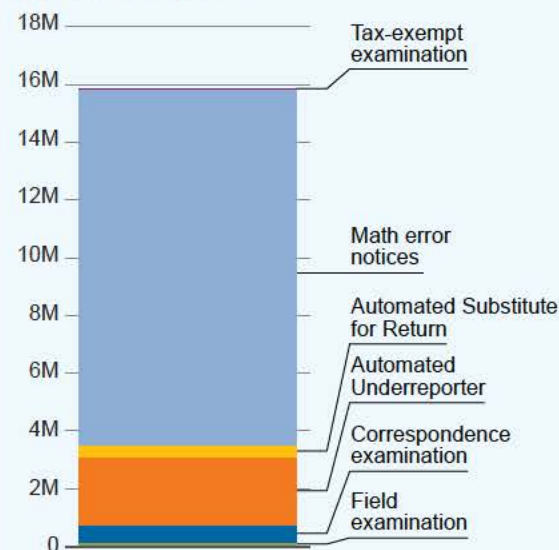
[4] Includes opinion letters issued to IRAs (Individual Retirement Arrangements), SEPs (Simplified Employee Pensions), and SIMPLEs (Savings Incentive Match Plans for Employees).

[5] Includes inquiries from members of Congress and their staff addressed to the Tax Exempt & Government Entities Commissioner or the function specific Directors.

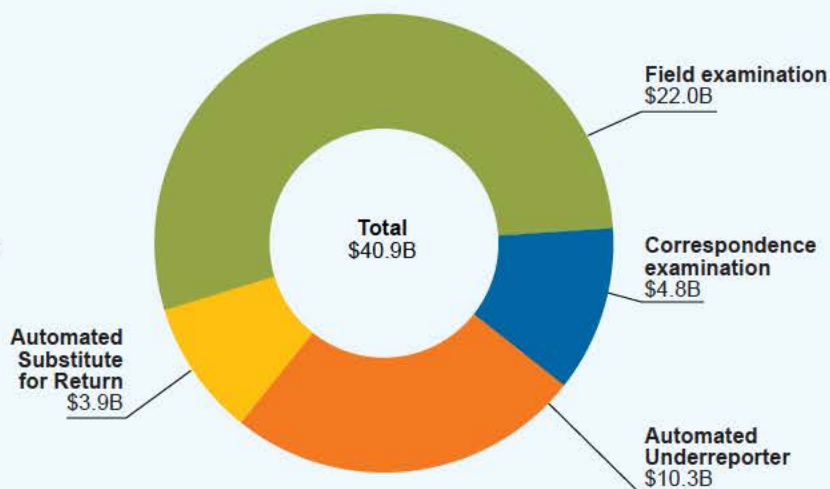
SOURCE: Tax Exempt and Government Entities.

Compliance Activities, Fiscal Year 2021

Number of activities



Recommended additional tax and assessments



SOURCE: 2021 IRS Data Book Tables 18, 21, 22, and 23

NOTE: Detail does not add to total due to rounding.

Compliance Presence

This section of the *IRS Data Book* highlights the IRS's compliance efforts. Examinations (audits) of most types of tax returns, information reporting and verification, math error notices, and criminal investigations are critical tools to determine if income, expenses, and credits are being accurately reported and to identify and resolve taxpayer errors and identify fraud. These tools ensure that the IRS has a presence across taxpayers of all income and asset levels.

For the past decade, the IRS has seen an increase in the number of returns filed paired with a decrease in resources available for examinations. The Service is constantly adapting and improving its processes to identify errors, detect

fraudulent activity, and ensure resources are allocated as efficiently and effectively as possible. While the IRS accepts most returns as filed, some are selected for examination using various methods, including random sampling and computerized screening. Most IRS examinations are conducted through the mail (correspondence) or face-to-face (field).

The IRS gathers independent information about income received and taxes withheld from information returns, such as Forms W-2 and 1099 filed by employers and other third parties. The IRS uses this information to verify self-reported income and tax on returns filed by taxpayers. With its Automated Underreporter Program, the

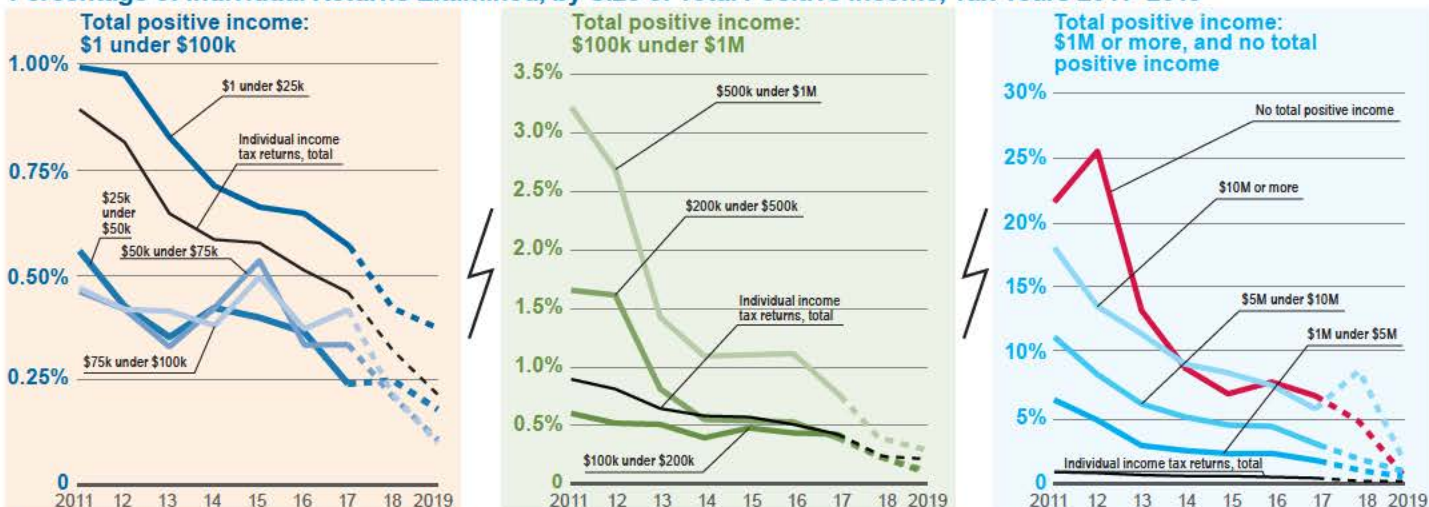
IRS matches these information returns to tax returns and contacts taxpayers to resolve discrepancies. In the Automated Substitute for Return Program, the IRS uses information returns from third parties to identify nonfilers; construct tax returns for certain nonfilers based on that third-party information; and assess tax, interest, and penalties based on the substitute returns. To further verify the accuracy of reported information, the IRS also checks for mathematical and clerical errors before refunds are paid.

IRS's Criminal Investigation function conducts investigations of alleged criminal violations of the tax code and related financial statutes, which may in turn lead to prosecution, fines, and imprisonment.

Highlights of the Data

- For all returns filed for Tax Years (TY) 2011 through 2019, the IRS has examined 0.55 percent of individual returns filed and 0.92 percent of corporation returns filed, as of the end of Fiscal Year (FY) 2021 (Table 17).
- The IRS has examined the returns of 8.9 percent of taxpayers filing individual returns reporting total positive income greater than \$10 million for TY 2011 through 2019, as of the end of FY 2021 (Table 17).
- The exam coverage rate for TY 2017 (the most recent year outside the statute of limitations period) of individual taxpayers reporting total positive income (TPI) of \$10 million or more was 5.8 percent. The rate for taxpayers with TPI of \$5–10 million was 3.1 percent and 1.8 percent for those with TPI from \$1–5 million (Table 17).
- In FY 2021, the IRS closed 738,959 tax return audits, resulting in nearly \$26.8 billion in recommended additional tax (Table 18).
- Of the 738,959 examinations of tax returns closed, 13,725 taxpayers, or 1.8 percent, did not agree with

Percentage of Individual Returns Examined, by Size of Total Positive Income, Tax Years 2011–2019



NOTE: Represents total returns (closed and in-process) examined for each classification, as a percentage of the total number of returns filed for the tax year for that classification. Percentages for recent tax years (dashed segments) may increase as additional examinations are opened, as these recent years are still within the statute of limitations.

SOURCE: 2021 IRS Data Book Table 17

Number of Returns Examined, Fiscal Years 2017–2021



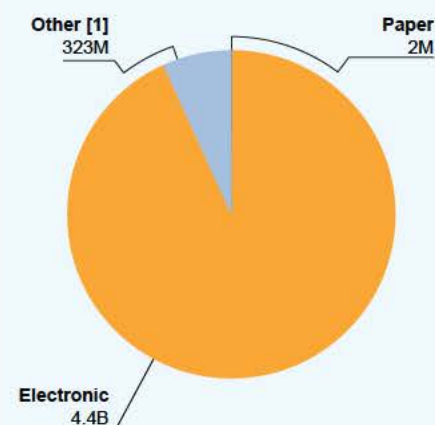
SOURCE: Selected IRS Data Books, Table 18

the IRS examiner's determination, resulting in an unagreed recommended additional tax of more than \$11.3 billion (Table 18).

- The majority of FY 2021 audits, 78.4 percent, were conducted via correspondence. The remaining 21.6 percent were conducted in the field (Table 18).
- In FY 2021, 15,403 examinations protected a total of nearly \$1.7 billion in refund payments, of which more than \$1.6 billion came from field examinations and almost \$24.9 million from correspondence examinations (Table 19).
- In FY 2021, there were 20,120 examinations that resulted in refunds to the taxpayer, totaling more than \$7.6 billion. Of this, \$5.8 billion went to corporations (Table 20).
- The IRS examined 9,067 tax-exempt organization, employee retirement plan, government entity, tax-exempt bond, and related taxable returns in FY 2021 (Table 21).
- The IRS closed 2,362,596 cases under the Automated Underreporter Program in FY 2021, resulting in almost \$10.3 billion in additional assessments, and the IRS closed 402,809 cases under its Automated

INTERNAL REVENUE SERVICE DATA BOOK, 2021

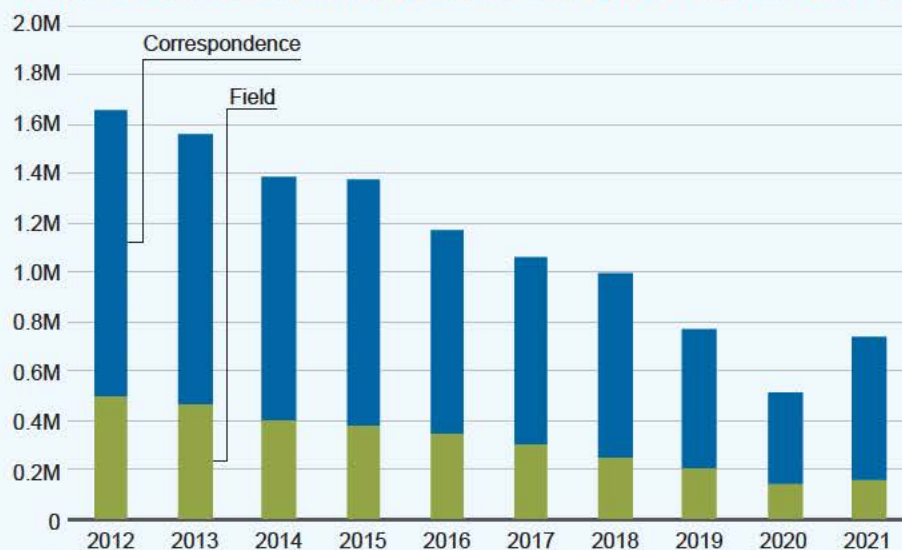
Number of Information Returns Received, by Type, Fiscal Year 2021



[1] Includes forms processed by the Social Security Administration.

SOURCE: 2021 IRS Data Book Table 22

Number of Returns Examined, by Examination Type, Fiscal Years 2012–2021



SOURCE: Selected IRS Data Books, Table 18

Substitute for Return Program, resulting in \$3.9 billion in additional assessments (Table 22).

- The IRS received more than 4.7 billion third-party information returns in FY 2021; of these, 93.1 percent were filed electronically (Table 22).
- For TY 2020 individual income tax returns processed during FY 2021, IRS sent more than 12.3 million notices to taxpayers for more than 12.9 million math errors identified on their returns. For TY 2019 and prior, 730,119 notices were sent for 1.0 million math errors identified (Table 23).

- For TY 2020, the number of math errors increased significantly due to the Recovery Rebate Credit, which made up 87.9 percent of total math errors. The Recovery Rebate Credit allowed taxpayers who did not receive the full amount of Economic Impact Payments to claim a credit when they filed their tax return. The most common type of error for TY 2019 and prior-year returns processed in FY 2021 was for errors in adjusted gross/taxable income amount, making up 33.0 percent of the total (Table 23).

- In FY 2021, the IRS completed

2,766 criminal investigations in three areas—1,052 legal-source tax crime cases, which involve activities, industries, and occupations that generate legitimate income or threats to the tax system; 979 illegal-source financial crime cases, which relate to proceeds derived from unlawful sources such as money laundering; and 735 narcotics-related financial crime cases, which involve investigating narcotics-related tax and money-laundering crimes, often in cooperation with the Justice Department and other law-enforcement agencies (Table 24).

Number of Criminal Investigations Completed, by Type, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 24

INTERNAL REVENUE SERVICE DATA BOOK, 2021

[Download XLSX](#)**Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019**

Type and size of return	Tax Year 2019†					
	All returns filed for Tax Year 2019 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(1)	(2)	(3)	(4)	(5)	(6)
All returns, total	205,095,150	251,583	111,317	[6]	34,232	1,416,178
Individual income tax returns, total	157,951,815	243,715	98,130	0.2	32,491	1,138,841
Size of total positive income [7]:						
No total positive income	822,945	732	5,709	0.8	49	14,071
\$1 under \$25,000	49,276,854	153,256	30,960	0.4	16,607	707,263
\$25,000 under \$50,000	37,980,961	55,526	12,900	0.2	6,578	263,910
\$50,000 under \$75,000	22,635,798	13,859	10,753	0.1	3,337	44,665
\$75,000 under \$100,000	14,507,318	5,944	8,729	0.1	1,275	21,789
\$100,000 under \$200,000	22,850,934	9,228	18,042	0.1	2,296	38,283
\$200,000 under \$500,000	7,784,215	2,564	5,416	0.1	1,082	13,011
\$500,000 under \$1,000,000	1,298,420	1,287	2,563	0.3	602	7,742
\$1,000,000 under \$5,000,000	574,713	1,201	2,263	0.6	639	17,606
\$5,000,000 under \$10,000,000	40,191	46	362	1.0	16	2,742
\$10,000,000 or more	24,457	66	426	2.0	10	7,745
International returns [8]	155,009	6	7	[9]	0	14
Returns with earned income tax credit [10]	26,738,391	185,833	16,943	0.8	21,417	915,256
Corporation income tax returns, except Form 1120–S, total [11]	1,522,958	1,359	3,036	2.9	741	14,439
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	306,698	89	338	0.1	33	445
\$1 under \$250,000	666,383	335	702	0.2	182	1,626
\$250,000 under \$1,000,000	263,681	448	636	0.4	255	2,601
\$1,000,000 under \$5,000,000	162,802	227	388	0.4	114	1,801
\$5,000,000 under \$10,000,000	33,772	23	139	0.5	7	371
\$10,000,000 under \$50,000,000	36,409	86	305	1.1	43	1,542
\$50,000,000 under \$100,000,000	7,549	24	110	1.8	15	1,056
\$100,000,000 under \$250,000,000	6,426	15	91	1.6	7	499
\$250,000,000 under \$500,000,000	3,304	8	29	1.1	6	27
\$500,000,000 under \$1,000,000,000	2,245	6	39	2.0	d	0
\$1,000,000,000 under \$5,000,000,000	2,701	29	74	3.8	19	1,021
\$5,000,000,000 under \$20,000,000,000	867	35	84	13.7	28	2,216
\$20,000,000,000 or more	472	29	84	23.9	26	1,199
Form 1120 C returns [12]	8,612	d	d	[9]	d	0
Form 1120 F returns [13]	21,037	d	d	0.1	d	35
Partnership returns [14]	4,152,992	66	2,031	0.1	48	N/A
S corporation returns [15]	4,940,351	318	2,868	0.1	113	N/A
Estate and trust income tax returns [16]	3,031,198	6	62	[9]	d	1
Estate tax returns [17]	24,008	51	295	1.4	12	555
Gift tax returns	248,821	27	95	[9]	14	109
Employment tax returns	32,175,619	4,448	4,034	[9]	443	160,680
Excise tax returns [18]	1,047,388	1,580	741	0.2	365	101,543
Other taxable returns [19]	[6]	6	7	[6]	d	10
Other nontaxable returns [20]	[6]	7	18	[6]	0	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2018†					
	All returns filed for Tax Year 2018 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(7)	(8)	(9)	(10)	(11)	(12)
All returns, total	200,314,217	444,749	94,922	[6]	62,146	3,424,473
Individual income tax returns, total	153,927,628	417,669	76,244	0.3	56,102	2,435,216
Size of total positive income [7]:						
No total positive income	688,753	12,193	20,975	4.8	281	297,728
\$1 under \$25,000	49,364,340	200,453	7,273	0.4	25,470	889,824
\$25,000 under \$50,000	36,664,872	83,423	8,085	0.2	11,076	378,367
\$50,000 under \$75,000	21,730,391	37,082	8,691	0.2	5,115	170,527
\$75,000 under \$100,000	13,988,214	23,506	6,693	0.2	2,916	138,163
\$100,000 under \$200,000	22,077,272	40,567	11,973	0.2	5,938	236,852
\$200,000 under \$500,000	7,377,133	12,761	5,620	0.2	3,029	121,779
\$500,000 under \$1,000,000	1,249,264	3,170	1,823	0.4	735	47,979
\$1,000,000 under \$5,000,000	566,107	3,386	2,825	1.1	1,046	91,361
\$5,000,000 under \$10,000,000	41,434	332	474	1.9	119	28,315
\$10,000,000 or more	26,517	706	1,601	8.7	372	34,156
International returns [8]	153,331	90	211	0.2	5	165
Returns with earned income tax credit [10]	26,492,486	238,242	3,530	0.9	31,309	1,085,805
Corporation income tax returns, except Form 1120–S, total [11]	1,555,754	3,718	4,484	0.5	1,648	194,373
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	295,294	308	561	0.3	71	10,729
\$1 under \$250,000	709,793	647	824	0.2	249	13,198
\$250,000 under \$1,000,000	270,301	889	787	0.6	395	11,680
\$1,000,000 under \$5,000,000	161,855	744	598	0.8	349	12,714
\$5,000,000 under \$10,000,000	32,116	77	198	0.9	27	2,319
\$10,000,000 under \$50,000,000	34,428	446	382	2.4	202	24,078
\$50,000,000 under \$100,000,000	7,033	188	181	5.2	111	6,969
\$100,000,000 under \$250,000,000	5,993	131	198	5.5	69	23,051
\$250,000,000 under \$500,000,000	3,116	48	72	3.9	26	2,757
\$500,000,000 under \$1,000,000,000	2,161	35	76	5.1	19	9,159
\$1,000,000,000 under \$5,000,000,000	2,537	71	216	11.3	42	19,932
\$5,000,000,000 under \$20,000,000,000	815	54	158	26.0	38	11,837
\$20,000,000,000 or more	451	38	198	52.3	24	26,544
Form 1120 C returns [12]	9,324	d	d	0.1	d	151
Form 1120 F returns [13]	20,537	d	d	0.3	d	19,256
Partnership returns [14]	4,010,200	494	2,184	0.1	348	N/A
S corporation returns [15]	4,874,996	2,300	3,035	0.1	914	N/A
Estate and trust income tax returns [16]	3,071,328	100	140	[9]	10	1,182
Estate tax returns [17]	24,101	486	599	4.5	120	88,428
Gift tax returns	249,936	422	382	0.3	271	5,225
Employment tax returns	31,570,780	14,880	7,103	0.1	1,611	601,484
Excise tax returns [18]	1,029,494	4,553	679	0.5	1,107	97,027
Other taxable returns [19]	[6]	107	21	[6]	12	1,537
Other nontaxable returns [20]	[6]	20	51	[6]	3	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2017					
	All returns filed for Tax Year 2017 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(13)	(14)	(15)	(16)	(17)	(18)
All returns, total	198,668,941	717,877	48,197	[6]	95,536	7,744,042
Individual income tax returns, total	153,062,634	666,092	36,482	0.5	83,683	4,790,901
Size of total positive income [7]:						
No total positive income	691,967	24,436	22,462	6.8	428	847,861
\$1 under \$25,000	51,853,559	295,636	1,289	0.6	33,920	1,355,222
\$25,000 under \$50,000	36,111,731	86,115	1,010	0.2	10,695	420,563
\$50,000 under \$75,000	21,252,437	70,041	1,058	0.3	7,896	313,970
\$75,000 under \$100,000	13,630,981	55,892	1,020	0.4	6,127	282,790
\$100,000 under \$200,000	20,929,068	90,572	2,388	0.4	15,002	573,835
\$200,000 under \$500,000	6,721,305	26,106	1,996	0.4	5,062	320,985
\$500,000 under \$1,000,000	1,140,173	8,080	1,633	0.9	2,008	153,682
\$1,000,000 under \$5,000,000	511,640	7,197	2,257	1.8	2,011	231,933
\$5,000,000 under \$10,000,000	36,895	749	394	3.1	225	60,903
\$10,000,000 or more	23,475	764	595	5.8	262	227,800
International returns [8]	159,403	504	380	0.6	47	1,357
Returns with earned income tax credit [10]	27,030,382	282,881	459	1.0	35,688	1,258,903
Corporation income tax returns, except Form 1120–S, total [11]	1,593,535	7,744	2,095	0.6	3,128	1,892,679
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	292,916	781	378	0.4	115	40,627
\$1 under \$250,000	749,689	1,252	317	0.2	345	55,698
\$250,000 under \$1,000,000	273,141	1,457	203	0.6	524	57,227
\$1,000,000 under \$5,000,000	162,403	1,030	199	0.8	417	49,918
\$5,000,000 under \$10,000,000	30,729	208	56	0.9	105	8,472
\$10,000,000 under \$50,000,000	33,032	1,133	132	3.8	556	61,937
\$50,000,000 under \$100,000,000	6,814	549	65	9.0	336	21,750
\$100,000,000 under \$250,000,000	5,881	490	75	9.6	292	59,316
\$250,000,000 under \$500,000,000	3,100	186	69	8.2	116	16,174
\$500,000,000 under \$1,000,000,000	2,168	166	63	10.6	78	29,009
\$1,000,000,000 under \$5,000,000,000	2,492	233	169	16.1	111	79,294
\$5,000,000,000 under \$20,000,000,000	819	105	152	31.4	51	155,746
\$20,000,000,000 or more	430	60	183	56.5	*29	1,241,190
Form 1120 C returns [12]	9,330	*5	*12	0.2	*0	501
Form 1120 F returns [13]	20,591	84	29	0.5	50	15,819
Partnership returns [14]	3,905,335	2,995	1,652	0.1	1,430	N/A
S corporation returns [15]	4,725,684	5,958	1,504	0.2	2,142	N/A
Estate and trust income tax returns [16]	3,079,876	240	226	[9]	74	2,722
Estate tax returns [17]	32,144	1,945	101	6.4	427	349,355
Gift tax returns	235,893	502	42	0.2	279	9,447
Employment tax returns	31,033,992	25,202	5,644	0.1	2,503	552,557
Excise tax returns [18]	999,848	6,921	295	0.7	1,757	143,270
Other taxable returns [19]	[6]	167	12	[6]	56	3,112
Other nontaxable returns [20]	[6]	111	144	[6]	57	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2016					
	All returns filed for Tax Year 2016 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
(19)	(20)	(21)	(22)	(23)	(24)	
All returns, total	195,819,771	841,569	32,822	[6]	98,247	11,732,488
Individual income tax returns, total	150,447,029	762,498	25,592	0.5	79,635	6,218,788
Size of total positive income [7]:						
No total positive income	677,256	36,390	16,753	7.8	466	1,276,699
\$1 under \$25,000	52,677,494	339,289	552	0.6	33,538	1,583,857
\$25,000 under \$50,000	35,816,063	130,483	474	0.4	13,170	686,345
\$50,000 under \$75,000	20,578,233	68,112	439	0.3	5,841	355,381
\$75,000 under \$100,000	13,199,129	49,043	342	0.4	4,628	281,256
\$100,000 under \$200,000	19,755,417	85,647	969	0.4	9,304	586,898
\$200,000 under \$500,000	6,051,639	31,192	1,572	0.5	7,155	410,952
\$500,000 under \$1,000,000	1,017,244	10,373	1,544	1.2	2,722	231,856
\$1,000,000 under \$5,000,000	449,500	8,587	2,073	2.4	2,202	402,513
\$5,000,000 under \$10,000,000	31,232	1,044	343	4.4	305	194,594
\$10,000,000 or more	18,947	922	513	7.6	282	203,309
International returns [8]	174,875	*452	*980	0.8	*21	5,127
Returns with earned income tax credit [10]	27,382,904	330,057	226	1.2	35,384	1,493,391
Corporation income tax returns, except Form 1120–S, total [11]	1,590,282	12,647	1,325	0.9	4,661	3,016,695
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	293,042	1,489	251	0.6	253	119,209
\$1 under \$250,000	749,020	2,771	229	0.4	861	103,629
\$250,000 under \$1,000,000	277,107	2,484	116	0.9	862	119,851
\$1,000,000 under \$5,000,000	159,321	1,241	149	0.9	455	105,403
\$5,000,000 under \$10,000,000	30,136	*339	*65	1.4	192	34,865
\$10,000,000 under \$50,000,000	31,895	1,477	50	4.8	677	85,970
\$50,000,000 under \$100,000,000	6,535	646	20	10.2	359	66,650
\$100,000,000 under \$250,000,000	5,669	596	31	11.1	323	106,084
\$250,000,000 under \$500,000,000	3,091	341	45	12.5	164	53,654
\$500,000,000 under \$1,000,000,000	2,104	295	41	16.0	122	41,006
\$1,000,000,000 under \$5,000,000,000	2,439	454	120	23.5	180	272,759
\$5,000,000,000 under \$20,000,000,000	768	203	107	40.4	86	157,183
\$20,000,000,000 or more	410	125	107	56.6	*50	1,733,064
Form 1120 C returns [12]	9,475	*8	*16	0.2	d	3,443
Form 1120 F returns [13]	19,270	127	31	0.8	72	13,927
Partnership returns [14]	3,763,117	6,248	1,443	0.2	2,915	N/A
S corporation returns [15]	4,592,042	9,108	1,020	0.2	3,235	N/A
Estate and trust income tax returns [16]	3,089,747	326	280	[9]	99	58,151
Estate tax returns [17]	34,162	2,715	12	8.0	549	1,347,680
Gift tax returns	239,785	1,864	38	0.8	979	291,896
Employment tax returns	31,083,624	36,866	2,828	0.1	3,932	637,834
Excise tax returns [18]	979,983	8,935	135	0.9	2,155	153,884
Other taxable returns [19]	[6]	*170	*14	[6]	*21	7,560
Other nontaxable returns [20]	[6]	185	140	[6]	65	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2015					
	All returns filed for Tax Year 2015 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(25)	(26)	(27)	(28)	(29)	(30)
All returns, total	195,467,325	952,552	12,211	[6]	99,244	16,309,261
Individual income tax returns, total	150,675,111	865,272	8,088	0.6	80,429	7,471,912
Size of total positive income [7]:						
No total positive income	694,606	45,501	2,652	6.9	626	1,827,964
\$1 under \$25,000	54,053,915	357,556	335	0.7	30,022	1,754,521
\$25,000 under \$50,000	35,552,228	141,831	313	0.4	11,063	779,470
\$50,000 under \$75,000	20,264,175	108,314	321	0.5	8,224	486,029
\$75,000 under \$100,000	13,055,089	64,429	250	0.5	6,257	340,793
\$100,000 under \$200,000	19,459,447	92,460	579	0.5	11,862	646,292
\$200,000 under \$500,000	5,884,773	31,755	869	0.6	6,222	447,920
\$500,000 under \$1,000,000	1,011,282	10,601	823	1.1	2,878	265,501
\$1,000,000 under \$5,000,000	462,824	9,754	1,260	2.4	2,494	518,031
\$5,000,000 under \$10,000,000	33,774	1,240	294	4.5	339	123,022
\$10,000,000 or more	21,149	1,414	391	8.5	425	281,814
International returns [8]	181,849	*412	*3	0.2	17	554
Returns with earned income tax credit [10]	28,081,708	328,891	131	1.2	30,014	1,579,376
Corporation income tax returns, except Form 1120–S, total [11]	1,626,252	14,393	903	0.9	4,883	6,998,566
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	288,630	1,650	170	0.6	*251	107,976
\$1 under \$250,000	788,271	3,004	150	0.4	823	109,440
\$250,000 under \$1,000,000	281,342	2,639	72	1.0	853	107,984
\$1,000,000 under \$5,000,000	158,355	1,153	76	0.8	344	75,174
\$5,000,000 under \$10,000,000	29,524	307	23	1.1	98	25,654
\$10,000,000 under \$50,000,000	30,944	1,847	26	6.1	858	135,319
\$50,000,000 under \$100,000,000	6,433	912	16	14.4	*481	132,711
\$100,000,000 under \$250,000,000	5,672	801	27	14.6	386	162,271
\$250,000,000 under \$500,000,000	3,127	487	40	16.9	223	82,846
\$500,000,000 under \$1,000,000,000	2,068	366	34	19.3	*129	93,718
\$1,000,000,000 under \$5,000,000,000	2,397	536	84	25.9	174	375,490
\$5,000,000,000 under \$20,000,000,000	770	221	74	38.3	*50	752,114
\$20,000,000,000 or more	398	168	78	61.8	37	4,792,577
Form 1120 C returns [12]	9,504	*25	*1	0.3	5	1,691
Form 1120 F returns [13]	18,817	*267	*34	1.6	*157	43,602
Partnership returns [14]	3,715,187	7,561	823	0.2	3,119	N/A
S corporation returns [15]	4,487,336	9,271	597	0.2	2,674	N/A
Estate and trust income tax returns [16]	3,110,777	560	274	[9]	102	18,961
Estate tax returns [17]	35,160	2,850	10	8.1	*524	684,573
Gift tax returns	242,585	1,358	24	0.6	524	260,802
Employment tax returns	30,591,283	38,386	1,227	0.1	3,858	663,583
Excise tax returns [18]	983,634	12,403	100	1.3	2,991	203,915
Other taxable returns [19]	[6]	232	5	[6]	*18	6,949
Other nontaxable returns [20]	[6]	266	160	[6]	119	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2014					
	All returns filed for Tax Year 2014 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(31)	(32)	(33)	(34)	(35)	(36)
All returns, total	193,459,297	961,581	9,382	[6]	102,921	17,756,360
Individual income tax returns, total	148,796,860	861,291	6,521	0.6	79,925	8,099,486
Size of total positive income [7]:						
No total positive income	653,832	56,500	1,672	8.9	941	2,196,673
\$1 under \$25,000	54,883,084	390,728	214	0.7	32,330	1,960,351
\$25,000 under \$50,000	35,052,633	147,729	196	0.4	11,440	852,796
\$50,000 under \$75,000	19,641,122	82,742	172	0.4	8,282	500,212
\$75,000 under \$100,000	13,079,844	49,652	160	0.4	5,785	290,231
\$100,000 under \$200,000	18,437,294	73,638	429	0.4	9,624	589,992
\$200,000 under \$500,000	5,423,436	29,544	777	0.6	5,972	400,540
\$500,000 under \$1,000,000	953,500	9,776	928	1.1	2,437	243,102
\$1,000,000 under \$5,000,000	431,033	9,880	1,336	2.6	2,171	545,427
\$5,000,000 under \$10,000,000	31,353	*1,309	*290	5.2	336	158,223
\$10,000,000 or more	19,447	1,449	346	9.2	309	340,928
International returns [8]	190,282	*8,262	*43	4.4	298	21,012
Returns with earned income tax credit [10]	28,537,908	360,454	55	1.3	*32,471	1,706,491
Corporation income tax returns, except Form 1120–S, total [11]	1,616,350	16,463	643	1.1	5,527	6,936,800
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	277,491	2,099	132	0.8	*333	171,611
\$1 under \$250,000	795,409	*3,867	*170	0.5	*1,120	168,887
\$250,000 under \$1,000,000	281,525	2,867	48	1.0	*998	108,706
\$1,000,000 under \$5,000,000	156,112	1,391	36	0.9	*465	110,504
\$5,000,000 under \$10,000,000	27,967	*440	*19	1.7	*196	22,029
\$10,000,000 under \$50,000,000	29,854	1,543	30	5.3	*644	126,481
\$50,000,000 under \$100,000,000	6,289	895	7	14.3	*462	66,527
\$100,000,000 under \$250,000,000	5,635	893	21	16.2	*442	172,610
\$250,000,000 under \$500,000,000	3,107	543	22	18.2	*228	93,638
\$500,000,000 under \$1,000,000,000	2,025	418	16	21.4	*138	107,827
\$1,000,000,000 under \$5,000,000,000	2,365	630	57	29.0	*178	783,493
\$5,000,000,000 under \$20,000,000,000	751	288	48	44.7	*72	1,401,706
\$20,000,000,000 or more	382	192	57	65.2	*32	3,560,453
Form 1120 C returns [12]	9,395	*17	*12	0.3	d	13,283
Form 1120 F returns [13]	18,043	*272	*31	1.8	176	29,046
Partnership returns [14]	3,611,255	9,815	593	0.3	4,492	N/A
S corporation returns [15]	4,380,125	11,671	361	0.3	3,539	N/A
Estate and trust income tax returns [16]	3,128,447	725	272	[9]	90	23,944
Estate tax returns [17]	34,703	2,936	6	8.5	*609	1,151,857
Gift tax returns	238,935	1,498	16	0.6	591	338,444
Employment tax returns	30,693,913	42,615	786	0.1	5,100	873,137
Excise tax returns [18]	958,709	14,089	42	1.5	2,918	202,802
Other taxable returns [19]	[6]	197	6	[6]	*18	129,890
Other nontaxable returns [20]	[6]	281	136	[6]	109	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2013					
	All returns filed for Tax Year 2013 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(37)	(38)	(39)	(40)	(41)	(42)
All returns, total	191,616,992	1,057,053	6,243	[6]	124,653	19,956,930
Individual income tax returns, total	147,552,433	950,927	4,115	0.6	99,464	8,429,537
Size of total positive income [7]:						
No total positive income	612,213	80,654	983	13.3	911	2,588,798
\$1 under \$25,000	56,100,370	464,706	168	0.8	38,479	2,188,118
\$25,000 under \$50,000	34,699,278	121,724	153	0.4	10,761	690,296
\$50,000 under \$75,000	19,498,974	*63,494	*258	0.3	7,012	341,352
\$75,000 under \$100,000	12,768,455	*52,636	*255	0.4	7,488	309,666
\$100,000 under \$200,000	17,486,970	89,981	374	0.5	17,639	580,801
\$200,000 under \$500,000	4,935,434	39,950	522	0.8	10,968	416,458
\$500,000 under \$1,000,000	837,779	11,500	476	1.4	3,129	279,088
\$1,000,000 under \$5,000,000	371,171	10,346	697	3.0	2,172	527,427
\$5,000,000 under \$10,000,000	25,504	1,403	162	6.1	*326	115,730
\$10,000,000 or more	15,151	1,523	267	11.8	*407	364,187
International returns [8]	201,134	12,790	10	6.4	*167	27,617
Returns with earned income tax credit [10]	28,821,785	*425,524	*16	1.5	38,156	1,944,428
Corporation income tax returns, except Form 1120–S, total [11]	1,625,302	18,798	463	1.2	6,390	9,484,005
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	279,688	2,548	81	0.9	*516	109,233
\$1 under \$250,000	805,528	*5,769	*141	0.7	2,054	181,065
\$250,000 under \$1,000,000	285,537	2,895	36	1.0	1,024	99,589
\$1,000,000 under \$5,000,000	152,321	1,579	30	1.1	529	72,841
\$5,000,000 under \$10,000,000	27,280	*356	*12	1.4	137	43,072
\$10,000,000 under \$50,000,000	28,786	1,542	22	5.4	607	110,154
\$50,000,000 under \$100,000,000	6,053	*781	*7	13.2	*376	367,776
\$100,000,000 under \$250,000,000	5,523	804	17	14.9	*340	77,306
\$250,000,000 under \$500,000,000	3,008	553	11	18.8	*225	151,007
\$500,000,000 under \$1,000,000,000	1,920	408	17	22.1	*129	133,752
\$1,000,000,000 under \$5,000,000,000	2,287	*598	*40	29.4	169	1,204,503
\$5,000,000,000 under \$20,000,000,000	704	307	28	47.6	*60	1,714,032
\$20,000,000,000 or more	371	230	38	72.2	29	5,114,845
Form 1120 C returns [12]	9,347	*23	*6	0.3	d	14,417
Form 1120 F returns [13]	16,949	*309	*17	2.0	172	90,414
Partnership returns [14]	3,460,699	*10,007	*482	0.3	4,633	N/A
S corporation returns [15]	4,257,909	14,576	235	0.3	4,825	N/A
Estate and trust income tax returns [16]	3,155,204	1,587	246	0.1	*638	39,963
Estate tax returns [17]	34,302	*2,488	*5	7.3	508	831,173
Gift tax returns	265,273	883	20	0.3	288	191,284
Employment tax returns	30,331,570	43,114	648	0.1	4,959	784,774
Excise tax returns [18]	934,300	13,506	38	1.4	2,645	176,589
Other taxable returns [19]	[6]	*382	*7	[6]	40	19,605
Other nontaxable returns [20]	[6]	643	126	[6]	262	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2012					
	All returns filed for Tax Year 2012 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(43)	(44)	(45)	(46)	(47)	(48)
All returns, total	189,013,008	1,303,611	4,617	[6]	187,412	26,341,828
Individual income tax returns, total	145,143,496	1,180,922	3,165	0.8	157,423	9,806,184
Size of total positive income [7]:						
No total positive income	547,039	138,998	661	25.5	1,608	3,383,215
\$1 under \$25,000	56,004,999	548,608	135	1.0	53,935	2,282,580
\$25,000 under \$50,000	34,190,851	145,521	120	0.4	14,288	868,488
\$50,000 under \$75,000	19,297,146	80,342	125	0.4	11,531	353,883
\$75,000 under \$100,000	12,413,710	51,952	105	0.4	9,588	251,563
\$100,000 under \$200,000	16,635,432	86,616	294	0.5	18,314	524,600
\$200,000 under \$500,000	4,577,671	73,462	402	1.6	31,269	568,386
\$500,000 under \$1,000,000	804,750	21,224	353	2.7	8,720	234,506
\$1,000,000 under \$5,000,000	405,427	19,300	539	4.9	6,419	524,549
\$5,000,000 under \$10,000,000	31,160	2,468	150	8.4	712	152,167
\$10,000,000 or more	20,287	2,492	278	13.7	659	636,117
International returns [8]	215,024	9,939	3	4.6	380	26,131
Returns with earned income tax credit [10]	27,848,264	510,167	4	1.8	*53,571	2,022,348
Corporation income tax returns, except Form 1120–S, total [11]	1,631,809	21,045	280	1.3	7,068	14,267,361
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	330,038	2,529	42	0.8	*467	97,645
\$1 under \$250,000	768,252	6,655	75	0.9	2,289	217,605
\$250,000 under \$1,000,000	284,904	3,381	22	1.2	*1,206	112,809
\$1,000,000 under \$5,000,000	150,069	*1,806	*50	1.2	664	79,150
\$5,000,000 under \$10,000,000	26,479	*386	*10	1.5	122	29,841
\$10,000,000 under \$50,000,000	27,722	1,692	21	6.2	*654	141,327
\$50,000,000 under \$100,000,000	5,905	*792	*8	13.7	*356	74,741
\$100,000,000 under \$250,000,000	5,576	*937	*13	17.2	*410	580,592
\$250,000,000 under \$500,000,000	2,929	*532	*8	18.7	*208	235,563
\$500,000,000 under \$1,000,000,000	1,968	*463	*6	24.1	*136	313,534
\$1,000,000,000 under \$5,000,000,000	2,202	718	20	33.5	185	739,993
\$5,000,000,000 under \$20,000,000,000	695	362	20	55.0	70	3,474,544
\$20,000,000,000 or more	351	254	19	77.8	29	8,079,403
Form 1120 C returns [12]	9,127	*30	*5	0.4	d	8,689
Form 1120 F returns [13]	15,592	*411	*22	2.8	*248	81,926
Partnership returns [14]	3,388,561	11,371	326	0.3	5,334	N/A
S corporation returns [15]	4,205,452	16,782	164	0.4	6,245	N/A
Estate and trust income tax returns [16]	3,142,083	2,328	247	0.1	1,044	77,939
Estate tax returns [17]	33,549	*1,944	*4	5.8	374	566,084
Gift tax returns	369,324	2,385	27	0.7	834	517,851
Employment tax returns	30,249,747	51,341	276	0.2	5,500	851,473
Excise tax returns [18]	848,987	14,092	25	1.7	3,132	236,878
Other taxable returns [19]	[6]	*509	*6	[6]	96	18,058
Other nontaxable returns [20]	[6]	879	100	[6]	*359	N/A

Footnotes at end of table.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued

Type and size of return	Tax Year 2011					
	All returns filed for Tax Year 2011 [1]	Returns examined			Number of returns examined with no change [5]	Recom- mended additional tax (thousands of dollars)
		Closed [2]	In process [3]	Percentage covered [4]		
	(49)	(50)	(51)	(52)	(53)	(54)
All returns, total	188,677,016	1,440,390	3,907	[6]	197,623	24,739,292
Individual income tax returns, total	145,586,312	1,297,031	2,857	0.9	160,488	10,477,450
Size of total positive income [7]:						
No total positive income	776,400	167,846	436	21.7	2,355	3,839,471
\$1 under \$25,000	57,464,484	571,253	112	1.0	42,330	2,552,100
\$25,000 under \$50,000	34,603,921	192,270	100	0.6	17,795	945,675
\$50,000 under \$75,000	19,234,495	88,334	106	0.5	*15,869	397,699
\$75,000 under \$100,000	12,239,639	57,187	77	0.5	*12,846	262,476
\$100,000 under \$200,000	15,767,677	95,995	250	0.6	23,424	566,551
\$200,000 under \$500,000	4,225,699	69,583	480	1.7	27,644	528,251
\$500,000 under \$1,000,000	700,673	22,195	395	3.2	8,922	270,050
\$1,000,000 under \$5,000,000	320,496	20,153	533	6.5	7,510	468,238
\$5,000,000 under \$10,000,000	22,910	*2,422	*169	11.3	871	96,742
\$10,000,000 or more	13,846	2,287	218	18.1	807	533,285
International returns [8]	216,072	*7,484	*5	3.5	111	16,912
Returns with earned income tax credit [10]	27,911,726	*493,705	*14	1.8	38,939	2,183,848
Corporation income tax returns, except Form 1120–S, total [11]	1,661,744	23,481	216	1.4	7,701	11,987,679
Returns other than Forms 1120 C and 1120 F, by size of balance sheet assets:						
No balance sheet	278,037	2,843	27	1.0	*484	282,756
\$1 under \$250,000	849,261	*7,485	*81	0.9	*2,409	131,239
\$250,000 under \$1,000,000	286,106	3,742	13	1.3	*1,358	129,303
\$1,000,000 under \$5,000,000	152,207	*1,929	*32	1.3	707	90,142
\$5,000,000 under \$10,000,000	26,504	*519	*7	2.0	222	27,796
\$10,000,000 under \$50,000,000	27,151	*1,872	*23	7.0	*741	434,980
\$50,000,000 under \$100,000,000	5,826	d	d	14.8	*384	62,039
\$100,000,000 under \$250,000,000	5,542	*990	*9	18.1	*406	154,478
\$250,000,000 under \$500,000,000	2,942	d	d	21.4	*222	185,279
\$500,000,000 under \$1,000,000,000	1,974	*496	*7	25.9	*144	162,190
\$1,000,000,000 under \$5,000,000,000	2,141	816	11	38.6	*211	1,857,959
\$5,000,000,000 under \$20,000,000,000	685	399	15	60.4	67	2,406,644
\$20,000,000,000 or more	328	*250	*25	84.5	*29	5,460,187
Form 1120 C returns [12]	8,963	35	0	0.4	d	10,614
Form 1120 F returns [13]	14,077	*534	*13	3.9	*297	592,073
Partnership returns [14]	3,285,177	15,407	198	0.5	8,142	N/A
S corporation returns [15]	4,158,572	*16,902	*134	0.4	6,349	N/A
Estate and trust income tax returns [16]	3,012,785	2,283	286	0.1	977	64,103
Estate tax returns [17]	30,373	4,189	3	13.8	*935	629,141
Gift tax returns	258,393	2,161	24	0.8	776	245,476
Employment tax returns	29,877,737	55,569	118	0.2	6,610	779,878
Excise tax returns [18]	805,923	21,316	20	2.6	4,856	470,083
Other taxable returns [19]	[6]	*586	*14	[6]	110	85,482
Other nontaxable returns [20]	[6]	*1,402	*99	[6]	*677	N/A

Footnotes on next page.

Table 17. Examination Coverage and Recommended Additional Tax After Examination, by Type and Size of Return, Tax Years 2011–2019—Continued**Footnotes**

- † The shaded tax years show returns still within the normal 3 year statute of limitations. Therefore, the percentage covered and recommended additional tax will increase in future years as additional examinations are completed. See Notes for additional details.
- d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.
- * Data preceded by an asterisk are values from the prior year *Data Book*, Table 17. Due to these relatively small changes from year to year, the actual FY 2021 values cannot be shown in order to avoid potential disclosure about specific taxpayers. However, the returns filed counts, percentage covered, and recommended additional tax amounts shown are the actual FY 2021 values.
- N/A Not applicable.
- [1] The total number of returns filed for each tax year is derived from multiple sources. Therefore, some numbers may change year to year while others will not. The return counts for individual, corporation (except for 1120 C), partnership, and gift tax returns are from official published IRS statistics; these counts will not change over time. The return counts for 1120 C, estate and trust income, estate, employment, and excise tax returns are from IRS databases and will be updated each year. These fields include all returns filed for the specified tax year as of December 31, 2021.
- [2] Includes examinations that were closed as of September 30, 2021. During the course of an examination, additional related returns within the statute of limitations may require examination; these related return closures are counted by the appropriate tax year and form type. Represents a distinct count of taxpayers by tax year and form type.
- [3] Includes examinations that are in an open examination status. During the course of an examination, additional related returns within the statute of limitations may require examination; these related returns examinations are counted by the appropriate tax year and form type. Represents a distinct count of taxpayers by tax year and form type.
- [4] Represents total returns (closed and in process) examined for each classification, as a percentage of the total number of returns filed for the tax year for that classification. This percentage may increase in future years as additional returns are selected for examination.
- [5] No change examinations (cases where no adjustment is made) tend to close more quickly than examinations resulting in changes. Therefore, for recent tax years, the percentage of returns with no changes (compared to the total number of examinations closed) may appear higher than returns with no change for past years, and this rate could decrease over time as more examinations are closed.
- [6] Not tabulated.
- [7] Includes all Form 1040 series returns, except 1040 PR and 1040 SS, which are included in International returns (see footnote 8). In general, total positive income (TPI) is the sum of all positive amounts shown for the various sources of income reported on the individual income tax return, and thus excludes losses.
- [8] Includes Forms 1040 PR (self employment income tax return for Puerto Rico residents) and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands residents).
- [9] Less than 0.05.
- [10] Includes all returns selected for examination on the basis of an earned income tax credit (EITC) claim. Shown separately for information purposes. Counts are included in the appropriate TPI classes above.
- [11] Includes the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (income tax return for cooperative associations); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); and 1120 SF (income tax return for settlement funds). Excludes counts of examinations for certain other types of corporation returns, which are included in "Other taxable returns," as described in footnote 19.
- [12] Forms 1120 C are filed by cooperative associations.
- [13] Forms 1120 F are filed by foreign corporations with U.S. income, other than foreign life insurance companies (Form 1120 L); foreign property and casualty insurance companies (Form 1120 PC); or foreign sales corporations (Form 1120 FSC).
- [14] Generally, entities filing Form 1065 do not have a tax liability but pass through any profits and losses to the underlying owners, who include these profits or losses on their income tax returns. Under certain conditions, some partnerships are subject to tax and counts of those examinations are included in "Other taxable returns" in this table, as described in footnote 19.
- [15] Includes most Forms 1120 S, which are filed by qualifying S corporations electing to be taxed through shareholders. Under certain conditions, some S corporations are subject to tax and counts of those examinations are included in "Other taxable returns" in this table, as described in footnote 19.
- [16] Includes taxable Form 1041 (income tax return for estates and trusts) and Form 1041 N (income tax return for electing Alaska Native Settlement Trusts).
- [17] Includes Form 706 series as follows: 706 (estate and generation skipping transfer tax return); 706 NA (estate tax return of nonresidents not a citizen of the United States); 706 GS(T) (generation skipping transfer tax return for terminations); and 706 GS(D) (generation skipping transfer tax return for distributions).
- [18] Excludes excise tax returns filed with U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau.
- [19] Includes Forms 1120 FSC (foreign sales corporation income tax return); 1120 S for S corporations reporting a tax; 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); 1065 B for partnerships reporting a tax; 8288 (withholding tax return for disposition by foreign persons of U.S. real property interests); and 8804 (return of withholding tax on foreign partner's share of effectively connected income).
- [20] Includes the following nontaxable returns: Form 1120 IC DISC (domestic international sales corporation return); Form 1041 (income tax return for estates and trusts); and Form 1066 (real estate mortgage investment conduit income tax return). Under certain circumstances, estates and trusts (Form 1041) are not subject to tax and are reported as nontaxable. See Estate and trust income tax returns for taxable Forms 1041.

NOTES:

Table 17 shows examination information for each of the last 9 tax years, 2011–2019. It is presented as a "snapshot" in time of the examination process, and the data will continue to change as open examinations close and new ones are opened. Comparing returns filed and return audits for the same tax year provides the most accurate measure of audit coverage, allowing for a direct and clear picture of IRS activities. Some audits close within a year while others take several. The percentage of audits of returns filed for relatively recent tax years may appear low because as of the end of the fiscal year, relatively few examinations had been opened or closed yet. This reflects the normal timing of the audit process; as new audits of returns filed for recent tax years are opened, audit rates for those years will increase. In contrast, audit rates are less subject to change for returns filed for tax years that are past the normal statute of limitations for assessment. Generally, the assessment statute expiration date is 3 years after the return was due, or 6 years if the income on the return was understated by 25 percent or more, and there is no statutory limit if a tax return was filed with the intent to commit fraud. Tax Year 2017 is the most recent year outside the normal statute period. Going forward, the oldest tax year will no longer be updated and will be replaced by the newest full tax year.

All money amounts are in current dollars.

SOURCE: Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

[Download XLSX](#)**Table 18. Examination Coverage: Recommended Additional Tax, and Returns with Unagreed Additional Tax, After Examination, by Type and Size of Return, Fiscal Year 2021**

[Money amounts are in thousands of dollars]

Type and size of return	Examinations closed in Fiscal Year 2021 [1]			Recommended additional tax		
	Total	Field [2]	Correspondence	Total	Field [2]	Correspondence
	(1)	(2)	(3)	(4)	(5)	(6)
United States, total	738,959	159,487	579,472	26,776,033	21,991,615	4,784,418
Taxable returns:						
Individual income tax returns, total	659,012	99,591	559,421	8,076,816	3,496,621	4,580,195
Size of total positive income [3]:						
No total positive income	71,859	12,255	59,604	2,608,106	841,963	1,766,143
\$1 under \$25,000	249,109	9,425	239,684	1,243,134	140,159	1,102,975
\$25,000 under \$50,000	105,475	10,096	95,379	645,225	180,292	464,932
\$50,000 under \$75,000	66,803	9,565	57,238	349,591	113,082	236,509
\$75,000 under \$100,000	46,245	9,360	36,885	328,397	138,000	190,397
\$100,000 under \$200,000	72,440	23,798	48,642	586,815	337,249	249,566
\$200,000 under \$500,000	24,157	10,675	13,482	440,948	349,878	91,070
\$500,000 under \$1,000,000	8,955	4,765	4,190	266,429	224,068	42,361
\$1,000,000 under \$5,000,000	9,930	6,514	3,416	632,130	473,340	158,789
\$5,000,000 under \$10,000,000	1,299	965	334	253,734	219,808	33,926
\$10,000,000 or more	1,983	1,499	484	718,262	474,800	243,462
International returns [4]	757	674	83	4,046	3,983	64
Returns with earned income tax credit [5]	277,936	648	277,288	1,376,593	2,709	1,373,885
Corporation income tax returns, except Form 1120 S, total [6]	10,428	10,198	230	15,296,120	15,271,499	24,620
Returns other than Forms 1120 C and 1120 F [7]:						
No balance sheet returns	1,403	1,392	11	225,372	216,311	9,061
Balance sheet returns by size of total assets:						
Under \$250,000	1,616	1,574	42	93,487	91,837	1,650
\$250,000 under \$1,000,000	1,861	1,843	18	114,709	114,502	207
\$1,000,000 under \$5,000,000	1,512	1,489	23	184,496	184,144	352
\$5,000,000 under \$10,000,000	255	242	13	19,359	16,239	3,120
\$10,000,000 under \$50,000,000	1,024	1,010	14	126,773	121,386	5,387
\$50,000,000 under \$100,000,000	433	426	7	399,469	399,283	186
\$100,000,000 under \$250,000,000	441	426	15	191,508	191,381	126
\$250,000,000 under \$500,000,000	269	d	d	103,113	d	d
\$500,000,000 under \$1,000,000,000	255	d	d	88,949	d	d
\$1,000,000,000 under \$5,000,000,000	538	517	21	1,002,708	1,002,708	0
\$5,000,000,000 under \$20,000,000,000	363	353	10	1,225,592	1,225,584	8
\$20,000,000,000 or more	312	302	10	11,418,440	11,417,815	625
Form 1120 C returns [7]	24	24	0	14,839	14,839	N/A
Form 1120 F returns [7]	122	90	32	87,305	85,164	2,142
Estate and trust income tax returns [8]	651	279	372	35,540	24,737	10,803
Estate tax returns [9]	1,635	1,635	0	1,340,082	1,340,082	N/A
Gift tax returns	1,187	1,187	0	476,610	476,610	N/A
Employment tax returns	46,204	29,964	16,240	1,318,846	1,152,814	166,033
Excise tax returns	7,991	6,789	1,202	226,884	225,712	1,172
Other taxable returns [10]	216	38	178	5,136	3,540	1,596
Nontaxable returns [11]:						
Partnership returns	4,141	3,127	1,014	N/A	N/A	N/A
S corporation returns [12]	7,091	6,605	486	N/A	N/A	N/A
Other nontaxable returns [13]	403	74	329	N/A	N/A	N/A

Footnotes at end of table.

Table 18. Examination Coverage: Recommended Additional Tax, and Returns with Unagreed Additional Tax, After Examination, by Type and Size of Return, Fiscal Year 2021—Continued

[Money amounts are in thousands of dollars]

Type and size of return	Taxable return examination closures with unagreed recommended additional tax [1]			Amount unagreed		
	Total	Field [2]	Correspondence	Total	Field [2]	Correspondence
	(7)	(8)	(9)	(10)	(11)	(12)
United States, total	13,725	9,872	3,853	11,317,969	11,287,193	30,776
Taxable returns:						
Individual income tax returns, total	10,818	6,972	3,846	1,039,649	1,008,873	30,776
Size of total positive income [3]:						
No total positive income	1,294	864	430	187,469	168,496	18,973
\$1 under \$25,000	1,364	473	891	23,523	20,384	3,138
\$25,000 under \$50,000	1,049	485	564	26,157	24,290	1,867
\$50,000 under \$75,000	927	507	420	26,324	25,332	992
\$75,000 under \$100,000	840	d	d	19,259	d	d
\$100,000 under \$200,000	2,301	1,545	756	74,524	72,614	1,910
\$200,000 under \$500,000	1,353	1,052	301	133,803	132,601	1,203
\$500,000 under \$1,000,000	648	576	72	75,583	74,756	827
\$1,000,000 under \$5,000,000	829	789	40	252,054	251,056	998
\$5,000,000 under \$10,000,000	107	d	d	44,159	d	d
\$10,000,000 or more	103	d	d	176,752	d	d
International returns [4]	3	3	0	40	40	N/A
Returns with earned income tax credit [5]	1,171	8	1,163	4,329	79	4,250
Corporation income tax returns, except Form 1120 S, total [6]	1,026	**1,026	**0	8,741,819	8,741,819	N/A
Returns other than Forms 1120 C and 1120 F [7]:						
No balance sheet returns	130	130	0	47,569	47,569	N/A
Balance sheet returns by size of total assets:						
Under \$250,000	d	d	0	d	d	N/A
\$250,000 under \$1,000,000	165	165	0	55,370	55,370	N/A
\$1,000,000 under \$5,000,000	208	208	0	132,414	132,414	N/A
\$5,000,000 under \$10,000,000	63	63	0	7,268	7,268	N/A
\$10,000,000 under \$50,000,000	66	66	0	33,494	33,494	N/A
\$50,000,000 under \$100,000,000	15	15	0	69,469	69,469	N/A
\$100,000,000 under \$250,000,000	46	46	0	147,804	147,804	N/A
\$250,000,000 under \$500,000,000	13	13	0	43,439	43,439	N/A
\$500,000,000 under \$1,000,000,000	23	23	0	57,627	57,627	N/A
\$1,000,000,000 under \$5,000,000,000	63	63	0	885,451	885,451	N/A
\$5,000,000,000 under \$20,000,000,000	29	29	0	454,927	454,927	N/A
\$20,000,000,000 or more	66	66	0	6,783,141	6,783,141	N/A
Form 1120 C returns [7]	d	d	0	d	d	N/A
Form 1120 F returns [7]	0	0	0	0	0	N/A
Estate and trust income tax returns [8]	d	d	d	d	d	d
Estate tax returns [9]	51	51	0	937,863	937,863	0
Gift tax returns	130	130	0	300,423	300,423	0
Employment tax returns	1,240	1,240	0	251,349	251,349	0
Excise tax returns	421	421	0	30,067	30,067	0
Other taxable returns [10]	d	d	d	d	d	d
Nontaxable returns [11]:						
Partnership returns	N/A	N/A	N/A	N/A	N/A	N/A
S corporation returns [12]	N/A	N/A	N/A	N/A	N/A	N/A
Other nontaxable returns [13]	N/A	N/A	N/A	N/A	N/A	N/A

Footnotes on next page.

Table 18. Examination Coverage: Recommended Additional Tax, and Returns with Unagreed Additional Tax, After Examination, by Type and Size of Return, Fiscal Year 2021—Continued**Footnotes**

d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.

** Data have been combined to avoid disclosure of information about specific taxpayers.

N/A Not applicable.

- [1] Excludes excise tax returns filed with U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Also excludes returns of tax exempt organizations, Government entities, employee retirement benefit plans, and tax exempt bonds; and excludes information returns (e.g., Forms 1098, 1099, 5498, W 2 and W 2G, and Schedule K 1).
- [2] Field examinations are generally performed in person by revenue agents, tax compliance officers, tax examiners, and revenue officer examiners. However, some field examinations may ultimately be conducted through correspondence in order to better serve the taxpayer.
- [3] In general, total positive income (TPI) is the sum of all positive amounts shown for the various sources of income reported on the individual income tax return, and thus excludes losses.
- [4] Includes Forms 1040 PR (self employment income tax return for Puerto Rico residents) and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands residents).
- [5] Includes all returns selected for examination on the basis of an earned income tax credit (EITC) claim. Shown separately for information purposes. Counts are included in the appropriate TPI classes.
- [6] Includes the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (income tax return for cooperative associations); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); and 1120 SF (income tax return for settlement funds). Excludes certain other types of corporation returns, which are included in "Other taxable returns" described in footnote 10.
- [7] Forms 1120 C are filed by cooperative associations. Forms 1120 F are filed by foreign corporations with U.S. income, other than foreign life insurance companies (Form 1120 L); foreign property and casualty insurance companies (Form 1120 PC); or foreign sales corporations (Form 1120 FSC).
- [8] Includes taxable Form 1041 (income tax return for estates and trusts) and Form 1041 N (income tax return for electing Alaska Native Settlement Trusts).
- [9] Includes Form 706 (estate and generation skipping transfer tax return). As a result of changes in the Tax Cuts and Jobs Act of 2017, the IRS changed how it categorizes returns based on the size of gross estate amount, effective January 2021. In order to avoid disclosure of information about specific taxpayers, only the total is provided.
- [10] Includes Forms 1120 FSC (foreign sales corporation income tax return); 1120 S for S corporations reporting a tax (see footnote 12); 1065 B for partnerships reporting a tax; 8288 (withholding tax return for disposition by foreign persons of U.S. property interests); and 8804 (return of withholding tax on foreign partner's share of effectively connected income).
- [11] Nontaxable returns are filed for entities that generally do not have a tax liability but pass through any profits and losses to the underlying owners, who include these profits or losses on their income tax returns. The examination of partnership, S corporation, and other nontaxable returns affects the amount of recommended additional tax for these associated income tax returns.
- [12] Includes most Forms 1120 S, which are filed by qualifying S corporations electing to be taxed through shareholders. Under certain conditions, S corporations are subject to tax and are included in "Other taxable returns" in this table. See footnote 10.
- [13] Includes the following nontaxable returns: Form 1120 IC DISC (domestic international sales corporation return); Form 1041 (income tax return for estates and trusts); and Form 1066 (real estate mortgage investment conduit income tax return). Under certain circumstances, estates and trusts (Form 1041) are not subject to tax and are reported as nontaxable. See Estate and trust income tax returns for taxable Forms 1041.

NOTES:

Detail may not add to totals because of rounding.

This table includes information on examinations closed in Fiscal Year 2021 of all individual income tax, corporation income tax, estate and trust income tax, estate tax, gift tax, employment tax, excise tax, and other taxable returns, as well as partnership, S corporation, and other nontaxable returns, and information on examinations in which the taxpayer did not agree with the IRS examiner's determination. When this occurs, the taxpayer may appeal the decision.

SOURCE: Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management.

Table 19. Examination Coverage: Returns Examined Involving Protection of Revenue Base, by Type and Size of Return, Fiscal Year 2021

[Money amounts are in thousands of dollars]

Type and size of return	Taxable return examination closures involving protection of the revenue base [1]			Amount protected		
	Total	Field [2]	Correspondence	Total	Field [2]	Correspondence
	(1)	(2)	(3)	(4)	(5)	(6)
United States, total	15,403	9,091	6,312	1,671,198	1,646,344	24,855
Individual income tax returns, total	13,012	6,700	6,312	269,309	244,454	24,855
Size of total positive income [3]:						
No total positive income	101	60	41	1,339	1,180	159
\$1 under \$25,000	3,256	149	3,107	12,358	1,142	11,216
\$25,000 under \$50,000	1,743	244	1,499	6,498	1,481	5,017
\$50,000 under \$75,000	1,112	404	708	5,062	2,773	2,290
\$75,000 under \$100,000	825	465	360	4,989	3,296	1,693
\$100,000 under \$200,000	1,823	1,421	402	24,898	22,321	2,577
\$200,000 under \$500,000	1,681	1,561	120	37,032	35,881	1,151
\$500,000 under \$1,000,000	867	848	19	24,719	24,300	419
\$1,000,000 under \$5,000,000	1,081	1,075	6	55,121	55,004	117
\$5,000,000 under \$10,000,000	191	d	d	20,982	d	d
\$10,000,000 or more	283	d	d	76,182	d	d
International returns [4]	49	d	d	130	d	d
Returns with earned income tax credit [5]	3,879	d	d	14,953	d	d
Corporation income tax returns, except Form 1120 S, total [6]	776	776	0	1,195,162	1,195,162	N/A
Returns other than Forms 1120 C and 1120 F [7]:						
No balance sheet returns	5	5	0	3	3	N/A
Balance sheet returns by size of total assets:						
Under \$250,000	13	13	0	126	126	N/A
\$250,000 under \$1,000,000	32	32	0	946	946	N/A
\$1,000,000 under \$5,000,000	85	85	0	2,863	2,863	N/A
\$5,000,000 under \$10,000,000	44	44	0	2,141	2,141	N/A
\$10,000,000 under \$50,000,000	58	58	0	8,900	8,900	N/A
\$50,000,000 under \$100,000,000	21	21	0	9,433	9,433	N/A
\$100,000,000 under \$250,000,000	48	48	0	13,317	13,317	N/A
\$250,000,000 under \$500,000,000	40	40	0	6,615	6,615	N/A
\$500,000,000 under \$1,000,000,000	61	61	0	40,246	40,246	N/A
\$1,000,000,000 under \$5,000,000,000	153	153	0	157,468	157,468	N/A
\$5,000,000,000 under \$20,000,000,000	102	102	0	292,634	292,634	N/A
\$20,000,000,000 or more	88	88	0	635,293	635,293	N/A
Form 1120 C returns [7]	7	7	0	1,753	1,753	N/A
Form 1120 F returns [7]	19	19	0	23,424	23,424	N/A
Estate and trust income tax returns [8]	122	122	0	15,899	15,899	N/A
Estate tax returns [9]	53	53	0	12,793	12,793	N/A
Gift tax returns	23	23	0	4,233	4,233	N/A
Employment tax returns	507	507	0	98,064	98,064	N/A
Excise tax returns	905	905	0	72,619	72,619	N/A
Other taxable returns [10]	5	5	0	3,119	3,119	N/A

Footnotes on next page.

Table 19. Examination Coverage: Returns Examined Involving Protection of Revenue Base, by Type and Size of Return, Fiscal Year 2021—Continued**Footnotes**

d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals when possible.

N/A Not applicable.

- [1] Excludes excise tax returns filed with U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Also excludes returns of tax exempt organizations, Government entities, employee retirement benefit plans, and tax exempt bonds; and excludes information returns (e.g., Forms 1098, 1099, 5498, W 2 and W 2G, and Schedule K 1).
- [2] Field examinations are generally performed in person by revenue agents, tax compliance officers, tax examiners, and revenue officer examiners. However, some field examinations may ultimately be conducted through correspondence in order to better serve the taxpayer.
- [3] In general, total positive income is the sum of all positive amounts shown for the various sources of income reported on the individual income tax return, and thus excludes losses.
- [4] Includes Forms 1040 PR (self employment income tax return for Puerto Rico residents) and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands residents).
- [5] Includes all returns selected for examination on the basis of an earned income tax credit (EITC) claim. Shown separately for information purposes. Counts are included in the appropriate TPI classes.
- [6] Includes the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (income tax return for cooperative associations); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); and 1120 SF (income tax return for settlement funds). Excludes certain other types of corporation returns, which are included in "Other taxable returns" described in footnote 10.
- [7] Forms 1120 C are filed by cooperative associations. Forms 1120 F are filed by foreign corporations with U.S. income, other than foreign life insurance companies (Form 1120 L); foreign property and casualty insurance companies (Form 1120 PC); or foreign sales corporations (Form 1120 FSC).
- [8] Includes taxable Form 1041 (income tax return for estates and trusts) and Form 1041 N (income tax return for electing Alaska Native Settlement Trusts).
- [9] Includes Form 706 (estate and generation skipping transfer tax return). As a result of changes in the Tax Cuts and Jobs Act of 2017, the IRS changed how it categorizes returns based on the size of gross estate amount, effective January 2021. In order to avoid disclosure of information about specific taxpayers, only the total is provided.
- [10] Includes Forms 1120 FSC (foreign sales corporation income tax return); 1120 S for S corporations reporting a tax; 1065 B for partnerships reporting a tax; 8288 (withholding tax return for disposition by foreign persons of U.S. property interests); and 8804 (return of withholding tax on foreign partner's share of effectively connected income).

NOTES:

Detail may not add to totals because of rounding.

This table includes information on examinations closed in Fiscal Year (FY) 2021 in which actions were taken by the IRS to prevent the release of funds from the U.S. Treasury in response to taxpayer efforts to recoup all, or part, of previously assessed and paid tax. For information on all FY 2021 examinations of individual income tax, corporation income tax, estate and trust income tax, estate tax, gift tax, employment tax, excise tax, and other taxable returns, along with partnership, S corporation, and other nontaxable returns, see Table 18.

SOURCE: Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management.

Table 20. Examination Coverage: Returns Examined Resulting in Refunds, by Type and Size of Return, Fiscal Year 2021

[Money amounts are in thousands of dollars]

Type and size of return	Taxable return examination closures resulting in refunds [1]			Amount of recommended refunds		
	Total	Field [2]	Correspondence	Total	Field [2]	Correspondence
	(1)	(2)	(3)	(4)	(5)	(6)
United States, total	20,120	12,039	8,081	7,615,873	7,476,080	139,793
Individual income tax returns, total	17,105	9,099	8,006	983,119	850,147	132,972
Size of total positive income [3]:						
No total positive income	1,599	957	642	32,751	29,241	3,511
\$1 under \$25,000	3,072	554	2,518	17,618	13,024	4,594
\$25,000 under \$50,000	2,430	515	1,915	10,099	7,115	2,984
\$50,000 under \$75,000	1,300	516	784	10,368	6,700	3,668
\$75,000 under \$100,000	821	538	283	8,035	7,296	738
\$100,000 under \$200,000	1,894	1,540	354	22,686	20,900	1,786
\$200,000 under \$500,000	2,102	1,649	453	48,944	43,139	5,805
\$500,000 under \$1,000,000	1,534	928	606	62,836	51,054	11,782
\$1,000,000 under \$5,000,000	1,608	1,294	314	158,652	144,854	13,798
\$5,000,000 under \$10,000,000	300	241	59	90,554	79,078	11,476
\$10,000,000 or more	436	361	75	520,384	447,557	72,827
International returns [4]	9	6	3	194	189	5
Returns with earned income tax credit [5]	3,800	11	3,789	5,617	63	5,554
Corporation income tax returns, except Form 1120 S, total [6]	1,100	**1,100	**0	5,802,120	5,800,334	1,786
Returns other than Forms 1120 C and 1120 F [7]:						
No balance sheet returns	47	47	0	29,771	29,771	N/A
Balance sheet returns by size of total assets:						
Under \$250,000	78	78	0	2,042	2,042	N/A
\$250,000 under \$1,000,000	78	78	0	1,765	1,765	N/A
\$1,000,000 under \$5,000,000	101	101	0	5,939	5,939	N/A
\$5,000,000 under \$10,000,000	22	22	0	1,071	1,071	N/A
\$10,000,000 under \$50,000,000	99	99	0	31,056	31,056	N/A
\$50,000,000 under \$100,000,000	32	32	0	7,910	7,910	N/A
\$100,000,000 under \$250,000,000	64	**64	**0	55,636	**55,636	**0
\$250,000,000 under \$500,000,000	72	72	0	128,080	128,080	N/A
\$500,000,000 under \$1,000,000,000	78	78	0	302,096	302,096	N/A
\$1,000,000,000 under \$5,000,000,000	184	184	0	868,342	868,342	N/A
\$5,000,000,000 under \$20,000,000,000	121	121	0	1,230,137	1,230,137	N/A
\$20,000,000,000 or more	93	**93	**0	2,748,841	**2,748,842	**0
Form 1120 C returns [7]	8	8	0	27,853	27,853	N/A
Form 1120 F returns [7]	23	**23	**0	361,579	**361,579	**0
Estate and trust income tax returns [8]	156	104	52	120,530	115,514	5,016
Estate tax returns [9]	310	310	0	164,076	164,076	N/A
Gift tax returns	19	19	0	3,896	3,896	N/A
Employment tax returns	560	560	0	180,934	180,934	N/A
Excise tax returns	855	842	13	360,905	360,899	6
Other taxable returns [10]	15	9	6	294	280	14

Footnotes on next page.

Table 20. Examination Coverage: Returns Examined Resulting in Refunds, by Type and Size of Return, Fiscal Year 2021—Continued**Footnotes**

- d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals when possible.
- ** Data have been combined to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.
- N/A Not applicable.
- [1] Excludes excise tax returns filed with U.S. Customs and Border Protection and the Alcohol and Tobacco Tax and Trade Bureau. Also excludes returns of tax exempt organizations, Government entities, employee retirement benefit plans, and tax exempt bonds; and excludes information returns (e.g., Forms 1098, 1099, 5498, W 2 and W 2G, and Schedule K 1).
- [2] Field examinations are generally performed in person by revenue agents, tax compliance officers, tax examiners, and revenue officer examiners. However, some field examinations may ultimately be conducted through correspondence in order to better serve the taxpayer.
- [3] In general, total positive income is the sum of all positive amounts shown for the various sources of income reported on the individual income tax return, and thus excludes losses.
- [4] Includes Forms 1040 PR (self employment income tax return for Puerto Rico residents) and 1040 SS (self employment income tax return for U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands residents).
- [5] Includes all returns reporting an earned income tax credit (EITC) claim. Shown separately for information purposes. Counts are included in the appropriate TPI classes.
- [6] Includes the Form 1120 series as follows: 1120 (corporation income tax return); 1120 C (income tax return for cooperative associations); 1120 F (foreign corporation income tax return, except foreign life insurance company, foreign property and casualty insurance company, or foreign sales corporation); 1120 H (homeowner association income tax return); 1120 L (life insurance company income tax return); 1120 ND (return for nuclear decommissioning funds); 1120 PC (property and casualty insurance company income tax return); 1120 REIT (real estate investment trust income tax return); 1120 RIC (regulated investment company income tax return); and 1120 SF (income tax return for settlement funds). Excludes certain other types of corporation returns, which are included in "Other taxable returns" described in footnote 10.
- [7] Forms 1120 C are filed by cooperative associations. Forms 1120 F are filed by foreign corporations with U.S. income, other than foreign life insurance companies (Form 1120 L); foreign property and casualty insurance companies (Form 1120 PC); or foreign sales corporations (Form 1120 FSC).
- [8] Includes taxable Form 1041 (income tax return for estates and trusts) and Form 1041 N (income tax return for electing Alaska Native Settlement Trusts).
- [9] Includes Form 706 (estate and generation skipping transfer tax return). As a result of changes in the Tax Cuts and Jobs Act of 2017, the IRS changed how it categorizes returns based on the size of gross estate amount, effective January 2021. In order to avoid disclosure of information about specific taxpayers, only the total is provided.
- [10] Includes Forms 1120 FSC (foreign sales corporation income tax return); 1120 S for S corporations reporting a tax; 1065 B for partnerships reporting a tax; 8288 (withholding tax return for disposition by foreign persons of U.S. property interests); and 8804 (return of withholding tax on foreign partner's share of effectively connected income).

NOTES:

Detail may not add to totals because of rounding.

This table provides information on examinations closed in Fiscal Year (FY) 2021 that resulted in additional refunds paid to the taxpayer and the amount of refunds recommended. For information on all FY 2021 examinations of individual income tax, corporation income tax, estate and trust income tax, estate tax, gift tax, employment tax, excise tax, and other taxable returns, along with partnership, S corporation, and other nontaxable returns, see Table 18.

SOURCE: Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management.

Table 21. Examinations of Tax-Exempt Organizations, Employee Retirement Plans, Government Entities, and Tax-Exempt Bonds, by Type of Return, Fiscal Year 2021

Type of return	Number of returns examined
Tax-exempt organization, employee retirement plan, government entity, tax-exempt bond returns, and related taxable returns examined in Fiscal Year 2021, total	9,067
Forms 990, 990-EZ, and 990-N [1]	1,383
Forms 990-PF, 1041-A, 1120-POL, and 5227 [2]	203
Form 5500, total [3]	1,173
Defined benefit	185
Defined contribution	988
Form 5500-EZ, total [3]	90
Defined benefit	30
Defined contribution	60
Form 5500-SF, total [3]	1,804
Defined benefit	422
Defined contribution	1,382
Employment tax returns [4]	1,851
Tax-exempt bond returns [5]	286
Related taxable returns, total	1,588
Form 990 T [6]	748
Form 4720 [7]	301
Form 5330 [8]	170
Forms 1040, 1041, 1065, and 1120 adjusted [9]	157
Forms 11 C and 730 [10]	119
Form 5329 [11]	93
Employee retirement plan Non-Return Units [12]	689

- [1] Form 990 series includes: 990 (tax exempt organization information return, long form); 990 EZ (tax exempt organization information return, short form); and 990 N (electronic notice (e Postcard) for tax exempt organizations not required to file Forms 990 or 990 EZ).
- [2] Includes Form 990 PF (private foundation information return); Form 1041 A (information return of charitable contribution deductions by certain trusts); Form 1120 POL (income tax return for certain political organizations) and Form 5227 (split interest trust information return).
- [3] Form 5500 series includes: 5500 (annual return/report of employee benefit plan); 5500 EZ (annual return of a one participant (owners/partners and their spouses) retirement plan or a foreign plan); 5500 SF (short form annual return/report of small employee benefit plan).
- [4] Employment tax returns include: Forms 940 (employer's Federal unemployment tax return); 941 (employer's quarterly tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 (employer's tax return for agricultural employees); 944 (employer's annual tax return); 945 (tax return of withheld income tax from nonpayroll distributions); and 1042 (tax return of withheld income tax on U.S. source income of foreign persons). Also includes stand alone examinations of Form 1099 series information returns. Includes employment tax returns that are "related taxable returns" picked up as part of an examination on an exempt organization's Form 990 series return; and stand alone examinations of Federal, state, local, and Indian Tribal governments, and exempt organization employment tax returns. Although these entities do not have an income tax return filing requirement, they are subject to employment taxes as well as excise taxes (Forms 11 C and 730) that are reported under "related taxable returns."
- [5] Includes Forms 8038 (information return for tax exempt private activity bond issues); 8038 B (information return for build America bonds and recovery zone economic development bonds); 8038 CP (return for credit payments to issuers of qualified bonds); 8038 G (information return for governmental obligations); 8038 GC (information return for consolidated small tax exempt government bond issues, leases, and installment sales); 8038 T (arbitrage rebate return); and 8038 TC (information return for tax credit bonds and specified tax credit bonds).
- [6] Form 990 T is the tax exempt organization unrelated business income tax return.
- [7] Form 4720 is used to report excise taxes on tax exempt organizations and related individuals.
- [8] Form 5330 is used to report excise taxes related to employee retirement plans.
- [9] Form 1040 series (individual returns); Form 1041 (estate and trust return); Form 1065 (partnership return); or Form 1120 series (corporation returns) adjusted as a result of examination of a tax exempt organization, employee retirement plan, or government entity, as applicable.
- [10] Form 11 C reports the occupational tax for wagering and Form 730 reports the excise tax on wagering.
- [11] Form 5329 is used to report additional taxes on qualified plans (including IRAs) and other tax favored accounts.
- [12] Tax Exempt and Government Entities, Employee Plans, often examines retirement plans for which no return is filed. These are called Non Return Units.

SOURCE: Tax Exempt and Government Entities.

Table 22. Information Reporting Program, Fiscal Year 2021

[Money amounts are in thousands of dollars]

Item	Number or amount
Number of information returns received [1]:	
Total	4,740,647,278
Paper	2,747,787
Electronic	4,415,237,487
Other [2]	322,662,004
Automated Underreporter Program [3]:	
Number of closed cases [4]	2,362,596
Amount of additional assessments [5]	10,261,153
Number of full time equivalent positions [6]	1,521
Automated Substitute for Return Program [7]:	
Number of closed cases [8]	402,809
Actual closures	128,671
Terminated closures	274,138
Amount of additional assessments [9]	3,907,369
Number of full time equivalent positions [6]	53

[1] Includes Forms 1042 S (foreign person's U.S. source income subject to withholding); the Form 1098 series (including mortgage interest, student loan interest, and tuition payments); the Form 1099 series (including interest and dividend distributions); the Form 5498 series (including individual retirement arrangement and medical savings account information); Forms W 2 (wage and tax statements); Forms W 2G (certain gambling winnings); and Schedules K 1 (partnership, S corporation, and estate or trust distributions). Information from these forms and schedules is matched to that reported on income tax returns.

[2] Includes forms processed by the Social Security Administration, such as Forms SSA 1099 (Social Security benefit statement), RRB 1099 (payments by the Railroad Retirement Board), and W 2 (wage and tax statement).

[3] The objective of the Automated Underreporter Program (AUR) is to match taxpayer income and deductions submitted by third parties such as banks, brokerage firms, and other payers on information returns (such as Forms W 2 and 1099) against amounts reported on individual income tax returns. If a discrepancy is found, an AUR case is created, the taxpayer is contacted, and tax is assessed on any unresolved discrepancy.

[4] Reflects the number of closed cases for which a notice was issued to a taxpayer.

[5] Includes tax and interest.

[6] Reflects the total staff hours expended, converted to the number of full time positions.

[7] Under the Automated Substitute for Return Program (ASFR), the IRS uses information returns from third parties (such as Forms W 2 and 1099) to identify tax return delinquencies, construct tax returns for certain nonfilers based on that third party information, and assess tax, interest, and penalties based on the substitute returns.

[8] Reflects the number of closed cases within the ASFR system. The number of closed cases are reported separately as actual closures (where taxpayer contact was made) and terminated closures (where no ASFR taxpayer contact was made). Actual closures are cases for which notices were issued to taxpayers and were associated with staff hours used to calculate the number of full time positions. Terminated closures are cases that required no notices to be sent; therefore, no full time equivalent hours were expended.

[9] Includes tax, interest, and penalties assessed. Terminated closures receive no ASFR assessments.

NOTE:

Due to continued challenges related to the COVID 19 pandemic and processing center shutdowns to protect the health and safety of employees, the IRS continued to experience processing delays for paper filed forms. Additionally, many nonfiler initiatives were paused to prevent burdening taxpayers whose returns may not yet have been processed.

SOURCES: Research, Applied Analytics, and Statistics, Statistics of Income; Small Business/Self Employed Examination, Performance Planning and Analysis, Automated Underreporter Program; Small Business/Self Employed Collections, Headquarters Collection, Inventory Delivery Selection, Automated Substitute for Return Program.

Table 23. Math Errors on Individual Income Tax Returns, by Type of Error, Fiscal Year 2021

Math error	Tax Year 2020 returns		Tax Year 2019 and other prior year returns	
	Number	Percentage of total	Number	Percentage of total
	(1)	(2)	(3)	(4)
Math error notices [1, 2]	12,334,020	N/A	730,119	N/A
Math errors, total [1, 2]	12,938,828	100.0	1,019,702	100.0
Recovery Rebate Credit [3]	11,372,980	87.9	439	[4]
Tax calculation/other taxes [5]	407,757	3.2	36,230	3.6
Child Tax Credit	244,148	1.9	167,572	16.4
Adjusted gross/taxable income amount	283,346	2.2	336,878	33.0
Education Credits [6]	90,904	0.7	66,760	6.5
Earned Income Tax Credit	155,351	1.2	71,657	7.0
Standard/itemized deduction	119,115	0.9	22,662	2.2
First Time Homebuyer Credit Repayment	61,132	0.5	113,515	11.1
Filing status	42,902	0.3	26,764	2.6
Refund/amount owed	41,879	0.3	29,673	2.9
Adjustments to income	41,731	0.3	65,060	6.4
Withholding or excess Social Security payments	35,920	0.3	25,028	2.5
Other credits [7]	30,240	0.2	25,246	2.5
Exemption number/amount	2,495	[4]	24,268	2.4
Other [8]	8,929	0.1	7,950	0.8

N/A Not applicable.

[1] A math error notice to the taxpayer may address more than one type of math error. Therefore, the total number of errors exceeds the total number of notices.

[2] Due to the submission processing center shutdowns related to the COVID 19 pandemic, a significant number of returns filed in Fiscal Year (FY) 2020 were not processed until FY 2021.

[3] The Recovery Rebate Credit allowed taxpayers who did not receive Economic Impact Payments (or less than the full amount they were entitled to) to claim a credit on their tax return. The two primary causes for math errors in the Recovery Rebate Credit were that the second Economic Impact Payment was issued after many taxpayers had already prepared their Tax Year 2020 tax returns, and that many taxpayers incorrectly calculated their allowable Recovery Rebate Credit amount or claimed a credit they were not entitled to.

[4] Less than 0.05 percent.

[5] Includes all errors associated with the calculation and assessment of income taxes, as well as other taxes, such as self employment tax, alternative minimum tax, and household employment tax.

[6] Includes the Lifetime Learning Credit and the American Opportunity Tax Credits.

[7] Includes the Child and Dependent Care Credit, Credit for the Elderly or Disabled, Retirement Savings Contribution Credit, Adoption Credit, Mortgage Interest Credit, General Business Credits, Credit for Federal Fuel Tax, Foreign Tax Credit, Residential Energy Credit, Alternative Motor Vehicle Credit, Qualified Plug In Electric Drive Motor Vehicle Credit, Qualified Electric Vehicle Credit, Making Work Pay Credit (prior year returns only), Health Coverage Tax Credit, and Credit for Small Employer Health Insurance Premiums.

[8] Includes miscellaneous errors and unique error types not included in any other math error definitions.

NOTES:

Detail may not add to totals because of rounding.

Math errors include a variety of conditions such as computational errors, incorrectly transcribed values, omitted entries, failure to meet eligibility requirements, claims that exceed statutory limits, and insufficiently supported claims which are identified during the processing of tax returns.

SOURCE: Wage and Investment, Customer Account Services, Submission Processing, Paper Processing Branch.

Table 24. Criminal Investigation Program, by Status or Disposition, Fiscal Year 2021

Status or disposition [1]	Total	Legal source tax crimes [2]	Illegal source financial crimes [3]	Narcotics related financial crimes [4]
	(1)	(2)	(3)	(4)
Investigations initiated	2,581	953	967	661
Investigations completed [5]	2,766	1,052	979	735
Referrals for prosecution	1,982	575	761	646
Investigations completed without prosecution	784	477	218	89
Indictments and informations [6]	1,856	536	742	578
Convictions [7]	1,263	426	536	301
Sentenced	1,268	454	492	322
Incarcerated [8]	993	344	385	264
Percentage of those sentenced who were incarcerated [8]	78.3	75.8	78.3	82.0

- [1] Investigations may cross fiscal years. An investigation initiated one fiscal year may not be indicted, convicted, or sentenced until a subsequent fiscal year. Therefore, the disposition (completions, indictments/informations, convictions, sentences) of investigations shown in this table may be related to investigations initiated, completed, indicted, or convicted in prior fiscal years.
- [2] Under the Legal Source Tax Crimes Program, IRS Criminal Investigation identifies, investigates, and assists in the prosecution of crimes involving legal industries, legal occupations, and, more specifically, legally earned income associated with the violation of Title 26 (tax violations) and Title 18 (tax related violations) of the U.S. Code. The Legal Source Tax Crimes Program also includes employment tax cases and those cases that threaten the tax system, such as Questionable Refund Program cases, unscrupulous return preparers, and frivolous filers/nonfilers who challenge the legality of the filing requirements.
- [3] Under the Illegal Source Financial Crimes Program, IRS Criminal Investigation identifies, investigates, and assists in the prosecution of crimes involving proceeds derived from illegal sources other than narcotics. These encompass all tax and tax related violations, as well as money laundering and currency violations under the following statutes: Title 26 (tax violations); Title 18 (tax related and money laundering violations); and Title 31 (currency violations) of the U.S. Code. The utilization of forfeiture statutes to deprive individuals and organizations of illegally obtained assets is also linked to the investigation of criminal charges within this program.
- [4] Under the Narcotics Related Financial Crimes Program, IRS Criminal Investigation seeks to identify, investigate, and assist in the prosecution of the most significant narcotics related tax and money laundering offenders. The IRS derives authority for this program from the statutes for which it has jurisdiction: Title 26 (tax violations); Title 18 (tax related and money laundering violations); and Title 31 (currency violations) of the U.S. Code. IRS Criminal Investigation also devotes resources to high level multiagency narcotics investigations warranting Organized Crime Drug Enforcement Task Force (OCDETF) designation in accordance with OCDETF Program reimbursable funding.
- [5] During Fiscal Year 2021, restrictions due to the COVID 19 pandemic continued to impact day to day investigative activities, contributing to a longer cycle time for investigations completed. Additional factors, including years of steady decrease in the number of special agents (due to attrition and limited hiring) and a continued focus on traditional tax case programs (which tend to have longer cycle times), continued to impact the number of cases completed.
- [6] Both "indictments" and "informations" are accusations of criminal charges. An "indictment" is an accusation made by a Federal prosecutor and issued by a Federal grand jury. An "information" is an accusation brought by a Federal prosecutor without the requirement of a grand jury.
- [7] During Fiscal Year 2021, the COVID 19 pandemic continued to limit court availability throughout the country and impact day to day investigative activities in support of the judicial system, which contributed to fewer cases being processed. Additionally, years of steady decrease in the number of special agents has led to a decline in the total amount of cases initiated and consequently recommended for prosecution. Nevertheless, prior year investigations continue to be recommended for prosecution and processed by the Department of Justice (DOJ). Criminal Investigation's management continues to ensure appropriate and consistent contact with the DOJ Tax Division and U.S. Attorney Offices regarding prosecutorial priorities and appropriate movement of investigations.
- [8] The term "incarcerated" may include prison time, home confinement, electronic monitoring, or a combination thereof.

SOURCE: Criminal Investigation, Communications and Education Division.

For more information about Criminal Investigation, visit: <https://www.irs.gov/pub/irs-pdf/p3583.pdf>

Delinquent Collection Activity, Fiscal Years 2012–2021

SOURCE: Selected IRS Data Books Table 25

Collection Activities, Penalties, and Appeals

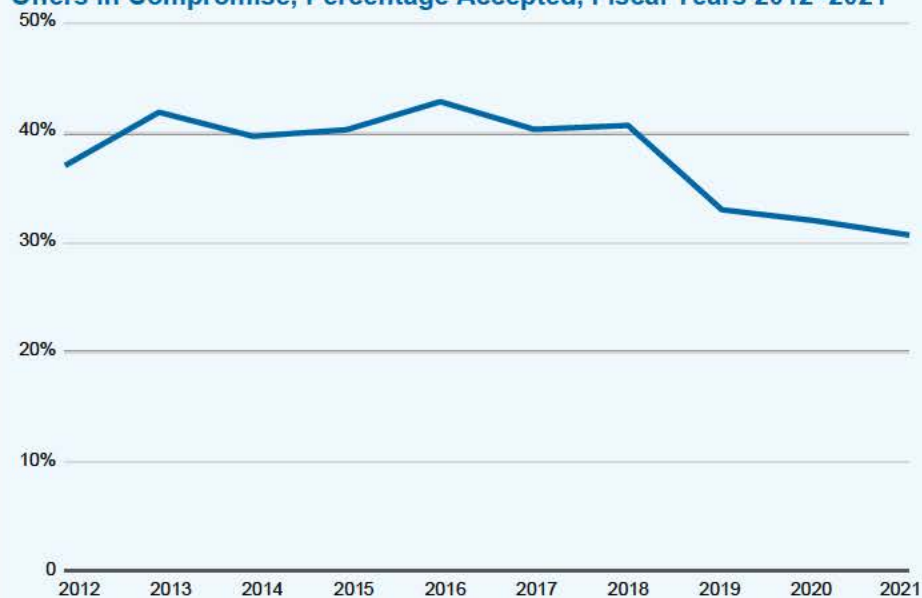
This section of the *IRS Data Book* presents information on collections and penalties resulting from individuals' or entities' failures to comply with the tax code. Failure to comply with filing, reporting, and payment requirements may result in civil penalties or, in some cases, criminal investigation. IRS's Collection function collects Federal taxes that have been reported or assessed but not paid and secures tax returns that have not been filed. The IRS may assess penalties on cases for many reasons, including inaccuracies, failure to file, and failure to pay, but may also allow for a reduction of the amount of some penalties in certain cases.

Additionally, this section presents data on the IRS Independent Office of Appeals workload. The mission of Appeals is to resolve tax controversies without litigation, on a basis that is fair and impartial to both the taxpayer and the Federal Government. The Appeals Office considers cases that involve examination, collection, and penalty issues. Taxpayers who disagree with IRS findings in their cases may request an Appeals hearing. The local Appeals Office is separate from and independent of the IRS office that proposed the tax adjustment, collection action, or penalty.

Highlights of the Data

- In Fiscal Year (FY) 2021, the IRS collected more than \$92.6 billion in unpaid assessments on returns filed with additional tax due, netting about \$59.5 billion after credit transfers (Table 25).
- The IRS assessed more than \$18.5 billion in additional taxes for returns not filed timely and collected almost \$2.8 billion with delinquent returns (Table 25).
- In FY 2021, taxpayers proposed 49,285 offers in compromise to settle existing tax liabilities for less than the full amount owed. IRS accepted 15,154 offers, amounting to more than \$220.9 million, during the year (Table 25).

Offers in Compromise, Percentage Accepted, Fiscal Years 2012–2021



SOURCE: Selected IRS Data Books Table 25

INTERNAL REVENUE SERVICE DATA BOOK, 2021

Amount Collected From Installment Agreements, Fiscal Years 2018–2021



SOURCE: Selected IRS Data Books Table 25

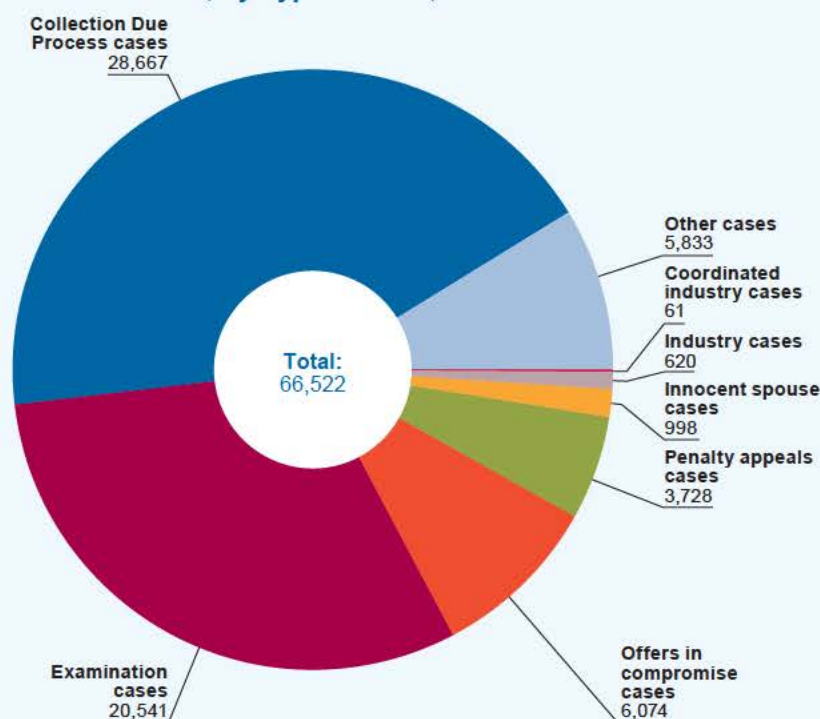
Civil Penalties Assessed, by Type of Tax, Fiscal Year 2021



[1] Includes partnership, corporation, and S corporation income taxes.

SOURCE: 2021 IRS Data Book Table 26

Appeals Cases Closed, by Type of Case, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 27

- Taxpayers established nearly 2.4 million new installment agreements and paid almost \$13.7 billion toward all installment agreements in FY 2021 (Table 25).
- The IRS assessed \$37.3 billion in civil penalties in FY 2021. Of this, \$17.1 billion was assessed in civil penalties on individual and estate and trust income tax returns (Table 26).
- The IRS abated \$13.3 billion in civil penalties during the year, including \$2.7 billion in abatements for individual and estate and trust income tax returns (Table 26).
- During FY 2021, the IRS Appeals Office closed 66,522 cases, including those received in prior fiscal years (Table 27).
- Of all the Appeals cases closed in FY 2021, 43.1 percent were Collection Due Process cases and 30.9 percent were Examination cases (Table 27).

Table 25. Delinquent Collection Activities, Fiscal Years 2020 and 2021

(Money amounts are in thousands of dollars)

Activity	2020	2021
Returns filed with additional tax due:		
Gross total yield from unpaid assessments [1]	60,324,317	92,627,815
Less: Credit transfers [2]	21,860,277	33,109,946
Equals: Net total amount collected	38,464,040	59,517,869
Taxpayer delinquent accounts:		
Number in beginning inventory	11,230,082	8,426,950
Number of new accounts	4,598,320	8,142,985
Number of accounts closed	7,401,452	6,291,609
Ending inventory:		
Number	8,426,950	10,278,326
Balance of assessed tax, penalties, and interest [3]	114,258,860	133,447,314
Returns not filed timely:		
Delinquent return activity:		
Net amount assessed [4]	14,373,309	18,544,481
Amount collected with delinquent returns	1,489,704	2,773,688
Taxpayer delinquency investigations [5]:		
Number in beginning inventory	2,644,059	3,335,794
Number of new investigations	2,257,180	413,224
Number of investigations closed	1,565,445	1,155,079
Number in ending inventory	3,335,794	2,593,939
Offers in compromise [6]:		
Number of offers received	44,809	49,285
Number of offers accepted	14,288	15,154
Amount of offers accepted	158,013	220,936
Enforcement activity:		
Number of notices of Federal tax liens filed [7]	291,081	212,251
Number of notices of levy requested on third parties [8]	396,269	305,610
Number of seizures [9]	77	96
Installment agreements [10]:		
Number in beginning inventory	4,241,975	3,891,791
Number of new agreements established [11]	1,825,378	2,361,646
Number of taxpayers that were full paid [12]	1,638,667	1,747,723
Number in ending inventory [11]	3,891,791	3,782,842
Amount collected for cases in installment agreement status [13]	12,517,754	13,676,673

[1] Includes amounts collected through collection activity on previously unpaid assessed taxes plus assessed and accrued penalties and interest. Assessed tax may result from voluntarily filed returns, examinations of taxpayers' returns, or a combination of both.

[2] In this instance, credit transfers are credits transferred from one tax module to another tax module where the receiving module is in collection status. A tax module is a record of tax data for a specific taxpayer covering one return for one tax period. These credit transfers are then subtracted from total yield to avoid overstating the net total amount collected.

[3] Includes assessed penalties and interest but excludes any accrued penalties and interest. Assessed penalties and interest usually determined simultaneously with the unpaid balance of tax are computed on the unpaid balance of tax from the due date of the return to the date of assessment. Penalties and interest continue to accrue after the date of assessment until the taxpayer's balance is paid in full.

[4] Includes net assessment of tax, penalty, and interest amounts (less prepaid credits, withholding, and estimated tax payments) on delinquent tax returns secured by collection activity. Excludes accrued penalty and interest.

[5] A delinquency investigation is opened when a taxpayer does not respond to an IRS notice of a delinquent return.

[6] An offer in compromise is a proposal by a taxpayer to the Federal Government that would settle a tax liability for payment of less than the full amount owed. Absent special circumstances, an offer will not be accepted if the IRS believes the liability can be paid in full as a lump sum or through a payment agreement.

[7] Represents the number of lien requests entered into the IRS Automated Lien System.

[8] Represents the number of levies requested upon third parties by the Automated Collection System and Field Collection programs.

[9] Represents the number of seizures conducted by the Field Collection program.

[10] An installment agreement (IA) is an arrangement which allows an individual or business to pay their tax liabilities over time. Generally, a taxpayer may apply for an IA online, by phone, by mail, or in person. Penalties and interest continue to accrue until the balance due has been paid in full.

[11] The number of agreements represents the number of taxpayers with IAs, not the number of tax modules in an IA status. Does not include agreements of 180 days or less.

[12] The number of taxpayers whose remaining module(s) were moved from an active IA status to fully paid status. Taxpayers' module(s) may leave an active IA status in ways other than through "Full Paid."

[13] Includes penalties and interest; does not include user fees.

NOTES:

Detail may not add to totals because of rounding.

All amounts are in current dollars.

This table reflects delinquent collection activities for all return types.

Due to the COVID 19 pandemic, the IRS suspended most collection activities from March 30, 2020, through July 15, 2020, in order to provide relief to taxpayers and to ensure the health and safety of both taxpayers and IRS employees. Fiscal Year 2021 collections continued to be affected by the pandemic as additional collection activities resumed.

SOURCE: Small Business/Self Employed, Collection, Performance Planning and Analysis, Collection Data Assurance/Specialty Reports and Plans.

Table 26. Civil Penalties Assessed and Abated, by Type of Tax and Type of Penalty, Fiscal Year 2021

(Money amounts are in thousands of dollars)

Type of tax and type of penalty	Civil penalties assessed [1]		Civil penalties abated [2]	
	Number	Amount	Number	Amount
	(1)	(2)	(3)	(4)
Civil penalties, total	40,914,975	37,333,117	4,621,826	13,319,162
Individual and estate and trust income taxes:				
Civil penalties, total [3]	33,393,194	17,132,623	3,069,510	2,702,606
Accuracy [4]	788,243	1,821,183	37,241	230,451
Bad check	1,041,858	96,592	55,027	18,976
Delinquency	3,404,985	4,568,266	430,604	1,081,078
Estimated tax	11,103,032	2,165,917	336,758	432,405
Failure to pay	17,048,457	8,028,212	2,209,541	903,366
Fraud	1,296	403,787	150	33,184
Other [5]	5,323	48,665	189	3,145
Partnership income taxes:				
Civil penalties, total	375,522	1,459,230	238,156	751,408
Bad check	528	19	d	d
Delinquency	374,980	1,458,910	236,356	713,700
Estimated tax	0	0	d	d
Failure to file electronically	0	0	837	34,343
Failure to pay	d	d	0	0
Failure to provide information [6]	d	d	929	3,362
Other [5]	0	0	0	0
Corporation income taxes:				
Civil penalties, total [7]	642,035	2,445,166	243,131	1,551,566
Accuracy [4]	2,777	229,803	321	60,521
Bad check	7,347	15,038	1,078	17,583
Delinquency	80,436	556,654	144,960	502,671
Estimated tax	223,121	659,269	19,863	370,293
Failure to pay	328,226	938,724	76,214	564,029
Fraud	54	37,031	5	31,842
Other	74	8,648	690	4,627
S corporation income taxes:				
Civil penalties, total	491,901	643,129	101,383	99,780
Bad check	0	0	0	0
Delinquency	489,349	639,022	101,063	97,607
Estimated tax	1,298	801	0	0
Failure to file electronically [8]	0	0	0	0
Failure to pay	1,254	3,306	320	2,173
Failure to provide information	0	0	0	0
Other	0	0	0	0
Employment taxes:				
Civil penalties, total [9]	5,031,317	6,839,917	795,428	4,437,893
Accuracy [4]	791	2,408	d	d
Bad check	203,784	32,256	10,161	32,184
Delinquency	813,044	1,087,829	74,262	402,249
Estimated tax	8,257	29,623	1,690	15,035
Failure to pay	2,795,969	1,279,932	481,242	620,735
Federal tax deposits	1,209,247	4,388,207	228,035	3,367,668
Fraud	79	4,090	0	0
Other	146	15,572	d	d
Excise taxes and tax-exempt organizations and trusts:				
Civil penalties, total [10]	741,756	1,101,688	133,248	702,490
Accuracy [4]	1,000	622	38	9
Bad check	6,027	1,859	230	1,278
Daily delinquency [11]	74,803	265,674	39,641	157,915
Delinquency	222,561	110,831	16,593	71,558
Estimated tax	12,599	3,209	587	994
Failure to pay	406,417	45,642	62,467	97,831
Federal tax deposits	708	7,960	170	2,622
Fraud	16	1,524	0	0
Other	17,625	664,367	13,522	370,282
Estate and gift taxes:				
Civil penalties, total [12]	5,114	280,163	2,328	766,038
Accuracy [4]	25	5,268	6	32,201
Bad check	26	2,112	7	569
Delinquency	1,741	160,763	722	637,555
Failure to pay	3,259	109,327	1,564	94,508
Fraud	0	0	0	0
Other	63	2,694	29	1,205
Nonreturn penalties [13]	234,136	7,431,200	38,642	2,307,380

Footnotes on next page.

Table 26. Civil Penalties Assessed and Abated, by Type of Tax and Type of Penalty, Fiscal Year 2021—Continued**Footnotes**

d Not shown to avoid disclosure of information. However, the data are included in the appropriate totals.

- [1] Assessments of penalties included here were recorded in Fiscal Year (FY) 2021 regardless of the tax year to which the penalties may apply.
- [2] Abatements of penalties included here were recorded in FY 2021 regardless of the tax year to which the penalties may apply. An abatement is a reduction of assessed penalties. The IRS may approve an abatement of a penalty for: IRS error; reasonable cause; administrative and collection costs not warranting collection of penalty; discharge of penalty in bankruptcy; and the IRS's acceptance of partial payment of assessed penalty. Numbers and amounts represent only the portion of assessed penalties that were abated.
- [3] Represents penalties associated with the Form 1040 series (individual income tax return series) and Form 1041 (estate and trust income tax return).
- [4] Represents penalties for negligence; substantial understatement of income tax; substantial valuation misstatement; substantial understatement of pension liabilities; substantial estate or gift tax valuation understatement (under Internal Revenue Code section 6662); understatement of reportable transactions (under Internal Revenue Code section 6662A); and underpayment of stamp tax (under Internal Revenue Code section 6653).
- [5] Represents penalties related to Federal tax deposits, failure to supply taxpayer identification number, and failure to report tip income.
- [6] Represents penalties associated with failure to provide information on Forms 1065 (partnership return) or 8752 (required payment or refund for a partnership under Internal Revenue Code section 7519), or failure to file electronically Form 1065 B (large partnership return).
- [7] Represents penalties associated with the Form 1120 series (corporation income tax return series) and Form 990 T (tax exempt organization unrelated business income tax return).
- [8] Represents penalties associated with failure to file electronically on Forms 1120 S (return for an S corporation) or 8752 (required payment or refund for an S corporation under Internal Revenue Code section 7519).
- [9] Represents penalties associated with Forms 940 (employer's Federal unemployment tax return); 941 (employer's tax return for income and Social Security taxes withheld for other than household and agricultural employees); 943 (employer's tax return for agricultural employees); 944 (employer's tax return); 945 (tax return for withheld income tax from nonpayroll distributions); 1040, Schedule H (household employment taxes); 1042 (tax return of withheld income tax on U.S. source income of foreign persons); and CT 1 (railroad retirement tax return).
- [10] Represents penalties associated with Forms 11 C (occupational tax and registration for wagering return); 720 (excise tax return); 730 (excise tax return for wagering); 990 (tax exempt organization information return); 990 PF (private foundation return); 1041 A (information return of charitable contribution deductions by certain trusts); 2290 (heavy highway vehicle use tax return); 4720 (excise tax return of charities and other persons); 5227 (split interest trust information return); and 8886 T (disclosure by tax exempt entity regarding prohibited tax shelter transaction).
- [11] Represents penalties under Internal Revenue Code sections 6652(c)(2)(A) and (B) related to tax exempt organizations or trusts. Penalties are assessed on a daily basis for failure to file Forms 990 (tax exempt organization information return); 1041 A (information return of charitable contribution deductions by certain trusts); 5227 (split interest trust information return); or 8886 T (disclosure by tax exempt entity regarding prohibited tax shelter transaction).
- [12] Represents penalties associated with Forms 706 (estate tax return) and 709 (gift tax return).
- [13] Represents various penalties assessed and abated for a wide range of noncompliant behaviors, such as noncompliance related to tax return preparers and to information returns (e.g., Forms 1099, W 2, 3520 A, 8027, and 8300), as well as aiding and abetting; frivolous return filings; and misuse of dyed fuel. Also includes trust fund recovery penalties. Withheld income and employment taxes, including Social Security taxes, railroad retirement taxes, or collected excise taxes, are collectively called trust fund taxes because employers actually hold the employee's money in trust until they make a Federal tax deposit in that amount. Trust fund recovery penalties are assessed when these employment taxes are not collected, accounted for, and paid timely. The amount of trust fund recovery penalties credited in Fiscal Year 2021 was \$734,998,522 and is included in the amount abated.

NOTES:

Detail may not add to totals because of rounding.

Due to continued challenges from the COVID 19 pandemic, IRS provided relief from some penalties in certain circumstances due to delays in IRS remittance processing.

SOURCE: Chief Financial Officer, Custodial Financial Management.

Table 27. Appeals Workload, by Type of Case, Fiscal Year 2021

Type of case	Cases received	Cases closed [1]	Cases pending September 30, 2021
	(1)	(2)	(3)
Total cases [2]	72,216	66,522	59,607
Collection Due Process cases [3]	27,420	28,667	28,970
Examination cases [4]	25,247	20,541	18,688
Penalty appeals cases [5]	4,772	3,728	2,651
Offers in Compromise cases [6]	6,858	6,074	5,396
Innocent spouse cases [7]	1,394	998	1,441
Industry cases [8]	711	620	833
Coordinated industry cases [9]	52	61	142
Other cases [10]	5,762	5,833	1,486

[1] Includes cases received in Fiscal Year 2021 and in prior fiscal years. Excludes cases transferred, reassigned, or returned to compliance as a premature referral.

[2] A case represents a taxpayer with one or more tax periods under consideration in Appeals. Cases that are temporarily assigned to Chief Counsel are not included in cases pending. See Tables 28 and 29 for information on Chief Counsel activity.

[3] Includes cases where the taxpayer requested a Collection Due Process (CDP) hearing with an Appeals Officer who has had no prior involvement with the case. A CDP hearing provides the taxpayer with an opportunity to appeal IRS collection actions early in the collection process in response to a notice of Federal tax lien or notice of intent to levy. This category excludes CDP timeliness determination cases, which are included in the "Other" category; see footnote 10.

[4] An examination case in Appeals involves issues in dispute by the taxpayer relating to income, employment, excise, estate, and gift taxes, or tax exempt status.

[5] A penalty appeals case is one in which the taxpayer requests abatement of a civil penalty that was assessed before the taxpayer was given an opportunity to dispute the penalty. The taxpayer may submit a written request for abatement of the penalty, and if the request is denied, the taxpayer may appeal.

[6] An offer in compromise is an agreement between a taxpayer and the Federal Government that settles a tax liability for payment of less than the full amount owed. The IRS may reject a taxpayer's offer, and the taxpayer may request that Appeals review and decide whether the offer is acceptable.

[7] An innocent spouse case in Appeals is one in which the taxpayer requested and was denied innocent spouse relief by the IRS. This includes cases where a taxpayer who filed a joint return with a spouse or ex-spouse can apply for relief of tax, interest, and penalties if he/she meets specific requirements. The innocent spouse may request that Appeals review and decide whether or not the denial was correct.

[8] An industry case (IC) designation is assigned to a large corporate taxpayer that does not meet the criteria to be designated as a coordinated industry case (CIC); see footnote 9. An IC taxpayer may appeal the findings of an examination conducted by the IRS.

[9] A CIC designation is assigned to a large corporate taxpayer based on factors such as the taxpayer's gross assets, gross receipts, operating entities, industries, and/or foreign assets. A CIC taxpayer may appeal the findings of an examination conducted by the IRS.

[10] "Other" includes cases considered by Appeals involving issues related to abatement of interest, collection appeals program, Office of Professional Responsibility, Freedom of Information Act, trust fund recovery penalty, Collection Due Process timeliness determination, and other miscellaneous penalties as defined below:

Abatement of interest Cases of disputed interest on tax deficiencies or payments in which IRS errors or delays may have contributed to the assessed interest.

Collection appeals program Provides the taxpayer, or a third party whose property is subject to a collection action, an administrative appeal for certain collection actions including levy or seizure action that was or will be taken, notice of Federal tax lien that was or will be filed, and rejected or terminated installment agreements.

Office of Professional Responsibility A tax professional may appeal the findings of the IRS Office of Professional Responsibility (OPR). OPR has oversight responsibility for tax professionals and investigates allegations of misconduct and negligence against attorneys, certified public accountants, enrolled agents, and other practitioners representing taxpayers before the IRS. In addition, IRS e file applicants and providers may request an administrative review when the applicant is denied participation in IRS e file or the provider is sanctioned while participating in IRS e file.

Freedom of Information Act A taxpayer may appeal the denial of a request for records made under the Freedom of Information Act.

Trust fund recovery penalty An employer is required to pay trust fund taxes to the U.S. Treasury through Federal tax deposits. Withheld income and employment taxes, including Social Security taxes, railroad retirement taxes, or collected excise taxes, are collectively called trust fund taxes because employers actually hold the employee's money in trust until they make a Federal tax deposit in that amount. A trust fund recovery penalty applies to the responsible person(s) for the total amount of trust fund taxes evaded, not collected, or not accounted for and not paid to the U.S. Treasury. The taxpayer may appeal Collection's determination.

Collection Due Process timeliness determination A taxpayer submits a request for a Collection Due Process (CDP) hearing and Equivalent Hearing (EH) and Appeals will determine if the CDP or EH request was received timely and is processable.

Other penalties This subcategory includes a variety of different types of penalties that may be appealed. Tax return preparers may appeal penalties imposed under Internal Revenue Code (IRC) sections 6694 and 6695 for understatement of a taxpayer's tax liability or with respect to preparation of a tax return. Tax shelter promoters may appeal penalties imposed under IRC sections 6700 or 6701 for aiding and abetting an understatement of tax liability. A penalty imposed under IRC section 6715 for dyed diesel fuel may be appealed. A taxpayer may appeal the denial of an application for an extension of time to pay estate tax under the provisions of IRC section 6161. Also includes penalties imposed under other IRC sections not specified in this note.

NOTES:

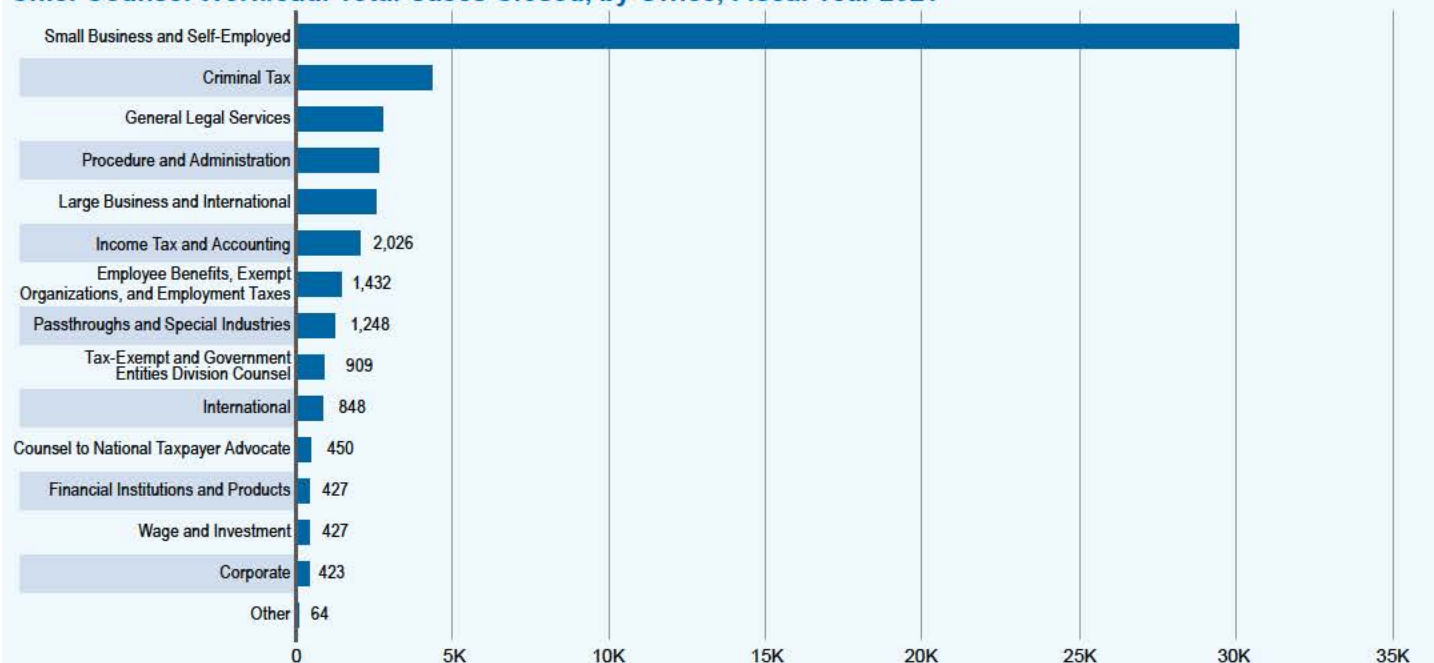
Cases may cross fiscal years. Therefore, the workload of cases shown in this table may be related to cases initiated in prior years.

Due to continued challenges related to the COVID 19 pandemic and shutdowns to protect the health and safety of employees, in Fiscal Year 2021, Appeals continued to experience decreased case receipts, which are supplied by different business units across the Service.

SOURCE: Appeals, Policy, Planning Quality and Analysis.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

Chief Counsel Workload: Total Cases Closed, by Office, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 28

Chief Counsel

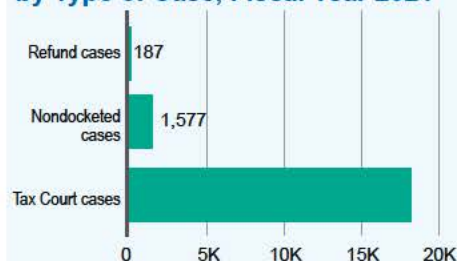
This section of the *Data Book* provides an overview of the IRS Chief Counsel's workload and activities. The IRS Chief Counsel is appointed by the President of the United States, with the advice and consent of the U.S. Senate, and serves as the chief legal advisor to the IRS Commissioner on all matters pertaining to the interpretation, administration, and enforcement of the Internal Revenue Code, as well as all other legal matters. Under the IRS Restructuring and Reform Act of 1998, the Chief Counsel reports to both the IRS Commissioner and the Treasury General Counsel.

Attorneys in the Chief Counsel's Office serve as lawyers for the IRS. They provide the IRS and taxpayers with guidance on interpreting Federal tax laws correctly, represent the IRS in litigation, and provide all other legal support required to carry out the IRS mission.

Highlights of the Data

- In Fiscal Year (FY) 2021, Chief Counsel received 60,869 cases and closed 50,665 cases, including some received in prior years (Table 28).
 - Approximately 59.4 percent of closed cases were from the Small Business/Self-Employed Division (Table 28).
 - Of the 50,665 cases closed, Chief Counsel closed 11.5 percent through guidance and assistance.
- This includes published guidance, advanced case resolution, treaties, legislation, Congressional and executive correspondence, training and public outreach, and prefiling legal advice to the IRS (Table 28).
- Nearly 83.0 percent of new cases received and 79.5 percent of cases closed were related to tax law enforcement and litigation, including Tax Court litigation; collection, bankruptcy, and summons advice

Total Tax Litigation Cases Closed, by Type of Case, Fiscal Year 2021



Amount of Tax and Penalty, by Type of Case, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 29

and litigation; Appellate Court litigation; criminal tax; and enforcement advice and assistance (Table 28).

- In FY 2021, Chief Counsel received 28,387 Tax Court cases involving a taxpayer contesting an IRS determination that he or she owed additional tax. During the fiscal year, Chief Counsel closed 18,199 cases involving almost \$4.3 billion in disputed taxes and penalties (Table 29).

INTERNAL REVENUE SERVICE DATA BOOK, 2021

[Download XLSX](#)

Table 28. Chief Counsel Workload: All Cases, by Office and Type of Case, Fiscal Year 2021

Office and type of case	Cases received	Cases closed	Cases pending September 30, 2021
	(1)	(2)	(3)
Chief Counsel (All Offices):			
Total	60,869	50,665	54,330
Guidance and assistance [1]	5,996	5,827	4,619
Tax law enforcement and litigation [2]	50,497	40,295	47,251
Other legal services to the IRS [3]	4,376	4,543	2,460
Corporate [4]:			
Total	420	423	306
Guidance and assistance	181	200	169
Tax law enforcement and litigation	141	123	d
Other legal services to the IRS	98	100	d
Criminal Tax [5]:			
Total	4,301	4,346	387
Guidance and assistance	90	79	23
Tax law enforcement and litigation	4,180	4,240	352
Other legal services to the IRS	31	27	12
Employee Benefits, Exempt Organizations, and Employment Taxes [6]			
Total	2,003	1,432	1,180
Guidance and assistance	1,419	893	987
Tax law enforcement and litigation	248	217	161
Other legal services to the IRS	336	322	32
Financial Institutions and Products [7]:			
Total	508	427	590
Guidance and assistance	326	290	425
Tax law enforcement and litigation	113	72	154
Other legal services to the IRS	69	65	11
General Legal Services [8]:			
Total	2,476	2,780	1,987
Guidance and assistance	34	d	22
Tax law enforcement and litigation	0	d	25
Other legal services to the IRS	2,442	2,733	1,940
Income Tax and Accounting [9]:			
Total	1,719	2,026	950
Guidance and assistance	834	1,172	599
Tax law enforcement and litigation	666	646	321
Other legal services to the IRS	219	208	30
International [10]:			
Total	912	848	1,330
Guidance and assistance	352	440	623
Tax law enforcement and litigation	389	242	679
Other legal services to the IRS	171	166	28
Large Business and International [11]:			
Total	2,622	2,561	2,817
Guidance and assistance	138	157	149
Tax law enforcement and litigation	2,260	2,193	2,631
Other legal services to the IRS	224	211	37
Counsel to National Taxpayer Advocate [12]			
Total	448	450	47
Guidance and assistance	342	335	37
Tax law enforcement and litigation	84	95	7
Other legal services to the IRS	22	20	3
Passthroughs and Special Industries [13]:			
Total	1,354	1,248	669
Guidance and assistance	685	654	461
Tax law enforcement and litigation	482	413	186
Other legal services to the IRS	187	181	22

Footnotes at end of table.

Table 28. Chief Counsel Workload: All Cases, by Office and Type of Case, Fiscal Year 2021—Continued

Office and type of case	Cases received	Cases closed	Cases pending September 30, 2021
	(1)	(2)	(3)
Procedure and Administration [14]:			
Total	3,430	2,646	3,649
Guidance and assistance	831	803	656
Tax law enforcement and litigation	2,196	1,522	2,681
Other legal services to the IRS	403	321	312
Small Business and Self-Employed [15]:			
Total	39,193	30,078	39,200
Guidance and assistance	401	360	312
Tax law enforcement and litigation	38,770	29,684	38,868
Other legal services to the IRS	22	34	20
Tax-Exempt and Government Entities Division Counsel [16]:			
Total	1,034	909	1,095
Guidance and assistance	105	112	d
Tax law enforcement and litigation	929	797	1,028
Other legal services to the IRS	0	0	d
Wage and Investment [17]:			
Total	409	427	46
Guidance and assistance	219	226	28
Tax law enforcement and litigation	38	49	8
Other legal services to the IRS	152	152	10
Other [18]:			
Total	40	64	77
Guidance and assistance	d	60	62
Tax law enforcement and litigation	d	d	15
Other legal services to the IRS	0	d	0

d Not shown to avoid disclosure of information about specific taxpayers. However, the data are included in the appropriate totals.

- [1] Includes published guidance, advanced case resolution, treaties, legislation, Congressional and executive correspondence, training and public outreach, and pre-filing legal advice to the IRS.
- [2] Includes Tax Court litigation; collection, bankruptcy, and summons advice and litigation; Appellate Court litigation; criminal tax; and enforcement advice and assistance. See Table 29 for tax litigation case information.
- [3] Includes electronic and other tax filing legal advice, disclosure advice and litigation, and general legal services advice and litigation.
- [4] Provides legal advice, litigation services and litigation support on matters involving corporate organizations, reorganizations, liquidations, spin offs, transfers to controlled corporations, distributions to shareholders, debt vs. equity determinations, bankruptcies, and consolidated return issues affecting groups of affiliated corporations among other matters.
- [5] Provides advice and legal counsel to IRS Criminal Investigation in all areas of the Criminal Tax function including tax, currency, virtual currency, cybersecurity, and money laundering crimes and criminal procedure; legal counsel on investigative matters such as administrative and grand jury investigations, undercover operations, electronic surveillance, search warrants, the use of emerging investigative technologies, and forfeitures, the referral of cases to the Department of Justice for grand jury investigation, criminal prosecution and the commencement of forfeitures; and coordination with external law enforcement agencies, other offices within the IRS and the Office of Chief Counsel on all matters involving Criminal Tax, including the impact of parallel civil proceedings.
- [6] Provides legal advice, litigation services and litigation support on matters involving employee benefits including qualified retirement plans, IRAs, executive compensation arrangements, and health and welfare plans, exempt organizations, employment taxes, and certain issues related to Federal, State, local, and Indian Tribal governments.
- [7] Provides legal advice, litigation services and litigation support on tax matters involving financial institutions and the taxation of financial products to include banks, thrift institutions, insurance companies, regulated investment companies, real estate investment trusts, asset securitization arrangements, life insurance contracts, annuities, options, futures contracts, original issue discount obligations, hedging arrangements, and government entities issues including tax exempt bonds and other types of innovative financial instruments and entities.
- [8] Provides litigation services and litigation support to the Department of Justice on matters involving personnel, discrimination, labor management, fiscal and appropriations, and procurement; provides advisory opinions on non tax legal matters, including labor and personnel matters, procurement, information technology and cybersecurity law, licenses, grants, fiscal law, intellectual property law, delegations of authority, and other matters related to the management of the agency; serves as the agency's Deputy Ethics Official, providing ethics training, ethics advice, and reviewing public financial disclosure reports.
- [9] Provides legal advice, litigation services, and litigation support on tax matters involving recognition and timing of income and deductions by individuals and corporations, sales and exchanges, capital gains and losses, accounting methods and periods, depreciation and other cost recovery issues, installment sales, long term contracts, inventories, and alternative minimum tax.
- [10] Provides legal advice, technical guidance (including guidance published in the Federal Register and/or Internal Revenue Bulletin), and litigation support on matters involving the international provisions of the United States revenue laws, bilateral and multilateral tax treaties, and agreements to which the United States is a party. Participates in the Organization for Economic Cooperation and Development (OECD) as a delegate for the United States.
- [11] Represents the IRS in litigation before the U.S. Tax Court on the largest and most complex cases, such as transfer pricing, international transactions, financial products, validity challenges to regulations under the Tax Cuts and Jobs Acts, complex partnership cases, abusive tax shelter transactions, and whistleblowers. Large Business and International (LB&I) provides enforcement advice in connection with examinations of corporations, subchapter S corporations, and partnerships with assets greater than \$10 million. LB&I assists the Department of Justice in cases before the U.S. District Courts. LB&I is the second largest Chief Counsel Division.

Footnotes continued on next page.

Table 28. Chief Counsel Workload: All Cases, by Office and Type of Case, Fiscal Year 2021—Continued**Footnotes continued**

- [12] Provides legal advice to the Office of the Taxpayer Advocate led by the National Taxpayer Advocate (NTA) and headquarters employees of the Taxpayer Advocate Service (TAS) relating to the NTA jurisdiction under Internal Revenue Code (IRC) section 7803(a)(3) and (c); IRC section 7811, Taxpayer Assistance Orders (TAOs); IRC section 7526, Low Income Taxpayer Clinics (LITCs); Taxpayer Advocate Directives (TADs); the scope of TAS's statutory authority or delegated authority; and issues regarding TAS legislative proposals or any other matter related to the NTA's Annual Reports to Congress.
- [13] Provides legal advice, litigation services and litigation support on tax matters involving income taxes of S corporations, partnerships (including limited liability companies), trusts, estates, gifts, generation skipping transfers, certain excise taxes, income tax credits, cooperative housing corporations, farmers' and other cooperatives, low income housing credit, research and expenditures, and certain homeowner associations.
- [14] Provides legal advice, litigation services, and litigation support on matters involving reported and paid taxes; assessment and collection of taxes (including interest and penalties); abatement, credit or refund of overassessments or overpayments of tax; filing information returns; bankruptcy, summonses, information gathering and discovery, including electronic discovery; Federal tax liens and levies; damage claims; attorney fees; disclosure, privacy and Freedom of Information Act issues, and privileges; judicial practice and judicial doctrines; argues motions before Tax Court and provides litigation support on novel and significant issues, including electronic litigation; and challenging legal issues which are fundamental to efficient tax administration, i.e., issues arising in connection with numerous IRS initiatives and enforcement activities often in the context of an increasingly computerized and Internet based tax system (e.g., regulation challenges).
- [15] Represents the IRS before the U.S. Tax Court in approximately 28,000 new petitions annually. This litigation is conducted in person, in cities across the country (virtually during the pandemic), involving a vast array of issues such as estate and gift tax, passport revocations, collection due process, fraud and other penalties, and issues significant to tax administration such as abusive tax transactions. The Division is also at the forefront of a "settlement days" program, offered both virtually and in person, where taxpayers have an expedited opportunity to resolve their pending Tax Court cases by working with Low Income Tax Clinics and pro bono attorneys and negotiating with the Division's legal staff. Small Business and Self Employed (SB/SE) also works directly with IRS field staff providing legal advice on tax cases involving individuals, small businesses, partnerships, LLCs, LLPs, corporations, S corporations with less than \$10 million in assets, promoter and preparer penalties, offshore matters, and in all cases involving collection and bankruptcy, estate and gift, passports, and excise taxes. SB/SE also provides assistance to the Department of Justice in the handling of collection, refund, and other cases in the U.S. District Courts and U.S. Court of Federal Claims. SB/SE is the largest Chief Counsel Division.
- [16] Provides legal services on program matters, including tax issues relating to employee benefit programs (including qualified retirement plans, deferred compensation arrangements, and health and welfare programs), IRAs, executive compensation, exempt organizations, Federal, State, local, and Indian Tribal governments, tax exempt bonds, and employment tax. The Tax Exempt and Government Entities (TE/GE) Division Counsel also directs the Counsel wide litigation programs with respect to these issues. TE/GE Division Counsel employs attorneys nationwide.
- [17] Provides legal services on matters involving taxpayers who generally have income reported only on Forms W-2 and 1099 to include advice and support of the Wage and Investment (W&I) Division Commissioner and his headquarters' staff; collaboration with W&I to formulate Division policies, programs, systems, and strategies to better serve their taxpayer segment and other taxpayers; provides guidance and legal support to all of the functions within W&I, including those that provide servicewide services, customer service, and processing activities; and collaboration with Associate Chief Counsel offices and headquarters and field staff of the Chief Counsel Office of the Division Counsel (Small Business/Self Employed) to provide legal services to the nationwide IRS W&I Division.
- [18] Includes the immediate offices of the Chief Counsel, the Finance and Management Division, and the Executive Counsel.

NOTE: Cases may cross fiscal years. Therefore, the workload of cases shown in this table may be related to cases initiated in prior years.

SOURCE: Chief Counsel, Associate Chief Counsel, Finance and Management, Planning and Finance Division.

Table 29. Chief Counsel Workload: Tax Litigation Cases, by Type of Case, Fiscal Year 2021

[Money amounts are in millions of dollars]

Type of case	Number or amount
Total cases:	
Received	30,172
Closed	19,963
Pending September 30, 2021	33,954
Tax Court cases [1]:	
Cases received:	
Number	28,387
Amount of tax and penalty in dispute [2]	8,085,945
Cases closed:	
Number	18,199
Amount of tax and penalty in dispute [2]	4,289,994
Amount of tax and penalty on decision [3]:	
Total	1,304,967
Default or dismissed	300,756
Settled	947,095
Tried and decided	57,116
Cases (excluding appeals) pending September 30, 2021:	
Number	32,559
Amount of tax and penalty in dispute [2]	26,579,684
Cases on appeal pending September 30, 2021:	
Number pending September 30, 2021	376
Amount of tax and penalty pending September 30, 2021 [2]	1,890,137
Refund cases [4]:	
Cases received:	
Number	182
Amount of tax and penalty in dispute [2]	283,184
Cases closed:	
Number	187
Amount of tax and penalty in dispute [2]	835,180
Amount of tax and penalty protected [5]:	
Total	714,039
District Court	342,083
Court of Federal Claims	371,956
Cases (excluding appeals) pending September 30, 2021:	
Number	757
Amount of tax and penalty in dispute [2]	7,130,690
Cases on appeal pending September 30, 2021:	
Number pending September 30, 2021	13
Amount of tax and penalty pending September 30, 2021 [2]	159,606
Number of nondocketed cases [6]:	
Received	1,603
Closed	1,577
Pending September 30, 2021	249

[1] Tax Court cases involve a taxpayer contesting the Internal Revenue Service's determination that the taxpayer owes additional taxes and/or penalties, or other issues over which the court has jurisdiction. The Tax Court generally provides a forum for a taxpayer to request a determination of the disputed liabilities (or other issues) prior to assessment or payment of the taxes allegedly owed.

Examples of other cases that may be considered by the Tax Court include:

Abatement or Suspension of Interest Cases concerning whether the IRS abused its discretion either by not abating interest accrued as a result of certain unreasonable errors or delays, or by not suspending the accrual of interest where the IRS does not contact the taxpayer in a timely manner.

Collection Due Process Cases where a taxpayer requested a hearing with the IRS Independent Office of Appeals in response to a notice of Federal tax lien or notice of intent to levy.

Innocent Spouse Cases in which a taxpayer who filed a joint return with a spouse or ex-spouse may request relief from joint and several liability for amounts shown or not shown on the joint return if he/she meets specific requirements.

Tax-Exempt Status Cases where an organization disputes IRS's revocation or denial of tax exempt status.

Whistleblower (under Internal Revenue Code (IRC) section 7623) Cases involving the amount or denial of a whistleblower award.

Passport (under IRC section 7345) Cases where a taxpayer contests whether the IRS's certification to the Secretary of State of a taxpayer owing a seriously delinquent tax debt was erroneous or that the Commissioner failed to reverse the certification.

Worker Classification (under IRC section 7436) Cases where a taxpayer contests the reclassification of workers it treated as nonemployees to employees, and the resulting employment tax liabilities, interest, and penalties.

Footnotes continued on next page.

Table 29. Chief Counsel Workload: Tax Litigation Cases, by Type of Case, Fiscal Year 2021—Continued**Footnotes Continued**

- [2] The amount of tax and penalty in dispute excludes interest. Cases pending on appeal are in the Circuit Court and the Supreme Court and therefore are excluded from regular pending Tax Court and refund cases.
- [3] Reflects the amount a taxpayer owes (as determined by the Tax Court except for settlements), excluding offsetting overpayments and interest.
- [4] Refund cases involve taxpayers seeking refunds of claimed overpayments after tax liability has been fully paid. A taxpayer may seek a refund of taxes, interest, and/or penalties paid.
- [5] Tax protected is the amount claimed by the taxpayer in a suit for a refund of previously paid taxes that is not awarded to the taxpayer in the court's judgment.
- [6] Nondocketed cases are cases in which a court petition was not filed, and Chief Counsel reviewed and advised on a statutory notice of deficiency. A statutory notice of deficiency is a legal notice the IRS sends a taxpayer that lays out the taxpayer's tax deficiency, including tax and penalties owed. If taxpayers receive a statutory notice of deficiency from the IRS, they have 90 days to petition the Tax Court regarding the deficiency outlined in the letter.

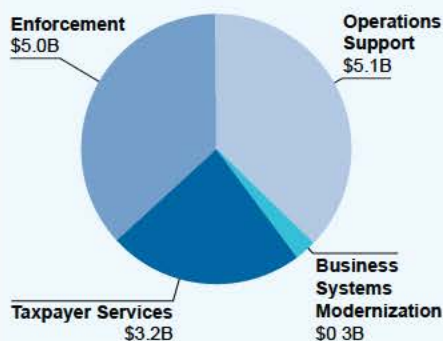
NOTES:

Detail may not add to totals because of rounding.

Number of cases and amounts in dispute can vary widely from year to year due to a variety of factors including the number and timing of prior year receipts.

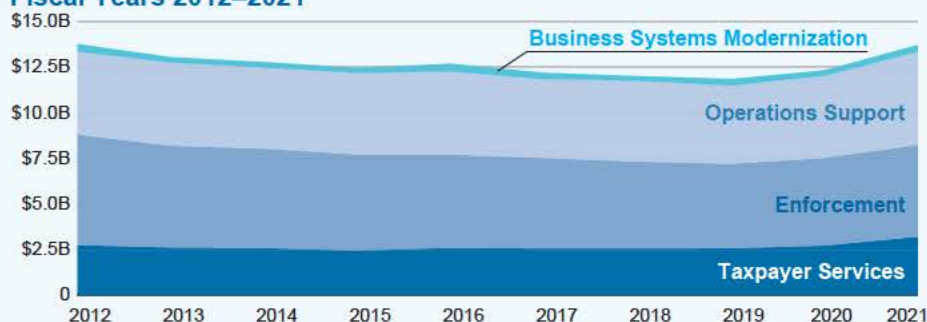
SOURCE: Chief Counsel, Associate Chief Counsel, Finance and Management, Planning and Finance Division.

Costs Incurred by Budget Activity, Fiscal Year 2021



SOURCE: 2021 IRS Data Book Table 30

Costs Incurred by Budget Activity (Constant 2021 Dollars), Fiscal Years 2012–2021



NOTE: Inflation-adjusted amounts were calculated using the U.S. Bureau of Economic Analysis, Nondefense Gross Domestic Product Chain-type Price Index with a 2021 base year.

SOURCE: Selected IRS Data Books Table 30

IRS Budget and Workforce

This section of the *Data Book* provides an overview of IRS budget activities, including funding for taxpayer services, enforcement, operations support, and business systems modernization. Taxpayer Services funding includes the processing of tax returns and related documents, as well as assistance to taxpayers filing returns and paying taxes due. Enforcement funding includes the examination of tax returns, collection of balances due, and administrative and judicial settlement of taxpayer appeals of examination findings. Operations Support

provides administrative services, policy management, and IRS-wide support necessary to deliver taxpayer-facing service and enforcement programs. This appropriation also funds staffing, equipment, and related costs, which are used to manage, maintain, and operate critical information systems supporting tax administration. The Business Systems Modernization appropriation funds capital asset acquisition of information technology systems. This section also includes information on the size and diversity of the IRS workforce.

Highlights of the Data

- IRS's actual expenditures were \$13.7 billion for overall operations in Fiscal Year (FY) 2021, including supplemental funding to support the IRS's COVID-19 pandemic-related activities (Table 30).
- Taxpayer Services funding accounted for \$3.2 billion, 23.4 percent, of the total FY 2021 budget (Table 30).
- Enforcement funding represented slightly more than \$5.0 billion, 36.7 percent of all funding (Table 30).
- The IRS spent more than \$5.1 billion in operations support in FY 2021, accounting for 37.3 percent of the overall budget (Table 30).
- The balance of IRS's FY 2021 expenditures, about \$348 million, was spent on business systems modernization (Table 30).
- The total cost of collecting \$100 was \$0.33 in FY 2021 (Table 31).
- In FY 2021, the IRS used 78,661 full-time equivalent (FTE) positions to conduct its work, a decrease

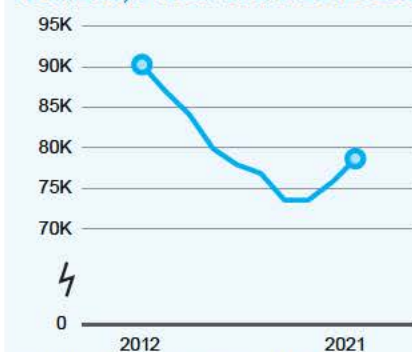
Operating Costs (Constant 2021 Dollars), Fiscal Years 2012–2021



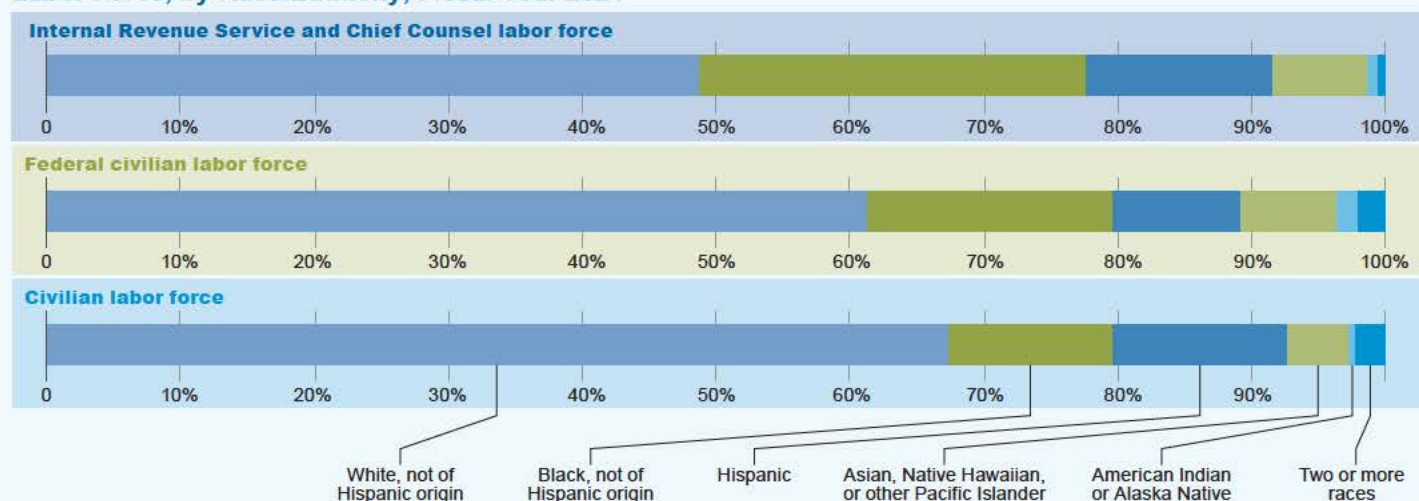
NOTE: Inflation-adjusted amounts were calculated using the U.S. Bureau of Economic Analysis, Nondefense Gross Domestic Product Chain-type Price Index with a 2021 base year.

SOURCE: Selected IRS Data Books Table 31

Full-time Equivalent Positions Realized, Fiscal Years 2012–2021



SOURCE: Selected IRS Data Books Table 32

Internal Revenue Service and Chief Counsel Labor Force, Compared to National Totals for the Civilian Labor Force, by Race/Ethnicity, Fiscal Year 2021

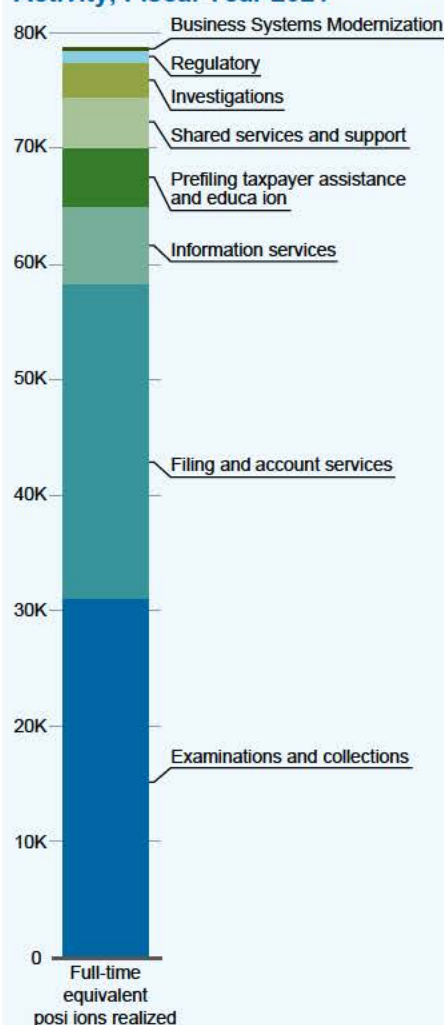
SOURCE: 2021 IRS Data Book Table 33

of 12.9 percent since FY 2012 (Table 32).

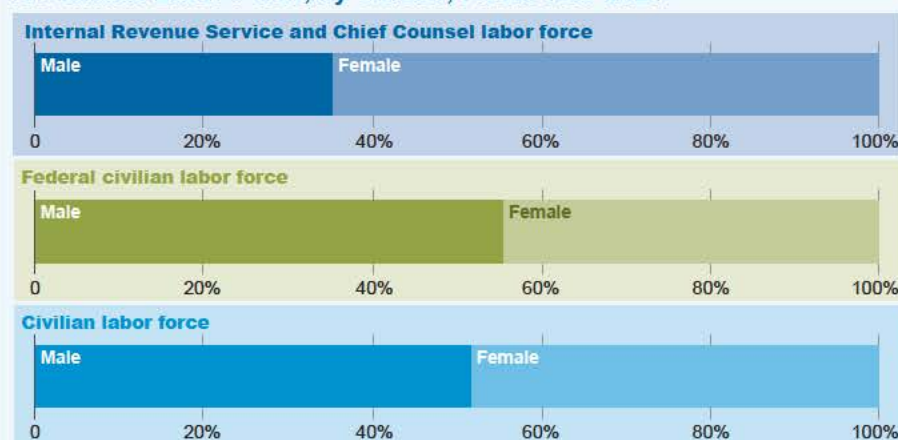
- Approximately 44.6 percent of the FY 2021 FTE positions were dedicated to enforcement and 40.1 percent were dedicated to taxpayer services (Table 32).
- At the end of FY 2021, the IRS and Chief Counsel workforce classified with racial and ethnic backgrounds other than White comprised 51.2

percent of the workforce, compared to 38.6 percent share of the overall Federal civilian labor force (Table 33).

- Women represented 64.7 percent of IRS and Chief Counsel personnel, compared to 44.4 percent of the overall Federal civilian labor force (Table 33).
- Veterans comprised 9.5 percent of the IRS and Chief Counsel workforce (Table 33).

Personnel Summary, by Budget Activity, Fiscal Year 2021

SOURCE: 2021 IRS Data Book Table 32

Internal Revenue Service Labor Force, Compared to National Totals for Civilian Labor Force, by Gender, Fiscal Year 2021

SOURCE: 2021 IRS Data Book Table 33

Table 30. Costs Incurred by Budget Activity, Fiscal Years 2020 and 2021

[Money amounts are in thousands of dollars]

Budget activity	Total [1]		Personnel compensation and benefits [2]		Other [3]	
	2020	2021	2020	2021	2020	2021
	(1)	(2)	(3)	(4)	(5)	(6)
Total obligations against appropriated funds	12,316,275	13,701,027	8,784,534	9,378,188	3,531,741	4,322,839
Taxpayer Services [4]:						
Total	2,719,665	3,208,793	2,456,085	2,793,975	263,580	414,818
Prefiling taxpayer assistance and education	633,345	674,045	556,196	589,447	77,149	84,598
Filing and account services	2,086,320	2,534,748	1,899,889	2,204,528	186,431	330,220
Enforcement [5]:						
Total	4,802,870	5,027,283	4,499,729	4,701,248	303,141	326,035
Investigations	640,254	681,471	552,889	581,543	87,365	99,928
Examinations and collections	4,005,102	4,187,045	3,791,742	3,962,108	213,360	224,937
Regulatory	157,514	158,767	155,098	157,597	2,416	1,170
Operations Support [6]:						
Total	4,494,861	5,117,036	1,763,451	1,825,475	2,731,410	3,291,561
Infrastructure	884,855	916,663	478	328	884,377	916,335
Shared services and support	1,070,806	1,376,986	686,256	706,443	384,550	670,543
Information services	2,539,200	2,823,387	1,076,717	1,118,704	1,462,483	1,704,683
Business Systems Modernization [7]	298,879	347,915	65,269	57,491	233,610	290,424

[1] Excludes costs reimbursed by other Federal agencies and private entities for services performed for these external parties. The IRS received supplemental funding to respond to the COVID 19 pandemic as follows: \$765.7 million available to spend in Fiscal Year (FY) 2020 and FY 2021 through the CARES Act and the Families First Coronavirus Response Act (FFCRA); \$509 million available to spend in FY 2021 through the Consolidated Appropriations Act of FY 2021; and \$1,861.7 million (\$397.2 million of which is available to spend through FY 2022 and \$1,464.5 million through FY 2023) through the American Rescue Plan (ARP). Obligations included: \$765.1 million from CARES Act/FFCRA funds (\$438.5 million during FY 2020 and \$326.6 million during FY 2021); \$502.1 million from the Consolidated Appropriations Act; and \$453.2 million from ARP funds.

[2] Includes salaries, terminal leave payments, availability pay, pay differential, overtime and holiday pay, cash awards, incentive awards, obligation for uncashed payroll checks, expert and witness fees, rewards to informants, employer's share of personnel benefits costs, reimbursements for professional liability insurance, recruitment bonuses, commuting subsidies, retention bonuses, student loan repayments, relocation bonuses, gainsharing awards, cost of living allowances, overseas allowance grants, domestic and foreign income tax reimbursement allowances, worker's compensation benefits, moving expenses/relocation allowances, severance pay, and unemployment compensation payments.

[3] Includes contracts, travel, transportation of things, rent, communications, utilities, printing and reproduction, advisory and assistance services, supplies and materials, operation and maintenance of facilities, research and development services, medical care, operation and maintenance of equipment, subsistence and support of persons, acquisition of assets, equipment, land and structures, investments, grants, and refunds.

[4] The Taxpayer Services appropriation funds prefiling assistance and education, filing and account services, and taxpayer advocacy services.

[5] The Enforcement appropriation funds activities to determine and collect owed taxes, to provide legal and litigation support, to conduct criminal investigations, to enforce criminal statutes related to violations of Internal Revenue laws and other financial crimes, and to purchase and hire motor vehicles.

[6] The Operations Support appropriation funds activities to support taxpayer services and enforcement programs, including rent payments; facilities services; printing; postage; physical security; headquarters and other IRS wide administration activities; research and statistics of income; telecommunications; information technology development, enhancement, operations, maintenance, and security; and the hire of motor vehicles (nonpolice type use).

[7] The Business Systems Modernization appropriation funds the capital asset acquisition of information technology systems including management and related contractual costs of such acquisition and including contractual costs associated with operations.

NOTE: All money amounts are in current dollars.

SOURCE: Chief Financial Officer, Corporate Budget.

Table 31. Collections, Costs, Personnel, and U.S. Population, Fiscal Years 1992–2021

Fiscal year	Gross collections (thousands of dollars) [1]	Operating costs (thousands of dollars) [2]	Cost of collecting \$100 (dollars)	U.S. population (thousands) [3]	Average tax per capita (dollars) [4]	Full time equivalent positions realized [5]
	(1)	(2)	(3)	(4)	(5)	(6)
1992	1,120,799,558	6,536,336	0.58	257,861	4,347	116,673
1993	1,176,685,625	7,077,985	0.60	261,163	4,506	113,460
1994	1,276,466,776	7,245,344	0.57	264,301	4,830	110,748
1995	1,375,731,836	7,389,692	0.54	267,456	5,144	112,024
1996	1,486,546,674	7,240,221	0.49	270,581	5,494	106,642
1997	1,623,272,071	7,163,541	0.44	273,852	5,928	101,703
1998	1,769,408,739	7,564,661	0.43	277,003	6,388	98,037
1999	1,904,151,888	8,269,387	0.43	280,203	6,796	98,730
2000	2,096,916,925	8,258,423	0.39	283,201	7,404	97,074
2001	2,128,831,182	8,771,510	0.41	286,098	7,441	97,707
2002	2,016,627,269	9,063,471	0.45	288,870	6,981	99,181
2003	1,952,929,045	9,401,407	0.48	291,574	6,698	98,819
2004	2,018,502,103	9,756,344	0.48	294,230	6,860	97,597
2005	2,268,895,122	10,397,837	0.46	296,972	7,640	94,282
2006	2,518,680,230	10,605,845	0.42	299,835	8,400	91,717
2007	2,691,537,557	10,764,736	0.40	302,807	8,889	92,017
2008	2,745,035,410	11,307,223	0.41	305,554	8,984	90,647
2009	2,345,337,177	11,708,604	0.50	308,189	7,610	92,577
2010	2,345,055,978	12,353,344	0.53	310,391	7,555	94,711
2011	2,414,952,112	12,358,877	0.51	312,616	7,725	94,709
2012	2,524,320,134	12,059,409	0.48	314,806	8,019	90,280
2013	2,855,059,420	11,597,560	0.41	316,953	9,008	86,974
2014	3,064,301,358	11,591,007	0.38	319,263	9,598	84,133
2015	3,302,677,258	11,395,839	0.35	321,540	10,271	79,890
2016	3,333,449,083	11,707,422	0.35	323,784	10,295	77,924
2017	3,416,714,139	11,526,389	0.34	325,742	10,489	76,832
2018	3,465,466,627	11,746,448	0.34	327,407	10,585	73,519
2019	3,564,583,961	11,825,241	0.33	328,981	10,835	73,554
2020	3,493,067,956	12,316,275	0.35	[r] 331,945	[r] 10,523	75,773
2021	4,111,569,512	13,701,027	0.33	332,459	12,367	78,661

[r] Revised data.

[1] Gross collections are collections before refunds are issued. They also include penalties and interest in addition to taxes. See Table 1 for the difference between gross collections and net collections. Includes gross collections for individual income tax, business income taxes, estate and trust income tax, employment taxes, estate tax, gift tax, and excise taxes. See Table 6 for gross collections data by type of tax.

Excludes alcohol and tobacco excise taxes starting with 1988 and taxes on firearms starting with the second quarter of Fiscal Year (FY) 1991. Responsibilities for these excise taxes were transferred from the IRS to the Alcohol and Tobacco Tax and Trade Bureau and to U.S. Customs and Border Protection, respectively.

[2] Operating costs exclude costs reimbursed by other Federal agencies and private entities for services performed for these external parties. Data represent total obligations against appropriated funds. Includes costs for the Health Insurance Tax Credit Administration from FY 2005 through 2015 and for Business Systems Modernization from FY 2005 onward.

[3] U.S. population is based on resident population plus armed forces overseas as of October 1 of each year. This information is published by the U.S. Department of Commerce, Bureau of the Census.

[4] Average tax per capita is based on gross collections (Column 1) divided by an estimate of U.S. population (Column 4).

[5] Full time equivalent (FTE) is defined as the total number of regular straight time hours worked (that is, not including overtime or holiday hours worked) by employees divided by the number of compensable hours applicable to each fiscal year. In FY 2021, this includes: 1,587 FTEs funded through the CARES Act; 831 FTEs funded through the American Rescue Plan; 2,101 FTEs funded through supplemental appropriations in the Consolidated Appropriations Act of 2021; and 1 FTE funded through the No Surprises Act. See Table 32 to compare FTEs and the number of employees. Excludes positions funded by reimbursements from other Federal agencies and private entities for services performed for these external parties.

NOTE: All money amounts are in current dollars.

SOURCE: Chief Financial Officer, Corporate Budget and Financial Management.

Table 32. Personnel Summary, by Employment Status, Budget Activity, and Selected Personnel Type, Fiscal Years 2020 and 2021

Employment status, budget activity, and selected personnel type	Full time equivalent positions realized [1]		Number of employees in pay status as of September 25, 2021 [2]	
	2020	2021	2020	2021
	(1)	(2)	(3)	(4)
Internal Revenue Service, total	75,773	78,661	80,229	80,411
Employment status:				
Permanent [3]	73,903	76,950	76,956	78,494
Other [4]	1,870	1,711	3,273	1,917
Budget activity:				
Examinations and collections	30,441	31,120	30,873	31,300
Filing and account services	24,955	27,053	28,544	28,114
Information services	6,779	6,721	7,123	7,095
Shared services and support	5,108	5,064	5,234	5,272
Prefiling taxpayer assistance and education	4,327	4,458	4,532	4,605
Investigations	2,839	2,975	2,957	3,036
Regulatory	969	965	966	989
Business Systems Modernization [5]	355	305	0	0
Selected personnel type:				
Customer service representatives	11,027	12,957	12,422	15,482
Seasonal employees [6]	10,091	10,394	10,984	8,349
Revenue agents	8,346	8,321	8,234	8,536
Tax examiners	7,868	8,758	8,469	9,453
Revenue officers	3,040	2,783	2,913	2,837
Special agents	1,965	2,004	2,025	2,042
Attorneys	1,442	1,484	1,462	1,529
Tax technicians	881	837	723	885
Appeals officers	803	831	851	934

[1] Represents the number of full time equivalent (FTE) positions actually used to conduct IRS operations. A FTE is defined as the total number of regular straight time hours worked (that is, not including overtime or holiday hours worked) by employees divided by the number of compensable hours applicable to each fiscal year. In Fiscal Year (FY) 2020, this includes 2,145 FTEs supporting the IRS's response to the COVID 19 pandemic and funded through the CARES Act. In FY 2021, this includes: 1,587 FTEs funded through the CARES Act; 831 FTEs funded through the American Rescue Plan; 2,101 FTEs funded through supplemental appropriations in the Consolidated Appropriations Act of 2021; and 1 FTE funded through the No Surprises Act. Excludes positions funded by reimbursements from other Federal agencies and private entities for services performed for these external parties.

[2] Includes total personnel employed by the IRS including IRS Chief Counsel that are in an active pay status as of the end of Pay Period 19 (September 26, 2020, in FY 2020 and September 25, 2021, in FY 2021). In contrast, IRS labor force counts in Table 33 include personnel in both pay and non pay status.

[3] Includes seasonal employees on permanent appointments; excludes employees on permanent appointments with work schedules of fewer than 80 hours per pay period.

[4] Includes employees on permanent appointments with work schedules of fewer than 80 hours per pay period.

[5] In FY 2020, all employees in Business Systems Modernization (BSM) were reassigned to the Information Services budget activity. Employees within this budget activity may work on projects funded by both the Information Services and BSM budget activities, and time is charged as appropriate, resulting in FTE realization in the BSM budget activity.

[6] Seasonal employees work primarily in Submission Processing; Account Management & Assistance; and Integrity & Verification Operations.

SOURCE: Chief Financial Officer, Corporate Budget.

INTERNAL REVENUE SERVICE DATA BOOK, 2021

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Table 33. Internal Revenue Service and Chief Counsel Labor Force, Compared to National Totals for Federal and Civilian Labor Forces, by Gender, Race/Ethnicity, Disability, and Veteran Status, Fiscal Year 2021

Gender, race/ethnicity, disability, and veteran status	Number of employees			Percentage of total		
	Internal Revenue Service [1]	Chief Counsel [2]	Total Internal Revenue Service and Chief Counsel	Internal Revenue Service and Chief Counsel labor force	Federal civilian labor force [3]	Civilian labor force [4]
	(1)	(2)	(3)	(4)	(5)	(6)
Total	79,479	2,144	81,623	100.0	100.0	100.0
Gender:						
Male	27,810	971	28,781	35.3	55.6	51.8
Female	51,669	1,173	52,842	64.7	44.4	48.2
Race/ethnicity and gender:						
White, not of Hispanic origin	38,322	1,518	39,840	48.8	61.4	67.5
Male	16,231	787	17,018	20.8	37.0	35.7
Female	22,091	731	22,822	28.0	24.4	31.8
Black, not of Hispanic origin	23,291	304	23,595	28.9	18.3	12.3
Male	5,165	67	5,232	6.4	7.5	5.7
Female	18,126	237	18,363	22.5	10.8	6.6
Hispanic [5]	11,342	121	11,463	14.0	9.6	13.0
Male	3,702	47	3,749	4.6	5.5	6.8
Female	7,640	74	7,714	9.5	4.1	6.2
Asian, Native Hawaiian, or other Pacific Islander	5,510	174	5,684	7.0	7.1	4.6
Male	2,409	57	2,466	3.0	3.8	2.3
Female	3,101	117	3,218	3.9	3.3	2.3
American Indian or Alaska Native	622	13	635	0.8	1.6	0.6
Male	198	7	205	0.3	0.7	0.3
Female	424	6	430	0.5	0.9	0.3
Two or more races	392	14	406	0.5	2.0	2.1
Male	105	6	111	0.1	1.1	1.0
Female	287	8	295	0.4	0.9	1.1
Disability [6]:						
Person with a disability	10,581	200	10,781	13.2	22.0	n.a.
Person with a targeted disability	2,768	39	2,807	3.4	2.5	n.a.
Veteran [7]:						
Veteran	7,487	235	7,722	9.5	29.2	n.a.
Veteran with a disability	3,880	124	4,004	4.9	15.5	n.a.

n.a. Not available.

[1] Includes total full time, part time, and seasonal personnel employed by the Internal Revenue Service, excluding IRS Chief Counsel, as of September 25, 2021 (the end of Pay Period 19).

[2] Includes total full time, part time, and seasonal personnel employed by IRS Chief Counsel as of September 25, 2021 (the end of Pay Period 19). Chief Counsel is an organization within the Department of Treasury and separate from the IRS. All Chief Counsel employees are funded by and report to the Chief Counsel as part of the Legal Division of the Department of Treasury. Beginning in Fiscal Year (FY) 2015, Chief Counsel workforce counts are displayed in a separate column.

[3] Reflects the Federal civilian labor force as of September 25, 2021, as provided by the U.S. Office of Personnel Management (OPM).

[4] Data from U.S. Department of Commerce, Bureau of the Census (2014–2018 American Community Survey statistics).

[5] Hispanic or Latino persons of any race are included in the Hispanic category.

[6] This category is shown separately for information purposes. The term "targeted disability" was originally enacted by the Equal Employment Opportunity Commission (EEOC) in 1979 and refers to certain disabilities that have been identified for emphasis in Federal affirmative employment planning. During FY 2017, the Office of Personnel Management expanded the list of medical conditions to self identify a disability. As a result this increased the counts of persons with disabilities and persons with targeted disabilities. Persons with a targeted disability are included in the disability total.

[7] This category is shown separately for information purposes. The primary elements used to identify veterans for Federal employment purposes are Veteran Status, Veterans' Preference, Creditable Military Service, Annuitant Code, and Legal Authority Code. Veterans with a disability are included in the veteran total.

NOTE: Percentages may not add to totals because of rounding.

SOURCE: Office of Equity, Diversity, and Inclusion.

Data Sources, by Subject Area and Table Number

Section	Table Number	Data Sources (by IRS Branch, Division, or Office)
Returns Filed, Taxes Collected, and Refunds Issued	1	Chief Financial Officer, Financial Management
	2	Research, Applied Analytics, and Statistics; Statistics of Income
	3	Research, Applied Analytics, and Statistics; Statistics of Income
	4	Research, Applied Analytics, and Statistics; Statistics of Income
	5	Chief Financial Officer, Financial Management
	6	Chief Financial Officer, Financial Management
	7	Chief Financial Officer, Financial Management
	8	Chief Financial Officer, Financial Management
Service to Taxpayers	9	Wage and Investment, Strategy and Finance, Program Management Office; Online Services, Online Engagement, Operations and Media; Small Business/Self Employed, Communications, Outreach, Systems and Solutions; Communications and Liaison, National Public Liaison
	10	Online Services, Online Engagement, Operations and Media; Wage and Investment, Strategy and Finance, Program Management Office
	11	Taxpayer Advocate Service, Business Assessment
	12	Tax Exempt and Government Entities
	13	Tax Exempt and Government Entities
	14	Tax Exempt and Government Entities
	15	Tax Exempt and Government Entities
	16	Tax Exempt and Government Entities
Compliance Presence	17	Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management
	18	Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management
	19	Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management
	20	Small Business/Self Employed, Examination, Performance Planning and Analysis Examination, Small Business Exam Data Management
	21	Tax Exempt and Government Entities
	22	Research, Applied Analytics, and Statistics, Statistics of Income; Small Business/Self Employed Examination, Performance Planning and Analysis, Automated Underreporter Program; Small Business/Self Employed Collections, Headquarters Collection, Inventory Delivery Selection, Automated Substitute for Return Program
	23	Wage and Investment, Customer Account Services, Submission Processing, Paper Processing Branch
	24	Criminal Investigation, Communications and Education Division
Collections Activities, Penalties, and Appeals	25	Small Business/Self Employed, Collection, Performance Planning and Analysis, Collection Data Assurance/Special Reports and Plans
	26	Chief Financial Officer, Custodial Financial Management
	27	Appeals, Policy, Planning Quality and Analysis
Chief Counsel	28	Chief Counsel, Associate Chief Counsel, Finance and Management, Planning and Finance Division
	29	Chief Counsel, Associate Chief Counsel, Finance and Management, Planning and Finance Division
IRS Budget and Workforce	30	Chief Financial Officer, Corporate Budget
	31	Chief Financial Officer, Corporate Budget and Financial Management
	32	Chief Financial Officer, Corporate Budget
	33	Office of Equity, Diversity, and Inclusion

Principal Officers of the Internal Revenue Service

as of September 30, 2021

Commissioner

Charles P. Rettig

Deputy Commissioner for Services and Enforcement

Douglas O'Donnell

Deputy Commissioner for Operations Support

Jeffrey J. Tribiano

Independent Office of Appeals

Chief, Appeals

Andrew J. Keyso

Deputy Chief, Appeals

Lia Colbert

Director, Specialized Examination Programs and Referrals

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Director, Case and Operations Support

Steven M. Martin

Director, Collection Appeals

Shahid Babar

Director, Examination Appeals

Shelley Foster

Enterprise Digitalization and Case Management Office

Director Enterprise Case Management

Justin Lewis Abold LaBreche

Director Enterprise Digitalization

Hampden "Harrison" Smith, IV

Taxpayer Advocate Service

National Taxpayer Advocate

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Deputy National Taxpayer Advocate

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Kim S. Stewart

Executive Director, Case Advocacy

Rhonda K. Kirby

Executive Director, Intake and Technical Support

Bonnie Fuentes

Executive Director, Strategy, Assessment and Employee Development

Adam Morse (Acting)

Office of Equity, Diversity and Inclusion

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Return Preparer Office

Director, Return Preparer Office

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Deputy Director, Return Preparer Office

Vacant

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Director, Office of Online Services

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Senior Advisor, Legislation & Appropriations

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Deputy Commissioner, Examination

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Frederick Schindler

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U.S. Competent Authority

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Darlena Billops Hill

Director, Enterprise Activities Practice Area

Scott Ballint

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as of September 30, 2021

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Chief Financial Officer

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Director, Exempt Organizations/ Government Entities

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James Robnett

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Director, Office of Professional Responsibility

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Anne Shepherd

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Dale Hsu

Associate Chief Information Officer, Cybersecurity

Robert Cox

Associate Chief Information Officer, Strategy and Planning

Tracy DeLeon

Associate Chief Information Officer, Enterprise Program Management Office

Robert Bedoya

Associate Chief Information Officer, Enterprise Operations

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IRS Human Capital Officer

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Deputy IRS Human Capital Officer

Carrie Holland

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Robert S. Choi

Whistleblower Office

Director, Whistleblower Office

Lee D. Martin

Principal Officers of the Internal Revenue Service

as of September 30, 2021

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Shanna R. Webbers

Deputy Chief Procurement Officer
Guy Torres

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Chief Counsel
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Drita Tonuzi

Deputy Chief Counsel
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William M. Paul

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Rostyslav Shiller

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(Criminal Tax)
Richard Lurger

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(Large Business and International)
Robin Greenhouse

Division Counsel
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Rachel Levy (*Acting*)

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and Employment Taxes)
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Kyle N. Brown

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Associate Chief Counsel
(General Legal Services)
Mark S. Kaizen

Associate Chief Counsel
(Income Tax and Accounting)
John Moriarty

Associate Chief Counsel
(International)
Peter Blessing

Associate Chief Counsel
(Passthroughs and Special Industries)
Holly Porter

Associate Chief Counsel
(Procedure and Administration)
Kathryn A. Zuba

Commissioners of Internal Revenue

Office of Commissioner of Internal Revenue Created by Act of Congress, July 1, 1862

George S. Boutwell
Massachusetts
Jul. 17, 1862 to Mar. 4, 1863

Joseph J. Lewis
(Acting)
Pennsylvania
Mar. 5, 1863 to Mar. 17, 1863

Joseph J. Lewis
Pennsylvania
Mar. 18, 1863 to June 30, 1865

William Orton
New York
Jul. 1, 1865 to Oct. 31, 1865

Edward A. Rollins
New Hampshire
Nov. 1, 1865 to Mar. 10, 1869

Columbus Delano
Ohio
Mar. 11, 1869 to Oct. 31, 1870

John W. Douglass
(Acting)
Pennsylvania
Nov. 1, 1870 to Jan. 2, 1871

Alfred Pleasonton
New York
Jan. 3, 1871 to Aug. 8, 1871

John W. Douglass
Pennsylvania
Aug. 9, 1871 to May 14, 1875

Daniel D. Pratt
Indiana
May 15, 1875 to Aug. 1, 1876

Green B. Raum
Illinois
Aug. 2, 1876 to Apr. 30, 1883

Henry C. Rogers
(Acting)
Pennsylvania
May 1, 1883 to May 10, 1883

John J. Knox
(Acting)
Minnesota
May 11, 1883 to May 20, 1883

Walter Evans
Kentucky
May 21, 1883 to Mar. 19, 1885

Joseph S. Miller
West Virginia
Mar. 20, 1885 to Mar. 20, 1889

John W. Mason
West Virginia
Mar. 21, 1889 to Apr. 18, 1893

Joseph S. Miller
West Virginia
Apr. 19, 1893 to Nov. 26, 1896

W. St. John Forman
Illinois
Nov. 27, 1896 to Dec. 31, 1897

Nathan B. Scott
West Virginia
Jan. 1, 1898 to Feb. 28, 1899

George W. Wilson
Ohio
Mar. 1, 1899 to Nov. 27, 1900

Robert Williams, Jr.
(Acting)
Ohio
Nov. 28, 1900 to Dec. 19, 1900

John W. Yerkes
Kentucky
Dec. 20, 1900 to Apr. 30, 1907

Henry C. Rogers
(Acting)
Pennsylvania
May 1, 1907 to Jun. 4, 1907

John G. Capers
South Carolina
Jun. 5, 1907 to Aug. 31, 1909

Royal E. Cabell
Virginia
Sept. 1, 1909 to Apr. 27, 1913

William H. Osborn
North Carolina
Apr. 28, 1913 to Sept. 25, 1917

Daniel C. Roper
South Carolina
Sept. 26, 1917 to Mar. 31, 1920

William M. Williams
Alabama
Apr. 1, 1920 to Apr. 11, 1921

Millard F. West
(Acting)
Kentucky
Apr. 12, 1921 to May 26, 1921

David H. Blair
North Carolina
May 27, 1921 to May 31, 1929

Robert H. Lucas
Kentucky
Jun. 1, 1929 to Aug. 15, 1930

H. F. Mires
(Acting)
Washington
Aug. 16, 1930 to Aug. 19, 1930

David Burnet
Ohio
Aug. 20, 1930 to May 15, 1933

Pressly R. Baldridge
(Acting)
Iowa
May 16, 1933 to Jun. 5, 1933

Guy T. Helvering
Kansas
Jun. 6, 1933 to Oct. 8, 1943

Robert E. Hannegan
Missouri
Oct. 9, 1943 to Jan. 22, 1944

Harold N. Graves
(Acting)
Illinois
Jan. 23, 1944 to Feb. 29, 1944

Joseph D. Nunan, Jr.
New York
Mar. 1, 1944 to June 30, 1947

George J. Schoeneman
Rhode Island
Jul. 1, 1947 to Jul. 31, 1951

John B. Dunlap
Texas
Aug. 1, 1951 to Nov. 18, 1952

John S. Graham
(Acting)
North Carolina
Nov. 19, 1952 to Jan. 19, 1953

Justin F. Winkle
(Acting)
New York
Jan. 20, 1953 to Feb. 3, 1953

T. Coleman Andrews
Virginia
Feb. 4, 1953 to Oct. 31, 1955

O. Gordon Delk
(Acting)
Virginia
Nov. 1, 1955 to Dec. 4, 1955

Russell C. Harrington
Rhode Island
Dec. 5, 1955 to Sept. 30, 1958

O. Gordon Delk
(Acting)
Virginia
Oct. 1, 1958 to Nov. 4, 1958

Dana Latham
California
Nov. 5, 1958 to Jan. 20, 1961

Charles I. Fox
(Acting)
Utah
Jan. 21, 1961 to Feb. 6, 1961

Mortimer M. Caplin
Virginia
Feb. 7, 1961 to Jul. 10, 1964

Bertrand M. Harding
(Acting)
Texas
Jul. 11, 1964 to Jan. 24, 1965

Sheldon S. Cohen
Maryland
Jan. 25, 1965 to Jan. 20, 1969

William H. Smith
(Acting)
Virginia
Jan. 21, 1969 to Mar. 31, 1969

Randolph W. Thrower
Georgia
Apr. 1, 1969 to Jun. 22, 1971

Harold T. Swartz
(Acting)
Indiana
Jun. 23, 1971 to Aug. 5, 1971

Johnnie M. Walters
South Carolina
Aug. 6, 1971 to Apr. 30, 1973

Raymond F. Harless
(Acting)
California
May 1, 1973 to May 25, 1973

Donald C. Alexander
Ohio
May 26, 1973 to Feb. 26, 1977

William E. Williams
(Acting)
Illinois
Feb. 27, 1977 to May 4, 1977

Jerome Kurtz
Pennsylvania
May 5, 1977 to Oct. 31, 1980

William E. Williams
(Acting)
Illinois
Nov. 1, 1980 to Mar. 13, 1981

Roscoe L. Egger, Jr.
Indiana
Mar. 14, 1981 to Apr. 30, 1986

James I. Owens
(Acting)
Alabama
May 1, 1986 to Aug. 3, 1986

Lawrence B. Gibbs
Texas
Aug. 4, 1986 to Mar. 4, 1989

Michael J. Murphy
(Acting)
Wisconsin
Mar. 5, 1989 to Jul. 4, 1989

Fred Goldberg, Jr.
Missouri
Jul. 5, 1989 to Feb. 2, 1992

Shirley D. Peterson
Colorado
Feb. 3, 1992 to Jan. 20, 1993

Michael P. Dolan
(Acting)
Iowa
Jan. 21, 1993 to May 26, 1993

Margaret Milner Richardson
Texas
May 27, 1993 to May 31, 1997

Michael P. Dolan
(Acting)
Iowa
Jun. 1, 1997 to Nov. 12, 1997

Charles O. Rossotti
New York
Nov. 13, 1997 to Nov. 6, 2002

Bob Wenzel
(Acting)
Illinois
Nov. 7, 2002 to Apr. 30, 2003

Mark W. Everson
New York
May 1, 2003 to May 28, 2007

Kevin M. Brown
(Acting)
Virginia
May 29, 2007 to Sept. 8, 2007

Linda E. Stiff
(Acting)
Germany
Sept. 9, 2007 to Mar. 23, 2008

Douglas H. Shulman
Ohio
Mar. 24, 2008 to Nov. 9, 2012

Steven T. Miller
(Acting)
Ohio
Nov. 10, 2012 to May 21, 2013

Daniel I. Werfel
(Acting)
Virginia
May 22, 2013 to Dec. 22, 2013

John A. Koskinen
Ohio
Dec. 23, 2013 to Nov. 12, 2017

David Kautter
(Acting)
Virginia
Nov. 13, 2017 to Sep. 30, 2018

Charles P. Rettig
California
Oct. 1, 2018 to present

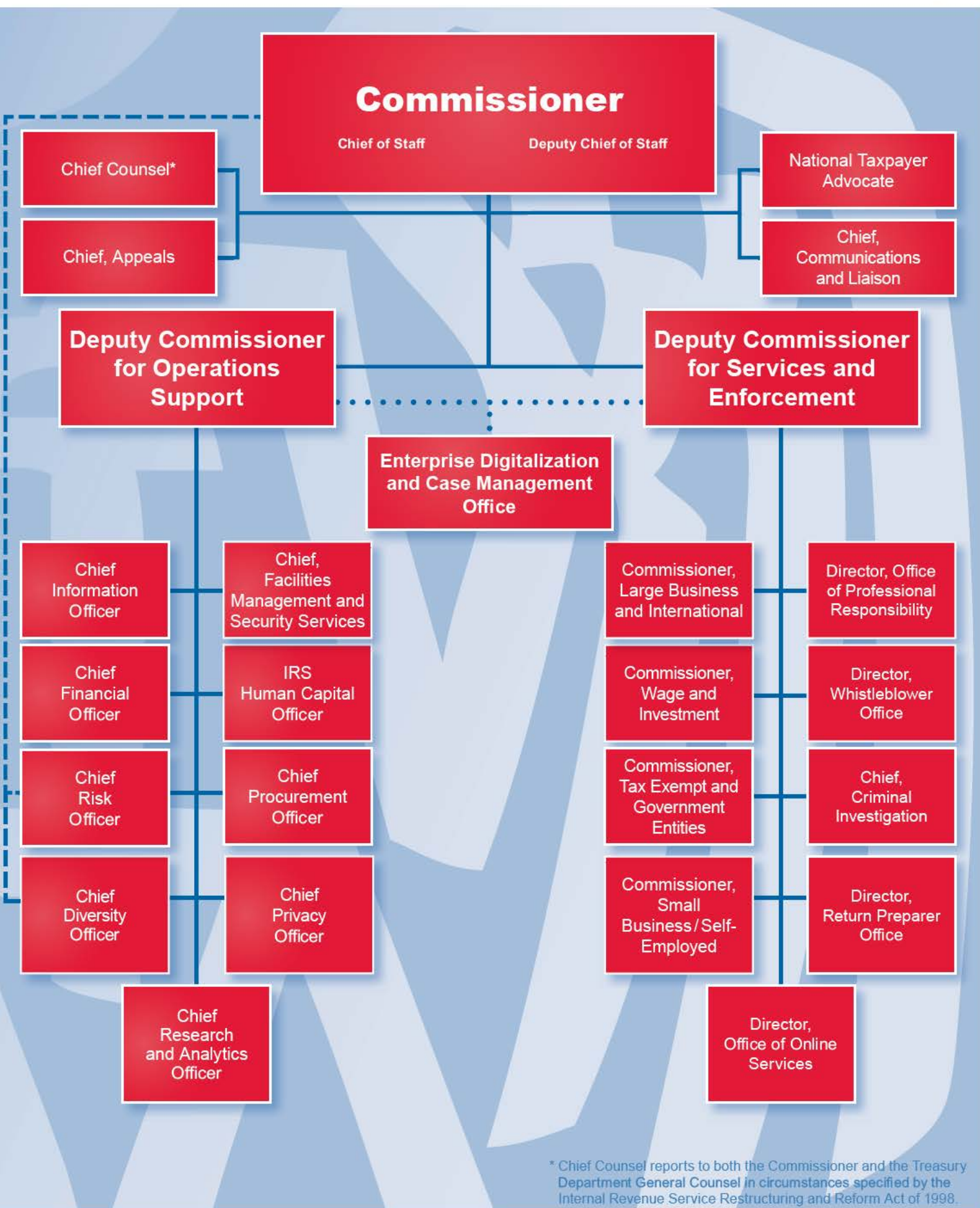
Chief Counsels for the Internal Revenue Service

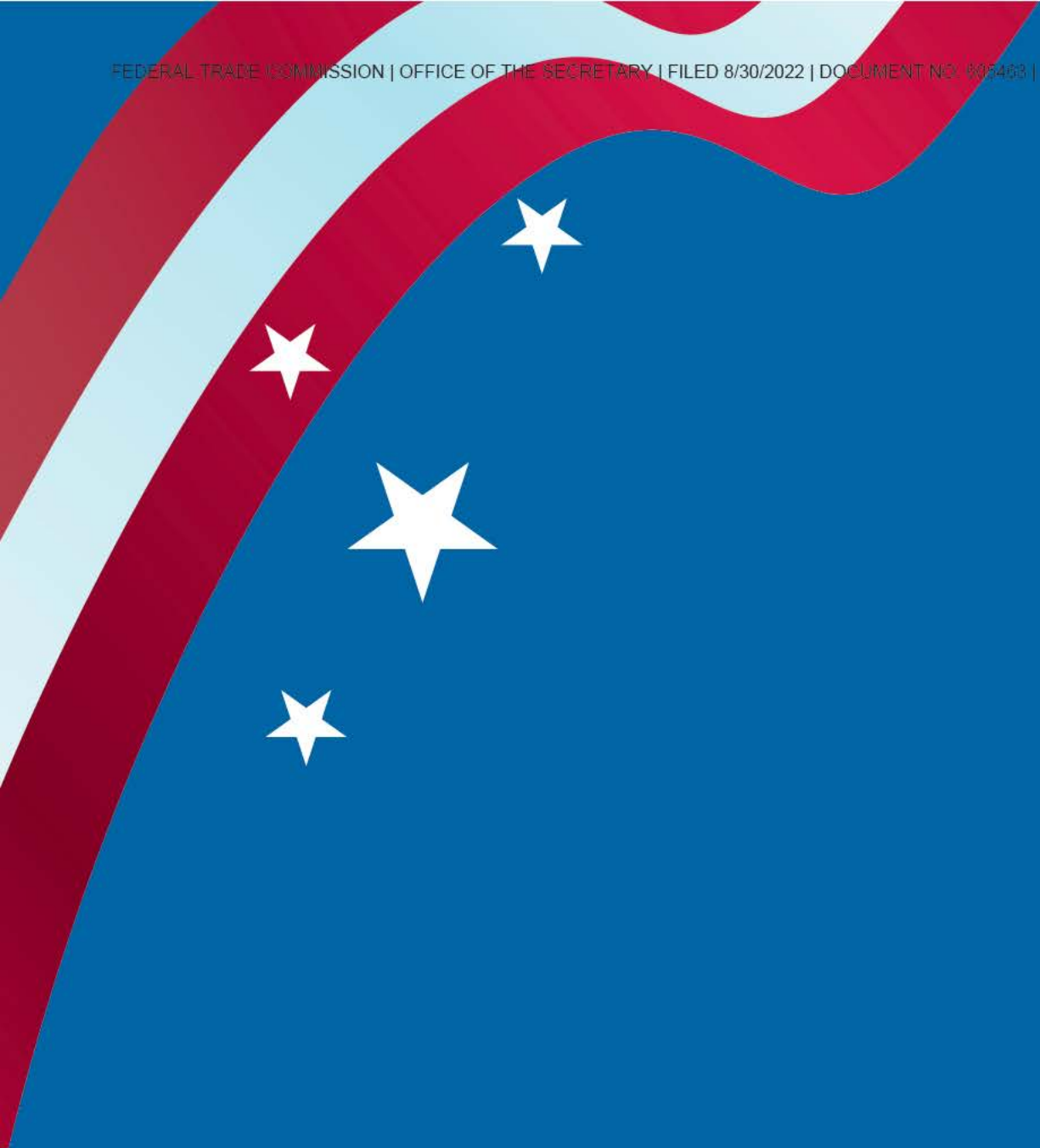
Walter H. Smith.....	1866
William McMichael.....	1871
Charles Chesley.....	1871
Thomas J. Smith.....	1888
Alphonso Hart	1890
Robert T. Hough	1893
George M. Thomas.....	1897
Albert W. Wishard.....	1901
A.B. Hayes.....	1903
Fletcher Maddox.....	1908
Ellis C. Johnson	1913
A.A. Ballantine	1918
D.M. Kelleher	1919
Robert N. Miller	1919
Wayne Johnson	1920
Carl A. Mapes.....	1920
Nelson T. Hartson.....	1923
Alexander W. Gregg.....	1925
Clarance M. Charest.....	1927
E. Barrett Prettyman.....	1933
Robert H. Jackson.....	1934
Morrison Shaforth.....	1936
John P. Wenchel	1937
Charles Oliphant.....	1947
Charles W. Davis	1952
Daniel A. Taylor.....	1953
John Potts Barnes	1955
Nelson P. Rose	1957
Arch M. Cantrall.....	1958
Hart H. Spiegel	1959
Crane C. Hauser	1961
Sheldon S. Cohen.....	1964
Mitchell Rogovin	1965
Lester R. Uretz.....	1966
K. Martin Worthy.....	1969
Lee H. Henkel, Jr.	1972
Meade Whitaker.....	1973
Stuart E. Seigel.....	1977
N. Jerold Cohen.....	1979
Kenneth W. Gideon.....	1981
Fred Goldberg, Jr.....	1984
William F. Nelson	1986
Abraham N. M. Shashy, Jr.	1990
Stuart L. Brown	1994
B. John Williams, Jr.	2002
Donald L. Korb	2004
William J. Wilkins	2009
Michael J. Desmond	2019

The following were Acting Chief Counsel during periods when there was no Chief Counsel holding the office:

John W. Burrus	March 2, 1936 to Nov. 30, 1936
Mason B. Leming	Dec. 6, 1951 to May 15, 1952
Kenneth W. Gemmill	June 11, 1953 to Nov. 8, 1953
Rudy P. Hertzog	Dec. 1, 1954 to May 8, 1955
	Jan. 20, 1961 to Aug. 16, 1961
	Sept. 1, 1963 to Jan. 5, 1964
Herman T. Reiling	Jan. 19, 1957 to March 13, 1957
	Aug. 31, 1959 to Sept. 20, 1959
Richard M. Hahn	Jan. 20, 1969 to June 25, 1969
Lee H. Henkel, Jr.	Jan. 16, 1972 to June 11, 1972
Lawrence B. Gibbs	April 17, 1973 to Oct. 19, 1973
Charles L. Saunders, Jr.	Jan. 20, 1977 to April 15, 1977
Leon G. Wigrizer	April 16, 1977 to June 23, 1977
Lester Stein	June 1, 1979 to Nov. 16, 1979
Jerome D. Sebastian	Jan. 21, 1981 to Feb. 2, 1981
	March 30, 1981 to Aug. 14, 1981
Emory L. Langdon	Feb. 3, 1981 to March 29, 1981
Joel Gerber	May 28, 1983 to March 17, 1984
V. Jean Owens	March 14, 1986 to July 27, 1986
Peter K. Scott	Nov. 1, 1988 to Feb. 6, 1990
David L. Jordan	Jan. 20, 1993 to Oct. 4, 1994
Richard Skillman	Jan. 20, 2001 to Feb. 6, 2002
Emily A. Parker	Aug. 1, 2003 to April 14, 2004
Clarissa C. Potter	Dec. 19, 2008 to July 24, 2009
William M. Paul	Jan. 20, 2017 to Nov. 16, 2017
	Mar. 6, 2018 to Mar. 4, 2019
	Jan. 20, 2021 to Nov. 16, 2021

NOTE: From 1866 to 1926, the chief legal officer for the Bureau of Internal Revenue was known as the Solicitor. For the next eight years, 1926 to 1934, the chief legal officer had the title of General Counsel. Since 1934, the chief legal officer has operated under the title of Chief Counsel, now for the Internal Revenue Service.





RX 85



SINCE 1828

edition noun

[Save Word](#)ed·i·tion | \ i-'di-shən  \

Definition of *edition*

- 1 **a** : the form or version in which a text is published
// a paperback edition
// the German edition
- b** (1) : the whole number of copies published at one time
 (2) : a usually special issue of a newspaper (as for a particular day or purpose)
// Sunday edition
// international edition
 (3) : one of the usually several issues of a newspaper in a single day
// city edition
// late edition
- 2 **a** : one of the forms in which something is presented
// this year's edition of the annual charity ball
- b** : the whole number of articles of one style put out at one time
// a limited edition of collectors' pieces
- 3 : COPY, VERSION

[↓ More Example Sentences](#)[↓ Phrases Containing *edition*](#)[↓ Learn More About *edition*](#)

Examples of *edition* in a Sentence

*// the latest edition of the software**// The errors were corrected in the book's second edition.*

Recent Examples on the Web

// Bentley's limited-edition Batur will be limited to 18 coupes, based on the Continental GT but with all-new bodywork.— Mike Duff, *Car and Driver*, 21 Aug. 2022*// People can also buy limited-edition merchandise and view an NFT gallery.*— Ann-marie Alcántara, *WSJ*, 18 Aug. 2022*// Purdue has been referenced in the show over its seasons, including on a special-edition Purdue shirt that appeared during Season 3.*— Marianne Garvey, *CNN*, 15 Aug. 2022[See More](#) 



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Phrases Containing *edition*

[co-edition](#)
[pocket edition](#)
[limited edition](#)
[text edition](#)
[trade edition](#)
[first edition](#)

First Known Use of *edition*

15th century, in the meaning defined at [sense 1a](#)

History and Etymology for *edition*

Middle French, from Latin *edition-*, *editio* publication, edition, from *edere* to bring forth, publish, from *e-* + *-dere* to put or *-dere* (from *dare* to give) — more at [DO](#), [DATE](#)

Learn More About *edition*

Share *edition*



Time Traveler for *edition*



The first known use of *edition* was in the 15th century

[See more words from the same century.](#)

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edition
[edition bindery](#)

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Last Updated

24 Aug 2022

Look-up Popularity

Top 4% of words

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Style: MLA





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...

MLA clarification on edition and volume number(information about the work). "Giving praises to the merit".

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CarolOwings · 28 October, 2014

...

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RaviACHudasama · 7 October, 2018

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More Definitions for *edition*

edition noun

edi·tion | \ i-'di-shən \

Kids Definition of *edition*

- 1 : the form in which a book is published
// a paperback *edition*
- 2 : the whole number of copies of a book, magazine, or newspaper published at one time
// the third *edition*
- 3 : one of several issues of a newspaper for a single day
// the evening *edition*



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WORDS AT PLAY



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10 Words from Place Names

Bikini, bourbon, and
badminton were places first

'Pride': The Word That Went From Vice to Strength

Do you take pride in Pride?

When Were Words First Used?

Look up any year to find out

ASK THE EDITORS

Literally

How to use a word that
(literally) drives some pe...

'All Intensive Purposes' or 'All Intents and Purposes'?

We're intent on clearing it up

Lay vs. Lie

Editor Emily Brewster
clarifies the difference.

Hot Mess

"The public is a hot mess"

WORD GAMES

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Roll up your sleeves and
identify these garments

TAKE THE QUIZ

Name That Animal: Volume 2

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wombat?

TAKE THE QUIZ

True or False?

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maybe learn something a...

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Spelling Bee Quiz

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SINCE 1828

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RX 86

Find out why you may not see your ad

Looking everywhere for your ad but still can't find it? If you have a Search ad, [you can look for your Search ad with the Ad Preview and Diagnosis tool](#) . It can help you confirm that your Search ad is running without affecting your impressions (which will lower your click-through rate). You can also hover over the speech bubble in the "Status" column of the **Ads** tab, next to your ad to see more information about its status. If your ad isn't showing, the tool will tell you why and will offer tips to help get your ads up and running.

If you're still having trouble, click the button below that best describes your situation. You'll see a list of possible reasons why you might not see your ad, along with steps to fix the problem.

Choose your issue below: [I know my ad is running because data is showing in my account, but I can't see it.](#)



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Was your credit card declined? [No](#)



There are many common reasons why you may not see your ad, even though your stats are accruing. We always recommend using the [Ad Preview and Diagnosis tool](#) instead of performing a search on Google.com. It can help you view your ad without accruing extra impressions. You also can hover over the speech bubble in the "Status" column of the **Ads** tab next to the ad of interest to get detailed information about ad serving status.

Location targeting

Location targeting lets you target your ads to specific locations. If you're located outside the area you're targeting, you won't be able to find your ad by searching for it. Instead, you can use the [Ad Preview and Diagnosis tool](#) to set a custom location and preview your ad.



[Manage location targeting](#)

Ad scheduling

You may not be able to find your ad if you've scheduled it to run only at certain hours of the day, or days of the week.

Searching for your own ad on Google

If you repeatedly search for your own ad using Google Search but never click on it, you may stop seeing it. That's because Google's system detects the IP address of your computer, and stops

showing you ads that it thinks you aren't interested in. Remember to use the [Ad Preview and Diagnosis tool](#) to view your ad as it appears in Google search results instead of performing a regular search. It prevents you from racking up impressions while you try to locate your ad.

Average daily budget has been reached / Delivery settings

Google Ads displays your ads as often as possible while staying within your average daily budget. When the budget limit is reached, your ads will typically stop showing for that day.

How quickly your ads are shown during a given day is determined by your [ad delivery](#) setting. If you've set your ad to standard delivery and you have a low budget, your ad won't show for every search in order to achieve a steady delivery over the course of the day. If you've set your campaign to accelerated delivery and look for your ad late in the day, you may not find it.



[Edit average daily budget](#)

Low Quality Scores

It's best to check your account frequently to make sure that your bid, budget, and keyword Quality Scores are where you want them to be. When they are too low, your ad may not show as frequently as you'd like -- or may not show at all -- because the other ads that are currently showing on the page having higher Ad Rank than your ad, or because your Ad Rank does not meet Google's minimum threshold for ad placement, or your budget would be greatly exceeded if you served at every opportunity.

Account under review

We may periodically review accounts for security purposes and to verify billing information. If your account is under review your ads won't show during this time period. This process is designed for your protection and to maintain the quality and security of Google Ads. Your ads will be eligible to show as soon as your account is out of review, usually within three business days.

Need more help?

Sign in for additional support options to quickly solve your issue

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RX 87



What is search engine marketing?

Internet users from all around the world use search engines every day to learn new things, consume media, and go shopping. Search engine marketing (SEM) is a powerful marketing technique that helps make it easier for companies to get discovered on the search engine results page (SERP) and reach a larger consumer base. Most people find the information they need on the first page of the SERP, and search engine marketing helps to ensure that people are seeing your ads and web pages as quickly as possible. Even if consumers don't end up exploring a page after discovering it on the SERP, search engine marketing is still helpful for increasing brand awareness and revenue.



Know your search engine marketing

If you've seen ads appear at the top or right of search engines, then you already know what SEM is. It is a type of marketing that involves positioning a URL or ad on the SERP to maximize traffic and increase visibility for a website.

SEM often involves paid search, where companies pay to have their ads show up at the very top of the results page. When your ads display in these optimal, highly visible positions, your business can have an edge over your competition. Plus, most searchers only click on the first few results, which gives these premium ad spots a visual advantage to catch the attention of your future customers.

Paid search ads are typically distinguished with an "ad" designation in front of the URL. Ads may also appear as a list of product images which lead to more information about purchasing products related to the search terms that were entered. The brand is then charged when a consumer clicks on an ad, also known as pay-per-click (PPC) marketing.



How does search engine marketing work?

Here's how SEM works to help your business:

- **People search online for a product or service**
They enter search terms (called keywords) into search engines like Microsoft Bing.
- **These searchers then find your ad**
If the keywords in your ad match a search, your ad appears next to or above the search results on Microsoft Bing.
- **Customers reach out to you**
With SEM, you can configure your ad so that people have the option to call you, visit your website, or go right to your door.

Check out the [SEM glossary <https://about.ads.microsoft.com/en-us/solutions/glossary>](https://about.ads.microsoft.com/en-us/solutions/glossary) to learn some of the most commonly used terms in search engine marketing.





NEW TO SEARCH ENGINE MARKETING?

It takes a second to learn how to navigate the world of search engine marketing. Once you get the hang of SEM, you'll start to see a boost in search traffic and revenue for your business. Not sure where to start? Continue reading to learn more about SEM and how your businesses can benefit from it.



HOW CAN YOUR BUSINESS BENEFIT FROM SEARCH ENGINE MARKETING?

Billions of people search the web every day. Search engine marketing is how you can get your ads in front of these future customers where it counts: in premium spots on the first page of search results. You set your own budget and get charged only when your ad is clicked. This makes SEM an affordable way to reach more customers for businesses of all sizes—including yours.

Since you are busy running your business, Microsoft Advertising helps you efficiently create, launch, and manage your SEM ad campaign on the Microsoft Search Network. With Microsoft Advertising, you can reach 117 million unique desktop searchers in the US who spend 26% more online than the average internet searcher. ¹



WHAT MAKES SEARCH ENGINE MARKETING DIFFERENT FROM OTHER PRACTICES?

In order to know how SEM works, it's also important to learn about other sectors of marketing on search engines. Learn about search engine optimization (SEO) and social media marketing (SMM) and how they also work to increase website traffic.



SEM VS. SEO

If you have been looking into using SEM for your business, you may have also heard about the term SEO. While search engine optimization is similar to SEM, there are a few key differences that set them apart.

SEO involves finding ways to increase traffic for web pages through organic means or without paying. Organic search results are characterized as "earned" media and do not have the "ad" designation in front of them. SEO also improves the appearance of web pages on the SERP and helps increase traffic over time rather than instantly. Of course, successful SEO requires technical knowledge on how search engine rankings work.

You can watch Microsoft Advertising's [webcast on SEO practices <https://about.ads.microsoft.com/en-us/resources/webcasts-videos/the-art-and-science-of-seo>](https://about.ads.microsoft.com/en-us/resources/webcasts-videos/the-art-and-science-of-seo) to learn more about how to work with SEO.



SEM VS. SMM



Another method of web marketing is social media marketing (SMM). Social media platforms are popular among internet users and attract millions of visitors every day. Frequently visited platforms are good opportunities for businesses to garner traffic, which is why SMM is an effective way to advertise as well. Social media users can engage with ads and develop relationships with them, and social media platforms can earn money to keep them running.

SEM and SMM are similar, but SMM is more focused on engaging with customers and gaining their trust. SMM can also only be seen on social media platforms, whereas SEM involves using search engines.

While SEO and SMM both have their own unique characteristics, using them alongside SEM can increase the effectiveness of digital marketing campaigns. Try using both practices with SEM to improve web traffic.



How much does search engine marketing cost?

You control the cost of search engine marketing and pay nothing for your ad to simply appear on the search engine. Your accounts are charged if someone clicks on your ad, and only up to the amount that you agreed to for that click. That's why SEM is also known as pay-per-click, because you only get charged for each click that your ad generates. No click? No charge.

With Microsoft Advertising, your accounts are free to set up, and billing is flexible. You choose between a prepay or post-pay option, as well as various payment methods. If you are uncertain about anything, there is free help to answer your questions before activating your campaigns. You can also pause them at any time. Remember, you're not billed until someone clicks your ad.

SEM costs can be controlled even further with strategies in bidding and targeting.

Effective search engine marketing strategies



CONTROL SEM COSTS BY CHOOSING YOUR KEYWORD BIDS

Remember that users enter search words into search engines based on their interests. The matching keywords and phrases you choose for your campaigns are important for SEM, as they help determine if your ad will display when users search online. But be aware, other advertisers may also be using the same keywords. That creates competition with your ad campaign. What can you do to win? One solution is keyword bidding.

The amount you bid on your keywords helps to elevate your ad above others. So, choose a bid that you feel best represents the value of that customer to your business.

You can also control search engine marketing costs by focusing on your most relevant customers with targeting.



TARGET CUSTOMERS RELEVANT TO YOUR BUSINESS

You know who and where your best customers are—Microsoft Advertising lets you choose when and how to reach them. Control where your SEM ads appear by city, state, country, and worldwide. Fine-tune your targeting even further by setting the time of day to display your ads and on which devices. By targeting only your most relevant customers, you can reduce unnecessary spending on search engine marketing.

After your campaigns build some history, use reporting tools to learn which strategies work the best, then refine your targeting and other tactics accordingly. This is called optimizing your campaigns.

Start advertising with search engine marketing tools

- Sign up for Microsoft Advertising. [Signing up <https://ads.microsoft.com/?s_int=en-us_acsignin_solutionswhatisssearchenginemarketing&mkt=en-us&adv_market=en-us>](https://ads.microsoft.com/?s_int=en-us_acsignin_solutionswhatisssearchenginemarketing&mkt=en-us&adv_market=en-us) is free and only takes a few minutes.
- Get free coaching for your business's SEM. [Free coaching <https://about.ads.microsoft.com/en-us/how-to/coaching>](https://about.ads.microsoft.com/en-us/how-to/coaching) helps set up your first ads quickly.



RX 88

natural deodorant, top drugstore foundation, beer, baby sunscreen, Kat Von D, texturizing spray...

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By TaxSlayer.com

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TaxAct Free

By TaxACT

★★★★★ 4.5 (103 reviews)

TaxAct Deluxe
2020 Online Edition

TaxAct Deluxe

By TaxACT

★★★★★ 4.8 (53 reviews)



TaxAct Free (2018)

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★★★★★ 4.8 (47 reviews)



TaxAct Deluxe+ (2018)

By TaxACT

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By TaxACT

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**Federal Trade Commission
Privacy Impact Assessment
for
FTC Consumer Surveys**

August 2018

1 System Overview

The Federal Trade Commission (FTC) conducts surveys of consumers in support of its regulatory and law enforcement mission in order to promote fair competition and prevent fraud, deception, and other unlawful acts and practices. These surveys help the FTC, and in some cases, the public, better understand how consumers perceive statements or representations made to them by businesses; surveys also allow the FTC to collect information about and analyze customers' experiences with various industries. Information collected through surveys helps the FTC develop appropriate disclosure guidance for businesses, analyze trends and issues in certain industries, and identify whether certain business practices may be harming consumers, for the purposes of enforcement, education, and other initiatives. Occasionally, the FTC staff may conduct these surveys themselves. More often, however, the FTC retains experts, contractors and/or subcontractors to conduct such surveys on the FTC's behalf and deliver the results to staff for analysis and possible regulatory, enforcement or other action.

Surveys of consumers may involve the collection or maintenance of personally identifiable information (PII) about such consumers using electronic methods (e.g., surveys conducted through the Internet, data stored in electronic databases). Accordingly, the FTC has prepared, and is making publicly available, this Privacy Impact Assessment (PIA), which is legally required when a Federal agency is developing or procuring electronic information technology (IT) to collect, maintain or disseminate information about members of the public in identifiable form.¹

Although the FTC's consumer survey activities do not require the FTC itself to develop or procure IT, such activities normally involve IT systems used or operated by the FTC, its contractors, or subcontractors. Thus, consistent with the E-GOV Act, the FTC has conducted this PIA to ensure that the use of such IT in conducting consumer surveys on behalf of the FTC conforms to applicable legal, regulatory, and policy requirements regarding privacy. The FTC will ensure that all applicable surveys adhere to the requirements of the Paperwork Reduction Act (PRA) and follow the appropriate channels for OMB approval. This PIA was also conducted to determine the risks and effects of collecting, maintaining and disseminating information in identifiable form in an electronic information system as well as to examine and evaluate protections and alternative processes for handling information to mitigate potential privacy risks.²

2 Information Collected and Stored within the System

The following questions are intended to define the scope of the information in the system, specifically the nature of the information and the sources from which it is obtained.

¹ See Section 208 of the E-Government Act of 2002 (E-GOV Act).

² See Office of Management & Budget (OMB) Memorandum M-03-22 (guidance to Federal agencies on conducting PIAs) and Circular A-130, *Managing Information as a Strategic Resource*.

.1 What information is to be collected, used, disseminated, or maintained?

A consumer survey may contain any type of information, including PII, that the agency determines is necessary, appropriate, and within its authority to collect in support of the agency's law enforcement and regulatory mission. See 2.7 below. Since consumer surveys are used by FTC staff to perform the Commission's law enforcement and other authorized activities, the PII maintained in the system will depend on the particular business processes for which a survey is set up and is subject to change based on Commission needs.

Information collected from or about survey respondents may typically include their contact information (e.g., name, postal address, e-mail address, phone number). Survey responses may include any of the following:

- Individual answers to specific survey questions (e.g., multiple choice or narrative response);
- Demographic data about consumers (e.g., age, sex, race, education level);
- Documents collected from individuals (e.g., financing papers, mortgage information, credit reports) obtained with the consumers' explicit consent;
- Other relevant survey records or data (e.g., survey date or time, location, relevant notes or observations of FTC staff, contractors, or subcontractors).

Information may be collected in written form (e.g., paper or Web-based surveys), or may be solicited through other means (e.g., in-person interviews, telephone calls). Likewise, survey responses may be maintained in written/textual form, and, in some cases, may also be recorded in audio or video format, and then transcribed.

When a contractor or subcontractor uses Web-based methods to register participants or collect survey responses, those information collection methods may result in the collection or maintenance of additional transactional information pertaining to the individual survey respondent (e.g., userID, passphrase, or other login questions) or information about their experiences or transactions.

Information collected from the public (e.g., via consumer surveys) may include PII related to individuals in small businesses or sole proprietorships where the individual's home address and personal contact information are the same as his/her business contact information. This is particularly likely when the consumers' survey data includes information about their dealings with such companies (i.e., sole proprietorships) is received. In such cases, this information may be considered public information since the sole proprietor advertises and conducts his/her business from his/her home location.

Finally, survey records may include aggregate statistical data or other analyses, compilations or summaries (i.e., containing no PII) prepared by the FTC itself or by contractors or subcontractors retained to conduct the survey for the FTC.

.2 What are the sources of the information in the system?

The FTC may compile consumer contact information from consumer complaints previously submitted to the FTC or to third parties that have shared such complaints with the FTC (e.g., other state or local agencies, consumer advocacy groups). In some cases, consumer contact information may be drawn from customer lists of businesses under investigation by the FTC. On occasion, consumers' contact information may be compiled from public sources; for example, in a mortgage survey, consumers and their addresses may be pulled from county records of mortgage transactions made publicly available online or pulled from hardcopy records at local county offices.

Typically, the FTC does not administer the survey on its own and contracts with a third party to conduct the survey. In cases where the FTC itself does not directly administer the survey to consumers, consumer contact information may be provided to a contractor or subcontractor for the purpose of conducting a survey. In some cases, the contractor or subcontractor may (e.g., via online contextual advertising³ or other means) directly solicit consumers to participate in the survey. In other cases, contractors or subcontractors may use their own pre-existing panels of consumers for whom the contractors or subcontractors have already collected and maintained contact information and relevant demographic data. Survey responses reflect the view, opinions, or other information provided by consumers themselves. Certain documentation that may be stored in the system may come directly from the consumers (with redacted personal information). Survey records may reflect further annotations prepared by FTC staff, contractors, or subcontractors involved in administering the survey or analyzing the consumer responses.

.3 Why is the information being collected, used, disseminated, or maintained?

As previously stated, consumer survey information is collected, maintained and used in support of the FTC's regulatory and law enforcement mission, to provide useful context and insight into typical consumer views, opinions, experiences, and understanding on specific topics or matters relevant to FTC rules, enforcement cases, education and other initiatives.

.4 How is the information collected?

Information collection methods may vary depending on the survey design and protocol, as well as the particular contractor or subcontractor (if any) that is retained to conduct the survey. Any or all of the following methods may be used to collect information during a survey: Internet, phone, mail, in-person interviews (e.g., individual interviews, focus groups, mall intercepts), fax, video, audio. In some cases, FTC staff may participate, either with or without disclosure to consumers (e.g., observing a focus group through a one-way mirror in order to prevent inhibiting or potentially skewing the discussion and/or results of the survey).

.5 How will the information be checked for accuracy and timeliness (currency)?

Generally, information used to contact consumer survey participants is not independently verified, since the consequences to a consumer of such an error are minimal, if any. If contact information for a specific individual is wrong, the FTC or the FTC's contractor or subcontractor may review its respective records to determine if there was a clerical error

made when copying the contact information (e.g., from consumer complaints or other sources) or when contacting the consumer (e.g., mistyped e-mail address). Demographic data are normally collected from or reported by consumers (e.g., to the contractor or subcontractor conducting the survey for the FTC), and the FTC relies on consumers themselves to report their data truthfully, and on its contractors or subcontractors to collect and maintain such data accurately. Likewise, the FTC does not check the accuracy of consumer responses, as survey questions typically solicit personal views or opinions. The accuracy of any analyses or compilations of survey responses and data prepared by the FTC or for it by its contractors or subcontractors may be separately challenged for accuracy (e.g., by public comment if used in a rulemaking, or by cross-examination or challenge in litigation). As is often the case for consumer surveys, there are no “correct” answers; therefore, the FTC does not check these responses for accuracy. For surveys regarding consumer experiences, the FTC and its contractors or subcontractors rely on consumers to truthfully convey their experiences. The FTC and its contractor or subcontractors develop questionnaires and design surveys to ensure that consumer responses are not subject to bias or potentially result in the collection of inaccurate data.

In certain situations, it may be possible to have controls in place to minimize inaccurate data depending on how the survey is conducted. For example, a contractor conducting a survey via telephone may be supervised by his/her superior or by a subject matter expert to ensure that the call is being conducted in a fair and unbiased manner. If a survey is being conducted in person (e.g., mall intercept), participants may be asked by to verify their responses either in a post-survey interview or by providing their contact information for verification at a later date and time.

.6 Is the system using technologies in ways that the FTC has not previously employed (e.g., monitoring software, Smart Cards, etc.)? If so, how does the use of this technology affect individuals’ privacy?

No. As noted earlier, any IT used in connection with such surveys normally involves systems and technologies that the FTC or its contractors or subcontractors already use or operate (e.g., Internet-based surveys, video or audio equipment). As noted elsewhere in this PIA, the FTC applies or requires that certain administrative, technical, and physical controls be in place in order to safeguard the privacy of consumers who may participate in such surveys.

.7 What law or regulation permits the collection of this information?

See generally the FTC Act, 15 U.S.C. 41 et seq., which authorizes the FTC to gather information in the public interest and for its regulatory and law enforcement mission, and other laws and regulations enforced or administered by the FTC.

³ Online contextual advertising refers to advertisements placed based on the context of the webpage. For example, if a user is visiting a car shopping website, they may be presented with advertisements for cars. All visitors to that website receive the same advertisement; placement is not based on previously-collected data about the consumer.

.8 Considering the type of information collected and sources of collection, what privacy risks were identified and how were these risks mitigated?

If the FTC provides contractors or subcontractors with consumer contact information, the FTC requires that they agree to treat it as nonpublic and handle it appropriately to safeguard against unauthorized use, loss, or disclosure. For example, the FTC requires written nondisclosure agreements and certain technical security measures (e.g., including encryption, where appropriate). The FTC typically also reviews survey questions to ensure that they do not collect more personal information than needed to fulfill the FTC's survey needs, and that such information may not be used or shared by FTC contractors or subcontractors for another purpose without the FTC's explicit consent. If survey responses are collected by Web-based methods, the FTC seeks to ensure that secure transmission methods (e.g., HTTPS) are used (e.g., for any required user accounts or login activities) and that any third-party tracking technologies are avoided or disabled, to avoid associating the consumers' responses on a FTC survey with any other online profile data.

Survey contractors, consultants, and experts are required to collect, maintain, and transmit PII, if any, in a secure fashion. For example, online collection or transmission of sensitive PII would normally require the use of encryption, and all data collected must be stored in a manner to prevent unauthorized access, use, and disclosure.

Furthermore, to help ensure against possible loss or disclosure, and to avoid any Government collection and maintenance of PII that may be collected or generated by its surveys, FTC survey contracts normally require the redaction of all personal identifiers of participants in any reports, analyses, or other survey contract deliverables. Thus, in most cases, the FTC only receives aggregate or de-identified data regarding participants from its contractors or subcontractors sufficient to conduct the required analysis. Furthermore, the data systems used by contractors and subcontractors usually store this aggregate or de-identified data in separate databases from those that contain any PII. The FTC also typically requires that survey records not be retained except in accordance with FTC instructions, which will normally require their secure destruction after the survey has been administered and analysis has been performed. In the unusual case that the survey design requires or involves the collection or maintenance of particularly sensitive information (e.g., credit records, financing documentation, purchase records, Social Security numbers), the FTC may require additional safeguards (e.g., background checks for personnel handling the information).

.9 Does the system employ the use of automated privacy controls or enhanced capabilities to support privacy? Explain.

Each survey conducted by the FTC or contractors/subcontractors on behalf of the FTC varies; as such, survey components and any systems or technologies associated with a survey may differ greatly. When applicable and available, the FTC and its contractors/subcontractors will coordinate to ensure systems used in the course of a survey employ all practical automated privacy controls and any feasible enhanced capabilities to protect and support privacy.

3 Use and Access to Data in the System

The following questions are intended to clearly describe how the information in the system will be used, and who will use it.

.1 Describe how information in the system will or may be used.

See above sections 1, 2.3. The FTC or its contractors or subcontractors will use consumer contact information to solicit consumer participation in these surveys, and will use survey responses to generate analyses, reports, and summaries. The survey responses and other data provided to the FTC by its contractors typically will not include identifying information about the respondents, nor will the analyses, reports, and summaries generated from these responses. Reports and analyses may be redacted accordingly to protect consumer information.

.2 Which internal entities will have access to the information?

If the survey is conducted by FTC staff, access to consumer contact information, raw survey data or other related survey records is limited to FTC employees with a need-to-know. If the survey is conducted by a contractor or subcontractor, access to personal information is limited to authorized contractor and subcontractor employees who need such access in the performance of the contract. . Survey responses, analyses, and reports that are issued or published as a result of the survey may be made accessible to the public. These final reports or analyses do not include any personal information.

.3 Which external entities will have access to the information? If contractors or subcontractors have access to data in the system, explain what, if any, privacy requirements are in place to ensure that data is properly protected.

As noted earlier, the FTC may retain contractors and/or subcontractors to conduct surveys on the FTC's behalf, which may require that such external entities be provided with, or themselves collect and maintain, consumer contact information, demographic data, survey responses, and related survey records. In accordance with their terms of contract with the FTC, such entities are generally prohibited from using, sharing, disclosing or retaining records that are generated as part of an FTC survey for any purpose other than the FTC's survey. No other external entities will routinely have access to these survey records, except to the extent that disclosure is required or authorized by law (e.g., in response to a Freedom of Information Act, official Congressional request, court discovery or other legal process).

4 Notice and Access for Individuals

The following questions are directed at how or whether the individual is notified of the scope of information collected. They also concern the individual's right to consent to uses of information, right to decline to provide information, ability to ensure the accuracy of the information collected, and right to access their information.

.1 How will individuals be informed about what information is collected, and how this information is used and disclosed?

Consumers are typically informed about the general nature and purpose of a specific survey

when they are contacted to solicit their participation. In some cases, it may be impossible to be completely transparent about the nature or purpose of a survey because it may inadvertently create bias in the consumers' decision to participate in the survey or potentially result in biased responses. This would affect the accuracy and validity of the information collected and effectively nullify the survey. Participation is always voluntary; if individuals choose to participate, the survey form, questionnaire or other instrument or survey method (e.g., in-person interview) will explain, as applicable and to the extent possible, how their information is to be used and/or disclosed.

Before records are maintained by the FTC or on its behalf in a system of records under the Privacy Act of 1974, notice in accordance with that Act will be provided to survey participants (i.e., Privacy Act statement under 5 U.S.C. 552a(e)). In other cases, where it is not feasible to disclose the FTC's sponsorship of the survey in order to avoid interfering with the validity of the survey, the survey may be designed so it is conducted by a contractor or subcontractor that will maintain records without resulting in the collection or maintenance of a Privacy Act system of records by the FTC or the contractor or subcontractor on the FTC's behalf (e.g., collecting and maintaining records without name or other personally assigned identifiers, or ensuring that records are not maintained or retrieved by name or identifier within the meaning of the Act). In such cases, a Privacy Act statement is not required; however, the FTC will work with the contractor or subcontractor to ensure that consumers receive appropriate notice of the survey's purpose and the use or disclosure of their data.

.2 Do individuals have the opportunity and/or right to decline to provide information?

Yes. All such surveys are completely voluntary.

.3 Do individuals have the right to consent to particular uses of the information? If so, how would an individual exercise this right?

No, except by declining to participate in the survey.

.4 What are the procedures that allow individuals to gain access to their own information? What is the process for receiving and responding to complaints, concerns, or questions from individuals?

Consumers may file a request with the FTC under the Freedom of Information Act (FOIA) and the Privacy Act of 1974 for any agency records of the survey that may be about them and that are not exempt from disclosure to them under those laws.⁴ As noted earlier, however, the FTC typically does not receive any identifiable participant data when surveys are conducted by a contractor or subcontractor, and thus will not ordinarily have records for disclosure to the consumer. The FTC typically does not retain or have access to any identifiable participant data that may be collected by survey contractors and subcontractors. As explained above, the FTC normally prohibits any such data from being disclosed, shared or used, and typically requires that data be destroyed after the survey work and analysis are completed in accord with the FTC's instructions.

⁴ See 16 C.F.R. 4.11(a) (FTC FOIA rules), 4.13(m) (FTC Privacy Act rules).

.5 Discuss the privacy risks associated with the process of providing individuals access to their own records and how those risks are mitigated.

Not applicable. In performing these surveys, the FTC and its contractors or subcontractors do not maintain or operate any online or other system for providing individuals with access to their data, even if survey responses may, in some cases, be collected by online methods.

5 Web Site Privacy Issues

Complete this section only if the new system or project creates or modifies an FTC Web site, page, or online form accessible through the Internet.

.1 Describe any tracking technology used by the Web site and whether the technology is persistent or temporary (e.g., session cookie, persistent cookie, Web beacon). Currently, persistent tracking technology is not approved for use by the FTC (see 5.2).

As noted earlier, if Web-based methods are used to collect survey responses, the FTC shall require the use of secure data transmission methods and that any third-party tracking technology is avoided or disabled. (There may be instances in which temporary session cookies may be enabled for the purposes of managing the consumer's responses, but such cookies are normally deleted once the user closes his or her browser to end the session.)

.2 If a persistent tracking technology is used, ensure that the proper issues are addressed.

The FTC does not permit persistent tracking technology on its websites or allow its contractors/subcontractors to use persistent tracking technology unless previously approved by the agency under applicable OMB policy. Any use of persistent tracking technology, whether by FTC staff or a survey contractor, would require prior express approval by the FTC.

.3 If personal information is collected through a Web site, page, or online form accessible through the Internet, is appropriate encryption used? If not, explain.

As noted earlier, if PII is collected by Web-based means, the FTC will work with its contractor/subcontractor to ensure secure data transmission methods are in use in accordance with FTC's established guidelines and policies.

.4 Explain how the public will be notified of the Privacy Policy.

If the FTC is conducting the survey itself, the FTC's privacy policy is posted on the FTC's web site, www.ftc.gov. Contractors and subcontractors that operate a Web site through which survey responses are collected would have their own privacy policies, which are subject to FTC review.

.5 Considering any Web site or Internet issues, please describe any privacy risks identified and how they have been mitigated.

See above. If web-based means are used to collect survey responses from consumers, certain administrative, technical and physical controls will be required in order to safeguard consumers' privacy.

.6 If the Web site will collect personal information from children under 13, or be directed at such children, explain how it will comply with the Children's Online Privacy Protection Act (COPPA).

The FTC does not normally conduct surveys of children under 13. Such an FTC survey, if any, would be required to comply with COPPA.

6 Security of Information in the System

The following questions are intended to describe technical safeguards and security measures.

.1 Are all IT security requirements and procedures required by federal law being followed to ensure that information is appropriately secured?

As noted earlier, each survey conducted by the FTC or its contractors/subcontractors will vary; as such, survey components and any systems or technologies associated with each survey may differ greatly. The FTC and its contractors/subcontractors will coordinate to ensure all applicable federal requirements are met and practical steps are taken to ensure information is appropriately secured.

.2 Has an Assessment & Authorization been completed for the system or systems supporting the program?

Each survey conducted by the FTC or its contractors/subcontractors will vary; as such, survey components and any systems or technologies associated with each survey may differ greatly. When applicable and necessary, the FTC may conduct an Assessment & Authorization (A & A) to ensure information is appropriately secured. Any data collected and stored by the FTC is part of the Data Center General Support System (GSS), which has received an A & A.

.3 Has a risk assessment been conducted on the system?

Each survey conducted by the FTC or its contractors/subcontractors will vary; as such, survey components and any systems or technologies associated with each survey may differ greatly. When applicable and necessary, the FTC will ensure appropriate security controls are identified to minimize the risk associated with use of these system(s) and that such controls have been implemented.

.4 Does the project employ technology that may raise privacy concerns? If so, please discuss its implementation.

Each survey conducted by the FTC or its contractors/subcontractors will vary, as will the technologies associated with the surveys. The FTC will coordinate with its contractors and subcontractors to identify and address any privacy concerns that arise in the course of conducting its surveys.

.5 What procedures are in place to determine which users may access the system and are they documented?

Each survey conducted by the FTC or its contractors/subcontractors will tend to vary, as will the practices and procedures associated with each survey. Typically, the FTC bureau or office initiating the survey issues access roles and privileges based on the user's job requirement. In accordance with FTC's established guidelines and practices, procedures are documented and administrative access is limited to authorized FTC and contractor/subcontractor personnel who require that level of access in the course of their job duties.

.6 Describe what privacy training is provided to users either generally or specifically relevant to the program or system.

All FTC employees and contractors with FTC network access are required to complete computer security training and privacy awareness training on an annual basis.

.7 What auditing measures and technical safeguards are in place to prevent the misuse of data?

Each survey conducted by the FTC or its contractors/subcontractors will vary; as such, survey components and any systems or technologies associated with each survey may differ greatly. When applicable and necessary, auditing measures and technical safeguards may be enacted to ensure that FTC's contractors/subcontractors comply with all practical rules and regulations set forth by the agency.

.8 To whom should questions regarding the security of the system be addressed?

Any questions regarding the security of the system should be directed to the FTC's Chief Information Security Officer.

7 Data Retention

This section addresses for how long data is maintained, and how and when it is disposed of.

.1 For what period of time will data collected by this system be maintained?

The period of time that data will be maintained for each survey will vary and be dependent upon the particular survey. Typically, data is maintained for as long as necessary to conduct the survey and perform analysis of information. Any data retained for further analysis pursuant to the FTC Act will not include personal identifiers. The FTC is committed to limiting the collection of data for the purpose for which it was collected. The FTC is also committed to limiting the retention of the data for only as long as necessary and in accordance with the agency's records schedule.

.2 What are the plans for destruction or disposal of the information?

Destruction and disposal of the information collected and maintained during the course of a survey will depend on each survey. As stated above, typically, data is maintained for as long as necessary to perform the survey and analysis of information.

.3 Describe any privacy risks identified in the data retention and disposal of the information, and describe how these risks have been mitigated.

There may be risks associated with collecting personal information and retaining that information for lengthy periods of time. These risks are mitigated by scrubbing the data collected of any personal identifiers and by limiting the use of data for the purpose for which it was collected. The FTC is committed to limiting data collection to only the minimum necessary to fulfill the purpose of the data collection, as well as to dispose of the data when no longer necessary.

8 Privacy Act

This section addresses the applicability of the Privacy Act of 1974 to the system, and whether or not the system is covered by a System of Records Notice (mandated for some systems by the Privacy Act of 1974).

.1 Will the data in the system be retrieved by a personal identifier?

Normally, the FTC itself will receive information from its survey contractors in de-identified form, with no records directly identifiable by participant name or other personally assigned identifier. Thus, the FTC normally will not retrieve any survey records or data by name or other personal identifiers. In some cases, however, if the FTC collects survey data directly

from consumers, or contractors collect data in identifiable form, the FTC or contractor may maintain and retrieve, or be able to retrieve, survey records or data by name or other personal identifier assigned to the individual survey respondent (e.g., tracking or other code number).

.2 Is the system covered by an existing Privacy Act System of Records notice (SORN)?

To the extent, if any, that the FTC or its contractor retrieves survey records or data by identifier, and such records are within the agency's control for purposes of the Privacy Act, such records would be covered by the FTC SORN that applies to its nonpublic program records.⁵ To the extent the FTC or its contractors or subcontractors use web-based methods to conduct surveys, resulting in the collection of login IDs, passphrases, or responses to challenge questions, that information would be covered by the FTC SORN that applies to computer user identification and access records.⁶ All of the FTC's SORNs are available on the FTC's public Web site, www.ftc.gov.⁷

9 Privacy Policy

This section confirms that the information handling practices of the system are consistent with the FTC's privacy policy.

.1 Confirm that the collection, use, and disclosure of the information in this system has been reviewed to ensure consistency with the FTC's privacy policy.

The collection, use, and disclosure of the information in this system has been reviewed to ensure consistency with the FTC's privacy policy.

⁵ See FTC I-1.

⁶ See FTC VII-3.

⁷ See <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems>.

10 Approval and Signature Page

Reviewed:

Alexander C. Tang, Attorney
Office of the General Counsel

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Chief Privacy Officer

Date:_____

Jaime Vargas
Chief Information Security Officer

Date:_____

Yvonne Wilson
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Date:_____

Approved:

Raghav Vajjhala
Chief Information Officer

Date: _____

RX 90



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TurboTax Review 2022

TurboTax is one of the more expensive online filing products, but its ease of use and human help options are noteworthy.

Sabrina Parys, Tina Orem | Mar 3, 2022

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TurboTax is generally pricier than everything else out there, but even though confident filers may not need all the bells and whistles that most TurboTax online products offer, many people will find the experience and the availability of human help worth the extra cost. We've long praised TurboTax for its design and flow.

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TurboTax's prices

TurboTax has a lot going for it, but price isn't one of them. The list price of its software routinely is on the high end of the spectrum, especially when adding the cost of a state return. And if you want access to human help, it costs even more.

What you get from TurboTax's free version

TurboTax offers a free version for simple tax returns only; it lets you file a Form 1040, claim the earned income tax credit, reconcile your advanced child tax credits and deduct student loan interest. Unlike last year, the free version no longer handles unemployment income reported on a 1099-G.

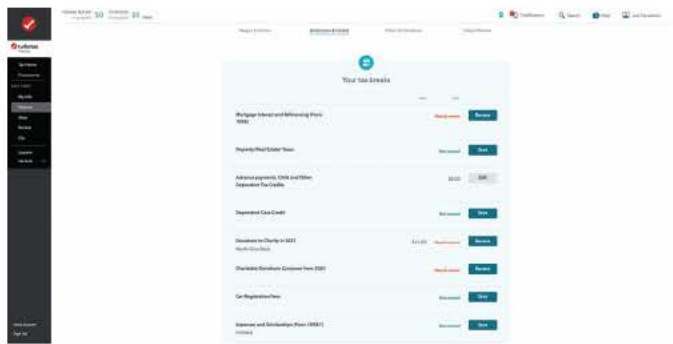
The free package also can't handle itemized deductions or schedules 1, 2 or 3 of Form 1040, which means it probably won't work for you if you plan to do things such as deduct mortgage interest, report business or freelance income, or report stock sales or income from a rental property.

TurboTax's ease of use

What it looks like

TurboTax's interface is like a chat with a tax preparer, and you can skip around if you need to. A banner running along the side keeps track of where you stand in the process and flags areas you still need to complete.

Embedded links throughout the process offer tips, explainers and other resources. And help buttons can connect you to the searchable knowledge base, on-screen help and more.



Handy features

You can switch from another provider: TurboTax imports electronic PDFs (not scans of hard copies) of tax returns from H&R Block, Credit Karma, Liberty Tax, TaxAct and TaxSlayer.

Auto-import certain tax documents: You can automatically import W-2 information from your employer if it's partnered with TurboTax, but you can also take a picture of your W-2 and upload it to transfer the data to your return. You can import certain 1099s, and the Self-Employed version also lets you upload 1099-NECs from clients via photo, as well as import income and expenses from Square, Uber and Lyft.

Crypto support: TurboTax's Premier package eliminates one of the biggest pain points for cryptocurrency investors — manual entry. Users can import up to 4,000 transactions at once.

Donation calculator: The Deluxe, Premier and Self-Employed packages integrate its Deductible, a feature — and standalone mobile app — that's helpful for quickly finding the deduction value of donated clothes, household items and other objects.

Platform mobility: Like many other providers, TurboTax lets you access and work on your return across devices: on your computer via the website or on your phone or tablet.

TurboTax's support options

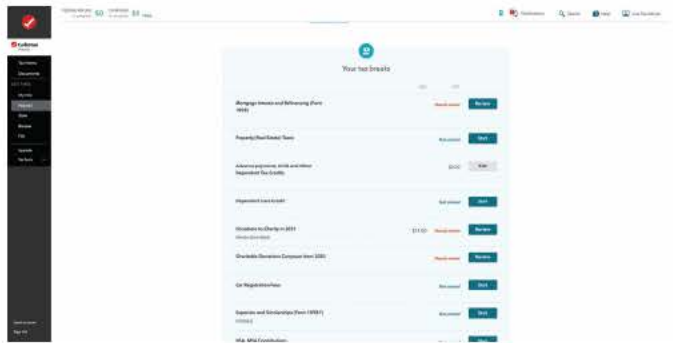
Here's a look at the various ways you can find answers and get guidance when filing your return with TurboTax.

Ways to get help

- **General guidance:** Searchable knowledge base, forums and video tutorials are helpful for research on the fly.
- **Tech support:** TurboTax Digital Assistant (a chatbot) and contact form available for all; paid packages get access to a TurboTax specialist.
- **One-on-one human tax help:** Live, on-screen tax advice or review of your whole tax return by a tax pro is available if you buy the TurboTax Live version.

One of TurboTax's most outstanding support options is TurboTax Live. It offers a one-on-one review with a tax pro before you file, as well as unlimited live tax advice throughout the year. You can talk on the fly to a tax pro via one-way video (you see them, but they don't see you; they just see your screen).

TurboTax also offers Live Full Service, which does away with tax software altogether. Instead, you upload your tax documents and a human puts together your tax return. You'll be matched with a tax preparer, meet on a video call before he or she begins working, and then you'll meet again when your return is ready for review. The preparer files the return for you. Prices range from \$199 to \$389 for federal returns depending on complexity, plus \$54 per state return.



If you're audited

Getting audited is scary, so it's important to know what kind of support you're getting from your tax software. First, be sure you know the difference between "support" and "defense." With most providers, audit support (or "assistance") typically means guidance about what to expect and how to prepare — that's it. Audit defense, on the other hand, gets you full representation before the IRS from a tax professional.

TurboTax gives everyone free audit support from a tax pro to help you understand what's going on if you get that dreaded letter about your 2021, 2020 or 2019 tax return; if TurboTax can't connect you with a pro, you'll get a refund. If you want someone to represent you in front of the IRS, you'll need TurboTax's audit defense product, called MAX. It runs an extra \$49 and includes features such as identity theft monitoring, loss insurance and restoration help.









If you're getting a refund

No matter how you file, you can choose to receive your refund several ways:

- Direct deposit to a bank account.
- Loaded onto a Turbo Visa Debit Card (if you're getting a refund on your state taxes, see if your state offers a prepaid card option as well).
- Direct deposit to Coinbase account.
- Paper check.
- Apply the refund to next year's taxes.
- Directing the IRS to buy U.S. Savings Bonds with your refund.

You also have the option of paying for the software out of your refund. But there's usually a charge to do so — the amount may depend on the type of service or add-ons you requested.

How TurboTax compares

TAXACT  	<ul style="list-style-type: none"> • Federal: \$46.95 to \$94.95. Free version available for simple tax returns only. • State: \$39.95 to \$54.95. • All filers get access to Xpert Assist for free until April 7. <p><i>Promotion: NerdWallet users get 25% off federal and state filing costs.</i></p>
H&R BLOCK  	<ul style="list-style-type: none"> • Federal: \$49.99 to \$109.99. Free version available for simple tax returns only. • State: \$0 to \$44.99 per state. • Online Assist add-on gets you on-demand tax help.
TURBOTAX  	<ul style="list-style-type: none"> • Federal: \$59 to \$119. Free version available for simple returns only. • State: \$0 to \$49 per state. • TurboTax Live packages offer review with a tax expert. <p><i>Promotion: NerdWallet users can save up to \$15 on TurboTax.</i></p>
TAXSLAYER  	<ul style="list-style-type: none"> • Federal: \$29.95 to \$59.95. Free version available for simple tax returns only. • State: \$0 to \$39.95 per state. • On-demand tax help at Premium and Self-Employed tiers. <p><i>Promotion: NerdWallet users get 35% off federal filing.</i></p>

The bottom line

With its intuitive design and variety of human support options, TurboTax is in many ways the standard for the do-it-yourself tax-prep industry. Its products come at a price, however, and confident filers might find that similar offerings from competitors may provide a better value.

GET STARTED WITH TURBOTAX

About the authors: Sabrina Parys is a content management specialist at NerdWallet. [Read more](#)



Tina Orem is NerdWallet's authority on taxes and small business. Her work has appeared in a variety of local and national outlets. [Read more](#)



METHODOLOGY

NerdWallet's comprehensive review process evaluates and ranks the largest online tax software providers. Our aim is to provide an independent assessment of available software to help arm you with information to make sound, informed judgments on which ones will best meet your needs. We adhere to strict guidelines for editorial integrity.

We collect data directly from providers, do first-hand testing and observe provider demonstrations. Our process starts by sending detailed questions to providers. The questions are structured to equally elicit both favorable and unfavorable responses. They are not designed or prepared to produce any predetermined results. The provider's answers, combined with our specialists' hands-on research, make up our proprietary assessment process that scores each provider's performance.

The final output produces star ratings from poor (1 star) to excellent (5 stars). Ratings are rounded to the nearest half-star. For more details about the categories considered when rating tax software and our process, [read our full methodology](#).

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Federal Income Tax Return Calculator

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Where's My Refund? How to Track the Status of Your IRS and State Tax Refund

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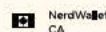
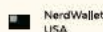
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TurboTax Review In-Depth: Does Free Really Mean Free?

By [Caitlin Ward](#)

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Simply Put: TurboTax provides both online and downloadable user-friendly software used for filing your taxes. They boast four guarantees including 100% accurate calculations, a maximum refund guarantee or your money back, audit support, and a 100% accurate expert-approved guarantee. If you have a simple return, you can file both federal and state returns for free. TurboTax is owned by Intuit, the company behind QuickBooks and Mint. All three products integrate across Intuit's platform.

Free Filings

Simple federal and state

Audit Support

Free year-round guidance

Promotion

Start Filing

Pros:

- ✓ File both federal and state returns for free
- ✓ Handles cryptocurrency transactions
- ✓ Accurate tax calculations
- ✓ Large user forum for answering questions

Cons:

- ✗ Expensive software when compared to competitors

In this review

- [About TurboTax](#)
- [TurboTax Guarantees](#)
- [TurboTax Free Edition](#)
- [Free for a Fee](#)
- [Is it Worth Paying For?](#)
- [A Step Before Getting Started](#)
- [Additional Fees](#)
- [Getting Started](#)
- [Doing Your Taxes](#)
- [Is it Accurate?](#)
- [Notable Features](#)
- [Is it Right for You?](#)
- [Pros and Cons:](#)
- [Summary](#)

START FILING

Let's face it. Some of the biggest headaches in adulthood come from taxes. Whether you're paying them or filing them, they are just the worst. Fortunately, the right tax software can make them suck a little less. We'll take a look at one of the top tax preparation companies with this TurboTax review.

Nobody wants to spend unnecessary time on the **taxes** and that includes time spent finding the right software. We're here to save you time by examining the fees, notable features, and accuracy in one post.

To keep things simple, we're just going to look at **TurboTax Online**. That being said, they do have software available for download. If you prefer this method, it's good to know that you can return any purchased software for a full refund (excluding shipping and handling costs).

Before we dig into all the details, it's good to know about who TurboTax is.



[Our Review >](#)



[Our Review >](#)



[Our Review >](#)

<p>Free Filings: Simple federal and state</p> <p>Document Import: Previous returns, W-2, 1099</p> <p>Promotion: Start Filing</p> <p>Return Status: Check eFile status, track IRS refund, and previous year's return</p> <p>Professional Assistance: Talk live with tax experts</p> <p>Audit Support: Free, year-round guidance</p> <p>Full-Featured App: Android, iPhone</p>	<p>Free Filings: Federal</p> <p>Document Import: Prior year's return; from TurboTax, H&R Block, and TaxAct</p> <p>Promotion: Direct E-file to IRS</p> <p>Return Status: Check eFile status, track IRS refund, 7-year access to returns</p> <p>Professional Assistance: Email support; live tax expert chat included with Deluxe plan</p> <p>Audit Support: Included with Deluxe plan</p> <p>Full-Featured App: No</p>	<p>Free Filings: Simple federal and state</p> <p>Document Import: TaxAct, TurboTax and H&R Block returns; W2 import; 1040, 1040A, and 1040EZ forms</p> <p>Promotion: Refer friends. Get Amazon gift cards.</p> <p>Return Status: Check eFile status, track IRS refund, 7-year access to returns</p> <p>Professional Assistance: Tax specialist phone support</p> <p>Audit Support: Available for purchase</p> <p>Full-Featured App: Android, iPhone</p>
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About TurboTax

TurboTax is under the umbrella of companies that **Intuit Inc.** owns. Do you use QuickBooks or **Mint**? Intuit runs those too and you can use the same login information for all of them.

Scott Cook and Tom Proulx founded Intuit in 1983. Fun fact: Cook still works with Intuit as the Chairman of the Executive Committee meaning he runs the committee that runs the entire board.

Intuit went public in 1993 and now has over 9,000 employees with 19 locations in 9 different countries. They boast having over 50 million customers.

As we see later they make up for the lack of physical locations by dominating the **technological** world.

Efficiency and being woke are important to you. TurboTax is a far option. Sasan Goodarzi is the current CEO and has stressed the importance of **social awareness and fair representation**.

TurboTax Guarantees

TurboTax boasts **four** main guarantees:

100% Accurate Calculations – TurboTax will pay any penalty or interest resulting from a calculation error by its software.

Maximum Refund Guarantee or Your Money Back – TurboTax will refund any of **their fees** if you can get a larger refund with different software. If you used the Free Edition TurboTax will pay you \$14.99.

not mean they will represent you in an audit. They just help you understand why you're being contacted or audited.

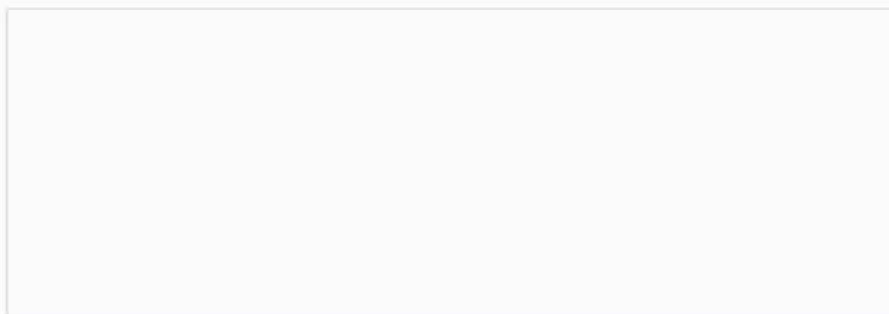
100% Accurate, Expert-Approved Guarantee – This one is similar to the 100% Accurate Calculations Guarantee. If any of TurboTax's employees make an error on your return, TurboTax will pay the resulting penalties and interest.

These guarantees are great perks, but they're pretty consistent with competitors like **H&R Block**. They're good to know about but shouldn't be your deciding factor.

What does make these guarantees useful is that they instill a good deal of **confidence** while scrolling through TurboTax's website. Reading about tax experts reviewing returns and guaranteeing that they're done correctly takes away some of the stress that comes with filing taxes.

Just remember that this doesn't necessarily mean you won't have any errors on your tax return. It just means TurboTax will **pay the penalties and interest** for any problems on their part. But that's still a pretty good perk.

TurboTax Free Edition



TurboTax is one of the few companies that offers a completely free option. Your federal filing is free. State filing is free. Everything is free.

But this means you have to ignore a lot of the add-ons that TurboTax will try to sell to you, which we'll discuss in more detail later.

The only downside to this free filing is the fact that only the **simplest of returns** qualify. According to **TurboTax**, you qualify if your tax return only includes the following:

- W-2 income.
- Simple dividends and interest.
- Standard deduction (as opposed to itemizing).
- Earned Income Tax Credit (EITC).
- Child Tax Credits.

1040 before the **postcard 1040** in 2018.

If you have **student loan** interest **educator expenses** **Health Savings Account** contributions or other similar deductions you **can't** use the Free edition.

Yet another reason why student loans are the bane of my existence.

TurboTax estimates around 50 million people qualify for their Free Edition. If you qualify, you're able to use their quality software with none of the fees. None.

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misleading.

File for a Fee

For those of you who can't use the free version you have a handful of other packages to choose from:

TurboTax may dominate with their Free option but the paid options are a bit **pricey** compared to the competition. Even the Deluxe package which is the next step up from Free is going to cost you over **\$100** to file both a federal and state return.

With all of the packages you have the option of making them **Live versions** for an **increased fee**. This means you'll have a tax expert available to help you while you complete your return.

This live feature also grants the ability to ask **unlimited questions** for the entire year after you file your taxes and they'll review your return before you file. While this is expensive it's a pretty cool unique feature. When you ask questions you even be able to see your tax expert right **on your screen**.

Is It Worth Paying For?

Each package comes with its perks. Choosing the Deluxe option allows you to have **24/7 access** to your tax return. This saves you from having to keep a personal copy even though you should still do this.

With TurboTax Premier you can report **cryptocurrency** gains and losses. Cryptocurrency is still new to many tax preparation companies so TurboTax is taking the lead in this situation.

For TurboTax Self Employed you're going to pay **\$165** if you file both federal and state returns. The benefit here is that as of the writing of this article TurboTax offers a **free subscription** to QuackBooks Self Employed when you pay for the Self Employed tax package.

This QuickBooks subscription can easily cost you **\$120 per year**. If you're considering using QuickBooks for your self-employment earnings, getting the free subscription with your tax return is a phenomenal deal. Plus, you can transfer all your expenses and mileage to TurboTax when it's time to file your taxes next year.

You can counteract these fees by promoting TurboTax. If you get someone to file using TurboTax, you get a **\$10 Amazon gift card**. You can do this up to 20 times, and your friend will even get a **20% discount** when they file their federal return.

If you're in the military, TurboTax has some awesome discounts. Anyone in the E1-E5 pay grades can use the Deluxe version for free.

If you need a more advanced package, you get \$5 off any federal product. This \$5 discount also applies to pay grades E6 and above.

Once you enter your military W-2, TurboTax will use that to verify your rank and will apply the discount automatically.

A Tip Before Getting Started

While you can start any TurboTax product for free, it's hard to **automatically downgrade** from any of the paid versions back to the Free Edition. Because of this, start with the Free Edition and work your way up.

TurboTax will notify you if you've selected something that requires a higher tier of software. So if you start with the most basic version, you can work your way up as needed. This also prevents you from selecting a more **expensive** package with unnecessary tax forms.

This is important because TurboTax has a way of helping you select which software you need. It asks you easy questions like whether or not you have kids or have **rental property**. It also asks you if you want to maximize your tax **deductions** and credits.

No shit. Everyone wants to do this. But **the tricky thing** in selecting this option means TurboTax will recommend the Deluxe version for the Schedule A itemized

Since the standard deduction was increased to \$12,000 for individuals and \$24,000 for married couples, in 2018 many people don't need to itemize deductions and will just use the standard deduction.

This means you could select TurboTax Deluxe and then never actually use the additional forms you're paying for. And if you aren't a tax pro, you might not realize the difference between which forms you're paying for and which forms you need.

Don't worry about missing out on credits and deductions either. With the Free Edition, I was still asked the same questions about itemized deductions and could have switched to the Deluxe version if needed to.

Start with the Free Edition. I repeat. Start with the Free Edition.

Additional Fees

Now that we know how to make TurboTax cheaper, let's see how they try to make it **more expensive**.

Pay with Your Refund (\$39.99)

If you want to pay your filing fees in the future, you can pay them with your refund.

If you don't have the money now, this is a helpful option that's similar to the competition. Otherwise, **avoid** this upcharge by paying your fees upon filing.

Plus (\$29.99)

Plus is an option when you file with the Free Edition. It offers a lot of the perks that the paid versions provide without paying for the schedules and forms your tax return doesn't need:

- **Tech support** right on your screen.
- **Tips and tax advice** for how to maximize your refunds in the future.
- **Insights** into what impacts your current refund or balance due.
- **Easy online amend** for up to three years to fix any errors on your part.
- **24/7 access** to your federal and state tax returns.
- **Access to MyDocs** to store copies of your **tax documents**, such as your W-2.

These are all nice, but they're not worth it if you can keep solid records for yourself.

MAX Defend & Restore (\$49.99)

This comes with several benefits:

Audit Defense – This is audit *representation*, meaning they will take care of the audit for you. Not every company does this. Some even act as a middleman and

Identity Loss Insurance – TurboTax will reimburse up to \$250,000 of stolen money and \$1 million for any legal fees you may incur.

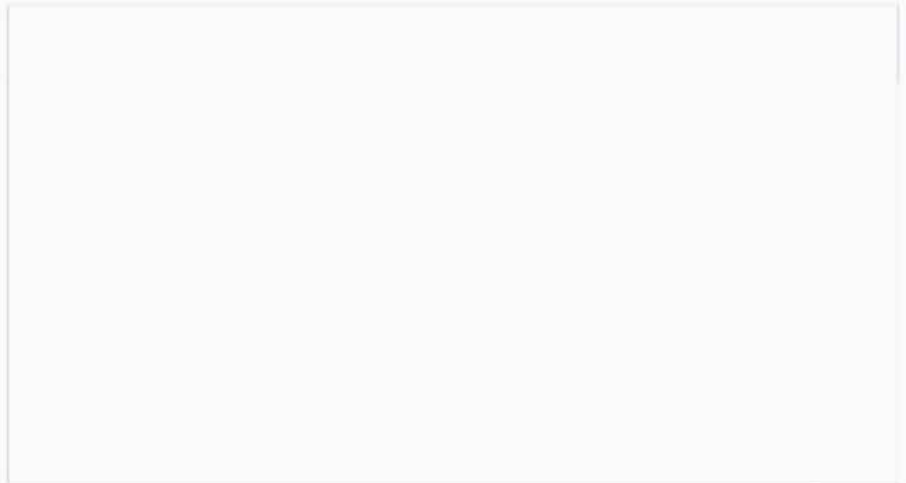
Full Identity Restoration – If your **identity is stolen**, a Restoration Specialist will work with you to recover it.

Identity Theft Monitoring – TurboTax offers 24/7 monitoring and will notify you of anything suspicious. If they find anything, a Restoration Specialist will help you through the process.

Priority Care – This cuts down on wait time when you have a question.

MAX is one of the few offerings that could be **worth your money**. It's an insurance in a sense, but \$50 is less than a year's supply of ZzzQuil. If it helps you sleep at night, go for it.

The only negative comes from my personal preferences. TurboTax tried to sell MAX to me twice, and they didn't mention Priority Care the first time. I'm being petty, but don't like constant sales promotions that leave out all the features.

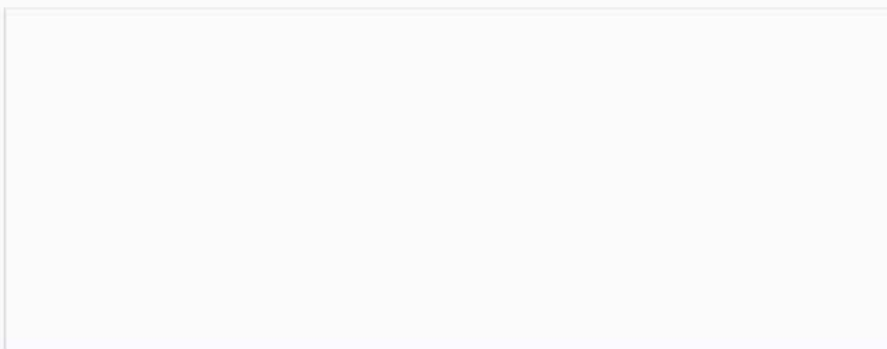


Getting Started

Not considering costs, is TurboTax any good? Since I work for a CPA firm and am a tax preparer, I'm comfortable with taxes and wanted to put this software to the test for ease of use and accuracy.

It's easy to get started. All you have to do is create an account with an email address, and you're good to go.

Once you answer some simple questions, TurboTax provides a list of documents you'll need, such as your W-2 and any 1099's that may apply. This is an awesome feature that's made even better because it's done for you with no additional effort.



The entire process consists of answering one or a few questions per page. This keeps things simple while moving them along at a **decent pace**.

TurboTax also provides additional insight into more complicated questions and the answers show up as either a box or sidebar on your screen. Super useful.

Along those same lines the software provides insight into some of the **changes** that happened in 2018. One of my favorites was the way TurboTax provided a little burb about the elimination of personal exemptions.

I love that they try to **inform** you of what's going on instead of leaving you to figure out why your refund is different.

One of the more interesting parts of my taxes was the **Retirement Savings** Contribution Credit. I was a little worried because it told me I needed to remember to check into this before finalizing my return.

I ignored every attempt they gave me to check this credit and answered every question about this credit as inaccurately as possible. To TurboTax's credit, it forced me to go back to it after running the **CompleteCheck** analysis.

I commend them on how they force you to get your credits instead of trusting you to figure it out for yourself.

Is It Accurate?

Yes! TurboTax came up with the same exact refund that I came up with using the professional tax software in my office. It also updates your refund as you go, so you can see how what you're doing is affecting your taxes.

This was the case even though I tried to answer questions incorrectly to knock off some of the applicable credits and deductions. The software knew I messed up and helped to correct it.

Out of courtesy's sake I played around with self-employment earnings. I **asked my permission** to upgrade to the Self-Employed version and it calculated self-employment taxes and the new Qualified Business Income (QBI) Deduction correctly.

I even mentioned the QBI Deduction in a list of **self-employed tax** breaks. I'm super impressed and again commend them for explaining what's going on with your taxes.

Notable Features

TurboTax values **security**. You can choose two-factor authentication and Touch ID when setting up your account. TurboTax also encrypts your data both in the servers and when it's sent to the IRS to keep your personal information safe.

You can also view any devices used to access your account and you get email **notifications** when any device is added or when any changes are made to your account.

If you're into **mobile apps** they have three: TurboTax mobile, TaxCaster, and TurboTax Deductible. These will let you file your taxes, get a refund estimate, and keep track of your deductions throughout the year respectively. All three are free to download.

For no additional fee, no interest, and no hit to **your credit score**, you can use Refund Advance to get an **advance payment of your refund**. This usually applies early in tax season. Amounts range from \$250 to \$1000 depending on your federal tax refund, and TurboTax pays themselves back when your refund is processed.

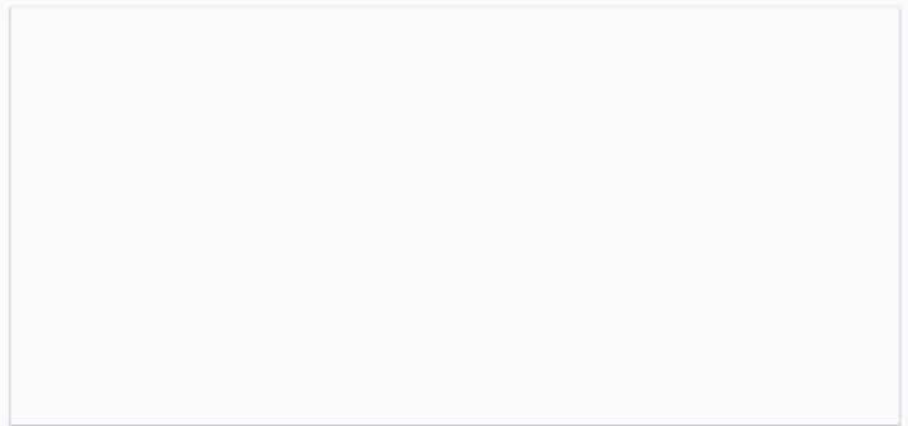
If you're like me and are impatient when it comes to getting your refund, there's an **Amazon Alexa Skill** for that. You can ask how much your refund is when it shows up in your bank account and the status of your tax return without having to use the IRS website.

One of TurboTax's strong suits is the forum. You can ask questions about TurboTax support or tax laws and view

While some of these questions can help you regardless of which company you use, the advantage goes to those who use TurboTax. It's common to see a question like **"Where do I enter self-employed mileage?"** There'll be an answer saying exactly how to find it so you don't have to wait for tech support to help.

Is It Right for You?

TurboTax is great if you can use it for free. This includes the Free Edition for simple returns and the Deluxe Edition for married persons in the E1-E5 pay grades. The software is easy and accurate so finding for free is worth your time.



If you're self-employed and want to try QuickBooks Self-Employed, paying the fee for TurboTax is worth it to get the **free subscription**.

Any other firms should check out the competition. TurboTax is far from the cheapest option but it's still comparable.

To be fair, it's worth starting with the Free Edition. You don't have to pay until you file so you can see exactly what your fees will be. You can then complete your return somewhere else and compare the fees for your exact situation.

Pros and Cons:

Pros:

- **Free Edition:** File both federal and state returns for free if you have a simple tax return.
- **Cryptocurrency:** TurboTax addresses cryptocurrency transactions something many tax preparation companies are still trying to understand.
- **TurboTax Live:** For a fee, **a tax expert** will help you do your taxes and will review your tax return before it's filed.

Cons:

- **Expensive:** If you can't use it for free, you can find cheaper software somewhere else.

TurboTax offers **accurate and user-friendly software**. It's a steal if you qualify to use it for free.

Their optional add-ons are some of the best in the business, spanning everywhere from audit representation to identity monitoring.

If you're looking for the cheapest tax preparation software out there and don't qualify for the Free Edition, you're in the wrong place. **TurboTax is solid software, but it can be pricey.** Shop around at places like [FreeTaxUSA](#) or H&R Block to see if you can get a better deal.

Consider how much you value your time. Check which versions of TurboTax you need and how many **add-ons** you include.

If you're still unsure whether or not **TurboTax** is a good fit for you, **try it for free**. You don't have to pay anything until you're ready to file, so you can see your refund and your fees before you decide. There are so many tax situations out there, so the best way to find the perfect fit for you is to explore.

Experimenting with tax software is about as fun as watching your little brother trim his toenails, but at least it saves you **time and money** in the long run.

Get our best strategies, tools, and support sent straight to your inbox.

[SIGN UP, IT'S FREE](#)

Caitlin Ward works as a tax accountant at a small-town Virginia CPA firm. When she isn't writing about personal finance, she's studying for the CPA exam. She has a B.A. in Business Administration and a slight obsession with all things money. She contributes to Listen Money Matters to share what she's learned with more than just her husband and their cats.

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TurboTax review: Not the cheapest online tax software, but good for complex situations

Eric Rosenberg Updated Mar 24, 2022, 3:23 PM



iStock; TurboTax; Gilbert Espinoza/Insider

Insider's experts choose the best products and services to help make smart decisions with your money ([here's how](#)). In some cases, we receive a commission from our [our partners](#), however, our opinions are our own. Terms apply to offers listed on this page.

- **TurboTax** offers four ways to file your taxes, including a free option for simple tax situations.
- TurboTax is pricey, but it has a good user experience with the option to upgrade for expert help.

- **Self-employed filers who use QuickBooks will find TurboTax especially valuable.**
- **[See Personal Finance Insider's picks for the best tax software »](#)**

While many people dread tax season, I find it to be an exciting time of year. I get a flurry of forms and documents telling me how much money I made over the course of a year, and I fill in the pieces of the puzzle that summarize an entire year's finances in one place.

Insider's Featured Tax Software



Editor's Rating

4.6/5 ★★★★★

LEARN MORE

On Tax Slayer's website

But unlike my favorite 1,000-piece puzzle, the puzzle of my taxes comes together on my computer. And I don't do it alone. I have used TurboTax for my own taxes several times, and suggest the same to many others.

TurboTax is the biggest and most popular tax-preparation software, handling a solid 30% of electronic filings, according to a report from Moody's.

You might like filing with TurboTax if you:


- Qualify for \$0 federal and state filing
- Have a complex tax situation and need help navigating deductions and forms
- Want step-by-step guidance

- Want the ability to upgrade for instant access to an expert
- Use QuickBooks to keep track of business expenses

You might not like filing with TurboTax if you:

- Are looking for a low-cost option
- Are a college student or student-loan borrower looking for a free option

Here's a look at how TurboTax works, how much it costs, and who it's best for.

	 <p>TurboTax</p>
Editor's rating	4.2 / 5
Review summary	TurboTax is the most expensive option for filing taxes online, but offers a high-quality user interface and access to experts. It's especially valuable for self-employed filers who use QuickBooks integration.
Cost of DIY filing	\$0 - \$119 +\$49 per state return
Details	<ul style="list-style-type: none"> • 4 ways to file taxes • Completely free option for simple tax situations at any income level • Mobile-friendly • Upgradeable for instant access to a tax expert
Free version covers	W-2 income; unemployment income; retirement distributions; interest and dividend income; earned income tax credit; child tax credit

Who should use TurboTax?

How much does TurboTax cost?

Tax prep companies frequently offer discounts on products early in the season. The prices listed in this article do not include any discounts. You can check the company's website to see current offers.

TurboTax costs more than other tax-preparation services. Packages beyond the free version can run at least \$100 total for a federal and state return.

TurboTax online offers four different ways to file your taxes, depending on your unique tax needs. With all versions except desktop computer software, you can start and enter your information for free. You only pay at the end when filing your federal and state tax returns.

	DIY online filing	DIY + expert access	Full-service expert	Com soft
Federal return cost	\$0 - \$119	\$0 - \$199	\$0 - \$389	\$50
State return cost	\$0 - \$49	\$0 - \$54	\$0 - \$54	\$45
Federal + state	\$0 - \$168	\$0 - \$253	\$0 - \$443	\$45

Prices do not include any discounts.

Cost of DIY options and what they cover ...

- **Free Edition: \$0.** The Free Edition covers W-2 income, unemployment income, retirement distributions, limited 1099 interest and dividends, the earned income tax credit (EITC), and the child tax credit (CTC), but doesn't allow itemizing your deductions. If you want to claim student deductions or credits, this package isn't for you.
- **Deluxe: \$59.** Intuit advertises this as the most popular version of its software. It includes everything in the free edition plus the

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option to itemize your taxes and enter mortgage interest. You can
also claim student deductions and credits with this package.

- **Premier: \$89.** Investors, including rental property owners, will want TurboTax Premier. This version even allows you to auto-import your investment data directly from many popular banks and brokerages.
- **Self-Employed: \$119.** If you own a business, including a side hustle, you'll want TurboTax Self-Employed. It covers credits and deductions related to businesses including rideshare drivers, freelancers, and other small businesses. This includes a free subscription to QuickBooks for expense tracking, or easy integration if you already have an account.

Extra fees will apply if ...

- **You need state filing.** If you live in one of the majority of states that require you to do [state income taxes](#) as well, you'll have to pay an additional \$49 per state. If you lived or worked in more than one state, you may have to pay for multiple state returns.
- **You upgrade to TurboTax Live.** For a premium price, you can pay for instant, live access to a tax expert.
- **You opt for TurboTax Live Full Service:** For about double the cost of filing yourself, you can hire a tax expert to take care of it all for you. The all-in cost is between \$0 and \$389 for a federal return.
- **You pay TurboTax from your refund.** If you're expecting a tax refund, TurboTax will ask if you want to use part of it to pay for its tax prep services. It sounds more convenient than pulling out a debit or credit card on the spot, but beware: a [\\$39 processing fee](#) applies.

Note: [TurboTax](#) has two free filing options. The version outlined above has no income restrictions, but includes a limited number of tax forms. There's another free version offered through the [IRS Free File portal](#), which covers all tax forms for people with incomes below \$39,000. In addition, all active duty military and reserve personnel are eligible to file their federal and state returns for free.

Is TurboTax really free?



Is TurboTax or H&R Block better?



Beyond the free versions, here's how they stack up on cost for the DIY online filing options (not considering any discount offers):

	TurboTax	H&R Block
Deluxe	\$59	\$49.99
Premier/Premium	\$89	\$69.99
Self-employed	\$119	\$109.99
Additional state return fee	\$49	\$36.99

How does TurboTax work?



What do you get with TurboTax?

- **Guidance for important tax forms.** TurboTax tells you what you need to enter to do your taxes based on your unique circumstances. Get step-by-step guidance and directions for most tax forms.
- **Mobile version.** Work on your taxes on the mobile or web versions, or switch back and forth. This isn't available for the desktop version.
- **Easy tax form import and upload.** Import many tax forms directly from banks and investment companies. With the mobile app, you can take a photo and upload supported forms. You can also upload your tax return from last year.
- **Detailed help resources.** Help and support resources that answer most questions about your taxes with simple and easy-to-follow advice.
- **Option to upgrade for live support.** Pay extra and you can talk to an expert at any time in just a few clicks, or hand off your documents to a professional who can do everything for you.
- **Multiple ways to get your refund.** You can get your federal refund deposited into your bank account, sent as a

check, or loaded onto a prepaid debit card. TurboTax also offers refund advance loans at the beginning of tax season.

- **Tax return storage.** TurboTax will store your finished tax returns in your account for up to seven years.
- **Accuracy guarantee.** TurboTax will pay IRS penalties and fees related to calculation errors. If it's determined that you entered information improperly, the guarantee does not apply.
- **Access to Credit Karma's new checking account.** The Credit Karma Money Spend account is fee-free and has no minimum deposit.

Is TurboTax reliable and safe? ▼

Are there any downsides to using TurboTax? ▼



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Eric Rosenberg is a finance, travel, and technology writer in Ventura, California. He is a former bank manager and corporate finance and accounting professional who left his day job in 2016 to take his online...

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Should I do my own taxes or hire an accountant? Use a chart to decide**What is the best tax software? TaxAct leads the pack****Use our free federal tax calculator to estimate your refund****The best tax software for small business owners**

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Please note: While the offers mentioned above are accurate at the time of publication, they're subject to change at any time and may have changed, or may no longer be available.

****Enrollment required.**

More: [TurboTax](#) [TurboTax review](#) [Tax software](#) [Filing Taxes](#) ▾



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TurboTax Tax Software Review

U.S. News 360 Reviews takes an unbiased approach to our recommendations. When you use our links to buy products, we may earn a commission but that in no way affects our editorial independence.

By [Anna Baluch](#), [Chelsea Van Bloom](#), and [Eric Rosenberg](#) | Feb. 2, 2022, at 11:30 a.m.

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TurboTax



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Best Tax Software Overall

4.0 ★★★★★ U.S. News Rating

BASE FEE
\$59 and Up

FREE VERSION
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TurboTax



Best Tax Software Overall

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About TurboTax

TurboTax is one of the most popular tax programs available and our No. 1 pick for the Best Tax Software of 2022. Initially founded in the mid-1980s, TurboTax has since grown to become a market leader in the tax industry. It's owned by Intuit, the parent company for a suite of financial services including the financial tracking app Mint, and the small-business accounting software, QuickBooks.

TurboTax is known for its clean and easy user interface. The program functions like an interview. It walks you through a series of questions about your life and income to determine the appropriate choices while also looking for deductions. It has a number of different products available to suit different users' needs, and while it does have a free edition, there are limitations. Most users end up purchasing TurboTax Deluxe, which, at about \$60, is the most expensive option compared to similar offerings from the other companies we've profiled.

Popular Tax Software

TurboTax »



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TurboTax Review

4.0 ★★★★★ U.S. News Rating

Ranked #1 in [Best Tax Software of 2022](#)

Ranked #1 in [Best Mobile Tax Apps of 2022](#)

Best For:

- ✓ An easy-to-follow tax preparation experience
- ✓ Quickly and easily importing tax documents

Not Recommended for:

- Those on a tight budget
- In-person tax preparation assistance
- S Corp owners looking for fully online tax preparation

TurboTax retains the top spot in our annual analysis of the best tax software. While it's not the cheapest option around, TurboTax provides the best overall user interface that makes it easy to do your taxes, efficiently handling most households' needs for inputting your income from work, self-employment, investments, or rental properties, and most common deductions and credits.

One of TurboTax's standout features is the option to upgrade to a higher level of tax support. With the basic version, you are mainly on a DIY path, with a vast library of support resources for tax questions. If you need more help, you can upgrade to a version where you get unlimited help from an expert online or a newer offering, including complete tax preparation by an expert.

For most people, the best option is using TurboTax online, where you do your taxes on your computer, or using the TurboTax [mobile app](#). There's a free version of the software available, but it only works for the simplest tax returns. The most popular version is TurboTax Deluxe, for \$59 plus \$49 per state. Those with more complex investments may need the \$89 Premier version, while self-employed business owners will need the top \$119 Self-Employed edition. Each version has a corresponding upgrade for online tax support and full-service tax preparation.

Only use the government FreeFile version of TurboTax if you're sure you qualify, as you can't switch to a paid version midway through preparation if you start your taxes under that program. The FreeFile is not the same as the Free Edition for simple returns. Regardless of the version you choose, you don't pay until you file your taxes. But for an easier experience, it's best to pick the correct version for your tax needs from the start.

In addition to the online version, you can buy a CD or downloaded version of TurboTax to run on your home computer. All versions work on both PC and Mac, except Home & Business, which is for Windows only. Be aware that TurboTax does not offer an easy option for Mac users to do taxes for an S Corporation or C Corporation. However, all versions include a maximum refund guarantee. Any tax software should give you an accurate result when filing your taxes with the IRS, regardless of your choice.

TurboTax is best for a wide range of tax situations and may be worth the added cost unless you're on a very tight budget. The online version is easiest, as it works on both your computer and phone, and you're able to switch to another computer if you're working together on a joint tax return. Unless you want in-person support, TurboTax is likely to cover just about any tax need you might have.

Products Offered by TurboTax

Free Edition

Free for federal and state returns

With the TurboTax Free Edition, you can file your federal and state taxes for free. This may be an option if you have a simple tax return. A simple return for this purpose would involve reporting just W-2 income and limited interest or dividend income reported on a 1099-INT or 1099-DIV, and claiming the standard deduction, Earned Income Tax Credit, and/or the Child Tax Credit.

Deluxe

\$59 for federal return and \$49 for each state return

TurboTax Deluxe will search more than 350 tax deductions and credits to determine which ones you qualify for. Deluxe is designed to ensure you get your maximum tax refund and provides one-on-one help from a customer service representative. It also provides your credit score and access to Turbo, an online tool that helps you understand your financial situation.

Premier

\$89 for federal return and \$49 for each state return

TurboTax Premier has been completely redesigned to deliver the ideal experience for investors. It can help you incorporate stocks, bonds, ESPPs, cryptocurrency, robo-investing, rental property income, and more into your return. The product will help you easily and accurately report all of your investment transactions.

TurboTax Premier is the only major online tax program that can import more than 1,500 transactions at once from more than 300 financial institutions and 2,000 crypto transactions directly from crypto platforms.

Self-Employed

\$119 for federal and \$49 for each state return

Whether you're a lifelong freelancer or recently started making money with your side hustle, TurboTax Self-Employed uncovers industry-specific deductions you may not know you were eligible for. It can help reduce your taxes and put more money back into your pocket.

The product focuses on ride-sharing, online sales, personal and professional services, and other industries in which many people are self-employed. It also provides guidance about reporting expenses, such as mileage, home office equipment, and cell phone charges. Plus, you can import your 1099 form by taking a photo of it on your smartphone.

TurboTax Live Basic

\$80 for federal and state return

With TurboTax Live Basic, you can connect live via one-way video to a TurboTax Live tax expert with an average of 15 years of experience to get your questions answered. TurboTax Live tax experts are available year-round in English and Spanish and can also review and help file your simple tax return.

TurboTax Live Deluxe

\$120 for federal and \$54 for each state return

With TurboTax Live Deluxe, you can do everything that's possible with TurboTax Live Basic. In addition, you can talk with a tax expert about more than 350 credits and deductions, including the mortgage tax and charitable contribution deductions.

TurboTax Live Premier

\$170 for federal and \$54 for each state return

With TurboTax Live Premier, you can connect live via one-way video to a TurboTax Live Premier tax expert who can provide personalized guidance and advice for nearly every investment tax situation, including stocks, bonds, ESPPs, robo-investing, cryptocurrency, rental property income, and more. You can auto-import investment income and account for gains and losses from cryptocurrency transactions.

TurboTax Live Self-Employed

\$200 for federal and \$54 for each state return

TurboTax Live Self-Employed provides live tax advice for freelancers, contractors, and small business owners. They can uncover all the deductions you're entitled to, provide a personalized audit assessment, and review your personal and small business income.


TurboTax Live Full Service

Prices vary: \$200 to \$390 plus \$54 per state

Prior to the 2021 tax season, TurboTax introduced TurboTax Live Full Service, an extension of its TurboTax Live feature. Full Service allows you to upload your documents and have a tax expert from TurboTax prepare and file your taxes for you. Prices vary depending on your tax return.

Similar Tax Software

H&R Block »



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Best Tax Software Filing Options

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FREE VERSION
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BASE FEE
\$17.95 and Up

FREE VERSION
✓

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How Much Does TurboTax Cost?

The biggest drawback of TurboTax compared to the competition is pricing. TurboTax is the most expensive option of tax preparation software packages we reviewed. If your number one priority is a low cost, you may need to look elsewhere. However, TurboTax features comprehensive tax software that's hard to beat.

The closest experience you'll find to the user experience at TurboTax comes from [H&R Block](#), which is modestly less expensive. [TaxSlayer](#) and [Cash App Taxes](#) are the best alternatives if you're looking to cut back on spending.

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The most expensive TurboTax plan is for a full-service self-employed tax return. This costs \$399 plus \$54 per state, still less than you are likely to pay an accountant. Ultimately, only you can decide if the pricing at TurboTax is a fit for your budget.

TurboTax Plan Prices

Products Offered	Price	Additional State Fees
Free Edition	Free	Free
Deluxe	\$59 and Up	\$49 and Up Per State
Premier	\$89 and Up	\$49 and Up Per State
Self-Employed	\$119 and Up	\$49 and Up Per State

TurboTax vs. the Competition

TaxSlayer »



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\$17.95 and Up

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FREE VERSION
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Turbo Tax vs. TaxSlayer

TurboTax and TaxSlayer offer similar tax preparation services. Both include several options for taxpayers to consider depending on their tax situation. For example, TurboTax has a free edition along with three paid tiers that cost from \$59 to \$119. Filing your state return is an additional \$49. TaxSlayer charges \$17.95 for its Classic version, \$37.95 for Premium, and \$47.95 for Self-Employed. There is also a free version of the software that's just for active-duty military service members.

If you're looking for a tax expert to help you file, both TurboTax and TaxSlayer provide professional tax advisors along with their software, for an additional cost. However, between the two products, TaxSlayer will save you more money. If you want the best interface and can spare a bit more in your budget, choose TurboTax.

Learn more in our [TaxSlayer review](#).

H&R Block »



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TurboTax vs. H&R Block

H&R Block is the primary TurboTax competitor. It goes head-to-head with a comparable set of tax software options that cover the typical needs of most tax filings. There are a few key differences worth noting.

TurboTax is best for switching to get help from an online expert, while H&R Block relies on its extensive network of branches for an upgrade option. If you want to switch to get help from an expert, you can upgrade your tax experience to go in person to a local H&R Block location. H&R Block also offers an online or phone meeting option, if you prefer that to face-to-face.

Cost and personal preferences are the most significant differences between these two tax services. Regardless of which service you choose, you should wind up with extremely similar results.

Learn more in our [H&R Block review](#).

Company FAQ

How to Buy TurboTax

To buy TurboTax, follow these steps.


1. **Go to the homepage:** Once you're at the TurboTax homepage, click on "Get Started." You'll be directed to an interactive guide that will recommend the ideal product based on your unique tax situation.

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 2. **Determine if you want the online or desktop version.** The online version works with a web browser, and the desktop version can be downloaded and stored on your computer.

3. **Buy your online or desktop product:** If you'd like to use the online version, you can buy it directly on the website after you click "File for \$0" or "Start for Free." In the event you prefer the desktop version, you can also buy it online or purchase it from an authorized retailer, such as Best Buy or Amazon.

For more information see [How to Buy Tax Software](#).

TurboTax »

 Learn More	<p>Best Tax Software Overall</p> <p>4.0 ★★★★★ U.S. News Rating</p> <p>BASE FEE \$59 and Up</p> <p>MOBILE APP ✓</p> <p>FREE VERSION ✓</p>
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What Is the TurboTax Guarantee?

Every TurboTax return is backed by the following guarantees:

- **100% Accurate Calculations Guarantee:** If a TurboTax calculator error causes you to pay an IRS or state penalty, the company will cover it.
- **Maximum Refund Guarantee or Your Money Back:** In the event that you're able to collect a larger tax refund or owe less in taxes from another tax preparation method, TurboTax will refund the TurboTax federal and/or state price paid. If you're using the TurboTax Online Free Edition, you may collect a \$30 payment.
- **100% Accurate, Expert Approved Guarantee:** If a TurboTax expert made an error while giving you specific tax advice, the company will take care of the IRS or state penalty and amend your return for free.
- **Audit Support Guarantee:** The Audit Support Guarantee includes free audit support year-round through TurboTax's Audit Support Center. You can find out why the IRS reached out to you and what action you need to take.

How Do I Contact TurboTax's Customer Service?

You can visit the TurboTax AnswerXchange online community 24/7 to consult TurboTax experts and other contributors. It's a great place to receive answers to any questions you may have about your taxes.

If you need personalized, one-on-one support, TurboTax Live will connect you to a tax expert from the comfort of your own home. TurboTax Live is available in English and Spanish. If you'd like, you can ask TurboTax experts to review, sign, and file your return. They are also available for consultation during regular business hours.

If TurboTax isn't for you, check out the other companies in our [Best Tax Software of 2022](#) rating.

TurboTax Coupons and Discount Codes

If you're looking for savings on TurboTax, check out the top [TurboTax service codes](#).

Learn More

For more information about tax software and filing your taxes, see the following guides:

- [Best Tax Software of 2022](#)
- [Best Mobile Tax Apps of 2022](#)
- [Tax Deadline 2022: When Are Taxes Due?](#)
- [How Does Tax Software Work?](#)
- [How to Buy Tax Software](#)
- [When Can You Start Filing Taxes 2022?](#)
- [TurboTax vs. H&R Block](#)
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- [Cash App Taxes vs. TurboTax](#)

Best Tax Software of 2022

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Other Guides from 360 Reviews

For comparisons and advice about other products and services, see our other guides:

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Why You Can Trust Us: 10 Tax Software Researched

At U.S. News & World Report, we rank the Best Hospitals, Best Colleges, and Best Cars to guide readers through some of life's most complicated decisions. Our 360 Reviews team draws on this same unbiased approach to rate the products that you use every day. To build our ratings, we researched more than 10 tax software and analyzed 23 reviews. Our 360 Reviews team does not take samples, gifts, or loans of products or services we review. All sample products provided for review are donated after review. In addition, we maintain a separate business team that has no influence over our [methodology](#) or recommendations.

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Best Air Fryers

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Best Homeowners Insurance
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Best Car Insurance
Cheapest Car Insurance
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Best Password Managers

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Best Tablets
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RX 94

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 21, May 21, 2020) [1]

(Money amounts are in thousands of dollars)

term	Total returns	No adjusted gross income and deficit	\$1 under \$5,000	\$5,000 under \$10,000	\$10,000 under \$15,000	\$15,000 under \$20,000	\$20,000 under \$25,000
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Number of returns:							
All returns	115,861,167	838,064	11,864,992	7,248,446	8,402,566	7,816,746	7,378,446
Electronically filed returns	114,034,899	771,215	11,711,682	7,097,638	8,230,690	7,665,603	7,241,773
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	45,589,095	132,729	9,634,581	4,670,558	4,353,593	3,603,564	3,048,479
Salaries and wages:							
Number of returns	94,531,379	194,585	4,770,930	5,977,589	6,642,137	6,530,754	6,431,303
Amount	5,131,332,079	6,085,624	15,552,685	45,567,558	79,752,434	111,304,579	142,391,893
Taxable interest:							
Number of returns	35,652,278	255,308	6,438,495	874,510	1,008,271	959,631	958,105
Amount	42,451,168	504,120	351,272	552,215	753,176	777,126	787,811
Ordinary dividends:							
Number of returns	16,632,756	145,347	415,295	444,289	480,549	451,308	450,196
Amount	96,009,316	525,322	360,488	639,211	866,124	920,852	972,723
Qualified dividends:							
Number of returns	15,396,994	130,783	371,223	402,769	433,293	408,784	408,046
Amount	70,282,695	340,851	221,409	381,038	512,771	562,245	597,587
Taxable income from Individual Retirement Arrangement (RA):							
Number of returns	10,001,144	66,975	200,277	347,475	453,541	413,749	404,404
Amount	188,065,570	720,173	530,172	1,623,366	2,872,087	3,060,258	3,417,171
Taxable income from pensions, and annuities:							
Number of returns	19,101,032	101,008	429,147	706,645	976,752	956,179	931,390
Amount	499,973,773	1,180,402	1,191,874	3,894,652	8,153,304	9,965,407	11,314,706
Business net income / loss (Schedule C):							
Number of returns	15,341,826	271,491	720,148	914,005	1,782,220	1,394,199	929,177
Amount	126,233,935	-4,511,126	1,007,928	3,225,125	13,209,717	9,711,163	4,634,118
Net capital gains / losses:							
Number of returns	14,392,775	211,912	340,762	382,926	406,593	379,763	380,161
Amount	145,274,469	1,044,884	22,203	227,162	401,937	520,211	583,173
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):							
Number of returns	7,838,551	208,515	134,997	177,386	229,894	225,815	231,576
Amount	171,263,752	-5,804,641	-216,854	34,015	323,354	395,075	449,161
Farm income / losses (Schedule F):							
Number of returns	1,032,708	75,726	24,561	28,286	36,994	37,234	39,135
Amount	-9,623,019	-2,993,943	-213,672	-254,657	-320,463	-345,857	-376,024
Total statutory adjustments [2]:							
Number of returns	24,378,906	178,663	661,652	975,510	1,856,889	1,473,905	1,142,293

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 21, May 21, 2020) [1]

(Money amounts are in thousands of dollars)

Item	Size of adjusted gross income						
	\$25,000 under \$30,000	\$30,000 under \$40,000	\$40,000 under \$50,000	\$50,000 under \$75,000	\$75,000 under \$100,000	\$100,000 under \$200,000	\$200,000 under \$250,000
	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Number of returns:							
All returns	7,106,529	12,272,892	9,393,161	15,948,647	9,838,888	13,874,092	1,579,329
Electronically filed returns	6,981,225	12,066,638	9,241,285	15,712,425	9,708,962	13,743,484	1,571,028
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	2,575,693	4,651,782	3,296,052	4,834,157	2,487,783	2,188,157	106,217
Salaries and wages:							
Number of returns	6,316,120	11,071,877	8,430,883	14,015,342	8,539,544	12,153,069	1,403,191
Amount	169,995,175	374,233,929	361,509,151	798,804,791	663,453,251	1,420,512,412	260,103,075
Taxable interest:							
Number of returns	990,261	1,979,106	1,995,631	4,899,778	4,210,757	7,970,126	1,168,387
Amount	814,561	1,577,691	1,646,160	4,655,226	4,686,697	11,810,711	2,750,454
Ordinary dividends:							
Number of returns	466,958	923,235	945,514	2,452,637	2,236,985	4,799,341	840,156
Amount	1,028,809	2,120,626	2,396,282	7,613,596	8,461,600	26,545,424	7,785,064
Qualified dividends:							
Number of returns	423,817	839,812	865,476	2,259,102	2,069,731	4,479,150	794,455
Amount	643,233	1,349,612	1,547,507	5,061,154	5,791,744	19,145,603	5,866,984
Taxable income from Individual Retirement Arrangement (RA):							
Number of returns	398,950	716,259	680,698	1,652,293	1,418,493	2,451,972	319,280
Amount	3,655,214	7,137,050	7,666,353	22,752,891	25,626,999	68,340,533	13,485,738
Taxable income from pensions, and annuities:							
Number of returns	913,726	1,650,756	1,489,779	3,329,499	2,603,033	4,024,248	444,293
Amount	12,375,847	25,637,209	27,751,644	80,237,027	81,154,246	173,850,270	26,671,327
Business net income / loss (Schedule C):							
Number of returns	782,285	1,283,221	1,008,286	1,885,674	1,353,565	2,231,042	294,404
Amount	3,441,181	5,423,010	4,785,453	11,018,079	10,425,334	28,115,431	7,685,533
Net capital gains / losses:							
Number of returns	392,589	774,552	794,359	2,055,699	1,879,991	4,123,375	758,984
Amount	667,036	1,515,074	1,842,067	6,296,790	8,017,070	31,255,643	11,095,437
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):							
Number of returns	237,759	464,239	467,530	1,182,383	1,077,945	2,122,637	328,624
Amount	511,632	1,123,233	1,386,757	4,675,861	6,342,490	29,956,990	12,424,115
Farm income / losses (Schedule F):							
Number of returns	40,284	75,035	71,521	168,836	141,160	223,653	25,897
Amount	-397,187	-724,081	-650,142	-1,417,248	-1,036,379	-1,108,552	22,457
Total statutory adjustments [2]:							
Number of returns	1,142,195	2,305,663	2,149,762	4,249,851	2,681,784	4,458,433	396,935

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 21, May 21, 2020) [1]

(Money amounts are in thousands of dollars)

term	\$250,000 under \$500,000	\$500,000 under \$1,000,000	\$1,000,000 or more
	(15)	(16)	(17)
Number of returns:			
All returns	1,842,864	357,977	97,528
Electronically filed returns	1,836,431	357,398	97,422
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	5,500	154	96
Salaries and wages:			
Number of returns	1,649,679	319,419	84,957
Amount	434,915,370	152,966,940	94,183,212
Taxable interest:			
Number of returns	1,518,927	330,663	94,322
Amount	5,543,160	2,659,262	2,581,527
Ordinary dividends:			
Number of returns	1,211,278	285,303	84,365
Amount	17,818,673	9,161,348	8,793,175
Qualified dividends:			
Number of returns	1,154,198	274,795	81,560
Amount	13,823,858	7,249,247	7,187,854
Taxable income from Individual Retirement Arrangement (RA):			
Number of returns	384,313	73,292	19,173
Amount	21,119,136	4,508,787	1,549,643
Taxable income from pensions, and annuities:			
Number of returns	455,287	70,556	18,734
Amount	30,651,751	4,688,794	1,255,312
Business net income / loss (Schedule C):			
Number of returns	385,580	83,918	22,611
Amount	17,245,233	6,989,199	3,828,557
Net capital gains / losses:			
Number of returns	1,142,013	283,244	85,852
Amount	29,883,535	19,644,082	32,258,166
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):			
Number of returns	534,431	159,082	55,738
Amount	40,945,705	33,671,186	45,045,676
Farm income / losses (Schedule F):			
Number of returns	33,517	8,027	2,842
Amount	176,221	706	15,802
Total statutory adjustments [2]:			
Number of returns	530,242	132,834	42,295

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 21, May 21, 2020) [1]

(Money amounts are in thousands of dollars)

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Number of returns:
All returns
Electronically filed returns
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached
Salaries and wages:
Number of returns
Amount
Taxable interest:
Number of returns
Amount
Ordinary dividends:
Number of returns
Amount
Qualified dividends:
Number of returns
Amount
Taxable income from Individual Retirement Arrangement (RA):
Number of returns
Amount
Taxable income from pensions, and annuities:
Number of returns
Amount
Business net income / loss (Schedule C):
Number of returns
Amount
Net capital gains / losses:
Number of returns
Amount
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):
Number of returns
Amount
Farm income / losses (Schedule F):
Number of returns
Amount
Total statutory adjustments [2]:
Number of returns

Amount	64,097,898	2,433,988	596,934	1,026,305	1,979,121	1,885,583	1,726,871
Adjusted gross income	6,567,440,844	-33,958,635	16,418,537	54,566,823	105,004,964	136,486,734	166,012,497
Total standard deduction (including additional standard deduction): Number of returns	106,297,729	727,108	11,797,351	7,184,136	8,317,921	7,703,615	7,245,776
Amount	1,752,045,888	11,248,669	126,037,369	88,733,915	121,771,810	117,671,975	112,613,682
Total itemized deductions: Number of returns	9,476,860	49,204	50,614	58,471	81,075	110,882	131,157
Amount	305,251,032	1,431,037	1,656,571	2,765,328	2,073,871	5,032,747	4,302,702
Total medical and dental deductions: Number of returns	2,481,010	36,398	33,629	39,857	57,823	79,963	88,749
Amount	66,226,248	660,476	861,158	2,159,669	1,164,883	7,667,020	2,031,644
State and local income taxes or general sales taxes deduction [3]: Number of returns	9,111,600	35,324	39,490	49,918	70,058	97,164	117,536
Amount	109,980,126	134,276	3,038,755	93,938	102,282	6,899,212	163,123
Real estate taxes deduction [3]: Number of returns	8,297,125	36,350	25,629	33,678	50,956	69,574	82,881
Amount	97,775,644	274,615	503,749	174,493	237,878	8,364,963	1,055,797
Personal property taxes deduction [3]: Number of returns	4,151,296	13,781	10,372	13,957	21,820	33,114	42,948
Amount	3,406,221	10,892	5,155	10,049	12,152	20,871	44,190
State and local taxes deduction after limitation: Amount	72,481,655	260,848	158,223	206,215	298,124	405,785	508,254
Other taxes deduction: Number of returns	570,607	1,733	1,410	1,953	3,274	5,929	8,612
Amount	1,123,588	3,171	2,368	2,658	6,975	19,911	33,139
Total taxes paid deduction [4]: Number of returns	9,381,016	46,241	45,150	54,664	76,802	105,460	125,697
Amount	73,605,243	264,019	160,591	208,873	305,099	425,696	541,393
Mortgage interest deduction: Number of returns	7,589,986	29,732	20,080	25,269	38,562	53,188	65,413
Amount	110,763,049	408,950	588,522	307,186	413,828	1,589,858	1,244,718
Total interest paid deduction [5]: Number of returns	7,654,526	30,916	20,501	25,777	39,225	54,001	66,356
Amount	135,503,321	457,966	598,309	318,467	446,544	1,661,131	1,309,687
Total charitable contributions deduction: Number of returns	7,720,927	288	21,273	29,455	45,455	67,792	86,620
Amount	59,397,342	724	18,212	54,031	111,482	206,658	317,212
Casualty and theft deduction: Number of returns	2,715	40	23	14	16	43	75
Amount	102,392	2,812	528	985	580	1,291	2,229
Other itemized deductions: Number of returns	447,083	2,117	1,843	2,405	3,599	6,028	8,281
Amount	10,510,734	48,335	18,744	25,149	47,729	71,794	101,858
Qualified business income deduction: Number of returns	11,942,114	232	13,062	14,642	256,005	464,133	435,707
Amount	43,051,565	6,307	3,128	6,041	69,826	257,269	349,058
Taxable income: Number of returns	86,953,038	29	154,278	132,876	2,820,447	5,459,313	6,375,783
Amount	4,698,742,469	267	169,466	370,159	3,955,840	24,415,622	51,764,429

Amount	1,804,070	3,841,314	3,927,996	8,946,960	6,557,524	15,185,708	3,008,626
Adjusted gross income	195,241,509	426,791,610	420,712,561	978,581,331	852,566,338	1,863,782,504	350,405,429
Total standard deduction (including additional standard deduction):							
Number of returns	6,952,242	11,891,204	8,912,019	14,418,165	8,376,645	10,704,261	956,399
Amount	109,787,553	191,235,645	147,471,364	259,975,007	174,418,933	242,946,079	22,265,705
Total itemized deductions:							
Number of returns	153,598	381,489	482,216	1,533,565	1,464,413	3,170,125	622,831
Amount	4,896,088	14,777,035	14,105,799	39,586,799	40,202,492	97,217,307	21,775,388
Total medical and dental deductions:							
Number of returns	98,944	221,915	233,261	545,420	389,834	561,469	50,808
Amount	1,730,835	15,272,090	3,986,097	9,364,801	8,159,301	10,347,572	1,240,129
State and local income taxes or general sales taxes deduction [3]:							
Number of returns	139,328	350,714	450,506	1,457,986	1,415,108	3,103,426	613,260
Amount	310,131	10,735,502	1,541,943	7,998,707	7,983,978	30,744,655	8,138,986
Real estate taxes deduction [3]:							
Number of returns	98,457	259,338	364,578	1,293,712	1,312,530	2,951,009	590,748
Amount	473,875	10,874,967	1,989,478	9,097,493	7,200,349	33,227,752	12,104,864
Personal property taxes deduction [3]:							
Number of returns	54,522	146,817	197,630	654,205	654,067	1,502,154	294,845
Amount	66,026	127,895	153,475	598,876	492,939	1,172,768	202,924
State and local taxes deduction after limitation: Amount	619,866	1,682,505	2,410,931	9,286,401	10,828,210	28,172,038	5,996,114
Other taxes deduction:							
Number of returns	11,241	30,868	37,831	105,502	93,391	184,742	31,063
Amount	44,641	122,046	131,400	245,704	162,725	249,047	34,178
Total taxes paid deduction [4]:							
Number of returns	147,787	370,036	472,186	1,513,702	1,453,915	3,160,867	622,154
Amount	664,507	1,804,551	2,542,331	9,532,105	10,990,935	28,421,085	6,030,292
Mortgage interest deduction:							
Number of returns	80,257	224,135	328,901	1,191,867	1,217,019	2,740,891	551,401
Amount	1,826,409	5,792,766	8,462,809	12,979,438	13,998,098	35,634,786	8,612,234
Total interest paid deduction [5]:							
Number of returns	81,411	226,671	331,806	1,199,577	1,224,017	2,756,545	555,823
Amount	1,920,228	6,022,521	9,449,696	34,031,528	14,917,549	35,977,030	8,702,864
Total charitable contributions deduction:							
Number of returns	106,379	275,581	356,119	1,154,244	1,163,912	2,753,523	564,413
Amount	443,265	1,285,841	1,719,539	5,584,722	6,161,001	19,919,969	5,108,817
Casualty and theft deduction:							
Number of returns	82	247	301	696	434	646	45
Amount	3,256	7,635	9,437	23,774	16,349	27,115	2,496
Other itemized deductions:							
Number of returns	10,377	25,469	28,158	76,018	65,781	138,377	25,700
Amount	135,200	387,687	402,332	1,061,447	963,914	2,543,819	695,357
Qualified business income deduction:							
Number of returns	517,826	945,155	852,312	1,911,211	1,608,950	3,231,469	562,539
Amount	456,379	1,177,964	1,299,564	3,433,550	3,508,498	10,916,460	3,342,164
Taxable income:							
Number of returns	6,930,808	12,228,139	9,367,029	15,914,764	9,826,497	13,866,280	1,578,905
Amount	80,437,255	223,446,383	258,831,824	674,825,219	633,943,186	1,509,337,042	302,541,370

Amount	6,848,961	2,954,739	1,373,198
Adjusted gross income	606,286,696	235,931,676	192,610,270
Total standard deduction (including additional standard deduction):			
Number of returns	936,873	141,665	32,349
Amount	21,824,000	3,300,911	743,270
Total itemized deductions:			
Number of returns	905,824	216,241	65,155
Amount	36,088,085	11,800,851	7,538,931
Total medical and dental deductions:			
Number of returns	39,505	3,098	337
Amount	1,341,579	204,823	34,170
State and local income taxes or general sales taxes deduction [3]:			
Number of returns	893,083	214,080	64,619
Amount	16,148,565	8,516,291	7,429,783
Real estate taxes deduction [3]:			
Number of returns	861,692	205,012	60,981
Amount	8,157,086	2,857,669	1,180,616
Personal property taxes deduction [3]:			
Number of returns	402,443	85,250	23,371
Amount	383,987	76,048	27,973
State and local taxes deduction after limitation: Amount	8,856,489	2,134,867	656,786
Other taxes deduction:			
Number of returns	41,117	9,179	2,762
Amount	42,044	13,595	9,983
Total taxes paid deduction [4]:			
Number of returns	905,152	216,104	65,099
Amount	8,898,533	2,148,462	666,769
Mortgage interest deduction:			
Number of returns	797,192	180,121	45,958
Amount	14,200,507	3,717,367	985,573
Total interest paid deduction [5]:			
Number of returns	806,988	185,241	49,671
Amount	14,492,769	3,947,341	1,249,689
Total charitable contributions deduction:			
Number of returns	831,028	202,669	62,176
Amount	9,844,524	4,540,469	4,080,877
Casualty and theft deduction:			
Number of returns	41	** 12	**
Amount	3,089	** 815	**
Other itemized deductions:			
Number of returns	36,775	10,992	5,163
Amount	1,517,361	965,540	1,524,469
Qualified business income deduction:			
Number of returns	855,819	204,172	68,880
Amount	8,249,849	3,913,282	6,062,225
Taxable income:			
Number of returns	1,842,501	357,903	97,486
Amount	539,615,363	216,836,606	178,252,438

Amount
Adjusted gross income
Total standard deduction (including additional standard deduction):
Number of returns
Amount
Total itemized deductions:
Number of returns
Amount
Total medical and dental deductions:
Number of returns
Amount
State and local income taxes or general sales taxes deduction [3]:
Number of returns
Amount
Real estate taxes deduction [3]:
Number of returns
Amount
Personal property taxes deduction [3]:
Number of returns
Amount
State and local taxes deduction after limitation: Amount
Other taxes deduction:
Number of returns
Amount
Total taxes paid deduction [4]:
Number of returns
Amount
Mortgage interest deduction:
Number of returns
Amount
Total interest paid deduction [5]:
Number of returns
Amount
Total charitable contributions deduction:
Number of returns
Amount
Casualty and theft deduction:
Number of returns
Amount
Other itemized deductions:
Number of returns
Amount
Qualified business income deduction:
Number of returns
Amount
Taxable income:
Number of returns
Amount

Alternative minimum tax: Number of returns	23,747	260	47	73	52	44	67
Amount	271,049	2,433	226	138	238	165	321
Total non-refundable tax credits [6]: Number of returns	42,041,618	2,818	15,451	28,911	685,356	2,041,056	3,377,907
Amount	77,977,662	1,354	1,999	5,607	95,316	588,720	1,445,003
Child tax credit and/or credit for other dependents: Number of returns	29,639,360	1,758	3,879	7,098	257,843	900,349	1,801,682
Amount	62,727,398	1,268	1,355	3,471	41,521	228,164	804,842
Income tax after non-refundable credits [7]: Number of returns	72,490,623	9,244	110,141	124,554	2,216,090	3,900,725	4,027,512
Amount	658,545,528	4,418	17,802	38,910	321,347	1,860,206	3,815,840
Self-employment tax: Number of returns	10,839,414	79,954	520,424	751,521	1,544,378	1,068,033	603,956
Amount	25,375,256	134,203	218,463	685,258	2,223,373	1,904,956	1,192,216
Total tax liability [8]: Number of returns	78,520,705	97,871	667,997	951,881	3,701,041	4,843,334	4,534,688
Amount	694,779,579	153,879	245,093	743,069	2,580,161	3,818,539	5,069,805
Total tax payments [9]: Number of returns	106,098,734	431,633	5,012,374	6,625,904	7,922,233	7,476,724	7,135,983
Amount	900,293,498	1,259,048	2,104,490	8,072,129	20,827,015	26,092,506	25,866,351
Additional child tax credit: Number of returns	16,969,973	45,925	268,980	974,216	2,278,047	2,420,057	2,131,861
Amount	30,553,887	108,869	68,648	781,662	3,248,700	4,396,576	4,317,548
Earned income credit: Number of returns	21,821,377	70,212	1,648,397	2,729,109	4,323,004	2,971,022	2,357,310
Amount	56,486,033	75,842	774,967	3,895,696	11,410,218	12,942,362	9,786,959
Tax due at time of filing: Number of returns	15,677,250	59,918	452,906	406,131	381,780	480,663	480,289
Amount	59,907,299	72,031	125,445	261,062	359,060	439,306	505,387
Overpayments: Number of returns	91,924,933	406,984	4,790,785	6,348,018	7,671,170	7,195,372	6,795,241
Amount	264,951,509	1,176,720	1,984,653	7,588,633	18,600,761	22,707,799	21,296,152
Estimated tax penalty: Number of returns	4,269,455	6,808	4,212	44,290	123,242	95,301	89,683
Amount	469,709	481	188	1,489	5,154	5,474	5,780

** Data combined to prevent disclosure of specific taxpayer information.

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[2] *Total statutory adjustments * includes the deductions for self-employment tax, self-employed health insurance, self-employed retirement plans, the student loan interest deduction, and other adjustments not shown separately.

[3] Prior to application of the \$10,000 limit (\$5,000 in the case of married individuals filing separate returns).

[4] *Total taxes paid deduction* is the sum of State and local taxes deduction after limitation plus other taxes deduction.

[5] *Total interest paid deduction* represents the summation of the mortgage interest deduction plus the deduction for investment interest expense.

[6] *Total non-refundable tax credits* represents the summation of non-refundable tax credits reported on Form 1040 after the credits have been limited by the amount of the taxpayer's liability.

Alternative minimum tax: Number of returns	62	126	158	455	751	3,508	1,422
Amount	279	552	902	2,004	2,904	21,111	13,790
Total non-refundable tax credits [6]: Number of returns	3,988,057	5,837,972	4,089,098	7,101,096	4,684,843	7,693,129	998,529
Amount	2,572,194	6,954,854	7,033,858	15,811,052	13,061,900	22,518,083	2,766,488
Child tax credit and/or credit for other dependents: Number of returns	2,229,684	4,221,372	3,191,606	5,523,708	3,824,843	6,124,189	736,675
Amount	1,601,440	5,125,877	5,920,161	14,042,407	11,410,325	18,555,378	2,557,764
Income tax after non-refundable credits [7]: Number of returns	4,431,878	8,611,031	7,629,740	14,258,335	9,510,475	13,787,977	1,577,143
Amount	5,927,158	17,254,763	21,580,010	66,249,897	69,339,639	204,935,723	52,016,524
Self-employment tax: Number of returns	475,495	763,499	619,332	1,218,262	921,804	1,587,395	231,280
Amount	977,278	1,599,580	1,313,687	2,740,481	2,308,692	5,335,939	1,189,344
Total tax liability [8]: Number of returns	4,785,886	9,119,071	7,932,452	14,607,952	9,593,221	13,809,339	1,578,114
Amount	6,979,150	19,039,635	23,103,245	69,539,185	72,170,239	211,533,514	53,578,924
Total tax payments [9]: Number of returns	6,933,850	12,076,271	9,275,127	15,785,783	9,768,094	13,800,369	1,570,783
Amount	26,501,536	49,090,892	42,680,601	101,459,318	92,890,345	235,731,120	54,599,971
Additional child tax credit: Number of returns	2,071,659	3,260,525	1,627,628	1,560,218	277,694	51,948	574
Amount	4,219,339	6,419,378	3,483,783	2,915,362	472,296	118,698	1,508
Earned income credit: Number of returns	2,236,134	3,734,263	1,516,022	235,904	0	0	0
Amount	7,608,276	8,056,765	1,817,963	116,985	0	0	0
Tax due at time of filing: Number of returns	544,412	1,167,692	1,111,197	2,619,132	1,995,941	4,141,557	685,575
Amount	567,423	1,312,083	1,451,831	4,372,555	4,205,889	13,696,885	4,176,521
Overpayments: Number of returns	6,504,981	11,061,414	8,258,197	13,300,218	7,830,382	9,721,678	893,063
Amount	20,083,261	31,349,029	21,013,332	36,245,996	24,881,960	37,770,183	5,161,605
Estimated tax penalty: Number of returns	106,529	223,838	242,640	709,778	614,922	1,349,836	242,161
Amount	6,549	14,311	15,855	46,693	44,036	124,309	35,964

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Alternative minimum tax:			
Number of returns	3,912	3,940	8,870
Amount	50,224	49,062	126,700
Total non-refundable tax credits [6]:			
Number of returns	1,233,270	201,768	62,357
Amount	3,595,118	744,939	781,176
Child tax credit and/or credit for other dependents:			
Number of returns	810,941	3,733	0
Amount	2,428,348	5,077	0
Income tax after non-refundable credits [7]:			
Number of returns	1,840,717	357,654	97,407
Amount	106,616,896	55,101,153	53,465,241
Self-employment tax:			
Number of returns	339,100	87,971	27,010
Amount	2,274,436	827,783	449,568
Total tax liability [8]:			
Number of returns	1,842,459	357,895	97,504
Amount	111,682,831	58,007,085	56,535,225
Total tax payments [9]:			
Number of returns	1,831,548	355,366	96,692
Amount	111,095,191	53,762,095	48,260,890
Additional child tax credit:			
Number of returns	633	8	0
Amount	1,511	8	0
Earned income credit:			
Number of returns	0	0	0
Amount	0	0	0
Tax due at time of filing:			
Number of returns	872,439	214,539	63,079
Amount	10,033,914	7,671,560	10,656,344
Overpayments:			
Number of returns	969,733	143,291	34,406
Amount	9,371,476	3,375,586	2,344,362
Estimated tax penalty:			
Number of returns	305,036	87,357	23,822
Amount	74,798	50,984	37,647

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Alternative minimum tax:
Number of returns
Amount
Total non-refundable tax credits [6]:
Number of returns
Amount
Child tax credit and/or credit for other dependents:
Number of returns
Amount
Income tax after non-refundable credits [7]:
Number of returns
Amount
Self-employment tax:
Number of returns
Amount
Total tax liability [8]:
Number of returns
Amount
Total tax payments [9]:
Number of returns
Amount
Additional child tax credit:
Number of returns
Amount
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Number of returns
Amount
Overpayments:
Number of returns
Amount
Estimated tax penalty:
Number of returns
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[7] "Income tax after non-refundable credits" reflects the amount reported on Form 1040. This amount differs from "income tax after credits" used in statistical tables derived from the Individual Statistics of Income (SOI) sample. The SOI figure for "income tax after credits" takes into account the effect of refundable tax credits, such as the additional child tax credit and the earned income credit.

[8] "Total tax liability" equals income tax after non-refundable credits plus other taxes.

[9] "Total tax payments" includes Federal income tax withheld and refundable tax credits.

Note: Amounts may not add to totals because of rounding.

Source: IRS, Statistics of Income Division, Individual Master File Data, IRS Compliance Data Warehouse, June 2020.

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RX 95

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 53, December 31, 2020) [1]

(Money amounts are in thousands of dollars)

term	Total returns	No adjusted gross income and deficit	\$1 under \$5,000	\$5,000 under \$10,000	\$10,000 under \$15,000	\$15,000 under \$20,000	\$20,000 under \$25,000
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Number of returns [2]:							
All returns	157,682,637	2,185,921	17,116,094	9,469,335	10,498,052	9,608,050	9,052,242
Electronically filed returns	148,496,552	1,549,782	16,015,732	8,757,433	9,801,614	9,029,096	8,527,764
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	57,671,912	511,587	13,403,530	5,681,216	5,147,635	4,218,357	3,588,775
Salaries and wages:							
Number of returns	123,861,498	454,822	6,363,243	7,376,482	7,911,833	7,708,410	7,610,557
Amount	7,871,425,969	19,185,417	22,935,554	56,708,796	95,409,117	131,201,321	167,839,520
Taxable interest:							
Number of returns	54,345,235	620,464	9,567,136	1,330,323	1,465,876	1,364,359	1,341,711
Amount	139,980,844	6,483,420	623,811	935,631	1,213,146	1,230,548	1,250,792
Ordinary dividends:							
Number of returns	27,520,856	372,593	777,610	744,270	761,782	694,230	676,618
Amount	303,133,736	5,541,929	791,448	1,248,826	1,584,499	1,648,037	1,716,000
Qualified dividends:							
Number of returns	25,485,127	335,889	689,439	671,436	683,867	626,572	611,258
Amount	226,241,173	3,779,323	494,724	762,536	955,876	1,016,230	1,069,251
Taxable income from Individual Retirement Arrangement (RA):							
Number of returns	15,036,432	145,998	306,947	506,382	640,445	576,607	557,733
Amount	309,607,046	2,391,291	847,478	2,398,739	4,094,090	4,318,722	4,780,736
Taxable income from pensions, and annuities:							
Number of returns	27,168,320	204,778	631,790	1,003,235	1,336,676	1,281,051	1,234,059
Amount	742,243,027	2,843,398	1,837,087	5,670,253	11,400,046	13,708,985	15,424,697
Business net income / loss (Schedule C):							
Number of returns	24,922,009	643,990	1,315,138	1,484,635	2,419,390	1,896,992	1,354,830
Amount	296,664,588	-40,018,093	2,198,722	6,229,585	18,475,156	14,790,099	9,454,428
Net capital gains / losses:							
Number of returns	24,576,200	541,892	639,250	646,126	651,340	592,144	579,351
Amount	794,394,343	17,559,293	271,587	661,840	926,781	1,108,201	1,248,781
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):							
Number of returns	15,813,560	605,225	288,807	343,445	419,148	399,850	403,805
Amount	741,505,576	-68,529,912	-584,302	-14,870	595,383	752,756	914,496
Farm income / losses (Schedule F):							
Number of returns	1,648,163	144,252	41,125	45,020	56,400	55,237	57,689
Amount	-26,511,055	-11,246,351	-366,511	-411,700	-505,251	-531,656	-579,447
Total statutory adjustments [3]:							
Number of returns	36,264,235	395,466	1,159,815	1,543,483	2,491,295	1,986,245	1,595,266

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 53, December 31, 2020) [1]

(Money amounts are in thousands of dollars)

Item	Size of adjusted gross income						
	\$25,000 under \$30,000	\$30,000 under \$40,000	\$40,000 under \$50,000	\$50,000 under \$75,000	\$75,000 under \$100,000	\$100,000 under \$200,000	\$200,000 under \$250,000
	(8)	(9)	(10)	(11)	(12)	(13)	(14)
Number of returns [2]:							
All returns	8,709,617	15,205,747	11,932,890	20,968,686	13,467,763	20,908,838	2,947,609
Electronically filed returns	8,229,367	14,391,973	11,293,861	19,858,061	12,775,191	19,980,827	2,842,967
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	3,054,441	5,592,136	4,046,886	6,059,132	3,206,371	2,981,746	168,714
Salaries and wages:							
Number of returns	7,504,317	13,360,897	10,459,277	18,029,149	11,483,215	18,117,797	2,595,769
Amount	200,895,219	448,987,811	444,975,982	1,017,960,595	880,625,329	2,111,160,712	468,856,517
Taxable interest:							
Number of returns	1,369,488	2,714,900	2,742,086	6,787,616	5,925,042	12,143,969	2,161,503
Amount	1,273,983	2,464,667	2,584,832	7,905,553	7,519,988	21,683,891	6,065,225
Ordinary dividends:							
Number of returns	688,367	1,348,528	1,376,462	3,577,598	3,303,231	7,623,372	1,590,116
Amount	1,782,235	3,658,309	4,108,479	12,912,794	14,608,784	49,173,064	16,687,226
Qualified dividends:							
Number of returns	623,065	1,223,956	1,256,226	3,287,606	3,049,994	7,111,029	1,502,706
Amount	1,123,616	2,347,309	2,670,432	8,620,228	9,975,533	35,448,606	12,474,985
Taxable income from Individual Retirement Arrangement (RA):							
Number of returns	547,179	983,559	943,075	2,323,886	2,029,218	3,766,289	586,317
Amount	5,093,731	9,993,790	10,814,814	32,540,736	37,197,154	105,916,967	24,443,999
Taxable income from pensions, and annuities:							
Number of returns	1,205,046	2,179,980	1,994,757	4,543,221	3,611,544	5,969,037	782,905
Amount	16,839,949	34,996,332	38,173,002	111,500,999	113,437,269	254,269,850	44,572,945
Business net income / loss (Schedule C):							
Number of returns	1,157,119	1,929,983	1,554,047	2,973,661	2,177,228	3,954,072	645,718
Amount	8,037,387	13,900,493	12,362,787	27,125,026	24,363,959	67,793,171	20,870,246
Net capital gains / losses:							
Number of returns	587,517	1,151,068	1,175,092	3,053,227	2,833,559	6,717,485	1,475,779
Amount	1,347,055	2,977,788	3,535,599	11,626,853	14,702,736	62,763,603	26,047,927
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):							
Number of returns	407,774	793,309	800,187	2,019,409	1,861,059	4,081,634	808,661
Amount	1,082,570	2,489,180	3,140,861	10,717,280	14,564,315	72,822,554	34,698,265
Farm income / losses (Schedule F):							
Number of returns	58,650	109,152	104,049	245,374	206,994	357,196	50,681
Amount	-607,059	-1,118,561	-1,006,676	-2,298,572	-1,814,699	-2,899,321	-388,951
Total statutory adjustments [3]:							
Number of returns	1,565,638	3,107,270	2,891,592	5,822,993	3,810,662	6,994,430	838,778

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 53, December 31, 2020) [1]

(Money amounts are in thousands of dollars)

Item	\$250,000 under \$500,000	\$500,000 under \$1,000,000	\$1,000,000 or more
	(15)	(16)	(17)
Number of returns [2]:			
All returns	3,979,931	1,107,634	524,228
Electronically filed returns	3,854,471	1,078,116	510,297
Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached	10,872	351	163
Salaries and wages:			
Number of returns	3,498,938	955,753	431,039
Amount	889,883,008	423,713,323	491,087,748
Taxable interest:			
Number of returns	3,277,057	1,023,795	509,910
Amount	15,523,106	12,145,172	51,077,079
Ordinary dividends:			
Number of returns	2,643,365	881,854	460,860
Amount	45,473,110	34,195,032	108,003,964
Qualified dividends:			
Number of returns	2,518,187	848,131	445,766
Amount	34,703,101	26,227,667	84,571,756
Taxable income from Individual Retirement Arrangement (RA):			
Number of returns	809,607	216,134	97,056
Amount	43,720,986	13,397,402	7,656,411
Taxable income from pensions, and annuities:			
Number of returns	907,199	195,626	87,416
Amount	58,021,377	12,597,556	6,949,282
Business net income / loss (Schedule C):			
Number of returns	969,397	298,402	147,407
Amount	52,375,564	28,209,320	30,496,738
Net capital gains / losses:			
Number of returns	2,561,486	895,138	475,746
Amount	83,902,542	78,654,831	487,058,926
Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):			
Number of returns	1,537,129	642,883	401,235
Amount	131,698,901	142,072,492	395,085,607
Farm income / losses (Schedule F):			
Number of returns	75,368	25,542	15,434
Amount	-805,382	-692,916	-1,238,002
Total statutory adjustments [3]:			
Number of returns	1,320,904	472,649	267,749

Table 1. All Individual Returns: Selected Income Items, Adjustments, Credits, and Taxes, by Size of Adjusted Gross Income, Tax Year 2019 (through Filing Season 2020 Cycle 53, December 31, 2020) [1]

(Money amounts are in thousands of dollars)

tem

Number of returns [2]:

All returns

Electronically filed returns

Returns that filed Form 1040 with no Schedules 1-6 or Schedule A attached

Salaries and wages:

Number of returns

Amount

Taxable interest:

Number of returns

Amount

Ordinary dividends:

Number of returns

Amount

Qualified dividends:

Number of returns

Amount

Taxable income from Individual Retirement Arrangement (RA):

Number of returns

Amount

Taxable income from pensions, and annuities:

Number of returns

Amount

Business net income / loss (Schedule C):

Number of returns

Amount

Net capital gains / losses:

Number of returns

Amount

Rental real estate, royalties, partnerships, S corporations, trusts (Schedule E):

Number of returns

Amount

Farm income / losses (Schedule F):

Number of returns

Amount

Total statutory adjustments [3]:

Number of returns

Amount	139,672,263	5,681,229	1,007,656	1,658,220	2,834,707	2,764,788	2,654,643
Adjusted gross income	11,330,952,153	-205,378,112	22,824,210	71,071,908	131,059,743	167,741,872	203,662,152
Total standard deduction (including additional standard deduction):							
Number of returns	140,797,104	1,744,553	16,905,385	9,314,363	10,329,606	9,406,784	8,826,566
Amount	2,323,965,908	26,648,481	179,892,686	115,095,570	150,710,399	143,270,538	136,949,892
Total itemized deductions:							
Number of returns	16,507,508	184,374	136,090	131,279	155,051	193,353	219,876
Amount	632,298,705	9,204,208	3,560,391	4,010,834	4,118,474	7,754,069	6,205,363
Total medical and dental deductions:							
Number of returns	4,047,132	114,326	62,600	70,515	96,084	126,447	136,209
Amount	104,945,479	3,132,173	2,179,911	2,776,672	2,438,299	10,417,294	2,823,806
State and local income taxes or general sales taxes deduction [4]:							
Number of returns	15,846,653	133,765	112,147	114,096	132,549	167,616	194,445
Amount	439,835,033	2,021,459	3,378,943	244,000	211,902	7,031,375	294,213
Real estate taxes deduction [4]:							
Number of returns	14,330,111	132,537	51,363	62,988	88,963	116,161	134,633
Amount	191,695,649	1,727,128	685,013	346,484	517,488	8,627,184	1,721,877
Personal property taxes deduction [4]:							
Number of returns	6,732,015	41,459	19,761	24,572	36,201	51,875	65,100
Amount	5,567,472	36,143	10,283	16,056	42,280	32,873	58,819
State and local taxes deduction after limitation: Amount	129,972,635	1,076,361	584,212	460,616	588,692	735,367	889,251
Other taxes deduction:							
Number of returns	912,160	5,763	2,847	3,661	5,560	9,058	12,458
Amount	1,870,795	24,542	5,451	5,088	11,865	26,749	42,553
Total taxes paid deduction [5]:							
Number of returns	16,338,788	175,271	123,601	123,623	146,933	184,023	210,831
Amount	131,843,430	1,100,903	589,663	465,704	600,557	762,116	931,804
Mortgage interest deduction:							
Number of returns	13,021,225	112,812	41,478	48,622	68,745	90,111	106,956
Amount	195,714,112	2,915,494	844,717	594,232	752,377	2,004,016	1,705,123
Total interest paid deduction [6]:							
Number of returns	13,272,514	121,953	42,756	50,168	70,510	92,047	109,133
Amount	239,792,434	4,601,835	868,599	622,211	811,252	2,100,319	1,804,658
Total charitable contributions deduction:							
Number of returns	13,391,600	1,564	47,731	55,900	79,084	110,321	136,105
Amount	172,297,576	9,030	38,551	100,870	191,837	329,517	487,484
Casualty and theft deduction:							
Number of returns	4,731	106	48	35	48	83	123
Amount	192,776	6,423	2,699	1,470	1,055	2,289	3,745
Other itemized deductions:							
Number of returns	922,247	12,595	4,500	5,082	7,296	10,570	13,569
Amount	26,547,822	382,066	42,530	54,900	91,658	148,928	166,924
Qualified business income deduction:							
Number of returns	21,170,562	1,004	39,419	35,706	413,082	720,584	689,384
Amount	149,559,845	17,767	13,295	18,337	123,355	463,078	976,430
Taxable income:							
Number of returns	118,022,101	231	384,781	273,920	3,579,301	6,770,419	7,717,733
Amount	8,726,990,015	8,457	508,944	1,004,682	5,416,146	30,742,345	63,703,661

Amount	2,770,081	5,882,585	6,033,910	14,732,701	11,330,650	30,136,311	7,610,400
Adjusted gross income	239,284,333	529,083,008	534,692,736	1,288,792,401	1,167,667,874	2,849,173,005	654,956,457
Total standard deduction (including additional standard deduction): Number of returns	8,458,175	14,619,790	11,219,644	18,737,672	11,287,191	15,745,918	1,746,378
Amount	133,224,050	234,407,613	185,136,667	336,186,326	231,940,815	353,627,755	40,279,439
Total itemized deductions: Number of returns	247,872	582,677	713,040	2,234,056	2,184,088	5,167,069	1,201,724
Amount	7,019,479	20,335,108	21,697,972	59,404,630	59,875,001	161,402,511	42,915,572
Total medical and dental deductions: Number of returns	148,783	326,991	344,931	826,336	614,425	958,856	107,010
Amount	2,573,982	17,690,475	7,254,300	15,752,932	12,205,498	18,284,204	2,703,590
State and local income taxes or general sales taxes deduction [4]: Number of returns	222,006	532,032	663,851	2,118,092	2,105,866	5,052,404	1,182,161
Amount	10,465,564	11,427,642	2,263,558	10,986,446	11,680,967	120,658,073	15,240,841
Real estate taxes deduction [4]: Number of returns	156,074	395,062	536,155	1,862,217	1,933,733	4,766,048	1,131,759
Amount	791,036	15,651,198	2,923,057	17,122,790	10,722,948	62,639,358	21,144,570
Personal property taxes deduction [4]: Number of returns	80,495	211,116	279,973	917,693	937,955	2,336,568	535,828
Amount	84,988	187,152	231,000	847,834	671,698	1,830,275	374,272
State and local taxes deduction after limitation: Amount	1,054,363	2,659,174	3,628,645	13,927,021	16,031,224	45,679,978	11,508,945
Other taxes deduction: Number of returns	15,948	42,511	52,419	147,971	135,728	289,579	56,245
Amount	55,966	150,958	166,897	327,578	233,290	405,982	69,902
Total taxes paid deduction [5]: Number of returns	238,568	565,502	698,081	2,203,233	2,166,640	5,149,143	1,200,006
Amount	1,110,329	2,810,132	3,795,542	14,254,599	16,264,514	46,085,960	11,578,847
Mortgage interest deduction: Number of returns	127,575	339,150	478,864	1,697,233	1,778,692	4,413,417	1,058,532
Amount	2,342,382	7,089,584	10,443,061	19,443,038	20,117,629	58,697,193	16,857,633
Total interest paid deduction [6]: Number of returns	129,982	344,390	484,605	1,713,189	1,794,317	4,456,246	1,073,203
Amount	2,478,218	7,406,253	11,549,279	40,860,756	21,434,592	59,678,094	17,284,722
Total charitable contributions deduction: Number of returns	162,940	409,098	520,820	1,679,274	1,732,966	4,463,275	1,080,432
Amount	663,664	1,873,922	2,504,752	8,272,653	9,388,153	32,740,098	9,868,065
Casualty and theft deduction: Number of returns	126	369	444	1,060	722	1,234	142
Amount	4,754	11,269	14,255	38,512	26,437	51,816	7,174
Other itemized deductions: Number of returns	16,552	38,658	42,827	117,985	106,593	248,440	56,988
Amount	210,577	564,660	602,229	1,654,857	1,592,468	4,674,863	1,499,305
Qualified business income deduction: Number of returns	826,039	1,515,891	1,369,186	3,063,418	2,590,174	5,640,244	1,176,379
Amount	1,028,118	2,271,882	2,619,702	8,059,520	7,645,614	25,602,909	8,912,924
Taxable income: Number of returns	8,464,189	15,133,045	11,890,457	20,912,696	13,446,242	20,893,014	2,946,391
Amount	98,435,762	276,423,132	327,841,676	886,403,915	867,153,501	2,304,350,171	562,095,413

Amount	20,452,790	12,770,381	11,351,211
Adjusted gross income	1,331,223,670	745,092,845	1,600,004,051
Total standard deduction (including additional standard deduction):			
Number of returns	1,940,094	391,132	123,853
Amount	44,748,660	9,026,168	2,820,849
Total itemized deductions:			
Number of returns	2,040,198	716,443	400,318
Amount	84,639,017	42,633,827	97,522,249
Total medical and dental deductions:			
Number of returns	99,270	12,075	2,274
Amount	3,541,895	871,117	299,331
State and local income taxes or general sales taxes deduction [4]:			
Number of returns	2,010,506	708,690	396,427
Amount	40,769,788	122,604,281	80,555,981
Real estate taxes deduction [4]:			
Number of returns	1,924,010	671,244	367,164
Amount	26,315,088	10,287,407	10,473,023
Personal property taxes deduction [4]:			
Number of returns	833,162	246,978	113,279
Amount	750,828	228,912	164,059
State and local taxes deduction after limitation: Amount	19,900,898	7,081,765	4,166,123
Other taxes deduction:			
Number of returns	86,662	29,254	16,496
Amount	116,084	68,183	159,707
Total taxes paid deduction [5]:			
Number of returns	2,037,893	715,653	399,787
Amount	20,016,982	7,149,948	4,325,830
Mortgage interest deduction:			
Number of returns	1,784,266	596,097	278,675
Amount	32,672,502	12,817,527	6,417,604
Total interest paid deduction [6]:			
Number of returns	1,825,599	629,742	334,674
Amount	34,341,218	14,916,352	19,034,076
Total charitable contributions deduction:			
Number of returns	1,859,007	669,207	383,876
Amount	22,919,081	16,490,899	66,419,000
Casualty and theft deduction:			
Number of returns	139	37	15
Amount	11,121	6,238	3,519
Other itemized deductions:			
Number of returns	107,763	60,484	72,345
Amount	3,889,460	3,267,341	7,705,056
Qualified business income deduction:			
Number of returns	2,037,872	667,845	384,335
Amount	24,990,238	15,282,974	51,533,702
Taxable income:			
Number of returns	3,978,575	1,107,173	523,934
Amount	1,176,061,299	678,079,551	1,448,761,360

Amount
Adjusted gross income
Total standard deduction (including additional standard deduction):
Number of returns
Amount
Total itemized deductions:
Number of returns
Amount
Total medical and dental deductions:
Number of returns
Amount
State and local income taxes or general sales taxes deduction [4]:
Number of returns
Amount
Real estate taxes deduction [4]:
Number of returns
Amount
Personal property taxes deduction [4]:
Number of returns
Amount
State and local taxes deduction after limitation: Amount
Other taxes deduction:
Number of returns
Amount
Total taxes paid deduction [5]:
Number of returns
Amount
Mortgage interest deduction:
Number of returns
Amount
Total interest paid deduction [6]:
Number of returns
Amount
Total charitable contributions deduction:
Number of returns
Amount
Casualty and theft deduction:
Number of returns
Amount
Other itemized deductions:
Number of returns
Amount
Qualified business income deduction:
Number of returns
Amount
Taxable income:
Number of returns
Amount

Alternative minimum tax: Number of returns	136,425	3,431	532	3,731	1,571	1,063	528
Amount	2,440,331	113,185	2,097	55,108	2,012	2,318	2,218
Total non-refundable tax credits [7]: Number of returns	55,821,820	8,766	31,988	57,710	822,362	2,371,696	3,851,140
Amount	123,096,998	20,118	3,881	9,910	115,932	690,449	1,631,602
Child tax credit and/or credit for other dependents: Number of returns	38,168,247	5,775	6,332	10,264	289,507	996,542	1,992,021
Amount	85,334,888	6,264	3,600	6,503	49,128	313,835	926,408
Income tax after non-refundable credits [8]: Number of returns	101,142,870	30,383	255,679	250,577	2,849,920	4,976,021	5,103,860
Amount	1,475,522,901	121,066	48,209	149,891	458,166	2,395,169	4,845,713
Self-employment tax: Number of returns	18,497,414	275,135	963,767	1,254,362	2,101,515	1,492,609	950,255
Amount	60,440,765	736,557	435,224	1,205,717	3,095,181	2,766,033	2,032,673
Total tax liability [9]: Number of returns	109,929,590	348,127	1,269,143	1,594,583	4,773,859	6,164,116	5,801,334
Amount	1,579,311,205	1,027,036	509,925	1,390,975	3,610,335	5,238,400	6,967,573
Total tax payments [10]: Number of returns	141,253,435	897,124	6,783,948	8,393,110	9,666,264	8,991,510	8,598,967
Amount	1,817,717,609	6,968,289	2,927,328	9,825,998	23,935,029	29,611,575	29,721,367
Additional child tax credit: Number of returns	19,097,994	93,232	307,174	1,085,836	2,521,572	2,654,221	2,349,900
Amount	34,320,955	216,119	86,103	876,990	3,591,738	4,808,771	4,746,251
Earned income credit: Number of returns	25,364,367	144,701	2,168,423	3,398,677	5,125,013	3,325,411	2,593,268
Amount	62,419,822	159,371	947,903	4,491,899	12,616,665	14,070,602	10,678,396
Tax due at time of filing: Number of returns	29,517,094	223,329	903,351	820,721	760,602	872,935	855,637
Amount	179,405,061	441,151	375,165	617,758	807,677	973,744	1,104,317
Overpayments: Number of returns	114,989,541	818,325	6,364,382	7,848,486	9,166,826	8,500,990	8,025,064
Amount	415,672,725	6,378,562	2,691,345	9,047,365	21,120,098	25,333,200	23,843,489
Estimated tax penalty: Number of returns	9,896,296	31,217	12,600	105,107	282,175	226,718	208,660
Amount	2,138,742	3,843	101,222	5,416	12,273	13,719	14,623

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Alternative minimum tax: Number of returns	437	771	597	1,705	2,340	11,643	5,154
Amount	1,807	4,468	4,183	13,471	17,948	111,556	67,736
Total non-refundable tax credits [7]: Number of returns	4,609,055	6,825,694	4,951,959	8,969,122	6,174,874	11,513,249	1,892,500
Amount	2,889,350	7,901,897	8,219,560	19,202,610	16,500,458	33,093,246	5,555,598
Child tax credit and/or credit for other dependents: Number of returns	2,505,382	4,811,496	3,768,664	6,789,909	4,902,986	8,961,082	1,382,191
Amount	1,867,446	6,057,653	7,097,162	17,149,542	14,499,597	27,516,239	4,556,007
Income tax after non-refundable credits [8]: Number of returns	5,630,295	11,002,262	9,843,127	18,898,446	13,022,401	20,743,663	2,938,690
Amount	7,528,129	22,085,125	28,030,746	88,893,345	97,115,432	317,634,367	96,209,011
Self-employment tax: Number of returns	772,214	1,262,264	1,031,819	2,028,485	1,536,735	2,892,152	521,497
Amount	1,790,120	3,130,264	2,697,718	5,744,667	4,909,860	12,382,351	3,286,483
Total tax liability [9]: Number of returns	6,111,999	11,702,235	10,274,057	19,398,397	13,149,545	20,790,704	2,942,834
Amount	9,424,682	25,474,211	31,025,082	95,445,028	102,831,397	332,303,954	100,345,926
Total tax payments [10]: Number of returns	8,380,823	14,806,150	11,677,659	20,594,944	13,289,740	20,700,674	2,918,739
Amount	30,731,458	58,372,942	52,626,988	130,358,000	125,105,010	354,332,369	99,042,976
Additional child tax credit: Number of returns	2,283,608	3,639,156	1,876,858	1,846,864	350,611	83,936	2,310
Amount	4,631,692	7,137,186	3,979,175	3,436,561	605,375	192,778	5,857
Earned income credit: Number of returns	2,451,828	4,154,216	1,730,745	272,085	0	0	0
Amount	8,325,106	8,929,483	2,066,445	133,952	0	0	0
Tax due at time of filing: Number of returns	944,575	1,998,019	1,908,140	4,482,535	3,493,869	7,740,061	1,508,009
Amount	1,222,382	2,785,587	3,083,426	9,166,607	9,123,759	31,527,940	11,086,402
Overpayments: Number of returns	7,666,717	13,121,303	9,974,382	16,418,958	9,940,634	13,124,364	1,431,757
Amount	22,512,819	35,648,553	24,645,849	43,965,727	31,284,656	53,196,289	9,652,935
Estimated tax penalty: Number of returns	236,317	484,418	511,622	1,422,655	1,244,032	2,945,503	652,132
Amount	16,340	35,765	39,483	113,852	112,716	360,068	130,518

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Alternative minimum tax:			
Number of returns	16,895	20,362	65,665
Amount	295,258	345,475	1,401,491
Total non-refundable tax credits [7]:			
Number of returns	2,710,706	657,885	373,114
Amount	9,483,656	4,282,127	13,496,604
Child tax credit and/or credit for other dependents:			
Number of returns	1,735,230	10,866	0
Amount	5,249,250	36,254	0
Income tax after non-refundable credits [8]:			
Number of returns	3,969,334	1,105,228	522,984
Amount	231,455,136	169,511,825	409,041,571
Self-employment tax:			
Number of returns	889,906	332,598	192,101
Amount	7,403,398	4,040,226	4,784,293
Total tax liability [9]:			
Number of returns	3,977,597	1,107,057	524,003
Amount	245,707,951	180,671,060	437,337,670
Total tax payments [10]:			
Number of returns	3,938,219	1,095,990	519,574
Amount	239,948,671	171,652,408	452,557,201
Additional child tax credit:			
Number of returns	2,692	24	0
Amount	6,329	30	0
Earned income credit:			
Number of returns	0	0	0
Amount	0	0	0
Tax due at time of filing:			
Number of returns	2,119,696	638,907	246,708
Amount	29,603,716	26,533,047	50,952,383
Overpayments:			
Number of returns	1,848,168	463,981	275,204
Amount	23,496,191	17,194,497	65,661,150
Estimated tax penalty:			
Number of returns	982,697	374,675	175,768
Amount	348,244	319,897	510,763

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Alternative minimum tax:
Number of returns
Amount
Total non-refundable tax credits [7]:
Number of returns
Amount
Child tax credit and/or credit for other dependents:
Number of returns
Amount
Income tax after non-refundable credits [8]:
Number of returns
Amount
Self-employment tax:
Number of returns
Amount
Total tax liability [9]:
Number of returns
Amount
Total tax payments [10]:
Number of returns
Amount
Additional child tax credit:
Number of returns
Amount
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Number of returns
Amount
Overpayments:
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Amount
Estimated tax penalty:
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Amount

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The Treasury Department and the Internal Revenue Service, in response to the COVID-19 Outbreak, extended the filing deadline to July 15, 2020. This impacted the number of returns received by the IRS. In addition, to protect the safety of IRS employees, many IRS processing sites were closed. Thus, the processing of those returns that were filed was slower than in past years.

[2] Includes over 7.5 million returns that were created only for taxpayers to receive an Economic Impact Payment.

[3] "Total statutory adjustments" includes the deductions for self-employment tax, self-employed health insurance, self-employed retirement plans, the student loan interest deduction, and other adjustments not shown separately.

[4] Prior to application of the \$10,000 limit (\$5,000 in the case of married individuals filing separate returns).

[5] "Total taxes paid deduction" is the sum of State and local taxes deduction after limitation plus other taxes deduction.

[6] "Total interest paid deduction" represents the summation of the mortgage interest deduction plus the deduction for investment interest expense.

[7] "Total non-refundable tax credits" represents the summation of non-refundable tax credits reported on Form 1040 after the credits have been limited by the amount of the taxpayer's liability.

[8] "Income tax after non-refundable credits" reflects the amount reported on Form 1040. This amount differs from "income tax after credits" used in statistical tables derived from the Individual Statistics of Income (SOI) sample. The SOI figure for "income tax after credits" takes into account the effect of refundable tax credits, such as the additional child tax credit and the earned income credit.

[9] "Total tax liability" equals income tax after non-refundable credits plus other taxes.

[10] "Total tax payments" includes Federal income tax withheld and refundable tax credits.

Note: Amounts may not add to totals because of rounding.

Source: IRS, Statistics of Income Division, Individual Master File Data, IRS Compliance Data Warehouse, March 2021.

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RX 96

.com Disclosures

**How to Make Effective Disclosures
in Digital Advertising**

Contents

Overview	i
Introduction	1
The Applicability of FTC Law to Online Advertising	2
Clear and Conspicuous Disclosures in Online Advertisements	4
Background on Disclosures	5
The Clear and Conspicuous Requirement	6
What Are Clear and Conspicuous Disclosures?	7
Proximity and Placement	8
Prominence	17
Distracting Factors in Ads	19
Repetition	19
Multimedia Messages and Campaigns	20
Understandable Language	21
Conclusion	21
Appendix: Examples	A-1

Overview

In the online marketplace, consumers can transact business without the constraints of time or distance. One can log on to the Internet day or night and purchase almost anything one desires, and advances in mobile technology allow advertisers to reach consumers nearly anywhere they go. But cyberspace is not without boundaries, and deception is unlawful no matter what the medium. The FTC has enforced and will continue enforcing its consumer protection laws to ensure that products and services are described truthfully online, and that consumers understand what they are paying for. These activities benefit consumers as well as sellers, who expect and deserve the opportunity to compete in a marketplace free of deception and unfair practices.

The general principles of advertising law apply online, but new issues arise almost as fast as technology develops — most recently, new issues have arisen concerning space-constrained screens and social media platforms. This FTC staff guidance document describes the information businesses should consider as they develop ads for online media to ensure that they comply with the law. Briefly,

1. The same consumer protection laws that apply to commercial activities in other media apply online, including activities in the mobile marketplace. The FTC Act's prohibition on "unfair or deceptive acts or practices" encompasses online advertising, marketing, and sales. In addition, many Commission rules and guides are not limited to any particular medium used to disseminate claims or advertising, and therefore, apply to the wide spectrum of online activities.
2. When practical, advertisers should incorporate relevant limitations and qualifying information into the underlying claim, rather than having a separate disclosure qualifying the claim.
3. Required disclosures must be clear and conspicuous. In evaluating whether a disclosure is likely to be clear and conspicuous, advertisers should consider its placement in the ad and its proximity to the relevant claim. The closer the disclosure is to the claim to which it relates, the better. Additional considerations include: the prominence of the disclosure; whether it is unavoidable; whether other parts of the ad distract attention from the disclosure; whether the disclosure needs to be repeated at different places on a website; whether disclosures in audio messages are presented in an adequate volume and cadence; whether visual disclosures

appear for a sufficient duration; and whether the language of the disclosure is understandable to the intended audience.

4. To make a disclosure clear and conspicuous, advertisers should:

- Place the disclosure as close as possible to the triggering claim.
- Take account of the various devices and platforms consumers may use to view advertising and any corresponding disclosure. If an ad is viewable on a particular device or platform, any necessary disclosures should be sufficient to prevent the ad from being misleading when viewed on that device or platform.
- When a space-constrained ad requires a disclosure, incorporate the disclosure into the ad whenever possible. However, when it is not possible to make a disclosure in a space-constrained ad, it may, under some circumstances, be acceptable to make the disclosure clearly and conspicuously on the page to which the ad links.
- When using a hyperlink to lead to a disclosure,
 - make the link obvious;
 - label the hyperlink appropriately to convey the importance, nature, and relevance of the information it leads to;
 - use hyperlink styles consistently, so consumers know when a link is available;
 - place the hyperlink as close as possible to the relevant information it qualifies and make it noticeable;
 - take consumers directly to the disclosure on the click-through page;
 - assess the effectiveness of the hyperlink by monitoring click-through rates and other information about consumer use and make changes accordingly.
- Preferably, design advertisements so that “scrolling” is not necessary in order to find a disclosure. When scrolling is necessary, use text or visual cues to encourage consumers to scroll to view the disclosure.
- Keep abreast of empirical research about where consumers do and do not look on a screen.
- Recognize and respond to any technological limitations or unique characteristics of a communication method when making disclosures.
- Display disclosures before consumers make a decision to buy — e.g., before they “add to shopping cart.” Also recognize that disclosures may have to be

repeated before purchase to ensure that they are adequately presented to consumers.

- Repeat disclosures, as needed, on lengthy websites and in connection with repeated claims. Disclosures may also have to be repeated if consumers have multiple routes through a website.
 - If a product or service promoted online is intended to be (or can be) purchased from “brick and mortar” stores or from online retailers other than the advertiser itself, then any disclosure necessary to prevent deception or unfair injury should be presented in the ad itself — that is, before consumers head to a store or some other online retailer.
 - Necessary disclosures should not be relegated to “terms of use” and similar contractual agreements.
 - Prominently display disclosures so they are noticeable to consumers, and evaluate the size, color, and graphic treatment of the disclosure in relation to other parts of the webpage.
 - Review the entire ad to assess whether the disclosure is effective in light of other elements — text, graphics, hyperlinks, or sound — that might distract consumers’ attention from the disclosure.
 - Use audio disclosures when making audio claims, and present them in a volume and cadence so that consumers can hear and understand them.
 - Display visual disclosures for a duration sufficient for consumers to notice, read, and understand them.
 - Use plain language and syntax so that consumers understand the disclosures.
5. If a disclosure is necessary to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, and it is not possible to make the disclosure clearly and conspicuously, then that ad should not be disseminated. This means that if a particular platform does not provide an opportunity to make clear and conspicuous disclosures, then that platform should not be used to disseminate advertisements that require disclosures.

Negative consumer experiences can result in lost consumer goodwill and erode consumer confidence. Clear, conspicuous, and meaningful disclosures benefit advertisers and consumers.

I. Introduction

Day in and day out, businesses advertise and sell their products and services online.¹ The online universe presents a rewarding and fast-paced experience for consumers, but also raises interesting — and occasionally complex — questions about the applicability of laws that were developed long before “dot com,” “smartphone,” and “social media” became household terms.

In May 2000, following a public comment period and a public workshop held to discuss the applicability of FTC rules and guides to online activities, FTC staff issued Dot Com Disclosures. That guidance document examined how the Commission’s consumer protection statutes, rules, and guides apply to online advertising and sales and discussed FTC requirements that disclosures be presented clearly and conspicuously, in the context of online advertising.

In May 2011, FTC staff began seeking input to modify and update the guidance document to reflect the dramatic changes in the online world in the preceding eleven years. After three public comment periods and a public workshop, this revised staff guidance document was issued in March 2013.²

This document provides FTC staff guidance concerning the making of clear and conspicuous online disclosures that are necessary pursuant to the laws the FTC enforces. It does not, however, purport to cover every issue associated with online advertising disclosures, nor is it intended to provide a safe harbor from potential liability. It is intended only to provide guidance concerning practices that may increase the likelihood that a disclosure is clear and conspicuous. Whether a particular ad is deceptive, unfair, or otherwise violative of a Commission rule will depend on the specific facts at hand. The ultimate test is not the size of the font or the location of the disclosure, although they are important considerations; the ultimate test is whether the information intended to be disclosed is actually conveyed to consumers.

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1. In this document, the term “online” includes advertising and marketing via the Internet and other electronic networks. It is device neutral and encompasses advertising and marketing on mobile devices, such as smartphones and tablets.
 2. This staff guidance document only addresses disclosures required pursuant to laws that the FTC enforces. It does not address disclosures that may be required pursuant to local, state (e.g., many sweepstake requirements), or other federal laws or regulations (e.g., regulations issued by the Consumer Financial Protection Bureau or the Food and Drug Administration).

There is no litmus test for determining whether a disclosure is clear and conspicuous, and in some instances, there may be more than one method that seems reasonable. In such cases, the best practice would be to select the method more likely to effectively communicate the information in question.

II. The Applicability of FTC Law to Online Advertising

The FTC Act's prohibition on "unfair or deceptive acts or practices" broadly covers advertising claims, marketing and promotional activities, and sales practices in general.³ The Act is not limited to any particular medium. Accordingly, the Commission's role in protecting consumers from unfair or deceptive acts or practices encompasses advertising, marketing, and sales online, as well as the same activities in print, television, telephone, and radio. The Commission has brought countless law enforcement actions to stop fraud and deception online and works to educate businesses about their legal obligations and consumers about their rights.

For certain industries or subject areas, the Commission issues rules and guides. Rules prohibit specific acts or practices that the Commission has found to be unfair or deceptive.⁴ Guides help businesses in their efforts to comply with the law by providing examples or direction on how to avoid unfair or deceptive acts or practices.⁵ Many rules and guides address claims about products or services or advertising in general and apply to online

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3. The Commission's authority covers virtually every sector of the economy, except for certain excluded industries, such as common carrier activities and the business of insurance, airlines, and banks.
 4. The Commission issues rules pursuant to Section 5 of the FTC Act when it has reason to believe that certain unfair or deceptive acts or practices are prevalent in an industry. 15 U.S.C. § 57a(a)(1)(B). In addition, the Commission promulgates rules pursuant to specific statutes, which are designed to further particular policy goals.
 5. Guides are "administrative interpretations of laws administered by the Commission." 16 C.F.R. § 1.5. Although guides do not have the force and effect of law, if a person or company fails to comply with a guide, the Commission might bring an enforcement action alleging an unfair or deceptive practice in violation of the FTC Act.

advertising, as well as to other media.⁶ Therefore, the plain language of many rules and guides applies to claims made online.⁷ For example, the Mail or Telephone Order Merchandise

6. The following rules and guides are included in this category: Guides for the Nursery Industry (16 C.F.R. Part 18); Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry (16 C.F.R. Part 20); Guides for the Jewelry, Precious Metals, and Pewter Industries (16 C.F.R. Part 23); Guides for Select Leather and Imitation Leather Products (16 C.F.R. Part 24); Guides Against Deceptive Pricing (16 C.F.R. Part 233); Guides Against Bait Advertising (16 C.F.R. Part 238); Guides for the Advertising of Warranties and Guarantees (16 C.F.R. Part 239); Guide Concerning Use of the Word “Free” and Similar Representations (16 C.F.R. Part 251); Guides for Private Vocational and Distance Education Schools (16 C.F.R. Part 254); Guides Concerning Use of Endorsements and Testimonials in Advertising (16 C.F.R. Part 255); Guides Concerning Fuel Economy Advertising for New Automobiles (16 C.F.R. Part 259); Guides for the Use of Environmental Marketing Claims (16 C.F.R. Part 260); Rules and Regulations Under the Wool Products Labeling Act of 1939 (16 C.F.R. Part 300); Rules and Regulations Under Fur Products Labeling Act (16 C.F.R. Part 301); Rules and Regulations Under the Textile Fiber Products Identification Act (16 C.F.R. Part 303); Energy and Water Use Labeling for Consumer Products under the Energy Policy and Conservation Act (“Energy Labeling Rule”) (16 C.F.R. Part 305); Contacts Lens Rule (16 C.F.R. Part 315); Prohibition of Energy Market Manipulation Rule (16 C.F.R. Part 317); Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (16 C.F.R. Part 410); Retail Food Store Advertising and Marketing Practices (16 C.F.R. Part 424); Use of Prenotification Negative Option Plans (16 C.F.R. Part 425); Power Output Claims for Amplifiers Utilized in Home Entertainment Products (16 C.F.R. Part 432); Preservation of Consumers’ Claims and Defenses (16 C.F.R. Part 433); Mail or Telephone Order Merchandise (16 C.F.R. Part 435); Disclosure Requirements and Prohibitions Concerning Franchising (16 C.F.R. Part 436); Business Opportunity Rule (16 C.F.R. Part 437); Credit Practices (16 C.F.R. Part 444); Used Motor Vehicle Trade Regulation Rule (16 C.F.R. Part 455); Labeling and Advertising of Home Insulation (16 C.F.R. Part 460); Interpretations of Magnuson-Moss Warranty Act (16 C.F.R. Part 700); Disclosure of Written Consumer Product Warranty Terms and Conditions (16 C.F.R. Part 701); Pre-Sale Availability of Written Warranty Terms (16 C.F.R. Part 702); Informal Dispute Settlement Procedures (16 C.F.R. Part 703).
7. A rule or guide applies to online activities if its scope is not limited by how claims are communicated to consumers, how advertising is disseminated, or where commercial activities occur. The Commission has a program in place to systematically review its rules and guides to evaluate their continued need and to make any necessary changes. As needed, the Commission has and will continue to amend or clarify the scope of any particular rule or guide in more detail during its regularly scheduled review. For example, the Energy Labeling Rule was updated to clarify that “catalog” includes “material disseminated over the Internet” and to allow certain disclosures to be made available using the Internet. See 72 Fed. Reg. 49,948, 49,957, 49,961 (Aug. 29, 2007).

The first Dot Com Disclosures guidance document contained a section discussing how certain FTC rules and guides apply to online activities. Since that time, the Commission has addressed many of these issues in rulemakings or its periodic rule and guide reviews, and the information is widely understood given the ubiquitous nature and use of online technology. Nevertheless, the principles articulated in the original Dot Com Disclosures remain the same. For the most part, rules and guides that use terms such as “written,” “writing,” and “printed” apply online, and email may be used to comply with certain requirements to provide or send required notices or documents to consumers as long as consumers understand or expect to receive such information by email. For example, warranties communicated through visual text online are no different than paper versions and the same rules apply. The requirement to make warranties available at the point of purchase can be accomplished easily online by, for example, using a clearly-labeled hyperlink, in close proximity to the description of the warranted product, such as “get warranty information here” to lead to the full text of the warranty, and presenting the warranty in a way that it can be preserved either by downloading or printing so consumers can refer to it after purchase. Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 C.F.R. § 701.3 and Pre-Sale Availability of Written Warranty Terms, 16 C.F.R. § 702.3. Another example involves the Telemarketing Sales Rule. Advertisers who send email and text messages that invite consumers to telephone the sender in order to make a purchase are subject to the Telemarketing Sales Rule, unless they qualify for the direct mail exemption under 16 C.F.R. 310.6(b)(6) by clearly and conspicuously making certain specified disclosures in the original solicitation.

rule, which addresses the sale of merchandise that is ordered by mail, telephone, facsimile or computer, applies to those sales regardless of “the method used to solicit the order.”⁸ Solicitations made in print, on the telephone, radio, TV, or online naturally fall within the rule’s scope. In addition, the Guides Concerning the Use of Endorsements and Testimonials in Advertising (“Endorsement Guides”) apply to “any advertising message . . . that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser”⁹ The Guides refer to advertising without limiting the media in which it is disseminated and, therefore, encompass online ads.¹⁰

III. Clear and Conspicuous Disclosures in Online Advertisements

When it comes to online ads, the basic principles of advertising law apply:

1. Advertising must be truthful and not misleading;¹¹
2. Advertisers must have evidence to back up their claims (“substantiation”);¹² and
3. Advertisements cannot be unfair.¹³

8. 16 C.F.R. § 435.2(a).

9. 16 C.F.R. § 255.0(b).

10. Indeed, when the Endorsement Guides were reviewed in 2009, examples involving blogs were included, to make clear that the FTC Act applies to this then-new form of social media marketing.

11. As explained in the FTC’s Deception Policy Statement, an ad is deceptive if it contains a statement — or omits information — that is likely to mislead consumers acting reasonably under the circumstances and is “material” or important to a consumer’s decision to buy or use the product. *See FTC Policy Statement on Deception, appended to Cliffdale Associates, Inc.*, 103 F.T.C. 110, 174 (“Deception Policy Statement”), also available at www.ftc.gov/bcp/policystmt/ad-decept.htm. A statement also may be deceptive if the advertiser does not have a reasonable basis to support the claim. *See FTC Policy Statement on Advertising Substantiation, appended to Thompson Medical Co.*, 104 F.T.C. 648, 839 (1984), *aff’d*, 791 F.2d 189 (D.C. Cir. 1986), also available at www.ftc.gov/bcp/guides/ad3subst.htm.

12. Before disseminating an ad, advertisers must have appropriate support for all express and implied objective claims that the ad conveys to reasonable consumers. When an ad lends itself to more than one reasonable interpretation, there must be substantiation for each interpretation. The type of evidence needed to substantiate a claim may depend on the product, the claims, and what experts in the relevant field believe is necessary. If an ad specifies a certain level of support for a claim — “tests show x” — the advertiser must have at least that level of support.

13. According to the FTC Act, 15 U.S.C. § 45(n), and the FTC’s Unfairness Policy Statement, an advertisement or business practice is unfair if it causes or is likely to cause substantial consumer injury that consumers could not reasonably avoid and that is not outweighed by the benefit to consumers or competition. *See FTC Policy Statement on Unfairness, appended to International Harvester Co.*, 104 F.T.C. 949, 1070 (1984), also available at www.ftc.gov/bcp/policystmt/ad-unfair.htm.

Unique features in online ads — including advertising delivered via social media platforms or on mobile devices — may affect how an ad and any required disclosures are evaluated.

A. Background on Disclosures

Advertisers are responsible for ensuring that all express and implied claims that an ad conveys to reasonable consumers are truthful and substantiated. When identifying these claims, advertisers should not focus only on individual phrases or statements, but should consider the ad as a whole, including the text, product name, and depictions.¹⁴ If an ad makes express or implied claims that are likely to be misleading without certain qualifying information, the information must be disclosed.

A disclosure can only qualify or limit a claim to avoid a misleading impression. It cannot cure a false claim. If a disclosure provides information that contradicts a material claim, the disclosure will not be sufficient to prevent the ad from being deceptive. In that situation, the claim itself must be modified.

Many Commission rules and guides spell out the information that must be disclosed in connection with certain claims. In many cases, these disclosures prevent a claim from being misleading or deceptive.¹⁵ Other rules and guides require disclosures to ensure that consumers receive material information to assist them in making better-informed decisions,¹⁶ or to implement statutes furthering public policy goals.¹⁷ In all of these instances, if a disclosure is required, it must be clear and conspicuous.

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14. Copy tests or other evidence of how consumers actually interpret an ad can be valuable. In many cases, however, the implications of the ad are clear enough to determine the existence of the claim by examining the ad alone, without extrinsic evidence.
 15. For example, if an endorsement is not representative of the performance that consumers can generally expect to achieve with a product, advertisers must disclose the generally expected performance in the depicted circumstances. Endorsement Guides, 16 C.F.R. § 255.2.
 16. For example, any solicitation for the purchase of consumer products with a warranty must disclose the text of the warranty offer or how consumers can obtain it for free. Pre-Sale Availability of Written Warranty Terms, 16 C.F.R. § 702.3.
 17. For example, the required energy disclosures in the Energy Labeling Rule, 16 C.F.R. § 305, further the public policy goal of promoting energy conservation by providing consumers with clear comparative information.

B. The Clear and Conspicuous Requirement

Disclosures that are required to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, must be presented “clearly and conspicuously.”¹⁸ Whether a disclosure meets this standard is measured by its performance — that is, how consumers actually perceive and understand the disclosure within the context of the entire ad. The key is the overall net impression of the ad — that is, whether the claims consumers take from the ad are truthful and substantiated.¹⁹ If a disclosure is not seen or comprehended, it will not change the net impression consumers take from the ad and therefore cannot qualify the claim to avoid a misleading impression.

In reviewing their ads, advertisers should adopt the perspective of a reasonable consumer.²⁰ They also should assume that consumers don’t read an entire website or online screen, just as they don’t read every word on a printed page.²¹ Disclosures should be placed as close as possible to the claim they qualify. Advertisers should keep in mind that having to scroll increases the risk that consumers will miss a disclosure.

In addition, it is important for advertisers to draw attention to the disclosure. Consumers may not be looking for — or expecting to find — disclosures. Advertisers are responsible for ensuring that their messages are truthful and not deceptive. Accordingly, disclosures must be communicated effectively so that consumers are likely to notice and understand them in connection with the representations that the disclosures modify. Simply making the disclosure available somewhere in the ad, where some consumers might find it, does not meet the clear and conspicuous standard.

If a disclosure is necessary to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, and if it is not possible to make the disclosure clear and conspicuous, then either the claim should be modified so the disclosure is not necessary or the ad should not be disseminated. Moreover, if a particular platform does not provide an

18. Some rules and guides, as well as some FTC cases, use the phrase “clearly and prominently” instead of “clearly and conspicuously.” As used in FTC rules, guides, and cases, these two phrases are synonymous. They may have different meanings under other statutes.

19. Deception Policy Statement at 175-76.

20. Deception Policy Statement at 178. The Deception Policy Statement also says that “[w]hen representations or sales practices are targeted to a specific audience, such as children, the elderly, or the terminally ill, the Commission determines the effect of the practice on a reasonable member of that group.” *Id.* at 179 (footnote omitted).

21. Deception Policy Statement at 180-81.

opportunity to make clear and conspicuous disclosures, it should not be used to disseminate advertisements that require such disclosures.²²

C. What Are Clear and Conspicuous Disclosures?

There is no set formula for a clear and conspicuous disclosure; it depends on the information that must be provided and the nature of the advertisement. Some disclosures are quite short, while others are more detailed. Some ads use only text, while others use graphics, video, or audio, or combinations thereof. Advertisers have the flexibility to be creative in designing their ads, as long as necessary information is communicated effectively and the overall message conveyed to consumers is not misleading.

To evaluate whether a particular disclosure is clear and conspicuous, consider:

- the placement of the disclosure in the advertisement and its proximity to the claim it is qualifying;
- the prominence of the disclosure;
- whether the disclosure is unavoidable;
- the extent to which items in other parts of the advertisement might distract attention from the disclosure;
- whether the disclosure needs to be repeated several times in order to be effectively communicated, or because consumers may enter the site at different locations or travel through the site on paths that cause them to miss the disclosure;
- whether disclosures in audio messages are presented in an adequate volume and cadence and visual disclosures appear for a sufficient duration; and
- whether the language of the disclosure is understandable to the intended audience.

If there are indications that a significant proportion of reasonable consumers are not noticing or comprehending a necessary disclosure, the disclosure should be improved.

The following discussion uses these traditional factors to evaluate whether disclosures are likely to be clear and conspicuous in the context of online ads. Hyperlinks labeled as

22. This approach mirrors one articulated by the Commission in 1970, when it said that if disclosures in television ads could not be understood, then ads containing representations requiring those disclosures should not be aired. *See Commission Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosures in Television Advertising* (Oct. 21, 1970).

[Examples](#) in the text link to mock ads in the appendix. Each mock ad presents a scenario to illustrate one or more particular factors. Advertisers must consider all of the factors, however, and evaluate an actual disclosure in the context of the ad as a whole.

1. Proximity and Placement

A disclosure is more effective if it is placed near the claim it qualifies or other relevant information. Proximity increases the likelihood that consumers will see the disclosure and relate it to the relevant claim or product. For print ads, an advertiser might measure proximity in terms of whether the disclosure is placed adjacent to the claim, or whether it is separated from the claim by text or graphics. The same approach can be used for online ads. Websites, and mobile applications, however, are interactive and have a certain depth — with multiple pages or screens linked together and pop-up screens, for example — that may affect how proximity is evaluated. Mobile devices also present additional issues because a disclosure that would appear on the same screen of a standard desktop computer might, instead, require significant vertical and horizontal scrolling on a mobile screen. In evaluating placement, advertisers should also take into consideration empirical research about where consumers do and do not look on a screen.

a. Evaluating Proximity

A disclosure is more likely to be effective if consumers view the disclosure and the claim that raises the need for disclosure (often referred to as a “triggering claim”) together on the same screen. [Example 1](#) Even if a disclosure is not tied to a particular word or phrase, it is more likely that consumers will notice it if it is placed next to the information, product, or service to which it relates.

Often, disclosures consist of a word or phrase that may be easily incorporated into the text, along with the claim. Doing so increases the likelihood that consumers will see the disclosure and relate it to the relevant claim.

In some circumstances, it may be difficult to ensure that a disclosure appears on the “same screen” as a claim or product information. Some disclosures are long and thus difficult to place next to the claims they qualify. In addition, computers, tablets, smartphones, and other connected devices have varying screen sizes that display ads and websites differently. In these situations, an advertiser might place a disclosure where consumers might have to scroll to reach it. Requiring consumers to scroll in order to view a disclosure may be

problematic, however, because consumers who don't scroll enough (and in the right direction) may miss important qualifying information and be misled.

When advertisers are putting disclosures in a place where consumers might have to scroll in order to view them, they should use text or visual cues to encourage consumers to scroll and avoid formats that discourage scrolling.

Text prompts can indicate that more information is available. An explicit instruction like "see below for important information on restocking fees" will alert consumers to scroll and look for the information. The text prompt should be tied to the disclosure to which it refers. General or vague statements, such as "details below," provide no indication about the subject matter or importance of the information that consumers will find and are not adequate cues.

The visual design of the page also could help alert consumers to the availability of more information. For example, text that clearly continues below the screen, whether spread over an entire page or in a column, would indicate that the reader needs to scroll for additional information. Advertisers should consider how the page is displayed when viewed on different devices.

Scroll bars along the edges of a screen are not a sufficiently effective visual cue. Although the scroll bars may indicate to some consumers that they have not reached the bottom or sides of a page, many consumers may not look at the scroll bar and some consumers access the Internet with devices that don't display a scroll bar.

The design of some pages might indicate that there is no more information following and, therefore, no need to continue scrolling. If the text ends before the bottom of the screen or readers see an expanse of blank space, they may stop scrolling and miss the disclosure. [Example 2](#) They will also likely stop scrolling when they see the information and types of links that normally signify the bottom of a webpage, e.g., "contact us," "terms and conditions," "privacy policy," and "copyright." In addition, if there is a lot of unrelated information — either words or graphics — separating a claim and a disclosure, even a consumer who is prompted to scroll might miss the disclosure or not relate it to a distant claim they've already read.

If scrolling is necessary to view a disclosure, then, ideally, the disclosure should be unavoidable — consumers should not be able to proceed further with a transaction, e.g., click forward, without scrolling through the disclosure. Making a disclosure unavoidable increases the likelihood that consumers will see it.

Because of their small screens, smartphones (and some tablets) potentially require horizontal, as well as vertical, scrolling. Placing a disclosure in a different column of a webpage from the claim it modifies could make it unlikely that consumers who have to zoom in to read the claim on a small screen will scroll right or left to a different column and read the disclosure. [Example 3](#) Optimizing a website for mobile devices will eliminate the need for consumers to scroll right or left, although it will not necessarily address the need for vertical scrolling.

b. Hyperlinking to a Disclosure

Hyperlinks allow additional information to be placed on a webpage entirely separate from the relevant claim. Hyperlinks can provide a useful means to access disclosures that are not integral to the triggering claim, provided certain conditions (discussed below) are met. Hyperlinked disclosures may be particularly useful if the disclosure is lengthy or if it needs to be repeated (because of multiple triggering claims, for example).

However, in many situations, hyperlinks are not necessary to convey disclosures. If a disclosure consists of a word or phrase that may be easily incorporated into the text, along with the claim, this placement increases the likelihood that consumers will see the disclosure and relate it to the relevant claim.

Disclosures that are an integral part of a claim or inseparable from it should not be communicated through a hyperlink. Instead, they should be placed on the same page and immediately next to the claim, and be sufficiently prominent so that the claim and the disclosure are read at the same time, without referring the consumer somewhere else to obtain this important information. This is particularly true for cost information or certain health and safety disclosures. [Example 4](#) Indeed, required disclosures about serious health and safety issues are unlikely to be effective when accessible only through a hyperlink. Similarly, if a product's basic cost (e.g., the cost of the item before taxes, shipping and handling, and any other fees are added on) is advertised on one page, but there are significant additional fees the consumer would not expect to incur in order to purchase the product or use it on an ongoing basis, the existence and nature of those additional fees should be disclosed on the same page and immediately adjacent to the cost claim, and with appropriate prominence.

However, if the details about the additional fees are too complex to describe adjacent to the price claim, those details may be provided by using a hyperlink. [Example 5](#) The hyperlink should be clearly labeled to communicate the specific nature of the information to which it

leads, e.g., “Service plan required. [Get service plan prices.](#)” The hyperlink should appear adjacent to the price. Moreover, because consumers should not have to click on hyperlinks to understand the full amount they will pay, all cost information — including any such additional fees — should be presented to them clearly and conspicuously prior to purchase.

The key considerations for evaluating the effectiveness of all hyperlinks are:

- the labeling or description of the hyperlink;
- consistency in the use of hyperlink styles;
- the placement and prominence of the hyperlink on the webpage or screen; and
- the handling of the disclosure on the click-through page or screen.

Choosing the right label for the hyperlink. A hyperlink that leads to a disclosure should be labeled clearly and conspicuously. The hyperlink’s label — the text or graphic assigned to it — affects whether consumers actually click on it and see and read the disclosure.

- **Make it obvious.** Consumers should be able to tell that they can click on a hyperlink to get more information. Simply underlining text may be insufficient to inform consumers that the text is a hyperlink. Using multiple methods of identifying hyperlinks, such as both a different color from other text and underscoring, makes it more likely that hyperlinks will be recognized.
- **Label the link to convey the importance, nature, and relevance of the information to which it leads.** [Example 6](#) The hyperlink should give consumers a reason to click on it. That is, the label should make clear that the link is related to a particular advertising claim or product and indicate the nature of the information to be found by clicking on it. The hyperlink label should use clear, understandable text. Although the label itself does not need to contain the complete disclosure, it may be necessary to incorporate part of the disclosure to indicate the type and importance of the information to which the link leads. On the other hand, in those cases where seeing a hyperlinked disclosure is unavoidable if a consumer is going to take any action with respect to a product or service — e.g., the product or service can only be purchased online and the consumer must click on that link to proceed to a transaction — the label of the hyperlink may be less important.
- **Don’t hide the ball.** Some text links provide no indication about why a claim is qualified or the nature of the disclosure. [Example 7](#) In many cases, simply

hyperlinking a single word or phrase in the text of an ad is not likely to be effective. Although some consumers may understand that additional information is available, they may have different ideas about the nature of the information and its significance.

Hyperlinks that simply say “disclaimer,” “more information,” “details,” “terms and conditions,” or “fine print” do not convey the importance, nature, and relevance of the information to which they lead and are likely to be inadequate. Even labels such as “important information” or “important limitations” may be inadequate.

Examples 8 & 9 Unfortunately, there is no one-size-fits-all word or phrase that can be used as a hyperlink label, but more specificity will generally be better.

- **Don’t be subtle.** Symbols or icons by themselves are not likely to be effective as hyperlink labels leading to disclosures that are necessary to prevent deception.²³ Example 10 A symbol or icon might not provide sufficient clues about why a claim is qualified or the nature of the disclosure.²⁴ It is possible that consumers may view a symbol as just another graphic on the page. Even if a website explains that a particular symbol or icon is a hyperlink to important information, consumers might miss the explanation, depending on where they enter the site and how they navigate through it.
- **Account for technological differences and limitations.** Consider whether and how your linking technique will work on the various programs and devices that could be used to view your advertisement.²⁵

Using hyperlink styles consistently increases the likelihood that consumers will know when a link is available. Although the text or graphics used to signal a hyperlink may differ across websites and applications, treating hyperlinks inconsistently within a single site or application can increase the chances that consumers will miss — or not click on — a

23. The Commission has, however, acknowledged the potential utility of icons in the privacy area. See FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers* (Mar. 2012), available at www.ftc.gov/os/2012/03/120326privacyreport.pdf; see also FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf.

24. Symbols and icons also are used in different ways online, which could confuse consumers as to where the related disclosure can be found. Some online symbols and icons are hyperlinks that click through to a separate page; some are meant to communicate disclosure information themselves; and others are static, referring to a disclosure at the bottom of the page.

25. For example, “mouse-overs” may not work on mobile devices that have no cursor to hover over a link.

disclosure hyperlink. For example, if hyperlinks usually are underlined in a site, chances are consumers wouldn't recognize italicized text as being a link, and could miss the disclosure.

Placing the link near relevant information and making it noticeable. The hyperlink should be proximate to the claim that triggers the disclosure so consumers can notice it easily and relate it to the claim. [Examples 11 & 12](#) Typically, this means that the hyperlink is adjacent to the triggering term or other relevant information. Consumers may miss disclosure hyperlinks that are separated from the relevant claim by text, graphics, blank space, or intervening hyperlinks, especially on devices with small screens. Format, color, or other graphics treatment also can help to ensure that consumers notice the link. (See below for more information on prominence.)

Getting to the disclosure on the click-through should be easy. The click-through page or screen — that is, the page or screen the hyperlink leads to — must contain the complete disclosure and that disclosure must be displayed prominently. Distracting visual factors, extraneous information, and opportunities to “click” elsewhere before viewing the disclosure can obscure an otherwise adequate disclaimer.

- **Get consumers to the message quickly.** The hyperlink should take consumers directly to the disclosure. They shouldn't have to search a click-through page or go to other places for the information. In addition, the disclosure should be easy to understand.
- **Pay attention to indicia that hyperlinked disclosures are not effective.** Although advertisers are not required to use them, some available tools may indicate to advertisers that their disclosures accessed through hyperlinks are not effective. For example, advertisers can monitor click-through rates, *i.e.*, how often consumers click on a hyperlink and view the click-through information. Advertisers also can evaluate the amount of time visitors spend on a certain page, which may indicate whether consumers are reading the disclosure.
- **Don't ignore your data.** If hyperlinks are not followed, another method of conveying the required information would be necessary.

c. Using High Tech Methods for Proximity and Placement

Disclosures may be displayed on websites or in applications in many ways. For example, a disclosure may be placed in a frame that remains constant even as the consumer scrolls down the page or navigates through another part of the site or application. A disclosure

also might be displayed in a window that pops up or on interstitial pages that appear while another webpage is loading. New techniques for displaying information are being developed all the time. But there are special considerations for evaluating whether a technique is appropriate for providing required disclosures.

- **Don't ignore technological limitations.** Some browsers or devices may not support certain techniques for displaying disclosures or may display them in a manner that makes them difficult to read. For example, a disclosure that requires Adobe Flash Player will not be displayed on certain mobile devices.
- **Don't use blockable pop-up disclosures.** Advertisers should not disclose necessary information through the use of pop-ups that could be prevented from appearing by pop-up blocking software.
- **Be aware of other issues with pop-up disclosures.** Even the use of unblockable pop-ups to disclose necessary information may be problematic. Some consumers may not read information in pop-up windows or interstitials because they immediately close the pop-ups or move to the next page in pursuit of completing their intended tasks, or because they don't associate information in a pop-up window or on an interstitial page to a claim or product they haven't encountered yet. However, advertisers can take steps to avoid such problems, *e.g.*, by requiring the consumer to take some affirmative action to proceed past the pop-up or interstitial (for example, by requiring consumers to choose between "yes" and "no" buttons without use of preselected buttons before continuing). Research may be useful to help advertisers determine whether a particular technique is an effective method of communicating information to consumers.

d. Displaying Disclosures Prior to Purchase

Disclosures must be effectively communicated to consumers before they make a purchase or incur a financial obligation. In general, disclosures are more likely to be effective if they are provided in the context of the ad, when the consumer is considering the purchase. Different considerations apply, however, in different situations. Where advertising and selling are combined on a website or mobile application — that is, the consumer will be completing the transaction online — disclosures should be provided before the consumer makes the decision to buy, *e.g.*, before clicking on an "order now" button or a link that says "add to shopping cart." [Example 13](#)

- **Don't focus only on the order screen.** Some disclosures must be made in conjunction with the relevant claim or product. Consumers may not relate a disclosure on the order screen to information they viewed much earlier. It also is possible that after surfing a company's website, some consumers may decide to purchase the product from the company's brick and mortar store. Those consumers would miss any disclosures placed only on the ordering screen. So that these consumers do not miss a necessary disclosure, it may have to be on the same page as the claim it qualifies.

When a product advertised online can be purchased from brick and mortar stores or from online retailers other than the advertiser itself, necessary disclosures should be made in the ad before consumers go to other outlets to make their purchase. [Example 14](#) An in-store disclosure or one placed on an unrelated online retailer's website is unlikely to cure an otherwise deceptive advertisement.

e. Evaluating Proximity in Space-Constrained Ads

Many space-constrained ads displayed today are teasers. Because of their small size and/or short length, space-constrained ads, such as banner ads and tweets, generally do not provide very much information about a product or service. Often, consumers must click through to the website to get more information and learn the terms of an offer. If a space-constrained ad contains a claim that requires qualification, the advertiser disseminating it is not exempt from disclosure requirements.

- **Disclose required information in the space-constrained ad itself or clearly and conspicuously on the website to which it links.** In some cases, a required disclosure can easily be incorporated into a space-constrained ad. [Example 15](#) In other instances, the disclosures may be too detailed to be disclosed effectively in the ad itself. These disclosures may sometimes be communicated effectively to consumers if they are made clearly and conspicuously on the website to which the ad links. In determining whether the disclosure should be placed in the space-constrained ad itself or on the website to which the ad links, advertisers should consider how important the information is to prevent deception, how much information needs to be disclosed, the burden of disclosing it in the ad itself, how much information the consumer may absorb from the ad, and how effective the disclosure would be if it were made on the website. If a product promoted in a space-constrained ad can be bought in a brick and mortar store, consumers who do

not click through to a linked website would miss any disclosure that was not in the space-constrained ad itself. If the disclosure needs to be in the ad itself but it does not fit, the ad should be modified so it does not require such a disclosure or, if that is not possible, that space-constrained ad should not be used.

- **Use creativity to incorporate or flag required information.** Scrolling text or rotating panels in a banner ad can present an abbreviated version of a required disclosure that indicates additional important information and a more complete disclosure are available on the click-through page.
- **Use disclosures in each ad.** If a disclosure is required in a space-constrained ad, such as a tweet, the disclosure should be in each and every ad that would require a disclosure if that ad were viewed in isolation. Do not assume that consumers will see and associate multiple space-constrained advertisements. [Example 16](#)
- **Short-form disclosures might or might not adequately inform consumers of the essence of a required disclosure.** For example, “Ad:” at the beginning of a tweet or similar short-form message should inform consumers that the message is an advertisement, and the word “Sponsored” likely informs consumers that the message was sponsored by an advertiser. Other abbreviations or icons may or may not be adequate, depending on whether they are presented clearly and conspicuously, and whether consumers understand their meaning so they are not misled.²⁶ [Example 17](#) Misleading a significant minority of reasonable consumers is a violation of the FTC Act.²⁷
- **Maintaining disclosures with republication.** Advertisers should employ best practices to make it less likely that disclosures will be deleted from space-constrained ads when they are republished by others. Some disclosures can be placed at the beginning of a short-form message. Alternatively, if a disclosure is placed at the end of a message, the original message can be written with enough free space that the disclosure is not lost if the message is republished with a comment by others.

26. Empirical evidence may be necessary to demonstrate that certain abbreviations or icons are effective, at least until such time that their usage is sufficiently widespread to provide confidence that consumers see them and understand what they mean. As of the date of publication of this document, such evidence was not available.

27. Deception Policy Statement at 177 n.20.

- **Disclosures on the click-through.** In some instances — e.g., when a teaser ad does not actually identify the product being advertised, so the consumer must click through to learn its identity, or when the advertised product is sold only through the advertiser's own website and the consumer must click through in order to take any action — a space-constrained ad can direct consumers to a website for more information if a detailed disclosure is necessary but will not fit in the space-constrained ad. The full disclosure must then be clearly and conspicuously displayed on the website.
- **Providing required disclosures in interactive ads.** If consumers can purchase a product within an interactive ad, all required disclosures should be included in the ad itself.

2. Prominence

It is the advertiser's responsibility to draw attention to the required disclosures.

Display disclosures prominently so they are noticeable to consumers. The size, color, and graphics of the disclosure affect its prominence.

- **Size Matters.** Disclosures that are at least as large as the claim to which they relate are more likely to be effective.
- **Color Counts.** A disclosure in a color that contrasts with the background emphasizes the text of the disclosure and makes it more noticeable. Information in a color that blends in with the background of the ad is likely to be missed.

Example 18

- **Graphics Help.** Although using graphics to display a disclosure is not required, they may make the disclosure more prominent.

Evaluate the size, color, and graphics of the disclosure in relation to other parts of the website, email or text message, or application.²⁸ The size of a disclosure should be compared to the type size of the claim and other text on the screen. If a claim uses a particular color or graphic treatment, the disclosure can be formatted the same way to help ensure that consumers who see the claim are also able to see the disclosure and relate it back to the claim

28. Websites may display differently, depending on the program and device used. Advertisers should consider different display options to ensure that qualifying information is displayed clearly and conspicuously. Evaluating the prominence of the disclosure in relation to the rest of the ad, as it may appear on various devices, helps ensure that consumers are able to view the disclosure.

it modifies. In addition, the graphic treatment of the disclosure may be evaluated in relation to how graphics are used to convey other items in the ad.

Account for viewing on different devices. Most webpages viewable on desktop devices may also be viewable on smartphones. Therefore, unless a website defaults to a mobile-optimized (or similarly responsive) version,²⁹ advertisers should design the website so that any necessary disclosures are clear and conspicuous, regardless of the device on which they are displayed. [Example 19](#) Among many other considerations, if a disclosure is too small to read on a mobile device and the text of the disclosure cannot be enlarged, it is not a clear and conspicuous disclosure. If a disclosure is presented in a long line of text that does not wrap around and fit on a screen, it is unlikely to be adequate.

Don't bury it. The prominence of the disclosure also may be affected by other factors. A disclosure that is buried in a long paragraph of unrelated text will not be effective. The unrelated text detracts from the message and makes it unlikely that a consumer would notice the disclosure or recognize its importance. Even though the unrelated information may be useful, advertisers must ensure that the disclosure is communicated effectively. For example, it is highly unlikely that consumers will read disclosures buried in "terms of use" and similar lengthy agreements. Even if such agreements may be sufficient for contractual or other purposes, disclosures that are necessary to prevent deception or unfairness should not be relegated to them. Similarly, simply because consumers click that they "agree" to a term or condition, does not make the disclosure clear and conspicuous.

A disclosure that addresses a subject other than the primary subject of the ad. Consumers who are trying to complete a task and obtain a specific product or service may not pay adequate attention to a disclosure that does not relate to the task at hand. This can be problematic if, for example, an advertiser is selling a product or service together with a negative option trial for a different product or service. In these circumstances, even a relatively prominent disclosure about the negative option trial could be missed by consumers because this additional product or service is not their primary focus. One way to increase the likelihood that consumers have actually read and understood a disclosure in such circumstances is to require consumers to affirmatively acknowledge having seen the disclosure by choosing between multiple answer options, none of which is preselected. Any such affirmative

29. Website operators can identify visitors who are using mobile devices to visit their websites and display a version of the site that has been designed or "optimized" to enable those consumers to view the site more easily.

acknowledgement should be displayed early in the decision-making process, e.g., before the primary item is actually added to a shopping cart. [Example 20](#)

3. Distracting Factors in Ads

The clear and conspicuous analysis does not focus only on the disclosure itself. It also is important to consider the entire ad. Elements like graphics, sound, text, links that lead to other screens or sites, or “add to cart” buttons may result in consumers not noticing, reading, or listening to the disclosure. [Example 21](#)

- **Don’t let other parts of an ad get in the way.** On television, moving visuals behind a text message make the text hard to read and may distract consumers’ attention from the message. Using graphics online raises similar concerns: flashing images or animated graphics may reduce the prominence of a disclosure. Graphics on a webpage alone may not undermine the effectiveness of a disclosure. It is important, however, to consider all the elements in the ad, not just the text of the disclosure. [Example 22](#)

4. Repetition

It may be necessary to disclose information more than once to convey a non-deceptive message. Repeating a disclosure makes it more likely that a consumer will notice and understand it, and will also increase the likelihood that it will be seen by consumers who may be entering the website at different points. Still, the disclosure need not be repeated so often that consumers would ignore it or it would clutter the ad.

- **Repeat disclosures on lengthy sites and applications, as needed.** Consumers can access and navigate websites or applications in different ways. Many consumers may access a site through its home page, but others might enter in the middle, perhaps by linking to that page from a search engine or another website. Consumers also might not click on every page of the site and might not choose to scroll to the bottom of each page. And many may not read every word on every page of a website. As a result, advertisers should consider whether consumers who see only a portion of their ad are likely to be misled because they will either miss a necessary disclosure or not understand its relationship to the claim it modifies.
- **Repeat disclosures with repeated claims, as needed.** If claims requiring qualification are repeated throughout an ad, it may be necessary to repeat the

disclosure, too. In some situations, the disclosure itself is so integral to the claim that it must always accompany the claim to prevent deception. In other instances, a clearly-labeled hyperlink could be repeated on each page where the claim appears, so that the full disclosure would be placed on only one page of the site.

5. Multimedia Messages and Campaigns

Online ads may contain or consist of audio messages, videos, animated segments, or augmented reality experiences (interactive computer-generated experiences) with claims that require qualification. As with radio and television ads, the disclosure should accompany the claim. In evaluating whether disclosures in these multimedia portions of online ads are clear and conspicuous, advertisers should evaluate all of the factors discussed in this guidance document, as well as these special considerations:

- **For audio claims, use audio disclosures.** The disclosure should be in a volume and cadence sufficient for a reasonable consumer to hear and understand it. The volume of the disclosure can be evaluated in relation to the rest of the message, and in particular, the claim. Of course, consumers who do not have speakers, appropriate software, or devices with audio capabilities or who have their sound turned off will not hear either the claim or the disclosure.
- **For written claims, use written disclosures.** Disclosures triggered by a claim or other information in an ad's written text should be made in writing, and not be placed solely in an audio or video clip. Consumers who do not have speakers, appropriate software, or devices with audio capabilities or who have their sound turned off will not hear an audio disclosure; similarly, consumers might not be able to view a video clip on some devices or simply might not choose to watch it.
- **Display visual disclosures for a sufficient duration.** Visual disclosures presented in video clips or other dynamic portions of online ads should appear for a duration sufficient for consumers to notice, read, and understand them. As with brief video superscripts in television ads, fleeting online disclosures are not likely to be effective.

Advertisers should also recognize that consumers today may be viewing their messages through multiple media (e.g., watching television, surfing the web on a computer, viewing space constrained messages on a smartphone, etc.). This multiple media access does not

alter the requirement that required disclosures be made clearly and conspicuously in each advertisement that would require a disclosure if viewed in isolation.

6. Understandable Language

For disclosures to be effective, consumers must be able to understand them.

Advertisers should use clear language and syntax and avoid legalese or technical jargon.

Disclosures should be as simple and straightforward as possible. Icons and abbreviations are not adequate to prevent a claim from being misleading if a significant minority of consumers do not understand their meaning.³⁰ Incorporating extraneous material into the disclosure also may diminish communication of the message to consumers.

IV. Conclusion

Although online commerce (including mobile and social media marketing) is booming, deception can dampen consumer confidence in the online marketplace. To ensure that products and services are described truthfully online and that consumers get what they pay for, the FTC will continue to enforce its consumer protection laws. Most of the general principles of advertising law apply to online ads, but new issues arise almost as fast as technology develops. The FTC will continue to evaluate online advertising, using traditional criteria, while recognizing the challenges that may be presented by future innovation. Businesses, as well, should consider these criteria when developing online ads and ensuring they comply with the law.

30. See *supra* note 23.

Appendix: Examples

Example 1

The disclosure “imitation” needs to accompany the triggering term “pearl,” so that consumers are not misled about the type of pearls being sold. The disclosure would not be as effective if it was separated from the word “pearl” or placed on a different page. The FTC’s Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 C.F.R. § 23.19, recognize this and advise that the disclosure “imitation” immediately precede the word pearl. In this situation, there is no reason to evaluate proximity differently in online ads than other types of ads.



Example 2

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Here, though, because of the blank space between the textual description of the product and the disclosure, even consumers who scroll down to the end of the text (see second screen) will probably think that there is no more information to view and are likely to miss the disclosure.



Example 3

Advertisers should take into consideration the variety of devices and platforms that consumers can use to view their ads and ensure that necessary disclosures are clear and conspicuous on any device or platform that is capable of displaying their message.

In this example, consumers might not expect a monthly service fee for cameras used to monitor their homes over the Internet, so a disclosure is necessary to prevent the ad from being misleading. Placing the disclosure in a different column than the camera price it qualifies, as in this example, rather than directly under the price information, makes it less likely that consumers viewing this webpage on a desktop computer would notice the disclosure here.

The screenshot shows the 'Eye on Your Home' website. The header includes the logo, navigation links (Login or Register, About Us, Certification), and a phone number (1-800-XXX-XXXX). The main banner features three images: a child, a woman on a phone, and a dog, with the text 'Keep an Eye on Your Home for Safety and Security'. Below this, there's a product image of a camera, a testimonial from Julie Brown, and a disclosure about a monthly service fee.

Eye on Your Home Login or Register | About Us | Certification

Call us now 1-800-XXX-XXXX

Keep an Eye on Your Home for Safety and Security

Do you worry that the nanny is putting your toddler in front of the television for hours, instead of reading to her? Or do you have older children who come home to an empty house after school? An elderly parent at home alone? Or do you just want to see what the dog does while you're at work?

Get our wireless home monitoring system!

Price: \$99.99* per camera [Buy Now](#)

Set up our cameras wherever you need them, and relax. You'll be able to check on everyone and everything wherever you are, using either your computer, tablet, or smartphone equipped with our [free Eye app](#).

Our wide-angle cameras can be wall mounted or free standing. [See camera specifications.](#)

"My 80 year-old mother lives with us. I was always worried about her when I was out of the house because she had a bad fall last year. With Eye-On-Your-Home cameras in the kitchen and the family room, I can just check my smart phone when I'm out and know she's okay."

- Julie Brown
Satisfied Customer

*Usage requires a \$9.99 monthly service fee.

Contact Us | Privacy Policy | Terms of Service

Webpage on a desktop

Example 3 (cont'd)

Consumers viewing this webpage on a smartphone or other device with a small screen, however, would likely find it too small to read (see mobile screen without zooming, below), requiring them to zoom in on the part or parts that they wish to read.

They are likely to zoom in on the center column (see zoomed-in mobile screen, below), which contains the main information on the page and might not scroll left to see the disclosure in the left column. As a result, consumers who use a smart phone to view this website, which has not been optimized for mobile devices, might easily miss the monthly monitoring fee disclosure.



Mobile screen (no zooming)



Mobile screen (zoomed-in)

Example 4

Hyperlinks should not be used to communicate disclosures that are an integral part of a claim or inseparable from it, including important health and safety information. In this example, the hyperlink “Important Health Information” leads to a disclosure, “Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80°F, such as in a hot car. Use in these conditions could lead to food-borne illness.” The fact that the cooler might not keep food cold enough to prevent the growth of dangerous bacteria should not be hidden behind a hyperlink, even one labeled “Important Health Information.” This is especially true when the cooler is promoted for keeping perishable food fresh and cold on road trips. Moreover, any disclosure that is integral to the primary claim should be immediately adjacent to that claim.

FROST-A-TRON
so fresh & cool

[Order Now](#) | [FAQ](#) | [Reviews](#) | [Contact Us](#)

[Home](#)
[Order Now](#)
[FAQ](#)
[Reviews](#)



For space travel, scientists had to find something better than traditional refrigeration. Their research led them to discover a solid-state component now available to anyone on the move.

Think about your next road trip with the family. You're cruising along, making great time and – you guessed it – one of the kids is hungry.

Relax. Your Frost-a-tron is plugged into one of your 12 volt outlets and stocked with fruit, sandwiches, cold drinks, fried chicken ... fresh and cold.

Only \$129
plus shipping & handling

Satisfaction is guaranteed.

[Important Health Information](#)

Price: **\$129**

Color:

Qty:

ORDER NOW



Buy now
and get 2
for just
\$199.99!

Example 5

Although hyperlinks generally should not be used to disclose information integral to the claim — such as the existence and nature of additional fees consumers might not expect — a hyperlink can be used to disclose the details if they are too complex to describe next to the basic price information. Here the hyperlink leads to the disclosure, “Monitoring plan price: \$15.95 per month with one camera, \$9.95 per month/per camera with two cameras, \$7.95 per month/per camera with three or more cameras. Save 10% with a 12-month commitment, 20% with a 24-month commitment. Additional 5% discount for seniors and families of active duty military personnel.”

This information about the monitoring plan’s prices is likely is too complex to appear adjacent to the price per camera claim, and thus can be placed behind a properly labeled hyperlink. The statement “Service plan required” and the hyperlink are next to the price per camera; and together, the statement and the hyperlink’s label communicate to consumers the specific nature and importance of the information to which the hyperlink leads.

The screenshot shows the homepage of 'Eye on Your Home'. At the top, there is a navigation bar with links for 'Login or Register', 'About Us', and 'Certification'. Below this is a banner with three images: a child, a woman on a phone, and a dog. The banner text reads 'Keep an Eye on Your Home for Safety and Security'. Below the banner, there is a section for the 'wireless home monitoring system'. It includes a list of questions to address consumer concerns, a call to action to 'Get our wireless home monitoring system!', a description of the system's features, a price of '\$99.99 per camera' with a note that a 'Service plan required' and a link to 'Get service plan prices', and a 'Buy Now' button. To the right, there is a testimonial from Julie Brown, a satisfied customer, about her 80-year-old mother.

Eye on Your Home

Login or Register | About Us | Certification

Call us now 1-800-XXX-XXXX

Keep an Eye on Your Home for Safety and Security

Do you worry that the nanny is putting your toddler in front of the television for hours, instead of reading to her? Or do you have older children who come home to an empty house after school? An elderly parent at home alone? Or do you just want to see what the dog does while you're at work?

Get our wireless home monitoring system!

Set up our cameras whenever you need them, and relax. You'll be able to check on everyone and everything wherever you are, using either your computer, tablet, or smartphone equipped with our [free Eye app](#).

Our wide-angle cameras can be wall mounted or free standing. [See camera specifications.](#)

Price: \$99.99 per camera
Service plan required.
[Get service plan prices.](#)

Buy Now

"My 80 year-old mother lives with us. I was always worried about her when I was out of the house because she had a bad fall last year. With Eye-On-Your-Home cameras in the kitchen and the family room, I can just check my smart phone when I'm out and know she's okay."

- Julie Brown
Satisfied Customer

Moreover, all cost information, including any such fees, should be presented clearly and conspicuously to consumers prior to purchase.

Example 6

Because the advertiser's assertion that "Satisfaction is guaranteed" implies that dissatisfied consumers can get a full refund of the purchase price, the advertiser should clearly and conspicuously disclose any restocking fees.

The hyperlink "Restocking fee applies to all returns." leads to the disclosure, "If you return the Frost-a-tron within 30 days there is a restocking fee of \$19.95. After 30 days and before 90 days, the restocking fee is \$29.95. After 90 days, the restocking fee is \$49.95. Shipping and handling fees are non-refundable. No COD on returns." The details in this return policy are likely too complex to disclose next to the guarantee. The label of the hyperlink adequately conveys the nature and relevance of the information to which it leads.

FROST-A-TRON
so fresh & cool

[Order Now](#) | [FAQ](#) | [Reviews](#) | [Contact Us](#)

[Home](#)
[Order Now](#)
[FAQ](#)
[Reviews](#)



For space travel, scientists had to find something better than traditional refrigeration. They discovered a solid-state component now available to anyone on the move.

Think about your next road trip with the family. You're cruising along, making great time and – you guessed it – one of the kids is hungry.

Relax. Your Frost-a-tron is plugged into one of your 12 volt outlets and stocked with fruit, sandwiches, cold drinks, fried chicken ... fresh and cold.

Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80°F, such as in a hot car. Use in these conditions could lead to food-borne illness.

AS SEEN ON TV

Only \$129, plus shipping & handling

Satisfaction is guaranteed.
[Restocking fee applies to all returns.](#)

Price: **\$129**

Color:

Qty:

ORDER NOW



Buy now
and get 2
for just
\$199.99!

Example 7

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Even if the hyperlink “3/4 Ct.” clicks through to a page that lists the weight range for every size diamond sold by the advertiser, this disclosure is not clear and conspicuous.

Underlining “3/4 Ct.” may or may not indicate to consumers that this is a hyperlink. Even if consumers recognize it as a hyperlink, the label here does not communicate the relevance of the information to which that link leads — in this case, to a disclosure that diamond weights are not exact, that the diamonds sold by this merchant may vary in weight, and that the advertised 3/4 carat diamonds might each actually weight less than 0.75 carats. Consumers might expect to find additional general information about “carats” or diamond weights generally, but not necessarily information that qualifies the claim that they are purchasing diamonds of a specific weight.



Example 8

Because the advertiser's assertion that "Satisfaction is guaranteed" implies that dissatisfied consumers can get a full refund of the purchase price, the advertiser should disclose any restocking fees. The hyperlink "Disclaimer" leads to the disclosure, "If you return the Frost-a-tron within 30 days there is a restocking fee of \$19.95. After 30 days and before 90 days, the restocking fee is \$29.95. After 90 days, the restocking fee is \$49.95. Shipping and handling fees are non-refundable. No COD on returns."

The hyperlink label "Disclaimer" does not adequately convey that the information to which this hyperlink leads concerns significant restocking fees applied to all product returns; nor would hyperlinks labeled "Disclosure," "Details," or even "Return Information."

FROST-A-TRON
so fresh & cool

Order Now | FAQ | Reviews | Contact Us

Home Order Now FAQ Reviews

For space travel, scientists had to find something better than traditional refrigeration. They discovered a solid-state component now available to anyone on the move.

Think about your next road trip with the family. You're cruising along, making great time and – you guessed it – one of the kids is hungry.

Relax. Your Frost-a-tron is plugged into one of your 12 volt outlets and stocked with fruit, sandwiches, cold drinks, fried chicken ... fresh and cold.

Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80°F, such as in a hot car. Use in these conditions could lead to food-borne illness.

Price: \$129
Color:
Qty:

ORDER NOW

AS SEEN ON TV

Only \$129, plus shipping & handling
Satisfaction is guaranteed.
[Disclaimer](#)

Buy now and get 2 for just **\$199.99!**

In contrast, the hyperlink in Example 6, "Restocking fee applies to all returns," does convey the nature and importance of the information in question.

Example 9

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Even if the hyperlink clicks through to a page that lists the weight range for every size diamond sold by the advertiser, this disclosure is not clear and conspicuous because the hyperlink's label does not indicate the importance of the information to which the link leads so that consumers understand why they should click on it. Although the label does indicate that more information about the earrings is available if the consumer clicks through, it does not indicate that it is related to the weight of the diamonds being advertised. Consumers could expect, for example, that this link takes them to shipping and ordering information, rather than information about the diamond weights.



Example 10

Julie Brown's endorsement is followed by a symbol consisting of the letters "FS" in a circle that is intended to disclose that she received a free sample (in this case, a free camera) in exchange for providing her endorsement.

Eye on Your Home

Login or Register | About Us | Certification

Call us now 1-800-XXX-XXXX

Keep an Eye on Your Home for Safety and Security

Do you worry that the nanny is putting your toddler in front of the television for hours, instead of reading to her? Or do you have older children who come home to an empty house after school? An elderly parent at home alone? Or do you just want to see what the dog does while you're at work?

Get our wireless home monitoring system!

Set up our cameras wherever you need them, and relax. You'll be able to check on everyone and everything wherever you are, using either your computer, tablet, or smartphone equipped with our [free Eye app](#).

Our wide-angle cameras can be wall mounted or free standing. [See camera specifications.](#)

Price: \$99.99* per camera [Buy Now](#)

*Service plan required. [Get service plan prices.](#)

"My 80 year-old mother lives with us. I was always worried about her when I was out of the house because she had a bad fall last year. With Eye-On-Your-Home cameras in the kitchen and the family room, I can just check my smart phone when I'm out and know she's okay."

- Julie Brown **FS**
Satisfied Customer

Icons, abbreviations, and symbols such as this are not adequate to prevent a claim from being misleading if they do not provide sufficient clues about why a claim is qualified or about the nature of the disclosure, or if consumers simply do not understand their meaning. The fact that the icon or symbol also functions as a hyperlink to an explanation of its meaning would not be sufficient to make the disclosure clear and conspicuous.

Example 11

Hyperlinks should be adjacent to the claims to which they relate, in order to increase the likelihood that consumers will see them and understand their relevance.

In this example, the hyperlink about restocking fees is right next to the claim that triggers the need for this qualifying information — that satisfaction is guaranteed.

FROST-A-TRON
so fresh & cool

[Order Now](#) | [FAQ](#) | [Reviews](#) | [Contact Us](#)

[Home](#)
[Order Now](#)
[FAQ](#)
[Reviews](#)



For space travel, scientists had to find something better than traditional refrigeration. They discovered a solid-state component now available to anyone on the move.

Think about your next road trip with the family. You're cruising along, making great time and – you guessed it – one of the kids is hungry.

Relax. Your Frost-a-tron is plugged into one of your 12 volt outlets and stocked with fruit, sandwiches, cold drinks, fried chicken ... fresh and cold.

Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80°F, such as in a hot car. Use in these conditions could lead to food-borne illness.

AS SEEN ON TV

Only \$129, plus shipping & handling

Satisfaction is guaranteed.
Restocking fee applies to all returns.

Price: **\$129**

Color:

Qty:

ORDER NOW



Buy now
and get 2
for just
\$199.99!

Example 12

Hyperlinks should be adjacent to the claim to which they relate, in order to increase the likelihood that consumers will see them and understand their relevance.


In this example, the substantial gap between the end of the webpage's main text and the hyperlink makes it unlikely that consumers will notice the hyperlink. In addition, as noted in Example 9, the hyperlink is inadequately labeled.



Example 13




If the purchase or use of the advertised product entails significant additional charges beyond the basic price of the product and consumers reasonably might not expect those charges, they should be disclosed prominently on the same page as, and immediately adjacent to, statements of the product's basic cost.

In this example, disclosure of the existence and amount of a monthly monitoring fee only on the check-out page (see next page) would likely be deemed insufficiently clear and conspicuous; this fee should be clearly stated next to the price of the cameras on the preceding website pages that provide that price information.



**Eye on
Your Home**

[Login or Register](#) | [About Us](#) | [Certification](#)

Call us now 1-800-XXX-XXXX

Keep an Eye on Your Home for Safety and Security




Do you worry that the nanny is putting your toddler in front of the television for hours, instead of reading to her? Or do you have older children who come home to an empty house after school? An elderly parent at home alone? Or do you just want to see what the dog does while you're at work?

Get our wireless home monitoring system!

Set up our cameras wherever you need them, and relax. You'll be able to check on everyone and everything wherever you are, using either your computer, tablet, or smartphone equipped with our [free Eye app](#).

Our wide-angle cameras can be wall mounted or free standing. [See camera specifications.](#)

Price: \$99.99* per camera [Buy Now](#)




"My 80 year-old mother lives with us. I was always worried about her when I was out of the house because she had a bad fall last year. With Eye-On-Your-Home cameras in the kitchen and the family room, I can just check my smart phone when I'm out and know she's okay."

- Julie Brown
Satisfied Customer

(continue on next page)

Example 13 (continued)

However, disclosure on the check-out page of the sales tax the consumer owes on this purchase, as well as reasonable shipping and handling charges, would not be problematic, because consumers expect these charges.



Eye on


Your Home

[Login or Register](#) | [About Us](#) | [Certification](#)

Call us now 1-800-XXX-XXXX

Checkout

Order Summary

	Camera \$99.99 each	Qt 2	\$199.98
	Monitoring - First Month* \$9.99 per camera	Qt 2	\$19.98
	Standard Shipping & Handling		\$9.99
	Taxes		\$11.88
Total			\$241.83

* Monthly monitoring service billed to your credit card every month on the date of your purchase. Cancellation details included with your shipment.

Credit Card

Expiration date

01

▼

2012

▼

Billing Address
☐ Use shipping address

State

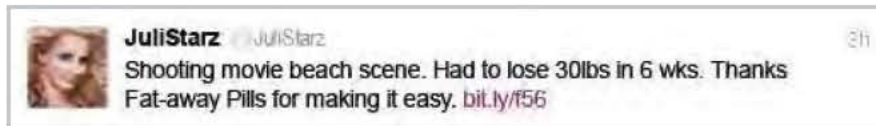
▼

Place your order

Example 14

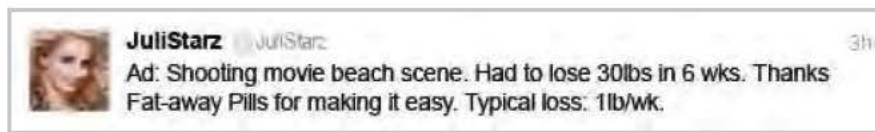
This space-constrained message requires two disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. See Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255.

Even if the link in the message led directly to those disclosures on the Fat-away website, those disclosures would not be adequate if consumers could purchase Fat-away at a brick and mortar store or from a third-party online retailer (a retailer that is not affiliated with the advertiser). In either case, they might not click through to the Fat-away website, and thus would not see these disclosures.



Example 15

In some cases, required disclosures can easily be incorporated into a space-constrained ad. This space-constrained message requires two disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. This space-constrained ad signals that Juli is a paid endorser by beginning with “Ad:” which only takes up four characters. It also succinctly discloses, “Typical loss: 1lb/wk.”



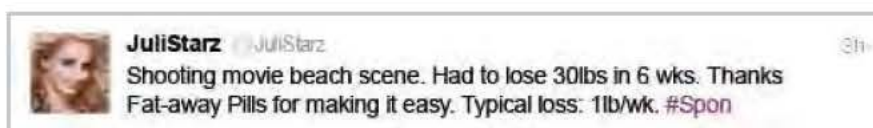
Example 16

The initial space-constrained message requires two disclosures: (1) that Juli is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. Putting that information in a subsequent message is problematic, because unrelated messages may arrive in the interim. By the time Juli's disclosures arrive, consumers might no longer be reading these messages, or they simply might not realize that those disclosures pertain to the original message.

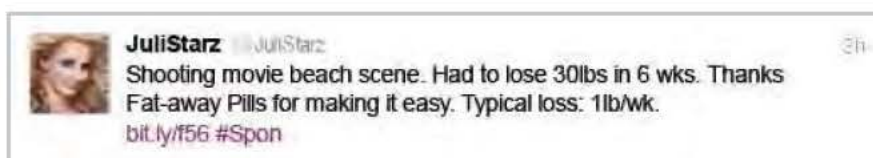


Example 17

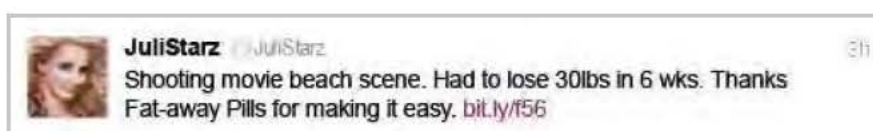
These space-constrained messages all require the following disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances which is much less than the 30 pounds Juli says she lost in 6 weeks. Although each of these messages includes an abbreviation or link that leads to disclosure of the relevant information, each of them may be inadequate to prevent consumers from being misled.



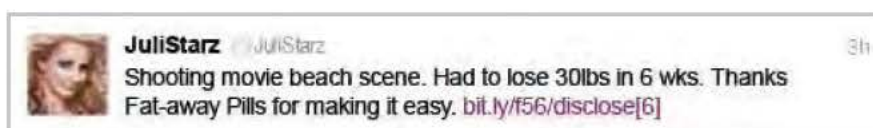
Consumers might not understand that “#spon” means that the message was sponsored by an advertiser. If a significant proportion of reasonable viewers would not, then the ad would be deceptive.



Putting #spon directly after the link might confuse consumers and make it less likely that they would understand that it is a disclosure.



Consumers viewing “bit.ly/f56,” which links to the advertiser’s official website for the product, might not realize the nature and relevance of the information that could be found by clicking on it. Moreover, if consumers can buy Fat-away in brick and mortar stores, at third-party online retailers, or in any way other than by clicking on the link, consumers who do not click on the link would be misled.



Similarly, consumers viewing “bit.ly/f56/disclose[6],” which leads to a third-party website with disclosures, would not necessarily understand what they will find at that website, or why they should click on that link.

Example 18

Both disclosures in this ad appear in text that contrasts poorly with the background of the page and they therefore are both easy to miss. Because the disclosures are not prominent, they are not clear and conspicuous.

FROST-A-TRON

so fresh & cool

[Order Now](#) | [FAQ](#) | [Reviews](#) | [Contact Us](#)

[Home](#)
[Order Now](#)
[FAQ](#)
[Reviews](#)



AS SEEN ON TV

For space travel, scientists had to find something better than traditional refrigeration. They discovered a solid-state component now available to anyone on the move.

Think about your next road trip with the family. You're cruising along, making great time and – you guessed it – one of the kids is hungry.

Relax. Your Frost-a-tron is plugged into one of your 12 volt outlets and stocked with fruit, sandwiches, cold drinks, fried chicken ... fresh and cold.

Only \$129, plus shipping & handling

Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80°F, such as in a hot car. Use in these conditions could lead to food-borne illness.

Satisfaction is guaranteed.

[Restocking fee applies to all returns.](#)

Price: **\$129**

Color:

Qty:

ORDER NOW



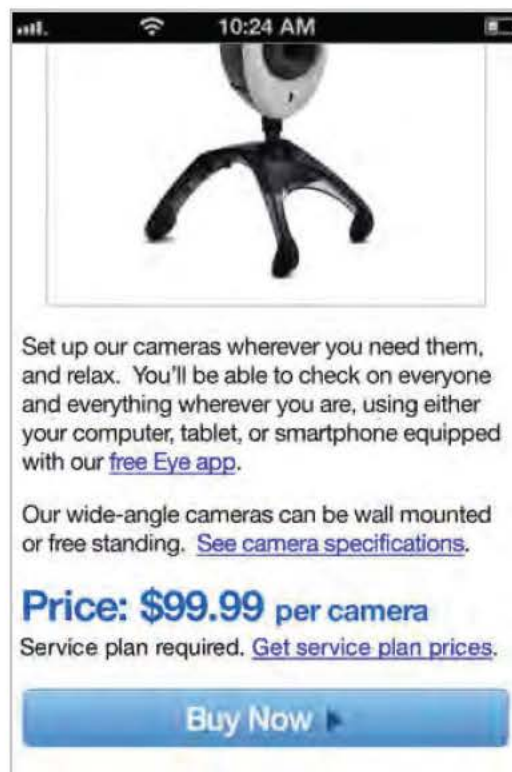
Buy now and get 2 for just **\$199.99!**

Example 19

Most webpages viewable on desktop devices may also be viewable on smartphones, but, as discussed earlier, consumers may miss disclosures on mobile devices because of the need to zoom in on text and to scroll horizontally as well as vertically.

Disclosures are more likely to be clear and conspicuous on websites that are optimized for mobile devices or created using responsive design, which automatically detects the kind of device the consumer is using to access the site and arranges the content on the site so it makes sense for that device.

In this example, the website is optimized for mobile devices, and both the information about the service plan requirement and the hyperlink to the plan's prices are immediately adjacent to the camera price they qualify.



Example 20

Because the negative option in this example (enrollment in a recipe club) addresses a different subject than the main offer (cookware), the advertiser should take special care to ensure that the disclosure of the negative option is clear and conspicuous. In this case, requiring consumers to affirmatively acknowledge the disclosure by clicking on one of the two boxes on the second page — neither of which has been preselected — before they can proceed to checkout, should achieve that goal.

Fantastique Cuisine

[Login or Register](#) | [Gift Registry](#) | [Wish List](#) | [Store Locator](#)

Shopping Basket (0 Item) [Checkout](#)

[Gift Registry](#) | [Recipes](#) | [Culinary Classes](#) | [Blog](#)

[Cookware](#) | [Cook's Tools](#) | [Cutlery](#) | [Electric](#) | [Bakeware](#) | [Tabletop](#) | [Glasses & Bar](#) | [Outdoor](#) | [Sale & Clearance](#)



Roll over image to zoom



Signature Oval 6 Quart Dutch Oven

★★★★☆ [Read reviews](#) | [Write a review](#)

Suggested Price: \$325.00
Our Price: \$220.00

Qty [Add to Cart](#) [Add to Registry](#) [Add to Wish List](#)

With your purchase, you'll also enjoy a 30-day free trial membership in our [Fantastique Gourmet Cook's Club](#). You will receive ten recipes each month for delicious appetizers, main dishes, and desserts. At the end of the free trial, your credit card will be billed \$4.95 each month for membership to the Gourmet Cook's Club. [Cancellation details](#).

Description

Specifications

Use & Care

Fantastique's cast iron Dutch oven is perfect for slow cooking and simmering soups and stews. You'll find yourself reaching for this cookware day after day thanks to Fantastique's superior culinary craftsmanship.

This Dutch oven combines the latest ergonomic and culinary innovations.

- It is designed specifically to enhance slow-cooking by heating evenly and locking in moisture for more tender results.
- Optimized for up to 700°F, Fantastique's enamel interior resists wear and tear.
- Improved ergonomic top knob resists temperatures up to 700°F and provides a sure grip in the most heated situations.

(continue on next page)

Example 20 (continued)

Fantastique Cuisine


[Login or Register](#) | [Gift Registry](#) | [Wish List](#) | [Store Locator](#)


Shopping Cart (1 Item)
Checkout ▶

[Gift Registry](#) | [Recipes](#) | [Culinary Classes](#) | [Blog](#)

search

[Cookware](#) | [Cook's Tools](#) | [Cutlery](#) | [Electric](#) | [Bakeware](#) | [Tabletop](#) | [Glasses & Bar](#) | [Outdoor](#) | [Sale & Clearance](#)

 1 item added to your Cart

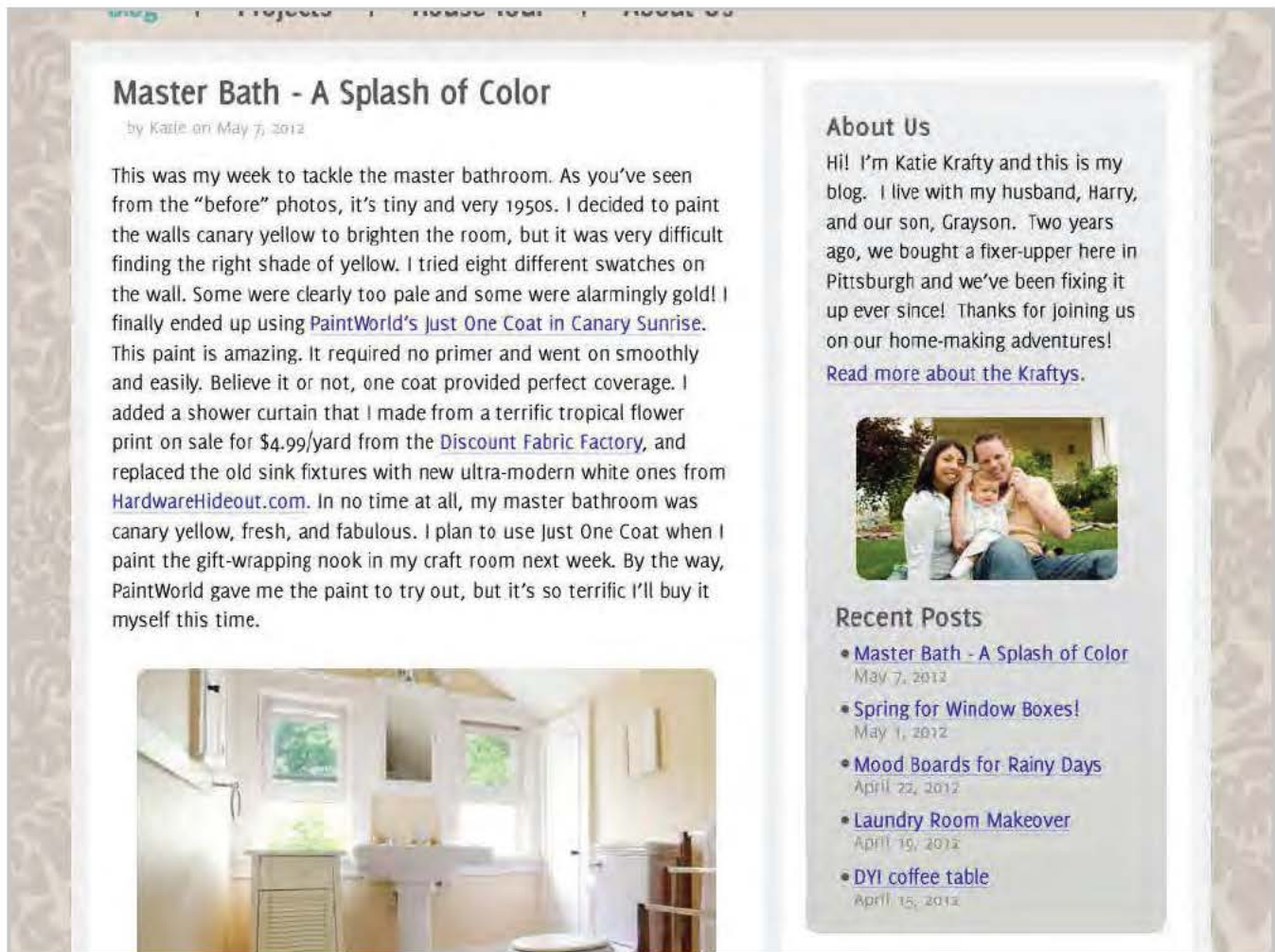
	quantity	price
 Signature Oval 6 Quart Dutch Oven <p>With my purchase, I will be automatically enrolled in a 30-day free trial membership in the Fantastique Gourmet Cook's Club. At the end of the free trial, my credit card will be billed \$4.95 each month for membership to the Gourmet Cook's Club. Cancellation details.</p> <p> <input type="radio"/> Yes, continue to checkout <input type="radio"/> No, remove this item from my shopping cart. </p>	1	\$220.00

Order Subtotal: 1 (item) **\$220.00**

Edit your Cart ▶ Checkout ▶


Example 21

The blogger in this example obtained the paint she is reviewing for free and must disclose that fact. Although she does so at the end of her blog post, there are several hyperlinks before that disclosure that could distract readers and cause them to click away before they get to the end of the post. Given these distractions, the disclosure likely is not clear and conspicuous.




Master Bath - A Splash of Color
by Katie on May 7, 2012

This was my week to tackle the master bathroom. As you've seen from the "before" photos, it's tiny and very 1950s. I decided to paint the walls canary yellow to brighten the room, but it was very difficult finding the right shade of yellow. I tried eight different swatches on the wall. Some were clearly too pale and some were alarmingly gold! I finally ended up using [PaintWorld's Just One Coat in Canary Sunrise](#). This paint is amazing. It required no primer and went on smoothly and easily. Believe it or not, one coat provided perfect coverage. I added a shower curtain that I made from a terrific tropical flower print on sale for \$4.99/yard from the [Discount Fabric Factory](#), and replaced the old sink fixtures with new ultra-modern white ones from [HardwareHideout.com](#). In no time at all, my master bathroom was canary yellow, fresh, and fabulous. I plan to use Just One Coat when I paint the gift-wrapping nook in my craft room next week. By the way, PaintWorld gave me the paint to try out, but it's so terrific I'll buy it myself this time.



About Us
Hi! I'm Katie Krafty and this is my blog. I live with my husband, Harry, and our son, Grayson. Two years ago, we bought a fixer-upper here in Pittsburgh and we've been fixing it up ever since! Thanks for joining us on our home-making adventures!
[Read more about the Kraftys.](#)



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- [Mood Boards for Rainy Days](#)
April 22, 2012
- [Laundry Room Makeover](#)
April 19, 2012
- [DIY coffee table](#)
April 15, 2012

Example 22

All of the elements of an ad should be considered in assessing whether a disclosure is clear and conspicuous. In some cases, elements that the advertiser might think make an ad more eye-catching could actually distract consumers from important disclosures.

In this example, an animated spokesperson moving around and discussing the benefits of the Eye on Your Home monitoring cameras might distract consumers from the disclosure of the monthly monitoring fee.

Eye on Your Home Login or Register | About Us | Certification

Call us now 1-800-XXX-XXXX

Keep an Eye on Your Home for Safety and Security

Do you worry that the nanny is putting your toddler in front of the television for hours, instead of reading to her? Or do you have older children who come home to an empty house after school? An elderly parent at home alone? Or do you just want to see what the dog does while you're at work?

Get our wireless home monitoring system!
 Set up our cameras wherever you need them, and relax. You'll be able to check on everyone and everything wherever you are, using either your computer, tablet, or smartphone equipped with our [free Eye app](#).

Our wide-angle cameras can be wall mounted or free standing. [See camera specifications.](#)

Price: \$99.99* per camera [Buy Now](#)

*Service plan required. [Get service plan prices.](#)

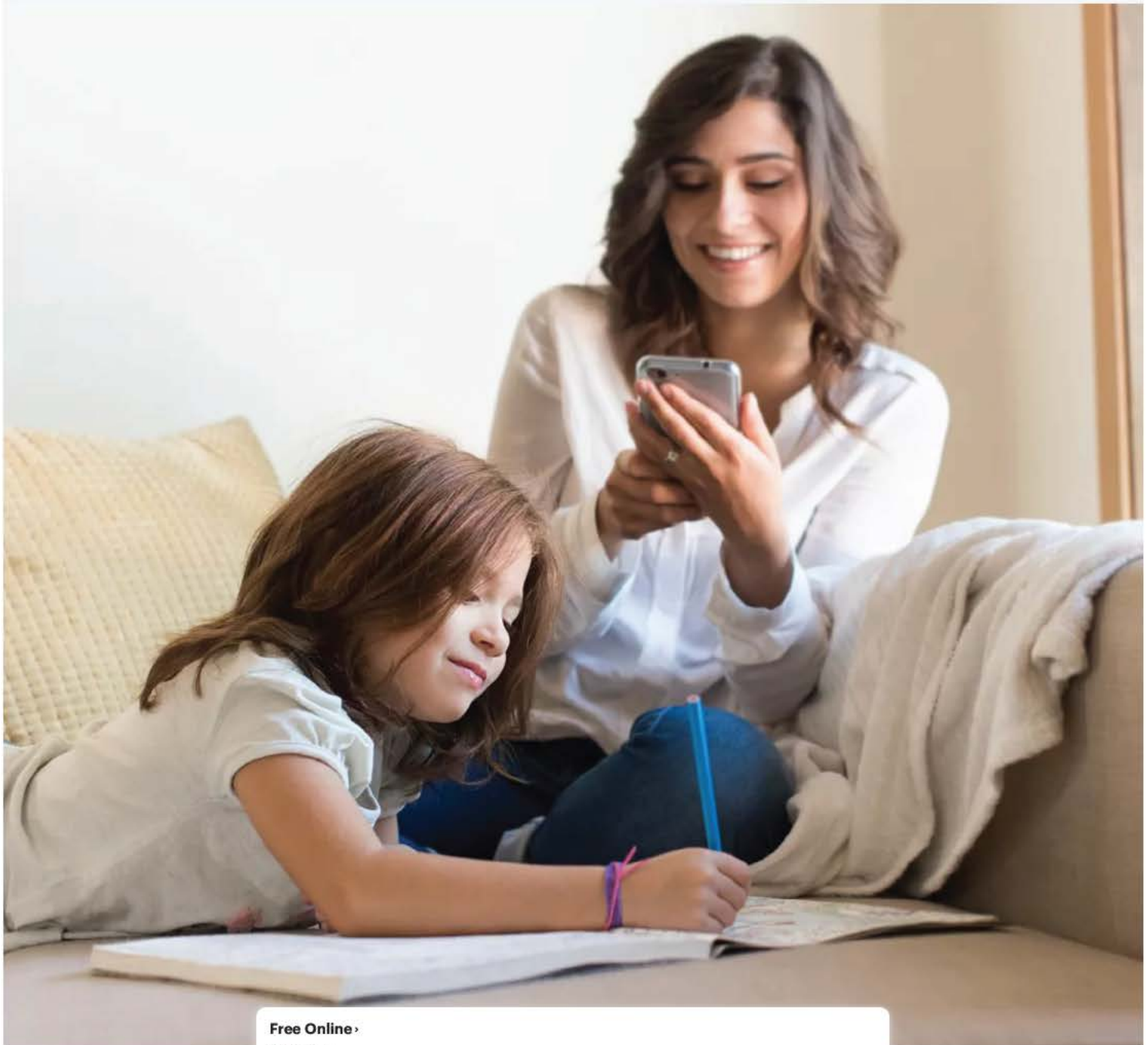
"My 78-year-old mother lives with dementia. I'm always worried about her when I'm out of the house because she had a bad fall last year. With Eye on Your Home cameras in the kitchen and the family room, I can just check my smart phone when I'm out and know she's okay."
 - Julie Brown
 Satisfied Customer

RX 97

★★★★★ 4.4 (365311)

You're never alone when filing on your own.

With H&R Block Online, you can do your taxes yourself from start to finish, and get expert help if you need it. Try it for free — you don't pay for tax prep until you're ready to file.

[Help me choose](#)[File with unlimited help >](#)

Free Online >

- Simple returns
- Students
- Unemployment income
- W-2 employees
- Child Tax Credit (CTC)

\$0

• \$0 per state filed

[File free](#)

- HSA contributions
- Child and dependent care expenses
- Itemize deductions

\$54.99

+ \$60.00 per state filed

Start for free

Premium

- Rental income
- Investments
- Sold cryptocurrency

\$74.99

+ \$60.00 per state filed

Start for free

Self-Employed

- Contractors, gigworkers, and other self-employed work
- Asset depreciation
- Vehicle and home office expenses

\$114.99

+ \$60.00 per state filed

Start for free

Hide filing options

Compare filing options.

	Free Online	Deluxe Online	Premium Online	Self-Employed Online
	starting at \$0	starting at \$54.99	starting at \$74.99	starting at \$114.99
	File for free	Start for free	Start for free	Start for free
State tax prep additional fee	State tax prep additional fee \$0	State tax prep additional fee \$44.99	State tax prep additional fee \$44.99	State tax prep additional fee \$44.99
Earned Income Credit (EIC)	Earned Income Credit (EIC) ✓	Earned Income Credit (EIC) ✓	Earned Income Credit (EIC) ✓	Earned Income Credit (EIC) ✓
Child Tax Credit (CTC)	Child Tax Credit (CTC) ✓	Child Tax Credit (CTC) ✓	Child Tax Credit (CTC) ✓	Child Tax Credit (CTC) ✓
Deduct student tuition, payments, and loan interest	Deduct student tuition, payments, and loan interest ✓	Deduct student tuition, payments, and loan interest ✓	Deduct student tuition, payments, and loan interest ✓	Deduct student tuition, payments, and loan interest ✓
Report your retirement income	Report your retirement income ✓	Report your retirement income ✓	Report your retirement income ✓	Report your retirement income ✓
Digitally organize all of your tax docs for up to six years	Digitally organize all of your tax docs for up to six years ✗	Digitally organize all of your tax docs for up to six years ✓	Digitally organize all of your tax docs for up to six years ✓	Digitally organize all of your tax docs for up to six years ✓
Access to live phone or chat tech support	Access to live phone or chat tech support ✗	Access to live phone or chat tech support ✓	Access to live phone or chat tech support ✓	Access to live phone or chat tech support ✓
Have a Health Savings Account (HSA)	Have a Health Savings Account (HSA) ✗	Have a Health Savings Account (HSA) ✓	Have a Health Savings Account (HSA) ✓	Have a Health Savings Account (HSA) ✓

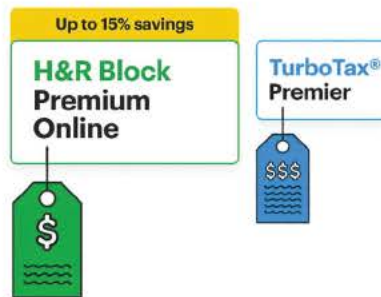


H&R Block Online vs. TurboTax®: you could save by filing with us.

Pay less on federal filing with H&R Block Online compared to TurboTax®[®].

[Compare now](#)

Comparison based on regular price for standard paid TurboTax® D Y products on turbotax.com as of 4/1/2022.



People are talking about H&R Block.



Bankrate
February 2022

"H&R Block's free version is better than most."



Simple. Easy. Done.

**Tax prep made easy.**

Answer simple questions and follow our step-by-step guidance to tackle your own tax prep.

**Easy switching.**

File with someone else last year? Import details from your last tax return and we'll get you started.

**Real-time results.**

Keep track of your refund & fees. Know what to expect when you finish. No surprises with H&R Block, guaranteed! TM

Tax help you need and the biggest possible refund, guaranteed.

**Max Refund Guarantee**

Get every credit and deduction you deserve. Find a bigger refund somewhere else? Your tax prep is free. [®]

**Experienced tax pros**

Our tax pros have an average of 10 years' experience. We're here for you when you need us.

**Many ways to file**

Get your taxes done by a tax pro in an office, via video, or by phone. Or do your own with expert, on-demand help.

**Upfront transparent pricing**

Know the price of tax prep before you begin as part of our No Surprise Guarantee. TM

Easy to file and get expert help — this app is where it's at.

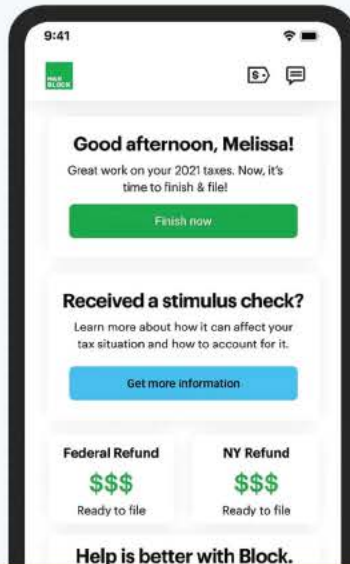
The newly designed H&R Block Tax Prep app lets you do your own taxes on any device, with on-demand help from our tax experts if needed.* Import or upload your W2s with ease, then prep at your own pace. Start for free and get your biggest refund possible, guaranteed.

Limitations apply. Visit our [guarantee](#) for more information.

*Additional fees apply for expert tax help.

Create an account >

Explore the Tax Prep app >



It pays to have Spruce.

Spruce is mobile banking for people who want to be better with money. And a \$20 bonus for qualified direct deposits is a great place to start.

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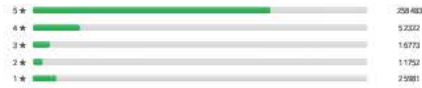


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Reviews

Rating Snapshot

Select arrow below to filter reviews.



Average Customer Ratings



1-3 of 36,331 Reviews

Sort by: Highest to Lowest Rating

★★★★★ **Samuel** - 1 month ago

No guess work with H&R Block

H&R Block took the guess work out of doing my own taxes. It was self-explanatory and had adequate help features for me.

Ⓢ Pros: Easy to prepare, Maximizes refund, Easy to import documents, Fast

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Accuracy & Tax Expertise

Clear Instructions

Ease of Use

Value

★★★★★ **MaNia** - 1 month ago

Best in town

Wonderful service!! Cared so much about the security of my account and I'm very appreciative of that. Will definitely look forward to the upcoming year here with the H&R staff!

Ⓢ Pros: Easy to prepare, Maximizes refund, Easy to import documents, Fast

Recommend this product ✓ Yes

Originally posted on [H&R Block - Self-Employed Online](#)

Accuracy & Tax Expertise

Clear Instructions

Ease of Use

Value

★★★★★ **Anonymous** - 1 month ago

Taxes, easy to do taxes with help if needed.

If you have a problem with your taxes you can just call the customer service number and they will help you in anyway that they can and they do help.

Ⓢ Pros: Easy to prepare, Maximizes refund, Easy to import documents, Fast

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Accuracy & Tax Expertise

Clear Instructions

Ease of Use

Value

★★★★★ **Justalaback** - 1 month ago

I will never go any other way to do my taxes.

Yes I love you guys. I stepped out and tried to do my taxes another way one time and it took me a year to get my refund and only cause of the time that works while block in Thayer Missouri I would have never gotten my stimulus. Thank you.

Ⓢ Pros: Easy to prepare

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Accuracy & Tax Expertise

Clear Instructions

Ease of Use

Value

★★★★★ **Anonymous** - 1 month ago

Easy way to do your taxes!

Very easy to use. Gives you step by step instructions.

Ⓢ Pros: Easy to prepare, Maximizes refund, Easy to import documents, Fast

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Clear Instructions

Ease of Use

Value

★★★★★ **Madden** - 1 month ago

Filing taxes is easy at H & R Block

H & R Block made filing for my taxes online very easy and simple. If something is not right, they help you to fix the issue.

Ⓢ Pros: Easy to prepare, Maximizes refund, Easy to import documents, Fast

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Accuracy & Tax Expertise

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Ease of Use

Value

★★★★★ **Sammy** - 1 month ago

No stress

It was very easy with H&R Block to do my taxes. They were very helpful with everything. Checked for errors and fixed them.

Ⓢ Pros: Easy to prepare

Recommend this product ✓ Yes

Originally posted on [H&R Block - Amazon Online](#)

Accuracy & Tax Expertise

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★★★★★ **Wineandfish** - 2 months ago

Filing my own taxes

Normally I file with Turbo Tax but this year did it through H&R Block and I'm pleased with the results was very easy and didn't charge me much.

Ⓢ Pros: Easy to prepare, Easy to import documents, Fast

Recommend this product ✓ Yes

Accuracy & Tax Expertise

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2. Free In-person Audit Support is available only for clients who purchase and use H&R Block desktop software solutions to prepare and successfully file their 2021 individual income tax return (federal or state). It does not provide for reimbursement of any taxes, penalties, or interest imposed by taxing authorities and does not include legal representation. Additional terms and restrictions apply. See **Free In-person Audit Support** for complete details.
3. H&R Block tax software and online prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
4. H&R Block is a registered trademark of HRB Innovations, Inc.
5. Emerald Cash Rewards™ are credited on a monthly basis. Rewards are in the form of a cash credit loaded onto the card and are subject to applicable withdrawal/cash back limits. Merchants/Others vary.
6. If you discover an error in the H&R Block tax preparation software that entitles you to a larger refund (or smaller liability), we will refund the software fees you paid to prepare that return and you may use our software to amend your return at no additional charge. To qualify for the H&R Block Maximum Refund Guarantee, the refund claim must be made during the calendar year in which the return was prepared and the larger refund or smaller tax liability must not be due to incomplete, inaccurate, or inconsistent information supplied by you, positions taken by you, your choice not to claim a deduction or credit, conflicting tax laws, or changes in tax laws after January 1, 2022.
7. If the online tax preparation or tax software makes an arithmetic error that results in your payment of a penalty and/or interest to the IRS that you would otherwise not have been required to pay, H&R Block will reimburse you up to a maximum of \$10,000. Terms and conditions apply; see Accurate Calculations Guarantee for details.
8. H&R Block is a registered trademark of HRB Innovations, Inc. TurboTax® and Quicken® are registered trademarks of Intuit, Inc. TaxAct® is a registered trademark of TaxAct, Inc. Windows® is a registered trademark of Microsoft Corporation.
9. Prices based on hrblock.com, turbotax.com and intuit.taxaudit.com (as of 11/28/17). TurboTax® offers limited Audit Support services at no additional charge. H&R Block Audit Representation constitutes tax advice only. Consult your attorney for legal advice. Power of Attorney required. Does not provide for reimbursement of any taxes, penalties or interest imposed by taxing authorities. Terms and conditions apply.
11. The audit risk assessment is not a guarantee you will not be audited.
14. Audit Defense only available in TurboTax Max bundle.
15. Receive 20% off next year's tax preparation if we fail to provide any of the 4 benefits included in our "No Surprise Guarantee" (Upfront Transparent Pricing, Transparent Process, Free Audit Assistance, and Free Midyear Tax Check-In). Limitations apply. Description of benefits and details at hrblock.com/guarantees.

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20. State e-file available within the program. An additional fee applies for online. State e-file not available in NH. Additional state programs are extra. Most state programs are available in January. Release dates vary by state. Online AL, DC and TN do not support nonresident forms for state e-file. Software DE, HI, LA, ND and VT do not support part-year or nonresident forms.
21. H&R Block prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
23. H&R Block online tax preparation and Tax Pro Review prices are ultimately determined at the time of print or e-file. All prices are subject to change without notice.
24. A simple tax return excludes self-employment income (Schedule C), capital gains and losses (Schedule D), rental and royalty income (Schedule E), farm income (Schedule F) shareholder/partnership income or loss (Schedule K-1), and earned income credit (Schedule EIC).
25. State programs can be added within the program for an additional cost. Most state programs available in January. Release dates vary by state. The following states do not support part-year/nonresident forms: AL, DC, HI and MT.
26. Enrolled Agents do not provide legal representation, signed Power of Attorney required. Audit services constitute tax advice only. Consult an attorney for legal advice. Void where prohibited.
27. Starting December 1, 2017
28. Does not include in-person audit representation, which is sold separately. H&R Block does not provide legal advice.
29. View terms and conditions.
31. ©2017-2021 and TM, NerdWallet, Inc. All Rights Reserved. H&R Block Free Online, NerdWallet's 2021 winner for Best Online Tax Software for Simple Returns.

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File Online	41. Personal state programs are \$39.95 each (state e-file available for \$19.95). Most personal state programs available in January; release dates vary by state. State e-file not available in NH. E-file fees do not apply to NY state returns.
• Tax Software	Additional disclaimer for business e-files: State e-file for business returns only available in CA, CT, MI, NY, VA, WI
Retail	42. Additional state programs are extra. Most state programs available in January; release dates vary by state.
Financial Services	43. All prices are subject to change without notice.
Income Tax Course	44. One state program can be downloaded at no additional cost from within the program. Additional state programs extra.
	45. One personal state program and unlimited business state program downloads are included with the purchase of this software. Additional personal state programs extra.

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Tax Software

• Retail

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79. **Subject to \$125 minimum charge.**
Offer valid for tax preparation fees for new clients only. A new client is an individual who did not use H&R Block office services to prepare his or her 2016 tax return. Valid receipt for 2016 tax preparation fees from a tax preparer other than H&R Block must be presented prior to completion of initial tax office interview. May not be combined with other offers. Offer period March 1 – 25, 2018 at participating offices only. To qualify, tax return must be paid for and filed during this period. Visit hrblock.com/halloff to find the nearest participating office or to make an appointment. OBTP# B13696 ©2018 HRB Tax Group, Inc.
80. Results vary. All tax situations are different. Fees apply if you have us file a corrected or amended return. The IRS allows taxpayers to amend returns from the previous three tax years to claim additional refunds to which they are entitled. Applies to individual tax returns only. At participating offices.
81. Price for Federal 1040EZ may vary at certain locations. See local office for pricing.
82. Type of federal return filed is based on taxpayer's personal situation and IRS rules/regulations. Form 1040EZ is generally used by single/married taxpayers with taxable income under \$100,000, no dependents, no itemized deductions, and certain types of income (including wages, salaries, tips, taxable scholarships or fellowship grants, and unemployment compensation). Additional fees apply with Earned Income Credit and you file any other returns such as city or local income tax returns, or if you select other products and services such as Refund Transfer. Available at participating U.S. locations.
83. If H&R Block makes an error on your return, we'll pay resulting penalties and interest.
84. If you discover an H&R Block error on your return that entitles you to a larger refund (or smaller tax liability), we'll refund the tax prep fee for that return and file an amended return at no additional charge. Refund claims must be made during the calendar year in which the return was prepared.
85. By authorizing H&R Block to e-file your tax return, or by taking the completed return to file, you are accepting the return and are obligated to pay all fees when due.
86. H&R Block will explain the position taken by the IRS or other taxing authority and assist you in preparing an audit response. Does not include Audit Representation.
87. H&R Block provides tax advice only through Peace of Mind® Extended Service Plan, Audit Assistance and Audit Representation. Consult your own attorney for legal advice. Power of Attorney required. Void where prohibited. Conditions apply. See Peace of Mind® Terms for details.
88. Available only at participating H&R Block offices. CAA service not available at all locations. H&R Block does not provide immigration services. An ITIN is an identification number issued by the U.S. government for tax reporting only. Having an ITIN does not change your immigration status. You are required to meet government requirements to receive your ITIN. Additional fees and restrictions may apply.
89. For tax years beginning after 2017, applicants claimed as dependents must also prove U.S. residency unless the applicant is a dependent of U.S. military personnel stationed overseas. A passport that doesn't have a date of entry won't be accepted as a stand-alone identification document for dependents.
90. Supporting Identification Documents must be original or copies certified by the issuing agency. Original supporting documentation for dependents must be included in the application.
91. At participating offices. Results may vary. Only available for returns not prepared by H&R Block. All tax situations are different and not everyone gets a refund. Fees apply if you have us file an amended return. The IRS allows taxpayers to amend returns from the previous three tax years to claim additional refunds to which they are entitled. Applies to individual tax returns only.
92. Starting price for simple federal return. Price varies based on complexity. Starting price for state returns will vary by state filed and complexity.
93. Audit services only available at participating offices.
94. Comparison based on paper check mailed from the IRS.
95. Amended tax returns not included in flat fees. A separate agreement is required for all Tax Audit & Notice Services. Tax Audit & Notice Services include tax advice only. Consult your own attorney for legal advice. A Power of Attorney may be required for some Tax Audit & Notice Services.
96. Qualifying individuals only. See www.irs.gov for qualifications.
97. Important Terms, Conditions and Limitations apply. See **Tax Identity Shield Terms, Conditions and Limitations** for complete details.
99. Valid for an original 2019 personal income tax return for our Tax Pro Go service only. Must provide a copy of a current police, firefighter, EMT, or healthcare worker ID to qualify. No cash value and void if transferred or where prohibited. Offer valid for returns filed 5/1/2020 - 5/31/2020. If the return is not complete by 5/31, a \$99 fee for federal and \$45 per state return will be applied.
102. H&R Block does not provide audit, attest or public accounting services and therefore is not registered with the board of accountancy of the State in which the tax professional prepares returns.
103. The tax identity theft risk assessment will be provided in January 2019. The tax identity theft risk assessment is based on various data sources and actual risk may vary beyond factors included in analysis.
104. Due to federally declared disaster in 2017 and/or 2018, the IRS will allow affected taxpayers an extended filing date to file and pay for their 2017 taxes. See IRS.gov for details.
105. Free ITIN application services available only at participating H&R Block offices, and applies only when completing an original federal tax return (prior or current year). CAA service not available at all locations.
106. The Send A Friend coupon must be presented prior to the completion of initial tax office interview. A new client is defined as an individual who did not use H&R Block or Block Advisors office services to prepare his or her prior-year tax return. Discount valid only for tax prep fees for an original 2017 personal income tax return prepared in a participating office. May not be combined with any other promotion including Free 1040EZ. Void if sold, purchased or transferred, and where prohibited. No cash value. Must be a resident of the U.S., in a participating U.S. office. Expires 4/10/2018. Referring client will receive a \$20 gift card for each valid new client referred, limit two. Gift card will be mailed approximately two weeks after referred client has had his or her taxes prepared in an H&R Block or Block Advisors office and paid for that tax preparation. Referred client must have taxes prepared by 4/10/2018. H&R Block employees, including Tax Professionals, are excluded from participating.
107. Available at participating offices and if your employer(s) participate in the W-2 Early Access™ program.
108. Valid for 2017 personal income tax return only. Return must be filed January 5 - February 28, 2018 at participating offices to qualify. Type of federal return filed is based on your personal tax situation and IRS rules. Form 1040EZ is generally used by single/married taxpayers with taxable income under \$100,000, no dependents, no itemized deductions, and certain types of income (including wages, salaries, tips, some scholarships/grants, and unemployment compensation). Additional fees apply for Earned Income Credit and certain other additional forms, for state and local returns, and if you select other products and services. Visit hrblock.com/ez to find the nearest participating office or to make an appointment. OBTP#B13696 ©2017 HRB Tax Group, Inc.

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Retail	112.	For a full schedule of Emerald Card fees, see your Cardholder Agreement.
• Financial Services	113.	Payroll, unemployment, government benefits and other direct deposit funds are available on effective date of settlement with provider. Please check with your employer or benefits provider as they may not offer direct deposit or partial direct deposit. Faster access to funds is based on comparison of traditional banking policies for check deposits versus electronic direct deposit.
Income Tax Course	114.	Fees apply to Emerald Card bill pay service. See Online and Mobile Banking Agreement for details.
	115.	H&R Block Emerald Advance* line of credit, H&R Block Emerald Savings* and H&R Block Emerald Prepaid Mastercard* are offered by MetaBank*, N.A., Member FDIC. Cards issued pursuant to license by Mastercard International Incorporated. Emerald Advance SM , is subject to underwriting approval with available credit limits between \$350-\$1000. Fees apply. Offered at participating locations. Promotional period 11/11/2021 – 1/8/2022. Mastercard is a registered trademark, and the circles design are registered trademarks of Mastercard International Incorporated. OBTP# B13696 ©2021 HRB Tax Group, Inc.
	117.	When you use an ATM, in addition to the fee charged by the bank, you may be charged an additional fee by the ATM operator. See your Cardholder Agreement for details on all ATM fees.
	118.	Emerald Card Retail Reload Providers may charge a convenience fee. Any Retail Reload Fee is an independent fee assessed by the individual retailer only and is not assessed by H&R Block or MetaBank*.
	119.	Refund Transfer is an optional tax refund-related product provided by MetaBank*, N.A., Member FDIC. Refund Transfer is a bank deposit product, not a loan. You can file your return and receive your refund without applying for a Refund Transfer. Payments you authorize from the account associated with your Refund Transfer will reduce the net proceeds of your refund sent to you. Fees apply. A qualifying expected tax refund and e-filing are required. Other restrictions apply; see terms and conditions for details. H&R Block Maine License Number: FRA2. ©2021 HRB Tax Group, Inc.
	120.	Neither H&R Block nor MetaBank* charges a fee for Emerald Card mobile updates; however, standard text messaging and data rates may apply.
	121.	US Mastercard Zero Liability does not apply to commercial accounts (except for small business card programs). Conditions and exceptions apply – see your Cardholder Agreement for details about reporting lost or stolen cards and liability for unauthorized transactions.
	122.	Requires purchase of a Refund Transfer (RT), for which a temporary bank account is required and fees apply. See RT Application for full terms and conditions. RT is provided by MetaBank*, N.A., Member FDIC. Fees apply. You must meet legal requirements for opening a bank account. A RT is a bank deposit, not a loan, and is limited to the size of your refund less applicable fees. You can electronically file your return and receive your refund without a RT, a loan or extra fees. H&R Block Maine License Number: FRA2. Available at participating offices. RT is a tax refund-related deposit product.
	123.	Availability of Refund Transfer (RT) funds varies by state. Funds will be applied to your selected method of disbursement once they are received from the state taxing authority.
	124.	The Check-to-Card service is provided by Sunrise Banks, N.A. and Ingo Money, Inc., subject to the Sunrise Banks and Ingo Money Service Terms and Conditions , the Ingo Money Privacy Policy , and the Sunrise Banks, N.A. Privacy Policy . Approval review usually takes 3 to 5 minutes but can take up to one hour. All checks are subject to approval for funding in Ingo Money's sole discretion. Fees apply for approved Money in Minutes transactions funded to your card or account. Unapproved checks will not be funded to your card or account. Ingo Money reserves the right to recover losses resulting from illegal or fraudulent use of the Ingo Money Service. Your wireless carrier may charge a fee for data usage. Additional transaction fees, costs, terms and conditions may be associated with the funding and use of your card or account. See your Cardholder or Account Agreement for details.
	125.	The Rapid Reload logo is a trademark owned by Wal-Mart Stores, Inc. Rapid Reload not available in VT and WY. Fees apply. Check cashing fees may also apply. Check cashing not available in NJ, NY, RI, VT and WY.
	126.	If approved, you could be eligible for a credit limit between \$350 and \$1,000.
	127.	Minimum monthly payments apply. Line balance must be paid down to zero by February 15 each year. Year-round access may require an Emerald Savings* account.
	128.	Fees apply when making cash payments through MoneyGram* or 7-11*.
	129.	Please consult your tax professional for further information regarding eligibility, tax-deductibility of Traditional IRA contributions, tax-deferred/tax-exempt interest, limitations and tax consequences of distributions for college expenses and first-time home purchases, and additional IRS rules governing both Traditional and Roth IRAs. Severe penalties may be imposed for contributions and distributions not made in accordance with IRS rules.
	130.	Under MasterCard's Zero Liability Policy, your liability for unauthorized transactions on your Card Account is \$0.00 if you notify us promptly upon becoming aware of the loss or theft, and you exercise reasonable care in safeguarding your Card from loss, theft, or unauthorized use. These provisions limiting your liability do not apply to debit transactions not processed by MasterCard or to unregistered cards.
	131.	Transferring funds from another bank account to your Emerald Card may not be available to all cardholders and other terms and conditions apply. There are limits on the total amount you can transfer and how often you can request transfers. MetaBank* does not charge a fee for this service; please see your bank for details on its fees.
	133.	7-ELEVEN is a registered trademark of 7-Eleven, Inc.
	134.	©2015 InComm. All Rights Reserved. Vanilla Reload is provided by ITC Financial Licenses, Inc. ITC Financial Licenses, Inc. is licensed as a Money Transmitter by the New York State Department of Financial Services. Terms and conditions apply.
	135.	If you request cash back when making a purchase in a store, you may be charged a fee by the merchant processing the transaction. Always ask the merchant if a surcharge applies when requesting cash back at the point of sale.
	137.	Applicants must be 18 years of age in the state in which they reside (19 in Nebraska and Alabama, 21 in Puerto Rico.) Identity verification is required. Both cardholders will have equal access to and ownership of all funds added to the card account. See Cardholder Agreement for details.
	138.	Use of (Tap) for Balance is governed by the H&R Block Mobile and Online Banking Online Bill Payment Agreement and Disclosure. Once activated, you can view your card balance on the login screen with a tap of your finger. You should enable the security features on your mobile device, because anyone who has access to it will be able to view your account balance. You also accept all risk associated with (Tap) for Balance, and agree that neither H&R Block, MetaBank* nor any of their respective parents or affiliated companies have any liability associated with its use. You will still be required to login to further manage your account.
	139.	Timing is based on an e-filed return with direct deposit to your Card Account.
	140.	Your wireless carrier may charge a fee for text messaging or data usage.

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160. Enrollment in, or completion of, the H&R Block Income Tax Course or Tax Knowledge Assessment is neither an offer nor a guarantee of employment. Additional qualifications may be required. Enrollment restrictions apply. There is no tuition fee for the H&R Block Income Tax Course; however, you may be required to purchase course materials, which may be non-refundable. State restrictions may apply. The Income Tax Course consists of 62 hours of instruction at the federal level, 68 hours of instruction in Maryland, 80 hours of instruction in California, and 81 hours of instruction in Oregon. Additional time commitments outside of class, including homework, will vary by student. Additional training or testing may be required in CA, OR, and other states. Valid at participating locations only. Void where prohibited. This course is not open to any persons who are currently employed by or seeking employment with any professional tax preparation company or organization other than H&R Block. During the Income Tax Course, should H&R Block learn of any student's employment or intended employment with a competing professional tax preparation company, H&R Block reserves the right to immediately cancel the student's enrollment. The student will be required to return all course materials. CTECF 1040-QE-2662 ©2022 HRB Tax Group, Inc.

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H&R Block has been approved by the California Tax Education Council to offer The H&R Block Income Tax Course, CTECF 1040-QE-2662, which fulfills the 60-hour "qualifying education" requirement imposed by the State of California to become a tax preparer. A listing of additional requirements to register as a tax preparer may be obtained by contacting CTEC at P.O. Box 2890, Sacramento, CA 95812-2890; or at www.ctec.org.

• Income Tax Course

161. The course consists of 62 hours of instruction at the federal level, 68 hours of instruction in Maryland, 80 hours of instruction in California, and 81 hours of instruction in Oregon.

163. Western Governors University is a registered trademark in the United States and/or other countries. H&R Block does not automatically register hours with WGU. Students will need to contact WGU to request matriculation of credit. Additional fees may apply from WGU.

164. Southern New Hampshire University is a registered trademark in the United States and/or other countries. H&R Block does not automatically register hours with SNHU. Students will need to contact SNHU to request matriculation of credit. Additional fees may apply from SNHU.

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\$0
State included

TaxSlayer® Simply Free

File a basic 1040 tax return. It's fast, easy, and totally free.

FILE FOR FREE ([HTTPS://WWW.TAXSLAYER.COM/MYACCOUNT/REGISTER.ASPX?FREEVERSION=TRUE](https://www.taxslayer.com/myaccount/register.aspx?freeversion=true))

Everything you need to file a simple return for free.



Prepare, print, and e-file

Complete and submit your tax return directly to the IRS with confidence — and without delay.



100% accuracy guaranteed

We stand behind our always up-to-date calculations and 100% accuracy guarantee.



Upload a prior year return

Switching from another tax service is easy: Upload your tax return, and we'll import the data for you.



Education expenses covered

Includes student loan interest deduction and education credits to help maximize your refund.



Phone and email support

Unlimited phone and email support when you need it. Talk to a real person and file with confidence.

**Prior year compare**

Before you file, we provide year over year comparisons to ensure you don't miss anything.

See for yourself why we're trusted by millions

We've been helping people slay their taxes for over 50 years



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as done
knew it!

or!

Rogers,
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**Was great
using your
software it
felt...**

Was great using
your software it
felt like you
guys actually
cared !! where
the big
companies
don't do squad

— **Theodore
Alcorn,**
TaxSlayer
Customer



**This
program is
easy to use
and...**

This program is
easy to use and
affordable. I've
been using it for
years.

— **Michael
Howe,** TaxSlayer
Customer



Fast

Fast, eas
accurate

— **J P, T**
Custom



Simply Free

\$0 federal

\$0 state

\$0 to file

FILE FOR FREE

([HTTPS://WWW.TAXSLAYER.COM/MYACCOUNT/REGISTER.ASPX?](https://www.taxslayer.com/myaccount/register.aspx?FREEVERSION=TRUE)
FREEVERSION=TRUE)

How TaxSlayer works

It's as easy as 1-2-3



1. Log in to your free account

Or create one if it's your first time. We're excited you chose us!



2. Tell us about yourself

Enter info about yourself and your income. We'll guide you through the rest.



3. Submit your tax return

Then sit back and relax. We'll notify you once the IRS accepts your return.

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Start for free: TaxSlayer pricing is based on your tax situation, the type of support you want, and varies by product. Simply Free (\$0 federal for simple tax returns and \$0 for one state) is only available for those with a qualifying tax situation; offer may change or end at any time without notice. Actual prices are determined at the time of print or e-file and are subject to change without notice.

Average federal refund: According to the IRS (<https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-february-26-2021>) the average refund was \$3,021 as of 2/26/2021.

Trustpilot: Learn more about TaxSlayer's TrustScore and how customers rate TaxSlayer [trustpilot.com/review/taxslayer](https://www.trustpilot.com/review/taxslayer.com) (<https://www.trustpilot.com/review/taxslayer.com>).

Trusted by millions/Join the millions: Based on the millions of unique users that have filed with TaxSlayer.

NerdWallet: Based on review of TaxSlayer's software by NerdWallet (<https://www.nerdwallet.com/blog/taxes/taxslayer-review/>).

DoughRoller: Based on review of TaxSlayer's software by DoughRoller (<https://www.doughroller.net/taxes/tax-sl原因er-review/>).

The Balance Based on review of TaxSlayer's software by The Balance (<https://www.thebalance.com/taxslayer-review-4579840#taxslayer-vs-other-tax-software>).

Fastest/quickest refunds possible: According to the IRS (<https://www.irs.gov/refunds/get-your-refund-faster-tell-irs-to-direct-deposit-your-refund-to-one-two-or-three-accounts>), the fastest way to receive refunds is by e-filing and using direct deposit as the refund method; actual tax refund time will vary based on IRS.

IRS says file ASAP: The IRS (<https://www.irs.gov/about-irs/2021-tax-tips-and-some-motherly-advice>) urges taxpayers to file as soon as possible, especially those who are owed refunds.

Save up to \$95 or 80%: Comparison pricing and features of other online tax products were obtained directly from the TurboTax®, H&R Block®, and TaxAct® websites. Filing with all forms, including self-employed. Cost of filing state with complex federal return.

For more information you can view TaxSlayer's [legal disclaimers](https://www.taxslayer.com/policies/refund), [refund policy](https://www.taxslayer.com/policies/refund) (<https://www.taxslayer.com/policies/refund>), and [privacy policy](https://www.taxslayer.com/policies/privacy) (<https://www.taxslayer.com/policies/privacy>).

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RX 99

TurboTax Review 2022

by Emily Zhu | Updated February 14, 2022

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Our Rating: 4.2/5



How we calculated this rating

Developed in the mid-1980s, TurboTax has grown to become one of the most popular tax preparation services. Owned by Intuit, a financial software company based in California, TurboTax says it's committed to helping people navigate through tax season. With millions of taxpayers filing with TurboTax annually, it's safe to say that it's a top choice.

With numerous online tax planning options, compatibility with different devices and the ability to save your filing process at any time, TurboTax is convenient. In fact, millions of taxpayers file on mobile devices through TurboTax. Plus, with extensive support options to help you understand the complete process of , TurboTax is fit for both first-time and veteran filers. There are online tools, like a document checklist and [tax refund estimate calculator](#), to help you navigate through the process. There are tax tips and videos on its website as well. If you have a more complicated return or if you just want the advice of a tax professional, TurboTax Live also allows you to chat with an expert.

With a range of different plans and features fit for a variety of users, TurboTax is one of the most established tax planning services. Its extensive options, features and accessibility ensure that you're getting the most out of tax season.

TurboTax's Filing Options

TurboTax offers numerous digital options to file your taxes. There are three plans: Do-It-Yourself (DIY), Live Assisted and Live Full Service. Each plan comes with a focus on user customization by using an interview-style approach. It asks simple questions about your life – career, dependents, charitable contributions – to figure out what information is needed and to help you get every [tax deduction](#) and credit you can get. There's also step-by-step guidance to ensure that you understand every part of the process.

All TurboTax options allow you to easily import necessary documents. For example, you can take a picture of your [W-2](#) to automatically import that information into the appropriate forms. It's also easy to import your tax return from last year, even if you used a different filing service last year. And before you submit your tax return, you can run CompleteCheck, which ensures that your return is accurate and complete. Along with 24/7 support from both TurboTax professionals and the general TurboTax community, you're able to file your taxes quickly and efficiently.

The plans also come with a maximum refund guarantee. If you get a larger refund from another tax preparer, you're entitled to a refund of your purchase from TurboTax. TurboTax also guarantees that all calculations are accurate. If there's an error, TurboTax will pay the penalty and interest fees.

TurboTax Do-It-Yourself (DIY)

TurboTax's DIY tier is traditionally the most popular option the company offers. Federal prices for it can range from \$0 to \$99, depending on the complexity of your tax situation. For state returns, prices vary from \$0 up to \$39. For instance, if you have many different types of income, claim a number of different credits, have multiple tax forms to enter, are self-employed or own a business, you'll pay more. But if you simply file a W-2, you'll likely qualify for a free service. In addition, if you qualify for a free federal return, your state return will also be free, unless you file with multiple states.

As with all the digital filing options from TurboTax, you can import last year's tax return into this year's to help you save time. Import is also available if you used a different filing service last year. You also get automatic import of W-2 and [1099](#) information.

Outside of the standard Form 1040, TurboTax's Free Edition allows you to file the following:

- Form 1040-ES (estimated taxes)
- Form 1040-X (amended returns)
- Form 1095-A (health insurance marketplace statement)
- 1099-DIV (dividends and distribution income)
- 1099-INT (interest income)
- 1099-R (retirement distributions)
- Schedule EIC (earned income tax credit)
- Schedule 8812 (additional child tax credit)

This list is not comprehensive. If you need to attach a specific form, it's best to check the TurboTax website to see which plan you should use. Before you file your tax return, TurboTax will take a comprehensive look at your tax return, to minimize errors and ensure that you didn't miss anything.

If you would like additional peace of mind, you can upgrade from the Free Edition to TurboTax's Live Assisted option. Basic Live allows you to talk with a tax professional – either a certified public accountant (CPA) or enrolled agent (EA) – who will review your return to guarantee it's done correctly. The expert is also available to answer any questions you have.

However, Basic Live is not free, as you'll pay an extra fee to access these professionals. For many people who qualify to file a free return, this cost isn't necessarily worth it, but it can provide you with peace of mind that you've done everything correctly.

TurboTax Live Assisted

Upgrading to TurboTax's Live Assisted service ensures you'll have around-the-clock access to a tax professional both during your filing and for the rest of the year. In fact, you'll be able to speak with your tax expert live on-screen and have all of your questions answered immediately. Beyond this extra level of service, your tax expert will personally review your return before it's sent off to the IRS. Again, TurboTax guarantees this review, or it'll cover your costs.

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To gain access to TurboTax Live Assisted, you'll pay anywhere from \$0 to \$199 for a federal return and \$0 to \$49 for each state return. Again, if you qualify for a free return, you won't pay anything for your first state return.

TurboTax Live Full Service

As its name implies, TurboTax Full Service allows you to have a dedicated tax professional do and review your taxes for you. Depending on the specifics of your needs, TurboTax will pair you with an appropriate tax expert. Again, your expert will be available for you to talk to during the filing process, as well as for the rest of the year.

When you start this relationship, you'll securely upload all of the necessary tax documents to your expert, at which point they'll take over the work. As they work on your return, you'll receive updates via TurboTax's online tracker. Then, once the tax return is complete, they'll review it with you and explain everything.

This highest level of service comes with an understandably hefty pricetag. For a federal returns, Live Full Service users will pay between \$0 and \$389. State returns will again cost between \$0 and \$49. If you qualify for a free return, your first state return will be free as well.

Refund and Payment Options

You can pay for TurboTax with credit, debit or prepaid cards. There's also an option to deduct the purchase price from your federal refund, so you don't have to pay out-of-pocket. Checks, money orders and cash are not accepted.




To receive your refund, you can directly deposit it into a checking, savings, brokerage or IRA account. You can also get it as a check or on a prepaid Visa debit card. TurboTax also allows you to use the refund to buy [U.S. savings bonds](#) or apply it to next year's taxes, which shows up as tax credit.

You can also track your refund if you file with TurboTax. You'll receive notification when your return is accepted by the IRS. Once approved, you can usually expect your refund within a few weeks.

Tax Audit Services

If you're being audited, TurboTax offers the TurboTax Audit Support Guarantee. This gets you year-round audit support from a tax professional. You'll receive one-on-one guidance, answers to your audit questions and help preparing for the audit.

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Extensive Online Help and Tools

To make sure that you have a thorough understanding of the tax filing process, TurboTax offers free online tools to guide you through the process. This includes the TaxCaster Calculator, which estimates how much your [tax return](#) will be, a W-4 Withholding Calculator and a Tax Bracket Calculator.

TurboTax also shares online tax tips and videos that give you a greater understanding of how the service works and share useful information like money-saving tips and cities with the highest tax rates.

TurboTax Live

As mentioned above, TurboTax provides access to financial experts through its Live filing options. This is not the first year the company has offered access to live professionals, but this year's options are the most extensive yet. There are four Live options, corresponding to the four digital filing options, with prices ranging from \$49.99 up to \$169.99 for filing a federal return and \$29.99 to \$39.99 for state returns.

Pricing

Filing Options	Costs	Best for
Do-It-Yourself (DIY)	Federal: \$0-\$99, State: \$0 - \$39	Best for those who have simple returns to file and won't have questions for a tax expert
Live Assisted	Federal: \$0-\$199, State: \$0 - \$49	Best for those with more difficult tax situations who want the ability to ask questions of a tax expert
Live Full Service	Federal: \$0-\$389, State: \$0 - \$49	Best for those who want their taxes done entirely for them

TurboTax offers three online filing options, targeted at different individuals based on their financial situations and needs. All plans come with basic features, like easy W-2 import and a comprehensive review of your tax return before you file. They also all have a maximum refund guarantee to ensure that you get the most out of tax season. But the more expensive the plan, the more features are included.

Who Is TurboTax For?

TurboTax is one of the most popular tax planning services out there, and with good reason. Its different plans are suited for a variety of filers, whether they're students, homeowners or self-employed. TurboTax aims at educating users throughout the process with step-by-step guidance, while still securing the maximum returns and deductions available. It's helpful for people whether they're first-timers or veteran filers.

What's the Catch?

TurboTax's plans are more expensive than other tax planning services. Although it offers a free option, only the most basic returns qualify. Some features and most tax forms are only available with paid plans. This can become costly if you want to upgrade for certain forms or features, but your tax situation is simpler than the plan's focus area.

How TurboTax Stacks Up

Tax Planner	Plans Offered	Costs (Federal)	Costs (State)
TurboTax	Do-It-Yourself (DIY), Live Assisted, Live Full Service	Do-It-Yourself (DIY): \$0-\$99, Live Assisted: \$0-\$199, Live Full Service: \$0-\$389	Do-It-Yourself (DIY): Up to \$39, Live Assisted: Up to \$49, Live Full Service: Up to \$49
H&R Block	Free, Deluxe, Premium, Self-Employed	Free: \$0, Deluxe: \$29.99, Premium: \$49.99, Self-Employed: \$84.99	Free: \$0, Deluxe: \$36.99, Premium: \$36.99, Self-Employed: \$36.99
TaxAct	Free, Deluxe, Premier, Self-Employed	Free: \$0, Deluxe: \$24.95, Premier: \$34.95, Self-Employed: \$64.95	Free: \$34.95, Deluxe: \$44.95, Premier: \$44.95, Self-Employed: \$44.95

With TurboTax's user-friendly interface, range of plans and helpful tools, it's no wonder that it's one of the most popular tax filing services. But it comes at a higher cost, and other programs offer similar services at lower prices.

[H&R Block](#) has been around for over 60 years and is still a popular option for tax filing. With prices that are similar to (but slightly lower than) TurboTax's, it also has similar features like easy W-2 Import, refund explanations and step-by-step guidance. Its online interface is also user-friendly. In terms of supported forms, the free versions are nearly the same between H&R Block and TurboTax. You can file simple returns for free but will need to upgrade to a paid version if you want to itemize, or want to claim deductions beyond the earned income tax credit.

One advantage with H&R Block is that it has multiple physical offices around the world. If you want to work with a tax preparer in person, you can do so. TurboTax offers its suite of Live filing options, but these still take place online instead of in-person.

But TurboTax's Self-Employed service does stand out from H&R Block's. The premium and Self-Employed options from H&R Block overlap a bit and the Self-Employed option doesn't necessarily provide many features that cater solely to small business owners. For example, Self-Employed is the only H&R Block option that includes a free double check of your return by a tax professional. This is useful for anyone with a slightly complicated tax return, not just for self-employed filers. On the other hand, TurboTax's Self-Employed option focuses on providing guidance, advice and deductions to people who are contractors, freelancers or business owners. Included is also a complimentary year of QuickBooks Self-Employed. This version of QuickBooks, which costs more than \$100 if you buy it separately, helps you keep track of personal and business expenses throughout the year. It also helps you to calculate estimated tax payments.

Another popular tax filing service is [TaxAct](#). The most affordable out of the three, it isn't as flashy as TurboTax or H&R Block but it gets the job done. Its interface is simpler than the other two. The interview-style approach to filing isn't as quite as smooth and it doesn't offer as many educational features or tools. However, TaxAct is a good option for straightforward filing. It's also nice if you don't mind doing a bit of your own research to understand whether or not you qualify for certain deductions, and to understand what those deductions are to begin with. Thanks to the number of online resources, doing some work yourself isn't nearly as difficult as it used to be.

Bottom Line: Should You Use TurboTax?




TurboTax's range of filing options caters to different financial situations, whether you're single, married, a homeowner or self-employed. There are extensive features included with each plan to maximize efficiency and transparency. It's easy to import information and there are explanations of why and how refunds fluctuate. There are also tax calculators, a tips section and access to other services, like QuickBooks. All in all, TurboTax is very user-friendly and does a great job of simplifying tax season.

TurboTax comes at a higher price than other services but it pays for itself if it gets you additional tax savings. If you want something straightforward with fewer features, another tax planning service can likely do the job just fine. For example, someone who has been filing for years and doesn't mind manually inputting information into a tax form may want to go with a cheaper option.

Tips for Getting Through Tax Season

- [Finding a qualified financial advisor](#) who can help with your taxes doesn't have to be hard. [SmartAsset's free tool](#) matches you with up to three financial advisors in your area, and you can interview your advisor matches at no cost to decide which one is right for you. If you're ready to find an advisor who can help you achieve your financial goals, [get started now](#).
- After you file federal income tax return, you will probably need to file a state return. State governments have their own systems for handling tax returns and that means processing times vary by state. Learn how to check your [state tax refund status](#).
- If you find that you're relying on a tax refund to make ends meet, you may want to make some changes to your [tax withholding](#). By claiming more allowances on your W-4, you can decrease how much your employer removes (withholds) from your paychecks. That means more take home pay and perhaps less reliance on your refund.

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RX 100



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

For Release

FTC Looks to Modernize Its Guidance on Preventing Digital Deception

As Companies Wrongly Invoke the Guide to Justify Deception, Agency Seeks Public Input on Possible Revisions Around Dark Patterns and Other Deceptive Tactics

June 3, 2022

Tags: [Consumer Protection](#) | [Bureau of Consumer Protection](#) | [Advertising and Marketing](#) | [Online Advertising and Marketing](#)

The staff of the Federal Trade Commission is seeking the public's input on ways to modernize the agency's business guidance titled ".com Disclosures: How to Make Effective Disclosures in Digital Advertising." First published in March 2013, this resource provides [guidance to businesses on digital advertising](#) and marketing.

As digital deception grows in sophistication, some companies are wrongly citing the guides to justify practices that mislead consumers online. For example, firms have claimed that they can avoid liability under the FTC Act by burying disclosures behind hyperlinks, a practice that can expose consumers to financial fraud, intrusive surveillance, and other harms.

"We know that some companies are wrongly citing our current guides to justify dark patterns and other forms of digital deception," said Samuel Levine, Director of the FTC's Bureau of Consumer Protection. "We are looking to update the guides to make clear that online tricks and traps will not be tolerated, and we look forward to hearing from the public on this initiative."

FTC staff is seeking public input to ensure the guides are helping honest businesses treat consumers fairly, rather than being used as a shield by firms looking to deceive. In seeking public comment on possible revisions, staff is interested in the technical and legal issues that consumers, the FTC's law enforcement partners, and others believe should be addressed. The issues on which FTC staff is [seeking comment](#) include:

- the use of sponsored and promoted advertising on social media;
- advertising embedded in games and virtual reality and microtargeted advertisements;

- the ubiquitous use of dark patterns, manipulative user interface designs used on websites and mobile apps, and in digital advertising that pose unique risks to consumers;
- whether the current guidance adequately addresses advertising on mobile devices;
- whether additional guidance is needed to reflect the multi-party selling arrangements involved in online commerce and affiliate marketing arrangements;
- how the guidance on the use of hyperlinks can be strengthened to better protect consumers; and
- the adequacy of online disclosures when consumers must navigate multiple webpages;

The FTC will seek public comment beginning today and continuing through August 2, 2022. Information on how to submit comments can be found [here](#).

This is one of a number of initiatives the FTC is undertaking to tackle dark patterns and digital deception, including issuing a [click-to-cancel policy statement](#), [proposing strengthened advertising guidelines](#) against fake and

manipulated reviews, arming staff [with new tools to investigate dark patterns](#), and authorizing a [Notice of Penalty Offense against deceptive reviews](#).

The Federal Trade Commission works to promote competition and [protect and educate consumers](#). Learn more about consumer topics at [consumer.ftc.gov](#), or report fraud, scams, and bad business practices at [ReportFraud.ftc.gov](#). Follow the [FTC on social media](#), read [consumer alerts](#) and the [business blog](#), and [sign up to get the latest FTC news and alerts](#).

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Bureau of Consumer Protection

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RX 101



Federal Trade Commission

Section 5 Revisited: Time for the FTC to Define the Scope of Its Unfair Methods of Competition Authority

Remarks of Joshua D. Wright*
Commissioner, Federal Trade Commission

at the

Symposium on Section 5 of the Federal Trade Commission Act

The Willard InterContinental
Washington, D.C.

February 26, 2015

Good afternoon. Thank you for the kind introduction and warm welcome. I am delighted to be here today. I would like to thank Baker Hostetler, and especially Carl Hittinger, for organizing this terrific symposium and for the generous invitation to share my views with you this afternoon. Events such as this one are no small task to organize and they serve an incredibly important role in the development of antitrust and consumer protection law because they offer a vital platform for the honest exchange of ideas among practitioners, consumer advocates, agency officials, members

* The views stated here are my own and do not necessarily reflect the views of the Commission or any other Commissioner. I am grateful to my attorney advisor, Jan M. Rybnicek, for his invaluable assistance in preparing this speech.

of the judiciary, and Congress. Given the caliber of the panelists at today's event, I have no doubt that we will all walk away having learned something new about Section 5.

I have made no secret of the fact that I believe there is no more important challenge facing the Commission today than finally articulating the appropriate scope and role of the agency's "unfair methods of competition" authority under Section 5. The historical record reveals a remarkable and unfortunate gap between the theoretical promise of Section 5 as articulated by Congress over a century ago and its application in practice by the Commission. Congress intended Section 5 to play a key role in the Commission's competition mission by allowing the agency to leverage its institutional advantages to develop evidenced-based competition policy. However, the record suggests that the Commission's use of Section 5 has done very little to influence antitrust doctrine or to inform judicial thinking since the agency's inception. In order to fulfill Section 5's promise, and finally provide meaning and purpose to the agency's signature competition statute, it is clear that the Commission must first provide a framework for how it intends to use its "unfair methods of competition" authority.

That is why, soon after joining the Commission, I publicly distributed a proposed policy statement outlining my views as to how the Commission should use its Section 5 authority. My hope was that doing so would start—or at least restart—a conversation on the topic and help the Commission identify areas of consensus upon which we as an agency could build. I view the release of my proposed policy statement as an

unequivocal success in this regard. In the two years since issuing my policy statement, I have been pleased by the many thoughtful contributions to the marketplace of ideas discussing the scope and role of Section 5. Academics and practitioners have responded to the Section 5 debate with dozens of articles and hundreds of pages of analysis. Current and former Commissioners also have shared their views. Conferences have been held, replies have been written, criticisms leveled, blogs posted, and speeches made—there was even a Section 5 hashtag on Twitter for a few days. The point is, a substantial record has been compiled. These contributions have helped bring several key policy questions into focus and, in my view, positioned the agency to undertake the long overdue task of issuing a policy statement that both strengthens the Commission’s ability to target anticompetitive conduct and provides meaningful guidance to the business community about the contours of Section 5.

I would like begin today by briefly taking stock of the Section 5 debate. I would like to summarize the case for formal agency guidance defining the boundaries of Section 5 and dispel a couple of myths about the disadvantages to drawing some meaningful parameters around the Commission’s “unfair methods of competition” authority. Beyond taking stock of the current debate, I also would like to share with you what I think is the next logical step in rehabilitating Section 5 and making it a productive member of the competition community as the Commission embarks upon its second century of protecting competition and consumers. Lastly, I would like to

discuss some of my concerns about what is likely to happen to the FTC's Section 5 authority if the Commission fails to provide guidance. I intend to leave time for questions at the end of my remarks, so please do not be shy when that time comes.

Before I get too far along in my comments, however, I am obligated to provide a short disclaimer familiar to most of you, and that is that the views I express today are my own and not necessarily those of the Commission or any of the other Commissioners. With that bit of business out of the way, let's jump right in.

I. THE CASE FOR FORMAL GUIDANCE DEFINING THE SCOPE OF THE FTC'S "UNFAIR METHODS OF COMPETITION" AUTHORITY

I have shared my views on why the Commission should issue formal guidance defining the parameters of the agency's "unfair methods of competition" authority in countless forums since coming to the Commission.¹ Rather than using my time today to restate each of those arguments in detail again, I would like to quickly touch upon what I view as the most salient points before moving on to what I propose the agency should do as a first step to rehabilitating Section 5 so that it can contribute effectively to the Commission's competition mission as Congress intended.

¹ See, e.g., Joshua D. Wright, *Recalibrating Section 5: A Response to the CPI Symposium*, 11 CPI ANTITRUST CHRON., Nov. 2013, *available at* http://www.ftc.gov/sites/default/files/documents/public_statements/recalibrating-section-5-response-cpi-symposium/1311section5.pdf; Joshua D. Wright, Comm'r, Fed. Trade Comm'n, Section 5 Recast: Defining the Federal Trade Commission's Unfair Methods of Competition Authority, Remarks at the Executive Committee of the New York State Bar Association's Antitrust Section (June 19, 2013), http://www.ftc.gov/sites/default/files/documents/public_statements/section-5-recast-defining-federal-trade-commissions-unfair-methods-competition-authority/130619section5recast.pdf.

There are at least two principal reasons the Commission's "unfair methods of competition" authority has not lived up to its Congressional promise, both of which would be solved by formal guidance explaining how the agency intends to implement Section 5 as part of its competition mission. The first reason arises from a combination of (1) the agency's administrative process advantages and (2) the vague and ambiguous nature of the agency's "unfair methods of competition" authority. Together these two characteristics pose a unique barrier to the application of Section 5 in a manner that consistently benefits rather than harms consumers.

The vague and ambiguous nature of Section 5 is well known. Proposed definitions for what constitutes an "unfair method of competition" have varied substantially over time and belief that the modern FTC has now somehow moved beyond this inherent product of its institutional design are no more than wishful thinking. Indeed, for at least the past twenty years, commissioners from both parties have acknowledged that a principled standard for the application of Section 5 would be a welcome improvement. The lack of institutional commitment to a stable definition of what constitutes an "unfair method of competition" leads to two sources of problematic variation in the agency's interpretation of Section 5. One is that the agency's interpretation of the statute in different cases need not be consistent even when the individual Commissioners remain constant. Another is that as the members of the Commission change over time, so does the agency's Section 5 enforcement policy,

leading to wide variations in how the Commission prosecutes “unfair methods of competition” over time. In short, the scope of the Commission’s Section 5 authority today is as broad or as narrow as a majority of commissioners believes it is.

This uncertainty surrounding the scope of Section 5 is exacerbated by the administrative procedures available to the Commission. Consider the following empirical observation. The FTC has voted out a number of complaints in administrative adjudication that have been tried by administrative law judges in the past nearly twenty years. In each of those cases, after the administrative decision is appealed to the Commission, the Commission has ruled in favor of FTC staff and found liability. In other words, in 100 percent of cases where the administrative law judge ruled in favor of the FTC staff, the Commission affirmed liability; and in 100 percent of the cases in which the administrative law judge ruled found no liability, the Commission reversed.² This is a strong sign of an unhealthy and biased institutional process. By way of contrast, when the antitrust decisions of federal district court judges are appealed to the federal courts of appeal, plaintiffs do not come anywhere close to a 100 percent success rate—indeed, the win rate is much closer to 50 percent. Even bank robbery prosecutions have less predictable outcomes than administrative adjudication at the FTC. One interpretation of these historical data is that the process at the FTC

² See, e.g., David Balto, *Can the FTC be a Fair Umpire?*, THE HILL (Aug. 14, 2013), <http://thehill.com/blogs/congress-blog/economy-a-budget/316889-can-the-ftc-be-a-fair-umpire>; Doug Melamed, Comments to Fed. Trade Comm’n Workshop Concerning Section 5 of the FTC Act (Oct. 14, 2008), available at <http://ftc.gov/os/comments/section5workshop/537633-00004.pdf>

stacks the deck against the parties. Another is that the FTC has an uncanny knack for picking cases; a knack unseen heretofore within any legal institution. I will allow discerning readers to choose the most likely of these interpretations—but suffice it to say the “case selection” theory requires one to also grapple with the fact that Commission decisions, when appealed, are reversed at a rate four times greater than antitrust opinions by generalist federal judges.³

Significantly, the combination of institutional and procedural advantages with the vague nature of the Commission’s Section 5 authority gives the agency the ability, in some cases, to elicit a settlement even though the conduct in question very likely may not be anticompetitive. This is because firms typically will prefer to settle a Section 5 claim rather than to go through lengthy and costly litigation in which they are both shooting at a moving target and have the chips stacked against them. Such settlements also perpetuate the uncertainty that exists as a result of the ambiguity associated with the agency’s “unfair methods of competition” authority by encouraging a process by which the contours of Section 5 are drawn through settlements without any meaningful adversarial proceeding or substantive analysis of the Commission’s authority.

The second principal reason Section 5 has failed to contribute effectively to the Commission’s competition mission is because of the absence of even a minimal level of certainty for businesses. A stable definition of what constitutes an “unfair method of

³ See Joshua D. Wright & Angela M. Diveley, *Do Expert Agencies Outperform Generalist Judges? Some Preliminary Evidence from the Federal Trade Commission*, J. ANTITRUST ENFORCEMENT 1, 16 (2012).

competition” would provide businesses with important guidance about what conduct is lawful and what conduct is unlawful under Section 5. The benefit of added business certainty is less important than ensuring Section 5 enforcement actions—including consents—actually reach and deter anticompetitive conduct rather than chill procompetitive conduct. However, guidance to the business community surely is important. Indeed, the FTC has issued nearly 50 sets of guidelines on a variety of topics, many of them much less important than Section 5, to help businesses understand how the Commission applies the law and to allow practitioners to better advise their clients on how to comply with their legal obligations. Without a stable definition of what constitutes an “unfair method of competition,” businesses must make difficult decisions about whether the conduct they wish to engage in will trigger an investigation or worse. Such uncertainty inevitably results in the chilling of some legitimate business conduct that would otherwise have enhanced consumer welfare but for the firm’s fear that the Commission might intervene and the attendant consequences of that intervention. Those fears would be of little consequence if the agency’s authority was defined and businesses could plan their affairs to steer clear of its boundaries.

Some commentators have asserted that formal agency guidance would too severely restrict the Commission’s enforcement mission.⁴ They warn that defining the

⁴ See, e.g., Sharis A. Pozen & Anne K. Six, *Section 5 Guidelines: Fixing a Problem that Doesn’t Exist?*, 9 CPI ANTITRUST CHRON., Sept. 2013, available at <https://www.competitionpolicyinternational.com/section-5-guidelines-fixing-a-problem-that-doesn-t-exist/>; Edith Ramirez, Chairwoman, Fed. Trade Comm’n, *Unfair Methods and the Competitive Process: Enforcement Principles for the Federal Trade Commission’s Next*

boundaries of the Commission's "unfair methods of competition" authority would achieve stability and clarity only at the expense of creating an enforcement regime that fails to adequately protect competition. These commentators instead urge reliance upon the same case-by-case approach that has garnered success in the context of the traditional antitrust law. Under this view, the scope of the Commission's authority to prosecute unfair methods of competition is best determined by reading the leading cases to identify which enforcement principles the Commission applies when determining whether to prosecute a particular business practice under Section 5.

Although the desire to strike the correct balance between flexibility and certainty is well intended, the so-called common law approach to defining Section 5 is a recipe for unprincipled and inconsistent enforcement and an invitation for an outside institution—the courts or Congress in particular—to define Section 5 for the FTC. The approach of reading a stack of Section 5 consents elicited from parties bargaining in the shadow of the administrative process advantages for the FTC just discussed to decipher its meaning ultimately offers no certainty and results in a boundless standard under which the Commission may prosecute any conduct as an unfair method of competition.

As I have recently written, this is because reliance upon the common law method for developing "unfair methods of competition" law mistakenly assumes that the

Century, Keynote Address at the George Mason Law Review and Law & Economics Center Antitrust Symposium: The FTC: 100 Years of Antitrust and Competition Policy (Feb 13, 2014), *available at* http://www.ftc.gov/system/files/documents/public_statements/314631/140213section5.pdf.

common law virtues that have proved beneficial to the development of the traditional antitrust laws apply equally in the context of Section 5.⁵ They do not. Fundamental differences between the inputs and outputs of traditional litigation and the inputs and outputs of Section 5 enforcement prevent the common law process from generating meaningful guidance for what constitutes an “unfair method of competition.” But you do not have to take my word for it. Indeed, the Commission has employed the so-called case-by-case approach for a century and, to date, Section 5 has not meaningfully contributed to competition policy. In addition to failing to produce any direct and positive influence on antitrust law during that time period, Section 5 cannot point to a single standalone “unfair methods of competition” victory affirmed by a federal appeals court in the modern antitrust era. One hundred years is ample time for a robust natural experiment to evaluate the virtues of the Commissions’ case-by-case approach to Section 5. The results are in. The common law method has proven incapable of generating meaningful guidance as to what constitutes an “unfair method of competition.” To expect better results from the same approach is unwise.

Moreover, as I have already mentioned, the Commission has provided guidance in a number of areas of competition and consumer protection law—many of them far less important than the scope of Section 5—without compromising its enforcement agenda. Consider an obvious example in the arena of competition law, the Horizontal

⁵ See generally Jan M. Rybníček & Joshua D. Wright, *Defining Section 5 of the FTC Act: The Failure of the Common Law Method and the Case for Formal Agency Guidelines*, 21 GEO. MASON L. REV. 1287 (2014).

Merger Guidelines, which explain how the antitrust agencies analyze the likely competitive effects of a merger. Those guidelines have proven to be one of the most significant contributions to antitrust law and policy and have greatly benefited the antitrust agencies, the federal courts, and the business community.

Similarly, in response to Congressional criticism about how the FTC was implementing its consumer protection authority under Section 5, and amidst serious threats of shut down the agency, the Commission issued policy statements explaining how it analyzes whether conduct was unfair or deceptive.⁶ Today the Commission's deception and unfairness policy statements are widely regarded as a major success *and* serve as a key basis for the Commission to more confidently litigate disputes when its authority is challenged. The FTC should be proud of the fact that it has not reflexively refused to place limits on its own discretion when appropriate. Historically, even if at times under some pressure from Congress, the FTC has embraced limits on discretion both in the name of sound policy and to strengthen the foundation of questionable legal authority. Guidance regarding what precisely constitutes an "unfair method of competition" under Section 5 would similarly improve significantly the FTC's competition mission and shore up an obvious weakness in its authority.

⁶ See FTC Policy Statement on Unfairness (1980), appended to Final Order, Int'l Harvester Co., 104 F.T.C. 949, 1070 (1984), *available at* <http://ftc.gov/bcp/policystmt/ad-unfair.htm>; FTC Policy Statement on Deception (1983), appended to Final Order, Cliffdale Assocs., Inc. 103 F.T.C. 110, 174 (1984), *available at* <http://www.ftc.gov/bcp/policystmt/ad-decept.htm>.

II. THE TIME IS RIPE FOR THE FTC TO VOTE ON THE SCOPE OF THE AGENCY'S "UNFAIR METHODS OF COMPETITION" AUTHORITY

Having summarized the case for formal "unfair methods of competition" guidance, let me now turn to the current state of play and what I believe the Commission should do next. The last two years have witnessed what amounts to a healthy and fruitful public comment period on the appropriate scope and role of the Commission's "unfair methods of competition" authority. During that time, members of the antitrust bar, academics, consumer advocates, and business stakeholders have together participated in dozens of panel discussions on Section 5 and penned countless articles debating various proposals. Members of Congress, too, have sent letters to the Commission urging us to act and have even raised the scope of Section 5 as an issue during Congressional hearings.⁷ Commentators have had no shortage of opportunities to weigh in with their views on what the Commission should do with respect to Section 5, as well as to consider and respond to the views offered by others. And this of course only represents the most recent round of commentary, which necessarily builds on decades of scholarship and debate—much of it offered by experts at today's symposium—as well as a formal workshop on the scope of Section 5 organized by Chairman Leibowitz in 2008. I do not know of any topic in competition policy that has

⁷ See Letter from Members of the House and Senate Judiciary Comms. to FTC Chairwoman Edith Ramirez (Oct. 23, 2013), *available at* http://judiciary.house.gov/_files/news/2013/Signed%20Letter%20to%20FTC.pdf; *Hearing on "The FTC at 100: Where Do We Go From Here?"*, Before the Subcomm. on Commerce, Manufacturing, and Trade of the H. Comm. on Energy and Commerce, 113th Cong. 1 (Dec. 3, 2013).

been deliberated more thoroughly before a policy decision has been made than the scope and role of the Commission's "unfair methods of competition" authority.

Significantly, each of my colleagues at the Commission has also voiced, to varying extents, her opinion about the appropriate scope and role of Section 5.⁸ This is a welcome addition to the conversation and one that I do not believe any previous Commission has enjoyed. Importantly, the gap between each Commissioners' views, and indeed the views of an overwhelming majority of commentators generally, appears to be relatively narrow and essentially limited only to the question of how efficiencies should be treated when deciding whether to pursue an enforcement action under Section 5. This is an important milestone and one that I think this Commission should seize upon. I am optimistic that this Commission can finally do what other Commissions have been unable to do: issue agency guidance defining what constitutes an "unfair method of competition" under Section 5. Indeed, as I will elaborate upon in a moment, I believe any of the three primary definitions of an "unfair method of competition" that have been articulated by myself or my colleagues is better than the status quo. As such, if there is consensus within the Commission on any of these three alternative definitions, the Commission ought to vote to adopt that definition for what

⁸ Interview with Commissioner Terrell McSweeney, MONOPOLY MATTERS (ABA Section of Antitrust Law, Unilateral Conduct Comm.), Fall 2014, at 3, 4; Maureen K. Ohlhausen, Comm'r, Fed. Trade Comm'n, Section 5: Principles of Navigation, Remarks before the U.S. Chamber of Commerce (July 25, 2013), *available at* http://www.ftc.gov/sites/default/files/documents/public_statements/section-5-principles-navigation/130725section5speech.pdf; Ramirez, *supra* note 4; Julie Brill, Comm'r, Fed. Trade Comm'n, Remarks at the Technology Policy Institute Aspen Forum (Aug. 20, 2013), *available at* http://youtu.be/9V_YEu1FIAE.

constitutes an “unfair methods of competition.” And, after 100 years without any meaningful guidance on Section 5 and with Congress watching, it ought to do so now.

With this in mind, next week I intend to put each of the three principal definitions for how to define an “unfair method of competition” up for a vote by the Commission. The precise language of the three proposed definitions are attached as an appendix to this speech, which will be available on the Commission’s website later today. The three proposed definitions reflect the three definitions of an “unfair method of competition” contemplated by current Commissioners, including myself. Each proposal includes at its core the element that an “unfair method of competition” under Section 5 requires evidence that the conduct in question “harms or is likely to harm competition significantly” as that term is understood under the traditional federal antitrust laws. Harm to competition is a concept that is readily understandable and that has been deeply embedded into antitrust jurisprudence since the early part of the last century. Each of my colleagues has acknowledged that Section 5 should only be used to prosecute conduct that actually is anticompetitive. This is a significant and welcome area of consensus in light of past commissioners’ efforts to use Section 5 to remedy a variety of social and environmental ills unrelated to competition.⁹ This element

⁹ See Michael Pertschuk, Chairman, Fed. Trade Comm’n, Remarks before the Annual Meeting of the Section of Antitrust and Economic Regulation, Association of American Law Schools (Dec. 27, 1977) (asserting that Section 5 can be used to remedy “social and environmental harms” such as “resource depletion, energy waste, environmental contamination, worker alienation, [and] the psychological and social consequences of producer-stimulated demands”).

prevents the Commission from reverting to considering non-economic factors, such as whether the practice harms small business or whether it violates public morals, when deciding whether to prosecute conduct as an “unfair method of competition.” Significantly, however, this element also allows the Commission to challenge conduct that, for one reason or another, might not fit within established Sherman Act or Clayton Act precedent, and thus might find resistance initially in the federal courts. In doing so, it allows the Commission to leverage its institutional advantages to develop evidenced-based competition policy that can then shape antitrust doctrine in the federal courts.

The second element of each definition that I will offer for a vote is that Section 5 cannot be used to challenge conduct where there is well-forged case law under the traditional federal antitrust laws. The federal judiciary has provided little lasting guidance on the appropriate scope of Section 5. But, as one court has explained, and many current and former commissioners have acknowledged, this requirement ensures that the Commission will not use Section 5 to shop for favorable law to attack conduct governed by the more rigorous requirements of Section 2 of the Sherman Act.¹⁰ Prosecuting the same or similar conduct under disparate standards blurs the lines between lawful and unlawful commercial behavior and invites the Commission to evade advances in antitrust law designed to protect consumers from false positives and

¹⁰ *Boise Cascade Corp. v. FTC*, 637 F.2d 573, 582 (9th Cir. 1980) (stating that where there is “well forged” case law governing the challenged conduct, the Commission cannot prosecute the conduct under Section 5 because doing so might “blur the distinction between guilty and innocent commercial behavior”).

false negatives. Whether well-forged case law exists in any particular case will of course remain within the Commission's discretion, but the requirement nevertheless adds an important measure of stability regarding the agency's "unfair methods of competition" authority.

The area in which each of the three proposed definitions differs is in how efficiencies are treated under Section 5. This is the area in which my colleagues have expressed slightly different preferences. My preferred approach is that Section 5 only be used where there are no cognizable efficiencies present. In my view, where the parties can show cognizable efficiencies the agency is better off challenging the conduct under the traditional antitrust rules that are better designed for balancing. I do not believe the Commission's track record in administrative adjudication—in terms of both substance and process—justifies the view that it has a comparative advantage in cases requiring balancing. I will give my colleagues an opportunity to vote on this proposal, but I will not be surprised if a majority of them view this approach as too restrictive.

The second option incorporates into the definition of "unfair methods of competition" a test my colleague Commissioner Ohlhausen has thoughtfully advocated for as an element of her own policy statement, which requires that any antitrust harm be disproportionate to any cognizable efficiencies.¹¹

¹¹ See Ohlhausen, *supra* note 8, at 10.

The third option requires the Commission to show that the harms are not outweighed by the cognizable efficiencies before bringing an “unfair methods of competition” claim under Section 5. This approach has been pointed to by Chairwoman Ramirez as the appropriate framework to apply for “unfair methods of competition” cases and essentially employs the modern day “rule of reason” when deciding whether conduct violates Section 5.¹² The basic view underlying this definition of an unfair method of competition is that the institutional differences between administrative adjudication and federal court do not require any adjustment to the rule of reason framework. While I do not believe a rule of reason approach is the best available choice, in my view, any of the three potential options I have discussed would be superior to the status quo. Each would create a stable definition for what constitutes an unfair method of competition and tether that definition to modern economics. Accordingly, to be clear, I intend to vote in support of each of these proposals in hopes that one gains the support of a majority of the Commission.

While I am truly hopeful at least one definition of “unfair methods of competition” attracts three votes, I am also acutely aware that optimism in light of a record of a century without guidelines is indulged at my own risk. So what happens next? There are a few possibilities. One possibility is that the Commission defines an

¹² See Ramirez, *supra* note 4, at 8 (“Our most recent Section 5 cases show that the Commission will condemn conduct only where, as with invitations to collude, the likely competitive harm outweighs the cognizable efficiencies.”).

“unfair method of competition” next week. Indeed, my hope is that my colleagues will recognize the important consensus that exists on the scope and role of Section 5 and take a modest step in articulating the agency’s enforcement policy with respect to Section 5 by adopting one of these three proposed definitions.

A second possibility is that a majority of my colleagues choose to vote “no” on each of these proposals. That possibility does not require much in the way of additional explanation. While a “no” vote by the full Commission would be non-public, close observers of the agency will surely take note of the lack of any press release or announcement that the agency at long last has produced Section 5 guidelines.

A third possibility, worse still in my view, is that a majority of Commissioners simply may choose not to vote at all. Under Commission rules, the full Commission need not vote unless and until a majority has formed. Thus, it is possible that my motion finds itself languishing in agency procedural purgatory, because Commissioners are not required to vote. I believe either of these last two possibilities would be a lost opportunity for the FTC and would send the wrong message about the Commission’s desire for Section 5 to live up to its Congressional promise.

III. IF THE COMMISSION FAILS TO ARTICULATE THE SCOPE OF SECTION 5, CONGRESS MAY DEFINE IT FOR THE AGENCY

Not only is the question of what constitutes an “unfair method of competition” particularly ripe for agency action in light of the considerable thought that has been devoted to the issue in recent years, but I also believe that there exists a significant

risk—maybe now more so than at anytime in FTC history—that if the Commission fails to take action to define the scope of the Section 5 soon, Congress may choose to define the statute for the Commission. Indeed, in recent years numerous members of Congress have grown interested in the scope of the Commission “unfair methods of competition” authority and have voiced concerns regarding the absence of any clear standard to which the business community can turn in order to better understand the agency’s enforcement policy. Members of both the Senate and House Judiciary Committees have sent Chairwoman Ramirez a letter urging the Commission to finally provide guidance that would make Section 5 enforcement transparent, fair, predictable, and reasonably stable over time. Other members of Congress have raised questions about the vague and ambiguous nature of Section 5 during recent Congressional hearings. I do not believe this interest should be taken lightly, and continued resistance on the part of the Commission to define the parameters of Section 5 could spur legislative action.

If Congress were to define Section 5, it without question would result in a more restrictive definition of what constitutes an “unfair method of competition” than anything the Commission would implement. Indeed, the simplest and most obvious solution Congress might adopt, and one that would have the added benefit for many of harmonizing the powers of the FTC and the Department of Justice’s Antitrust Division, would be to define an “unfair method of competition” under Section 5 as a violation of the Sherman Act or Clayton Act. A slightly broader, and just as simple solution for

Congress would be to define an unfair method as either a violation of the Sherman Act or Clayton Act or an invitation to collude. A third possibility, and one that attacks the Section 5 problem not from a standpoint of substance but rather of procedure, would be for Congress to remove the Commission's administrative advantages altogether and allow the federal courts to supervise the Commission's use of Section 5 and define the boundaries of what constitutes an "unfair method of competition" when necessary. Although at one point this might have seemed like an unlikely option, recent legislative proposals stripping the agency of its administrative powers in the context of merger challenges in order to align the preliminary injunction standards between the FTC and the Department of Justice suggest that this might not be so farfetched of a possibility.¹³

In short, if the FTC continues to refuse to define what constitutes an "unfair method of competition," it should not be surprised when and if Congress becomes intensely interested in introducing legislation to finally solve a problem created more than a century ago. A solution to the Section 5 problem is inevitable. It is my sincere hope that this Commission seizes the opportunity it has before it now to solve the Section 5 problem on its own terms rather than leaving the solution to Congress.

Thank you for your time. I am happy to take any questions.

¹³ See Brent Kendall, *A Challenge to the FTC Methods*, WALL STREET JOURNAL (Nov. 15, 2014), <http://www.wsj.com/articles/a-challenge-to-ftc-methods-1416184116>; *Hearing on the SMARTER Act of 2014 Before the Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary*, 113th Cong. 2 (Apr. 3, 2014); Joshua D. Wright, Comm'r, Fed. Trade Comm'n, *Judging Antitrust*, Remarks at the Global Antitrust Institute Invitational Moot Court Competition (Feb. 21, 2015), *available at* http://www.ftc.gov/system/files/documents/public_statements/626231/150221judgingantitrust-1.pdf (expressing support for the passage of the SMARTER Act).

APPENDIX

Option 1 – Efficiencies Screen

An “unfair method of competition” is an act or practice (1) that harms or is likely to harm competition significantly, (2) that lacks cognizable efficiencies, and (3) for which there is not well-forged case law under the traditional antitrust laws that might cause the distinction between lawful and unlawful commercial behavior to become blurred.

Option 2 – Disproportionality Test

An “unfair method of competition” is an act or practice (1) that harms or is likely to harm competition significantly, (2) where the harms are disproportionate to the cognizable efficiencies, and (3) for which there is not well-forged case law under the traditional antitrust laws that might cause the distinction between lawful and unlawful commercial behavior to become blurred.

Option 3 – Rule of Reason

An “unfair method of competition” is an act or practice (1) that harms or is likely to harm competition significantly, (2) where the harms are not outweighed by the cognizable efficiencies, and (3) for which there is not well-forged case law under the traditional antitrust laws that might cause the distinction between lawful and unlawful commercial behavior to become blurred.

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ANTITRUST AND COMPETITION NEWS

Q&A With FTC Chair Lina Khan: "The Word 'Efficiency' Doesn't Appear Anywhere in the Antitrust Statutes"

BY GUY ROLNIK June 3, 2022



FTC Chair Lina Khan sat down with Guy Rolnik to discuss changes in governmental posture toward antitrust enforcement, her goals as head of the FTC and much more.

On June 15th, 2021, Lina Khan, a 32 year-old legal scholar, was sworn in as the chair of the Federal Trade Commission. Her appointment by President Joe Biden came as a complete surprise not only because of her young age, but mostly because she was already well-known in Washington and antitrust circles as part of a movement that wants to uproot and transform the way antitrust is enforced in the US. Antitrust scholar and former FTC Chair William Kovacic wrote last summer that with Khan's appointment—along with those of Jonathan Kanter as Assistant Attorney General for the Antitrust Division at the Department of Justice, and Tim Wu's as Biden's special advisor for technology and competition—the United States now stands at the threshold of a major realignment of the competition policy regime.

In 2017, Khan, still in her last year at Yale Law School, was an invited guest and speaker at the Stigler Center's inaugural antitrust and concentration conference. No one could have predicted at that point that in less than five years, she would return to the conference in 2022 as the keynote speaker and Chairwomen of one of the two most important regulatory agencies in the US.

Center Antitrust conference with Chicago Booth Professor Guy Rolnik.

[The following interview has been edited and condensed for length and clarity]

Q: The first time you were here in this room was in March 2017. The title of that inaugural Stigler Conference was “Is There a Concentration Problem in America?” Correct me if I’m wrong, but in DC and in most capitals, this is not a question anymore. But if people would have [asked] me in March 2017, “What are the chances that in 2022 you will be hosting Lina Khan as the chairwoman of the FTC?” my answer would probably be “near zero.” Can you explain what happened in the last five years? How did we get this takeover of the Khan, Kanter, and Wu partnership over Washington?

First of all, let me say it’s so great to be back here, and such an honor to be here with you. I don’t think you would have been alone in making that wager.

Look, I think it’s a remarkable moment. The speed and magnitude of the change that we’ve seen over the last few years is something that I expect historians to be studying for many, many years to come. There [is] a whole set of factors that I think contributed, but at the end of the day, I think the change is being driven by a deep recognition that something has been awry in how we’ve been doing antitrust and that how we’ve been doing antitrust has resulted in, say, a farmer being dependent on a single meat packer and the whims of that meatpacker for their livelihood, or a parent having to ration their child’s insulin—that those types of problems in our economy are connected to the decisions that are being made at the FTC and the DOJ. I think that the basic connection of the dots is something that we’ve seen become much more vivid for people.

I’d be remiss if I didn’t acknowledge the important role of many people in this room in drawing those connections and showcasing the deep problems in our economy, and connecting them to how we’ve been doing antitrust. I think this conference, in particular, played an incredibly important role—including back in 2017 because, at that point, the Stigler conference did a couple of things right. One was it said: Let’s ask the question and let’s look at the evidence; and when we say let’s look at the evidence, let’s broaden our aperture and move beyond just IO and look at a broader variety of methods from a broader variety of disciplines. Let’s look at what the labor economists have been saying, what the macroeconomists have been saying, and what the non-economists have been saying. I think that fresh look at the evidence at that moment in time was incredibly important.

I also think that the Stigler Center as an institution gave credibility and respectability to a set of questions that, even at that moment in time, were not seen as respectable. It’s really important for disciplines to be able to have that healthy type of self-reflection, and I think antitrust over the years had kind of settled into a type of “end of history” moment where there was a sense that the deep contestations and the deep debates had kind of settled and

the margins.

There were some exceptions to that. [Former FTC chair] Bill Kovacic, even back in 1998, predicted that there would be a swinging back of the pendulum. Overall, there had been a distancing from the more existential questions for the field, and I think Stigler did a lot to refocus and say, "No, these are legitimate, important, credible questions for this field."

I'd also be remiss if I didn't acknowledge the incredibly important role of Congress and lawmakers. Something that we saw coincide with the period of deep retrenchment over the last few decades was Congress becoming more of a backseat player in antitrust, and I think we've seen remarkable work by lawmakers across the political spectrum to deeply study the problems in our economy, to start educating the public about those problems, and to start introducing a remarkable series of bills and proposals.

I think those are some of the factors that contribute. Again, this is something that's going to be continued to be studied for some time.

"I think this conference, in particular, played an incredibly important role—including back in 2017 because, at that point, the Stigler conference did a couple of things right. One was it said: Let's ask the question and let's look at the evidence."

Q: In your writing and your research, in law school and Open Markets, you started to develop a theory of what happened to antitrust in the last 30-40 years and why antitrust enforcement had declined. Now that you are almost a year at the helm of the FTC, or down in the trenches really [having] to deliver on those promises, has your perspective on what happened to antitrust changed?

I think the basic story remains the same: there were a set of policy changes and policy choices that were made that led to significant retrenchment in how we do antitrust, and that contributed to a whole set of harms. On the ground floor, you see a whole set of realities at the institution in terms of the severe mismatch between the job that Congress has given to the agency and the set of resources that it has available. By some metrics, staffing at the agency is lower today than it was back in the 1980s.

I think for a place like the FTC, there's also a way in which the ghost of the 70s can loom large in the building. There's a very standard account that's often given of what happened in the 70s and what to learn from it, and it goes something like, "Here you had this agency, it acted boldly, tried to do a lot, and that triggered an enormous political backlash in ways that led to efforts to defund the agency," and that that's a cautionary tale for us where we really need to

course, learning the lessons from that period. But I think every moment has a different mandate. In the same ways that antitrust enforcers talk about type one versus type two errors and the cost of action and inaction, I think we need to have that conversation at the institutional level as well, where decades of actual under-enforcement has severe institutional costs as well—kind of rebalancing how we do the analysis. Because inaction means that Congress can start seeing you as irrelevant. The public can lose faith in institutions, and that can also lead to certain types of neglect in ways that have deep institutional costs. Rebalancing how we think about the tradeoffs between action and inaction and realizing that there are severe costs under-enforcement and inaction, I think, is something that is something that within the building we're thinking a lot about as well.

Q: There was a ton of discussion here about what's going to happen with the courts, if courts are going to be a significant barrier to your new agenda. AAG Kanter said that he's not worried as much about losing cases because he's not a member of "the Chickenshit Club." Do you think if you lose multiple cases but still convince the public or maybe legislators that there needs to be a legislative change, you're still winning? Do you subscribe to this?

I'm certainly not somebody who thinks that success is marked by a 100 percent court record. I think, as public enforcers, we have a special obligation to be bringing the hard cases. I think it's also really important to be having the institutional dialogue among the three branches. If the antitrust agencies look at the market and think that there's a law violation and the current law might make it difficult to reach, there's a huge benefit to still trying, especially with some of the bigger companies, some of the more high-profile cases. Because if you don't try, the message that sends out to the world is that the enforcers don't think there's a problem in the market. Whereas if you try, even if you lose, that then creates the message for Congress to know, "Hey, here are these law enforcers, they recognize there's a problem here, the current law is not adequate for them to reach it, so let's change the law."

I think that type of institutional dialogue among the three branches is incredible. If instead, as enforcers, you think these are really hard cases, we recognize that there's an enormous risk with bringing them, we don't want to make the law worse, and so you just never bring those hard cases, I think there are severe costs to that that can lead to stagnation and stasis.

Q: You have a very ambitious agenda and limited resources, or even maybe limited time, considering what might happen in politics. So maybe one of the ways to consolidate gains is by creating real deterrence in the market. So how do you determine which [of the] cases that you pick are worth fighting because winning them will send a strong message to the market?

It's an incredibly important question and one that we've been given a lot of thought to, given the limited resources and given the importance of promoting deterrence. Oftentimes, we're just looking at where is the most harm happening. Oftentimes, that involves some of the biggest companies and the biggest players.

I think one area where we've seen success is in our merger enforcement work, where over the last few months we've seen significant victories, including in the context of vertical mergers. The FTC challenged in the last few months both the Nvidia-Arm merger and the Lockheed-Aerojet merger, both vertical transactions in both instances, the parties ended up abandoning, which is enormously significant if you think about how even a few years back, when the DOJ challenged that AT&T-Time Warner merger, the atmospherics around that was that was quite radical, the antitrust agencies hadn't brought a vertical challenge in many decades. They ended up losing there, but the fact that we've gone from that outcome then to instances in which the FTC's filing a complaint in these vertical challenges [is] leading companies to abandon, I think, shows remarkable progress. I also think the fact that we challenged Lockheed-Aerojet, in particular, sent a very strong message [to] the defense industry, where for years, the approach has instead been to allow the consolidation to happen to accept settlements and remedies that, in hindsight, I don't think have been as strong. So being able to take that type of action ended up sending an important message that we're not going to be settling for weak remedies. There are some deals that are illegal and can't be remedied, and in those instances, they need to be blocked.

"I think as public enforcers, we have a special obligation to be bringing the hard cases."

Q: Going back to "terrifying rhetoric," you and AAG Kanter believe that it's time to go back to criminal investigation and enforcement. I know this is the DOJ's purview, but probably your attitude towards it will also carry weight. Do you think that agencies should pursue more criminal investigations, maybe even name the names of executives when they are suing companies?

Yes, absolutely. Last fall, we took some steps to strengthen our ability to more regularly and routinely refer criminal cases to the Justice Department. So that's something that we have underway. We also recently had great success in actually naming an individual in one of our antitrust cases: Martin Shkreli. This was a case that was initiated under my predecessor. In the fall, we ended up settling with a whole bunch of defendants but ended up deciding to actually continue to go to trial on the case against Martin Shkreli personally, and we ended up getting a terrific outcome in January, where we ended up getting a lifetime ban on Shkreli from the pharmaceutical industry, as well as a whole set of additional relief. So I think naming individuals is incredibly important. I'd also be remiss if I didn't recognize here the work of former commissioner and now CFPB director Rohit Chopra, who has given an enormous amount of thought to how you deter law-breaking and, in particular, how you craft remedies to deal with recidivism. He gave an incredibly important speech a few weeks ago at Wharton that lays out some additional tactics, and I think that type of worldview is also informing how we're looking at these things.

Q: You said that Martin Shkreli was banned for life from pharmaceuticals. Do you think that on top of structural remedies, or governance remedies, at some point, we will see agencies, let's say, banning Mark Zuckerberg from going on social networks or limiting his screen time?

I think the industry ban we were able to secure in the Shkreli case is enormously important and somewhat precedent-setting in the antitrust context. The way I think about remedies, and the traditional way to think about remedies, is that there are at least three goals. The immediate goal is to stop the illegal conduct and to stop the recurrence of that conduct. A second goal is to cure the harm that's occurred through the underlying illegal conduct, the harm both to the market as well as to the victims of that conduct. The third is to really disincentivize further law-breaking.

With each of those prongs, we're thinking about how we can be more effective. On the first—stopping the law-breaking—I think we need to act in a more timely manner. We need to be going into court more quickly; we need to be seeking preliminary injunctions. On the consumer protection side, the FTC, a few weeks ago, filed a lawsuit against TurboTax on the consumer protection side, alleging that TurboTax had been showing all these ads that are allegedly deceptive, and that it was really important to get that relief ahead of Tax Day. I think that type of timely intervention and timely filing of lawsuits is incredibly important.

Thinking about how you actually cure the underlying harm is incredibly important. There's this really terrific quote from Justice Robert Jackson where he says that the goal of antitrust lawsuits must really be to pry open the competitive market that had been closed shut by the illegal conduct. Thinking about how you actually do that prying opening of the market, especially in the context of some of these digital markets, is incredibly important, where you need to make sure that some of the illegal gains that were obtained through the illegal conduct—certain types of data, certain types of scale that were achieved through basically determining that unlawful conduct was worth the cost of business because it might help you tip the market or achieve a greater market share—that those are types of business strategies, incentives that we really need to be studying in order to be able to undo the harm, similar with making sure that the victims of that conduct are fully compensated.

The third prong—thinking about how we should be disincentivizing law breaking to begin with—gets into the category of preventing recidivism, thinking about the structure or relief, the relief with regards to individual executives, governance level changes that are incredibly important as well.

Q: At this time of polarization, identity politics, and culture wars, how do you convince the average American that FTC and DOJ policies and actions are very important to their lives?

Yes, it's a great question. And I think in many ways that work has already been done. I think there's already wide recognition that the decisions that are being made in these buildings

whether people do or don't have access to affordable medicines.

We've been doing a few things at the FTC to make sure that we are encouraging and enabling more participation. We've started to do these open monthly meetings, where we have items on the agenda, but we also have a portion of the meeting where people can just sign up and come speak to us, tell us about problems that they're seeing in the marketplace, problems that they think should be on our radar. It's been really terrific to be able to hear regularly from people who are not in Washington, DC, about the types of problems that they're seeing in marketplaces.

We are government officials, we are public servants, we serve the public, and so we need to very actively be listening to the public, learning from the public. I think those types of forums have been really incredibly important. As we do the revision of the merger guidelines, we've also been doing these listening forums where we are inviting market participants who are not the types to be able to hire law firms to write the 100-page submissions to the agencies but really have deep expertise from their own day-to-day experience in these markets, to be able to share with us what they're seeing. A few weeks ago, we did one focused on the healthcare industry, where we heard from physicians who could attest to the effects of private equity roll-ups of physician practices. We heard from nurses, we heard from independent pharmacists, as well as from patient advocates who could share with us their real-world experience, having lived through mergers and acquisitions and the types of harms that those have created.

So I think some of this work is already being done, and people are already realizing how the kind of day to day realities that they're living connect to the decisions being made by antitrust enforcers, but I think there's certainly a lot that the agencies can also be doing to actively encourage and welcome that type of regular public input. It's something that's incredibly important to me, and I think we've already seen some great success in terms of being able to shape our work based on what we're hearing.

Some of the most significant input that we've gotten at our open commission meetings has been from patient advocates, people in particular who come and talk to us about the way in which the price of insulin has surged over the last few years, ways that are leading people to ration their medicine, oftentimes leading to bad health outcomes, even death. We've also heard a lot from independent pharmacists, who have been alleging that the practices of the pharmacy benefit managers are basically squeezing out the pharmacies. So a lot of the input that we received there has basically gone into shaping a study that we hope to be able to do on pharmacy benefit managers, as well as internally how we're thinking about some of our enforcement strategy. So we're really expecting that there's going to be a feedback loop between what we're hearing from people and how that's directly informing our work.

Q: One of the issues that we discussed a lot today is that maybe there is a tradeoff between efficiency and democracy? If you are a hardcore New Brandeisian, you think the most

important thing is democracy. If you are more moderate, you think about tradeoffs with efficiency. Where do you stand on that?

The word efficiency doesn't appear anywhere in the antitrust statutes. They're really written to, in the FTC's case, allow the FTC to police unfair methods of competition. Implicit in that prescription is the idea that there are illegitimate forms of competition and legitimate forms of competition, and it's really up to the FTC to be defining what is fair and what is unfair when it comes to competition. It's not that any business practice that increases welfare or increases efficiency is fine. It's really this conception of unfair methods of competition. Embedded within that is a task for the agency to be defining that.

There's a lot of interest right now in having us think about the proliferation of noncompetes in labor contracts. I think we hear a lot of arguments from firms around why those might be efficient in terms of enabling investment, enabling training. I think we've also seen tradeoffs in terms of the type of restrictions that they placed on workers' liberties. I think that's a side where you see some of those arguments made. But I think ultimately, even within the language of the antitrust statutes, as established, we don't see some type of preference given to efficiency over democracy—it's really focused on competition, and in the FTC's case, unfair methods of competition.

"THE WORD EFFICIENCY DOESN'T APPEAR ANYWHERE IN THE ANTITRUST STATUTES."

Q: One of the issues we discussed here is the question of bigness per se. I think it was Fiona Scott Morton who said that if we think we have a problem with bigness per se, maybe we should have laws on the book that limit size. Say, once you get to a trillion-dollar market cap, we break you up. So how does the FTC, given the current laws, view, bigness per se? For instance, a very large conglomerate goes out and buys a large operating company. On the face of it, there are no horizontal or vertical issues her, but yet we see a \$2-3 trillion company gobbling up more and more companies in other industries. How do you view that?

I mean, I think on the first question, there's no doubt that indicators of concentration, consolidation, size, those can oftentimes be proxies for market power, and where market power exists is where market power can be exploited and used in an unlawful way. Focusing on the areas where we see some of the most significant incumbents and instances in which they've been able to maintain dominant positions over a long period of time, I think that can often be a fruitful area to focus on.

This question of conglomerates is incredibly interesting. There was a really robust discussion and engagement with conglomerates back in the 60s and 70s, where the agencies were thinking about law enforcement theories, what happens when you see this type of

Some of those discussions then fizzled out because I think we saw certain diseconomies of scale that hit, and we saw the dissipation of the traditional industrial conglomerate back in the 60s, 70s, and 80s.

I think what we now see, especially in the digital context, is that those diseconomies of scale don't hit in the same way—they either hit at a much later scale or just, you know, might not come into the picture at all. That really invites us to engage with this conglomerate question. We might not think it's worth calling it conglomerate, maybe some of the dynamics are a little different, but the types of instances where we see individual firms establish positions across markets, across sectors invites scrutiny. One thing that we're trying to do with the revision of the merger guidelines is to determine what should we as enforcers be thinking about when we encounter situations like this because, as of right now, this is a somewhat understudied topic in the context of our new economy.

Q: Next year, we'll convene here again, and hopefully, you will be here again to answer questions. Can you offer us a metric to assess your success at that point, after two years at the helm of the FTC?

I think it goes back to what I said earlier: are these agencies really showing the country and showing the public that we're willing to take on the fights that matter, the big fights? Again, that's not always going to translate into universal victories in the courts, but I think it's certainly a commitment, a mandate that we feel. I think these types of windows of opportunity where there's deep public hunger for change create enormous responsibility for us to respond and act, and I think that's going to be an important metric for us.

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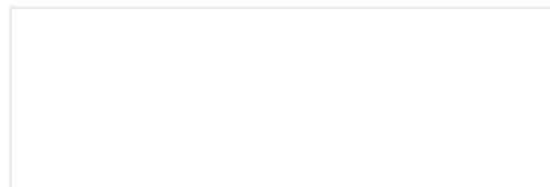
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FTC Pursues TurboTax Fraud Case Despite Supreme Court Mauling

By [Josh Sisco](#)[Share article](#)

Jan. 20, 2022 8:00 AM PST

For three years, the Federal Trade Commission and state attorneys general have tried to exact financial and other penalties from Intuit, maker of TurboTax. The case stems from the company's decision—first reported by [ProPublica](#)—to not inform millions of paying, low-income TurboTax customers that they could use the app to file their taxes for free.

Now, despite a unanimous decision last year by the U.S. Supreme Court to curtail the FTC's ability to extract penalties in consumer fraud cases, the agency, led by Lina Khan, is pressing ahead with investigations of Intuit and others anyway. Khan's implied threat to Intuit: If it doesn't settle the allegations, the agency could make the case go to trial, generating another series of bad headlines for the company, currently valued at \$150 billion.

THE TAKEAWAY

- Court limited FTC power to seek consumer fraud penalties
- Intuit then rejected FTC settlement offers in TurboTax case
- An FTC commissioner voted to sue Intuit

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The situation Khan finds herself in with Intuit is a reminder that one of the biggest challenges of her tenure will likely be the courts, not just political opposition from other commissioners or internal resistance among longtime agency lawyers to some of her plans. Already, a federal judge threw a wrench into the agency's case seeking to break up Facebook, though the FTC's lawyers have since resolved the judge's complaints after enduring **embarrassing headlines** over the matter.

Following the unanimous high court **opinion** in April 2021 that overturned an FTC victory in a consumer fraud trial against a usurious cash advance lender, the agency has sought to settle with Intuit twice, according to two people with knowledge of the probe. The company rejected both offers, in part because of its newfound leverage in the wake of the Supreme Court decision, the people said. The terms of the FTC's proposed settlements with Intuit couldn't be learned. Since then the company and agency have been in talks to resolve the matter. (Khan also is coordinating the case with a group of state attorneys general who have the statutory power to exact monetary penalties from the company.)

In the wake of the Supreme Court decision, the FTC has shown it still has the ability to reach settlements with other consumer-fraud defendants who would rather pay up than face more public scrutiny in a trial. That was the case with LendingClub, which in July **agreed to pay \$18 million** to settle allegations it deceived consumers with hidden fees and lied about loan approvals. The company did not admit wrongdoing, but agreed to a settlement under the same provision the Supreme Court had invalidated four months earlier.

Intuit's critics say its conduct with TurboTax is a prime example of predatory behavior that should be punished. The company allegedly steered low-income taxpayers toward the paid version of TurboTax rather than the free version, which they could use under a Free File program backed by the U.S. Internal Revenue Service. According to ProPublica, Intuit went so far as to prevent the free, government-backed version of TurboTax from surfacing in Google search results. In June last year, the **agency sent Intuit a draft lawsuit** against the company, alleging that tactic was an "unfair or deceptive practice" under the law. (Agency

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staff typically share draft lawsuits with targets of consumer fraud probes in the hopes of

extracting a settlement instead of going to trial.)

Unusual Vote

Further underscoring how seriously at least some at the agency felt about the Intuit case, in October, then-FTC commissioner Rohit Chopra sought a formal vote among the agency's five commissioners to file a lawsuit against the company, according to two people with knowledge of the situation. Besides Chopra's vote in favor of a suit, it isn't clear what the other commissioners did. Chopra's move was unusual because Intuit hadn't been given the chance to persuade commissioners to drop the matter—a standard practice before they vote on whether to file a lawsuit.

For its part, Intuit says it did nothing wrong and had no obligation to market its free TurboTax product. But the company still hopes to settle if it can't convince regulators to drop the case altogether, one of the people said.

"The IRS's rules for the program are clear: participants like Intuit have no obligation whatsoever to market the software they donate to the Free File program, and they are free to engage in commercial activity in the same manner as if they did not participate in the program," Intuit said in a [2020 filing](#) with the FTC, in which the company unsuccessfully tried to narrow the scope of the agency's investigation.

A spokesperson for Intuit did not have a comment. FTC spokesperson Lindsay Kryzak declined to comment. A spokesperson for the Consumer Financial Protection Bureau, which Chopra now leads, did not respond to a request for comment.

Arbitration Wins

In addition to confronting FTC and state investigations, Intuit also faced a federal class action lawsuit from customers, which it has since settled for an undisclosed amount, as well as thousands of individual claims that are now in arbitration. So far Intuit has won about 80% of the arbitration proceedings, which pit individual TurboTax customers against the

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company, according to a person familiar with the matter. The exact number of cases couldn't be learned. Los Angeles and Santa Clara county officials are also suing the company over its TurboTax conduct.

When it came to federal action against Intuit, the company's position was buoyed by the Supreme Court ruling, which said the FTC didn't have the authority to extract financial penalties from companies in most instances. For decades the FTC had used an obscure provision of the FTC Act to win billions of dollars in restitution and fines in consumer protection cases. The high court ruled, however, that the provision only allows the FTC to stop conduct and that it says nothing about financial penalties.

The ruling threw the agency's consumer fraud probes into disarray, according to people with knowledge of its caseload. "The Supreme Court ruled in favor of scam artists and dishonest corporations, leaving average Americans to pay for illegal behavior," then-acting FTC chair Rebecca Kelly Slaughter said at the time. Slaughter, Khan and other FTC commissioners have repeatedly urged Congress to step in and restore the FTC's penalty authority. President Joe Biden's Build Back Better economic legislation would have given the FTC the authority to fine companies the first time they break the law, but it doesn't seem likely to pass anytime soon.

Further complicating the FTC's case against Intuit is the company's recent decision to withdraw from the IRS Free File program. Court-ordered injunctions are meant to stop future conduct. Now that Intuit is no longer offering the service, it could be more difficult for the FTC to win an injunction.

Josh Sisco is a reporter covering antitrust and other regulatory and legal issues facing the tech and media industries. He is based in Oakland, Calif. and can be found on Twitter @joshua_sisco. Contact him on Signal at 707-695-4512.

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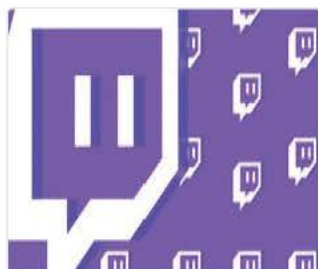
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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney**

In the Matter of

**1-800 Contacts, Inc.,
a corporation**

Docket No. 9372

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that 1-800 Contacts, Inc. (“1-800 Contacts”), a corporation, hereinafter sometimes referred to as “Respondent,” has violated the provisions of said Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Nature of the Case

1. This action challenges a series of bilateral agreements between 1-800 Contacts and numerous online sellers of contact lenses that prevent the parties from competing against one another in certain online search advertising auctions. The driving force behind these agreements and this anticompetitive scheme is 1-800 Contacts, the largest online seller of contact lenses in the United States.
2. The major online search engine companies, Google and Bing, sell advertising space on their search engine results pages through computerized auctions. Beginning in 2004, 1-800 Contacts secured agreements with at least fourteen competing online sellers of contact lenses providing that the parties would not bid against one another in certain search advertising auctions (the “Bidding Agreements”). As 1-800 Contacts engineered this bid allocation scheme, certain auctions are reserved to 1-800 Contacts alone.
3. These bidding agreements unreasonably restrain both price competition in search advertising auctions and the availability of truthful, non-misleading advertising. The Bidding Agreements individually and in combination constitute an unfair method of competition and violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

Respondent

4. Respondent 1-800 Contacts is a corporation organized, existing, and doing business under and by virtue of the laws of the United States, with its office and principal place of business located at 261 Data Drive, Draper, Utah, 84020.

Jurisdiction

5. At all times relevant herein, 1-800 Contacts has been, and is now, a corporation as “corporation” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
6. The acts and practices of 1-800 Contacts, including the acts and practices alleged herein, are in commerce or affect commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

Overview of Online Search Advertising

7. Search engines, including Google and Bing, are available to users of the internet without charge. This service is financed primarily through the sale of search advertising. Search advertising refers to the paid advertisements that appear, in response to a search query, on the search engine results page above or adjacent to the unpaid “organic” or “natural” results. Attached hereto as Exhibit 1 is a screen shot showing a Google search engine results page that appeared in response to a query on June 27, 2016, for “1 800 Contacts cheaper competitors.” The first listing in this screen shot, which is preceded by a yellow box containing the text “Ad,” is a paid advertisement (for 1-800 Contacts). The remaining results on the page are unpaid organic results.
8. Search advertising is especially valuable to advertisers because, unlike with other forms of advertising, an advertiser can deliver a message to a user at the precise moment that the user has expressed interest in a specific subject, and may be ready to make a purchase. For example, a seller of contact lenses (or any of a wide variety of products and services advertised online) can display its advertisement to a user who, milliseconds earlier, entered the search query “contact lenses” (or for another product or service).
9. Search advertising is also especially valuable to internet users because a user can quickly and easily navigate between the search engine results page and the websites of several different advertisers (e.g., visiting several different websites that sell contact lenses). In this way, the user can readily compare price and service, purchase the desired merchandise, and arrange for delivery.
10. Search engine companies sell advertising space on the search engine results page by means of auctions. A separate and automated search advertising auction is conducted each time a user enters a query.

- a. Advertisers submit to the search engine companies “bids” specifying the maximum price they are willing to pay to place a particular advertisement on the results page.
 - b. An advertiser may identify the auctions that it wishes to enter by bidding on particular words, referred to as “keywords,” contained in a given query. Alternatively, the advertiser may allow the search engine company, through its algorithms, to identify relevant auctions for the advertiser (thus participating in auctions for relevant queries even without having bid on the precise terms in those queries).
 - c. When a consumer enters a search query, an algorithm instantly evaluates the relevant bids. The winner or winners of the auction will have their advertisements displayed to the user. If the user clicks on an advertisement and visits the advertiser’s website, then the advertiser pays a fee to the search engine company.
11. Search engine companies do not simply place advertisements on the search engine results page in the order of the price bid by the advertiser. Rather, in determining whether and in what order to place advertisements, search engines employ sophisticated algorithms that consider the quality of the advertisement. Quality, in this context, refers to the search engine’s assessment of whether the advertisement will be relevant and useful to the user. The search engine makes this assessment based largely on the search engine’s continual analysis of user feedback (such as click-through data), which is incorporated, in real-time, into the algorithms that determine which advertisements, if any, will be shown. The search engine demotes or eliminates advertisements that prove, based on user feedback, not to be relevant or useful to users.
12. Computer users sometimes enter a search query that contains a trademarked word or phrase (*e.g.*, “1-800 Contacts,” “Mattress Discounters,” “POLO shirt”). In response, the search engine may present the user with relevant advertisements on behalf of multiple companies, including but not limited to the owner of the trademark.
13. An advertiser also may specify to the search engine one or more “negative keywords.” This is an instruction that the company’s advertisement should *not* appear in response to a search query that contains a particular term or terms. For example, a business that sells eyeglasses and bids on the term “glasses” in search advertising auctions may use a negative keyword (*e.g.*, “wine”) to prevent its advertisement from being displayed in response to a query for “wine glasses.”

Competition in the Online Retail Sale of Contact Lenses

14. 1-800 Contacts has long been the largest online seller of contact lenses in the United States. In 2015, 1-800 Contacts had revenues of approximately [REDACTED] million. This represents approximately 50 percent of the online retail sales of contact lenses. The combined share of 1-800 Contacts and the fourteen firms that executed the Bidding Agreements is approximately 80 percent.
15. 1-800 Contacts was a pioneer in the online sale of contact lenses. However, by the early 2000s, a number of competing online retailers had emerged and were expanding rapidly. Online rivals invested in search advertising and competed directly against 1-800 Contacts in search advertising auctions. These online rivals undercut 1-800 Contacts' prices for contact lenses, many by a substantial amount.
16. As early as 2003, 1-800 Contacts recognized that it was losing sales to lower-priced online competitors. However, 1-800 Contacts did not want to lower its prices to compete with these rivals, and devised a plan to avoid doing so. To this day, 1-800 Contacts' prices for contact lenses remain consistently higher than the prices of its online rivals.

The Bidding Agreements

17. In or around 2004, 1-800 Contacts began sending cease-and-desist letters to rival online sellers of contact lenses whose search advertisements appeared in response to user queries containing the term "1-800 Contacts" (or variations thereof). 1-800 Contacts accused its rivals of infringing its trademarks.
18. 1-800 Contacts claimed—inaccurately—that the mere fact that a rival's advertisement appeared on the results page in response to a query containing a 1-800 Contacts trademark constituted infringement. 1-800 Contacts threatened to sue its rivals that did not agree to cease participating in these search advertising auctions.
19. Most often, rivals quickly acceded to 1-800 Contacts' demands in order to avoid prolonged and costly litigation. Only one competitor refused to settle and proceeded to litigation.
20. Between 2004 and 2013, 1-800 Contacts entered at least fourteen agreements with rival online sellers of contact lenses settling 1-800 Contacts' purported trademark claims by restricting bidding in search advertising auctions. The competitors that agreed not to bid against 1-800 Contacts include:



21. The Bidding Agreements go well beyond prohibiting trademark infringing conduct. They restrain a broad range of truthful, non-misleading, and non-confusing advertising.
22. All fourteen Bidding Agreements bar 1-800 Contacts' competitor from bidding in a search advertising auction for any of 1-800 Contacts' trademarked terms (*e.g.*, "1-800 Contacts") or variations thereof (such as common misspellings).
23. All fourteen Bidding Agreements are reciprocal, barring 1-800 Contacts from bidding for the competitors' trademarked terms or variations thereof. Notably, most of the competitors that entered into these Bidding Agreements had never raised trademark infringement claims or counterclaims against 1-800 Contacts.
24. Thirteen of the Bidding Agreements also require 1-800 Contacts' competitor to employ "negative keywords" directing the search engines not to display the competitor's advertisement in response to a search query that includes any of 1-800 Contacts' trademarked terms or variations thereof, even if the search engines' algorithms determine that the advertisement would be relevant and useful to the user. Thus, even if a user enters a query for "1-800 Contacts **cheaper competitors**," the user will see advertisements only for 1-800 Contacts. (See Exhibit 1.) This undertaking is also reciprocal, requiring 1-800 Contacts to employ its competitors' trade names and variations thereof as negative keywords in its own advertising campaigns.
25. 1-800 Contacts has aggressively policed the Bidding Agreements, complaining to competitors when the company has suspected a violation, threatening further litigation, and demanding compliance.

26. Only one online seller of contact lenses—Lens.com—did not settle with 1-800 Contacts. Instead, Lens.com litigated against 1-800 Contacts at significant expense. Ultimately, the Court of Appeals for the Tenth Circuit rejected 1-800 Contacts’ trademark infringement claims. The court found that consumers were not confused when an advertisement for Lens.com appeared on the search results page in response to a user query for “1-800 Contacts.” *See 1-800 Contacts, Inc. v. Lens.com, Inc.*, 722 F.3d 1229, 1245-49 (10th Cir. 2013). And, in the absence of the likelihood of consumer confusion, there can be no infringement of 1-800 Contacts’ trademarks.
27. 1-800 Contacts targeted rivals whose advertisements appeared on the search engine results page in response to a user query for “1-800 Contacts” or variations thereof. 1-800 Contacts acted without regard to whether the advertisements were likely to cause consumer confusion or infringed 1-800 Contacts’ trademarks.

Anticompetitive Effects of the Bidding Agreements

28. One relevant product market or line of commerce in which to analyze the competitive effects of 1-800 Contacts’ challenged conduct is no larger than the sale of search advertising by auction in response to user queries signaling the user’s interest in contact lenses, or smaller relevant markets therein.
29. A second relevant product market or line of commerce in which to analyze the competitive effects of 1-800 Contacts’ challenged conduct is no larger than the retail sale of contact lenses, or smaller relevant markets therein, including the online retail sale of contact lenses.
30. The relevant geographic market for each product market alleged herein is no larger than the United States.
31. Respondent’s conduct, as alleged herein, had the purpose, capacity, tendency, and likely effect of restraining competition unreasonably and injuring consumers and others in the following ways, among others:
 - a. Unreasonably restraining price competition in certain search advertising auctions;
 - b. Distorting prices in, and undermining the efficiency of, certain search advertising auctions;
 - c. Preventing search engine companies from displaying to users on the results page the array of advertisements that are most responsive to a user’s search;
 - d. Impairing the quality of the service provided to consumers by search engine companies, including the results page;

- e. Depriving consumers of truthful and non-misleading information about the prices, products, and services offered by online sellers of contact lenses;
 - f. Depriving consumers of the benefits of vigorous price and service competition among online sellers of contact lenses;
 - g. Preventing online sellers of contact lenses from disseminating truthful and non-confusing information about the availability of, and prices for, their products and services;
 - h. Increasing consumers' search costs relating to the online purchase of contact lenses; and
 - i. Causing at least some consumers to pay higher prices for contact lenses than they would pay absent the agreements, acts, and practices of 1-800 Contacts.
32. As horizontal agreements that restrain price competition and restrain truthful and non-misleading advertising, the Bidding Agreements are inherently suspect. Furthermore, the Bidding Agreements are overbroad: they exceed the scope of any property right that 1-800 Contacts may have in its trademarks, and they are not reasonably necessary to achieve any procompetitive benefit. Less restrictive alternatives are available to 1-800 Contacts to safeguard any legitimate interest the company may have under trademark law.

Violations Alleged

33. As set forth above, 1-800 Contacts agreed to restrain competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.
34. The acts and practices of Respondent, as alleged herein, constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45. Such acts and practices, or the effects thereof, will continue or recur in the absence of appropriate relief.

NOTICE

Notice is hereby given to the Respondent that the eleventh day of April, 2017, at 10:00 a.m., is hereby fixed as the time and Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Washington D.C. 20580, as the place when and where a hearing will be had before an Administrative Law Judge of the Federal Trade Commission, on the charges set forth in this complaint, at which 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 the complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the fourteenth (14th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall 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 knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall 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 shall 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 § 3.46 of said Rules.

Failure to file an answer within the time above provided shall be deemed to constitute a waiver of your right to appear and to contest the allegations of the complaint, and shall 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 shall hold a prehearing scheduling conference not later than ten (10) days after an answer is filed by 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, N.W., Washington DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within five days of receiving the answer of Respondent, to make certain initial disclosures without awaiting a formal discovery request.

NOTICE OF CONTEMPLATED RELIEF

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the Respondent has violated or is violating Section 5 of the FTC Act, as amended, as alleged in the complaint, the Commission may order such relief against Respondent as is supported by the record and is necessary and appropriate, including, but not limited to:

1. Ordering Respondent to cease and desist from the conduct alleged in the complaint to violate Section 5 of the FTC Act, and to take all such measures as are appropriate to correct or remedy, or to prevent the recurrence of, the anticompetitive practices engaged in by Respondent, or similar practices.
2. Prohibiting Respondent from, directly or indirectly, maintaining, entering into, or attempting to enter into, an agreement with any contact lens retailer that restrains participation in or otherwise restrains competition in any search advertising auction.
3. Prohibiting Respondent from, directly or indirectly, maintaining, entering into, or attempting to enter into, an agreement with any contact lens retailer to forbear from disseminating truthful and non-misleading advertising.
4. Prohibiting Respondent from, directly or indirectly, enforcing, attempting to enforce, or threatening to enforce any provision of an agreement that restricts bidding for search advertising or that restricts the display of advertisements in response to certain user search queries, or any provision of an agreement requiring the use of negative keywords in search engine advertising.
5. Prohibiting Respondent from filing or threatening to file a lawsuit against any contact lens retailer alleging trademark infringement, deceptive advertising, or unfair competition that is based on the use of 1-800 Contacts' trademarks in a search advertising auction. *Provided, however,* that Respondent shall not be barred from filing or threatening to file a lawsuit challenging any advertising copy where Respondent has a good faith belief that such advertising copy gives rise to a claim of trademark infringement, deceptive advertising, or unfair competition.
6. Ordering Respondent to submit at least one report to the Commission sixty days after issuance of the Order, and other reports as required, describing how it has complied, is complying, and will comply in the future.
7. Requiring, for a period of time, that Respondent document all communications with settlement parties, including the persons involved, the nature of the communication, and its duration, and that Respondent submit such documentation to the Commission.

8. Ordering Respondent, for a period of time, to file annual compliance reports to the Commission describing its compliance with the requirements of the order. The order would terminate twenty years from the date it becomes final.
9. Requiring that Respondent's compliance with the order may be monitored at Respondent's expense by an independent monitor, for a term to be determined by the Commission.
10. Any other relief appropriate to prevent, correct or remedy the anticompetitive effects in their incipency of any or all of the conduct alleged in the complaint.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this eighth day of August, 2016 issues its complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

Exhibit 1

The screenshot shows a Google search results page in a web browser. The browser's address bar displays the URL: https://www.google.com/?gws_rd=ssl#q=1-800+Contacts+cheaper+competitors. The search bar contains the text "1-800 Contacts cheaper competitors". The search results are displayed below the search bar, showing approximately 1,150,000 results in 0.63 seconds.

The first search result is an advertisement for 1800CONTACTS.com - Lenses. The ad includes the website URL www.1800contacts.com/, a 4.7-star rating, and a list of services: "We Have Your Lenses in Stock & Ready to Ship. Crazy Fast Delivery!", "Free lens replacement - 24/7 Customer service - We price match - Easy ordering", and "Ratings: Shipping 10/10 - Website 10/10 - Prices 10/10 - Customer service 9.5/10". The ad also mentions "Air Optix", "Easy Re-Order", and "Use Your Vision Insurance".

The second search result is a link to "Where To Buy Contact Lenses - AllAboutVision.com" with the URL www.allaboutvision.com/ContactLenses. The text below the link states: "But many eye doctors offer contacts at very competitive prices, especially if you purchase a year's supply of lenses at one ... 1-800 Contacts, \$67.50, \$135.00."

The third search result is a link to "Unbeatable Price Guarantee | 1-800 CONTACTS" with the URL <https://www.1800contacts.com/unbeatable-price-guarantee.html>. The text below the link states: "With the 1-800 CONTACTS Unbeatable Price Guarantee, we will beat any price on every product we ... Competitors' promo codes are not valid for this discount."

The fourth search result is a link to "Fairness to Contact Lens Consumers Act - 1-800 Contacts" with the URL www.1800contacts.com/.../1-800-contacts-opposes-legislation-introdu.... The text below the link states: "Apr 12, 2016 - *This anti-consumer bill would stifle competition in the contact lenses ... increasing prices on many contact lenses and effectively eliminating ..."

The fifth search result is a link to "The FCLCA Becomes Law | 1-800 CONTACTS" with the URL www.1800contacts.com/connect/articles/fclca-becomes-law. The text below the link states: "Further, the law eliminates barriers to retail competition which will make contact lenses cheaper to ..."

RX 106

(Submitted In Camera)

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**DECLARATION OF PROFESSOR PETER N. GOLDER, PH.D.
AUGUST 30, 2022**

TABLE OF CONTENTS

I.	Introduction.....	1
A.	Qualifications.....	1
B.	Case Background	2
C.	Assignment	5
II.	Summary of Opinions.....	6
III.	Complaint Counsel’s Theories of Deception and Lock-In Are Inconsistent with Marketing Literature and Practice	11
A.	High Post-Purchase Satisfaction and Customer Retention Are Inconsistent with Deception.....	14
B.	Consumers of High-Involvement Products Are Typically Careful Buyers Who Make Informed Purchase Decisions	18
IV.	Low Numbers of Complaints Are Inconsistent with the Theory of Deception Complaint Counsel Allege.....	20
A.	Complaint Counsel’s Provided Complaints Represent a Negligible Portion of Intuit Customers.....	21
B.	Intuit’s Rate of BBB Complaints Is in Line with a Set of Comparable Benchmark Companies	23
	1. The Rate of Customer Complaints Is Comparable to Benchmark Companies	24
	2. The Rate of Keywords Related to Deceptive Advertising or Deceptive Pricing Is Comparable to Benchmark Companies.....	27
V.	Reasonable Consumers Are Unlikely to Be Deceived by Intuit’s Marketing Communications	29
A.	Reasonable Consumers Are Unlikely to Be Deceived by Intuit’s Free Edition Ads	30
	1. Intuit’s TV Ads Build Brand Equity and Drive Consideration of Free Tax Preparation Products but Do Not Lead Directly to Purchases	30
	2. Consumers Encounter Many Offers for Free Products or Services and Demonstrate Skepticism and an Expectation of Terms and Conditions that Describe Accessing or Keeping the Free Offer	32
	3. The Disclosures in Intuit’s TV Advertisements Are Similar to Benchmark Companies’ Advertisements and Are Consistent with the FTC’s Own Disclosure Guidelines	36
B.	The TurboTax Website Provides Critical Information to Consumers, which Is Inconsistent with Consumer Deception.....	50
	1. The TurboTax Website Provides Additional Information About the TurboTax Product Lineup and Discloses Up	

Front that Free Edition Is Not Appropriate for All Tax Situations.....	50
2. The TurboTax Website Contains Functionality to Direct Customers to the Appropriate Product for Their Tax Situation	55
3. Upgrade Screens Inform Customers as Early as Possible of a Required Upgrade Minimizing the Time and Effort Customers Spend Before Encountering an Upgrade Screen.....	59
4. Even in the Final Stages of the Filing Process, TurboTax Provides Clear Pricing Information to Customers One More Time Before Purchase.....	65
VI. Customers Are Not Locked In Once They Have Begun Using TurboTax Free Edition or Filed In Prior Years Using TurboTax Free Edition.....	68
A. Prolonged Information Search Is Common for High-Involvement Products Like Tax Preparation.....	69
B. Consumers Can and Do Switch Readily Among Tax Filing Solutions	73
1. Consumers Regularly Try Out Multiple Online Tax Preparation Providers in a Given Year	73
2. Consumers Regularly Switch Tax Preparation Providers Year to Year.....	75
C. TurboTax Customer Reviews Imply Customers Receive Benefits from the Service and Do Not Feel Misled	78
1. TurboTax Customer Reviews Reflect High Customer Satisfaction.....	78
2. TurboTax Customer Reviews Reveal Customers Value More Than Just Low Prices	86
VII. Reducing or Eliminating TurboTax Free Edition TV Advertising Is Likely to Have the Perverse Effect of Decreasing Free Tax Filing	89
A. Intuit's Investment in Advertising Free Edition Likely Increased the Number of Taxpayers Filing their Tax Returns for Free	90
B. Reducing or Eliminating TV Advertising of TurboTax Free Edition Would Not Lead Many, if Any, Consumers to Pay Less to File Their Taxes and Would Likely Lead Many to Pay More to File Their Taxes	93
1. Other Online Tax Preparation Providers.....	93
2. Other Filing Options	94
VIII. Conclusions.....	96

I. INTRODUCTION

A. Qualifications

1. My name is Peter Golder. I am a professor of marketing at the Tuck School of Business at Dartmouth College in Hanover, New Hampshire. In 2014, I was appointed by Dartmouth's president to be one of seven founding faculty members in Dartmouth's Society of Fellows. From 2015 to 2018, I served as area coordinator of the Tuck School's marketing faculty group. From 2015 to 2020, I was co-editor-in-chief of the academic journal *Marketing Letters*. From 2017 to 2020, I was faculty director of the Tuck School's First-Year Project course and, from 2018 to 2020, I was faculty director of the Tuck School's global experiential courses. In 2020, I was named an Academic Fellow of the Marketing Science Institute. I previously served as professor of marketing and coordinator of the marketing department doctoral program at the Stern School of Business at New York University in New York, New York.
2. I hold a Ph.D. in Business Administration (Marketing) from the University of Southern California and a B.S. in Mechanical Engineering from the University of Pennsylvania.
3. My research experience and interests include branding, historical analysis of markets, sources of market leadership, product features and customer perceptions associated with quality, innovation, market entry strategies, new product development and marketing, and global marketing. I have employed a variety of research methods in addressing these topics, including the historical research method, surveys, case studies, and econometric analysis. In 2000, I published a paper on the historical research method in the *Journal of Marketing Research*, one of the leading journals in the marketing discipline, providing a comprehensive description of the method and explaining its usefulness for generating knowledge about marketing phenomena, including via the review of archival sources.¹ As

¹ Golder, P., "Historical Method in Marketing Research with New Evidence on Long-Term Market Share Stability," *Journal of Marketing Research*, Vol. 37, Issue 2, 2000, pp. 156-172.

a result of this paper and many of my other publications, I was awarded the Elsevier Distinguished Scholar Award from Society for Marketing Advances.²

4. I teach or have taught classes for MBA candidates including marketing, new product marketing, creativity and design, and global marketing. Topics that I cover in these classes include branding, the historical research method, and survey design. I regularly present to academic and professional audiences on marketing-related topics. I have written more than forty publications appearing in academic journals, as book chapters, and in media and trade publications, including publications in leading marketing and business journals such as *Journal of Marketing*, *Journal of Marketing Research*, *Marketing Science*, and *Harvard Business Review*. I am currently an associate editor at *Journal of Product Innovation Management*, serve on the editorial board of *Journal of Marketing*, and serve as a peer reviewer of articles submitted to these journals and other academic journals. My research and contributions to the field of marketing have been recognized with many best paper and best book awards, and my research has been featured in the media, including *The Wall Street Journal*, *The Economist*, and *Advertising Age*. I have also consulted on several marketing-related topics for litigation, including trademark and trade dress issues, advertising, warning labels, and transfer pricing. These consulting engagements have involved review of archival materials as well as evaluation of survey designs and results.
5. A copy of my curriculum vitae, which provides additional detail on my education, qualifications, and professional affiliations, as well as a list of the publications I have authored, is attached to this declaration as **Appendix A**. A list of cases in which I have provided expert testimony during the past four years is included as **Appendix B**.

B. Case Background

6. I understand that Complaint Counsel have issued an administrative complaint against Intuit, which offers online tax preparation products and services under its TurboTax brand.³ In Tax Year (“TY”) 2021, Intuit offered four do-it-yourself (“DIY”) online TurboTax

² See **Appendix A**; Peter N. Golder CV, p. A-2; Kardashian, K., “Golder Wins Distinguished Scholar Award,” *Tuck School of Business*, November 2, 2012, available at <https://www.tuck.dartmouth.edu/news/articles/golder-wins-distinguished-scholar-award>.

³ In the Matter of: Intuit Inc., a corporation, “Complaint,” March 28, 2022, Docket No. 9408, (hereafter, “FTC Administrative Complaint” or “Complaint”).

products for personal tax returns at varying price points (“Free Edition,” “TurboTax Deluxe,” “TurboTax Premier,” and “TurboTax Self-Employed”). TurboTax Free Edition covered simple tax returns (i.e., Form 1040 without having to attach any forms or schedules), while paid editions (i.e., TurboTax Deluxe, TurboTax Premier and TurboTax Self-Employed) included other attachments and schedules. Detailed lists of the forms supported by each version of TurboTax are readily accessible on the TurboTax website, including commonly filed forms and schedules, with hyperlinks that potential customers can click on for more information about each tax form and schedule.⁴ In addition to the DIY products, Intuit offered additional paid services such as expert review (“TurboTax Live”) and expert preparation (“TurboTax Live Full Service”).⁵ Intuit advertises its TurboTax products in a number of ways, including through TV ads, online ads, email campaigns to prior customers, and paid search.

7. Complaint Counsel allege that Intuit “represents, directly or indirectly, expressly or by implication, that consumers can file their tax returns for free using TurboTax” when “in numerous instances [Intuit] does not permit consumers to file their tax returns for free using TurboTax.”⁶ Complaint Counsel allege that Intuit’s TV ads for Free Edition and corresponding website design collectively lure “reasonable” consumers to the TurboTax platform with the promise of free tax filing and then require payment once consumers have invested “significant time and effort” preparing their returns with TurboTax.⁷ Complaint Counsel further allege that the TurboTax website design provides insufficient disclosures

⁴ See, e.g., “TurboTax Deluxe,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/deluxe.jsp#tax-forms>, accessed on August 25, 2022. See also, “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022. A full list of the schedules supported by each TurboTax product can be found on this same webpage.

⁵ These versions combine elements of assisted tax preparation products. For example, customers have the option of accessing expert help while doing their own tax returns or have the option of having an expert review their returns before they file. See, e.g., “TurboTax Live,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/live/how-it-works.htm>, accessed on August 24, 2022; “Live Full Service,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/live/full-service/>, accessed on April 24, 2022. During TY 2021, Intuit offered TurboTax Free Edition Live Full Service for \$0 to eligible customers who filed before March 31, 2022. See [REDACTED]

⁶ FTC Administrative Complaint, ¶¶ 119-120.

⁷ FTC Administrative Complaint, ¶¶ 35, 39.

regarding eligibility for TurboTax Free Edition, further reinforcing the notion that all customers can file their tax returns for free with TurboTax.⁸

8. Complaint Counsel argue that “Intuit’s deceptive door-opener ads [...] bring consumers to the TurboTax website based on the message representing that consumers can file their tax returns for free using TurboTax, but once there, many consumers encounter screens that inform them that they cannot complete and file their tax returns for free. In the case of the Hard Stop [upgrade] screens, this confrontation comes after consumers have already created a TurboTax account and expended substantial time inputting sensitive personal and financial information into Intuit’s user interface.”⁹
9. I understand that Complaint Counsel have moved for summary decision as it relates to Intuit’s marketing of Free Edition in TY 2015 – 2021.¹⁰ I understand that Complaint Counsel are seeking certain requirements concerning Intuit’s free offers and additional disclosures.¹¹ I have been asked to assume that as a legal matter such additional disclosures would require Intuit to include the content of its simple returns pop-up (including specific tax situations covered and not covered under Free Edition) as a voiceover in its TV ads.

⁸ FTC Administrative Complaint, ¶¶ 36–44.

⁹ FTC Administrative Complaint, ¶¶ 57–58.

¹⁰ In the Matter of: Intuit Inc., a corporation, Respondent., “Complaint Counsel’s Motion for Summary Decision,” August 22, 2022, Docket No. 9408 (hereafter, “Motion for Summary Decision”), pp. 7, 35.

¹¹ Complaint Counsel ask for an order to be issued, which would include the following provisions: (1) Intuit must not represent that a good or service is “Free” in connection with advertising, marketing, promoting, or offering for sale of any goods or services unless (a) Intuit offers the good or service for free to all consumers, (b) all terms, conditions, and obligations upon which receipt and retention of the free good or service are contingent are set forth clearly and conspicuously at the outset of the offer, or (c) the goods or services are not free for the majority of U.S. taxpayers and such a fact is disclosed clearly and conspicuously at the outset of any disclosures, and (2) Intuit must not misrepresent or assist others in misrepresenting in connection with advertising, marketing, promoting, or offering for sale of any goods or services including (a) the cost of Intuit’s goods or services, including any TurboTax product or service; (b) that consumers can only file their taxes online accurately if they use a paid TurboTax product or service; (c) that consumers can only claim a tax credit or deduction if they used a paid TurboTax product or service; and (d) 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. *See* In the Matter of: Intuit Inc., a corporation, Respondent., “[Proposed] Decision and Order,” August 22, 2022, Docket No. 9408, pp. 5, 6.

C. Assignment

10. I have been asked by counsel for Intuit to evaluate Intuit's marketing practices with regard to its commercial tax filing products, including Free Edition and its paid commercial products (collectively, "TurboTax Suite") and its website design.¹² Specifically, I have been asked to assess evidence potentially related to consumer deception or consumer harm stemming from Intuit's Free Edition advertising and/or the TurboTax website design. In addition, I have been asked to evaluate the likely impact on the marketplace including consumers if the additional disclosures sought by Complaint Counsel were required.
11. I previously submitted a declaration in response to the FTC's motion for a preliminary injunction in federal court.¹³
12. For my work in this matter, I am being compensated at my standard consulting rate of \$1,000 per hour plus any associated work or travel expenses. Working under my direction and guidance, personnel at Analysis Group, Inc. ("Analysis Group"), a consulting firm, have assisted me in the preparation of this declaration. I also receive compensation based on fees charged by Analysis Group.
13. The opinions in this declaration are my own. Neither my compensation nor that of Analysis Group is contingent upon my findings, the testimony I may give, or the outcome of this litigation.
14. A complete listing of the materials I have considered in the preparation of this declaration is included as **Appendix C**. My declaration is based on information available to me as of the date of this declaration. I reserve the right to supplement this declaration in the event that new information relevant to my opinions is produced by the parties.

¹² I have not been asked to evaluate any allegations related to the IRS Free File Program as Intuit no longer has a Free File offering.

¹³ Declaration of Peter Golder, PhD., Federal Trade Commission v. Intuit Inc., No. 3:22-cv-1973, United States District Court Northern District of California San Francisco Division, April 4, 2022.

II. SUMMARY OF OPINIONS

15. Complaint Counsel's theory of consumer deception is unsupported by and inconsistent with the marketing literature and the evidence in this matter. Complaint Counsel ignore decades of marketing research that indicate that high customer satisfaction is inconsistent with deception and that consumers of high-involvement products like tax preparation are careful consumers who make informed purchase decisions.
16. If consumers were deceived by a large-scale marketing campaign like the one at issue, I would expect, based on my experience, academic literature, and expertise, to find high rates of customer complaints. That is particularly true because tax preparation is generally not an enjoyable activity. An analysis of complaints against Intuit does not provide evidence of unusually high rates of complaining among Intuit customers. As such, the level of complaints does not provide evidence of the deception claimed by Complaint Counsel.
 - a. Complaint Counsel have identified only 571 complaints that it deems relevant to this litigation – a negligible number in comparison to the size of TurboTax's customer base. These complaints, which span a seven-year time period from TY 2015 to TY 2021, represent 0.0007 percent of the 86.4 million TurboTax customers who completed at least one return over that same time period. In addition, when reviewing the 60 complaints filed in TY 2021, Diana Shiller, who is an investigator with the FTC and submitted a declaration on behalf of Complaint Counsel in this matter, concedes that more than half of these do not even reference any advertising, illustrating that Complaint Counsel appear to be over-counting the number of customer complaints that relate to its theory of deception.
 - b. These complaint numbers are particularly low because I would expect some number of complaints to be filed about any company. To further contextualize the paucity of complaints here, I reviewed complaints filed with the Better Business Bureau ("BBB") against Intuit and 22 benchmark companies including 5 direct competitors, 3 wireless carriers, 4 TV providers, 5 automobile insurance providers, and 5 companies previously investigated by the FTC and/or ProPublica. The complaints in the BBB database include complaints about any topic (not limited to

Complaint Counsel's allegations in this matter) including 218 complaints provided by Complaint Counsel.

- c. Intuit's rate of complaints per customer is consistent with complaint rates for benchmark companies, demonstrating that Intuit customers are not disproportionately dissatisfied with the product. This level of complaints is inconsistent with the consumer deception alleged by Complaint Counsel.
 - d. I further compared the substance of the BBB complaints against Intuit and the benchmark companies using keyword searches related to deceptive advertising and deceptive pricing. Again, Intuit is no different from the 22 benchmark companies for each keyword category.
17. The level of overall complaints, complaints per customer, and complaints related to deceptive pricing and deceptive advertising for Intuit are all in line with benchmark companies and are inconsistent with the consumer deception alleged by Complaint Counsel. The lack of evidence of consumer deception is not surprising when reviewing Intuit's marketing communications, which include industry standard disclosures regarding qualifications to use Free Edition and a clear process to assist customers in choosing the TurboTax product that is appropriate for their tax situation.
 - a. Intuit's TV ads are brand-building ads that include disclosures that are appropriate for top-of-funnel marketing communications. These ads are viewed by consumers in the context of a purchase environment where consumers are skeptical of free product offerings and regularly exposed to advertising for free products and services that include caveats and disclosures, including numerous other tax preparation companies all using a similar pricing model.
 - b. I compared Intuit's TY 2021 Free ads to ads from the same 22 benchmark companies whose BBB complaints I reviewed, and found that Intuit's disclosures were comparable in size, length, and font color to benchmark companies:
 - Intuit's TurboTax ads consistently include a disclosure at the time a claim is made;
 - Intuit's disclosure size is approximately 2.0 percent of the total screen size, consistent with benchmark companies' average disclosure sizes

which range from 1.5 to 2.5 percent, with a mean of 1.9 percent across all benchmark companies;

- Intuit's disclosure font is white on a blue or moving background, consistent with benchmark companies' disclosures which are typically white font on a moving background or on a solid color consistent with the company's branding; and
 - Intuit's ads have disclosure text that appear on the screen for an average of 4.0 seconds, consistent with benchmark companies' average durations which range from 2.7 to 5.7 seconds, with a mean of 4.2 seconds across all benchmark companies.
- c. Even if a consumer does not see an ad or does not heed the TV ad disclosures regarding eligibility requirements for Free Edition, the Intuit website (where customers must go to access the software) provides detailed information about the TurboTax product lineup before a customer begins preparing their tax return. Each reference to Free Edition on the website includes a disclosure that Free Edition is for simple returns only that links to a pop-up that clearly defines what constitutes a simple return. In addition, *all* new TurboTax customers visit the Products & Pricing Page before selecting a product or entering any personal information. This page includes detailed information about the product lineup, as well as interactive tools to assist potential customers in selecting the appropriate product for their personal tax situation.
- d. Throughout the process of filling out a tax return on the TurboTax website, there are numerous disclosures and prompts to ensure that potential customers select an appropriate product for their tax situation. Intuit regularly tracks whether customers start in the product that best suits their tax situation, and the majority do. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] Even if a customer were to somehow sidestep the Products & Pricing Page or ignore the product recommendation from that page and start in a product that is not appropriate for their tax situation, the TurboTax website would immediately inform the customer once they entered information disqualifying

them, minimizing the possibility of deception. Customers see these upgrade screens as early as possible in their process of filling out their information.

18. The lack of complaints and prevalence of information provided by Intuit to guide customers to the appropriate product for them is consistent with my observations of the product category: consumers engage in a high-involvement search process and are faced with relatively low switching costs. Intuit's marketing practices are both incentivized to, and in fact do, lead to highly satisfied customers who are actively choosing to use TurboTax for its features and do not act as if they are locked in.
- a. In the case of a high-involvement product like tax preparation services, consumers are likely to engage in extended information search as part of the Consumer Buying Process. Internal Intuit documents as well as the Hauser Purchase Driver Survey reveal that consumers consult multiple sources of information and do not simply rely on ads in selecting a tax preparation provider. [REDACTED]
[REDACTED]
[REDACTED], illustrating that consumers comparison shop and even fill out their tax returns on different websites before making a purchase.
 - b. Customers can and do leave TurboTax at any point in filling out their tax returns. There are numerous natural stopping points during the tax return preparation process at which prompts may lead to consideration of an alternative tax preparation provider (e.g., when viewing an upgrade screen). In fact, [REDACTED]
[REDACTED]
[REDACTED]
 - c. Customers also demonstrate a willingness to switch tax preparation providers across tax years. Tax preparation providers advertise the ease of switching between tax providers and [REDACTED]
[REDACTED]
[REDACTED]

- d. Contrary to the suggestion that high customer retention is indicative of high switching costs, Intuit's high customer retention for TurboTax is likely more reflective of high-involvement consumers making an active choice to use TurboTax and being satisfied with that choice. TurboTax consistently receives Net Promoter Scores ("NPS") in line with (and often superior to) its direct competitors in tax preparation. In addition, product ratings from customers average between 4.3 stars and 4.8 stars out of 5 stars, depending on the TurboTax product. On the customer review platform, Influenster, TurboTax has the highest rating for any tax preparation brand with 4.5 out of 5 stars, followed by TaxAct with 4.3 stars, TaxSlayer with 4.3 stars, and H&R Block with 4.1 stars.
 - e. Contrary to Complaint Counsel's apparent assumption that a free service is always superior to paid options, Intuit customer reviews reveal that this high customer satisfaction is driven by a number of facets of TurboTax unrelated to price. While price is a factor in customers' satisfaction, the most important factor consistently reported by customers is the ease of use of the TurboTax product. In fact, across all customer reviews on the TurboTax website for TY 2021, the word "easy" is mentioned over 9 times as frequently as "free," 36 times as frequently as "cost," and 39 times as frequently as "price."
 - f. Intuit's customer retention rate of approximately 81 percent is strong evidence of a lack of deception and reflects the high customer satisfaction enjoyed by TurboTax customers who have found a product that matches or exceeds their expectations relative to the price.
19. Based on the entirety of my review, it is my opinion that Intuit's marketing of Free Edition, including its advertising and the representations on the TurboTax website, would not cause reasonable consumers to believe that *everyone* can use TurboTax for free.
20. In my opinion, the additional disclosures sought by Complaint Counsel would, if implemented, likely cause Intuit to re-evaluate and ultimately reduce or even eliminate TV advertising of Free Edition. Reducing or eliminating advertising for TurboTax Free Edition is likely to have the perverse effect of decreasing free tax filing. Millions of customers file their taxes for free with TurboTax every year, and Intuit's investment in the availability

and marketing of Free Edition likely increased category demand for free online tax preparation options and spurred competitors to offer similar options. Consumers who are diverted from using TurboTax by a reduction in advertising would still have to file their taxes and would likely select from a comparably priced online tax preparation option from a competitor or from a more expensive, professional tax preparer.

III. COMPLAINT COUNSEL’S THEORIES OF DECEPTION AND LOCK-IN ARE INCONSISTENT WITH MARKETING LITERATURE AND PRACTICE

21. Complaint Counsel’s theory of deception appears to be that Intuit deceived consumers into trying TurboTax with its Free Edition ads and that consumers, upon learning they did not qualify for the free product either immediately on the website or during the course of filling out their taxes, were unable or unwilling to choose an alternative tax preparation method and instead chose to continue and pay for TurboTax.
22. This theory is inconsistent with a business approach that seeks to maximize Customer Lifetime Value, a business approach that is well-studied throughout marketing literature¹⁴ and a central tenet taught in marketing courses in leading business schools including my own class at the Tuck School of Business. Customer Lifetime Value is the total amount of profit a company can expect to earn from a customer over the lifetime of that customer.¹⁵ Customer Lifetime Value is not simply the value of one transaction: it is the total value of that customer over the duration of the relationship with the company. Therefore, product categories that rely on repeat business (such as tax preparation services which are purchased annually) often focus on Customer Lifetime Value, rather than the value of an individual transaction. It is therefore critical that a tax preparation business ensure customers have a good experience and the product satisfies their needs such that they return the following year and recommend the product to friends and family.
23. A strategy based on deception that leaves consumers angry and unsatisfied limits the ability for a tax preparation company to maximize Customer Lifetime Value: once a customer is

¹⁴ See, e.g., Keller, K., “*Strategic Brand Management*,” 4th Edition, Pearson Education, 2013, pp. 134-135; Keller, K., and Swaminathan, V., “*Strategic Brand Management*,” 5th Edition, Pearson Education, 2020, pp. 104-107; Kotler, P., and Keller, K., “*Marketing Management*,” 15th Edition, Pearson Education, 2016 (hereafter, “Kotler and Keller (2016)”), pp. 136-146.

¹⁵ Kotler and Keller (2016), p. G3.

unsatisfied or feels deceived, they are unlikely to return and the company loses that revenue and profit in all subsequent years. These consumers may also leave negative reviews or tell friends and family to choose a different product, limiting Intuit's ability to gain new customers through word of mouth. In contrast, if Intuit is successful in satisfying its customers by delivering value through its product offerings those customers' brand loyalty increases,¹⁶ improving the chances they will return to Intuit in future years and share their positive experience with friends and family. In fact, consistent with a successful Customer Lifetime Value approach, Intuit maintains high customer satisfaction ratings and high year-over-year customer retention rates, as described in **Section VI.C.1** below.

24. Complaint Counsel ignore or dismiss the evidence that customers are typically satisfied with their TurboTax purchase and choose to remain TurboTax customers year-over-year. Complaint Counsel's witness, Dr. Novemsky, speculates that customer satisfaction "could" remain high because of customers' attempts to decrease cognitive dissonance after paying for TurboTax.¹⁷ Under such a theory, high customer satisfaction ratings across products and services would be seen as an indicator of deception and/or prior dissatisfaction. If this theory is to be believed, it would lead to future FTC investigations into products and services delivering high satisfaction to tens of millions of customers. This would be absurd, especially in cases such as this one where no evidence of cognitive dissonance has been provided.

¹⁶ See, e.g., Yang, Z., and Peterson, R., "Customer Perceived Value, Satisfaction, and Loyalty: The Role of Switching Costs," *Psychology & Marketing*, Vol. 21, No. 10, 2004, (hereafter, "Yang and Peterson (2004)"), pp. 799-822, at p. 815 ("Perceived value is another key driver of customer loyalty and also significantly influences customer satisfaction. As e-commerce has made cost transparency more feasible, total product/service cost, not solely the list price, has become an increasingly important feature for attracting customers. The total cost constitutes both explicit expenses (i.e., product/service price) and implicit expenses such as shipping costs, return costs, coupon usages, discount rewards, and free services. Additionally, firms should provide the product portfolio and value-added free services that are in demand to increase their competitive advantage.").

¹⁷ Second Declaration of Nathan Novemsky, In the matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, April 8, 2022, GX 313, (hereafter, "Second Novemsky Declaration"), ¶ 58 ("Professor Golder points to TurboTax's high customer satisfaction scores and retention rates as evidence that consumers were not misled about TurboTax's products. However, high customer satisfaction could be in spite of initial confusion rather than indicating a lack of confusion. Dissonance reduction (i.e., 'I paid to use TurboTax, so I must have valued it') and high switching costs could contribute to positive scores and retention rates. The action of paying alone causes consumers to like a product more, as does the action of honoring one's sunk costs and continuing with the product.").

25. Dr. Novemsky and Complaint Counsel have also argued that customer retention is high because of high switching costs, sunk costs, the status quo bias, and “brand loyalty” (which it appears Complaint Counsel consider to be negative rather than evidence of a brand that customers love).¹⁸ This theory disregards the widely accepted and well-studied marketing literature on customer satisfaction and Customer Lifetime Value that is broadly taught in leading business schools and the realities of Intuit’s operation in a competitive industry. The argument that cognitive dissonance and the status quo bias will be strong enough to deliver consistently high customer satisfaction and retention rates belies common sense, basic principles of marketing, and marketplace evidence where actually deceptive or deceitful products have low satisfaction ratings.¹⁹

¹⁸ Second Novemsky Declaration, ¶ 59 (“Professor Golder discusses this point in further detail, including Intuit’s high customer retention rate. He presents this high retention rate as evidence that consumers were never deceived. However, if consumers were deceived but continued with TurboTax so as not to waste their sunk time and effort in entering information, then they might continue to use TurboTax in subsequent years because of the status quo bias, a well-known bias in consumer behavior. Their lack of awareness of this bias will lead them to infer that they are in fact using TurboTax because they like it, not just because it’s the status quo.”); FTC Administrative Complaint, ¶¶ 10-12 (“This ‘freemium’ business strategy involves, in part, growing Intuit’s customer base by offering free services to consumers to whom Intuit sells separate add-on products and services. The ‘freemium’ strategy also involves persuading customers to upgrade from free to paid versions of TurboTax. The ‘freemium’ strategy further involves ‘brand loyalty,’ or retention of consumers who previously filed their taxes for free in the ‘freemium version of TurboTax returning to TurboTax in subsequent years when they are no longer eligible for the ‘freemium’ version and paying Intuit for a paid version of TurboTax.”); Batra, R. et al., “Brand Love,” *Journal of Marketing*, Vol. 76, No. 2, March 2012, pp. 1-16 at p. 6 (“When consumers described their love of brand to us, they invariably described a broad and long-term consumer-brand relationship, with multiple interrelated cognitive, affective, and behavioral elements.”); Bagozzi, R., Batra, R., and Ahuvia. A., “Brand Love: Development and Validation of a Practical Scale,” *Springer Science and Business Media Marketing Letter*, Vol. 28, No. 1, 2017, pp. 1-14.

¹⁹ For example, the NPS for Chime Financial, Inc., which was investigated for consumer deception, was -28 in 2022. In another example, the NPS for MoneyGram International, Inc., which was investigated for consumer deception, was 25 in 2022. **Appendix E** provides a detailed comparison of the level of customer complaints across the benchmark companies; Chime Financial Inc., had the third-highest rate of complaints at 527.8 complaints per million customers and MoneyGram had 15.8 complaints per million customers as of July 1, 2022. See “Brand Page MoneyGram International,” *Comparably*, available at <https://www.comparably.com/brands/moneygram-international>, accessed on July 20, 2022; “Brand Page Chime,” *Comparably*, available at <https://www.comparably.com/brands/chime>, accessed on July 20, 2022; **Appendix E**.

A. High Post-Purchase Satisfaction and Customer Retention Are Inconsistent with Deception

26. As I will discuss in more detail in **Section VI.C.1** below, Intuit maintains consistently high customer satisfaction ratings and year-over-year customer retention of approximately 81 percent in TY 2020.²⁰
27. Customer satisfaction is a post-consumption judgment made by customers that compares their experience of a product relative to their expectations.²¹ A consumer's expectations about a product may come from various sources of information including past experiences, third-parties, competitors' offerings, the firm itself (advertising, market share, firm reputation), and product-specific signals.²² Thus, both the experience of the product attributes and the customer's expectations regarding the product attributes are key components of customer satisfaction.²³ Managing expectations regarding both price and product attributes (in particular by not setting expectations unrealistically high) is a key component of improving customer satisfaction, and ultimately customer retention.²⁴ A marketing strategy based on TV ads that mislead consumers into believing they will be able to get something for free is not a winning strategy for managing customer expectations and would be unlikely to result in Intuit's persistently high customer satisfaction.
28. Customer satisfaction largely reflects the difference between what a customer expected from a product and what he or she received.²⁵ Academic literature indicates that a feeling

²⁰ "Investor Day 2021," *Intuit*, September 30, 2021, (hereafter, "Investor Day 2021 (2021)"), p. 81, available at https://s23.q4cdn.com/935127502/files/doc_presentations/2021/Intuit-Investor-Day-2021-Presentation.pdf ("~81% retention rate; slight increase, excluding stimulus-only filers").

²¹ Golder, P., Mitra, D., and Moorman, C., "What is Quality? An Integrative Framework of Processes and States," *Journal of Marketing*, Vol. 76, No. 4, July 2012 (hereafter, "Golder, Mitra, and Moorman (2012)"), pp. 1-23, at p. 4.

²² Golder, Mitra, and Moorman (2012), p. 10.

²³ Golder, Mitra, and Moorman (2012), p. 10.

²⁴ Golder, Mitra, and Moorman (2012), p. 15; *See also*, Kerin, R. and Hartley, S., "Marketing," 15th Edition, McGraw-Hill Education, New York, NY, 2020 (hereafter, "Kerin and Hartley (2020)"); Perreault, W., et al., "Essentials of Marketing," McGraw-Hill Education, New York, NY, 2019, (hereafter, "Perreault, et al (2019)"), p. 127.

²⁵ Kotler, P. and Keller, K., "Marketing Management," 14th Edition, Pearson Education, 2012 (hereafter, "Kotler and Keller (2012)"), ("satisfaction is a person's feelings of pleasure or disappointment that result from comparing a product's perceived performance (or outcome) to expectations. If the performance falls short of expectations, the customer is dissatisfied. If it matches expectations, the customer is satisfied. If it exceeds expectations, the customer is highly satisfied or delighted. Customer assessments of product performance

of deception leads to negative feelings about a brand, lower probability of recommending the product to a friend, and lower overall satisfaction.²⁶ In contrast, high satisfaction ratings indicate that the customers' expectations were generally matched or exceeded by the customers' experiences with the product. Because high satisfaction leads to high customer loyalty, it is critical that companies competing for business meet or exceed customer expectations, especially in the case of product categories reliant on repeat purchasers.²⁷

29. Customer satisfaction is also essential to brand reputation and long-term growth. Per Kerin and Hartley (2020): "Studies show that satisfaction or dissatisfaction affects consumer communications and repeat-purchase behavior. Satisfied buyers tell three other people about their experience. In contrast, about 90 percent of dissatisfied buyers will not buy a product again and will complain to nine people. Satisfied buyers also tend to buy from the same seller each time a purchase occasion arises. The financial implications of repeat-purchase behavior are significant."²⁸ Intuit has every incentive to maintain a strong reputation and to achieve high customer satisfaction scores to both secure these new customers and to retain existing ones. This is especially critical in the tax preparation industry where there is low overall industry growth and there are relatively low barriers to switching and renewed competition for each and every customer each year.

depend on many factors, especially the type of loyalty relationship the customer has with the brand.") p. 128. *See also*, Golder, Mitra, and Moorman (2012); Mitra, D., and Golder, P., "How Does Objective Quality Affect Perceived Quality? Short-Term Effects, Long-Term Effects, and Asymmetries," *Marketing Science*, Vol. 25, No. 3, May-June 2006, (hereafter "Mitra and Golder (2006)"), pp. 230-247.

²⁶ *See, e.g.*, Xie, G., Madrigal, R. and Boush, D., "Disentangling the Effects of Perceived Deception and Anticipated Harm on Consumer Responses to Deceptive Advertising," *Journal of Business Ethics*, Vol. 29, April 2014, (hereafter, "Xie, Madrigal, and Boush (2014)"), pp. 281-293; Craig, A., et al., "Suspicious Minds: Exploring Neural Processes During Exposure to Deceptive Advertising," *Journal of Marketing Research*, Vol. 49, No. 3, June 2012, (hereafter, "Craig, et al. (2012)"), pp. 361-372; Román, S., "Relational Consequences of Perceived Deception in Online Shopping: The Moderating Roles of Type of Product, Consumer's Attitude Toward the Internet and Consumer's Demographics," *Journal of Business Ethics*, Vol. 95, No.3, September 2012, (hereafter, "Román, et al. (2012)"), pp. 373-391; Held, J. and Germelmann, C., "Deception in Consumer Behavior Research: A Literature Review on Objective and Perceived Deception," *Cairn.Info*, Vol. 3, No. 21, 2018, (hereafter, "Held and Germelmann (2018)"), pp. 119-145.

²⁷ Kotler and Keller (2016), p. 152 ("A buyer's satisfaction is a function of the product's perceived performance and the buyer's expectations. Recognizing that high satisfaction leads to high customer loyalty, companies must ensure that they meet and exceed customer expectations.").

²⁸ Kerin and Hartley (2020), p. 128; *See also*, Perreault, et al. (2019), p. 133.

30. Dr. Novemsky's theory that the "action of paying alone causes consumers to like a product more, as does the action of honoring one's sunk costs and continuing with the product"²⁹ is unsupported and inconsistent with marketing literature and practice. This theory relies on the theory of cognitive dissonance, which refers to the conflict that occurs when a person's behaviors and beliefs do not align. In this case, that cognitive dissonance would supposedly cause customers that made an apparently illogical choice (i.e., paying for something they thought would be free) to reconcile this choice with their perception of the product (i.e., to rate the product highly, even though they were deceived or dissatisfied).³⁰ While cognitive dissonance is a real phenomenon, there is no evidence that, in this case, cognitive dissonance exists, let alone is so strong as to overpower the negative feelings of deception that are hypothesized to exist here, and are directly at odds with Intuit's consistently high customer satisfaction ratings and high customer retention rate.
31. Again, the marketing literature provides important context for understanding this potential theory, as the concept of buyer's remorse is regularly studied in marketing. Buyer's remorse refers to the disappointment when a product does not meet expectations and can arise particularly in situations where customers have paid for a product.³¹ Marketers care about avoiding buyer's remorse because customers who are satisfied with their purchase are more likely to be repeat customers and to recommend the product to others. On the other hand, customers who are dissatisfied and experience buyer's remorse are less likely to be repeat customers and are more likely to complain or warn others against using the

²⁹ Second Novemsky Declaration, ¶ 58.

³⁰ George, B., and Manoj, E., "Cognitive Dissonance and Purchase Involvement in the Consumer Behavior Context," *The IUP Journal of Marketing Management*, Vol. VIII, Nos. 3 & 4, 2009, p. 7 ("Cognitive dissonance is a psychological phenomenon that occurs when there exists a discrepancy between what a person believes and information that calls this into question (Festinger, 1957). It is psychologically uncomfortable to hold contradictory cognitions. The psychological discomfort triggers a mental recovery process in the affected individual that can lead to: (1) search for information supportive of the held belief coupled with constant attempts to downplay the cognition that resulted in the phenomenon of dissonance, or (2) to a change in belief reflective of the new condition.").

³¹ Gourville, J., and Norton, M., "Consumer Behavior and the Buying Process," *Harvard Business Publishing*, 2019, (hereafter, "Gourville and Norton (2019)"), pp. 19-20.

product.³² When a customer regrets a purchase and experiences buyer's remorse, they are unlikely to become repeat purchasers.³³

32. High customer retention rates, like high levels of customer satisfaction, are strong evidence that customers appreciate and value a product or service. In fact, firms regularly measure customer satisfaction because it is one key to customer retention. Per Kotler and Keller (2012), "a highly satisfied customer generally stays loyal longer, buys more as the company introduces new and upgraded products, [and] talks favorably to others about the company and its products."³⁴ Intuit itself tracks customer retention as a key metric.³⁵ Maintaining repeat customers is critical to successfully maximizing Customer Lifetime Value.
33. As noted, Dr. Novemsky has argued that Intuit's customer retention is high not because Intuit provides a satisfying product, but as a result of high switching costs, sunk costs, and the status quo bias.³⁶ However, Dr. Novemsky provides no evidence of high switching costs, instead suggesting vaguely (and without support) that the status quo bias may cause customers to stick with their prior provider. And although status quo bias may cause a customer without strong feelings about a particular product category to return to the same brand out of familiarity or inertia,³⁷ Dr. Novemsky provides no evidence that this phenomenon would be so strong as to outweigh the type of deception alleged.
34. Research has shown that dissatisfied customers will only stay with a product when there are substantial switching costs, or when the switching process is particularly painful. In

³² Gourville and Norton (2019), pp. 20-21.

³³ Perreault, et al., (2019), p. 133.

³⁴ Kotler and Keller (2012), p. 128.

³⁵ For example, in its September 2021 Investor Day presentation, Intuit reported "active customers, retention," as one of its performance drivers and reported that improving customer retention was one of its "True North Goals." See Investor Day 2021 (2021), pp. 17, 81.

³⁶ Second Novemsky Declaration, ¶ 59 ("Professor Golder discusses this point in further detail, including Intuit's high customer retention rate. He presents this high retention rate as evidence that consumers were never deceived. However, if consumers were deceived but continued with TurboTax so as not to waste their sunk time and effort in entering information, then they might continue to use TurboTax in subsequent years because of the status quo bias, a well-known bias in consumer behavior. Their lack of awareness of this bias will lead them to infer that they are in fact using TurboTax because they like it, not just because it's the status quo."); See also, FTC Administrative Complaint, ¶¶ 6, 12.

³⁷ Arkes, H. and Blumer, C., "The Psychology of Sunk Cost," *Organizational Behavior and Human Decision Processes*, Vol. 35, 1985, pp. 124-140.

such cases, there may be “false loyal” customers.³⁸ Thus, the theory that deceived and dissatisfied customers continued to use TurboTax relies on the assumption of high switching costs. This is inconsistent with the evidence from Intuit’s ordinary course of business documents discussing the competitive nature of the tax preparation industry and low switching costs, the existence of advertising by Intuit’s competitors emphasizing the ease of switching among different tax providers each year, and evidence of actual customer switching behavior.

35. There is no indication that customers choosing to stay with Intuit are doing anything other than revealing their true preference to use TurboTax. TurboTax’s high satisfaction ratings, positive customer reviews, and high customer retention (all of which I will discuss in detail in **Section VI.C** below) imply that customers find the information in the TurboTax ads and on the TurboTax website informative and do not feel misled. In other words, high satisfaction, high retention, and a low number of complaints indicate that most customers feel that the service they receive from TurboTax products matches or exceeds their expectations.

B. Consumers of High-Involvement Products Are Typically Careful Buyers Who Make Informed Purchase Decisions

36. Complaint Counsel’s theory appears to assume that consumers see a TurboTax TV ad and proceed immediately to paying TurboTax without conducting any other research or considering any other potential providers of tax preparation solutions. This theory flies in the face of the well-recognized Consumer Buying Process.³⁹ The Consumer Buying

³⁸ See Yang and Peterson (2004), p. 805, (“When switching costs are substantial or the switching processes especially painful, dissatisfied customers are likely to maintain business relationships with existing service providers and resist the dissolution of the relationship (Jackson, 1985; Port, 1980). As such, false loyal rather than committed loyal groups may exist, including defectors, mercenaries, and hostages (T. O. Jones & Sasser, 1995).”). See also, Bell, S., Auh, S., and Smalley, K., “Customer Relationship Dynamics: Service Quality and Customer Loyalty in the Context of Varying Levels of Customer Expertise and Switching Costs,” *Journal of the Academy of Marketing Science*, Vol. 33, No. 2, Spring 2005, pp. 169-183, at p. 172 (“Switching costs can lead businesses to falsely assume that all repeat purchase customers are loyal to their organization when many are less than satisfied but perceive the costs of switching to an alternative supplier to be too high (Dick and Basu 1994), although clearly not all customers with high perceived switching costs feel trapped.”).

³⁹ See, e.g., Bettman, J., Luce, M., and Payne, J., “Constructive Consumer Choice Processes,” *Journal of Consumer Research*, Vol. 25, 1998, pp. 187-217; Kotler and Keller (2016), p. 195; Kerin and Hartley (2020); and Perreault, et al. (2019).

Process is a five-stage model that describes the typical series of activities that result in purchase and post-purchase consumption.⁴⁰

- *Problem recognition.* The Consumer Buying Process begins when the consumer recognizes a problem or need.⁴¹ Problem recognition may be triggered, for example, by receiving W-2s or similar forms in the mail, speaking to friends and family about taxes, or by seeing ads from tax return professionals or services.
- *Information search.* In this stage, the consumer begins to search for information about how to solve the problem or meet the need. Consumers may receive information from a variety of sources during this stage, including commercial ads, research on public sources such as reviews or consumer-rating organizations, word-of-mouth, and prior experience.⁴² For example, taxpayers may seek information about a broad set of tax preparation options, including whether to use a CPA or tax professional or a DIY option.
- *Evaluation of alternatives.* After the information search stage, a consumer narrows his or her potential choices down to a “consideration set” that includes the options the consumer is seriously considering for purchase.⁴³ For example, a taxpayer may narrow his or her choices down to using an online e-filer or filing on paper and then focus on evaluating those options, and possibly returning to the information search stage to collect additional information.
- *Purchase decision.* In this stage, the consumer selects the product or service to solve the problem or fulfill the need identified in the problem recognition stage and makes the purchase.⁴⁴ For example, a taxpayer would select the relevant TurboTax product for his or her tax circumstances and pay (or not pay) for the tax preparation service.
- *Post-purchase behavior.* The Consumer Buying Process continues after the purchase decision. Consumers learn first-hand and evaluate how well the product or service provides the benefits they seek, satisfies their needs and solves their problems. Consumers who are satisfied with their purchase are likely to become repeat purchasers.⁴⁵ In this case, because taxpayers must file their tax returns every year, there are millions of taxpayers in the post-purchase stage throughout the year and their satisfaction with their prior tax preparation experiences will inform their choices in subsequent years.

⁴⁰ Zalani, C., “Consumer Decision-Making Process Mastery,” *The Ecom Academy*, 2018 available at <https://ecomacademy.com/consumer-decision-making-process/>; Wallace, C., “The 5 Stages of the Consumer Decision Making Process,” *Zoovu*, 2016, available at <https://zoovu.com/blog/how-to-leverage-the-5-stages-of-the-customer-decision-making-process/>.

⁴¹ Kotler and Keller (2016), p. 195.

⁴² Kotler and Keller (2016), p. 196.

⁴³ Kotler and Keller (2016), pp. 196-197.

⁴⁴ Kotler and Keller (2016), p. 198.

⁴⁵ Kotler and Keller (2016), p. 200.

37. Consumers may pass through the Consumer Buying Process in their own personal way and may skip steps or backtrack throughout their purchase process.⁴⁶ The complexity and expense of a product or service can impact the level of consumer involvement in the Consumer Buying Process. In the case of a financial product with significant downside risk (e.g., making a costly mistake preparing one's tax return or failing to maximize deductions), consumers are likely to be highly motivated, highly involved, and risk averse in their Consumer Buying Process,⁴⁷ particularly for low-income taxpayers for whom a refund may be a larger share of annual earnings.⁴⁸ Therefore, consumers are likely to spend longer in the Consumer Buying Process and conduct more research to ensure they are buying the right product for their personal needs.
38. Complaint Counsel's argument appears to assume that consumers would see Free Edition ads or marketing, conclude from the marketing that they could personally file for free, and based on that belief, immediately proceed to the TurboTax website to file their tax returns, performing no additional research. In fact, consumers engaged in the high-involvement Consumer Buying Process are likely to conduct research before selecting a tax preparation provider and are unlikely to weigh advertising as the single piece of relevant information on their search.⁴⁹ In light of taxpayers' motivation to choose an appropriate tax preparation product, reasonable consumers are likely to perform research on tax preparation options, and they may also specifically research conditions for using free product offerings.
39. I discuss the research consumers conduct before selecting a tax preparation provider in more detail in **Section VI.A** below.

IV. LOW NUMBERS OF COMPLAINTS ARE INCONSISTENT WITH THE THEORY OF DECEPTION COMPLAINT COUNSEL ALLEGE

40. If consumers were deceived, one would expect to find high rates of customer complaints. Instead, the number of complaints identified by Complaint Counsel is negligible in

⁴⁶ Kotler and Keller (2016), p. 195.

⁴⁷ Assael, H., "*Consumer Behavior: A Strategic Approach*," Houghton Mifflin Company, Boston, MA, 2004, (hereafter, "Assael (2004)"), pp. 90-91.

⁴⁸ See, e.g., Daly, L., "The Average Tax Refund: A Visual Guide to Your Money Back," *The Ascent*, January 31, 2020, available at <https://www.fool.com/the-ascent/research/average-tax-refund/>.

⁴⁹ Assael (2004), pp. 98, 104-106.

comparison to the size of the TurboTax customer base, which is consistent with the high rates of customer satisfaction and retention. The existence of some number of complaints is to be expected with any company: when comparing the number of Intuit complaints to complaints for 22 benchmark companies, I find that Intuit is in line with the benchmark companies in terms of the number of complaints it receives. If Complaint Counsel's theory of deception were correct, one would expect to find substantially more customer complaints about TurboTax than about the benchmark companies.

41. In other words, a low number of complaints together with high satisfaction and high customer retention (see **Section VI.C.1**), indicate that most customers feel that the service they receive from TurboTax products matches or exceeds their expectations and is inconsistent with consumer deception.

A. Complaint Counsel's Provided Complaints Represent a Negligible Portion of Intuit Customers

42. Complaint Counsel have provided 571 complaints that it claims are related to "free" TurboTax⁵⁰ that it gathered from a variety of sources, including the FTC's Consumer Sentinel Database, a database which tracks consumer complaints reported directly to the FTC, as well as complaints submitted by other government agencies (e.g., Consumer Financial Protection Bureau, State Attorneys General, Internal Revenue Service) and the BBB.⁵¹ These 571 complaints range from February 8, 2016, to March 27, 2022.⁵²
43. When placed in context of the millions of TurboTax customers each year, clearly these customers do not represent the experiences or views of most TurboTax customers. Considering the 571 complaints identified by Complaint Counsel as related to "free" TurboTax, this represents 0.0007 percent of the 86.4 million TurboTax customers who filed at least one return over the period during which the 571 complaints were filed.⁵³

⁵⁰ Declaration of Diana F. Shiller, In the matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, June 9, 2022, GX 342 (hereafter, "Shiller Declaration"), ¶ 220.

⁵¹ GX 338 – Sentinel Complaints 1-500 – Redacted; GX 339 – Sentinel Complaints 501-571 – Redacted. *See also*, Shiller Declaration, ¶ 220. Complaint Counsel have provided additional complaints at various times, but I understand that the 571 complaints are the complaints Complaint Counsel have deemed relevant to this matter.

⁵² This date range is defined using information from the "Complaint Date" field gathered from Complaint Counsel's complaint production.

⁵³ From TY 2015 – TY 2021, 86.4 million customers filed their returns with TurboTax. Intuit customer-level data.

44. I note that Complaint Counsel’s attempt to limit TurboTax complaints to those mentioning “free” is insufficient to identify only complaints that actually relate to the allegations in this matter.⁵⁴ A complaint simply including the word “free” does not necessarily mean the complaint is related to Complaint Counsel’s allegations. For example, included in the 571 complaints are complaints that include the word “free” but are about:

- *The customer’s inability to access prior years’ returns.*⁵⁵ For example, at least one customer complained because they were unable to retrieve their tax return filed in previous years for free – a feature that Intuit offers to customers purchasing paid products or Free Edition customers purchasing an add-on package.⁵⁶
- *IRS delays that are outside of Intuit’s control.* For example, at least two customers filed complaints related to IRS delays in processing their refund and/or 2020 stimulus checks.⁵⁷
- *Technical issues with the TurboTax software.* For example, at least two customers filed complaints related to issues with closing their TurboTax accounts.⁵⁸
- *TurboTax desktop product.* For example, at least two customers filed complaints related to TurboTax’s desktop product (of which no free version exists).⁵⁹

45. Complaint Counsel’s own declarant, Diana Shiller, acknowledges that even among the subset of complaints relating to “free” and filed in TY 2021, most do not refer to Intuit’s allegedly deceptive advertising. Ms. Shiller submitted a declaration in this matter in which she categorized the 60 complaints filed between November 1, 2021 and March 28, 2022 into three categories: (1) customers who thought they were filing for free; (2) customers who mentioned seeing advertising indicating their tax filing would be free; and (3)

⁵⁴ For the purposes of this declaration, I have not individually reviewed all of the complaints identified Complaint Counsel.

⁵⁵ Note that all customers are able to print or save a copy of their tax return when filing it and save that copy for their own records.

⁵⁶ See Complaint to BBB CA San Jose, January 18, 2019, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 26-28.

⁵⁷ See Complaint to BBB CA San Jose, April 16, 2019, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 188-190. See also, Complaint to BBB CA San Jose, April 17, 2020, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 738-740.

⁵⁸ See Complaint to BBB CA San Jose, September 11, 2020, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 858-860. See also, Complaint to BBB CA San Jose, October 26, 2020, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 870-872.

⁵⁹ See Complaint to BBB CA San Jose, February 20, 2021, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 926-928. See also, Complaint to BBB CA San Jose, May 15, 2021, GX 338 – Sentinel Complaints 1-500 – Redacted, pp. 1109-1111.

customers who paid TurboTax when they thought their tax filing would be free.⁶⁰ Of the 60 complaints reviewed by Ms. Shiller, only 27 referred to TurboTax advertising.⁶¹ Notably, the Shiller declaration analyzes these three categories independently from each other and no backup was provided to show which customers fall in the categories above. As such, the overlap among the three categories is unclear. For example, the Shiller declaration is silent on how many of the 27 customers who mentioned seeing free advertising ended up paying TurboTax when they thought their tax filing will be free. Even if I assume that all 27 customers who mentioned seeing free advertising ended up paying TurboTax when they thought their tax filing would be free, these customers represent 0.00007 percent of TurboTax customers who filed a return in TY 2021.

B. Intuit's Rate of BBB Complaints Is in Line with a Set of Comparable Benchmark Companies

46. As discussed throughout **Section IV.A**, the total number of customer complaints that have been identified by Complaint Counsel is negligible when considered in the context of the scale of Intuit's TurboTax customer base. In addition, the mere existence of a small number of customer complaints is not a clear indication of deception. Customer complaints occur in every industry and are a valuable source of information because they "represent critical turning points in the company's relationship with its customers."⁶² Complaints represent an opportunity to remedy a problem, and as such companies monitor complaints to identify areas where they could improve customer experience.⁶³
47. Listening and responding to customer feedback is a crucial part of customer relationship management and is an important marketing activity for building customer loyalty.⁶⁴ Consistent with an approach that seeks to improve customer relationships, Intuit has sought

⁶⁰ Shiller Declaration, ¶ 221.

⁶¹ Shiller Declaration, ¶ 221.

⁶² Knox, G., and van Oest, R., "Customer Complaints and Recovery Effectiveness: A Customer Base Approach," *Journal of Marketing*, Vol. 78, September 2014, pp. 42-57 at p. 43.

⁶³ Kotler and Keller (2012), p. 141 ("Listening to customers is crucial to customer relationship management. Some companies have created an ongoing mechanism that keeps their marketers permanently plugged in to frontline customer feedback.").

⁶⁴ Kotler and Keller (2012), p. 141 ("Listening to customers is crucial to customer relationship management. Some companies have created an ongoing mechanism that keeps their marketers permanently plugged in to frontline customer feedback.").

to address all complaints against Intuit available on the BBB website as of July 1, 2022, by responding to each complaint individually. Of the 2,761 unique complaints, 2,114 (or 77 percent) have been marked as “answered,” meaning that Intuit responded to the complaint but the customer had not followed up to close or accept the complaint.⁶⁵ An additional 634 complaints (or 23 percent) have been marked “resolved,” meaning that the customer indicated to the BBB that they were satisfied with the response.⁶⁶ Only 12 complaints (or less than 1 percent) have been marked “unresolved” and 1 complaint has been marked “BBB unable to locate business.”⁶⁷

1. The Rate of Customer Complaints Is Comparable to Benchmark Companies

48. To put the number of complaints into context, I compared complaints against Intuit on the BBB website to complaints against benchmark companies. I identified 22 benchmark companies in total across five groups of companies, representing different points of comparison relative to Intuit. In **Appendix D**, I provide a detailed description of my methodology in choosing these benchmark companies:

- *Direct Intuit Competitors* in tax preparation services as listed in the Intuit 10-K financial statements. These companies are the most direct comparison to Intuit: they are in the same industry and provide the same basic service. These include H&R Block, TaxAct, TaxSlayer, and FreeTaxUSA.⁶⁸ I also consider one additional tax preparation services firm, Jackson Hewitt, which Ms. Shiller refers to as a competitor and [REDACTED].^{69,70}

⁶⁵ “Complaints,” *Better Business Bureau*, available at <https://www.bbb.org/process-of-complaints-and-reviews/complaints>, (hereafter, “Complaints (2022)”), accessed on July 13, 2022.

⁶⁶ According to the BBB’s definition, “Resolved = The complainant verified the issue was resolved to their satisfaction.” *See* Complaints (2022).

⁶⁷ According to the BBB’s definition, “Unresolved = The business responded to the dispute but failed to make a good faith effort to resolve it.” *See* Complaints (2022). I note that the one complaint marked with the “BBB unable to locate business” flag may have been mislabeled, as information downloaded from the BBB website show that Intuit responded to the customer complaint in question.

⁶⁸ [REDACTED] FreeTaxUSA is owned by parent company TaxHawk. *See* “About FreeTaxUSA,” *FreeTaxUSA*, available at <https://www.freetaxusa.com/about.jsp?thn=3EEFE20943C213FECD8AAB04918F20C4>.

⁶⁹ Shiller Declaration, ¶13.

⁷⁰ For example, [REDACTED]

- *Wireless Carriers.* Tax preparation is an unusual service because it assists with a process that is required by law. Therefore, it is difficult for consumers to fully opt out of the product category, which can impact satisfaction relative to product categories where consumers can choose not to engage. I considered wireless carriers which, although not required, are so fundamental to modern life as to be functionally required. These include AT&T, Verizon Wireless, and T-Mobile USA.
 - *TV Providers.* Similarly, most people in the U.S. purchase cable or satellite TV services.⁷¹ In addition, like tax preparation services, consumers typically purchase TV service on an annual, ongoing basis. The companies in this benchmark group include Comcast, Charter Spectrum, DirecTV, and Dish Network.
 - *Automobile Insurance Providers.* Like filing one's taxes, purchasing automobile insurance is required by law for vehicle owners in most U.S. states.⁷² I therefore considered automobile insurance providers as a benchmark group. These include State Farm, Geico, Progressive, Allstate, and USAA.
 - *Investigated Companies.* The last group of benchmark companies does not closely resemble Intuit with respect to its business model, products, or customer base, but are companies that were also investigated by the FTC and/or ProPublica for alleged consumer deception. These include MoneyGram, Dun & Bradstreet, Fleetcor Technologies, Perdoceo Education Corporation, and Chime Financial.
49. The BBB makes publicly available all complaints for a trailing three-year period for each firm or product. I pulled all available complaint metrics and complaints against Intuit and against benchmark companies on the same date, July 1, 2022, accessing these 3 years of data. I then evaluated the number of customer complaints filed against Intuit by comparing them with BBB complaints filed against benchmark companies, on both absolute and relative bases. The complaints in the BBB database include complaints about any topic (not limited to Complaint Counsel's allegations in this matter).
50. On an absolute basis, I compared the total number of complaints filed against Intuit relative to the comparable number for each benchmark company. On a relative basis, I normalized the total number of complaints filed against each company based on the total number of customers that each company reports in their public filings or other materials. I divide the

⁷¹ According to Pew Research Center, 56 percent of Americans watch TV via cable or satellite. See "Cable and satellite TV use has dropped dramatically in the U.S. since 2015," *Pew Research Center*, March 17, 2021, available at <https://www.pewresearch.org/fact-tank/2021/03/17/cable-and-satellite-tv-use-has-dropped-dramatically-in-the-u-s-since-2015/>.

⁷² Auto insurance is required in all states in the U.S. except for New Hampshire and Virginia. See Moore, W., "States Where Car Insurance is Not Mandatory (2022)," *Motor1*, December 15, 2021, available at <https://www.motor1.com/reviews/403859/states-where-car-insurance-is-not-mandatory/>.

total number of complaints for each company by the reported total number of customers. I then arrive at a rate of BBB complaints for Intuit and for each benchmark company. Comparing these rates allows for a more accurate comparison that is unaffected by the relative number of customers for each company.

51. **Figure 1** below shows the results of my BBB complaints benchmarking analysis. Intuit has 27.6 BBB complaints per million customers, compared to the benchmark companies' average of 191.9 BBB complaints per million customers. **Appendix E** presents the results of **Figure 1** on a by-company basis.⁷³

Figure 1
Benchmarking of Intuit's BBB Complaints⁷⁴

	Total Customers (in Millions)	Complaints per Million Customers	
Intuit²	100	27.6	
Benchmark Group	Total Customers (in Millions)	Avg # of Complaints per Million Customers³	Median Complaints per Million Customers⁴
Direct Intuit Competitors⁵	43	38.2	22.4
Wireless Carriers⁶	441	195.2	199.2
TV Providers⁷	90	516.3	514.0
Automobile Insurance Providers⁸	224	80.8	45.1
Investigated Companies⁹	60	197.7	49.5
Benchmark Group Totals¹⁰		191.9	112.1

Notes:

[1] Number of customers for Intuit and all benchmark companies are approximations based on publicly available sources. See **Appendix E** for further details on methodology.

[2] Intuit customers include customers for all Intuit products, e.g., TurboTax, QuickBooks, etc.

[3] Average Number of Complaints per Million Customers is calculated by dividing the sum of number of complaints per million customers for each company by the number of companies in each benchmark group.

⁷³ **Appendix E** also shows that on an absolute basis, Intuit has 2,761 complaints; benchmark companies have complaints ranging from 2 to 43,436.

⁷⁴ See **Appendix E** for detailed notes and sources.

[4] Median Complaints per Million Customers is the median of the number of complaints per million customers for each benchmark group.

[5] Direct Intuit Competitors include Jackson Hewitt, TaxAct, H&R Block, TaxSlayer, and TaxHawk.

[6] Wireless Carriers include Verizon Wireless, AT&T, and T-Mobile USA.

[7] TV Providers include Comcast, DirecTV, Charter Spectrum, and Dish Network.

[8] Automobile Insurance Providers include Progressive, Geico, USAA, Allstate, and State Farm.

[9] Investigated Companies include Chime Financial, Perdoceo Education Corp., MoneyGram, Fleetcor Technologies, and Dun & Bradstreet. Number of customers is unavailable for Fleetcor Technologies and Dun & Bradstreet, and these companies are more focused on a business-to-business (B2B) model rather than business-to-customer (B2C). As a result, they have been excluded from all calculations and, furthermore, are less directly comparable to Intuit which markets and sells products directly to end consumers.

[10] Benchmark Group Totals are calculated across all benchmark companies except Fleetcor Technologies and Dun & Bradstreet, for which number of customers is unavailable.

2. The Rate of Keywords Related to Deceptive Advertising or Deceptive Pricing Is Comparable to Benchmark Companies

52. Based on the Administrative Complaint, I identified a set of keywords that could be used to identify complaints related to deceptive advertising. This set of keywords is agnostic to the company at issue and focuses on words that relate to the conduct at issue (i.e., words like “deceive,” “advertising,” “upgrade” were included, but not words like “TurboTax” or “hard stop” that are specific to TurboTax). I then created categories for each set of keywords (i.e., the category of “deception” includes “cheated,” “deceptive,” “false,” etc.). A detailed description of the keyword methodology is attached as **Appendix F**.
53. I applied the keyword methodology to the set of complaints for Intuit and the benchmark companies available on the BBB website as of July 1, 2022. For each of the categories identified, I find that Intuit’s rate of complaints in those categories is in line with benchmark companies’ rates. For example, 9 percent of Intuit complaints on the BBB website triggered the “advertising” category, while benchmark company complaints range from an average of 3 percent for investigated companies to 16 percent for wireless carriers. For each of the 6 keyword categories, the rate of Intuit complaints is within the range of complaints for the benchmark companies. **Figure 2** below presents my results.
54. For this keyword analysis, I removed the BBB complaints for Intuit and the benchmark companies that were missing complaint text or were about ProPublica or litigation for a more accurate comparison. A version of the same analysis that includes complaints related to ProPublica or litigation is included in **Appendix F**. I also note that 218 of the Intuit

complaints found on the BBB website were produced by Complaint Counsel in their set of 571 complaints.

Figure 2

Mentions of Keywords in the BBB Complaints on Intuit and Benchmark Companies⁷⁵

Category	Intuit ^[1]		Direct Intuit Competitors ^[2]		TV Providers ^[3]		Automobile Insurance Providers ^[4]		Wireless Carriers ^[5]		Investigated Companies ^[6]	
	Count ^[7]	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
All complaints/reviews	1,531	100%	297	100%	5,438	100%	4,428	100%	11,060	100%	2,799	100%
Advertising ^[8]	136	9%	22	7%	529	10%	120	3%	1,815	16%	74	3%
Price / Charge	1,121	73%	204	69%	4,508	83%	2,891	65%	9,186	83%	1,349	48%
Deception	372	24%	68	23%	1,106	20%	713	16%	3,026	27%	852	30%
Forced to Upgrade / Pay More	232	15%	39	13%	535	10%	371	8%	1,703	15%	161	6%
Waste of Time	176	11%	40	13%	538	10%	564	13%	1,515	14%	422	15%
Disclosure	77	5%	14	5%	174	3%	111	3%	710	6%	73	3%

Notes:

[1] These data were procured by scraping all Intuit complaints from the BBB website as of July 1, 2022.

[2] These data were procured by scraping all complaints from the BBB website for the following companies: H&R Block, Jackson Hewitt, TaxAct, TaxHawk, and TaxSlayer.

[3] These data were procured by scraping all complaints from the BBB website for the following companies: Charter Spectrum, Comcast, DirecTV, and Dish Network.

[4] These data were procured by scraping all complaints from the BBB website for the following companies: Allstate, Geico, Progressive, State Farm, and USAA.

[5] These data were procured by scraping all complaints from the BBB website for the following companies: AT&T, T-Mobile USA, and Verizon Wireless.

[6] These data were procured by scraping all complaints from the BBB website for the following companies: Chime Financial, Dun & Bradstreet, Fleetcor Technologies, MoneyGram, and Perdoceo Education Corporation.

[7] Counts for each category are based on the number of unique complaints which contain any of the specified search terms in that category.

[8] Counts of root words include all variations of the word. For example, the count for “advertise” includes the number of complaints which mention “advertise,” “advertisement,” and/or “advertised.” Words that differ from the root word were searched separately. For example, “advertising” was searched separately. See **Appendix F** for a complete listing of search terms.

[9] This exhibit excludes all complaints/reviews that were flagged as including litigation related keywords. Specifically, 760 unique BBB complaints were removed for Intuit and 9,670 unique BBB complaints were removed for the benchmark companies because they referenced the words “litigation,” “ProPublica,” “lawsuit,” “suit,” “legal,” “Federal Trade Commission,” “FTC,” and/or “sue.”

[10] Complaints marked with “Complaint Details Unavailable” were dropped for the purposes of this analysis. 470 Intuit BBB complaints and 122,546 benchmark BBB complaints were removed due to missing verbatim text.

⁷⁵ See **Appendix F** for detailed notes and sources.

V. REASONABLE CONSUMERS ARE UNLIKELY TO BE DECEIVED BY INTUIT'S MARKETING COMMUNICATIONS

55. As discussed in **Section IV**, the level of customer complaints is inconsistent with the deception alleged by Complaint Counsel. In addition, I see no evidence in Intuit's marketing communications that reasonable consumers would be likely to be deceived.
56. To start, in my opinion, Intuit's ads did not communicate that TurboTax was free for everyone or all tax situations. For instance, Intuit's TY 2021 Free Edition ads communicated only that one TurboTax product, TurboTax Free Edition, was free. The ads further communicated that Free Edition was only available to qualifying customers. Intuit's ads also clearly and conspicuously disclosed that Free Edition is available for customers with "simple tax returns only" (or used similar disclosure language). Those and other disclosures are appropriate for top-of-funnel advertising and comparable in size, length, and font to benchmark companies.
57. The TurboTax website also provides detailed information about Free Edition's qualifications, including on the product lineup on the Products & Pricing Page. This page, which customers see before starting any TurboTax return, also includes interactive tools to assist customers in selecting the appropriate product for their personal tax situation. Intuit regularly tracks whether customers start in the appropriate product for their tax situation, and the majority do.
58. Even if a customer were to somehow bypass the product recommendation screen or ignore the information from that page and start in a product that is not appropriate for their tax situation, the TurboTax website would immediately inform the customer once they enter information disqualifying them. I have seen no evidence that the entering of this information is especially burdensome, despite Complaint Counsel's characterization of it as "invest[ing] significant time and effort."⁷⁶ In fact, [REDACTED]

⁷⁶ FTC Administrative Complaint, ¶ 39.

⁷⁷

See also, **Figure 24.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁷⁸

A. Reasonable Consumers Are Unlikely to Be Deceived by Intuit’s Free Edition Ads

59. Complaint Counsel’s allegations relate to Intuit’s advertising for Free Edition, including TV campaigns from TY 2015 to TY 2021 and a handful of social media ads or paid search results.⁷⁹ For the purposes of the analyses in this declaration, I focus on the TY 2021 TV ads. These include three Free Edition ads in which characters say the word “free” and the *Spit Take* TurboTax Live ad that focused on a limited-time promotion in which assisted tax preparation was available for free to taxpayers with simple returns.

1. Intuit’s TV Ads Build Brand Equity and Drive Consideration of Free Tax Preparation Products but Do Not Lead Directly to Purchases

60. A primary goal of most TV ads is to build product awareness and brand equity, and to direct potential customers to a place, such as a website, where they can get more information, as is the case with TurboTax which can only be purchased online.⁸⁰ TV ads can bring awareness to a product and include instructions for where consumers can find more information.⁸¹ Marketers target consumers throughout the Consumer Buying Process (described in **Section III.B**) in different ways, depending on where the consumers are in the buying process. Marketers often refer to this as the marketing funnel, reflecting that there are more consumers at the top of the funnel (where marketers target large numbers of consumers for awareness and general brand sentiment) than the bottom of the funnel

⁷⁸ [REDACTED]

⁷⁹ Motion for Summary Decision, p. 7. The social media ads appear to include either mobile versions of existing TV ads or short videos or stills with creative similar to the Intuit homepage. The search results include paid results leading to the TurboTax webpage.

⁸⁰ Stewart, D., and Martin, I., “Advertising Disclosures: Clear and Conspicuous or Understood and Used?” *Journal of Public Policy & Marketing*, Vol. 23, No. 2, 2004, pp. 183-192, (hereafter, “Stewart and Martin (2004)”), at p. 187.

⁸¹ Stewart and Martin (2004), p. 187.

(where marketers focus on encouraging conversion among the smaller number of consumers who are nearing the purchase decision).⁸²

61. Consistent with this standard marketing approach, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] (Figure 3). [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

62. Intuit's Free Edition ads are brand-building ads aimed to increase awareness of Free Edition and to increase positive associations with the TurboTax brand. As such, these communications focus on one piece of information about the TurboTax brand: the fact that a Free Edition version exists.

⁸² For example, Kotler and Keller describe the marketing funnel as the potential target market at each stage of the decision processes, from merely aware to highly loyal. Kotler and Keller (2016), p. 141.

⁸³ [REDACTED]

⁸⁴ [REDACTED]

63. Critically, consistent with the goals of brand-building advertising, TV ads for high-involvement products do not lead to direct conversions: at most, they prompt interest in a product that leads consumers to search for more information about that product or brand.⁸⁵ Therefore, even if consumers are unsure at the point of viewing the ad whether there are qualification requirements for Free Edition or whether they would personally qualify, they would rarely simply proceed to purchasing a paid product (or even selecting Free Edition) without substantial further research and consideration throughout the Consumer Buying Process.

2. Consumers Encounter Many Offers for Free Products or Services and Demonstrate Skepticism and an Expectation of Terms and Conditions that Describe Accessing or Keeping the Free Offer

64. Intuit's Free Edition ads focused on emphasizing that Free Edition is in fact free for customers with simple tax returns in part to overcome consumers' inherent skepticism that a product can ever be free. As discussed in **Section III.B**, taxpayers are likely to be highly motivated, highly involved, and risk averse in their Consumer Buying Process for tax preparation services. They are therefore likely to commit meaningful time and energy to the information-search and evaluation-of-alternatives stages of the Consumer Buying Process, including by seeking recommendations from friends and family and researching different purchasing options to make an informed decision about their product choice.⁸⁶
65. Consumers understand that for-profit companies need to make money⁸⁷ – and often demonstrate skepticism when faced with “free” product claims by those companies. [REDACTED]

⁸⁵ Batra and Keller note that (“TV advertising is highly effective at creating awareness, interest, and consideration – the front end of the funnel or consumer decision journey.”). However, brand awareness does not directly lead to purchase. According to Batra and Keller’s Consumer Decision Journey, there are many different stages between “Aware/Knows” and “Consumes” and (“because each of these steps is probabilistic, a successful consumer decision journey for a brand can be derailed by failure at any stage.”). See Batra, R., and Keller, K.L., “Integrating Marketing Communications: New Findings, New Lessons, and New Ideas,” *Journal of Marketing*, Vol. 80, No. 6, November 2016, pp. 122-145, at pp. 125-126.

⁸⁶ Assael (2004), pp. 98, 104-106.

⁸⁷ Studies find that consumers regard higher prices due to increased costs as fair, revealing that they understand that for-profit companies need to make money on the products and services that they sell. See Kahneman, D., et al., “Fairness as a Constraint on Profit Seeking: Entitlements in the Market,” *The American Economic Review*, Vol. 76, No. 4, 1986, pp. 728-741 at p. 728; Kalapurakal, R., et al., “Perceived Price Fairness and Dual Entitlement,” *Advances in Consumer Research*, Vol. 18, 1991, pp. 788-793 at p. 788.

[REDACTED]. For example:

- [REDACTED]⁸⁸
- [REDACTED]⁸⁹
- [REDACTED]⁹⁰

66. This reflects the fact that consumers are regularly faced with free product offerings across a range of goods and services. For example:

- Some retailers offer Buy One, Get One Free pricing, with the free product being the less expensive of the two products.⁹¹
- Some TV and Internet providers offer free introductory pricing for premium channels or streaming services, with the regular pricing kicking in after some number of months.⁹²
- Some makeup brands or retailers offer a free gift or sample products, with the purchase of a product or products of a certain value.⁹³
- Some music and TV streaming services offer a free tier of service, with the inclusion of ads or with certain limitations on functionality.⁹⁴

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⁹¹ For example, Payless Shoes gives consumers the opportunity to buy one pair of shoes and get one free. See “BOGO,” *Payless Shoes*, available at <https://www.payless.com/bogo>; “Buy one, get one free: The marketing strategy to boost sales for e-commerce,” *Mage Solution*, available at <https://magesolution.com/buy-one-get-one-free-the-sales-strategy/>.

⁹² Verizon sells a “1 Gig” Fios Internet plan that includes Disney+ for 6 months for free, and \$7.99 afterwards. See “Get Verizon Fios,” *Verizon*, available at <https://www.verizon.com/home/bundles/fios>.

⁹³ Clinique offers customers up to six free samples based on how much they spend. See “Offers,” *Clinique*, available at <https://www.clinique.com/offers>.

⁹⁴ Spotify, for example, gives listeners the ability to listen to a “free” version with ads. See “Play millions of songs and podcasts, for free,” *Spotify*, available at <https://www.spotify.com/us/free/>; “Spotify is testing a less restrictive ad-supported tier costing \$9.99 a month,” *The Verge*, available at <https://www.theverge.com/2021/8/3/22607203/spotify-plus-ad-supported-tier-unlimited-skips-on-demand-listening>; Peacock, NBC’s streaming service, has a free tier but limits high-profile and new content to customers

67. Each of these offerings offers some aspect of a product or service for free with at least some restrictions or requirements to access the free product.
68. Other online tax preparation providers including H&R Block,⁹⁵ TaxAct,⁹⁶ and TaxSlayer,⁹⁷ which together with TurboTax serve most taxpayers who use online tax preparation services,⁹⁸ all use similar tiered pricing models. Each provides a free version of their tax preparation software that can be used for filing simple personal tax returns (and are marketed as such) and three tiers of premium offerings (all priced within \$75 of each other) that include additional features for more complicated tax returns.^{99,100} For example, Intuit's [REDACTED],¹⁰¹ H&R Block has four DIY products (similar to Intuit as discussed earlier) as shown in **Figure 4** below.

who use the paid version. See “Peacock: What’s Free, What’s Paid and What Else to Know,” *CNET*, August 19, 2022, available at <https://www.cnet.com/tech/services-and-software/peacock-whats-free-whats-paid-and-what-else-to-know/>; “Choose a Plan,” *Peacock*, available at <https://www.peacocktv.com/plan-picker>.

⁹⁵ “File Online. Free Online,” *H&R Block*, available at <https://www.hrblock.com/online-tax-filing/free-online-tax-filing/>, (hereafter, “File Online. Free Online (2022)”), accessed on July 20, 2022.

⁹⁶ “TaxAct Free,” *TaxAct*, available at <https://www.taxact.com/individual-taxes/online/free/>, accessed on July 20, 2022.

⁹⁷ “TaxSlayer Simply Free,” *TaxSlayer*, available at <https://www.taxslayer.com/products/taxslayer-free-tax-filing>, accessed on July 20, 2022.

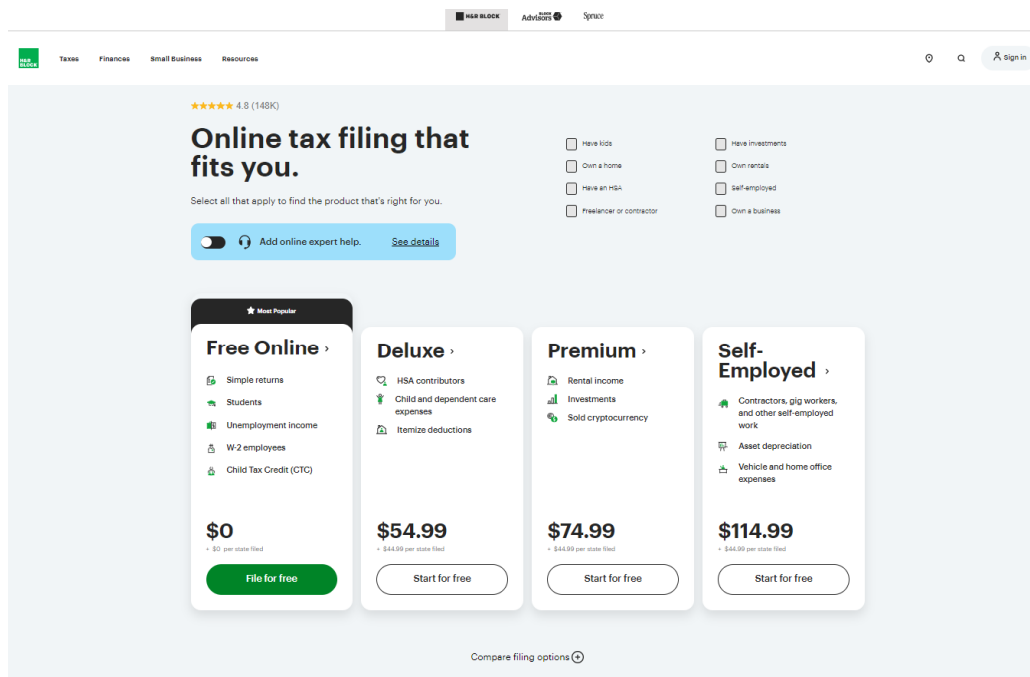
⁹⁸ “Electronic Filings via Online Tax Software Companies,” *ProPublica*, 2019, available at <https://assets.documentcloud.org/documents/6788961/ProPublica-Analysis-of-IRS-Electronic-Filing-Data.pdf>.

⁹⁹ Bradbury, D., “Tech Tips: Tax software for your clients,” *Investment Executive*, April 5, 2019, available at https://www.investmentexecutive.com/newspaper_/building-your-business-newspaper/tech-tips-tax-software-for-your-clients/.

¹⁰⁰ “Deluxe” or “Classic” products are priced within \$35 of each other, “Premium” products are priced within \$44.05 of each other, and “Self-employed” products are priced within \$64.05 of each other. See “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022; File Online. Free Online (2022); “Online Tax Filing Services,” *TaxAct*, available at <https://www.taxact.com/taxes-online>, accessed on April 4, 2022; “Compare our online tax software,” *TaxSlayer*, available at <https://www.taxslayer.com/tax-tools/compare-tax-software>, accessed on August 26, 2022.

¹⁰¹ [REDACTED]

Figure 4
H&R Block DIY Online Product Lineup¹⁰²



69. Consumers are unlikely to view Intuit’s TurboTax Free Edition ads and believe with certainty that they would necessarily be able to file their own taxes for free. Consumers who prepare and file their tax returns each year have likely already completed the Consumer Buying Process in prior years and already have some level of familiarity with their options, including whether their tax situation is likely to qualify them for a free DIY product (whether with TurboTax or a competitor). Moreover, consumers are familiar with free product offerings across a range of goods and services and are in fact skeptical of free product offerings.
70. While Intuit’s ads appropriately included a disclosure that clarified the qualifications for Free Edition, the ads primarily focused on a single high-level message, as is common in brand-building TV ads. Such ads are not intended to provide comprehensive and detailed descriptions of every taxpayer scenario or Intuit product and service, nor would reasonable consumers expect them to.

¹⁰² “Online Tax Filing,” *H&R Block*, available at <https://www.hrblock.com/online-tax-filing/>, accessed on August 26, 2022.

3. The Disclosures in Intuit's TV Advertisements Are Similar to Benchmark Companies' Advertisements and Are Consistent with the FTC's Own Disclosure Guidelines

71. Complaint Counsel claim that the disclosures in Intuit's ads are "too small, too faint, too silent, too hidden, and too inscrutable."¹⁰³ Specifically, Complaint Counsel argue that the disclosures in Intuit's ads: (1) require an understanding of "simple" returns that they claim that consumers do not have; (2) are partially in writing when they argue they should be voiced over in entirety; (3) are disproportionately small relative to the size of the marketing message; (4) are not visually prominent relative to the background; and (5) do not appear on the screen for long enough.¹⁰⁴ Complaint Counsel have not, however, provided any comparison or offered any information about what font sizes, colors, or amounts of time would be sufficient.
72. The FTC publishes guidelines, which are intended to help businesses verify that their ads' disclosures are not deceptive in their communications.¹⁰⁵ The six components of the FTC Guidelines relating to online consumer disclosures are consistent with the marketing and consumer behavior literature. Specifically, the FTC Guidelines regarding proximity and placement,¹⁰⁶ prominence,¹⁰⁷ limited distractors,¹⁰⁸ the use of repetition for key disclosures,¹⁰⁹ consideration of disclosures across different forms of media,¹¹⁰ and the need

¹⁰³ Motion for Summary Decision, p. 25.

¹⁰⁴ Motion for Summary Decision, pp. 27-29.

¹⁰⁵ ".com Disclosures: How to Make Effective Disclosures in Digital Advertising," *FTC*, March 2013, pp. 1-2, available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>, ("hereafter, *FTC Guidelines*, 2013").

¹⁰⁶ *FTC Guidelines*, 2013, p. 8.

¹⁰⁷ *FTC Guidelines*, 2013, p. 17.

¹⁰⁸ *FTC Guidelines*, 2013, p. 19.

¹⁰⁹ *FTC Guidelines*, 2013, p. 19 ("It may be necessary to disclose information more than once to convey a non-deceptive message. Repeating a disclosure makes it more likely that a consumer will notice and understand it and will also increase the likelihood that it will be seen by consumers who may be entering the website at different points.").

¹¹⁰ *FTC Guidelines*, 2013, p. 20 ("Display visual disclosures for a sufficient duration. Visual disclosures presented in video clips or other dynamic portions of online ads should appear for a duration sufficient for consumers to notice, read, and understand them. As with brief video superscripts in television ads, fleeting online disclosures are not likely to be effective.").

to use simple and direct language¹¹¹ are consistent with research on the importance of balancing information in advertising and comprehension/cognitive overload.¹¹²

73. Providing detailed information in TV ads is often not the most effective way to disseminate information to consumers. According to Stewart and Martin (2004), TV advertising is a relatively “ineffective medium for providing consumers with information” because the ad is short, comes without notice, and consumers cannot control the pace of the information.¹¹³ When there is a lot of information to communicate, “consumers might be better served through strategic timing of disclosures to ensure that information is available at specific points in the purchase and product usage process when such information is most relevant to them.”¹¹⁴ TV ads typically contain short disclosures appropriate for the medium. It certainly would not make sense or be an effective communication in a 30-second ad to read the list of tax forms and schedules included or not included in Free Edition.
74. To assess Intuit’s TurboTax ads, I have compared the at-issue ads and their associated disclosures with ads from the 22 benchmark companies discussed in **Section IV.B**, including 5 tax preparation competitors and 17 other benchmark companies for the purpose of comparing disclosures.
75. For the purposes of my analysis, I have focused on the most recent TV ads from TY 2021. These include three “Free, Free, Free” ads (*Dog Show*, *Auctioneer*, and *Dance Workout*) and the limited time promotion TurboTax Live ad, *Spit Take*. However, I note that *all* of Intuit’s TV ads raised by Complaint Counsel (going back as far as TY 2015) include disclosure language relating to simple returns.¹¹⁵

¹¹¹ FTC Guidelines, 2013, p. 21 (“Advertisers should use clear language and syntax and avoid legalese or technical jargon. Disclosures should be as simple and straightforward as possible.”).

¹¹² Ariely, D., “Controlling the Information Flow: Effects on Consumers’ Decision Making and Preferences,” *Journal of Consumer Research*, Vol. 27, No. 2, 2000, pp. 233-248.

¹¹³ Stewart and Martin (2004), p. 187.

¹¹⁴ Stewart and Martin (2004), p. 186.

¹¹⁵ Complaint Counsel have also referred to a handful of social media advertising campaigns that appear to include creative content from the TV ads. For example, Complaint Counsel cite a Facebook ad from February 11, 2021, that appears to be a mobile version of the Dance Workout TV ad. *See* Motion for Summary Decision pp. 13-14. This appears to have the equivalent disclosure content of the TV ads the content was pulled from, and I have not analyzed them further at this point.

76. The three “Free, Free, Free” ads each feature characters saying the word “free.” All three ads concluded with a voiceover that says, “That’s right TurboTax Free Edition is free. See details at TurboTax.com.”¹¹⁶ This voiceover alerted the viewer that “TurboTax Free Edition” is the product that is free and pointed them to the TurboTax website for more details. The TurboTax website would include details of the full suite of TurboTax products (not just the Free Edition product being advertised) and the qualification requirements for each product.
77. The ads also ended with a screen (see **Figure 5**) that said, “Intuit TurboTax Free Edition” and included a disclosure that read “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.”¹¹⁷ For a 30-second ad, the disclosure appeared between the 24 and 26 second marks and remained on the screen for three to four seconds.¹¹⁸ This disclosure conveyed that the free offer only applied to TurboTax Free Edition and that there are qualifications to use TurboTax Free Edition by stating that it is “for simple U.S. returns only,” telling taxpayers to “see if they qualify.” The disclosure also conveyed the category of the restriction (specifying that only simple returns qualify) and directed viewers to the TurboTax website for more information about whether they qualify.

¹¹⁶ Shiller Declaration, ¶¶ 132, 138, 143.

¹¹⁷ Intuit TV Ad, “Auctioneer,” QTTX001900H; Intuit TV Ad, “Copy of Dance Workout,” QTTX0023000H; Intuit TV Ad, “Dog Show,” QTT2159H.

¹¹⁸ Intuit TV Ad, “Spit Take,” QTTX0157000H; Intuit TV Ad, “Auctioneer,” QTTX001900H; Intuit TV Ad, “Copy of Dance Workout,” QTTX0023000H; Intuit TV Ad, “Dog Show,” QTT2159H.

Figure 5**Simple Returns Disclosure on Dog Show, Auctioneer, and Dance Workout TV Ads¹¹⁹**

78. The *Spit Take* ad was a limited-time promotion on expert-assisted preparation. It stated “did you know that TurboTax is free no matter how you want to file? [...] it’s true anyone with a simple tax return can get help from an expert, for free” and “for a limited time, TurboTax is free for simple returns, no matter how you file.”¹²⁰ The ad ended with a screen that said, “Intuit TurboTax Live,” and included a disclosure at the bottom of the screen that read, “For simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer subject to change.”¹²¹
79. To compare Intuit’s ads to benchmark ads, I selected the three most recent 30-second ads that I could locate going back to 2020 for each of the benchmark companies that contained a disclosure and pertained to a free offer, cost of a product or service, or eligibility criteria for a product or service. Where I was not able to find 30-second ads discussing a free offer, cost of a product or service, or eligibility criteria for a product or service, I selected the

¹¹⁹ Intuit TV Ad, “Auctioneer,” QTTX001900H; Intuit TV Ad, “Copy of Dance Workout,” QTTX0023000H; Intuit TV Ad, “Dog Show,” QTT2159H.

¹²⁰ Intuit TV Ad, “Spit Take,” QTTX0157000H.

¹²¹ Intuit TV Ad, “Spit Take,” QTTX0157000H.

three most recent ads (going back to 2020) that contained a disclosure.¹²² **Figure 6** summarizes the results of my findings. I provide a detailed description of my methodology in selecting TV ads and metrics to track in **Appendix G**.

¹²² Note that there were instances in which I was not able to find three ads that fit these criteria. *See Appendix G* for additional details.

Figure 6
TurboTax and Benchmark Ads¹²³

Benchmark Group	Company	Proximity	Prominence		Repetition		Multimedia
		Disclosure on the screen the same time the claim is made? ³	Average Disclosure Size (Disclosure size as a % of total screen length) ⁴	Color of Disclosure Text / Color of Background ⁵	Is there a voiceover of disclosure text?	Is the disclosure repeated on the company website? ⁶	Average Duration the disclosure is on screen (seconds)
TurboTax	TurboTax	Yes	2.0%	White / Various Backgrounds (Some Moving)	No	Yes	4.0
Direct Intuit Competitors ⁷	H&R Block	Yes	1.8%	White / Various Backgrounds (Some Moving)	No	Yes	3.7
	TaxAct	Sometimes	2.3%	White / Various Backgrounds (Some Moving)	No	Yes	4.3
	TaxSlayer	Sometimes	1.9%	Various Colors / Various Backgrounds	No	Yes	4.0
	Jackson Hewitt	Yes	2.0%	White / Purple	No	Yes	5.0
Wireless Carriers	AT&T	Yes	1.8%	White / Blue	No	Yes	4.7
	Verizon	Yes	1.5%	Various Colors / Moving Background	No	Yes	5.3
	T-Mobile	Yes	2.0%	White / Magenta	No	Yes	5.0
TV Providers	DirecTV	Yes	1.6%	White / Various Backgrounds	No	Yes	4.0
	Comcast/Xfinity	Sometimes	1.9%	White / Moving Background	No	Yes	5.0
	Charter Spectrum	Yes	1.8%	Various Colors / Various Backgrounds (Some Moving)	No	Yes	3.3
	Dish Network	Yes	1.9%	Grey / White	No	Yes	5.7
Automobile Insurance Providers	State Farm	Yes	1.8%	White / Moving Background	No	Yes	3.7
	GEICO	Sometimes	1.9%	White / Moving Background	No	Yes	3.0
	Progressive	Sometimes	2.5%	White / Moving Background	No	Yes	3.7
	Allstate	Sometimes	1.8%	White / Moving Background	No	Yes	4.0
	USAA	Yes	1.6%	White / Dark Blue	No	Yes	4.3
Investigated Companies ⁸	MoneyGram	Sometimes	1.8%	Black / White	No	Yes	2.7
	Chime	Yes	1.5%	White / Moving Background	No	Yes	4.3
Average of Benchmark Companies (excluding TurboTax)			1.9%				4.2

Notes:

[1] For each company, I selected the three most recent TV ads available (going back to 2020) that met the following criteria: (1) were 30-second, (2) were about a discount/free offering or discussed eligibility, and (3) had a disclosure. Where it was not possible to find a TV ad that met all three criteria, I prioritized criteria (1) and (3): that is, not all companies I reviewed had a discount/free offering or discussed eligibility. If there was more than one disclosure within an ad, I chose the disclosure focusing on a free promotion, discount, rate or eligibility criteria. Where these criteria could not be met, I chose the last disclosure of the ad.

[2] The disclosure was at the bottom of the screen for every ad included in this analysis.

[3] A disclosure is considered to be on the screen the same time the claim is made, if any part of a related claim is on screen or voiced over while the disclosure is shown. A categorization of “Sometimes” indicates that one or more of the ads I reviewed contained a claim accompanied by a related disclosure at the same time.

[4] Disclosure Size is calculated by dividing the length of one line of disclosure text (cm) by the total length of the screen (cm).

[5] If disclosures I reviewed for a given company were not all the same color I categorized the color of the disclosure text as “Various Colors.” Some disclosures are presented on top of the ad video, as opposed to a stationary background, so there is no consistent background color. In these cases, I have categorized the color of the background as “Moving Background.” If one or more but not all ads I reviewed for a given company had a moving background, I classified the color of the background as “Various Backgrounds (Some Moving).”

[6] H&R Block, Dish TV, and MoneyGram each include disclosures that qualify claims not included on the website because the specific deal is no longer featured on the website, or the claim is irrelevant to the website. See **Appendix G** for details.

[7] There are no ads that were 30-seconds long for TaxHawk.

[8] There are no ads that were 30-seconds long for the other investigated companies: Dun & Bradstreet, Fleetcor Technologies, and Perdoceo Education Corp.

80. I used the FTC Guidelines and Complaint Counsel’s specific allegations in this matter as a guideline for the metrics to track for each ad.

a) Proximity and Placement

81. According to the FTC Guidelines relating to online consumer disclosures, “[a] disclosure is more effective if it is placed near the claim it qualifies or other relevant information.”¹²⁴ This is consistent with the FTC’s earlier guidance specific to TV advertising. In 1970, the FTC’s standards for “clear and conspicuous” TV advertising stated, “[t]he disclosure should be presented simultaneously in both the audio and video portions of the television advertisement.”¹²⁵ Complaint Counsel did not specifically take issue with the proximity or placement of Intuit’s disclosures in its ads.

¹²³ See **Appendix G** for detailed notes and sources.

¹²⁴ FTC Guidelines, 2013, p. 8.

¹²⁵ “Commission Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advertising,” *FTC*, October 21, 1970, available at https://www.ftc.gov/system/files/documents/public_statements/288851/701021tvad-pr.pdf (“FTC TV Guidelines, 1970”), p. 1.

82. To assess proximity and placement, I measured: (1) whether the disclosure was on the screen at the same time the claim was made; and (2) where the disclosure was placed on the screen.
- **Contemporaneous disclosure.** Intuit’s ads always include the disclosure on the screen at the same time as the claim (while the voiceover says “TurboTax Free Edition is Free” or “TurboTax is free for simple returns”), while 11 out of 18 benchmark companies’ ads did so.¹²⁶
 - **Disclosure placement.** All companies, including Intuit, placed disclosures at the bottom of the screen.
83. Therefore, my review indicates that Intuit’s disclosures are comparable to benchmark companies on proximity and placement metrics.

b) Prominence

84. The FTC Guidelines relating to online consumer disclosures suggest that disclosures should be “display[ed]... prominently so they are noticeable to consumers. The size, color, and graphics of the disclosure affects its prominence.”¹²⁷ In the TV-specific guidance published in 1970, the FTC advised, “the disclosure must contain letters of sufficient size so that it can be easily seen and read on all television sets.”¹²⁸ Regarding the color of the disclosure in TV ads, the FTC advised, “The video portion of the disclosure should contain letters of a color or shade that readily contrasts with the background. The background should consist of only one color or shade.”¹²⁹
85. Complaint Counsel have argued that Intuit’s disclosures were not sufficiently prominent; specifically, that the font is too small relative to the size of the marketing message and it is not visually prominent relative to the background.¹³⁰

¹²⁶ As noted in **Figure 6**, I was unable to find ads that met my search criteria for the following benchmark companies: TaxHawk, Dun & Bradstreet, Fleetcor Technologies, and Perdoceo Education Corp.

¹²⁷ FTC Guidelines, 2013, p. 17.

¹²⁸ FTC TV Guidelines, 1970, p. 1.

¹²⁹ FTC TV Guidelines, 1970, p. 1.

¹³⁰ Motion for Summary Decision, pp. 25, 27.

86. To assess prominence, I measured: (1) the size of the disclosure relative to the total size of the screen; (2) the size of the disclosure relative to the largest text on the screen; and (3) the color of the disclosure text and background.
- **Size vs. total size.** Intuit’s ads have an average disclosure size as a percentage of the total screen size of approximately 2.0 percent. For benchmark companies, the average ranges from 1.5 to 2.5 percent, with a mean of 1.9 percent.
 - **Color.** Intuit’s disclosures are in white font, either against a blue background or against a moving background. Benchmark companies also primarily used white font with either a moving background or a solid color consistent with the company’s branding (e.g., green for H&R Block, magenta for T-Mobile).
87. Therefore, my review indicates that Intuit’s disclosures are consistent with benchmark companies on prominence metrics.

c) Distracting Factors

88. The FTC Guidelines relating to online consumer disclosures specifically discuss what constitutes a distracting factor using the example of TV ads. According to the FTC, “[o]n television, moving visuals behind text message make the text hard to read and may distract consumers’ attention from the message.”¹³¹ Complaint Counsel did not specifically take issue with distracting factors in Intuit’s ads.¹³²
89. To assess distracting factors, I measured whether the background of the disclosure was solid or moving. Most of Intuit’s ads include a moving background behind the disclosure text;¹³³ however, this was a common methodology among benchmark companies as well. Notably, when Intuit’s ads do include a moving background behind the disclosure, they also include a solid background for an equivalent amount of time, removing the distracting factor.¹³⁴

¹³¹ FTC Guidelines, 2013, p. 19.

¹³² Motion for Summary Decision, pp. 27-29.

¹³³ If the disclosure text was ever presented on top of a moving video, I conservatively categorize the ad as having a “Moving” background.

¹³⁴ Three out of four of the Intuit disclosures begin with a “Moving” background for the first two seconds but end on a “Solid” background for the last two seconds giving the viewer an opportunity to read the disclosure without distracting factors. I conservatively categorize these three ads as having a “Moving” background even if they appear on a “Solid” background for half of the disclosure duration. *See* Intuit TV Ad, “Copy of Dance Workout,” QTTX0023000H; Intuit TV Ad, “Dog Show,” QTT2159H; Intuit TV Ad, “Auctioneer,” QTTX001900H.

90. Therefore, my review indicates that Intuit’s disclosures are consistent with benchmark companies on distracting factors metrics.

d) Repetition

91. The FTC Guidelines suggest that “[i]t may be necessary to disclose information more than once.”¹³⁵ However, “the disclosure need not be repeated so often that consumers would ignore it or it would clutter the ad.”¹³⁶ These guidelines specifically suggest to “[r]epeat disclosures on lengthy [web]sites and applications, as needed” and “[r]epeat disclosures with repeated claims, as needed.”¹³⁷
92. Complaint Counsel have argued that Intuit should have voiced over the disclosure in its entirety, rather than including the text disclosure and an alternate audio disclosure directing viewers to the website for more details.¹³⁸
93. To assess repetition, I measured: (1) whether there was a voiceover of the disclosure text; and (2) whether the disclosure was repeated (or expanded upon) on the company webpage.
- **Voiceover.** Intuit’s ads do not include a voiceover of the disclosure text in which the disclosure text is voiced over exactly as written. Benchmark companies’ ads also did not include this voiceover.
 - **Webpage.** Intuit’s website contains similar or more detailed messaging as the disclosure text in all ads. Benchmark companies’ ads containing a claim featured on the website also included similar or more detailed messaging as the disclosure text.
94. Therefore, my review indicates that Intuit’s disclosures are consistent with benchmark companies on repetition metrics.

e) Multimedia Messages and Campaigns

95. The 2013 FTC Guidelines relating to online consumer disclosures also include guidelines that are specific to the ad medium. For TV ads, the FTC suggests to “display visual disclosure for a sufficient duration...for consumers to notice, read, and understand

¹³⁵ FTC Guidelines, 2013, p. 19.

¹³⁶ FTC Guidelines, 2013, p. 19.

¹³⁷ FTC Guidelines, 2013, p. 19.

¹³⁸ Motion for Summary Decision, pp. 27-28.

them.”¹³⁹ Similarly, the FTC’s 1970s TV guidelines suggest, “[t]he video portion of the disclosure should appear on the screen for a sufficient duration to enable it to be completely read by the viewer.”¹⁴⁰

96. Complaint Counsel argue that Intuit’s disclosures did not appear on the screen for a sufficient duration.¹⁴¹
97. To assess this multimedia specific guideline, I measured the duration for which the disclosures appeared on the ad. All ads that I reviewed were 30-second ads.
98. Intuit’s ads have disclosures that appear on screen for an average of 4.0 seconds. For benchmark companies, the average duration ranges from 2.7 seconds to 5.7 seconds, with a mean of 4.2 seconds.
99. Therefore, my review indicates that Intuit’s disclosures are consistent with benchmark companies on multimedia-specific dimensions.

f) Understandable Language

100. The FTC Guidelines suggest that advertisers should “use clear language” and that disclosures should be “as simple and straightforward as possible.”¹⁴² Complaint Counsel have argued that the reference to “simple returns” is not clear to consumers.¹⁴³ Because the language is so specific to the industry, I limited my review of this factor to whether other tax preparation companies and/or the IRS itself use the same terminology.
101. Some of Intuit’s competitors also advertise their free tax products. For example, TaxSlayer’s “Cash Cow” commercial advertised its free online tax preparation product (“TaxSlayer Simply Free”) and concluded with a voiceover that said: “file for free with TaxSlayer Simply Free and get your maximum refund guaranteed.” Like the TurboTax ads, the TaxSlayer disclosure refers to “simple tax situations” as qualifying for the free

¹³⁹ FTC Guidelines, 2013, p. 20.

¹⁴⁰ FTC TV Guidelines, 1970, p. 2.

¹⁴¹ Motion for Summary Decision, p. 29.

¹⁴² FTC Guidelines, 2013, p. 21.

¹⁴³ Motion for Summary Decision, pp. 27, 30.

product. See **Figure 7** below for a screenshot of the disclosure provided in this TaxSlayer ad.

Figure 7
Simple Returns Disclosure on Cash Cow TV Ads¹⁴⁴

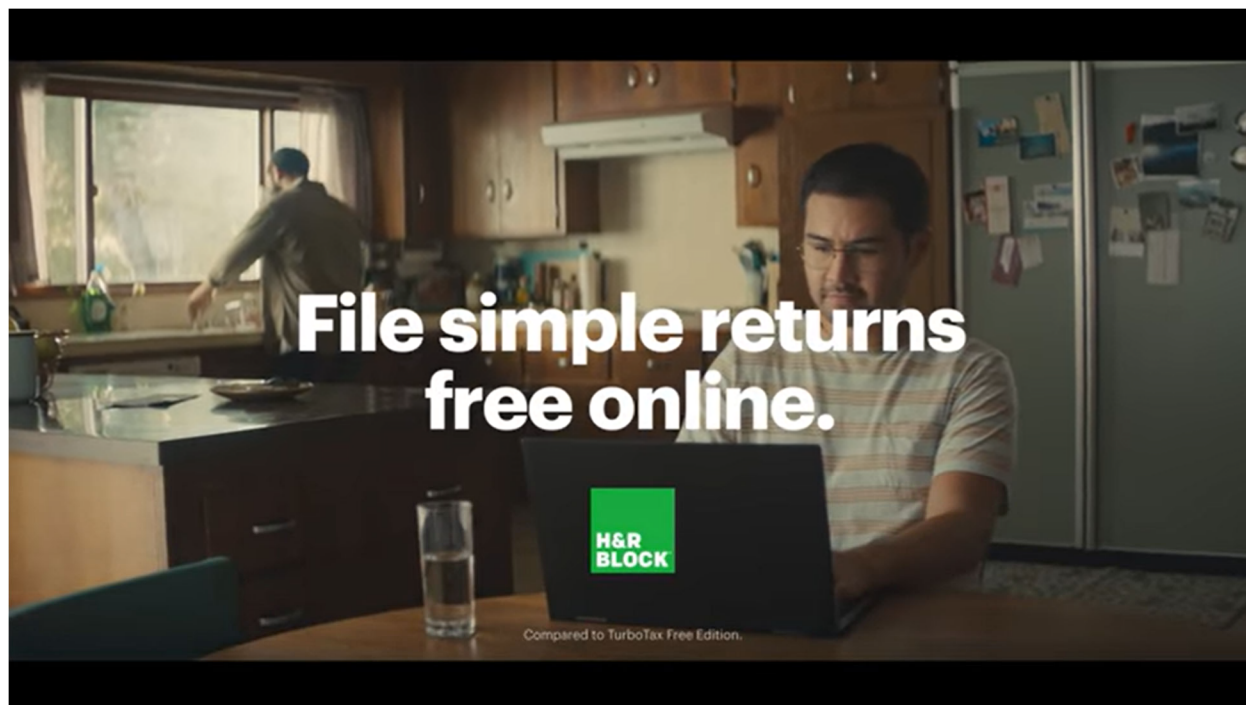


102. In another example, in TY 2021 H&R Block ran a TV ad for its free online product, comparing eligibility requirements for H&R Block’s free product with TurboTax Free Edition (see **Figure 8**). The voiceover to this ad states: “The best part about doing things yourself? It’s free. Like doing your own taxes with H&R Block Free Online. Where more people can file free than with TurboTax.”¹⁴⁵ Again, H&R Block uses the “simple returns” terminology, with the final screen saying, “File simple returns free online.” The disclosure on this ad simply states, “Compared to TurboTax Free Edition” and does not contain any other information about qualifying limitations for the H&R Block Free Online product.

¹⁴⁴ TaxSlayer TV Ad, “TaxSlayer 2022 Commercial ‘Cash Cow’ (Official TV Ad: 30),” January 4, 2022, available at <https://www.youtube.com/watch?v=nSaryc0WZB0>, accessed on August 28, 2022.

¹⁴⁵ H&R Block TV Ad, “Free File Online,” February 14, 2022, available at <https://www.youtube.com/watch?v=EnzdfD0bcr4>, accessed on August 27, 2022. H&R Block’s “Free File Online” ad is 15 seconds long. Therefore, it did not meet the criteria to be included in the tax competitor ads analysis in **Figure 6** and **Appendix G**.

Figure 8
H&R Block Free Advertisement¹⁴⁶



103. In addition to their advertising, Intuit’s tax preparation competitors that offer a free product use similar “simple returns” terminology to describe products on their websites. For example:

- **H&R Block’s** website describing online tax filing options lists “Simple returns” as an eligibility criterion for its “Free Online” product.¹⁴⁷
- **TaxSlayer** names its Free product “Simply Free” and lists “Simple tax situations” as an eligibility criterion to file for free.¹⁴⁸
- **TaxAct’s** website states that the “Free” product is “perfect for simple federal filers.”¹⁴⁹
- **Tax Hawk** uses a different pricing mechanism (charging for state returns) but emphasizes on its website that customers can “file advanced or simple federal

¹⁴⁶ H&R Block TV Ad, “Free File Online,” February 14, 2022, available at <https://www.youtube.com/watch?v=EnzdfD0bcr4>, accessed on August 27, 2022.

¹⁴⁷ “Online tax filing that fits you,” *H&R Block*, available at <https://www.hrblock.com/online-tax-filing/>, accessed on August 23, 2022.

¹⁴⁸ “Ready to get your biggest refund?,” *TaxSlayer*, available at <https://www.taxslayer.com/>, accessed on August 23, 2022.

¹⁴⁹ “Missed the IRS Deadline?,” *TaxAct*, available at <https://www.taxact.com/>, accessed on August 23, 2022.

taxes for free” and that “Simple Returns,” “Premium Returns,” and “Advanced Returns” are all free.¹⁵⁰

104. In fact, according to the Government Accountability Office (“GAO”), the IRS itself classifies tax returns as simple, intermediate, and complex.¹⁵¹ According to a GAO report, the IRS considers “[s]imple returns” to be those “without any schedules.”¹⁵² Similarly, an IRS presentation defines simple returns to be those returns with “Form 1040, 1040A, or 1040EZ, without any schedules.”¹⁵³
105. Notably, if consumers are unsure about whether their tax returns are considered simple at the time they watch Intuit’s ads, they can easily find that information on the TurboTax website, where every reference to simple returns includes a hyperlinked pop-up that clearly lays out the included and excluded forms.
106. As discussed throughout this section, Intuit’s disclosures in its TurboTax TV ads are in line with industry standards and use terminology common within the tax preparation industry. Along every metric studied, which were drawn from the FTC’s own disclosure guidelines and allegations, Intuit is in line with or superior to benchmark companies. Since TV ads are a space-constrained medium and most TV ads are top-of-funnel marketing that focus on brand building and brand awareness, it is not surprising that disclosures are generally concise across companies, and consumers likely expect the same.

¹⁵⁰ “File Federal Taxes Free!,” *TaxHawk*, available at <https://www.taxhawk.com/>, accessed on August 23, 2022.

¹⁵¹ United States Government Accountability Office Report to Congressional Requesters, “IRS Free File Program,” GAO-22-105236, April 2022, available at <https://www.gao.gov/assets/gao-22-105236.pdf>.

¹⁵² The GAO notes that the IRS determines three levels of tax complexity: Simple, Intermediate, and Complex. “IRS defines the categories by accompanying schedules or additional forms associated with specific tax credits. Simple returns are without any schedules. Intermediate returns are with schedules A, B, D, and forms associated with the Additional Child Tax Credit, Educational Credit, Child Care Credit, Credit for the Elderly, or Earned Income Tax Credit. Complex returns are all other returns, including returns with schedules C, E, F, or other schedules.” United States Government Accountability Office Report to Congressional Requesters, “IRS Free File Program,” GAO-22-105236, April 2022, available at <https://www.gao.gov/assets/gao-22-105236.pdf>.

¹⁵³ Cico, D., and Olson, C.L.H., “Lessons Learned from IRS Free Filers: Capturing Young Taxpayers for a Lifetime of Electronic Filing,” June 12, 2008, available at <https://www.irs.gov/pub/irs-soi/08rescnefile.pdf>, slide 19. This 2008 presentation concerns tax data from TY 2005 and TY 2006. I note that Forms 1040A and 1040EZ were eliminated as part of the Tax Cuts and Jobs Act starting in TY 2018. See Treasury Inspector General for Tax Administration, “Tax Cuts and Jobs Act: Assessment of Implementation Efforts,” April 18, 2019, available at <https://www.treasury.gov/tigta/auditreports/2019reports/201944027fr.pdf>, p. 9.

B. The TurboTax Website Provides Critical Information to Consumers, which Is Inconsistent with Consumer Deception

1. The TurboTax Website Provides Additional Information About the TurboTax Product Lineup and Discloses Up Front that Free Edition Is Not Appropriate for All Tax Situations

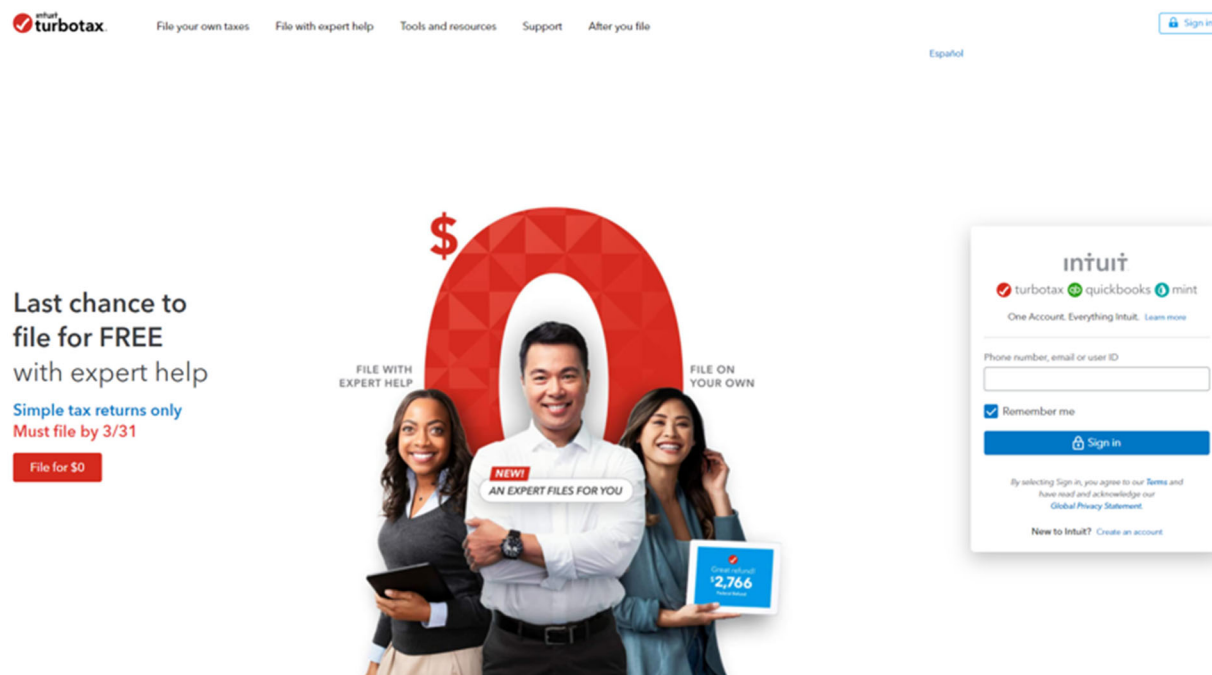
107. Regardless of whether a consumer observed a TurboTax Free Edition ad, the Intuit website provides detailed information about Free Edition’s qualifications and information about the TurboTax product lineup.

a) Homepage

108. For new users, the TurboTax homepage (i.e., turbotax.intuit.com) features a login, a high-level product comparison, customer reviews, and, at the bottom of the page, a roadmap of the TurboTax website. I understand that there are multiple versions of the TurboTax homepage active at any time: I have chosen a version that emphasized free tax filing for the purposes of assessing Complaint Counsel’s allegations (see **Figure 9**). However, other versions emphasize the different types of expert help available (e.g., “Your taxes, your way: Do it yourself, get expert help, or hand it off start to finish - let’s get your taxes done right”).¹⁵⁴

¹⁵⁴ These other versions that emphasize different types of expert help available would not have the reinforcing “simple tax returns only” disclosure, as it would not be applicable to the highlighted offer.

Figure 9
TurboTax Homepage¹⁵⁵



109. The version of the homepage emphasizing free filing says, “Last chance to file for FREE with expert help.” It then includes a disclosure noting “Simple tax returns only” that is hyperlinked to a pop-up describing what qualifies as a simple tax return as well as a disclosure that this represented a limited time offer, both of which appear to precede and have larger font than the proximate “File for \$0” text within the red button.^{156,157} The “simple returns” disclosure is blue on a solid white background, indicating that it is a hyperlink (as these are often displayed in blue) and making the disclosure stand out relative to the black text used elsewhere.
110. Of note, both the academic literature and the FTC Guidelines relating to online consumer disclosures note that keeping a disclosure short and prominently displayed increases the

¹⁵⁵ “Last chance to file for FREE with expert help: Simple tax returns only,” *Intuit*, available at <https://turbotax.intuit.com/>, accessed on March 31, 2022.

¹⁵⁶ I note that at the time of the screenshot as presented, there was an active promotion to motivate taxpayers to file by March 31, 2022.

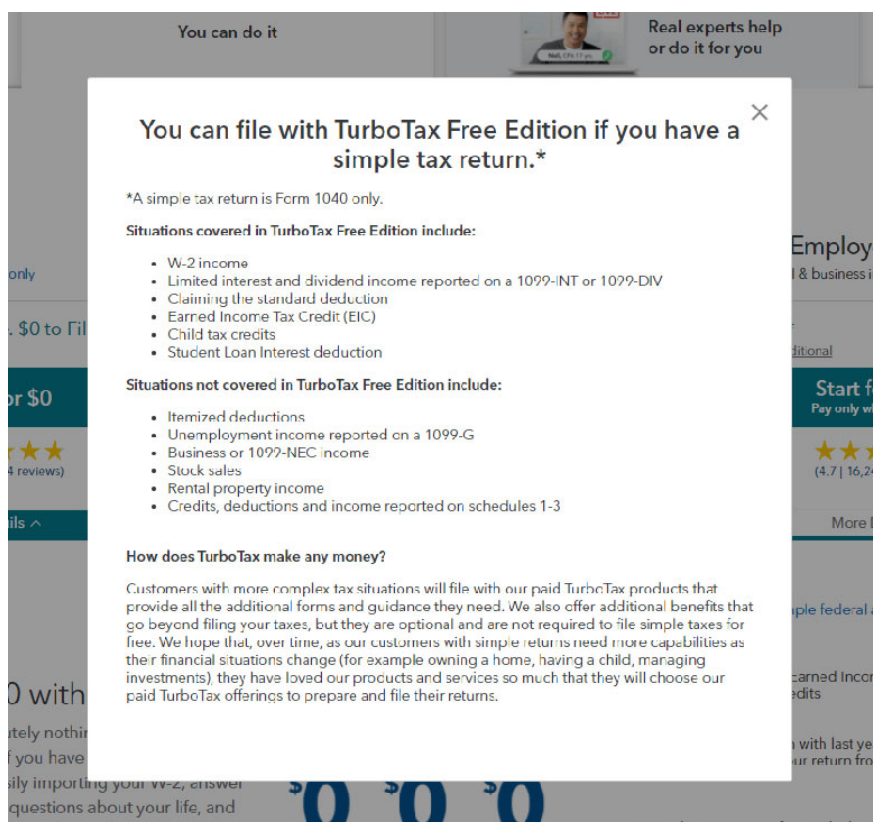
¹⁵⁷ I did not conduct a full analysis of Intuit’s website in previous tax years and instead focused on Intuit’s website in TY 2021. I note, however, that each year of Intuit’s website cited in the Motion for Summary Decision included disclosures associated with Free Edition, including a hyperlink leading to a pop-up describing simple returns. *See* Motion for Summary Decision, pp. 15, 16, 31.

likelihood that consumers notice the disclosure and are able to understand and recall this information.¹⁵⁸ Having a lengthy disclosure on the homepage with all product details displayed at once may distract potential customers from the primary message that Free Edition is free for simple tax returns only.¹⁵⁹

b) Simple Returns Pop-up

111. The simple returns pop-up (which is hyperlinked to the “Simple tax returns only” language as noted above) describes the specific tax situations covered and not covered by Free Edition, as well as information responding to the question “How does TurboTax make any money?” See **Figure 10**.

Figure 10
“Simple Tax Returns” Pop-up¹⁶⁰



¹⁵⁸ FTC Guidelines, 2013, p. 17; OECD, “Improving Online Disclosures with Behavioral Insights,” *OECD Digital Economy Papers*, April 2018, (hereafter, “OECD (2018)”), pp. 24-25.

¹⁵⁹ FTC Guidelines, 2013, p. 15.

¹⁶⁰ “Personal Taxes Online: Free Edition” pop-up, *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on March 16, 2022.

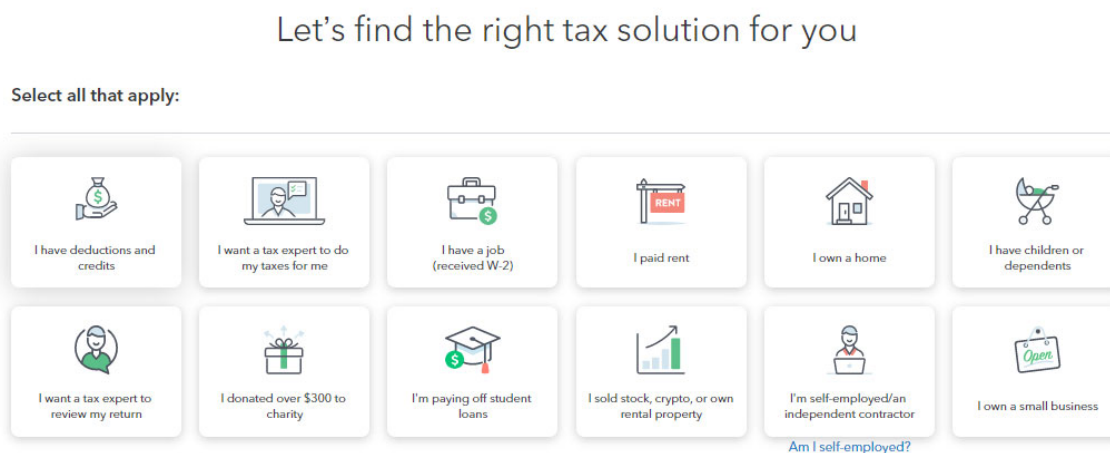
112. This pop-up clearly describes the qualification requirements and is available from the homepage “Simple tax returns only” link and from links anywhere on the TurboTax website that relate to Free Edition (e.g., three places on the Products & Pricing Page alone – see **Figure 12**, below).

c) Products & Pricing Page

113. The Products & Pricing Page (see **Figure 11** and **Figure 12** below) is one of the primary TurboTax webpages and can be accessed in a number of ways, including: (1) by clicking any product described at a high-level on the TurboTax homepage; (2) as the first page for a new log-in; and (3) by clicking “Products & Pricing” from the “File your own taxes” drop-down at the top of the TurboTax website at any time (including from the homepage).¹⁶¹

Figure 11

Top Panel: Interactive Buttons to Choose a Product¹⁶²



114. The Products & Pricing Page clearly lists the price for each paid product and indicates that state returns would incur an additional fee, near the same place Free Edition indicates that it is \$0 for simple tax returns only, and all proximate to the button to begin the return in

¹⁶¹ I did not conduct a full analysis of Intuit’s website in previous tax years and instead focused on Intuit’s website in TY 2021. I note, however, that Intuit’s website has consistently included a Product & Pricing Page with this functionality in prior tax years.

¹⁶² “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on April 3, 2022.

that product. This design makes price points transparent, limits distracting factors in the disclosure, and repeats the relevant disclosure as suggested by the FTC Guidelines and the academic literature. The price point of each product is listed right above where the potential customer has to take action. The proximity and prominence of price placement promote a “clear and conspicuous disclosure.”

115. Starting as early as the TurboTax homepage, any TurboTax page that features Free Edition also includes at least one link to the pop-up that defines a simple return. For example, **Figure 12** focuses on the Free Edition tab on the Products & Pricing Page, which includes three separate hyperlinks to the simple returns pop-up.

Figure 12
Bottom Panel: Products & Pricing Page Comparison Example¹⁶³

The screenshot displays the TurboTax Products & Pricing Page. At the top, there are two banners: "You can do it" and "Real experts help or do it for you". Below these is the heading "America's #1 brand of tax software". The page is divided into four columns representing different editions:

- Free Edition:** "For simple tax returns only". Price: "\$0 Fed. \$0 State. \$0 to File." Button: "File for \$0". Rating: 4.9 (43,250 reviews). Link: "Hide Details ^".
- Deluxe:** "Maximize tax deductions and credits". Price: "\$59* State additional". Button: "Start for free Pay only when you file". Rating: 4.6 (56,830 reviews). Link: "More Details v".
- Premier:** "Investments and rental property". Price: "\$89* State additional". Button: "Start for free Pay only when you file". Rating: 4.4 (13,454 reviews). Link: "More Details v".
- Self-Employed:** "Personal & business income and expenses". Price: "\$119* State additional". Button: "Start for free Pay only when you file". Rating: 4.7 (16,251 reviews). Link: "More Details v".

Below the edition cards, there is a section titled "File for \$0 with Free Edition" with a large "FREE" graphic and "\$0 Fed \$0 State \$0 to File". The text states: "You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return only. Start by easily importing your W-2, answer simple non-tax questions about your life, and we'll get you your maximum refund." To the right of this section is a list of benefits:

- ✓ Free filing of your simple federal and state tax returns only.
- ✓ Covers W-2 income, Earned Income Tax Credit (EIC) and child tax credits
- ✓ Jumpstart your return with last year's TurboTax info or import a PDF of your return from another tax software
- ✓ Guidance in case of an audit, backed by our Audit Support Guarantee
- ✓ Get answers 24/7 from our online community of TurboTax specialists and customers

¹⁶³ "Personal Taxes Online," Intuit, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on April 3, 2022.

116. Of note, both the academic literature and the FTC Guidelines relating to online consumer disclosures note that keeping a disclosure short and prominently displayed increases the likelihood that consumers notice the disclosure and are able to understand and recall this information.¹⁶⁴ Having a lengthy disclosure on the homepage or the Products & Pricing Page that lists each IRS form that would or would not qualify as a simple tax return would be unwieldy and may be counterproductive to consumer understanding.¹⁶⁵
117. After viewing the Products & Pricing Page, if a customer who does not qualify for Free Edition chooses to start in Free Edition, it is likely that they would do so knowing that there was a good chance they may not qualify. In order to do so, they must either: (1) ignore the product information, simple returns pop-up, and recommendation buttons entirely; (2) only select recommendation buttons that would qualify them for Free Edition even though their tax situation was more complex; or (3) select recommendation buttons that would not qualify them for Free Edition but disregard the recommendation.

2. The TurboTax Website Contains Functionality to Direct Customers to the Appropriate Product for Their Tax Situation

118. For customers who may want additional assistance in selecting a product, rather than simply reading the descriptions, the Products & Pricing Page includes a SKU Selector that includes twelve buttons that relate to common tax situations that might qualify a taxpayer for a certain type of product. The screening questions allow the TurboTax software to recommend a TurboTax product to fit the potential customer's needs.¹⁶⁶ As the potential customer checks boxes, the software updates its recommendations, which appear in the bottom panel of the Products & Pricing Page (see **Figure 12** above). For example, if a taxpayer indicates that they rent their home, have a job with W-2 income, and have children or dependents, the website suggests Free Edition, which still includes the "For simple tax returns only" hyperlink (see **Figure 13** below).

¹⁶⁴ FTC Guidelines, 2013, p. 17; OECD (2018), pp. 24-25.













¹⁶⁵ FTC Guidelines, 2013, p. 15.

¹⁶⁶ "Personal Taxes Online," *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022.

Figure 13
Initial Screening Questions¹⁶⁷

Let's find the right tax solution for you

Select all that apply:

 I want to maximize deductions and credits	 I want a tax expert to do my taxes for me	 I have a job (received W-2)	 I paid rent	 I own a home	 I have children or dependents
 I want a tax expert to review my return	 I donated over \$300 to charity	 I'm paying off student loans	 I sold stock, crypto, or own rental property	 I'm self-employed/an independent contractor <i>Am I self-employed?</i>	 I own a small business

You can do it

Real experts help or do it for you

America's #1 brand of tax software

WE RECOMMEND				
Free Edition For simple tax returns only	Deluxe Maximize tax deductions and credits	Premier Investments and rental property	Self-Employed Personal & business income and expenses	
\$0 Fed. \$0 State. \$0 to File.	\$59* <i>State additional</i>	\$89* <i>State additional</i>	\$119* <i>State additional</i>	
File for \$0	Start for free Pay only when you file	Start for free Pay only when you file	Start for free Pay only when you file	
★★★★★ (8.9) 43,782 reviews	★★★★★ (8.6) 56,737 reviews	★★★★★ (8.5) 13,808 reviews	★★★★★ (8.7) 16,238 reviews	
Hide Details	More Details	More Details	More Details	

119. If, however, the taxpayer indicates that they have a more complex tax situation, for example because they own a home or have sold stock, the website suggests a product consistent with that information. For example, if a customer indicates that they own a home, TurboTax will recommend TurboTax Deluxe which includes itemized deductions such as the mortgage interest expense deduction. If a customer indicates that they own a small business, TurboTax will recommend TurboTax Self-Employed which covers personal and business income and expenses.

¹⁶⁷ "Personal Taxes Online," Intuit, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022.

120. Contrary to Complaint Counsel’s assertion that consumers must enter sensitive personal information to find out whether they qualify for Free Edition, the Products & Pricing Page appears very early in the purchase process, often before a consumer has entered any information at all. As soon as a customer navigates to the TurboTax website and clicks on a prompt to start their taxes (including the prompt to “start for free”) they are immediately directed to the Products & Pricing Page. In fact, customers are unable to start their tax returns without encountering this webpage. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 168

121. [REDACTED]
- [REDACTED]
- [REDACTED] 169 [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] 170 The fact that customers are unable to begin their returns without first passing through the Product & Pricing Page and encountering the information it provides, is further evidence that Intuit’s marketing is unlikely to deceive consumers into believing that TurboTax is free for all tax situations, but rather is designed to provide consumers with information necessary to start in the appropriate product for their tax situation.

122. Providing this information on the homepage along with the user-friendly SKU selector tool is consistent with Intuit approaching its relationship with potential customers from a value maximizing, long-term view. Because Intuit wants to build positive relationships with

168 [REDACTED]

169 [REDACTED]

170 [REDACTED]

taxpayers year-over-year, it is in Intuit's best interest to have potential customers start filing their taxes in the appropriate product for their tax situation as improved [REDACTED]

[REDACTED]¹⁷¹ It is in Intuit's best interest to match potential customers to the appropriate product for their tax situation as soon as possible in their purchase journey, to minimize any disappointment or dissatisfaction.

123. Evidence from Intuit's business documents and detailed customer-level data indicate [REDACTED]

[REDACTED] Of those returns that were started in Free Edition, [REDACTED].¹⁷²

[REDACTED]¹⁷³

124. This is consistent with statistics showing that in TY 2019, only [REDACTED] of TurboTax customers encountered a required upgrade screen.¹⁷⁴ Such statistics likely overstate the number of taxpayers who expected or even hoped to file for free using such a solution, as some consumers may choose to start with Free Edition "just to see" if they are eligible. In fact, the New York Times' Wirecutter review of "The Best Tax Filing Software" for TY

¹⁷¹ [REDACTED]

¹⁷² [REDACTED]

¹⁷³ [REDACTED]

¹⁷⁴ [REDACTED]


2021 advised that “we think most people should start with the Free Edition. Even if you might have some deductible expenses, such as mortgage interest or charitable donations, it’s better to start here and upgrade to Deluxe only if you’re required to.”¹⁷⁵ Consumers who may not expect to be eligible for Free Edition may nevertheless choose to start in Free Edition just in case they are eligible.

3. Upgrade Screens Inform Customers as Early as Possible of a Required Upgrade Minimizing the Time and Effort Customers Spend Before Encountering an Upgrade Screen

125. Complaint Counsel allege that consumers are told that they do not qualify for Free Edition only “after investing time and effort gathering and inputting into TurboTax their sensitive personal and financial information.”¹⁷⁶ That allegation is inconsistent with my review of the TurboTax ads and website.
126. **Figure 15** details the various disclosures provided by Intuit in its ads and on its website, and the various points a consumer can exit throughout the Consumer Buying Process.

¹⁷⁵ Pinola, M., “The Best Online Tax Software,” *Wirecutter*, February 15, 2022, available at <https://www.nytimes.com/wirecutter/reviews/best-tax-software/> (hereafter, “Pinola (2022)”).

¹⁷⁶ Motion for Summary Decision, pp. 4-5.

- 
127. Customers using the interactive SKU selector or reading the Products & Pricing Page to select the appropriate product for their tax situation can identify the appropriate product with a few simple clicks of their mouse, without entering any personal information or investing meaningful time in the process.
 128. Even if customers ignore the detailed product information and skip the SKU selector or disregard its recommendation, as soon as they enter any personal information that would disqualify them from using their current product, the TurboTax website would immediately alert them with an upgrade screen. If a taxpayer who started in Free Edition enters information sufficient to identify their tax situation as complex, the software alerts the taxpayer immediately, provides information about why the taxpayer does not qualify for Free Edition, and discloses the associated upgrade fee. Informing customers of the need to

upgrade early in the process allows them to decide whether or not to continue to use TurboTax before they spend any additional time and lets them comparison shop.¹⁷⁷

129.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Each

module of TurboTax includes initial screening questions related to the topic: for example, the income module includes questions about common *types* of income before customers enter *specific* income information.

130. For example, **Figure 16** illustrates an income screening question for a TY 2021 customer who selects that they have cryptocurrency. **Figure 17** shows that the customer is notified of the need for an upgrade as soon as they answered this screening question affirmatively, likely before entering the details of any of their income.¹⁷⁸

¹⁷⁷ I also note that the Kirk Fair Disclosure Survey finds that TurboTax's upgrade screens do not induce consumers to upgrade to paid products or affect the extent to which consumers use other free filing solutions. *See* Declaration of Rebecca Kirk Fair, In the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, August 30, 2022.

¹⁷⁸ I note that the customer may choose to import their tax information automatically from their bank or financial institution. If the customer chooses to have their information imported in this way, the customer does not see the upgrade screen until after their information has been automatically imported. For customers who choose to manually enter their information, they see the upgrade screen immediately.

Figure 16

Investment Screening Questions¹⁷⁹

FEDERAL REFUND (in progress) **\$24,346** MA TAX DUE (in progress) **\$680** Hide

Wages & Income Deductions & Credits Other Tax Situations Federal Review

OK, let's start with one investment type

(We'll come back to add any other types later.)

- Interest**
Paid from bank or investment accounts
1099-INT
- Dividends**
Payments to shareholders
1099-DIV
- Stocks, Bonds, Mutual Funds**
(options, index funds, ETFs)
1099-B, 3922, 3921
- Cryptocurrency**
(Bitcoin, Ethereum, Dogecoin)
CSV, 1099-B, 1099-K
- Other**
(land, second homes, personal items)
1099-S

[Why don't I see my investment?](#)
[What does each form or file report?](#)

[< Back](#) [Continue](#)

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Figure 17

Income-related Upgrade Screen for Customer with Cryptocurrency¹⁸⁰

FEDERAL REFUND (in progress) **\$24,346** MA TAX DUE (in progress) **\$680** Hide

Wages & Income Deductions & Credits Other Tax Situations Federal Review

Because you sold investments, you need to upgrade to TurboTax Premier to continue

Free Edition	Premier
Free Edition doesn't include Schedule D , which you must file to report your investment income or losses to the IRS.	Premier includes Schedule D and supporting forms, so you can accurately report your investment income or losses.
	See more benefits

\$89* Federal
State additional

You'll no longer be charged for PLUS. Premier includes one-on-one specialist support, personalized tax tips, MyDocs™, and easy online amend benefits. For audit defense and identity theft representation, you'll need to add MAX—you'll have an opportunity to do that before you file.

Continue with Premier and pick up where you left off. Don't worry about pulling out your wallet—look for the payment option to deduct the cost from your federal refund when you file.

[* More details and disclosures](#)

[< Back](#) [This doesn't apply to me](#) [Upgrade to Premier](#)

131.

181

132. Customers who do not have income-related disqualifiers will proceed to filling in deductions and credits. Again, customers receive an initial set of screening questions for potential deductions and credits. However, because the decision of whether to itemize deductions or use a standard deduction depends on the amount of deductions, the upgrade screens appear after the information is entered. Note that these upgrade screens are recommended, not required: a customer could still file their tax returns for free without itemizing but may receive a lower refund.
133. For example, **Figure 18** illustrates the case of a TY 2021 customer who is informed, after entering their deductions information, they can choose a standard deduction which will get the customer a federal refund of approximately \$10,000, or an itemized deduction which will get the customer a federal refund of approximately \$24,000. If the customer selects to itemize their deductions, the next page, as shown in **Figure 19**, informs the customer that they will need to upgrade to TurboTax Deluxe based on their tax situation. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

182

179 "Personal Taxes Online," *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on July 29, 2022.

180 "Personal Taxes Online," *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on July 29, 2022.

181

182

Figure 18

Selection of Standard Deduction or Itemization¹⁸³

FEDERAL REFUND (in progress) **\$24,346** MA TAX DUE (in progress) **\$680** Hide

Wages & Income Deductions & Credits Other Tax Situations Federal Review

Let's make sure you're taking the right deduction to keep your taxes accurate

Married Filing Separately taxpayers are required to take the same deduction as their spouse. The IRS checks spouses' returns, and if the deductions don't match, there's a penalty.

That means you and your spouse both need to either take the Standard Deduction or itemize your deductions. [Learn more](#)

Check in with your spouse. If they've already filed, you're locked into their choice.

If they haven't filed and you're able to collaborate, these numbers will help you compare options:

- The Standard Deduction would get you a federal refund of \$10,263.
- Itemizing would get you a federal refund of \$24,346.

Which option are you and your spouse choosing this year?

☐ We're taking the Standard Deduction

☐ We're itemizing our deductions

[Explain these deductions and how they affect my refund](#)

[< Back](#) [Continue](#)

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Figure 19

Deductions-related Upgrade Screen for Customer Selecting to Itemize¹⁸⁴

FEDERAL REFUND (in progress) **\$24,346** MA TAX DUE (in progress) **\$680** Hide

Wages & Income Deductions & Credits Other Tax Situations Federal Review

Based on your tax situation, you need to upgrade to TurboTax Deluxe

~ Your current product ~
Free Edition

Free Edition is only for simple tax returns. You won't be able to **itemize your deductions**.

~ Required for your tax situation ~
Deluxe

Deluxe covers **itemizing deductions**, which is reported to the IRS on Schedule A.

[See more benefits](#)

\$59* Federal
State additional

You'll no longer be charged for PLUS benefits. Deluxe includes include one-on-one specialist support, personalized tax tips, MyDocs™, and easy online amend benefits. For audit defense and identity theft protection, you'll need to add MAX-- you'll have an opportunity to do that before you file.

Continue with Deluxe and pick up where you left off. No need to pull out your wallet--you can pay from your federal refund when you file.

[* More details and disclosures](#)

[< Back](#) [I'll upgrade later](#) [Upgrade to Deluxe](#)

¹⁸³ “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on July 29, 2022.

¹⁸⁴ “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on July 29, 2022.

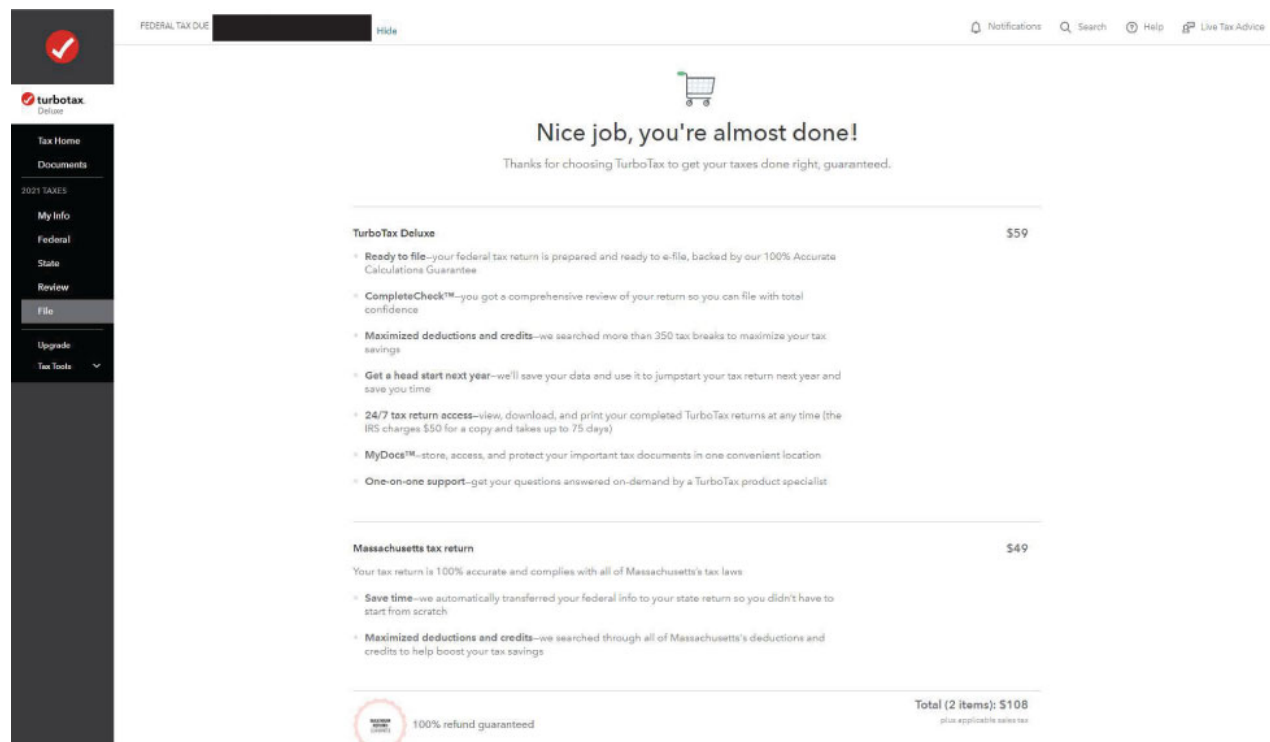
134. Therefore, even among customers who ignore product recommendations and choose to start in a product that is not appropriate for their tax situation, it is unlikely that most customers would invest a substantial amount of time before reaching an upgrade screen.¹⁸⁵

4. Even in the Final Stages of the Filing Process, TurboTax Provides Clear Pricing Information to Customers One More Time Before Purchase

a) Review and File

135. After a taxpayer has entered all relevant personal information and completed the Federal and State filing sections (if applicable), they reach the final Review and File stages. Regardless of when the customer selected the TurboTax product they are using, these final steps are the same and it is at this juncture that the customer must make their final purchase decision.
136. **Figure 20** shows an example of a taxpayer being presented an overview of charges in the Review phase. The overview of charges includes a breakdown of the taxpayer's total amount owed, including the product selected, a detailed list of product features, and product prices. In this example, the taxpayer is clearly being charged \$59 for TurboTax Deluxe and \$49 for their state tax return. This webpage is laid out like a common webpage receipt, with prices for the individual products and a total indicating the number of products purchased.

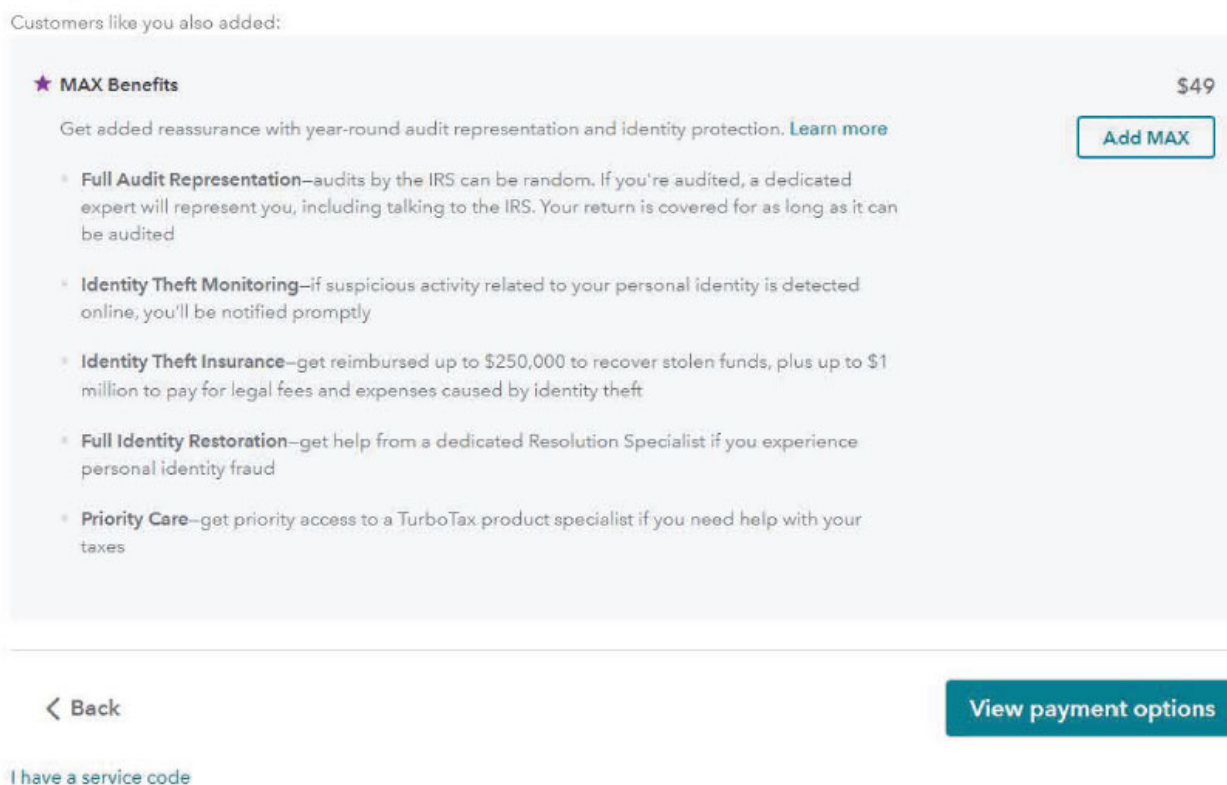
Figure 20
Overview of Charges Example¹⁸⁶



137. On the overview of charges screen, the TurboTax website also presents the taxpayer an optional opportunity to purchase an add-on. As **Figure 21** shows, the taxpayer is provided the opportunity to add MAX Benefits. Again, the price of MAX and all features included in the add-on are clearly presented. The taxpayer can decide if they would like to purchase MAX Benefits, which would add \$49 to their total and provide them with “Full Audit Representation,” “Identity Theft Monitoring,” “Identity Theft Insurance,” “Full Identity Restoration,” and “Priority Care.”

¹⁸⁶ “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on July 20, 2022.

Figure 21
Overview of Charges Example (continued)¹⁸⁷

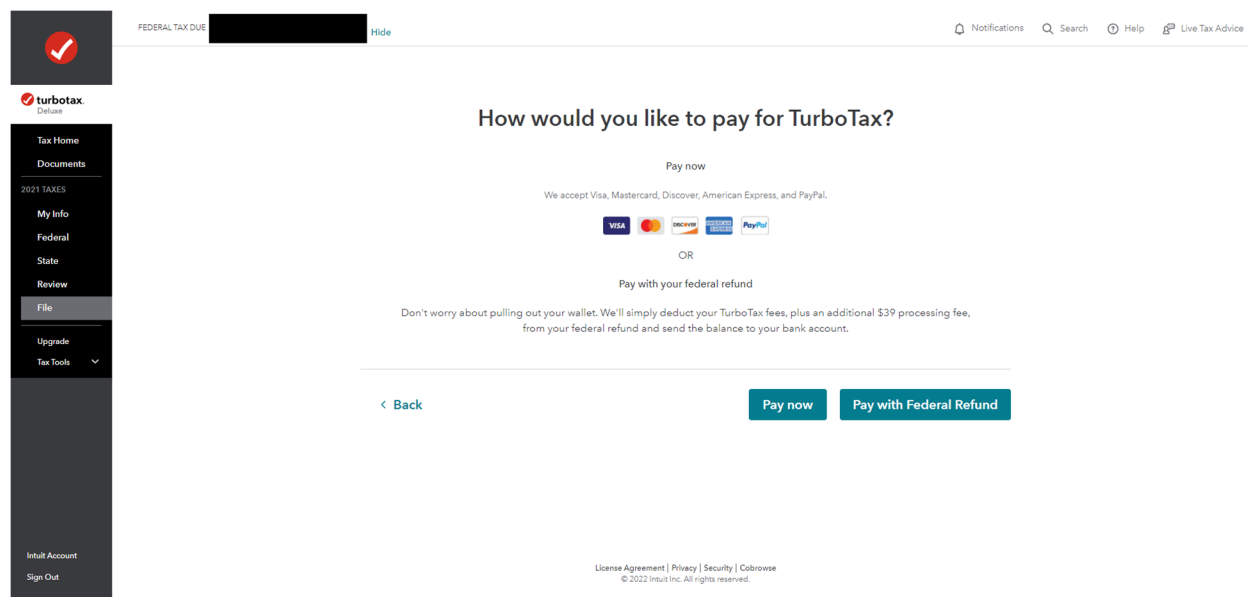


b) Payment

138. The taxpayer is presented with the final payment screen only after viewing the detailed overview of charges. In the final File stage, the taxpayer has already been made aware of the products and add-ons they are being charged for (see **Figure 20** and **Figure 21**) and they are given the choice to “Pay Now” or “Pay with Federal Refund” (for an additional \$39 processing fee) (see **Figure 22**).

¹⁸⁷ “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed July 20, 2022.

Figure 22
Payment Options¹⁸⁸



139. It is only at this point in the process that the customer makes a final decision about whether or not to pay for TurboTax: after seeing simple returns disclosures on the homepage and the Products & Pricing Page, pricing disclosures for paid products on the Products & Pricing Page and any applicable upgrade screens, and the summary of charges on the prior screen. Throughout the entire process, the customer had the ability to change their mind or re-evaluate their choice.

VI. CUSTOMERS ARE NOT LOCKED IN ONCE THEY HAVE BEGUN USING TURBOTAX FREE EDITION OR FILED IN PRIOR YEARS USING TURBOTAX FREE EDITION

140. Complaint Counsel appear to assume that consumers, upon learning they did not qualify for Free Edition either immediately on the website or during the course of filling out their taxes, would be unable or unwilling to choose an alternative tax preparation method and instead would choose to continue and pay for TurboTax, even continuing to use TurboTax in subsequent years.¹⁸⁹ I have not seen facts or data to support this general assumption, which is not surprising since it is contrary to the academic literature. To the contrary,

¹⁸⁸ “Personal Taxes Online,” *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online>, accessed on March 17, 2022.

¹⁸⁹ FTC Administrative Complaint, ¶¶ 54–58.

because of the high-involvement purchase process for tax preparation services, consumers are likely to conduct substantial research prior to making a purchase decision. Data from TurboTax indicates that customers are willing to switch tax preparation providers from year to year and are even willing to switch mid-stream, trying out multiple options before making an ultimate selection. Such regular switching behavior in the context of a yearly high-involvement purchase decision is not consistent with Complaint Counsel's theory that consumers are locked into TurboTax by the allegedly deceptive ads.

141. Moreover, TurboTax customer reviews reflect high customer satisfaction and imply customers receive value from TurboTax. High satisfaction and high customer retention, in conjunction with the low number of complaints indicate that most customers feel that the service they receive from TurboTax products matches or exceeds their expectations, which is inconsistent with consumer deception.

A. Prolonged Information Search Is Common for High-Involvement Products Like Tax Preparation

142. Customers who are new to TurboTax may evaluate a number of potential tax return filing alternatives, including other online DIY products, assisted tax preparation products, and other options within the TurboTax Suite such as TurboTax Live and TurboTax Live Full Service. Each of these tax preparation solutions competes with operators across similar product offerings along several dimensions, including price, functionality, and service quality. For instance, the online DIY segment itself includes various differentiated products with varying price points, product features, levels of audit assistance, and other add-on services.
143. As the consumer evaluates their alternatives, they can compare the features of different TurboTax products to each other and to products offered by competitors, all before making any purchase. In fact, the Hauser Purchase Driver Survey found that 46.4 percent of respondents reported exploring tax preparation provider software or websites as part of their research process (the most common research factor selected by respondents).¹⁹⁰ Of

¹⁹⁰ Declaration of John R. Hauser, SC.D., In the Matter of: Intuit Inc., a corporation, Respondent., No. 9408, United States of America Before The Federal Trade Commission, August 30, 2022 (hereafter, "Hauser Declaration"), Exhibit 6a. Respondents included three groups: (1) respondents who changed tax preparation

course, even customers who start using a TurboTax product can make a different filing choice up until the tax return is filed (including using a different tax preparation service altogether).

144. Consistent with a high-involvement purchase process, the Hauser Purchase Driver Survey found respondents conduct substantial research prior to selecting a tax preparation provider or method, and do not simply rely on one or more ads to make a decision. On average, respondents who chose a new tax preparation provider or considered changing tax preparation providers for their TY 2020 taxes reported using 3 different types of information in their research process, with 73.6 percent of respondents reporting using two or more sources of information when researching tax preparation methods.¹⁹¹ Only a small number of respondents (3 of 125) indicated that they relied solely on ads in researching tax preparation methods / providers.¹⁹²
145. Moreover, the Hauser Purchase Driver Survey found 36.8 percent of respondents read articles, rankings or third-party reviews in their research into potential tax preparation methods and providers.¹⁹³ Numerous, well-read third-party websites offer comparisons of leading DIY tax preparation services. Any taxpayer who does some online research on TurboTax products can also easily find third-party information that TurboTax Free Edition can be used only to file simple tax returns and information about the meaning of “simple tax returns” in this context.¹⁹⁴ For example:
 - The New York Times’ Wirecutter review of “The Best Tax Filing Software” separates its recommendations based on individual tax situations, comparing hiring a CPA or tax professional, H&R Block Free Online, and TurboTax Free Edition. The review recommends: (1) a CPA or tax professional for those with complicated returns such as those who are self-employed, have rental income, or bought and sold stocks; (2) H&R Block Free Online for those who have student

providers in TY 2020; (2) respondents who considered changing tax preparation providers for TY 2020; and (3) respondents who did not file taxes in TY 2019 or did not know if they used the same provider in TY 2019 as they did in TY 2020.

¹⁹¹ Hauser Declaration, Exhibit 7.

¹⁹² Three respondents out of 125 (2.4 percent) in the Hauser Purchase Driver survey reported that they *only* “Viewed Advertisements” and/or “Reviewed Marketing Emails” in response to closed-ended questions. *See* Hauser Declaration, ¶ 74.

¹⁹³ Hauser Declaration, Exhibit 6a.

¹⁹⁴ Notably, the scope of Free Edition’s eligibility described on these websites is consistent with (and potentially sourced from) the disclosures found on turbotax.com.

loan debt or college tuition payments and an otherwise simple return; and (3) TurboTax Free Edition for those who do not meet the previous criteria.¹⁹⁵

- NerdWallet’s review of TurboTax 2022 products clearly states that “TurboTax offers a free version for simple tax returns only; it lets you file a Form 1040, claim the earned income tax credit, reconcile your advanced child tax credits and deduct student loan interest. Unlike last year, the free version no longer handles unemployment income reported on a 1099-G. The free package also can’t handle itemized deductions or schedules 1, 2, or 3 of Form 1040, which means it probably won’t work for you if you plan to do things such as deduct mortgage interest, report business or freelance income, or report stock sales or income from a rental property.”¹⁹⁶
- SmartAsset’s review of TurboTax 2022 products states that “For instance, if you have many different types of income, claim a number of different credits, have multiple tax forms to enter, are self-employed or own a business, you’ll pay more. But if you simply file a W-2, you’ll likely qualify for a free service. In addition, if you qualify for a free federal return, your state return will also be free, unless you file with multiple states.”¹⁹⁷

146. New York Times’s Wirecutter, NerdWallet, and SmartAsset are widely circulated websites relied on by consumers. In 2021, Wirecutter had 12 million monthly readers, NerdWallet had 39 million monthly readers, and SmartAsset had more than 100 million monthly readers.¹⁹⁸ Research has shown that online research and reviews play a key role in a consumer’s purchase decision. For example, a 2016 Pew study found that 82 percent of U.S. adults read online ratings or reviews before purchasing items for the first time. The

¹⁹⁵ Pinola (2022).

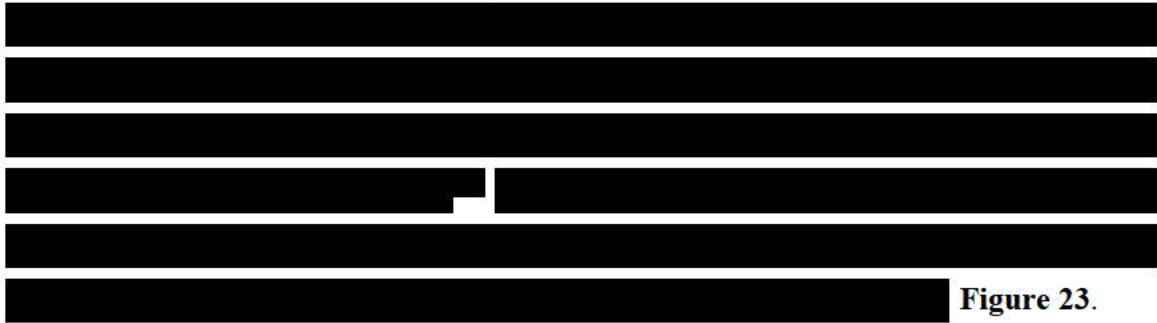
¹⁹⁶ Parys, S. and Orem, T., “TurboTax Review 2022,” *NerdWallet*, March 3, 2022, available at <https://www.nerdwallet.com/article/taxes/turbotax-review>.

¹⁹⁷ Zhu, E., “TurboTax Review 2022,” *SmartAsset*TM, February 14, 2022, available at <https://smartasset.com/taxes/turbo-tax-review>. This review further notes the specific other included forms: “Outside of the standard Form 1040, TurboTax’s Free Edition allows you to file the following: Form 1040-ES (estimated taxes), Form 1040-X (amended returns), Form 1095-A (health insurance marketplace statement), 1099-DIV (dividends and distribution income), 1099-INT (interest income), 1099-R (retirement distributions), Schedule EIC (earned income tax credit), [and] Schedule 8812 (additional child tax credit).”

¹⁹⁸ Aycock, J., “New York Times’ Wirecutter moving to subscription service,” *Seeking Alpha*, August 31, 2021, available at <https://seekingalpha.com/news/3735810-new-york-times-wirecutter-moving-to-subscription-service>; “NerdWallet IPO: What you need to know about a 2021 public offering,” *public.com*, available at <https://public.com/learn/nerdwallet-ipo-what-you-need-to-know>; Thrasher, M., “Advisor Referral Business Helps Lift SmartAsset to \$1Billion Valuation,” *RIAIntel*, June 24, 2021, available at [https://www.riaintel.com/article/b1sf2vm6cbw9q8/advisor-referral-business-helps-lift-smartasset-to-\\$1-billion-valuation](https://www.riaintel.com/article/b1sf2vm6cbw9q8/advisor-referral-business-helps-lift-smartasset-to-$1-billion-valuation).

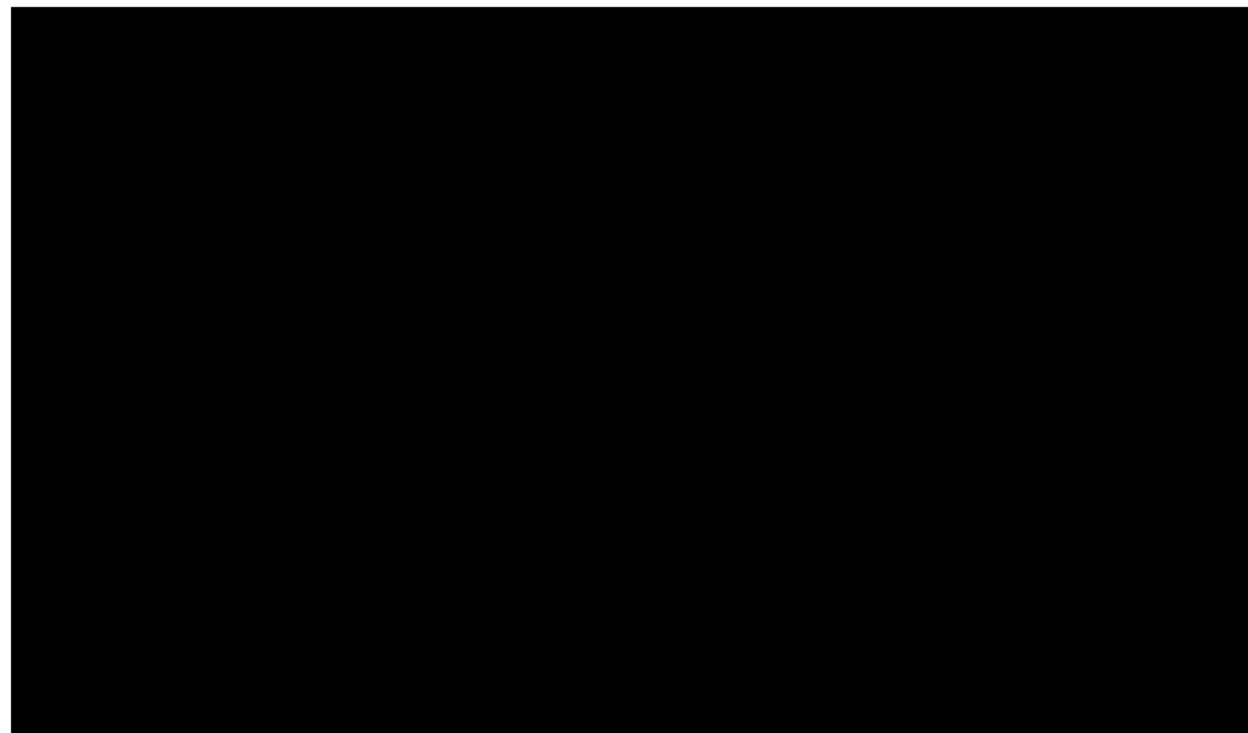
same study found 46 percent of U.S. adults felt the availability of customer ratings and reviews helped ‘a lot’ to make them feel confident about their purchases.¹⁹⁹

147. As a result of the high-involvement Consumer Buying Process, it is unlikely that substantial numbers of consumers simply proceeded directly from viewing a TurboTax ad to filing their taxes with TurboTax. [REDACTED]



[REDACTED]

[REDACTED] 201



¹⁹⁹ Smith, A., and Anderson, M., “2. Online reviews,” *Pew Research Center*, December 19, 2016, available at <https://www.pewresearch.org/internet/2016/12/19/online-reviews/>.

²⁰⁰ [REDACTED]

²⁰¹ [REDACTED]

148. These findings suggest that TV ads play a relatively minimal role in how consumers ultimately select a tax preparation product. Instead, consumers are likely to consult a variety of sources of information and may test out multiple options.

B. Consumers Can and Do Switch Readily Among Tax Filing Solutions

1. Consumers Regularly Try Out Multiple Online Tax Preparation Providers in a Given Year

149. Intuit documents and the Hauser Purchase Driver Study indicate that consumers are willing to try out multiple online tax preparation providers before making a purchase decision, and regularly abandon half-finished and even completed returns on TurboTax without filing with TurboTax.

150. [REDACTED]
[REDACTED]
[REDACTED],²⁰² indicating not only that consumers conduct substantial research [REDACTED] but also that consumers comparison shop with multiple tax preparation products and can compare prices and refunds before making a purchase. Similarly, the Hauser Purchase Driver Survey found that 21.6 percent of respondents tried out one or more online tax website(s) without using that website to file their tax returns.²⁰³

151. In fact, contrary to Complaint Counsel's implication that consumers feel obligated to file with TurboTax once they have begun to enter in their tax information,²⁰⁴ [REDACTED]
[REDACTED]
[REDACTED]

152. [REDACTED] **Figure 24**, in [REDACTED]
[REDACTED]
[REDACTED]

²⁰² [REDACTED]

²⁰³ Hauser Declaration, Exhibit 6a.

²⁰⁴ FTC Administrative Complaint, ¶¶ 6, 41, 52. *See also*, Second Novemsky Declaration, ¶¶ 32-33.

[REDACTED].²⁰⁵ Therefore, there is no evidence that customers are unable or unwilling to seek alternative tax preparation providers when told they cannot file for free with TurboTax.

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153.

[REDACTED]

[REDACTED]²⁰⁷ These statistics indicate that many customers do not act as if they are locked in to using TurboTax due to the desire to recover the sunk cost of entering in their tax information, even if they filled in *all* of their information.

2. Consumers Regularly Switch Tax Preparation Providers Year to Year

154. In addition to a willingness to change tax preparation providers mid-stream during the tax year, consumers demonstrate willingness to change tax providers across years. In fact, because the tax preparation industry has relatively low overall industry growth, tax preparation companies gain new customers primarily by attracting taxpayers who previously used other tax filing solutions. To that end, Intuit's competitors advertise the ease of switching from TurboTax to other providers, and product review websites also discuss the ease of switching among providers. For example, during TY 2021 H&R Block ran a TV ad messaging the ease of switching from TurboTax, stating that consumers can switch to H&R Block in "as little as two clicks."²⁰⁸ See **Figure 25**.

²⁰⁷ [REDACTED]

²⁰⁸ H&R Block TV Ad, "easy to switch from TurboTax to H&R Block," March 4, 2022, available at <https://www.youtube.com/watch?v=vxuzp8cRdgE>, accessed on August 27, 2022.

Figure 25**H&R Block: “It’s easy to switch from TurboTax to H&R Block”²⁰⁹**

The image is a screenshot of an H&R Block advertisement. It features a light gray background with a white rectangular area in the center. Inside the white area, the text "Switching from TurboTax has never been easier." is written in a large, bold, green font. Below this text, in a smaller, gray font, is the disclaimer: "Refers to prior-year data import; account required. Click for price details." Below the white area, the text "Click. Click." is written in a bold, green font, followed by "Done!" in a larger, bold, green font, with two small yellow stars on either side. Below this, the text "Switch to H&R Block Online in as little as two clicks." is written in a bold, green font. At the bottom of the advertisement, in a small, gray font, is the same disclaimer: "Refers to prior-year data import; account required. Click for price details."

155. Product review websites also discuss these features and the ability to switch among tax preparation providers. For example, NerdWallet’s 2022 TurboTax Review states: “You can switch from another provider: TurboTax imports electronic PDFs (not scans of hard

copies) of tax returns from H&R Block, Credit Karma, Liberty Tax, TaxAct and TaxSlayer.”²¹⁰ Similarly, NerdWallet’s 2022 H&R Block review states: “H&R Block can import last year’s return from a TurboTax data file or from a PDF of your tax return from any provider.”²¹¹

156. [REDACTED]
[REDACTED]²¹² [REDACTED]
[REDACTED]²¹³ In an internal document, Intuit classifies TurboTax as having high NPS but low switching costs, alongside Zappos, Patagonia, and Toyota, and contrasts these brands with brands with higher switching costs and low NPS (MileagePlus United, AT&T, and Comcast) or higher switching costs and high NPS (Amazon Prime, Apple, Facebook, etc.).²¹⁴
157. Actual customer switching behavior demonstrates that customers are not locked in once they have filed in prior years, and in fact regularly switch tax providers. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²¹⁵
158. [REDACTED]
[REDACTED]
[REDACTED] – demonstrating the ability to switch away from and back to TurboTax. This statistic likely undercounts the amount of switching since it does not account for

²⁰⁹ H&R Block TV Ad, “It’s easy to switch from TurboTax to H&R Block,” March 4, 2022, available at <https://www.youtube.com/watch?v=vxuzp8cRdgE>, accessed on August 27, 2022.

²¹⁰ “TurboTax 2022 Product Review,” *NerdWallet*, March 3, 2022, available at nerdwallet.com/article/taxes/turbotax-review, accessed on June 27, 2022.

²¹¹ “H&R Block Tax Software Review 2022,” *NerdWallet*, March 28, 2021, <https://www.nerdwallet.com/article/taxes/hr-block-review>, accessed on July 18, 2022.

²¹² [REDACTED]

²¹³ [REDACTED]

²¹⁴ I provide a detailed description of NPS and its methodology in **Section VI.C.1**. Intuit, “CG Attrition & Pricing Project Milestone #1: check in,” February 2013.

²¹⁵ [REDACTED]

customers who switch away from TurboTax and never return, or customers who switch to TurboTax from other providers.

159. Survey evidence indicates that consumers are open to changing tax preparation providers even if they do not ultimately decide to switch. For example, the Hauser Purchase Driver Survey found that 43.3 percent of respondents either changed providers, or considered changing providers, from the prior year,²¹⁶ and of the respondents that did not consider using a different preparation provider, 61.1 percent indicated that their current choice is familiar and 48.4 percent stated that their current choice is satisfactory.²¹⁷
160. As a result of the high-involvement purchase process and demonstrably low switching costs, both within-year and between-years, there is no evidence that customers choosing to stay with Intuit are doing anything other than revealing their true preference to use TurboTax as a provider.

C. TurboTax Customer Reviews Imply Customers Receive Benefits from the Service and Do Not Feel Misled

1. TurboTax Customer Reviews Reflect High Customer Satisfaction

161. TurboTax customers likely choose to stay with TurboTax, not because of barriers to switching, but because they are satisfied with the product. Customer satisfaction largely reveals the difference, if any, between what a consumer expected from a product and what he or she received.²¹⁸ Academic literature indicates that a feeling of deception leads to negative feelings about a brand, lower probability of recommending the product to a friend, and lower overall satisfaction.²¹⁹ Therefore, high satisfaction ratings indicate that the consumer's expectations were generally matched or exceeded by the reality of the product. Because high satisfaction leads to high customer loyalty, it is critical that companies meet

²¹⁶ Hauser Declaration, Exhibit 4.

²¹⁷ Hauser Declaration, Exhibit 5.

²¹⁸ Kotler and Keller (2012), pp. 128, 143 ("satisfaction is a person's feelings of pleasure or disappointment that result from comparing a product's perceived performance (or outcome) to expectations. If the performance falls short of expectations, the customer is dissatisfied. If it matches expectations, the customer is satisfied. If it exceeds expectations, the customer is highly satisfied or delighted. Customer assessments of product performance depend on many factors, especially the type of loyalty relationship the customer has with the brand"). *See also*, Golder, Mitra, and Moorman (2012); Mitra and Golder (2006).

²¹⁹ Xie, Madrigal, and Boush (2014); Craig, et al. (2012); Román, et al. (2012); Held and Germelmann (2018).

and exceed customer expectations, especially in the case of product categories reliant on repeat purchasers.²²⁰

162. As discussed in **Section III.A**, customer satisfaction reflects the difference between what a consumer expected from a product and what he or she received. TurboTax has demonstrated over a sustained period of time high customer satisfaction ratings relative to other notable brands, especially when one considers both that TurboTax is selling a product—tax preparation—for an annual event that most consumers do not look forward to and that the nature of the business is not repeated throughout the calendar year. I reviewed three types of data that can be used to measure customer satisfaction: NPS, customer reviews on TurboTax’s website, and customer retention rates. All three measures indicate that the majority of TurboTax customers are satisfied with the TurboTax suite of products.
163. NPS are a standard and well-respected measure of customer satisfaction. [REDACTED]
[REDACTED].²²¹ [REDACTED]
[REDACTED]²²² These scores rely on customer ratings of how likely they would be to recommend a product to a friend on a 0–10 scale with 0 being “not at all likely” and 10 being “very likely.”²²³ The NPS is then calculated by subtracting the percentage of detractors (those who rate their likelihood of recommending the product between 0 and 6) from the percentage of promoters (those who rate their likelihood of recommending the product as a 9 or 10). Detractors are categorized as “unhappy, can damage brand by word of mouth” whereas promoters are described as “loyal enthusiasts.”²²⁴
164. A “good” NPS varies by industry, as customer satisfaction tends to differ across product categories. Each year Satmetrix, the co-developer of Net Promoter®, releases a net

²²⁰ Kotler and Keller (2016), p. 152 (“A buyer’s satisfaction is a function of the product’s perceived performance and the buyer’s expectations. Recognizing that high satisfaction leads to high customer loyalty, companies must ensure that they meet and exceed customer expectations.”).

²²¹ [REDACTED]

²²² [REDACTED]

²²³ “Net Promoter System,” *Bain & Company*, available at <https://www.bain.com/consulting-services/customer-strategy-and-marketing/customer-loyalty/>.

²²⁴ Chen, E., “What is the Net Promoter Score (NPS)?,” *MIT Orbit*, available at <https://orbit-kb.mit.edu/hc/en-us/articles/206440723-What-is-the-Net-Promoter-Score-NPS->.

promoter benchmark report, assigning standard values to industries.²²⁵ For example, according to Satmetrix's 2021 NPS Benchmark data, department and specialty stores had the highest average NPS (56) among 23 industries, while auto insurance was 10th (41) and shipping services were 20th (27).²²⁶ Therefore, a comparison of NPS should be done using a narrowly defined product category for which data are available.

165. As **Figure 26** shows, TurboTax's NPS has been higher than competitors' online products in most years. From TY 2012 to TY 2020, Intuit's paid TurboTax products consistently received comparable (and frequently higher) NPS scores as compared with H&R Block and TaxAct. Similarly, from TY 2012 to TY 2020, TurboTax Free Edition received comparable (and frequently higher) NPS scores as compared with H&R Block, TaxAct, and Credit Karma.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²²⁵ "U.S. Consumer 2021 Net Promoter Benchmarks," *Satmetrix*, 2021, available at https://www.satmetrix.com/wp-content/uploads/2021/05/2021_benchmarks.pdf.

²²⁶ "U.S. Consumer 2021 Net Promoter Benchmarks," *Satmetrix*, 2021, available at https://www.satmetrix.com/wp-content/uploads/2021/05/2021_benchmarks.pdf.

166.

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. I note that in this slide Intuit reports its NPS using a top 2 box score methodology. *See* “How to use a Top 2 Box score in your survey analysis,” *SurveyMonkey*, available at <https://www.surveymonkey.com/mp/top-2-box-scores/>.

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167. [REDACTED]
[REDACTED]²³⁰ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²³¹ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²³² Satmetrix named Intuit an industry leader in the “Software & Apps” industry each year from 2016 through 2020.²³³
168. In contrast to Intuit, Satmetrix reports negative average NPS for both the internet telecommunications industry (-3) and the cable telecommunications industry (-2).²³⁴ Comparably, a website that lists company-specific NPS by brand, reports that TurboTax has an NPS of 43, in comparison to numerous well-known brands with negative scores such as DirecTV (-45), Geico (-31), and Sprint (-73).²³⁵
169. The TurboTax website includes thousands of customer reviews, including both positive and negative reviews, with functionality to sort by date and rating, to limit by product, and to identify reviewers with particular tax situations (e.g., homeowners, business owners,

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233 “US Consumer 2020 Net Promotor Benchmarks,” *Satmetrix*, 2020, available at https://cincysc.com/wp-content/uploads/2020/10/2020_benchmarks.pdf; “U.S. Consumer 2019 Net Promotor Benchmarks,” *Satmetrix*, 2019, available at https://mlgsupport.zendesk.com/hc/en-us/article_attachments/360029651591/NICE-Satmetrix-infographic-2019-b2c-nps-benchmarks-042619.pdf; “U.S. Consumer 2018 Net Promotor Benchmarks,” *Satmetrix*, 2018, available at <https://info.nice.com/rs/338-EJP-431/images/NICE-Satmetrix-infographic-2018-b2c-nps-benchmarks-050418.pdf>; “U.S. Consumer 2017 Net Promotor Benchmarks,” *Satmetrix*, 2017, available at <https://info.nice.com/rs/338-EJP-431/images/satmetrix-infographic-2017-b2c-nps-benchmarks-glance-061217.pdf>; “U.S. Consumer 2016 Net Promoter Benchmarks,” *Satmetrix*, available at <https://www.netpromoter.com/satmetrix-infographic-2016-consumer-np-benchmarks/>.

234 “US Consumer 2021 Net Promotor Benchmarks,” *Satmetrix*, available at <https://www.satmetrix.com/infographic/2021-us-consumer-benchmarks/>, accessed on July 13, 2022.

235 NPS scores were found at Comparably.com. See “Brand Page TurboTax,” *Comparably*, available at comparably.com/brands/turbotax, accessed on July 20, 2022; “Brand Page DirecTV,” *Comparably*, available at comparably.com/brands/directv, accessed on July 20, 2022; “Brand Page Geico,” *Comparably*, available at comparably.com/brands/geico, accessed on July 20, 2022; “Brand Page Sprint,” *Comparably*, available at comparably.com/brands/sprint for Sprint, accessed on July 20, 2022.

students, etc.) This inclusion of comprehensive customer review information is customer-friendly and provides substantial information to potential customers who are considering using TurboTax.

170. The customer reviews and product ratings on the TurboTax website also suggest high customer satisfaction, with every product receiving high customer ratings. For example, from October 12, 2021 to August 25, 2022, there were 68,847 customer reviews of TurboTax Free Edition (generating a 4.8 out of 5-stars rating), 63,264 customer reviews of TurboTax Deluxe Edition (generating a 4.5 average rating), 16,470 customer reviews of TurboTax Premier (generating a 4.3 average rating), and 18,494 customer reviews of TurboTax Self Employed (generating a 4.6 average rating) available on the TurboTax website.²³⁶
171. Customer reviews available on the websites of direct tax competitors reveal TurboTax is among the highest rated. TurboTax had a 4.6 average rating out of 5 stars from 290,684 reviewers. Jackson Hewitt, H&R Block, and TaxSlayer had lower ratings, with competitor ratings ranging from a 4.3 average rating (TaxSlayer) to a 4.8 average rating (TaxHawk). See **Figure 28**. Notably, while the customer-friendly inclusion of customer reviews appears common in the tax preparation industry, I also reviewed the websites of other benchmark companies, but only Geico made customer reviews available on its website.

²³⁶ “TurboTax Product Reviews,” *Intuit*, available at <https://turbotax.intuit.com/reviews/?Sort=Rating:desc,SubmissionTime:desc,Helpfulness:desc>, accessed on August 25, 2022.

Figure 28

Customer Ratings on the Websites of TurboTax and its Direct Tax Competitors

Company Name	Are there reviews on the company website?	Number of reviews	Average star rating
TurboTax	Yes	290,684	4.6
TaxHawk	Yes	19,527	4.8
Jackson Hewitt	Yes	5,159	4.6
H&R Block	Yes	494,553	4.4
TaxSlayer	Yes	18,983	4.3
TaxAct	No	-	-

Note:

[1] I also reviewed the websites of the other benchmark companies. However, Geico was the only other benchmark company with customer reviews available on its website. Out of 13,830 reviews, the company had an average rating of 4.5 out of 5 stars. “Customer Reviews for GEICO Car Insurance,” *Geico*, available at <https://www.geico.com/reviews/car-motorcycle-atv-rv-boat-insurance/car-insurance/>, accessed on August 25, 2022.

Sources:

[1] “TurboTax Product Reviews,” *Intuit*, available at <https://turbotax.intuit.com/reviews/?Sort=Rating:desc,SubmissionTime:desc,Helpfulness:desc>, accessed on August 25, 2022.

[2] “Customer Reviews,” *TaxHawk*, available at <https://www.taxhawk.com/reviews.jsp>, accessed on August 25, 2022.

[3] “What our customers are saying,” *Jackson Hewitt*, available at <https://www.jacksonhewitt.com/file-taxes-options-products/file-taxes-online/reviews/>, accessed on August 25, 2022.

[4] “H&R Block Reviews For Tax Preparation Offices, Software And Online Filing,” *H&R Block*, available at <https://www.hrblock.com/reviews/>, accessed on August 25, 2022.

[5] “TaxSlayer Customer Reviews,” *TaxSlayer*, available at <https://www.taxslayer.com/reviews>, accessed on August 25, 2022.

172. On the customer review platform, Influenster, TurboTax has the highest rating for any tax preparation brand with 4.5 out of 5 stars, followed by TaxAct with 4.3 stars, TaxSlayer with 4.3 stars, and H&R Block with 4.1 stars.²³⁷ The Auto Insurance Provider benchmark

²³⁷ Jackson Hewitt did not have a rating available on Influenster. The companies in the Investigated Companies benchmark group did not have ratings available on Influenster. “TurboTax,” *Influenster*, available at <https://www.influenster.com/reviews/turbo-tax>, accessed on August 27, 2022. “TaxAct,” *Influenster*, available at <https://www.influenster.com/reviews/taxact>, accessed on August 27, 2022. “TaxSlayer,” *Influenster*, available <https://www.influenster.com/reviews/taxslayer>, accessed on August 27, 2022. “H&R Block,” *Influenster*, available at <https://www.influenster.com/reviews/hr-block>, accessed on August 27, 2022.

group had an average rating of 4.5 out of 5 stars,²³⁸ followed by the Wireless Carrier benchmark group with 3.6 stars,²³⁹ and the TV Providers benchmark group with 3.1 stars.²⁴⁰

173. In addition to TurboTax's consistently high customer satisfaction ratings, Intuit reported an approximately 81 percent customer retention rate in a September 2021 Investor Day presentation, meaning that the vast majority of customers continue to use TurboTax products year-over-year.²⁴¹ [REDACTED]

[REDACTED]

[REDACTED].²⁴² [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]²⁴³

Customers who feel deceived and are dissatisfied by their purchase are unlikely to return

²³⁸ I calculate the average rating of the Automobile Insurance Provider benchmark group by taking the average Influenster rating of the following auto insurance providers: Geico (4.4 stars out of 5), State Farm (4.5 out of 5 stars), Allstate (4.6 out of 5 stars). Progressive and USAA did not have ratings available on Influenster. See "GEICO Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/geico>, accessed on August 27, 2022; "StateFarm Insurance Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/statefarm-insurance>, accessed on August 27, 2022; "Allstate Insurance Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/allstate-insurance>, accessed on August 27, 2022.

²³⁹ I calculate the average rating of the Wireless Carriers benchmark group by taking the average Influenster rating of the following wireless carriers included in the benchmark competitor analysis: AT&T (3.7 out of 5 stars), T-Mobile (3.2 out of 5 stars), Verizon Wireless (4.0 out of 5 stars). See "AT&T Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/att>, accessed on August 27, 2022; "T-Mobile Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/t-mobile>, accessed on August 27, 2022; "Verizon Wireless Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/verizon-wireless>, accessed on August 27, 2022.

²⁴⁰ I calculated the average rating of the TV Providers benchmark group by taking the average Influenster rating of the following TV providers included in the benchmark competitor analysis: Charter Spectrum (3.1 out of 5 stars) and Comcast (3.1 out of 5 stars). DirecTV and Dish Network and companies in the Investigated Companies benchmark group did not have ratings available on Influenster. See "Charter Communications Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/charter-communications>, accessed on August 27, 2022; "Comcast Xfinity Reviews 2022," *Influenster*, available at <https://www.influenster.com/reviews/comcast-xfinity>, accessed on August 27, 2022.

²⁴¹ Investor Day 2021 (2021), p. 81.

²⁴² [REDACTED]

²⁴³ [REDACTED]

to the product in the next year, thus TurboTax's high customer retention rates do not indicate a feeling of deception among its consumers.

2. TurboTax Customer Reviews Reveal Customers Value More Than Just Low Prices

174. An assumption underlying Complaint Counsel's theory is that consumers will always prefer a free product to a paid product. However, in fact, while consumers certainly care about price, they do not *exclusively* care about price and often balance price against the benefits received.
175. The Hauser Purchase Driver Survey found that a variety of factors were important to consumers in selecting a provider, including price (70.4 percent of respondents), ease of use (68.8 percent), and confidence in accuracy/reliability (52.8 percent).²⁴⁴ In response to open-ended survey questions, respondents differentiated between a preference for *affordable* tax preparation (40.8 percent and the number one factor) and a preference for *free* tax preparation (12.8 percent).²⁴⁵ Typical respondents balanced between 4 and 5 different factors in evaluating their choice of tax preparation provider.²⁴⁶
176. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²⁴⁷
177. A word cloud analysis of customer reviews on the TurboTax website for TY 2021 indicates customer satisfaction is primarily driven by a few key factors.²⁴⁸ Customer reviews are readily available on Intuit's website and can be filtered in many ways, including by product

²⁴⁴ Hauser Declaration, Exhibit 8a.

²⁴⁵ Hauser Declaration, Exhibit 8b.

²⁴⁶ Hauser Declaration, Exhibit 9.

²⁴⁷ [REDACTED]

²⁴⁸ To conduct a word cloud analysis, I first generated a dataset with the frequency of every keyword that appeared in the customer reviews on the TurboTax website for TY 2021, excluding stop words (e.g., "the," "a," "and," etc.) Then, using this dataset, I used Python 3.8.10 to generate a visual representation ("word cloud") of the frequency of every keyword where words with higher frequencies are displayed in larger text.

Figure 29

[illegible]

²⁵² TurboTax Product Reviews, July 1, 2022.

Figure 30

[illegible]

²⁵³ TurboTax Product Reviews, July 1, 2022.

²⁵⁴ TurboTax Product Reviews, July 1, 2022.

²⁵⁵ TurboTax Product Reviews, July 1, 2022.

feel that the service they receive from TurboTax products matches or exceeds their expectations. The negligible number of customer complaints, as discussed in **Section IV**, does not support Complaint Counsel's alleged deception.

VII. REDUCING OR ELIMINATING TURBOTAX FREE EDITION TV ADVERTISING IS LIKELY TO HAVE THE PERVERSE EFFECT OF DECREASING FREE TAX FILING

180. As discussed throughout this declaration, customers are unlikely to have been deceived by Intuit's advertising for Free Edition. In fact, contrary to Complaint Counsel's allegations, Intuit's offering and advertising of Free Edition are to the *benefit* of consumers. TurboTax's investment in advertising Free Edition likely increased awareness of and use of Free Edition and increased category demand for free tax preparation products across the industry.
181. As discussed in **Section I.B**, I understand that Complaint Counsel are seeking certain requirements concerning Intuit's free offers and additional disclosures.²⁵⁶ As noted, I have been asked to assume as a legal matter that such additional disclosures would require Intuit to include the content of its simple returns pop-up (including specific tax situations covered and not covered under Free Edition) as a voiceover in its TV ads.
182. As discussed in **Section V.A**, Intuit's TV ads include disclosures that are consistent with industry standards and FTC Guidelines and that are in line with those of benchmark companies across all metrics I studied. In addition, lengthy disclosures in the context of TV ads are non-standard and are often not an effective way to convey complex information

²⁵⁶ Complaint Counsel ask for an order to be issued, which would include the following provisions: (1) Intuit must not represent that a good or service is "Free" in connection with advertising, marketing, promoting, or offering for sale of any goods or services unless (a) Intuit offers the good or service for free to all consumers, (b) all terms, conditions, and obligations upon which receipt and retention of the free good or service are contingent are set forth clearly and conspicuously at the outset of the offer, or (c) the goods or services are not free for the majority of U.S. taxpayers and such a fact is disclosed clearly and conspicuously at the outset of any disclosures, and (2) Intuit must not misrepresent or assist others in misrepresenting in connection with advertising, marketing, promoting, or offering for sale of any goods or services including (a) the cost of Intuit's goods or services, including any TurboTax product or service; (b) that consumers can only file their taxes online accurately if they use a paid TurboTax product or service; (c) that consumers can only claim a tax credit or deduction if they used a paid TurboTax product or service; and (d) 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. *See* In the Matter of: Intuit Inc., a corporation, Respondent., "[Proposed] Decision and Order," August 22, 2022, Docket No. 9408, pp. 5, 6.

to consumers. Incorporating the specific tax situations and forms covered and not covered would require a much lengthier disclosure than currently included in Intuit's TurboTax TV ads or the ads of its competitors. In particular, the current simple returns pop-up is 138 words,²⁵⁷ which is 6 times more than the 19-word written disclosure and 11.5 times more than the 11-word voiceover in the TY 2021 Free Edition TV ads.²⁵⁸

183. Imposing such a disclosure that is out-of-step with industry norms would likely reduce the effectiveness of Intuit's TurboTax Free Edition marketing. Such a large change in requirements would be expected to cause Intuit to re-evaluate its allocation of marketing resources and reconsider its Free Edition TV ads. Such a re-evaluation may lead to Intuit investing less, or even eliminating entirely, its TV advertising for Free Edition. Reducing or eliminating the TurboTax Free Edition ads is likely to have the perverse effect of harming consumers who may turn to other, more expensive, filing options as a result.

A. Intuit's Investment in Advertising Free Edition Likely Increased the Number of Taxpayers Filing their Tax Returns for Free

184. Before the introduction of free online products such as TurboTax Free Edition, the only free options for tax preparation included preparing and mailing one's own paper returns, or using free government programs that are only available to certain consumers, such as the IRS Free File program; the IRS's Volunteer Income Tax Assistance ("VITA") program;²⁵⁹ the Tax Counseling for the Elderly ("TCE") program, which provides assistance to taxpayers who are age 60 or older; or free options available for active military

²⁵⁷ "Personal Taxes Online: Free Edition" pop-up, Intuit, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on August 30, 2022 ("If you have a simple tax return, you can file with TurboTax Free Edition, TurboTax Live Basic, or TurboTax Live Full Service Basic. A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible. Situations covered (assuming no added tax complexity): • W-2 income • Limited interest and dividend income reported on a 1099-INT or 1099-DIV • IRS standard deduction • Earned Income Tax Credit (EIC) • Child tax credits • Student loan interest deduction. Situations not covered: • Itemized deductions • Unemployment income reported on a 1099-G • Business or 1099-NEC income • Stock sales • Rental property income • Credits, deductions and income reported on other forms or schedules (for example, income related to crypto investments). If you don't have a simple tax return, we have other paid options to file using TurboTax.").

²⁵⁸ I counted the number of words in the written disclosures and voiceover using the three "Free, Free, Free" TY 2021 TV ads (*Dog Show*, *Auctioneer*, and *Dance Workout*). The simple returns pop-up is more than [[6]] times the written disclosure in these ads: $(138-19) / 19 = 6.26$. The simple returns pop-up is more than [[11.5]] times the voiceover disclosure in these ads: $(138-11) / 11 = 11.54$. See **Appendix G**.

²⁵⁹ VITA is only available to persons who generally make \$54,000 or less, persons with disabilities, persons who are senior citizens, and limited English-speaking persons. See "Volunteer Income Tax Assistance (VITA)," *Benefits.gov*, available at <https://www.benefits.gov/benefit/1543>.

at military bases.²⁶⁰ As the eligibility restrictions indicate, these free options are limited in terms of accessibility. Given the historically limited availability of free tax filing options, consumers may not have been aware of the existence of free online tax preparation products without Intuit's advertising and may have not even considered using an online product as a result. [REDACTED]

[REDACTED]²⁶¹

185. Since Intuit first launched and marketed Free Edition, it not only increased the number of taxpayers filing their tax returns for free with TurboTax, but it also increased category awareness. In 2007, Intuit launched a free Federal tax return product, Intuit's first free product offering a free federal return for qualifying customers during a limited portion of the tax season.²⁶² Intuit later expanded its free product offering in TY 2014 with the launch of Absolute Zero, offering free federal returns for the entire tax season for eligible customers and free state tax returns for a portion of the tax season.²⁶³ Intuit has continued to expand this offering: in TY 2018 it made state returns free for the entire tax season and added additional functionality such as the popular year-over-year data transfer feature.²⁶⁴
186. Intuit's investment in advertising Free Edition likely had a direct effect on the number of filers filing their tax returns for free with TurboTax and likely increased overall category awareness of and demand for free filing solutions. Intuit's Free Edition ads are brand-building ads aimed to increase awareness of Free Edition and to increase positive association with the TurboTax brand. Such brand-building ads make consumers aware of the fact that filing for free with TurboTax is an option. [REDACTED]

²⁶⁰ See "Volunteer Income Tax Assistance (VITA)," *Benefits.gov*, available at <https://www.benefits.gov/benefit/1543>; "Tax Counseling for the Elderly," *Benefits.gov*, available at <https://www.benefits.gov/benefit/722>; The MITRE Corporation, "Independent Assessment of the Free File Program," October 3, 2019, available at <https://www.irs.gov/pub/newsroom/exec-summary-free-file-program-assessment-100319.pdf>, p. 32.

²⁶¹ [REDACTED]

²⁶² Intuit, "The Power of Free," p. 4610-4 shows that Intuit "rolled out" free edition in FY07 and p. 4610-8 shows the "limited forms" included with "Free."

²⁶³ [REDACTED]

²⁶⁴ [REDACTED]

[REDACTED]

[REDACTED] 265 [REDACTED]

[REDACTED]

[REDACTED] 266 [REDACTED]

[REDACTED] 267

187. In fact, as can be seen in **Figure 31**, millions of Americans file their taxes for free with TurboTax each year. [REDACTED]

[REDACTED] 268

[REDACTED]

[REDACTED] 269

[REDACTED]

188. Intuit's investment in advertising Free Edition has likely increased awareness (and therefore demand) not just for TurboTax Free Edition but also for the entire category of

265 [REDACTED]

266 [REDACTED]

267 [REDACTED]

268 [REDACTED]

269 [REDACTED]

free online tax preparation, providing an indirect benefit to consumers. Intuit's competitors have also responded to Intuit's Free Edition offering and advertising.

189.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²⁷⁰ Intuit's ad of Free Edition and its investment in allowing taxpayers to test out DIY online tax preparation likely increased demand for, and acceptance of, online tax preparation products benefitting consumers who may have otherwise used a more costly assisted tax preparation product.

B. Reducing or Eliminating TV Advertising of TurboTax Free Edition Would Not Lead Many, if Any, Consumers to Pay Less to File Their Taxes and Would Likely Lead Many to Pay More to File Their Taxes

190. Reducing or eliminating information about TurboTax Free Edition would not lead many, if any, consumers to pay less to file their taxes. The decreased advertising for a free tax preparation product would likely decrease awareness of and demand for that free tax solution, diverting consumers, including those who would qualify to file for free with TurboTax Free Edition, away from the TurboTax Suite. More consumers might even choose TurboTax's paid products than those that do so today, with less marketing reinforcing the potential free option. Any consumers who were diverted from filing with TurboTax (either using Free Edition or a paid product) would still need to file their taxes and would need to seek alternate methods. Instead of choosing TurboTax, they may choose an alternate online tax preparation provider, a paid preparer such as a CPA, or a government program such as the IRS Free File Program. Many of these options would be comparably priced or even more expensive than TurboTax.

1. Other Online Tax Preparation Providers

191. Intuit's TurboTax website allows consumers to try out the TurboTax platform, only paying at the very end of the process. This "try before you buy" model allows curious taxpayers to sample DIY online tax preparation services before committing to using one and to

²⁷⁰ [REDACTED]

compare different online tax preparation services against each other to ensure they are getting the highest refund or the lowest price.

192. As discussed in **Section V.A.3**, Intuit’s competitors also run TV ads for both their free and paid online tax products, some of which position their product lineup in comparison to Intuit’s. [REDACTED]

[REDACTED]
[REDACTED].²⁷¹ In TY 2020, TaxAct ran a TV ad positioning TaxAct as costing “30% less than the big guys” with a disclosure at the bottom of the screen that read “30% less claim based on comparison of TurboTax and H&R Block federal pricing for Deluxe and Premier consumer online products on 12/4/2020. Other TaxAct consumer online products also cost less than comparable TurboTax and H&R Block products on same date. Price paid is determined at the time of filing and is subject to change. Restrictions apply. See www.taxact.com/company/accuracy-guarantee for Details & Disclosures on the Maximum Refund.”²⁷²

193. Given the similarity in competitors’ online tax product lineups and eligibility requirements for their free products, the effect of reducing or eliminating Intuit’s advertising of Free Edition may simply be to divert consumers who would otherwise file with TurboTax to a competitor, where they would face similar restrictions on their qualifications to use free tax filing solutions. Reducing or eliminating Intuit’s advertising of Free Edition would not necessarily result in more consumers filing for free but would simply divert customers from Intuit to its competitors, with no meaningful change in consumer welfare.

2. Other Filing Options

194. Instead of diverting to other online tax preparation providers, some consumers may choose alternate filing options such as using a paid preparer, self-preparing their taxes by hand or using the IRS Free File Program. Self-preparation by hand and the IRS Free File Program remain relatively rare tax preparation choices; in TY 2021, of the 167.9 million tax returns

²⁷¹ [REDACTED]

²⁷² TaxAct TV Ad, “Bear: Taxes Aren’t Scary,” January 4, 2021, available at <https://www.ispot.tv/ad/tzw7/taxact-bear-taxes-arent-scary>, accessed on July 13, 2022.

filed, only 16.8 million (10 percent) were self-prepared by hand and 4.7 million (3 percent) were filed using through IRS Free File.²⁷³ Self-preparation is free for all filers but requires sufficient knowledge about the U.S. tax code and confidence in ones' ability to accurately prepare their taxes. Free government programs like the IRS Free File Program continue to be available to select individuals but command a relatively limited share of the U.S. tax preparation market. Moreover, diverting customers from TurboTax to alternative filing options such as self-preparation could lead to greater mistakes or risk lower refunds.

195. In contrast, the most common tax filing method continues to be using a paid preparer to assist in preparing taxes. In TY 2019, 50 percent of individual tax returns in the United States were filed using an assisted tax preparation method.²⁷⁴ On average, the cost of assisted tax preparation is higher than online DIY products, including the core TurboTax Suite. A Morgan Stanley Research report noted that on average the cost of assisted tax preparation was \$237 for federal returns, with additional fees for state returns.²⁷⁵ By comparison, TurboTax's products range from \$0 for Free Edition to \$119 for TurboTax Self-Employed (plus an additional fee for state returns), as shown in **Figure 32**.²⁷⁶

Figure 32

TurboTax Core Products & Pricing as of April 4, 2022²⁷⁷

Free Edition <small>For simple tax returns only</small>	Deluxe <small>Maximize tax deductions and credits</small>	Premier <small>Investments and rental property</small>	Self-Employed <small>Personal & business income and expenses</small>
\$0 Fed. \$0 State. \$0 to File.	\$59* <small>State additional</small>	\$89* <small>State additional</small>	\$119* <small>State additional</small>
File for \$0	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>
★★★★★ <small>(4.9 64,845 reviews)</small>	★★★★★ <small>(4.6 58,792 reviews)</small>	★★★★★ <small>(4.4 14,459 reviews)</small>	★★★★★ <small>(4.7 16,821 reviews)</small>
Hide Details ^	More Details v	More Details v	More Details v

²⁷³ IRS, "Internal Revenue Service 2021 Data Book," May 2022, p. 2, available at <https://www.irs.gov/pub/irs-pdf/p55b.pdf>; IRS, "Free File Fillable Forms," available at <https://www.irs.gov/e-file-providers/free-file-fillable-forms>.

²⁷⁴ "Internal Revenue Service 2021 Data Book," *IRS*, May 2022, p. 2, available at <https://www.irs.gov/pub/irs-pdf/p55b.pdf>.

²⁷⁵ "Assessing the Key Debates Leaves Us Bullish – Reiterate OW," *Morgan Stanley*, February 2, 2021, p. 3.

²⁷⁶ "Personal Taxes Online," *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022.

²⁷⁷ "Personal Taxes Online," *Intuit*, available at <https://turbotax.intuit.com/personal-taxes/online/>, accessed on July 20, 2022.

196. Not only is the average cost of an assisted tax preparation method higher than even the most expensive TurboTax DIY solution, but there are also wide ranges in potential prices, and the pricing can be opaque and difficult to identify and assess in advance. A 2016 article published in the Atlantic described an informal survey of tax storefront operations in two different cities. The authors of this survey went to two tax storefronts in different cities (Washington D.C. and Baltimore) and presented the tax professionals with identical information. The authors found that depending on the storefront location, they would have spent between \$309 and \$509.²⁷⁸ In contrast with the pricing uncertainty from these tax professionals, the TurboTax webpage clearly lays out the prices of each product and includes the ability to “start for free” and pay only when taxpayers file their returns. This “try before you buy” approach allows consumers to comparison shop and ensure that they believe their TurboTax purchase is worth the price. There is no such ability to “try before you buy” with assisted tax preparation products, meaning any taxpayers who choose to evaluate a CPA or tax professional as an option will likely be faced not only with higher prices, but would be more limited in their ability to evaluate different assisted tax preparation options and comparison shop based on price.
197. Therefore, reducing or eliminating Intuit’s advertising of Free Edition could have the perverse effect of diverting potential TurboTax customers to other, comparable, DIY tax preparation solutions or to more expensive assisted tax preparation solutions, including people who could have filed for free using TurboTax.

VIII. CONCLUSIONS

198. As discussed throughout this declaration, Complaint Counsel’s allegations and theory of consumer deception are unsupported by and inconsistent with the marketing literature and the facts and data that I have reviewed in this case.
199. The volume of customer complaints is inconsistent with the consumer deception alleged by Complaint Counsel. The number of complaints identified by Complaint Counsel is minuscule in the context of Intuit’s customer base and the per-customer volume of

²⁷⁸ White, G., “How the Tax-Prep Industry Takes Advantage of Low-Income Filers,” *The Atlantic*, April 14, 2016, available at <https://www.theatlantic.com/business/archive/2016/04/eict-tax-prep/478305/>.

complaints lodged with the BBB for Intuit is within range of those observed across benchmark companies.

200. Intuit's marketing for Free Edition does not lead reasonable consumers to believe that TurboTax is free for everyone. Consumers encounter the marketing early in the high-involvement purchase process for tax preparation and in the context of numerous free-related marketing they encounter on a regular basis. The disclosures in the TurboTax Free Edition TV ads are consistent with, and often superior to, those of benchmark companies, even on dimensions on which Complaint Counsel have specifically alleged that Intuit's ads are deficient. In addition, the TurboTax website provides clear and consistent guidance in selecting an appropriate product for a consumer's tax situation.
201. Market outcomes in tax preparation are inconsistent with the apparent assumption that consumers are locked into TurboTax. Consumers in the high-involvement purchase process conduct research and try out multiple sites before selecting a provider for a given year. If dissatisfied or curious, consumers also demonstrate willingness to switch providers between tax years. Customers have consistently reported high satisfaction with TurboTax and choose to come back year-over-year, reporting in particular their satisfaction with the ease of using TurboTax.
202. Given the lack of evidence of consumer deception and the strong evidence of consistent customer satisfaction, reducing or eliminating the TurboTax Free Edition advertising is likely to have the perverse effect of decreasing the number of consumers filing for free. This advertising likely increased the awareness and consideration of free tax preparation options. In the absence of such awareness, consumers would still need to file their taxes but might choose other comparably priced online tax preparation services or other, more expensive, options like using a CPA.



Peter N. Golder
August 30, 2022

APPENDIX A
CURRICULUM VITAE

Appendix A Curriculum Vitae

Peter N. Golder

Tuck School of Business
Dartmouth College
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ACADEMIC EXPERIENCE

Dartmouth College, Tuck School of Business
Professor of Marketing, 2009-present
Co-Editor, Idea Corner track, *Marketing Letters*, 2021-present
Co-Editor-in-Chief, *Marketing Letters*, 2015-2020
Academic Fellow, Marketing Science Institute, 2020-present
Academic Trustee, Marketing Science Institute, 2016-2020
Faculty Director, TuckGO, 2018-2020
Faculty Director, First-Year Project, 2017-2020
Marketing Faculty Area Coordinator, 2015-2018
Senior Fellow, Dartmouth College Society of Fellows, 2014-2017

New York University, Stern School of Business
Professor of Marketing, 2008-2009
Coordinator, Marketing Department Doctoral Program, 2008-2009
George and Edythe Heyman Faculty Fellow, 2004-2009
Associate Professor of Marketing, 1999-2008 (tenured in 2002)
Assistant Professor of Marketing, 1995-1999

Peking University, Guanghua School of Management
Visiting Professor of Marketing, 2006-2007

University of California, Los Angeles (UCLA)
Visiting Assistant Professor of Marketing, 1994-1995

University of Southern California
Research and Teaching Assistant, 1990-1994

EDUCATION

Ph.D. in Business Administration (Marketing), 1994
University of Southern California, Los Angeles, CA

B.S. in Mechanical Engineering, 1984
University of Pennsylvania, Philadelphia, PA

HONORS

Marketing Strategy Consortium Faculty Fellow (2020)
 AMA Doctoral Consortium Faculty Member (2019 [invited, unable to attend], 2015, 2005, 2004, 2002, 1999)
 Citation of Excellence Award from Emerald Group Publishing for paper with high citations, novelty, interdisciplinary interest, and relevance in today's world (2015)
 Maynard Award for *Journal of Marketing* paper making the most significant contribution to marketing theory and thought (2013)
 Elsevier Distinguished Scholar Award from Society for Marketing Advances—career achievement award for “brilliant work and nurturing of the historical method in research in marketing” (2012)
 INFORMS Society for Marketing Science Long Term Impact Award—chosen from all papers published in *Marketing Science* during preceding 10 years (2012)
 Excellence in Global Marketing Research Award, American Marketing Assoc. (2011)
 Executive MBA Great Professor Teaching Award (2008)
 Buzzell Award for best paper published by Marketing Science Institute (2007, 1994)
 Finalist, Little Award for Best Paper in *Marketing Science* (2007)
 Finalist, Bass Award for Best Dissertation-based paper in *Marketing Science* (2007)
 Best Paper Award, American Marketing Association Technology and Innovation Group (2005)
 Berry Book Prize (Best Book in Marketing), American Marketing Association (2003)
 Early Career Award for First 10 Years of Contributions to Marketing Strategy Research, American Marketing Association (2003)
 Editor's Award for Reviewing, *Journal of Marketing* (2003)
 Finalist, INFORMS Society for Marketing Science Practice Prize (2003)
 Top Ten Business Book of the Year, *Harvard Business Review* (2002)
 Marketing Science Institute Young Scholars Program Faculty Member (2006, 2001)
 O'Dell Award for *Journal of Marketing Research* paper making the most significant long-term contribution (1998)
 Bass Award for best paper in *Marketing Science* or *Management Science* based on a marketing doctoral dissertation (1998)
 Faculty Advisor Award for Field Study Achievement (UCLA - 1995)
 Beta Gamma Sigma (1994)
 Richard D. Irwin Dissertation Award Winner (1993)
 AMA Doctoral Consortium Fellow, University of Illinois (1993)
 Graduate of Conoco's Management Development Program (1985)
 Second Prize, Senior Design Project, University of Pennsylvania (1984)
 Pi Tau Sigma, National Honorary Mechanical Engineering Fraternity (1984)

JOURNAL PUBLICATIONS

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- Golder, Peter N., Debanjan Mitra, and Christine Moorman (2012), “What is Quality? An Integrative Framework of Processes and States,” *Journal of Marketing*, 76 (July), 1-23.
- Harold H. Maynard Award for *Journal of Marketing* paper making the most significant contribution to marketing theory and thought (2013)
 - Citation of Excellence Award from Emerald Group Publishing for paper with high citations, novelty, interdisciplinary interest, and relevance in today’s world (2015).
- Golder, Peter N., Rachel Shacham, and Debanjan Mitra (2009), “Innovations’ Origins: When, By Whom, and How are Radical Innovations Developed?” *Marketing Science*, 28 (January), 166-179.
- Mitra, Debanjan and Peter N. Golder (2008), “Does Academic Research Help or Hurt MBA Programs?” *Journal of Marketing*, 72 (September), 31-49.
- Selected by *JM* Editor as single article from issue to feature on *JM* Blog
 - Basis of our article in *Financial Times* (see Other Publications)
 - Basis of our article in *BusinessWeek* online (see Other Publications)
 - Featured on The Chronicle of Higher Education *News Blog*
- Markovitch, Dmitri and Peter N. Golder (2008), “Using Stock Prices to Predict Market Events: Evidence on Sales Takeoff and Long-Term Firm Survival,” *Marketing Science*, 27 (July-August), 699-716.
- Mitra, Debanjan and Peter N. Golder (2007), “Quality is in the Eye of the Beholder,” *Harvard Business Review*, 85 (April), 26-28.

Mitra, Debanjan and Peter N. Golder (2006), “How Does Objective Quality Affect Perceived Quality? Short-Term Effects, Long-Term Effects, and Asymmetries,” *Marketing Science*, 25 (3), 230-247.

- Robert D. Buzzell Best Paper Award from Marketing Science Institute (2007)
- Finalist, John D. C. Little Award for Best Paper in *Marketing Science* (2007)
- Finalist, Frank M. Bass Award for Best Dissertation-based paper in *Marketing Science* (2007)
- Featured in Handelsblatt, a top German economics and business periodical
- Featured in *Insights from MSI* (Marketing Science Institute)
- Reprinted in ICFAI’s *Journal of Brand Management*

Golder, Peter N. and Gerard J. Tellis (2004), “Growing, Growing, Gone: Cascades, Diffusion, and Turning Points in the Product Life Cycle,” *Marketing Science*, 2, 207-218.

- INFORMS Society for Marketing Science Long Term Impact Award (2012)
- Best Paper Award, American Marketing Association Technology and Innovation Group (2005)
- Also published in the Marketing Science Institute working paper series and featured in their periodical, *Insights from MSI*

Foster, Joseph A., Peter N. Golder, and Gerard J. Tellis (2004), “Predicting Sales Takeoff for Whirlpool’s New Personal Valet,” *Marketing Science*, 2, 182-185.

- INFORMS Society on Marketing Science Inaugural Practice Prize (finalist)

Bohlmann, Jonathan D., Peter N. Golder, and Debanjan Mitra (2002), “Deconstructing the Pioneer’s Advantage: Examining Vintage Effects and Consumer Valuations of Quality and Variety,” *Management Science*, 48 (September), 1175-1195.

Mitra, Debanjan and Peter N. Golder (2002), “Whose Culture Matters? Near-Market Knowledge and Its Impact on Foreign Market Entry Timing,” *Journal of Marketing Research*, 39 (August), 350-365.

- Excellence in Global Marketing Research Award, American Marketing Association (2011)

Golder, Peter N. (2000), “Insights from Senior Executives about Innovation in International Markets,” *Journal of Product Innovation Management*, 17 (September), 326-340, lead article.

Golder, Peter N. (2000), “Historical Method in Marketing Research with New Evidence on Long-Term Market Share Stability,” *Journal of Marketing Research*, 37 (May), 156-172.

- Featured in *The Wall Street Journal* (front page) and *Advertising Age*

Golder, Peter N. and Gerard J. Tellis (1998), “Beyond Diffusion: An Affordability Model of the Growth of New Consumer Durables,” *Journal of Forecasting*, 17 (June-July), 259-280.

Golder, Peter N. and Gerard J. Tellis (1997), “Will It Ever Fly? Modeling the Takeoff of Really New Consumer Durables,” *Marketing Science*, 3, 256-270.

- Frank M. Bass Award (1998) for best paper in *Marketing Science* or *Management Science* based on a marketing doctoral dissertation
- Featured in *The Wall Street Journal* (front page)
- Published in the Marketing Science Institute working paper series

Tellis, Gerard J. and Peter N. Golder (1996), “First to Market, First to Fail? Real Causes of Enduring Market Leadership,” *Sloan Management Review*, (Winter), 65-75.

- Featured in *The Wall Street Journal*, *The Economist*, *The Los Angeles Times*, *WirtschaftsWoche* (German business magazine) and *Harvard Management Update*
- Reprinted in *Harvard Business Manager*
- Invited keynote presentation at the Conference Board’s 1996 Marketing Conference

Golder, Peter N. and Gerard J. Tellis (1993), “Pioneer Advantage: Marketing Logic or Marketing Legend?” *Journal of Marketing Research*, (May), 158-170.

- William F. O’Dell Award (1998) for long-term contribution to the marketing discipline
- Findings referenced in *Wall Street Journal* op-ed article

BOOKS AND OTHER PUBLICATIONS

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- Golder, Peter N. and Debanjan Mitra (2018), “New Product Development Research: Consolidating the Present and Guiding the Future,” in *Handbook of Research on New Product Development*, Peter N. Golder and Debanjan Mitra, editors, Edward Elgar.
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- Golder, Peter (2010), “Later mover (nonpioneer) advantage,” in *Wiley International Encyclopedia of Marketing*, Jagdeth Sheth and Naresh Malhotra, editors, in Volume 1, Marketing Strategy, Robert Peterson and Roger Kerin, editors, John Wiley & Sons Limited.
- Golder, Peter and Gerard Tellis (2010), “Product Life Cycle,” in *Wiley International Encyclopedia of Marketing*, Jagdeth Sheth and Naresh Malhotra, editors, in Volume 5, New Product Development, Barry Bayus, editor, John Wiley & Sons Limited.
- Mitra, Debanjan and Peter N. Golder (2009), “Objective and Perceived Quality,” in *Empirical Generalizations about Marketing Impact*, Dominique M. Hanssens, editor, Marketing Science Institute, 18.

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Tellis, Gerard J. and Peter N. Golder (2002), *Will and Vision: How Latecomers Grow to Dominate Markets*, New York: McGraw-Hill.

- Winner of the Berry-AMA Book Prize for the best book in marketing (2003)
- Selected by *Harvard Business Review* as one of the top ten business books of 2001
- Reviewed in *Harvard Business Review* (September 2001)

Golder, Peter N. and Gerard J. Tellis (2001), “Competition is the Best Way to Regulate Microsoft,” *Los Angeles Times*, December 26.

Golder, Peter N. and Gerard J. Tellis (1992), “Do Pioneers Really Have Long-Term Advantages? A Historical Analysis,” Marketing Science Institute Report Number 92-124, Boston, MA: Marketing Science Institute.

- Winner of Marketing Science Institute Best Paper of the Year Award

PRESENTATIONS

- Topchy, Mariya, Debanjan Mitra, and Peter N. Golder (2021), “How Affect Works: Incidental and Integral Pathways to Customer Satisfaction,” Marketing Science Conference, University of Rochester (virtual).
- Golder, Peter N. (2020), “Hearing the Voice of the Consumer through Archival Evidence,” McCarthy Institute webinar.
- Golder, Peter N., Julie R. Irwin, and Debanjan Mitra (2020), “Will You Still Try Me, Will You Still Buy Me, When I'm 64? Long-Term Market Leadership in the Age of Disruption,” State of Marketing Science Summit: Marketing in Disruption, Marketing Science Institute, San Francisco, CA.
- Golder, Peter N. (2020), “Real-time Emotions in Customer Service Encounters,” invited presentation, University of Connecticut.
- Trinh, Giang Tue and Peter N. Golder (2019), “Factors Affecting Long Term Brand Growth,” Marketing Science Conference, University of Roma Tre / NYU Stern School.
- Golder, Peter N., Michael J. Schreck, and Aaron Yeater (2019), “Assessing Secondary Meaning of Brand Elements: A Conceptual and Methodological Complement to Survey Research,” Legal Applications of Marketing Theory Conference, Harvard Law School.
- Chang, Sue Ryung, Peter N. Golder, and Joel H. Steckel (2017), “Measuring and Managing International Market Share Volatility: Insights from a Country, Category, and Brand Hierarchy Framework,” Tuck Marketing Research Camp.
- Golder, Peter N., Julie R. Irwin, and Debanjan Mitra (2016), “Will You Still Try Me, Will You Still Buy Me, When I'm 64? Long-Term Market Leadership Persistence and the Impact of Economic Conditions and Category Types,” invited presentation, Kelley School of Business, Indiana University.
- Golder, Peter N. (2016), “Design Thinking: Learn to Think Like a Disruptor,” invited workshop, Marketing Science Institute, Cambridge, MA.
- Golder, Peter N. (2016), “The Fragility of Market Leadership,” AEMARK: XXVIII Congreso de Marketing at Universidad de Leon, Leon, Spain.
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- Golder, Peter N. and Hans-Willi Schroiff (2016), “Closing the Gap between Innovation Management Theory and Practice,” American Marketing Association Winter Educators’ Conference, Las Vegas, NV.
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- Golder, Peter N. (2015), “Strategy Research: Interesting Questions + Illuminating Data → Publication,” AMA-Sheth Foundation Doctoral Consortium, London Business School.
- Fan, Tingting, Peter N. Golder, and Eitan Muller (2015), “Communication on Mobile Phones versus Online Social Networks: Complements or Substitutes?” Marketing Science Conference, Johns Hopkins University.
- Fan, Tingting, Peter N. Golder, and Eitan Muller (2015), “Multi-media and Multi-form Communication: A Framework and Application with Smartphones and Online Social Networks,” Theory + Practice in Marketing Conference, Georgia State University. Fan, Tingting, Peter N. Golder, and Eitan Muller (2015), “Communication on Smartphones vs. Online Social Networks: Complements or Substitutes?” Big Data Conference, Ludwig Maximilian University (LMU), Munich, Germany.
- Golder, Peter N. (2014), “Exploring and Exploding(!) Myths of Innovation Success,” MOT Summer School—The New Paradigm of Innovation, Seoul, Korea.
- Shacham, Rachel, Tulin Erdem, and Peter N. Golder (2014), “Talking Away the Vice? Communication and Vices,” Marketing Science Conference, Emory University.
- Fan, Tingting, Peter N. Golder, and Cheng Zhang (2014), “Usage Adoption of New Products in an Emerging Market,” Marketing and Innovation Symposium, Erasmus University, Rotterdam, Netherlands.
- Golder, Peter N. (2014), “The Art and Craft of Developing Impactful Theory,” AMS Review Theory Forum, Indianapolis, IN.
- Golder, Peter N. and Wonjoon Kim (2014), “Order of Entry Effects with Attribute Innovations,” American Marketing Association Winter Educators’ Conference, Orlando, FL.
- Golder, Peter N. and Wonjoon Kim (2013), “Order of Entry Effects with Attribute Innovations,” invited presentation, Syracuse University.

- Pang, Jun, Angela Xia Liu, and Peter N. Golder (2013), "Effects of Peer Opinions and Customer Opinions on Critic Evaluations of Cultural Products," Marketing Science Conference, Ozyegin University, Istanbul, Turkey.
- Chang, Sue Ryung, Peter N. Golder, and Joel H. Steckel (2013), "Exploring Market Share Volatility around the World: The Role of Economics, Culture, Business Environment, and Market Structure," invited presentation, Peking University.
- Chang, Sue Ryung, Peter N. Golder, and Joel H. Steckel (2013), "Exploring Market Share Volatility around the World: The Role of Economics, Culture, Business Environment, and Market Structure," invited presentation, Cambridge University Judge Business School.
- Fan, Tingting, Eitan Muller, and Peter N. Golder (2012), "The Dynamics of New Product Feature Usage," Marketing Science Conference, Boston University.
- Shacham, Rachel, Tulin Erdem, and Peter N. Golder (2012), "Are Vices Substitutes or Complements?" Marketing Science Conference, Boston University.
- Golder, Peter N., Julie R. Irwin, and Debanjan Mitra (2012), "Do Economic Conditions Affect Long-Term Brand Leadership Persistence?" Theory + Practice in Marketing Conference, Harvard Business School.
- Golder, Peter N. and Tingting Fan (2011), "The Dynamics of Consumers' Brand Consideration Sets," Marketing Scholar Forum, Peking University.
- Shacham, Rachel, Peter N. Golder, and Tulin Erdem (2011), "The Complementarity of Vices," Marketing Science Conference, Rice University.
- Fan, Tingting and Peter N. Golder (2011), "The Dynamics of Brand Preferences Along Consumers' Life Paths," Marketing Science Conference, Rice University.
- Golder, Peter N. (2011), "Beyond New Products: Innovation for Growth," MSI 50th Anniversary Conference, Boston.
- Golder, Peter N., Julie R. Irwin, and Debanjan Mitra (2011), "Will You Still Try Me, Will You Still Buy Me, When I'm 64? How Economic Conditions and Category Types Affect Long-Term Brand Leadership Persistence," invited presentation, Cornell University.
- Golder, Peter N., Julie R. Irwin, and Debanjan Mitra (2010), "Will You Still Try Me, Will You Still Buy Me, When I'm 64? How Economic Conditions and Category Types Affect Long-Term Brand Leadership Persistence," invited presentation, Peking University.
- Chang, Sue Ryung, Peter N. Golder, Joel Steckel (2010), "Global Market Share Dynamics," Marketing Science Conference, University of Cologne.

- Shacham, Rachel, Tulin Erdem and Peter N. Golder (2010), “A Cigarette, a Six Pack or Porn: Are Vices Substitutes or Complements?” Marketing Science Conference, University of Cologne.
- Golder, Peter N. (2010), “Attribute-Level Innovation and Its Opportunities for Marketing Strategy Research,” The Practice and Impact of Marketing Science, MSI/ISMS Conference, Massachusetts Institute of Technology.
- Golder, Peter N. (2009), “Why Your Firm Can’t Innovate,” Luxury Lab Innovation Forum, Times Center, New York City, talk on youtube.
- Golder, Peter N., Julie R. Irwin and Debanjan Mitra (2009), “How Do Economic Conditions Affect Long-Term Brand Leadership Persistence,” New York City Marketing Modelers Meeting.
- Shacham, Rachel, Peter N. Golder, and Sha Yang (2009), “On the Importance of Ignorance,” Marketing Science Conference, University of Michigan.
- Mitra, Debanjan, Peter N. Golder, Jinhong Xie (2009), “The Weakness of Strong Ties: Homophily, Heterophily, and the Valence of Buzz,” Marketing Science Conference, University of Michigan.
- Golder, Peter N., Tingting Fan, Kevin L. Keller (2009), “Branding for China: The Role of Next Generation Consumers,” Innovation in India and China: How to Create Value from Emerging Markets, Cambridge University Judge Business School.
- Shacham, Rachel, Peter N. Golder, and Sha Yang (2009), “Exploring the Unknown: Incorporating Awareness in New Product Adoption,” Collaborative & Multidisciplinary Research Conference, Yale School of Management.
- Golder, Peter N., Tingting Fan, and Kevin L. Keller (2009), “Evolving Brand Preferences of Young Chinese Consumers,” China India Consumer Insights Conference, Yale School of Management.
- Mitra, Debanjan and Peter N. Golder (2008), “Competing for the Future of Business Schools: Does Academic Research Help or Hurt MBA Programs?” Marketing Science Conference, University of British Columbia.
- Markovitch, Dmitri and Peter N. Golder (2007), “Can the Stock Market Predict Sales Takeoff and the Long-Term Survival of Firms?” Marketing Science Conference, Singapore Management University.
- Golder, Peter N. (2007), “Will and Vision: How Latecomers Grow to Dominate Markets,” Wuhan University’s First International Conference on Corporate Governance and Innovation.

- Golder, Peter N., Rachel Shacham, and Debanjan Mitra (2006), “Innovations’ Origins: When, By Whom, and How are Radical Innovations Developed?” Guanghua School of Management, Peking University.
- Mitra, Debanjan and Peter N. Golder (2006), “The Buzz on Business Schools: A Longitudinal Analysis of Scholarly Research and Perceptions,” Marketing Science Conference, University of Pittsburgh.
- Mitra, Debanjan and Peter N. Golder (2006), “Why Today’s Business School Rankings are Yesterday’s News: A Long-Term Analysis of the Impact of Academic Research,” University of Southern California Marketing Camp.
- Golder, Peter N., Rachel Shacham, and Debanjan Mitra (2005), “The Continuity of Seemingly Discontinuous, Radical Innovations,” conference on Bridging Operations and Marketing, Catholic University, Lisbon, Portugal.
- Mitra, Debanjan and Peter N. Golder (2005), “Why Today’s Business School Rankings are Yesterday’s News: A Long-Term Analysis of the Impact of Academic Research,” ERIM Conference at Erasmus University, Rotterdam, Netherlands.
- Golder, Peter N. (2005), “Continuous Innovation: The Key to Market Leadership,” AMA Doctoral Consortium, University of Connecticut.
- Golder, Peter N., Rachel Shacham, and Debanjan Mitra (2005), “The Continuity of Seemingly Discontinuous, Radical Innovations,” Marketing Science Conference, Emory University.
- Golder, Peter N., Rachel Shacham and Debanjan Mitra (2004), “A Discontinuous Perspective on Seemingly Radical Innovations,” Hot Thoughts on Innovation: Insights at the Intersection of Marketing and Technology, MSI-AMA Conference at AMA Summer Educators’ Conference, Boston, MA.
- Golder, Peter N. (2004), “Comments on Research with Impact and Collaborating with your Advisor: Promise, Perils, and Solutions,” AMA Doctoral Consortium, Texas A&M University.
- Golder, Peter N. (2004), “Will and Vision: How Latecomers Grow to Dominate Markets,” opening presentation at AMA Strategic Marketing Conference, Chicago, Illinois (based on book co-authored with Gerry Tellis).
- Chandy, Rajesh K., Peter N. Golder, and Gerard J. Tellis (2003), “Historical Research: Method, Myths, and Applications,” Cool Tools Conference for Marketing Strategy Research, AMA Summer Educators’ Conference, Chicago, Illinois.

- Foster, Joseph A., Peter N. Golder, and Gerard J. Tellis (2003), “Will It Ever Fly? Application of Takeoff Model at Whirlpool,” ISMS Practice Prize Competition, Marketing Science Conference, University of Maryland.
- Mitra, Debanjan, Peter N. Golder, and Qi Wang (2003), “Running Hard to Stand Still? Analyzing Persistence and the Duration of Market Performance,” Marketing Science Conference, University of Maryland.
- Golder, Peter N. (2003), “Historical Research and Innovation: How Does Looking Back Help Us Understand How to Look Ahead?” American Marketing Association Winter Educators’ Conference, Orlando, FL.
- Markovitch, Dmitri and Peter N. Golder (2002), “Competing Through Speed: Product Development and Alliance Speed and Their Impact on Firm Performance,” Marketing Science Conference, University of Alberta.
- Mitra, Debanjan and Peter N. Golder (2002), “When Do Firms Become Truly Multinational? A Study of the Dynamics of ‘Near-Market’ Knowledge on Entry Timing Decisions,” Marketing Science Conference, University of Alberta.
- Golder, Peter N. (2002), “Secondary Data,” AMA Doctoral Consortium, Emory University.
- Golder, Peter N. (2001), “Historical Research in Marketing,” Special Session, AMA Summer Educators’ Conference, Washington DC.
- Mitra, Debanjan and Peter N. Golder (2001), “When Will They Ever Learn? An Econometric Analysis of the Long-Term Effects of Product Quality (or Why the Business School Ratings are always Yesterday’s News?),” Marketing Science Conference, University of Mainz.
- Golder, Peter N. and Julie R. Irwin (2001), “If They Could See Us Now: A Look at How Category Relationships Drive Long-Term Brand Leadership Persistence,” Marketing Science Institute’s Young Scholars Conference.
- Golder, Peter N. and Julie R. Irwin (2000), “If They Could See Us Now: A Look at How Category Relationships Drive Long-Term Brand Leadership Persistence,” New York Marketing Modelers Group.
- Golder, Peter N. and Julie R. Irwin (2000), “If They Could See Us Now: A Look at How Consumers Relate to Their Products and How These Relationships Explain Why Leading Brands Succeed or Fail,” special session at ACR Conference, Salt Lake City.
- Bohlmann, Jonathan D. and Peter N. Golder (2000), “Deconstructing the Pioneer’s Advantage: An Examination of the Relative Success and Failure of Market Pioneers,” Marketing Science Conference, UCLA.

- Mitra, Debanjan and Peter N. Golder (2000), “Veni, Vidi, Vici: Modern Insights for Selecting and Succeeding in New Country Markets,” Marketing Science Conference, UCLA.
- Golder, Peter N. (1999), “Contemporary Knowledge versus Historical Data: Other Examples of How the Past Catches Up with the Present,” AMA Doctoral Consortium, University of Southern California.
- Golder, Peter N. and Gerard J. Tellis (1999), “How Long Can This Keep Going On? Modeling the Growth of Radically New Products,” Marketing Science Conference, Syracuse University.
- Golder, Peter N. (1999), “Historical Method in Marketing Research with New Evidence on Long-Term Market Share Stability,” invited presentation at University of Chicago.
- Golder, Peter N. (1998), “Does Early Leadership Lock-in Long-term Leadership?” Fall INFORMS Conference, Seattle.
- Golder, Peter N. and Gerard J. Tellis (1998), “Is There Life in the Product Life Cycle? New Formulation and Generalizations on a Dormant Concept,” Marketing Science Conference, INSEAD.
- Golder, Peter N. and Gerard J. Tellis (1998), “Great Expectations: How the Market Really Responds to Really New Products,” invited presentation at University of Mainz, Germany.
- Golder, Peter N. (1998), “Contemporary Knowledge versus Historical Data: Another Example of How the Past Catches Up with the Present,” Columbia-NYU-Wharton-Yale Marketing Colloquium, New Haven, CT.
- Golder, Peter N. and Gerard J. Tellis (1998), “Evaluating New Product Growth: When Will Sales Slow Down?” invited presentation at University of Houston.
- Tellis, Gerard J. and Peter N. Golder (1996), “First to Market, First to Fail? Real Causes of Enduring Market Leadership,” The Conference Board’s 1996 Marketing Conference, New York, NY.
- Golder, Peter N. and Gerard J. Tellis (1996), “Who are long-term leaders? When and how do they enter?” INFORMS Conference, Atlanta, GA.
- Golder, Peter N. and Gerard J. Tellis (1996), “Evaluating New Product Growth: When Will Sales Slow Down?” Marketing Science Conference, University of Florida.
- Golder, Peter N. and Gerard J. Tellis (1995), “When Will It Fly? Modeling the Takeoff of Really New Consumer Durables,” New York City Marketing Modelers Group.

Golder, Peter N. and Gerard J. Tellis (1995), “When Will It Fly? Modeling the Takeoff of Really New Consumer Durables,” Product Development Management Association Conference, Minneapolis, MN.

Golder, Peter N. and Gerard J. Tellis (1995), “Evaluating New Product Growth: Will Sales Ever Take Off,” Marketing Science Conference, Australian Graduate School of Management.

Tellis, Gerard J. and Peter N. Golder (1994), “Forecasting Market Opportunities: Predicting the Takeoff of New Durables,” Marketing Science Institute Conference, Boston, MA.

Golder, Peter N. (1994), “An Alternative Explanation for Order of Entry Effects Among Surviving Brands,” Marketing Science Conference, University of Arizona.

Tellis, Gerard J. and Peter N. Golder (1993), “The Real Causes of Enduring Market Leadership,” ORSA/TIMS Meeting, Phoenix, Arizona.

Golder, Peter N. (1993), “The Disadvantage of Being a Pioneer,” Marketing Science Conference, Washington University.

Golder, Peter N. and Gerard J. Tellis (1993), “Pioneer Advantage: Marketing Logic or Marketing Legend?” Marketing Science Institute Conference, Atlanta, GA.

Golder, Peter N. and Gerard J. Tellis (1992), “Market Building vs. Pioneering: What Causes Long-term Leadership?” ORSA/TIMS Meeting, San Francisco, CA.

Golder, Peter N. and Gerard J. Tellis (1992), “Pioneer Advantage: Marketing Logic or Marketing Legend?” Marketing Science Conference, London Business School.

RESEARCH INTERESTS

Market Entry, New Products, Market Leadership, Quality, Global Marketing, Branding

TEACHING INTERESTS

Marketing Concepts, Global Marketing, New Products, Marketing Strategy

PROFESSIONAL EXPERIENCE

Northrop Corporation, 1986-1990

Conoco, 1984-1986

GRANTS

NYU Stern Berkley Center grant from Kauffman Foundation (2006)
 NYU Stern Berkley Center grant from Kauffman Foundation (2005)
 Marketing Science Institute (2000)
 Richard D. Irwin Dissertation Fellowship - National Award Winner (1993)
 U.S. Department of Education - Awarded through Center for International Business
 Education and Research at University of Southern California (1993)
 Dissertation Fellowship from Center for International Business Education and
 Research at University of Southern California (1992)
 Marketing Science Institute (1992)
 Fellowship, University of Southern California (1990-1994)

ACADEMIC SERVICE

Associate Editor: *Journal of Product Innovation Management*
 Editorial Review Board: *Journal of Marketing*
 Dissertation Committee Chair/Co-Chair:
 Debanjan Mitra (placement: University of Florida)
 Rachel Shacham (placement: University of Minnesota)
 Tingting Fan (placement: Chinese University of Hong Kong)
 Dissertation Committee: Jane Gu, Dmitri Markovitch, Sergio Meza
 Co-Chair, Hot Thoughts on Innovation: Insights at the Intersection of Marketing and
 Technology, special interest conference sponsored by MSI and AMA, 2004.
 Chair, Strategy Track, Winter AMA 2005, San Antonio, Texas

ASSOCIATIONS

American Marketing Association
 Institute for Operations Research and Management Science (INFORMS)

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APPENDIX B
EXPERT TESTIMONY

Appendix B Expert Testimony

Ballet Beauty, LLC, V. Lions Gate Films Inc., JAMS Arbitration Reference No. 1210034307, deposed January 26, 2019.

United States District Court of New Jersey, *Merck & Co., Inc., and Merck Sharp & Dohme Corp. v. Merck KGAA*, 2:16-cv-00266-ES-MAH, deposed March 3, 2019.

United States District Court for the District of Delaware, *LiQWD, Inc. and Olaplex LLC v. L'Oréal USA, Inc. et al.*, Civil Action No. 17-14 (JFB) (SRF), deposed March 10, 2019.

United States District Court, Southern District of New York, *Sprint Spectrum L.P., Sprintcom, Inc., and Sprint/United Management Company v. AT&T Mobility LLC*, Case No. 1:19-CV-01215-VSB, deposed April 3, 2019.

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APPENDIX C
MATERIALS CONSIDERED

Appendix C Materials Considered

Legal Documents

In the Matter of: Intuit Inc., a corporation, “Complaint,” March 28, 2022, Docket No. 9408.

In the Matter of: Intuit Inc., a corporation, Respondent., “[Proposed] Decision and Order,” August 22, 2022, Docket No. 9408.

In the Matter of: Intuit Inc., a corporation, Respondent., “Complaint Counsel’s Motion for Summary Decision,” August 22, 2022, Docket No. 9408.

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Declaration of Diana F. Shiller, In the matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, June 9, 2022, GX 342.

Declaration of John R. Hauser, SC.D., In the Matter of: Intuit Inc., a corporation, Respondent, No. 9408, United States of America Before the Federal Trade Commission, August 30, 2022.

Declaration of Peter Golder, PhD., Federal Trade Commission v. Intuit Inc., No. 3:22-cv-1973, United States District Court Northern District of California San Francisco Division, April 4, 2022.

Declaration of Rebecca Kirk Fair, In the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, August 30, 2022.

First Declaration of Nathan Novemsky, In the matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, March 28, 2022, GX 302.

Second Declaration of Nathan Novemsky, In the matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, April 8, 2022, GX 313.

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GX 339 – Sentinel Complaints 501-571 – Redacted.

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APPENDIX D

**METHODOLOGY FOR IDENTIFYING BENCHMARK COMPANIES
USED IN CUSTOMER COMPLAINT ANALYSES AND REVIEW OF AD
DISCLOSURES**

Appendix D

Methodology for Identifying Benchmark Companies Used in Customer Complaint Analyses and Review of Ad Disclosures

1. This appendix summarizes the methodology used to determine a list of benchmark companies for the purposes of contextualizing the number of complaints that Intuit has received on the BBB website¹ and the disclosures that Intuit makes in its TV ads. I identified five groups of benchmark companies, detailed in **Sections I-V** of this appendix: (1) direct Intuit competitors; (2) wireless carriers; (3) TV providers; (4) automobile insurance providers; and (5) companies investigated by the FTC and/or ProPublica.

I. DIRECT INTUIT COMPETITORS

2. Rationale for Benchmark Group: The first group of benchmark companies is direct competitors of Intuit in the tax preparation services business. Direct competitors are the most comparable potential benchmark to Intuit: they are in the same business, provide similar services, and often have similar business models. To the extent that dissatisfied customers seek out alternative options for tax preparation, many of them are likely to select from one of Intuit's direct competitors. If customers are particularly prone to filing complaints due to the nature of filing one's taxes, comparing Intuit with other tax preparation firms will put this fact into context. Similarly, reviewing TV ads of other tax preparation services will help evaluate Intuit's marketing of Free Edition and associated disclosures.
3. Determination of List: I reviewed Intuit's SEC Form 10-K for the fiscal year ended July 31, 2021, in which Intuit cites its primary competitors for the consumer segment as H&R Block, TaxAct (owned by Blucora), FreeTaxUSA (owned by TaxHawk), TaxSlayer, and Square. I include all the companies in this group in my benchmark list except for Square, which I do not consider a relevant benchmark company for Intuit's tax preparation business. Square has recently purchased a tax preparation business but is primarily a business-to-business ("B2B") provider of payment processing and its complaints and customer numbers would not be comparable to that of a primarily business-to-consumer

¹ *Better Business Bureau*, available at <https://www.bbb.org/>, accessed on July 1, 2022.

(“B2C”) tax preparation provider.² In addition, I consider one additional company whose business is focused almost entirely on tax preparation, referenced in internal Intuit documents: Jackson Hewitt.³

4. Final List: H&R Block, TaxAct, FreeTaxUSA,⁴ TaxSlayer, and Jackson Hewitt.

5. Sources:

a. “SEC Form 10-K for the fiscal year ended July 31, 2021,” *Intuit Inc.*, available at <https://www.sec.gov/ix?doc=/Archives/edgar/data/896878/000089687821000233/intu-20210731.htm>, p. 11.

b. Intuit, “TurboTax Brand Foundations: Integrated Findings,” February 2021, slides 32-34.

II. WIRELESS CARRIERS

6. Rationale for Benchmark Group: The second group of benchmark companies is wireless carriers. Just as all adult income-earners are required to file their taxes every year, virtually all adult consumers today have cell phones.⁵ Cell phones are not required but ubiquitous enough to be essentially required. Like filing one’s taxes, purchasing cell phone service is also a complex exercise that may be revisited on a yearly basis where customers have one account on an ongoing basis, meaning that the number of “customers” is a comparable metric. I also note that another aspect in which wireless carriers are similar to Intuit is that these companies often advertise promotional or introductory pricing offers, including disclosures that detail the terms and conditions of those offers.

² Rowan, L., “Square Will Buy Credit Karma’s Free Tax Prep Service. What Does That Mean for Consumers?” *Forbes*, available at <https://www.forbes.com/advisor/credit-score/square-will-buy-credit-karmas-free-tax-prep-service-what-does-that-mean-for-consumers/>.

³ For example, Intuit’s February 2021 TurboTax Brand Foundations presentation includes a comparison of TurboTax to Jackson Hewitt on several key metrics. Intuit, “TurboTax Brand Foundations: Integrated Findings,” February 2021, slides 32-34.

⁴ FreeTaxUSA is owned by parent company TaxHawk. See “About FreeTaxUSA,” *FreeTaxUSA*, available at <https://www.freetaxusa.com/about.jsp?thn=3EEFE20943C213FECD8AAB04918F20C4>.

⁵ According to Pew Research Center, 97 percent of Americans own a cell phone of some kind. See “Mobile Fact Sheet,” *Pew Research Center*, April 7, 2021, available at <https://www.pewresearch.org/internet/fact-sheet/mobile/>.

7. Determination of List: There are only three dominant wireless carriers in the United States, so I include all three in my list of benchmark companies.
8. Final List: AT&T,⁶ Verizon Wireless, and T-Mobile USA.
9. Source: “Wireless subscriptions market share by carrier in the U.S.,” *Statista*, October 22, 2021, available at <https://www.statista.com/statistics/199359/market-share-of-wireless-carriers-in-the-us-by-subscriptions/>.

III. TV PROVIDERS

10. Rationale for Benchmark Group: The third group of benchmark companies is TV providers. While not required, most adult consumers have cable or satellite TV service.⁷ Like filing one’s taxes, selecting a TV provider is also a complex exercise (e.g., selecting between types of providers like cable or satellite or selecting among different plans) that may be revisited on a yearly basis. In addition, customers have one account on an ongoing basis, meaning that the number of “customers” is a comparable metric.
11. Determination of List: I identified the four largest TV providers by total number of subscribers.
12. Final List: Comcast, DirecTV,⁸ Charter Spectrum, and Dish Network.
13. Source: “Pay TV providers ranked by the number of subscribers in the United States as of December 2021,” *Statista*, May 18, 2022, available at <https://www.statista.com/statistics/251793/pay-tv-providers-with-the-largest-number-of-subscribers-in-the-us/>.

IV. AUTOMOBILE INSURANCE PROVIDERS

⁶ This includes AT&T’s wireless business and other AT&T businesses as the complaints on the BBB website include all AT&T-related complaints and do not differentiate by sector.

⁷ According to Pew Research Center, 56 percent of Americans watch TV via cable or satellite. *See* “Cable and satellite TV use has dropped dramatically in the U.S. since 2015,” *Pew Research Center*, March 17, 2021, available at <https://www.pewresearch.org/fact-tank/2021/03/17/cable-and-satellite-tv-use-has-dropped-dramatically-in-the-u-s-since-2015/>.

⁸ DirecTV was formerly known as AT&T TV. *See* “AT&T TV is now DIRECTV STREAM,” *AT&T*, available at <https://www.att.com/tv/>.

14. Rationale for Benchmark Group: The fourth group of benchmark companies I chose is automobile insurance providers. Just as all adult income-earners are required to file their taxes every year, nearly all adult vehicle owners in the U.S. are required by law to purchase automobile insurance.⁹ This includes a majority of American households.¹⁰ Like filing one's taxes, selecting an automobile insurance provider is also a complex exercise that may be revisited on a yearly basis where customers have one account on an ongoing basis, meaning that the number of "customers" is a comparable metric.
15. Determination of List: I identified the five largest automobile insurance providers in the United States by market share.
16. Final List: State Farm, Geico, Progressive, Allstate, and USAA.
17. Sources:
 - a. "The 50 Largest Auto Insurance Companies," *Forbes*, February 4, 2022, available at <https://www.forbes.com/advisor/car-insurance/largest-auto-insurance-companies/>.
 - b. Norman, K., "The Top 10 Largest Auto Insurance Companies," *NerdWallet*, June 1, 2022, available at <https://www.nerdwallet.com/article/insurance/largest-auto-insurance-companies>.

V. COMPANIES INVESTIGATED BY THE FTC AND/OR PROPUBLICA

18. Rationale for Benchmark Group: The last group of benchmark companies do not closely resemble Intuit with respect to its business model, products, or customer base, but are companies that were also investigated by the FTC and/or ProPublica for alleged consumer deception. Comparing the number of complaints filed against Intuit relative to other investigated companies would therefore also be a meaningful comparison. Reviewing these

⁹ Auto insurance is required in all states in the U.S. except for New Hampshire and Virginia. See Moore, Will, "States Where Car Insurance is Not Mandatory (2022)," *Motor1*, December 15, 2021, available at <https://www.motor1.com/reviews/403859/states-where-car-insurance-is-not-mandatory/>.

¹⁰ According to Pew Research Center, 88 percent of Americans own a car. See Poushter, J., "Car, bike or motorcycle? Depends on where you live," *Pew Research Center*, available at <https://www.pewresearch.org/fact-tank/2015/04/16/car-bike-or-motorcycle-depends-on-where-you-live/>.

companies' TV ads, if any, may help evaluate Intuit's ads with respect to any alleged deceptive claims made.

19. Determination of List: I reviewed FTC cases that, on the FTC website, are categorized as “deceptive/misleading conduct” investigations by the FTC and were reported online within the last two years. I also reviewed articles written by ProPublica relating to consumer deception, published online within the last two years.¹¹ I sought to identify companies with products and services marketed directly to end consumers, in order to more appropriately benchmark the customer complaints filed against these companies on the BBB website.
20. Final List: MoneyGram, Dun & Bradstreet, Fleetcor Technologies, Perdoceo Education Corporation, and Chime Financial.
21. Sources:
 - a. “Claims Process Opens for Consumers Who Were Victimized by Fraudulent MoneyGram Transfers,” *Federal Trade Commission*, June 1, 2021, available at <https://www.ftc.gov/news-events/news/press-releases/2021/06/claims-process-opens-consumers-who-were-victimized-fraudulent-moneygram-transfers>.
 - b. “Federal Trade Commission Finalizes Order Against Dun & Bradstreet for Deceiving Businesses and Failing to Update Errors on Business Credit Reports,” *Federal Trade Commission*, April 7, 2022, available at <https://www.ftc.gov/news-events/news/press-releases/2022/04/federal-trade-commission-finalizes-order-against-dun-bradstreet-deceiving-businesses-failing-update>.
 - c. “FTC Sues FleetCor and Its CEO for Fleecing Small Businesses With Mystery Fuel Card Fees,” *Federal Trade Commission*, August 11, 2021, available at <https://www.ftc.gov/news-events/news/press-releases/2021/08/ftc-sues-fleetcor-its-ceo-fleecing-small-businesses-mystery-fuel-card-fees>.
 - d. “FTC Sends Nearly \$30 Million in Refunds to People Tricked into Enrolling by School Operator’s Lead Generators,” *Federal Trade Commission*, June 9, 2021, available at <https://www.ftc.gov/news-events/news/press-releases/2021/06/ftc->

¹¹ I reviewed FTC cases and ProPublica articles published online from January 1, 2021, to present.

sends-nearly-30-million-refunds-people-tricked-enrolling-school-operators-lead-generators.

- e. Kessler, C., “A Banking App Has Been Suddenly Closing Accounts, Sometimes Not Returning Customers’ Money,” *ProPublica*, July 6, 2021, available at <https://www.propublica.org/article/chime>.

APPENDIX E
BENCHMARKING OF INTUIT'S BBB COMPLAINTS

Appendix E

Benchmarking of Intuit's BBB Complaints

1. This appendix provides the detailed methodology and results of my analysis that benchmarks the number of complaints that Intuit has received on the BBB website.¹
2. Having identified the benchmark companies as discussed in **Appendix D**, I then evaluated the number of customer complaints filed against each of them on the BBB website. I benchmarked the number of complaints, on both an absolute and relative basis, in comparison to BBB complaints filed against Intuit. For each company, I analyzed the total number of complaints submitted to the BBB in the last three years as of July 1, 2022. These complaints are publicly available on the BBB website.
3. On an absolute basis, I compare the total number of complaints filed against Intuit relative to the total number of complaints for each benchmark company.
4. On a relative basis, I normalized the total number of complaints filed against each company based on the total number of customers that each company reports in their public filings or other materials. I divide the total number of complaints for each company by the reported total number of customers. I then arrive at a rate of BBB complaints for Intuit and for each benchmark company. Comparing these rates allows for a more accurate comparison that is unaffected by the relative number of customers for each company.
5. The following table, **Figure E-1**, includes the results of my analysis with the full list of benchmark companies, number of complaints filed on the BBB website, number of customers, calculated rate of complaints (complaints per million customers), and detailed notes and sources for this information. I determined the total number of customers currently served in the U.S. by Intuit and each of the benchmark companies by consulting SEC filings (e.g., form 10-K) or company websites directly. If this information was unavailable from these sources, I reviewed reputable third-party sources (e.g., Statista, Forbes) as an alternative.

¹ *Better Business Bureau*, available at <https://www.bbb.org/>, accessed on July 1, 2022.

Figure E-1
Benchmarking of Intuit's BBB Complaints

<u>Company</u>	<u>Benchmark Group</u>	<u>Number of Customers (Million)</u> [A]	<u>Number of BBB Complaints</u> [B]	<u>Number of Complaints per Million Customers</u> [C] = [B] / [A]	<u>BBB Complaints Source</u>	<u>Number of Customers Source</u>	<u>Number of Customers Note</u>
Intuit	N/A	100	2,761	27.6	“Intuit Inc., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ca/mountain-view/profile/computer-hardware/intuit-inc-1216-202832/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended July 31, 2021,” <i>Intuit Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/896878/000089687821000233/intu-20210731.htm (“Intuit 10-K”), at p. 5 (“We serve approximately 100 million customers across our product offerings and platforms.”).	All customers, globally; “international net revenue was less than 5% of consolidated total net revenue for the twelve months ended July 31, 2021.” <i>See</i> , Intuit 10-K, at p. 7.
Jackson Hewitt	Direct Intuit Competitors	2	222	111.0	“Jackson Hewitt, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/nj/jersey-city/profile/tax-return-preparation/jackson-hewitt-tax-services-of-america-inc-0221-22001064/complaints , accessed on July 1, 2022.	Macfarlane, G., “The Path Forward for America's Outdated Tax System,” <i>Jackson Hewitt</i> , May 17, 2021, available at https://www.jacksonhewitt.com/about-jackson-hewitt/news-and-events/opinion-the-path-forward-for-americas-outdated-tax-system/ (“Jackson Hewitt is responsible for preparing over 2 million federal, state, and local income-tax returns every year.”).	Tax returns filed.
TaxAct	Direct Intuit Competitors	6	188	33.6	“TaxAct, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ia/cedar-rapids/profile/computer-software-developers/taxact-0664-22001061/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>Blucora, Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1068875/000106887522000042/bcor-20211231.htm , at p. 6 (“For the year ended December 31, 2021, TaxAct powered approximately 3.2 million consumer e-files directly through end-users and another 2.4 million professional e-files through approximately 21,000 tax professionals who used TaxAct.”).	Tax returns filed. Non-tax prep services are largely ancillary services sold to tax prep customers.
H&R Block	Direct Intuit Competitors	22	483	22.4	“H&R Block Inc., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/mo/kansas-city/profile/tax-return-preparation/h-r-block-inc-us-headquarters-0674-46030004/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended April 30, 2021,” <i>H&R Block, Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/12659/000183886221000028/hrb-20210430.htm , at p. 2 (“During fiscal year 2021, we prepared 21.6 million U.S. tax returns.”).	Tax returns filed. Non-tax prep services are largely ancillary services sold to tax prep customers.
TaxSlayer	Direct Intuit Competitors	10	88	8.8	“TaxSlayer, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ga/evans/profile/tax-software/taxslayercom-0743-9390/complaints , accessed on July 1, 2022.	“TaxSlayer Offers New Resources to Help Taxpayers File in 2021,” <i>TaxSlayer</i> , February 8, 2021, available at https://www.taxslayer.com/media-room/prdetails?articleID=122508 (“TaxSlayer...successfully completed more than 10 million state and federal e-filed tax returns in 2020.”).	Tax returns filed.
TaxHawk	Direct Intuit Competitors	4	56	15.3	“TaxHawk, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ut/provo/profile/tax-return-preparation/taxhawk-inc-1166-22009863/complaints , accessed on July 1, 2022.	“ProPublica Analysis of IRS Electronic Filing Data,” <i>ProPublica</i> , available at https://www.documentcloud.org/documents/6788961-ProPublica-Analysis-of-IRS-Electronic-Filing-Data.html .	Tax returns filed in 2019.
Verizon Wireless	Wireless Carriers	114	26,890	235.3	“Verizon Wireless, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/nj/basking-ridge/profile/cell-phone-supplies/verizon-wireless-0221-1001468/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>Verizon Communications Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/732712/000073271222000008/vz-20211231.htm , at p. 5 (“As of December 31, 2021, we had 24 million prepaid connections...Approximately 79% of our Consumer wireless retail connections were postpaid connections as of December 31, 2021.”).	Verizon Wireless Consumer prepaid and postpaid customers.
AT&T	Wireless Carriers	218	43,436	199.2	“AT&T, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/tx/dallas/profile/long-distance-phone-service/att-0875-7935/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>AT&T Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/732717/000073271722000015/t-20211231.htm , at p. 4-5 (“At December 31, 2021, we served 202 million Mobility subscribers...We offer broadband and internet services to approximately 16 million customer locations.”).	AT&T Mobility (wireless services and equipment) and Consumer Wireline customers.
T-Mobile USA	Wireless Carriers	109	16,428	151.1	“T-Mobile USA, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/wa/bellevue/profile/cell-phone-supplies/t-mobile-usa-inc-1296-27026359/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>T-Mobile US, Inc.</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1283699/000128369922000018/tmus-20211231.htm , at p. 5 (“As of December 31, 2021, we provide wireless services to 108.7 million postpaid and prepaid customers.”).	T-Mobile wireless services prepaid and postpaid customers.

Figure E-1
Benchmarking of Intuit’s BBB Complaints

<u>Company</u>	<u>Benchmark Group</u>	<u>Number of Customers (Million)</u> [A]	<u>Number of BBB Complaints</u> [B]	<u>Number of Complaints per Million Customers</u> [C] = [B] / [A]	<u>BBB Complaints Source</u>	<u>Number of Customers Source</u>	<u>Number of Customers Note</u>
Comcast	TV Providers	34	21,373	624.9	“Comcast Corporation, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/pa/philadelphia/profile/cable-tv/comcast-corporation-0241-80003221/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>Comcast Corporation</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1166691/000116669122000009/cmcsa-20211231.htm , at p. 2 (“Total customer relationships: 34.2 [million]”).	Total customer relationships (residential and business services).
DirecTV	TV Providers	15	8,225	533.7	“DirecTV Inc., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ca/el-segundo/profile/cable-tv/directv-inc-1216-81000357/complaints , accessed on July 1, 2022.	“Pay TV providers ranked by the number of subscribers in the United States,” <i>Statista</i> , December 2021, available at https://www.statista.com/statistics/251793/pay-tv-providers-with-the-largest-number-of-subscribers-in-the-us/ (“AT&T Premium TV: 15.41 million subscribers”).	Total customers for “AT&T Premium TV” which is now “DirecTV Stream.” <i>See</i> “AT&T TV is now DIRECTV STREAM,” <i>AT&T</i> , available at https://www.att.com/tv/ .
Charter Spectrum	TV Providers	32	15,813	494.2	“Charter Spectrum, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ct/stamford/profile/cable-tv/charter-spectrum-0111-110075917/complaints , accessed on July 1, 2022.	“About Charter,” <i>Charter Spectrum</i> , available at https://corporate.charter.com/about-charter (“Charter Communications, Inc. (NASDAQ: CHTR) is a leading broadband connectivity company and cable operator serving more than 32 million customers in 41 states through its Spectrum brand.”).	Total customers.
Dish Network	TV Providers	8	3,389	412.3	“Dish Network LLC, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/co/englewood/profile/cable-tv/dish-network-llc-1296-6370/complaints , accessed on July 1, 2022.	“Pay TV providers ranked by the number of subscribers in the United States,” <i>Statista</i> , December 2021, available at https://www.statista.com/statistics/251793/pay-tv-providers-with-the-largest-number-of-subscribers-in-the-us/ (“Dish Network: 8.22 million subscribers”).	Total customers.
Progressive	Automobile Insurance Providers	20	3,747	183.7	“Progressive Corporation, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/oh/mayfield-vlg/profile/insurance-companies/progressive-corporation-0312-15000696/complaints , accessed on July 1, 2022.	“About Us,” <i>Progressive</i> , available at https://www.progressive.com/about/ (“Policies in Force: 20.4 million”).	Total number of all insurance policies.
Geico	Automobile Insurance Providers	18	2,038	113.2	“Geico, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/md/chevy-chase/profile/insurance-companies/geico-0241-8768/complaints , accessed on July 1, 2022.	“GEICO At A Glance,” <i>Geico</i> , July 2022, available at https://www.geico.com/about/corporate/at-a-glance/ (“More than 18 million auto policies”).	Total number of all insurance policies.
USAA	Automobile Insurance Providers	49	2,193	45.1	“USAA, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/tx/san-antonio/profile/insurance-companies/usaa-0825-23452/complaints , accessed on July 1, 2022.	“Corporate Overview,” <i>USAA</i> , available at https://www.usaa.com/inet/wc/about_usaa_corporate_overview_main?akredirect=true (“48.6 million total products”).	Total number of all insurance policies.
Allstate	Automobile Insurance Providers	50	2,154	43.2	“Allstate Insurance, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/il/northbrook/profile/insurance-companies/allstate-insurance-0654-12014144/complaints , accessed on July 1, 2022.	“Notice of 2022 Annual Meeting and Proxy Statement,” <i>Allstate</i> , available at https://www.allstate.com/resources/allstate/attachments/annual-report/allstate-year-end-report-combo-2021.pdf , at p. 10 (“Policies in Force: 49.9M Excluding Allstate Protection Plans”).	Total number of all insurance policies.
State Farm	Automobile Insurance Providers	87	1,633	18.8	“State Farm Insurance Co., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/il/bloomington/profile/insurance-companies/state-farm-insurance-company-0724-6000391/complaints , accessed on July 1, 2022.	“2021 by the numbers,” <i>State Farm</i> , February 25, 2022, available at https://newsroom.statefarm.com/2021-by-the-numbers-infographic (“87M+ policies and accounts serviced throughout the U.S.”).	Total number of all insurance policies.

Figure E-1
Benchmarking of Intuit’s BBB Complaints

<u>Company</u>	<u>Benchmark Group</u>	<u>Number of Customers</u> <u>(Million)</u> [A]	<u>Number of BBB Complaints</u> [B]	<u>Number of Complaints per Million Customers</u> [C] = [B] / [A]	<u>BBB Complaints Source</u>	<u>Number of Customers Source</u>	<u>Number of Customers Note</u>
Chime Financial	Investigated Companies	13	6,862	527.8	“Chime Financial Inc., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ca/san-francisco/profile/financial-technology/chime-financial-inc-1116-530173/complaints , accessed on July 1, 2022.	Curry, D., “Chime Revenue and Usage Statistics (2022),” <i>Business of Apps</i> , May 4, 2022, available at https://www.businessofapps.com/data/chime-statistics/ (“Chime is considered the most popular neobank in the US, with over 13 million active customers.”).	Total number of active banking customers.
Perdoceo Education Corp.	Investigated Companies	0.04	2	49.5	“Perdoceo Education Corp., Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/il/schaumburg/profile/college-and-university/perdoceo-education-corporation-0654-9003047/complaints , accessed on July 1, 2022.	“SEC Form 10-K for the fiscal year ended December 31, 2021,” <i>Perdoceo Education Corporation</i> , available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1046568/000156459022006719/prdo-10k_20211231.htm , at p. 2 (“Total student enrollments as of December 31, 2021 and 2020 were approximately 40,400 students and 42,700 students, respectively.”).	Total student enrollment.
MoneyGram	Investigated Companies	47	744	15.8	“MoneyGram, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/tx/dallas/profile/money-orders/moneygram-0875-90246426/complaints , accessed on July 1, 2022.	“MoneyGram International Reports Second Quarter 2021 Results,” <i>MoneyGram</i> , July 29, 2021, available at https://ir.moneygram.com/news-releases/news-release-details/moneygram-international-reports-second-quarter-2021-results (“Above all, we continued to play an important role in connecting the world’s communities by serving over 47 million people this past year.”).	Total number of customers globally.
Fleetcor Technologies	Investigated Companies	---	272	---	“Fleetcor Technologies, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/ga/norcross/profile/credit-cards-and-plans/fleetcor-technologies-llc-0443-7005062/complaints , accessed on July 1, 2022.	Note: Number of customers unavailable. Fleetcor Technologies is more focused on a business-to-business (B2B) model rather than business-to-customer (B2C) and is therefore less directly comparable to Intuit which markets and sells products directly to end consumers.	N/A
Dun & Bradstreet	Investigated Companies	---	2	---	“Dun & Bradstreet, Complaints,” <i>Better Business Bureau</i> , available at https://www.bbb.org/us/fl/jacksonville/profile/credit-reporting-agencies/dun-bradstreet-0332-3137/complaints , accessed on July 1, 2022.	Note: Number of customers unavailable. Dun & Bradstreet is more focused on a business-to-business (B2B) model rather than business-to-customer (B2C) and is therefore less directly comparable to Intuit which markets and sells products directly to end consumers.	N/A

Notes:
[1] See discussion in **Appendix D** for background and methodology on selection of benchmark groups and companies.
[2] Number of customers is an approximation and generally represents the total number of customers served annually by the business represented on the BBB website, where available. See “Number of Customers Source” and “Number of Customers Note” columns for exact details.
[3] Number of BBB complaints represents the total number of complaints each business received through the BBB website in the 3-year period ending July 1, 2022.

Sources:
[1] See **Appendix D** for sources relating to selection of benchmark groups and companies.
[2] See individual company rows for source for number of customers.
[3] Better Business Bureau website, available at <https://www.bbb.org/> and individual company webpages.

APPENDIX F
INTUIT AND BENCHMARK COMPANIES KEYWORD ANALYSIS

Appendix F

Intuit and Benchmark Companies Keyword Analysis

I. KEYWORD SELECTION METHODOLOGY

1. To select a list of keywords for my analysis in **Section IV.B.2**, I isolated a subset of words that Complaint Counsel use when describing Intuit's alleged business practices in its Complaint.¹ I then used my judgement to expand this list to a set of keywords related to deceptive advertising. In addition, I considered word stems for each word in the resulting list and included all variations of words whenever it was appropriate to do so. For example, the word count for "advertise" includes the number of complaints that mention "advertise," "advertisement," and/or "advertised." Words that differ from the root word were searched separately. For example, "advertising" was searched separately.
2. Throughout this process, I focused on including words that are agnostic to Intuit as well as to the benchmark companies. Doing so ensures a comparison across Intuit and benchmark companies that is based on keywords related to deceptive advertising rather than on their specific industries or customers. For example, "hard stop" may be applicable to Intuit, but not automobile insurance companies and "deductible" may be applicable to automobile insurance companies but not Intuit, so I did not include either of these words. Following the approach described above, I classified these keywords in six categories shown in **Figure F-1** below:

¹ FTC Administrative Complaint.

Figure F-1
Keyword Category List

Category	Key Words / Phrases
Advertising	“advertise,” “advertising,” “commercial,” “marketed,” “marketing,” “markets,” “promotion,” “television,” “TV”
Price / Charge	“bill,” “charge,” “charging,” “cost,” “expense,” “expensive,” “fee,” “free,” “order,” “pay,” “price,” “purchase,” “waste of money”
Deception	“bait and switch,” “cheat,” “deceive,” “deceiving,” “deception,” “deceptive,” “door opener,” “false,” “fool,” “foot in door,” “fraud,” “hoax,” “hustle,” “mislead,” “misled,” “misrepresent,” “promise,” “promising,” “rip off,” “robbery,” “scam,” “steal,” “take advantage,” “taken advantage,” “theft,” “thieve,” “too late,” “trick”
Forced to Upgrade / Pay More	“financial information,” “force,” “forcing,” “lock in,” “locked in,” “no choice,” “personal information,” “require,” “requiring,” “upgrade,” “upgrading”
Waste of Time	“annoy,” “bother,” “long time,” “pain,” “tedious,” “wait,” “waste of time”
Disclosure	“disclaimer,” “disclose,” “disclosure,” “disclosing,” “eligibility,” “eligible,” “fine print,” “limitations,” “qualification,” “qualifies,” “qualify,” “restrict”
Litigation	“Federal Trade Commission,” “FTC,” “legal,” “litigation,” “ProPublica,” “sue,” “suit”

3. Additionally, I introduced a limited set of exceptions to rules to improve the accuracy of my keyword analysis. These exceptions address false positives in certain situations and are either applied to all companies (rules “relating to all companies”) or to the benchmark companies but not Intuit (rules “relating to a specific set of companies”). As a result, these do not artificially lower Intuit’s keyword count relative to the benchmark companies.²

² Additionally, I ran my keyword analysis on the 571 Intuit customer complaints provided to me by Complaint Counsel. As expected, every keyword does not appear in every complaint, but these complaints do include the keywords, typically at a higher rate than the BBB complaints.

Figure F-2
Keyword Rules

Rule	Companies Impacted
<i>Relating to All Companies</i>	
“long time” but not “long time customer” or “long time user” ^[1]	Intuit and all benchmark companies
“pay” but not “payroll” ^[2]	Intuit and all benchmark companies
“fee” but not “feel” ^[3]	Intuit and all benchmark companies
“order” but not “in order to” or “bordering” ^[4]	Intuit and all benchmark companies
“limitations” and “restrictions” except when the complaint mentions “covid” ^[5]	Intuit and all benchmark companies
<i>Relating to a Specific Set of Companies</i>	
Remove keyword “pain” ^[6]	Allstate, Geico, Progressive, State Farm, and USAA
Remove keyword “TV” ^[7]	AT&T, Charter Spectrum, Comcast, DirecTV, and Dish Network

Notes:

[1] This rule was implemented so that the keyword analysis does not flag complaints that mention “long time” in the context of using the given product/service for a long time rather than in the context of a “waste of time.”

[2] This rule was implemented so that the keyword analysis does not consider mentions of the word “payroll” as a complaint about being charged.

[3] This rule was implemented so that the keyword analysis does not consider mentions of the word “feel” as a complaint about the price of a product/service.

[4] This rule was implemented so that the keyword analysis does not consider mentions of the phrases “in order to” or “bordering” as a complaint about being charged.

[5] This rule was implemented so that the keyword analysis does not consider mentions of the words “limitations” or “restrictions” when the complaint is talking about covid restrictions or limitations.

[6] This rule was implemented because complaints against automobile insurance providers may contain the word “pain” in the context of physical pain rather than a “waste of time.” Removing this keyword prevents any complaint against automobile insurance companies with the keyword and stem “pain” to be flagged as related to deceptive advertising.

[7] This rule was implemented because AT&T and TV providers may contain the word “TV” when describing their service in general, rather than potentially deceptive ads. Removing this keyword prevents any complaint against AT&T and TV providers with the keyword and stem “TV” to be flagged as related to deceptive advertising.

II. KEYWORD ANALYSIS SENSITIVITIES

4. In this section, **Figure F-3** shows that my results in **Figure 2** in **Section IV.B.2** are robust to the inclusion of BBB complaints that mention litigation-related keywords.

Figure F-3
Mentions of Keywords in the BBB Complaints for Intuit and Benchmark Companies

Category	Intuit ^[1]		Direct Intuit Competitors ^[2]		TV Providers ^[3]		Automobile Insurance Providers ^[4]		Wireless Carriers ^[5]		Investigated Companies ^[6]	
	Count ^[7]	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
All complaints/reviews	2,291	100%	381	100%	7,347	100%	5,950	100%	16,215	100%	3,799	100%
Advertising ^[8]	205	9%	30	8%	747	10%	160	3%	2,821	17%	102	3%
Price / Charge	1,706	74%	267	70%	6,144	84%	4,044	68%	13,589	84%	1,921	51%
Deception	589	26%	89	23%	1,573	21%	1,067	18%	4,718	29%	1,246	33%
Forced to Upgrade / Pay More	378	16%	48	13%	839	11%	604	10%	2,789	17%	269	7%
Waste of Time	322	14%	52	14%	797	11%	820	14%	2,458	15%	617	16%
Disclosure	117	5%	17	4%	234	3%	164	3%	1,129	7%	114	3%
Litigation	760	33%	84	22%	1,909	26%	1,522	26%	5,155	32%	1,000	26%

Notes:

[1] These data were procured by scraping all Intuit complaints from the BBB website.

[2] These data were procured by scraping all complaints from the BBB website for the following companies: H&R Block, Jackson Hewitt, Tax Act, Tax Hawk, and Tax Slayer.

[3] These data were procured by scraping all complaints from the BBB website for the following companies: Charter Spectrum, Comcast, Direct TV, and Dish Network.

[4] These data were procured by scraping all complaints from the BBB website for the following companies: Allstate, Geico, Progressive, State Farm, and USAA.

[5] These data were procured by scraping all complaints from the BBB website for the following companies: AT&T, T-Mobile USA, and Verizon Wireless.

[6] These data were procured by scraping all complaints from the BBB website for the following companies: Chime Financial, Dunn and Bradstreet, Fleetcor Technologies, Money Gram, and Perdoceo Education Corporation.

[7] Counts for each category are based on the number of unique complaints which contain any of the specified search terms in that category.

[8] Counts of root words include all variations of the word. For example, the count for “advertise” includes the number of complaints which mention “advertise,” “advertisement,” and/or “advertised.” Words that differ from the root word were searched separately. For example, “advertising” was searched separately.

[9] Complaints marked with “Complaint Details Unavailable” were dropped for the purposes of this analysis. 470 Intuit BBB complaints and 122,546 benchmark BBB complaints were removed due to missing verbatim text.

Source:

[1] Better Business Bureau complaints for Intuit and benchmark companies, as of July 1, 2022.

APPENDIX G
AD BENCHMARK ANALYSIS

Appendix G

Ad Benchmark Analysis

I. AD AND DISCLOSURE SELECTION

1. To assess Intuit's TurboTax ads, I compared the at-issue ads and their disclosures with ads and disclosures from competitors and other benchmark companies. As discussed in **Section V.A.3**, I analyzed 22 benchmark companies, including 5 tax preparation competitors and 17 other benchmarks.¹
2. For each benchmark company, I selected the three most recent TV ads available (going back to 2020) that met the following criteria: (1) were 30-second, (2) had a disclosure, and (3) pertained to a free offer, cost of a product or service, or eligibility criteria for a product or service. Where it was not possible to find a TV ad that met all three criteria, I prioritized criteria (1) and (2); that is, not all ads pertained to a free offer, cost of a product or service, or eligibility criteria for a product or service.
3. I reviewed TY 2021 TurboTax TV ads and reviewed ads available on YouTube and iSpot.tv for benchmark companies. I began my search by finding companies' YouTube channels and viewing the most recent ads. For companies that did not feature three recent ads, I reviewed the company's ads on iSpot.tv. iSpot.tv is a platform that measures "brand and business impact of TV and streaming advertising," and provides free, public access to companies' recent TV commercials.² Using the combination of these two platforms, I was able to find ads that met the criteria I established for this analysis.³

¹ I could not find 30-second ads for TaxHawk, Dun & Bradstreet, Fleetcor Technologies, or Perdoceo Education Corp.

² "What We Do: The New Standard for TV Ad Measurement," *iSpot.tv*, available at <https://www.ispot.tv/about>, accessed on July 26, 2022.

³ Some companies did not have ads on YouTube or iSpot.tv that met the analysis criterion. I was not able to find three ads for Jackson Hewitt that were 30 seconds and contained a disclosure. Additionally, I was unable to find any ads that fit the analysis criterion for Investigated Companies, Dun & Bradstreet, Fleetcor Technologies, and Perdoceo Education Corp.

4. When assessing ads that met the criteria of the analysis, I focused on the claims being made and the corresponding disclosures.⁴ In cases where an ad contained more than one disclosure, I analyzed the disclosure related to the free offer, cost of the product or service, or eligibility criteria. In cases where there was no disclosure that met these criteria, I analyzed the last disclosure that appears in the ad. I kept record of the exact disclosure language as well as the claim voiceover — audio statements about the characteristics or benefits of the product or service — for reference as I reviewed other aspects of the ad.

II. METRICS TRACKED

5. As discussed in **Section V.A.3**, I selected metrics for each specific guideline in the FTC Guidelines to assess. In this section, I outline the methodology I applied.

A. Proximity and Placement

6. **Is the disclosure on the screen at the same time the claim is made?** If at least one claim is voiced over or displayed while the related disclosure is on the screen, I considered the answer to be “Yes.”
7. **Disclosure placement.** I noted where the disclosure was located on the screen. If the disclosure was located at the bottom of the screen, I categorized the metric as “Bottom of the screen.”

B. Prominence

8. **Disclosure size vs. total screen size.** I considered disclosure size to be the size of the disclosure relative to the total size of the screen. To calculate disclosure size, I measured the height of one line of the disclosure text and divided it by the total height of the screen. The precise steps I took to measure disclosure size are as follows:

- a. *Screen capture:* For YouTube ads, I viewed the video in “Theater Mode” and using the Web capture feature in Microsoft Edge, took a full-page web capture of the screen. For iSpot.tv ads and the TY 2021 TurboTax TV ads, I viewed the video in

⁴ I define a claim as a verbal or written statement “about the benefits, characteristics, and/or performance of a product or service designed to persuade the customer to make a purchase.” See “Advertising Claim,” *Marketing Accountability Standards Board Common Language Dictionary*, available at <https://marketing-dictionary.org/a/advertising-claim/>.

full-screen mode and took a screenshot (using the desktop app “Snipping Tool” in Window Snip mode) of the whole screen.

- b. *Convert to PDF*: I converted the web captures and screenshots from JPEG or PNG files to PDFs using Adobe Acrobat.
 - c. *Take measurement*: Using the Adobe Measuring Tool, I measured (in centimeters) the total height of the screen and the height of the first letter in the disclosure text.⁵
9. **Color of disclosure text and background.** To determine whether there was a contrast between the color of the disclosure text and background, I noted the color of the disclosure text and the color of the screen behind the disclosure. In cases where the disclosure was presented on top of a changing background, I categorized the background color as “Moving Background.”

C. Distracting Factors

10. **Solid or moving background.** I noted if the disclosure was presented on top of moving video or a stationary background. If the disclosure was presented on top of moving video, I categorized the background as “Moving.” If the disclosure was presented on a stationary background, with either one solid color or multiple colors, I categorized this metric as “Solid.”

D. Repetition

11. **Is there a voiceover of the disclosure text?** If the disclosure text was voiced over exactly as written, I considered there to be a voiceover of the disclosure text.

⁵ In ads where the progress bar covers the first line of the disclosure text, I measure the height of the first letter of the second line of the disclosure text. In a single instance – TaxAct ad called “Bear: Taxes Aren’t Scary” – the disclosure text starts with a number instead of a letter, so I measure the height of the first number. Ads in which the progress bar covers the first line of the disclosure text are the following: TaxAct TV Ad, “Cloudy with a Chance of TaxAct - Version A,” January 3, 2022, available at <https://youtu.be/inVk3O8sXIk>, accessed on July 13, 2022; TaxSlayer TV Ad, “File Your Taxes for Free with the Biggest Refund Possible,” January 2, 2020, available at <https://www.youtube.com/watch?v=zYgk8TtqJu4>, accessed on July 13, 2022; Charter Spectrum TV Ad, “Monsters: Dinner,” February 3, 2022, available at <https://www.youtube.com/watch?v=6-nsCJ54TkQ>, accessed on July 12, 2022; Chime TV Ad, “Banking made happier with the Chime Debit Card,” May 16, 2022, available at <https://www.youtube.com/watch?v=teBBidwUw-c>, accessed on July 11, 2022. TaxAct TV Ad, “Bear: Taxes Aren’t Scary,” January 4, 2021, available at <https://www.ispot.tv/ad/tzw7/taxact-bear-taxes-arent-scary>, accessed on July 13, 2022.

12. **Is the disclosure repeated on the company website?** I reviewed each company's Homepage unless the ad directed the customer to a specific webpage. If the information on the Homepage or specified webpage aligned with the disclosure text or provided additional detail, I considered the disclosure to be repeated on the company website. I also considered disclosures that were linked on the Homepage or specified webpage to be repeated on the company's website.

E. Multimedia Messages and Campaigns

13. **Duration of the disclosure.** I calculated the total duration the disclosure was on screen in seconds. If the disclosure was repeated during the ad, I considered the duration to be the total time the disclosure was on screen.

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Direct Intuit Competitor	H&R Block	Max Refund	2/14/2022	Yes	Yes (Eligibility)	"All tax situations are different Not everyone gets a refund Limitations apply See hrblock.com/guarantees for details Screen images simulated "	"We get your biggest refund possible Guaranteed "
Direct Intuit Competitor	H&R Block	Help on Your Terms	2/14/2022	Yes	No	"Actual H&R Block Tax experts "	"When it comes to taxes, H&R Block can help a little or a lot At H&R Block, get the expert tax help you need Online or in person Help is here "
Direct Intuit Competitor	H&R Block	File Virtually	3/21/2021	Yes	Yes (Eligibility)	"All tax situations are different Not everyone gets a refund "	"We'll get it done right, you can sleep well tonight In person or virtually, we make it easy for you "
Direct Intuit Competitor	TaxAct	Cloudy with a Chance of TaxAct - Version A	1/3/2022	Yes	Yes (Free Offer and Eligibility)	"Price paid is determined at the time of filing and is subject to change Restrictions apply See www.taxact.com/company/accuracy-guarantee for details and disclosures on the Maximum Refund Guarantee "	"Switch to TaxAct and start for free "
Direct Intuit Competitor	TaxAct	The Fixer: 30	2/10/2022	Yes	Yes (Free Offer and Eligibility)	"Price subject to change Restrictions apply See taxact.com for Maximum Refund Guarantee details "	"Switch to TaxAct and start for free "
Direct Intuit Competitor	TaxAct	Bear: Taxes Aren't Scary	1/4/2021	Yes	Yes (Cost and Eligibility)	"30% less claim based on comparison of TurboTax and H&R Block federal pricing for Deluxe and Premier consumer online products on 12/4/2020 Other TaxAct consumer online products also cost less than comparable TurboTax and H&R Block products on same date Price paid is determined at the time of filing and is subject to change Restrictions apply See www.taxact.com/company/accuracy-guarantee for Details & Disclosures on the Maximum Refund "	"TaxAct can easily import your taxes free with just a click Plus it costs 30 percent less than the big guys And you get your maximum refund guaranteed "
Direct Intuit Competitor	TaxSlayer	Cash Cow: 30	1/4/2022	Yes	Yes (Free Offer and Eligibility)	"Simply Free (includes federal and one state return for \$0) is not available for all tax situations Eligibility is limited to qualifying simple tax situations and is determined at the time of e-file See site for full details "	"File for free with TaxSlayer Simply Free and get your guaranteed maximum refund "
Direct Intuit Competitor	TaxSlayer	Anthem-Simply Free	2/8/2022	Yes	Yes (Free Offer and Eligibility)	"Simply Free (Includes federal and one state return for \$0) is not available for all tax situations Eligibility is limited to qualifying simple tax situations and is determined at the time of e-file See site for full details "	"We do taxes right and we file them for free We're talking zip, zero, zilch, nada, no surprises, no hidden fees Just the biggest refund possible Guaranteed "
Direct Intuit Competitor	TaxSlayer	File Your Taxes for Free with the Biggest Refund Possible	1/2/2020	Yes	Yes (Free Offer and Eligibility)	"Simply Free" (\$0 federal and one \$0 state tax returns) is not available for all tax situations Eligibility is limited to qualifying simple tax situations and is determined at the time of e-file See site for full details "	"We do taxes right and we file them for free We're talking zip, zero, zilch, nada, no surprises, no hidden fees Just the biggest refund possible Guaranteed "
TurboTax	TurboTax	Auctioneer	4/26/2022	Yes	Yes (Free Offer and Eligibility)	"TurboTax Free Edition is for simple U S returns only See if you qualify at turbotax.com Offer subject to change "	"That's right, TurboTax Free Edition is free See details at turbotax.com "
TurboTax	TurboTax	Dance Workout	4/26/2022	Yes	Yes (Free Offer and Eligibility)	"TurboTax Free Edition is for simple U S returns only See if you qualify at turbotax.com Offer subject to change "	"That's right, TurboTax Free Edition is free See details at turbotax.com "
TurboTax	TurboTax	Dog Show	4/26/2022	Yes	Yes (Free Offer and Eligibility)	"TurboTax Free Edition is for simple U S returns only See if you qualify at turbotax.com Offer subject to change "	"That's right TurboTax Free Edition is free Free, free, free, free "
TurboTax	TurboTax	Spit Take	1/19/2022	Yes	Yes (Free Offer and Eligibility)	"For simple tax returns only See if you qualify at turbotax.com Must file by 2/15 for free offer Offer subject to change "	"For a limited time, TurboTax is free for simple returns, no matter how you file "

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Direct Intuit Competitor	Jackson Hewitt	Break Free	8/4/2020	Yes	Yes (Eligibility)	“Individual results will vary. Not available in all states. Results not guaranteed and may vary. We do not provide any legal representation and are not responsible for amounts owned to the IRS or any state. Free consultation provides general info only. Money back guarantee is a limited time offer valid through 10/31/20 and applies only to Discovery phase fee. Additional fees apply after Discovery phase. Void where prohibited. Tax debt service available by phone only. Visit jacksonhewitt.com or call for details.”	“Break free from the stress of tax debt. Call for a free consultation today. 800-660-3500.”
Wireless Carrier	AT&T	Plays	8/18/2021	Yes	Yes (Free Offer and Eligibility)	“AT&T may temporarily slow data speeds if the network is busy. 5G req's compatible plan and device. 5G may not be in your area. See att.com/5Gfor you for 5G coverage details. *Limited time offer. Req's min \$800 on 0% APR 36-mo agmt. Well-qualified customers only. Galaxy S21 128GB for \$0/month after credit over 36 mos. Credits start w/in 3 bills. Trade-in must be in good condition w/min \$95 trade-in value. If svc cancelled, credits stop & device balance due. For new lines, if svc on other lines cancelled w/in 90 days credit stop. No credit for optional \$5/mo. Next up upgrade feature. Credit card may be req'd (except MA, PA, ND). \$30 Active/upgrade, add'l fees, taxes & other charges & restr's apply.”	“It's not complicated, only AT&T gives everyone our best deals on every smartphone, like the Samsung Galaxy S21 5G for free.”
Wireless Carrier	AT&T	Lily + Matthew: Interview Featuring Matthew Stafford	4/4/2022	Yes	Yes (Free Offer and Eligibility)	“AT&T may temporarily slow data speeds if the network is busy. *Ltd. time Req's min \$800 on installment plan. Well-qualified customers only. Up to \$800 off after monthly credit over term of the installment plan. Credits start w/in 3 bills. If svc cancl., credits stop & device balance due. \$40 Active/Upgrade, add'l fees, taxes, & restr's apply. S Pen included only in Galaxy S22 Ultra.”	“Get a free Samsung Galaxy S22 with a Galaxy trade-in. Any year, any condition.”
Wireless Carrier	AT&T	Always Right: Up to \$800 Off Smartphones	1/21/2022	Yes	Yes (Cost and Eligibility)	“Offers vary by device. Restrictions may apply. *Ltd time. Req's min \$800 on installment plan. Well-qualified customers only. Up to \$800 off after monthly credit over term of the installment plan. Credits start w/in 3 bills. Trade-in must have min \$95 trade-in value. No credit for optional \$5/mo. Next Up upgrade feature. If svc cancl., credits stop & device balance due. \$30 Active/Upgrade, add'l fees, taxes, & restr's apply.”	“It's not complicated, only AT&T gives new and existing customers our same best deals, like up to \$800 off our most popular smartphones.”
Wireless Carrier	Verizon	More Star Wars	3/28/2022	Yes	Yes (Cost and Eligibility)	“Entertainment savings value based on 4 lines on 5G Get More plan with compatible Apple and Android devices.”	“And with all that, you save over \$350 a year.”
Wireless Carrier	Verizon	Show the Love: Customers for Years and Switchers	5/12/2022	Yes	Yes (Free Offer and Eligibility)	“Most Reliable 5G network based on more first place rankings in RootMetrics 2H 2021 testing across 125 metros. C-band not tested. Results may vary. Award is not endorsement. 5G Ultra Wideband available in select areas. 5G Nationwide available in 2,700+ cities. \$799 999 (128 GB only) device payment purchase w/ new or upgrade smartphone line on select 5G Unlimited plans req'd. Less up to \$800 trade-in/promo credit applied over 36 mos.; promo credit ends if eligibility req's are no longer met; 0% APR. Trade-in conditions apply.”	“Now everyone can get a new iPhone 13 on us on America's most reliable 5G network.”
Wireless Carrier	Verizon	Holiday Better: What's Better	11/25/2021	Yes	No	“America's most reliable network based on ranking from the RootMetrics US National RootScore Report 1H 2021. Tested with the best commercially available smartphones on 3 national mobile networks across all available network types combined. Not a specific finding as to 5G networks. Results may vary. Not an endorsement.”	“Holiday better with 5G from America's most reliable network. Because everyone deserves better.”

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Wireless Carrier	T-Mobile	iPhone 13: Hide and Seek	6/6/2022	Yes	Yes (Free Offer and Eligibility)	“With eligible trade-in, new line & 24 mo Bill credits For well-qualified customers; plus tax Contact us before cancelling service to continue remaining bill credits; or credits stop & balance on required finance agreement is due (e.g., 128GB: \$799 99) Qualifying consumer service req'd Support changes may apply ”	“Don't look any further, unlock the full power of iPhone 13 on us at T-Mobile ”
Wireless Carrier	T-Mobile	Please Listen: Switch and Get \$1000	5/27/2022	Yes	Yes (Cost and Eligibility)	“Via \$200 virtual prepaid card per switched line for up to 5 MAX lines; allow 8 weeks Qualifying credit, voice service & port-ins req'd Register code w/in 30 days Card expires in 6 months; no cash access See details at T-Mobile.com ”	“When you switch your family to T-Mobile Magenta Max, you can receive up to \$1000 and you'll receive T-Mobile's Price Lock Guarantee If you've been impacted, act now, you might be eligible to receive up to \$1000 from T-Mobile ”
Wireless Carrier	T-Mobile	Value: Mom's Birthday	5/5/2022	Yes	Yes (Cost and Eligibility)	“Via \$200 virtual prepaid card per switched line for up to 5 MAX lines; allow 8 weeks Qualifying credit, voice service, & port-ins req'd Register code w/in 30 days Card expires in 6 months; no cash access See details ”	“This weekend there are even more ways to save at T-Mobile Get up to \$1000 when you switch your whole family on our Magenta Max plan ”
TV Provider	DirecTV	Get Your TV Together: Wonder feat. Serena Williams :30	4/15/2022	Yes	Yes (Cost and Eligibility)	“Ends 4/30/22 \$10 discount each month for the first 3 months Regular monthly price thereafter New customers only Available in select channels only Compatible device required Channel vary by package Restrictions apply ”	“Get your tv together with the best of live and on-demand DirecTV Stream Now get \$30 off over 3 months ”
TV Provider	DirecTV	Feel the Energy of the Big Leagues \$23.33	4/17/2022	Yes	Yes (Cost and Eligibility)	“Blackout restrictions and other conditions apply MLB Extra Innings subscription will automatically renew each season, provided DIRECTV carries these services at the then prevailing rate (currently \$139.99/season) unless you call 800-551-5000 or go online at directv.com to cancel by the date specified in your renewal notice Up until two weeks after the season starts, you can cancel anytime and receive any applicable refund No refunds in whole or in part after that date Commercial locations require an appropriate licensee agreement All offers, programming, promotions, pricing, terms, restrictions & conditions subject to change & may be modified, discontinued, or terminated at any time without notice Major League Baseball trademarks and copyrights are used with permission of Major League Baseball Visit MLB.com Officially licensed product - MLB Players, Inc. MLBPA rights may not be used without MLBPA or MLBPA's consent copyright2022 DIRECTV DIRECTV and all other DIRECTV marks contained herein are trademarks of DIRECTV, LLC All other marks are the property of the respective owners ”	“Feel the energy of MLB extra innings Upgrade today on Directv ”
TV Provider	DirecTV	GOATbusters	4/21/2022	Yes	Yes (Eligibility)	“Compatible device required Channels vary by package ”	“Get your tv together with the best of live and on-demand Directv Stream Call 1-800-Directv ”
TV Provider	Comcast/Xfinity	Our Way of Showing Appreciation	3/14/2022	Yes	Yes (Eligibility)	“Restrictions apply Full program information available at Xfinity.com/Rewards ”	“Find rewards like these and so many more in the Xfinity App ”
TV Provider	Comcast/Xfinity	Gateway Upgrade	6/2/2022	Yes	Yes (Eligibility)	“Subject to Tech Upgrade terms and conditions at https://www.xfinity.com/learn/internet-service/xfi-complete ”	“Every three years, you can get a Gateway Upgrade Only from Xfinity ”

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis						
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text
						Claim Voiceover
TV Provider	Comcast/Xfinity	Get it All	5/15/2022	Yes	Yes (Cost and Eligibility)	<p>“Limited time offer. Restrictions apply. Not available in all areas. Limited to 300 Mbps speed tier, unless otherwise provided locally. Promotion requires enrollment in both automatic payments and paperless billing. Mobile discount limited to new Xfinity Mobile customers. Xfinity Mobile requires residential post-pay Xfinity Internet. Xfi Gateway and Unlimited Data included for 24 mos. Additional services extra. After 24 mos, regular rates apply to all services and devices. Streaming subscriptions not included. All devices must be returned when service ends.”</p> <p>“Now get unlimited internet, wifi equipment, and a free streaming box risk free with no term contract required and a two year rate guarantee for just \$30 a month when you add Xfinity Mobile.”</p>
TV Provider	Charter Spectrum	Monsters: Dinner	2/3/2022	Yes	Yes (Eligibility)	<p>“Spectrum Internet and Auto-pay required. Services not available in all areas. Restrictions apply. Copyright symbol 2022 Charter Communications.”</p> <p>“Switch to Spectrum Mobile where the price you see, is the price you get.”</p>
TV Provider	Charter Spectrum	Monsters: Gamers	3/30/2022	Yes	Yes (Eligibility)	<p>“Comparison based on Spectrum Internet Gig vs. Phone Company's 50 Mbps; faster speeds available at some addresses. Services not available in all areas. Restrictions apply. Copyright symbol 2022 Charter Communications.”</p> <p>“Spectrum download speeds are 20x faster than the phone companies.”</p>
TV Provider	Charter Spectrum	We Are Local: Madison	2/18/2022	Yes	Yes (Eligibility)	<p>“Services not available in all areas. Restrictions may apply. ©2022 Charter Communications. All rights reserved.”</p> <p>“We're committed to Madison because, well, we live here too.”</p>
TV Provider	Dish Network	DISH makes TV easy with Prime Video - DISH	10/18/2021	Yes	Yes (Eligibility)	<p>“Prime membership or Prime Video subscription required. See primevideo.com/terms for details.”</p> <p>“Streaming and live TV all in one place.”</p>
TV Provider	Dish Network	Voice Search Across Live TV and Streaming Apps with DISH	1/21/2022	Yes	Yes (Eligibility)	<p>“Memberships required for Netflix and other streaming apps. Voice remote requires Internet-connected Hopper or Wally receiver. Google is a trademark of Google LLC.”</p> <p>“Voice search across live TV and streaming apps with Dish.”</p>
TV Provider	Dish Network	Get 99% signal reliability with DISH	1/21/2022	Yes	No	<p>“99% signal reliability based on data from set-top boxes. Not a guarantee of signal in all weather conditions.”</p> <p>“No matter where you live, with Dish you get 99% signal reliability [] 99% signal reliability anywhere in the country with Dish.”</p>
Automobile Insurance Provider	State Farm	Ronnie's Options	6/9/2022	Yes	Yes (Cost and Eligibility)	<p>“Individual premiums and budgets will vary by customer. All applicants subject to State Farm underwriting requirements.”</p> <p>“I ever tell you State Farm has options so you get a rate that fits your budget? [] For surprisingly great rates to fit any budget, like a good neighbor, State Farm is there. Call or click to get a quote today.”</p>
Automobile Insurance Provider	State Farm	Fake Streamer	5/10/2022	Yes	Yes (Cost and Eligibility)	<p>“Availability and amount of discounts and savings vary by st state. Individual premiums and budgets will vary by customer. All applicants subject to State Farm underwriting requirements.”</p> <p>“State Farm has options like combining home and auto so you get a rate that fits your budget [] For surprisingly great rates to fit any budget, like a good neighbor, State Farm is there. Call or click to get a quote today.”</p>
Automobile Insurance Provider	State Farm	Yours Now	5/10/2022	Yes	Yes (Cost and Eligibility)	<p>“Availability and amount of discounts and savings vary by st state. Individual premiums and budgets will vary by customer. All applicants subject to State Farm underwriting requirements.”</p> <p>“State Farm has coverage options, so you get a rate that fits your budget [] For surprisingly great rates to fit any budget, like a good neighbor, State Farm is there. Call or click to get a quote today.”</p>
Automobile Insurance Provider	GEICO	Life in a Victorian Home	3/28/2022	Yes	Yes (Cost and Eligibility)	<p>“Homeowners, condo, and renters coverages are written by non-affiliated insurance companies and secured through the GEICO Insurance Agency LLC. Subject to terms, conditions, and availability.”</p> <p>“At least GEICO makes bundling my home and car insurance easy. I save so much. For bundling made easy go to GEICO.com.”</p>
Automobile Insurance Provider	GEICO	Lamp Problems	4/8/2022	Yes	Yes (Cost and Eligibility)	<p>“Homeowners, condo, and renters coverages are written by non-affiliated insurance companies and secured through the GEICO Insurance Agency LLC. Subject to terms, conditions, and availability. NHL and the NHL Shield are registered trademarks of the National Hockey League. NHL and NHL team marks are the property of the NHL and its teams. ©NHL 2022 All Rights Reserved.”</p> <p>“At least GEICO makes bundling our home and car insurance easy. We saved a lot ' [] For bundling made easy, go to GEICO.com.”</p>

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Automobile Insurance Provider	GEICO	Open Floor Plan Problems	2/7/2022	Yes	Yes (Cost and Eligibility)	"Homeowners, condo, and renters coverages are written by non-affiliated insurances companies and secured through the GEICO Insurance Agency LLC Subject to terms, conditions, and availability "	"At least GEICO makes bundling our renter's car insurance easy' It does save us a ton' [] For bundling made easy go to GEICO com"
Automobile Insurance Provider	Progressive	Love and Other Bundles	5/18/2022	Yes	Yes (Cost and Eligibility)	"Discounts not available in all states or situations "	"It's bundle and save, not bundle and shave "
Automobile Insurance Provider	Progressive	Table for Two	6/6/2022	Yes	Yes (Cost and Eligibility)	"Discounts not available in all states or situations "	"You're saving hundreds with the home and auto bundle from Progressive []"
Automobile Insurance Provider	Progressive	Old Flame	5/23/2022	Yes	Yes (Cost and Eligibility)	"Prices vary based on how you buy "	"The struggling actor who didn't know he could save with Snapshot based on how and how much he drives "
Automobile Insurance Provider	Allstate	Metaverse	6/15/2022	Yes	Yes (Cost and Eligibility)	"Savings vary by state Up to 25% is a countrywide average of savings off the Home policy combining Multiple Policy Discount for having Auto with Allstate and the Welcome Discount Auto prices vary based on how you buy Subject to terms, conditions, and availability "	"Save up to 25% when you bundle home and auto with Allstate "
Automobile Insurance Provider	Allstate	Tight Squeeze	5/10/2022	Yes	Yes (Cost and Eligibility)	"NOT AVAILABLE IN EVERY STATE Savings based on Drivewise and other safe driving discounts Savings may vary by state & driving behaviors Subject to terms and conditions Use of Allstate Mobile w/activation of Drivewise required "	"Safe driving and Drivewise can save you 40% with Allstate "
Automobile Insurance Provider	Allstate	Working From Home	4/4/2022	Yes	Yes (Cost and Eligibility)	"Savings vary by state Up to 25% is a countrywide average of savings off the Home policy combining Multiple Policy Discount for having Auto with Allstate and the Welcome Discount Auto prices vary based on how you buy Subject to terms, conditions, and availability "	"Welcome to Allstate Where everyone saves when they bundle their home and auto insurance Isn't that right, Frank? 'I saved 25%' ' [] Save up to 25% when you bundle home and auto with Allstate "
Automobile Insurance Provider	USAA	Gronk and Frank	9/9/2021	Yes	Yes (Eligibility)	"WE RESERVE THE RIGHT TO REFUSE TO QUOTE ANY INDIVIDUAL A PREMIUM RATE FOR THE INSURANCE ADVERTISEMENT HEREIN USAA SafePilot is optional Active USAA auto policy required for discount Only in select states Restrictions apply Smartphone and download of SafePilot App required Earned driving discount offered at renewal and based on all rated drivers on policy Discount may vary by state or life of policy More information in Terms and Conditions Use of the term "member" or "membership" refers to membership is USAA Membership Services and does not convey any legal or ownership rights in USAA Restrictions apply and are subject to change To join USAA, separate military personnel must have received a discharge type of "Honorable" Eligible former dependents of USAA members may join USAA No Department of Defense of government agency endorsement USAA means United Services Automobile Association and its affiliates, San Antonio, TX 281068-0921 "	"USAA It's still only for the military community "
Automobile Insurance Provider	USAA	Too exclusive	7/29/2021	Yes	Yes (Eligibility)	"Use of the term 'member' or 'membership' refers to membership in USAA Membership Services and does not convey any legal or ownership rights in USAA Restrictions apply and are subject to change To join USAA, separated military personnel must have received a discharge type of "Honorable " Eligible former dependents of USAA member may join USAA USAA means United Services Automobile Association and its affiliates, San Antonio, TX No Department of Defense of government agency endorsement ©2021 USAA 279399-0821 "	"USAA is made for all who honorably served and their families Are we still exclusive? Absolutely That's exactly why you should join "

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Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Automobile Insurance Provider	USAA	Member Number	9/9/2021	Yes	Yes (Eligibility)	<p>“WE RESERVE THE RIGHT TO REFUSE TO QUOTE ANY INDIVIDUAL A PREMIUM RATE FOR THE INSURANCE ADVERTISEMENT HEREIN USAA SafePilot is optional Active USAA auto policy required for discount Only in select states Restrictions apply Smartphone and download of SafePilot App required Earned driving discount offered at renewal and based on all rated drivers on policy Discount may vary by state of life of policy More information in Terms and Conditions Use of the term “member” or “membership” refers to membership is USAA Membership Services and does not convey any legal or ownership rights in USAA Restrictions apply and are subject to change To join USAA, separate military personnel must have received a discharge type of “Honorable” Eligible former dependents of USAA members may join USAA No Department of Defense of government agency endorsement USAA means United Services Automobile Association and its affiliates, USAA Casualty Insurance Company, USAA General Indemnity Company, Garrison Property and Casualty Insurance Company, based in San Antonio, Texas; USAA Limited (United Kingdom) and USAA Societe Anonyme (Europe) and is available only to persons eligible for property and casualty group membership Each company has sole financial responsibility for its own products 281065-0921 ”</p>	“USAA It's still only for the military community ”
Investigated Company	MoneyGram	Send Money Online to India with MoneyGram	2/9/2022	Yes	No	<p>“MoneyGram Systems Inc , is authorized to do business in all 50 States, D C and all U S territories NMLS #898432 Licensed as a Money Transmitter by the New York State Department of Financial Services Massachusetts Check Seller License #CS0025, Foreign Transmittal License #FT89432 MoneyGram International Limited is authorized and regulated in the United Kingdom by the Financial Conduct Authority MoneyGram International SRL is licensed as a payment institution for the European Economic Area (EEA) and regulated in Belgium by the National Bank of Belgium MoneyGram and the Globe are marks of MoneyGram ©2022 MoneyGram ”</p>	“MoneyGram Fast, convenient, and reliable ”
Investigated Company	MoneyGram	MoneyGram The Right Tools 30s USA	2/16/2021	Yes	No	<p>“Apple and the Apple logo are trademarks of Apple Inc , registered in the U S and other countries App Store is a service mark of Apple Inc , registered in the U S and other countries Google Play and the Google Play logo are trademarks of Google LLC Authorized to do business in all 50 states, D C , and all U S territories, NMLS #898432 Licensed as a Money Transmitter by the New York State Department of Financial Services Massachusetts Check Seller License #CS0025, Foreign Transmittal License #FT89432 ©2021 MoneyGram ”</p>	“Send money direct to a bank account fast MoneyGram - the right way to send money Download the app and send today ”
Investigated Company	MoneyGram	See What Users Say About Our Online Transfers	11/18/2021	Yes	No	<p>“Authorized to do business in all 50 states, D C and all U S territories, NMLS #898432 Licensed as a Money Transmitter by the New York State Department of Financial Services Massachusetts Check Seller License #CS0025, Foreign Transmittal license #FT89432 MoneyGram and the Globe are marks of MoneyGram ©2021 MoneyGram ”</p>	“I love MoneyGram, simply because it's so convenient and fast and I can send money overseas when I'm on vacation in the States ”
Investigated Company	Chime	Welcome to Chime	5/16/2022	Yes	Yes (Eligibility)	<p>“Chime Checking Account and eligible direct deposit required for Credit Builder On average, Credit Builder members experienced a 30-point increase in credit scores with regular on-time payments over time Results may vary, see Chime com for details SpotMe eligibility requirements and overdraft limits apply Access to direct deposits up to 2 days early depends on the timing of the submission of the payment file from the payer Screens simulated ”</p>	“Easy credit building Early payday Fee-free overdrafts ”

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Description of Ads included in Benchmark Analysis							
Benchmark Group	Company	Ad Name	Publish Date	Does the ad include a disclosure?	Does the ad pertain to a free offer, cost of product, or eligibility?	Disclosure Text	Claim Voiceover
Investigated Company	Chime	Banking made happier with the Chime Debit Card	5/16/2022	Yes	Yes (Eligibility)	"Access to direct deposits up to 2 days early depends on the timing of the submission of the payment file from the payer SpotMe eligibility requirements and overdraft limits apply Screens simulated "	"Early payday Fee-free overdrafts No monthly fee "
Investigated Company	Chime	Build Credit and More with Credit Builder	5/16/2022	Yes	Yes (Eligibility)	"Chime Checking Account and eligible direct deposit required for Credit Builder On average, Credit Builder members experienced a 30-point increase in credit scores with regular on-time payments over time Results may vary, see Chime com for details Access to direct deposits up to 2 days early depends on the timing of the submission of the payment file from the payer SpotMe eligibility requirements and overdraft limits apply Screens simulated "	"Easy credit building Early payday Fee-free overdrafts "
Investigated Company	Dun & Bradstreet	Not able to find 30-second ads					N/A
Investigated Company	Fleetcor Technologies	Not able to find any ads					N/A
Investigated Company	Perdoceo Education Corp	Not able to find any ads					N/A
Investigated Company	TaxHawk	Not able to find any ads					N/A

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Benchmark Group	Company	Ad Name	Proximity and Placement		Prominence			Distracting Factors in Ads	Repetition		Multimedia Specific Guidelines
			Disclosure on the screen the same time the claim is made? ³	Disclosure Placement	Disclosure Size (Disclosure size as a percent of total screen length) ⁴	Color of Disclosure Text	Color of Background ⁵	Solid or Moving Background?	Is there a voiceover of the disclosure text?	Is the disclosure repeated on the company website? ⁶	Duration the disclosure is on screen (seconds)
Direct Intuit Competitor	H&R Block	Max Refund	Yes	Bottom of the screen	1.68%	White	Moving Background	Moving	No	Yes	5
Direct Intuit Competitor	H&R Block	Help on Your Terms	Yes	Bottom of the screen	1.74%	White	Green	Solid	No	N/A	3
Direct Intuit Competitor	H&R Block	File Virtually	Yes	Bottom of the screen	2.12%	White	Moving Background	Moving	No	Yes	3
Direct Intuit Competitor	TaxAct	Cloudy with a Chance of TaxAct - Version A	No	Bottom of the screen	2.12%	White	Black	Solid	No	Yes	4
Direct Intuit Competitor	TaxAct	The Fixer 30	No	Bottom of the screen	2.49%	White	Dark Purple	Solid	No	Yes	4
Direct Intuit Competitor	TaxAct	Bear Taxes Aren't Scary	Yes	Bottom of the screen	2.43%	White	Moving Background	Moving	No	Yes	5
Direct Intuit Competitor	TaxSlayer	Cash Cow 30	Yes	Bottom of the screen	2.12%	White	Dark Blue	Solid	No	Yes	4
Direct Intuit Competitor	TaxSlayer	Anthem-Simply Free	No	Bottom of the screen	1.90%	Gray	White	Solid	No	Yes	4
Direct Intuit Competitor	TaxSlayer	File Your Taxes for Free with the Biggest Refund Possible	No	Bottom of the screen	1.73%	Black	White	Solid	No	Yes	4
Direct Intuit Competitor	TurboTax	Auctioneer	Yes	Bottom of the screen	2.01%	White	Moving Background	Moving	No	Yes	4
Direct Intuit Competitor	TurboTax	Dance Workout	Yes	Bottom of the screen	2.00%	White	Moving Background	Moving	No	Yes	4
Direct Intuit Competitor	TurboTax	Dog Show	Yes	Bottom of the screen	2.12%	White	Moving Background	Moving	No	Yes	4
Direct Intuit Competitor	TurboTax	Spit Take	Yes	Bottom of the screen	1.97%	White	Blue	Solid	No	Yes	4
Direct Intuit Competitor	Jackson Hewitt	Break Free	Yes	Bottom of the screen	1.97%	White	Purple	Solid	No	Yes	5
Wireless Carrier	AT&T	Plays	Yes	Bottom of the screen	1.74%	White	Blue	Solid	No	Yes	7
Wireless Carrier	AT&T	Lily + Matthew Interview Featuring Matthew Stafford	Yes	Bottom of the screen	1.84%	White	Blue	Solid	No	Yes	4
Wireless Carrier	AT&T	Always Right Up to \$800 Off Smartphones	Yes	Bottom of the screen	1.83%	White	Blue	Solid	No	Yes	3
Wireless Carrier	Verizon	More Star Wars	Yes	Bottom of the screen	1.64%	White	Moving Background	Moving	No	Yes	4
Wireless Carrier	Verizon	Show the Love Customers for Years and Switchers	Yes	Bottom of the screen	1.11%	Black	Moving Background	Moving	No	Yes	6
Wireless Carrier	Verizon	Holiday Better What's Better	Yes	Bottom of the screen	1.58%	White	Moving Background	Moving	No	Yes	6

Figure G-1
Detailed Description and Metrics for Ads Included in Benchmarking Analysis

Benchmark Group	Company	Ad Name	Proximity and Placement		Prominence			Distracting Factors in Ads	Repetition		Multimedia Specific Guidelines
			Disclosure on the screen the same time the claim is made? ³	Disclosure Placement	Disclosure Size (Disclosure size as a percent of total screen length) ⁴	Color of Disclosure Text	Color of Background ⁵	Solid or Moving Background?	Is there a voiceover of the disclosure text?	Is the disclosure repeated on the company website? ⁶	Duration the disclosure is on screen (seconds)
Wireless Carrier	T-Mobile	iPhone 13 Hide and Seek	Yes	Bottom of the screen	1.84%	White	Magenta	Solid	No	Yes	4
Wireless Carrier	T-Mobile	Please Listen Switch and Get \$1000	Yes	Bottom of the screen	2.04%	White	Magenta	Solid	No	Yes	6
Wireless Carrier	T-Mobile	Value Mom's Birthday	Yes	Bottom of the screen	2.04%	White	Magenta	Solid	No	Yes	5
TV Provider	DirecTV	Get Your TV Together Wonder feat. Serena Williams 30	Yes	Bottom of the screen	1.71%	White	Dark Blue	Solid	No	Yes	5
TV Provider	DirecTV	Feel the Energy of the Big Leagues \$23.33	Yes	Bottom of the screen	1.72%	White	Multiple Colors	Solid	No	Yes	3
TV Provider	DirecTV	GOATbusters	Yes	Bottom of the screen	1.58%	White	Dark Blue	Solid	No	Yes	4
TV Provider	Comcast/Xfinity	Our Way of Showing Appreciation	No	Bottom of the screen	1.97%	White	Moving Background	Moving	No	Yes	3
TV Provider	Comcast/Xfinity	Gateway Upgrade	Yes	Bottom of the screen	1.84%	White	Moving Background	Moving	No	Yes	3
TV Provider	Comcast/Xfinity	Get it All	Yes	Bottom of the screen	1.97%	White	Moving Background	Moving	No	Yes	9
TV Provider	Charter Spectrum	Monsters Dinner	Yes	Bottom of the screen	1.81%	White	Blue	Solid	No	Yes	4
TV Provider	Charter Spectrum	Monsters Gamers	Yes	Bottom of the screen	1.82%	White	Blue	Solid	No	Yes	4
TV Provider	Charter Spectrum	We Are Local Madison	Yes	Bottom of the screen	1.82%	White	Moving Background	Moving	No	Yes	2
TV Provider	Dish Network	DISH makes TV easy with Prime Video - DISH	Yes	Bottom of the screen	1.97%	Grey	White	Solid	No	N/A	5
TV Provider	Dish Network	Voice Search Across Live TV and Streaming Apps with DISH	Yes	Bottom of the screen	1.85%	Grey	White	Solid	No	Yes	3
TV Provider	Dish Network	Get 99% signal reliability with DISH	Yes	Bottom of the screen	1.85%	Grey	White	Solid	No	Yes	9
Auto Insurance Provider	State Farm	Ronnie's Options	Yes	Bottom of the screen	2.07%	White	Moving Background	Moving	No	Yes	5
Auto Insurance Provider	State Farm	Fake Streamer	Yes	Bottom of the screen	1.62%	White	Moving Background	Moving	No	Yes	3
Auto Insurance Provider	State Farm	Yours Now	Yes	Bottom of the screen	1.73%	White	Moving Background	Moving	No	Yes	3
Auto Insurance Provider	GEICO	Life in a Victorian Home	Yes	Bottom of the screen	2.11%	White	Moving Background	Moving	No	Yes	3
Auto Insurance Provider	GEICO	Lamp Problems	No	Bottom of the screen	1.51%	White	Moving Background	Moving	No	Yes	2
Auto Insurance Provider	GEICO	Open Floor Plan Problems	Yes	Bottom of the screen	2.12%	White	Moving Background	Moving	No	Yes	4

Notes:

[1] For each company, I selected the three most recent TV ads available (going back to 2020) that met the following criteria: (1) were 30-second, (2) were about a discount/free offering or discussed eligibility, and (3) had a disclosure. Where it was not possible to find a TV ad that met all three criteria, I prioritized criteria (1) and (3): that is, not all companies I reviewed had a discount/free offering or discussed eligibility. If there was more than one disclosure within an ad, I chose the disclosure focusing on a free promotion, discount, rate or eligibility criteria. Where this criteria could not be met, I chose the last disclosure of the ad.

[2] The disclosure was at the bottom of the screen for every ad included in this analysis.

[3] A disclosure is considered to be on the screen the same time the claim is made, if any part of a related claim is on screen or voiced over while the disclosure is shown. A categorization of “Sometimes“ indicates that one or more of the ads I reviewed contained a claim accompanied by a related disclosure at the same time.

[4] Disclosure Size is calculated by dividing the length of one line of disclosure text (cm) by the total length of the screen (cm).

[5] If disclosures I reviewed for a given company were not all the same color I categorized the color of the disclosure text as “Various Colors.” Some disclosures are presented on top of the ad video, as opposed to a stationary background, so there is no consistent background color. In these cases, I have categorized the color of the background as “Moving Background.” If one or more but not all ads I reviewed for a given company had a moving background, I classified the color of the background as “Various Backgrounds (Some Moving).”

[6] H&R Block, Dish Network, and MoneyGram each include disclosures that qualify claims not included on the website because the specific deal is no longer featured on the website, or the claim is irrelevant to the website.

[7] There are no ads that were 30-seconds long for TaxHawk.

[8] There are no ads that were 30-seconds long for the other investigated companies: Dun & Bradstreet, Fleetcor Technologies, and Perdoceo Education Corp.

Sources:

[1] Intuit TV Ad, “Copy of Dance Workout,” QTTX0023000H.

[2] Intuit TV Ad, “Dog Show,” QTT2159H.

[3] Intuit TV Ad, “Spit Take,” QTTX0157000H.

[4] Intuit TV Ad, “Auctioneer,” QTTX001900H.

[5] H&R Block TV Ad, “Max Refund,” February 14, 2021, available at <https://www.youtube.com/watch?v=FnkYy3nGNkk>, accessed on July 13, 2022.

[6] H&R Block TV Ad, “Help on Your Terms,” February 14, 2021, available at <https://www.youtube.com/watch?v=1TtOBbUKzAA>, accessed on July 13, 2022.

[7] H&R Block TV Ad, “File Virtually,” March 21, 2021, available at <https://www.youtube.com/watch?v=7GDqBfbLVLg>, accessed on July 13, 2022.

[8] TaxAct TV Ad, “Cloudy with a Chance of TaxAct - Version A,” January 3, 2022, available at <https://youtu.be/inVk3O8sXIk>, accessed on July 13, 2022.

[9] TaxAct TV Ad, “The Fixer: 30,” February 10, 2022, available at <https://youtu.be/z5IiW8zTS1c>, accessed on July 13, 2022.

[10] TaxAct TV Ad, “Bear: Taxes Aren't Scary,” January 4, 2021, available at <https://www.ispot.tv/ad/tzw7/taxact-bear-taxes-arent-scary>, accessed on July 13, 2022.

[11] TaxSlayer TV Ad, “Commercial ‘Cash Cow’ (Official TV Ad: 30),” January 4, 2022, available at <https://youtu.be/nSaryc0WZB0>, accessed on July 13, 2022.

[12] TaxSlayer TV Ad, “Anthem-Simply Free,” February 8, 2022, available at <https://www.youtube.com/watch?v=SCb2njAteeQ>, accessed on July 20, 2022.

- [13] TaxSlayer TV Ad, “File Your Taxes for Free with the Biggest Refund Possible,” January 2, 2020, available at <https://www.youtube.com/watch?v=zYgk8TtqJu4>, accessed on July 13, 2022.
- [14] Jackson Hewitt TV Ad, “Break Free,” August 4, 2020, available at https://www.ispot.tv/ad/n_JU/jackson-hewitt-tax-debt-resolution-break-free, accessed on July 13, 2022.
- [15] AT&T TV Ad, “Plays,” August 18, 2021 available at <https://www.youtube.com/watch?v=sWEP4zZU37A>, accessed on July 13, 2022.
- [16] AT&T TV Ad, “Lily + Matthew: Interview Featuring Matthew Stafford,” April 4, 2022, available at <https://www.ispot.tv/ad/b1k1/at-and-t-wireless-lily-matthew-interview-featuring-matthew-stafford>, accessed on July 13, 2022.
- [17] AT&T TV Ad, “Always Right: Up to \$800 Off Smartphones,” January 21, 2022, available at <https://www.ispot.tv/ad/qcf7/at-and-t-wireless-always-right-up-to-800-off-smartphones>, accessed on July 13, 2022.
- [18] Verizon TV Ad, “More Star Wars: Disney+,” March 28, 2022, available at <https://www.ispot.tv/ad/bqgX/verizon-5g-unlimited-is-going-ultra-star-wars-included>, accessed on July 13, 2022.
- [19] Verizon TV Ad, “Show the Love: Customers for Years and Switchers,” May 12, 2022, available at <https://www.ispot.tv/ad/bylk/verizon-show-the-love-customers-for-years-and-switchers>, accessed on July 13, 2022.
- [20] Verizon TV Ad, “Holiday Better: What's Better? Featuring Kate McKinnon,” November 25, 2021, available at <https://www.ispot.tv/ad/qN3d/verizon-holiday-better-whats-better-featuring-kate-mckinnon>, accessed on July 13, 2022.
- [21] T-Mobile TV Ad, “iPhone 13: Hide and Seek: New Line and Apple TV+,” June 6, 2022, available at <https://www.ispot.tv/ad/bN4X/t-mobile-iphone-13-hide-and-seek-new-line-and-apple-tv-song-by-tina-turner>, accessed on July 13, 2022.
- [22] T-Mobile TV Ad, “Please Listen: Switch and Get \$1000,” May 27, 2022, available at <https://www.ispot.tv/ad/bMCU/t-mobile-please-listen-switch-and-get-1000-featuring-ben-barnes>, accessed on July 13, 2022.
- [23] T-Mobile TV Ad, “Value: Mom's Birthday,” May 5, 2022, available at <https://www.ispot.tv/ad/bpj3/t-mobile-value-moms-birthday-families-get-up-to-1000-song-by-billy-idol>, accessed on July 12, 2022.
- [24] DirecTV TV Ad, “Get Your TV Together: Wonder feat. Serena Williams :30,” April 15, 2022, available at <https://www.ispot.tv/ad/bfs8/directv-stream-get-your-tv-together-wonder-featuring-serena-williams>, accessed on July 25, 2022.
- [25] DirecTV TV Ad, “Feel the Energy of the Big Leagues \$23.33,” April 17, 2022, available at <https://www.ispot.tv/ad/bT7N/directv-feel-the-energy-of-the-big-leagues-2333>, accessed on July 12, 2022.
- [26] DirecTV TV Ad, “GOATbusters,” April 21, 2022, available at <https://www.youtube.com/watch?v=uUou6r0y3uI>, accessed on July 6, 2022.
- [27] Comcast/Xfinity TV Ad, “Our Way of Showing Appreciation,” March 14, 2022 available at <https://www.ispot.tv/ad/boUL/xfinity-rewards-our-way-of-showing-appreciation>, accessed on July 12, 2022.
- [28] Comcast/Xfinity TV Ad, “Gateway Upgrade,” June 2, 2022, available at <https://www.ispot.tv/ad/bNI1/xfinity-internet-gateway-upgrade-featuring-ed-helms>, accessed on July 12, 2022.
- [29] Comcast/Xfinity TV Ad, “Get it All,” May 15, 2022, available at <https://www.ispot.tv/ad/bl69/xfinity-3-for-1-bundle-get-it-all>, accessed on July 12, 2022.
- [30] Charter Spectrum TV Ad, “Monsters: Dinner,” February 3, 2022, available at <https://www.youtube.com/watch?v=6-nsCJ54TkQ>, accessed on July 13, 2022.
- [31] Charter Spectrum TV Ad, “Monsters: Gamers,” March 30, 2022, available at <https://www.youtube.com/watch?v=VMfAMWWPMJA>, accessed on July 13, 2022.

- [32] Charter Spectrum TV Ad, “We Are Local: Madison,” February 18, 2022, available at <https://www.youtube.com/watch?v=GquwRDvCFWU>, accessed on July 13, 2022.
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- [37] State Farm TV Ad, “Fake Streamer :30,” May 10, 2022, available at <https://www.youtube.com/watch?v=Ek6xUMEG6Ic>, accessed on June 24, 2022.
- [38] State Farm TV Ad, “Yours Now :30,” May 10, 2022, available at https://www.youtube.com/watch?v=Wd2WH_6Zsoo, accessed on June 24, 2022.
- [39] GEICO TV Ad, “Life in a Victorian Home,” March 28, 2022, available at <https://www.youtube.com/watch?v=IRE9GBihEXU>, accessed on June 24, 2022.
- [40] GEICO TV Ad, “Lamp Problems,” April 8, 2022, available at <https://www.youtube.com/watch?v=QEs3U6qfY1E>, accessed on June 27, 2022.
- [41] GEICO TV Ad, “Open Floor Plan Problems,” February 7, 2022, available at <https://www.youtube.com/watch?v=EBPuXpdmlO0>, accessed on June 24, 2022.
- [42] Progressive TV Ad, “Love and Other Bundles,” May 18, 2022, available at <https://www.youtube.com/watch?v=SwCUCptHrCg>, accessed on June 24, 2022.
- [43] Progressive TV Ad, “Table for Two,” June 6, 2022, available at <https://www.youtube.com/watch?v=G504ZjRA9Pk>, accessed on June 27, 2022.
- [44] Progressive TV Ad, “Old Flame,” May 23, 2022, available at <https://www.youtube.com/watch?v=wiZwmlOrGZU>, accessed on June 27, 2022.
- [45] Allstate TV Ad, “Metaverse,” June 15, 2022, available at <https://www.youtube.com/watch?v=WnKtYCSSVSk>, accessed on June 26, 2022.
- [46] Allstate TV Ad, “Tight Squeeze,” May 10, 2022, available at https://www.youtube.com/watch?v=FnJZor_E2M8, accessed on June 26, 2022.
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- [52] MoneyGram TV Ad, “MoneyGram The Right Tools 30s USA,” February 16, 2021, available at <https://www.youtube.com/watch?v=J5rIVU8HbaQ>, accessed on July 11, 2022.

- [53] MoneyGram TV Ad, “See What Users Say About Our Online Transfers,” November 18, 2021, available at https://www.youtube.com/watch?v=_Z7DkovTPh8, accessed on July 11, 2022.
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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

ORAL ARGUMENT REQUESTED

Docket No. 9408

DECLARATION OF JOHN R. HAUSER, SC.D.

AUGUST 30, 2022

I, John Hauser, hereby declare as follows: I have personal knowledge of the facts set forth in this Declaration, and the opinions expressed represent my professional opinion. If called to testify, I could testify competently to the facts and opinions discussed in this Declaration.

I. INTRODUCTION

A. Qualifications

1. I am the Kirin Professor of Marketing at the Massachusetts Institute of Technology (“MIT”) Sloan School of Management. The principal areas of my research and teaching at MIT have been in marketing management, new product and service development, consumer satisfaction, marketing research, research methodology (including survey research, experimental design, and field experiments), and competitive marketing strategy. My research includes the evaluation of consumer decision-making, product and service development, customized communications designed around customers’ cognitive styles, and determination of relative feature preferences and implicit product valuations. I have evaluated the factors that influence consumer purchasing decisions, consumer preferences, and consumer impressions in a variety of matters related to pricing, distribution, and advertising.

2. I have testified as an expert for both plaintiffs and defendants on matters related to my research. For example, I have testified about marketing research, sales forecasting, product confusion, and other topics involving consumer behavior. My testimony history includes, but is not limited to, matters on behalf of SiriusXM, Dish Network, Comcast, Tivo, WE Woman’s Entertainment, iHeartRadio, Louis Vuitton, Apple Inc., Microsoft, Johnson & Johnson, MasterCard, and Procter & Gamble. I recently testified on behalf of the United States Department of Justice in its challenge to the proposed merger between AT&T and Time Warner. In addition, I have provided strategic market-research-based consulting to numerous consumer products, technology/software, and durable goods manufacturers, including American Airlines, Johnson & Johnson, IBM, Procter & Gamble, Fidelity Investments, Pacific Gas & Electric Company, Ford Motor Company, General Motors, and Chrysler.

3. I have served as Editor-in-chief of *Marketing Science* and have held senior editorial positions with *Management Science*, the *Journal of Marketing Research*, and the *Journal of Product Innovation Management*. I have received numerous awards for excellence in research and teaching in marketing and was recognized by the American Marketing Association with the Paul D. Converse Award for “outstanding contributions to the development of the science of marketing.”¹ In 2001, I received the Parlin Award, which is a “preeminent national honor . . . [awarded for] outstanding leadership and sustained impact on advancing the evolving profession of marketing research over an extended period of time,” according to the American Marketing Association.² In 2011, I received the Churchill Lifetime Achievement Award of the American Marketing Association for contributions to marketing research. In 2013, I was awarded the Buck Weaver Award by the Institute for Operations Research and the Management Sciences (“INFORMS”) Society of Marketing Science (“ISMS”), for lifetime contributions to the theory and practice of marketing science.³ In 2016, I received a Doctor Honoris Causa, Erasmus School of Economics, Erasmus University. I am a Fellow of INFORMS and an Inaugural Fellow of the ISMS. I have also served as President of the ISMS, and earlier, as Secretary, as well as a Trustee of the Marketing Science Institute.

4. I am the co-author of two textbooks, *Design and Marketing of New Products* and *Essentials of New Product Management*, as well as more than 100 articles and papers, including articles on various methods used to determine the importance of product features in consumer decision-making and methods to forecast consumer response under various scenarios. I have developed market research techniques that enable marketing researchers, experts, and business

¹ “The Paul D. Converse Awards,” *American Marketing Association*, available at <https://www.ama.org/listings/2019/10/28/converse-award/>; Lampe, D., “Two from Sloan win marketing awards,” *MIT News*, April 3, 1996, available at <https://news.mit.edu/1996/converse-0403>.

² “Charles Coolidge Parlin Marketing Research Award,” *American Marketing Association*, available at <https://www.ama.org/AboutAMA/FoundationAwards/Pages/Parlin-Award.aspx>.

³ “Buck Weaver Award,” *INFORMS*, available at <https://www.informs.org/Recognizing-Excellence/Community-Prizes/Marketing-Science-Society/Buck-Weaver-Award/Buck-Weaver-Award-Application-Process>.

managers to predict the value of individual features in both existing and hypothetical products and to forecast consumer response. These methods have been employed numerous times by academic researchers, as well as major international corporations. Many of these papers have been recognized with national and international awards.⁴

5. My curriculum vitae and testimony as an expert witness at deposition or trial within the last four years are listed in **Appendix A**.

B. Assignment

6. I have been retained by WilmerHale, Counsel for Intuit, to evaluate Complaint Counsel's allegations regarding the potential for consumer deception in connection with Intuit's advertising, website communications, and disclosures for its tax preparation products as it relates to Complaint Counsel's request for summary decision. In particular, I have been asked to review and offer my opinion regarding the consumer survey conducted by Professor Nathan Novemsky ("Novemsky Survey") in support of the Federal Trade Commission's ("FTC") complaint.⁵ I also have been asked to evaluate consumer preferences for various tax preparation solutions, the behaviors consumers exhibit in the buying process, and the factors that contribute to their tax filing solution selection. To address this assignment, I designed, implemented, and analyzed a market research survey ("Purchase Driver Survey") and reviewed related materials, which I describe in more detail later in my Declaration.

7. In undertaking this assignment, I utilized my experience in developing, testing, and analyzing surveys, as well as my experience in interpreting qualitative and quantitative research

⁴ Toubia, O., Hauser, J.R. and Simester, D.I., 2004. "Polyhedral Methods for Adaptive Choice-Based Conjoint Analysis." *Journal of Marketing Research*, 41(1), 116-131; Yee, M., Dahan, E., Hauser, J.R. and Orlin, J., 2007. "Greedoid-Based Noncompensatory Inference." *Marketing Science*, 26(4), 532-549; Toubia, O., Simester, D.I., Hauser, J.R. and Dahan, E., 2003. "Fast Polyhedral Adaptive Conjoint Estimation." *Marketing Science*, 22(3), 273-303; Dahan, E. and Hauser, J.R., 2002. "The Virtual Customer." *Journal of Product Innovation Management*, 19(5), 332-353; Toubia, O., Hauser, J.R. and Garcia, R., 2007. "Probabilistic Polyhedral Methods for Adaptive Choice-Based Conjoint Analysis: Theory and Application." *Marketing Science*, 26(5), 596-610.

⁵ Declaration of Nathan Novemsky, March 28, 2022 ("Novemsky Declaration"), GX-302; Second Declaration of Nathan Novemsky, April 8, 2022 ("Second Novemsky Declaration"), GX-313.

pertaining to consumer attitudes, intentions, and behavior. **Appendix B** includes a complete list of materials I have relied upon to date in connection with this particular assignment, including the Novemsky Declaration, the Second Novemsky Declaration, a declaration from Ms. Rebecca Kirk Fair, which includes a survey that she conducted pertaining to these issues (“Kirk Fair Disclosure Survey”),⁶ internal Intuit documents, academic literature, and publicly available materials. As a scientist, I will supplement or update my analysis in the event that new information relevant to my opinions is produced by the parties.

8. Part of the work for this investigation was performed under my direction by others at Analysis Group, Inc., an economic and litigation consulting firm headquartered in Boston, Massachusetts. My rate of compensation is \$1,100 per hour. In addition, I receive compensation based on the professional fees of Analysis Group for work in support of my opinions contained herein. No compensation is contingent on the nature of my findings or on the outcome of this litigation.

9. I understand that discovery is ongoing. Should additional relevant documents or information be made available to me, I may adjust or supplement my opinions as appropriate.⁷

II. CASE BACKGROUND

A. Parties Involved

10. The plaintiff in this matter is the Federal Trade Commission (“FTC”), represented by Complaint Counsel.⁸ I understand Complaint Counsel have filed a motion for summary

⁶ Declaration of Rebecca Kirk Fair, August 30, 2022 (“Kirk Fair Declaration”). *See, Section V.D.* for a brief summary of the Kirk Fair Disclosure Survey. *See also*, Kirk Fair, R., “Analysis of Consumer Choices in a Test and Control Study of TurboTax Upgrade Screens,” Submitted to the FTC on November 4, 2020 (“2020 Kirk Fair Memorandum”).

⁷ For example, screenshots and data from the Novemsky Survey have not yet been produced. If and when these materials become available, as is common practice with surveys conducted for litigation, I may conduct additional analyses and supplement or adjust my findings in response.

⁸ “Complaint,” March 28, 2022, *In the Matter of: Intuit Inc., a corporation*, Docket No. 9408 (“FTC Administrative Complaint” or “Complaint”).

decision requesting a proposed cease and desist order to stop Intuit from engaging in deceptive practices related to the advertising, marketing, promotion, distribution, and sale of TurboTax.⁹

11. Defendant in this matter is Intuit Inc., a tax preparation and financial services software company based in Mountain View, California.¹⁰ At issue in this matter are Intuit's TurboTax online products and services.¹¹

B. Relevant Allegations

12. I understand that Complaint Counsel have alleged that Intuit engaged in "false and deceptive" business practices in the advertising, marketing, distribution, and sale of TurboTax¹² by disseminating "deceptive door-opener ads, including via television, radio, online search, email, YouTube, and social media"¹³ with the claim that consumers can file their taxes for free using TurboTax when this is not true for all customers.¹⁴ For example, Complaint Counsel allege that Intuit deceived customers by running TV advertisements in which the primary word spoken is "free" and that only inform consumers of limitations to who can file for free via fine print disclaimers at the end of the advertisements.¹⁵

13. Complaint Counsel additionally claim that the TurboTax website home page similarly fails to properly disclose the limitations on who can file for free.¹⁶ Complaint Counsel go on to claim that once consumers are lured in to start using TurboTax to file their taxes via the "door-opener" advertisements and the website home page, many would then have to pay to file their taxes "after investing time and effort gathering and inputting into TurboTax their sensitive personal and financial information [... in a] bait-and-switch."¹⁷ Complaint Counsel allege that this process

⁹ "Complaint Counsel's Motion for Summary Decision," August 22, 2022, *In the Matter of: Intuit Inc., a corporation, Respondent.*, Docket No. 9408 ("Motion for Summary Decision"), pp. 1, 5.

¹⁰ Motion for Summary Decision, p. 5.

¹¹ Motion for Summary Decision, p. 5.

¹² Motion for Summary Decision, pp. 1, 5.

¹³ Motion for Summary Decision, p. 7.

¹⁴ Motion for Summary Decision, pp. 1, 7.

¹⁵ Motion for Summary Decision, pp. 4, 8-11, 23-24.

¹⁶ Motion for Summary Decision, pp. 14-16.

¹⁷ Motion for Summary Decision, pp. 4-5.

forces consumers who expected to file for free when starting the process to upgrade, causing them to suffer injury.¹⁸

14. The Complaint also discusses a variety of Intuit's acts and practices relating to the IRS Free File Program and Intuit's former participation in this program. I have not been asked to opine on the allegations relating to the IRS Free File Program, which I understand are not part of the single claim in the Complaint.

III. SUMMARY OF OPINIONS

The Novemsky Survey Does Not Provide Evidence that Intuit's TurboTax Free Edition Advertisements Were Deceptive

15. The Novemsky Survey is fundamentally flawed and unreliable. It does not reliably assess whether Intuit's advertisements, website communications, or disclosures caused consumers to have a misimpression that they would qualify to file for free with Free Edition. The Novemsky Survey has several serious flaws, each of which individually would render the survey unsuitable for its stated purpose and all of which taken together render the survey completely unreliable.¹⁹

16. First, the Novemsky Survey does not appear to study or even provide respondents with any of the at-issue representations. Therefore, the Novemsky Survey cannot be used to assess *anything* about Intuit's marketing, advertisements, website communications, or disclosures.

17. Second, the Novemsky Survey does not employ an experimental design, such as a randomized test-and-control study, that would allow one to draw causal conclusions. Even if one ignores the biased question design, the Novemsky Survey at best simply measures respondents' pre-existing impressions and aspirations regarding their eligibility to file for free with TurboTax, not the effect of the at-issue communications from Intuit.

¹⁸ Motion for Summary Decision, pp. 4-5.

¹⁹ I submitted a similar declaration on April 4, 2022 in response to the FTC's motion for a preliminary injunction in federal court. *See*, Declaration of John R. Hauser, Sc.D., April 4, 2022, *Federal Trade Commission v. Intuit Inc.*, No. 3:22-cv-1973, United States District Court Northern District of California San Francisco Division ("Hauser Declaration"). The Second Novemsky Declaration provided a response to my opinions in the Hauser Declaration. The assertions and arguments presented in the Second Novemsky Declaration do not change my opinions.

18. Third, even if the Novemsky Survey's design was suited to assessing the question at issue, its results are biased and unreliable. The Novemsky Survey sample is not representative of its target population. The Novemsky Survey includes only taxpayers who had not yet filed their taxes by mid-March 2022, it allows respondents who have minimal involvement in the tax preparation decisions of their household to qualify, and it allows respondents to opt-out after they have learned the purpose of the survey.

19. Fourth, the survey instrument fails to follow necessary practices to ensure reliability, and its key questions are frequently leading and encourage guessing. The Novemsky Survey repeatedly includes one-sided questions and yes/no questions, both of which are known to bias results by non-trivial amounts. In addition, the key questions encourage respondents to guess because the survey provides inadequate information. The key questions further encourage guessing because they allow respondents to answer that they "think" a certain statement is correct. Evidence of respondents guessing due to the biased nature of these questions can be observed directly in the results. For example, respondents who have been screened into the survey by asserting they do not have recent TurboTax experience nonetheless suggest that they know whether or not they would qualify to file for free after being given implicit permission to guess. A large percentage of respondents who qualified for the survey by reporting tax situations that would not qualify for Free Edition²⁰ and who have previously paid for TurboTax, and thus likely *know* that they have not qualified in the past to file for free, report that they would be able to file for free. It is highly unlikely that the tax status of all of these respondents changed from previous filings. Both of these results are more likely due to the biased nature of the questions rather than due to the true state of respondents' understanding and information.

Properly Designed Surveys Demonstrate That Consumers Actively Engage in Finding and Selecting a Tax Preparation Provider and Are Not Deceived

²⁰ To the extent respondents' answers to the screeners were accurate, I understand that they would likely not qualify for Free Edition, though they still may have been able to file their taxes for free using TurboTax if, for example, they were members of the military.

20. In contrast to the Novemsky Survey and its biased results, the research I conducted using scientific methods demonstrates that consumers conduct extensive research before filing their taxes, consider an array of factors beyond direct out-of-pocket costs for utilizing a specific service, and prioritize ease of use and the balance between out-of-pocket price and quality-indicating factors (*e.g.*, maximizing returns). My Purchase Driver Survey, as well as the Kirk Fair Disclosure Survey and other publicly available research, demonstrate that consumers do not rely on advertisements and the Intuit website alone to make their purchase decision, and instead evaluate tax filing options based on the factors they consider important. These results further suggest that opinions in the Novemsky Declaration regarding consumer perception are inaccurate and that Intuit's advertisements, web communications, and disclosures would not mislead consumers. My survey follows accepted guidelines for survey research; it is a study that I would conduct and rely upon in my academic work and my work for business clients.

21. Additionally, while free tax filing may be enticing to a subset of consumers, evidence shows that consumers consider many factors when filing their taxes, including a trade-off of quality-indicating factors and price, and do not strictly prefer the cheapest or free option, as would be implied by Complaint Counsel's allegations. While price was a key factor, respondents in my Purchase Driver Survey frequently indicated that other factors such as ease of use were just as, if not more, important than price, and respondents also distinguished between seeking a free product, *e.g.*, "free"²¹ or "no cost,"²² and seeking a well-priced or affordable product, *e.g.*, "affordability"²³ or "reasonably priced."²⁴

22. Lastly, I observed no evidence that respondents felt "locked in" to a provider, either year over year or within a given year. My survey shows that consumers feel comfortable switching providers between tax years and some respondents even report that they filled out multiple online

²¹ Respondent ID 883.

²² Respondent ID 47.

²³ Respondent ID 1698.

²⁴ Respondent ID 767.

tax websites prior to filing (including to compare prices²⁵ and to compare refunds),²⁶ meaning the respondents changed providers during or after filling in their information. Because consumers are freely able and willing to switch providers, TurboTax must satisfy consumers to retain them. In the presence of competitive options, both on and off-line, and consumers' demonstrated willingness to consider and switch to alternative providers, consumers' use of TurboTax reflects customer satisfaction, not lock-in or deception. TurboTax's positive brand image, high retention rate, and high satisfaction ratings are consistent with the responses in my survey where individuals who did not change providers in the past tax year (including respondents who are TurboTax customers) reported being satisfied rather locked in, again refuting the claim that consumers are deceived.

23. The Kirk Fair Declaration provides further support that consumers conduct research to determine the appropriate tax filing solution and that most consumers don't feel locked-in to upgrading to a paid TurboTax product even if they were prompted to do so after starting in the Free Edition. Specifically, in the context of a scientific randomized control test (RCT), that is a test versus control experiment with respondents randomized to conditions, Ms. Kirk Fair's Disclosure Survey demonstrates a consistent interest in and selection of paid TurboTax products regardless of consumer awareness of alternative free filing options. The open-ended responses in the Kirk Fair Disclosure Survey confirm that consumers can and do research alternative tax filing options, even in the face of such upgrade screens, to find an appropriate solution.

IV. THE NOVEMSKY SURVEY DOES NOT PROVIDE EVIDENCE THAT INTUIT'S TURBOTAX FREE EDITION ADVERTISEMENTS WERE DECEPTIVE

24. The Novemsky Declaration purports to "evaluate claims made by Intuit when it advertises and markets its TurboTax online tax preparation services as 'free.'"²⁷ Professor Novemsky designed and implemented the Novemsky Survey in an effort to evaluate these claims. Yet, the Novemsky Survey cannot be used to address these allegations. The results do not

²⁵ Respondent ID 1138.

²⁶ Respondent ID 1722.

²⁷ Novemsky Declaration, ¶ 2.

demonstrate that the at-issue Intuit advertisements, website communications, or disclosures deceived consumers, nor do they suggest any harm or injury to consumers as a result of the alleged deception. The Novemsky Survey fails to use scientific methods that are necessary to evaluate whether the at-issue messaging in Intuit's advertisements, website communications, or disclosures caused consumers' understanding or perceptions. The Novemsky Survey does not use a control group, nor does it appear that respondents were exposed to the at-issue communications. The Novemsky Survey sample is biased and is not representative of the target population identified in the Novemsky Declaration. The Novemsky Survey asks leading questions that encourage guessing and therefore produce unreliable data. The failure to follow scientific principles and necessary best practices to avoid demand artifacts and biases is clearly reflected in the Novemsky Survey results. Thus, the Novemsky Survey is fundamentally flawed and cannot be relied on as evidence that Intuit's advertisements, website communications, or disclosures represent an ongoing harm to consumers.

A. Overview of the Novemsky Survey

25. Between March 11, 2022 and March 24, 2022, Professor Novemsky conducted a survey ("Novemsky Survey") to assess three topics: "the likelihood of [taxpayers who are not eligible to use a free version of TurboTax] having the misimpression that they can file their income taxes for free using TurboTax,"²⁸ the source of those impressions, and "these taxpayers' understanding of the phrase 'simple U.S. returns'."²⁹

26. The Novemsky Declaration identified the "consumers of interest" as "potential taxpayers who were considering using an online tax preparation service to file their 2021 taxes and do not qualify to file for free using TurboTax Free Edition."³⁰ Specifically, the Novemsky Survey's sample includes respondents who: "(i) were planning to file an income tax return in 2022 (based on income earned in 2021) [but had not yet done so]; (ii) make or contribute to tax-filing decisions

²⁸ Novemsky Declaration, ¶ 2.

²⁹ Novemsky Declaration, ¶¶ 2, 16.

³⁰ Novemsky Declaration, ¶ 18.

in their household; (iii) have considered or might consider using an online tax preparation service; and [(iv)] who would not have qualified for TurboTax Free Edition if they were to use TurboTax.”³¹ To establish that respondents would not qualify to use TurboTax Free Edition, the survey asks a series of questions related to types of income received, whether respondents expect to take a standard or itemized deduction, and a variety of other more complex tax situations.³² It is notable that even as Complaint Counsel allege that consumers are deceived by Intuit’s marketing communications and do not understand Intuit’s “simple returns” disclosures that list these very types of tax situations as “situations not covered in TurboTax Free Edition,”³³ the Novemsky Survey relies on respondents to understand, remember, and accurately report the same details of their financial and tax situation to screen into the survey.

27. For the purpose of analysis, Professor Novemsky splits the results of the Novemsky Survey into two groups, titled “Group A” and “Group B.” Group A included 404 respondents who self-reported that they have not filed their taxes using TurboTax in the last three years. Group B included 203 respondents who self-reported that they have filed their taxes with TurboTax in the last three years, using only paid products.³⁴ The Novemsky Declaration refers to Group A as the “main group of interest” because they would be “less likely to respond based on their past usage of TurboTax.”³⁵

28. The Novemsky Survey then asked respondents a series of questions including:³⁶

- Open-ended questions about whether there is a cost to filing for respondents personally and who can file for free;

³¹ Novemsky Declaration, ¶ 18.

³² Novemsky Survey Programming Instructions, GX-305, Questions S90, S100, S110.

³³ Novemsky Declaration, ¶ 2 and Figure 3: 2022 Simple Returns.

³⁴ The programming instructions for the “TurboTax Perception Study” include a quota for 500 Group A respondents and 250 Group B respondents. The Novemsky Declaration provides no explanation for reporting on 607 respondents rather than 750 respondents. I plan to evaluate Professor Novemsky’s explanation if and when I receive one. *See*, Novemsky Survey Programming Instructions, GX-305, p. 1.

³⁵ Novemsky Declaration, ¶ 19.

³⁶ Novemsky Survey Programming Instructions, GX-305, Questions TAT220 – TAT310.

- A closed-ended question about whether respondents can personally file for free;
- A closed-ended question about from where respondents' impression originated;
- Follow-up questions with respondents who indicated they couldn't file for free; and
- A series of closed-ended and open-ended questions about whether respondents believe their taxes qualify as a "simple U.S. return."

29. From the survey, the Novemsky Declaration details three opinions. First, it says that a "substantial portion of taxpayers who do not qualify to use TurboTax Free Edition" held the assumption that they could file their taxes using TurboTax Free Edition.³⁷ Second, it says that the TurboTax website and advertisements are the two most common sources of information behind the aforementioned understanding.³⁸ Finally, it offers the opinion that a "substantial portion of taxpayers who are not eligible to use TurboTax Free Edition" believed that their tax returns could be categorized as "simple," which means that these respondents "have the misimpression their returns meet TurboTax's definition of a 'simple U.S. return.'"³⁹

B. The Novemsky Survey Does Not Provide Causal Evidence Linking Consumer Perceptions to Intuit's Advertisements, Website Communications, or Disclosures

1. The Novemsky Survey Does Not Evaluate the At-Issue Advertisements or Any Representations Made by Intuit

30. Professor Novemsky's assignment is "to evaluate claims made by Intuit when it advertises and markets its TurboTax online tax preparation services as 'free.'"⁴⁰ However, based on the information provided in the Novemsky Declaration, it appears that the Novemsky Survey does not evaluate *any* claims made by Intuit.⁴¹ Typically, in designing a survey intended to study

³⁷ Novemsky Declaration, ¶ 4.

³⁸ Novemsky Declaration, ¶ 4.

³⁹ Novemsky Declaration, ¶ 4.

⁴⁰ Novemsky Declaration, ¶ 2.

⁴¹ The Novemsky Declaration does not contain screenshots of the Novemsky Survey as it appeared to

respondents' perceptions as a result of a particular claim or allegedly false advertisement, an expert should show the respondents that claim and assess responses. Best practices would also include a control group for which control-group respondents were shown a neutral "control" stimulus.⁴² Instead, from the materials so far provided, it appears that the Novemsky Survey did not expose respondents to *any* allegedly deceptive advertisement, disclosure, or claim by Intuit. If respondents were indeed not shown any stimuli in the Novemsky Survey, then it simply measures pre-existing beliefs that could be derived from anywhere — including from the design of the survey.

31. The Novemsky Declaration notes that "[o]ver the course of my engagement as an expert for the FTC, I received and reviewed a variety of materials," including six video advertisements, three "screenshots provided to me by counsel," and that "[i]n addition, I explored turbotax.intuit.com," but it does not indicate that any of this information was shown to respondents.⁴³ All available evidence in the Novemsky Declaration materials point to this omission: the Novemsky Declaration does not describe showing any stimuli to respondents, there were no screenshots of any stimuli shown to respondents produced, the Novemsky Survey script does not include any reference to presenting respondents with stimuli, and the questions in the survey itself do not reference respondents having reviewed any stimuli. For example, question TAT290 begins "*In some of its advertisements, TurboTax mentions 'simple U.S. returns'.*"⁴⁴ If respondents had been shown a TurboTax advertisement, I would expect the survey to refer to that

respondents, nor were any data produced. Thus, I must infer which stimuli, if any, were presented to consumers. The Novemsky Declaration implies that no stimuli were given, but the Novemsky Declaration does not provide sufficient information to confirm that implication. Should additional relevant information be made available to me, I will supplement my analysis if necessary to reflect the material. I note that such material would normally be provided in both litigation and academic studies.

⁴² "It is possible to adjust many survey designs so that causal inferences about the effect of ... an allegedly deceptive commercial become clear and unambiguous. By adding one or more appropriate control groups, the survey expert can test directly the influence of the stimulus." Diamond, S.S., 2011. "Reference Guide on Survey Research." In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, p. 398.

⁴³ Novemsky Declaration, ¶¶ 12-14.

⁴⁴ Novemsky Survey Programming Instructions, GX-305, Question TAT290. Of course, Intuit does more than "mention" that phrase; it affirmatively states that its Free Edition product is for "simple U.S. returns only." This is yet another way the Novemsky Survey is biased towards the FTC's position.

stimulus rather than to broadly refer to “some” advertisements respondents may or may not have seen.

32. If, as it appears from my review of the Novemsky Declaration and associated survey script, the Novemsky Survey did not show respondents any stimuli, this is a fundamental flaw in its design. Without showing respondents any at-issue messaging, the Novemsky Survey does not and cannot tie respondents’ perception or understanding to any of Intuit’s at-issue advertisements, website communications, or disclosures. By failing to test any stimuli, the Novemsky Declaration cannot ascribe the results of the Novemsky Survey to any alleged misrepresentations made by Intuit versus any other source of information that respondents may have encountered. Instead, and ignoring all of its other flaws, the Novemsky Survey at best simply measures general impressions and unsupported guesses that cannot be connected in any meaningful way to Intuit’s advertisements, website communications, or disclosures. Additionally, by not providing respondents with any relevant information (or providing them with inaccurate information) through the survey process, respondents are prone to guessing or answering questions based on other unknown information, beliefs, or aspirations.⁴⁵ The Novemsky Survey’s attempt to solicit such general beliefs about eligibility are contrary to well-established survey design principles.

33. Without tying its findings to any alleged misrepresentation through accepted survey design decisions, and setting aside the numerous other flaws, the Novemsky Survey is at best measuring respondents’ general beliefs about their eligibility to file their taxes for free using TurboTax, which could be the result of many different sources, including sources that are entirely unrelated to Intuit.

⁴⁵ “Some survey respondents may have no opinion on an issue under investigation, either because they have never thought about it before or because the question mistakenly assumes a familiarity with the issue. For example, survey respondents may not have noticed that the commercial they are being questioned about guaranteed the quality of the product being advertised and thus they may have no opinion on the kind of guarantee it indicated.” Diamond, S. S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. National Academies Press, p. 389.

2. *The Novemsky Survey Does Not Control for Any Outside Factors or Noise, and Hence, Cannot Infer Causality*

34. To bear on the question of whether consumers were misled by the advertisements at issue in this case, a survey should test causality by ruling out alternative explanations and noise. The Novemsky Declaration implies that it tested causal relationships, but it has not. One of the key questions that the Novemsky Survey purports to address is “whether, and to what extent, consumers point to TurboTax advertisements and the TurboTax website (or both) as **playing a role** in these taxpayers forming the misimpression that they can file their income taxes for free using TurboTax.”⁴⁶ With surveys such as the Novemsky Survey, a control group is necessary to isolate the potential impact of certain claims from other sources of impression.^{47,48} Disentangling the impressions created by at-issue messaging from respondents’ preexisting beliefs is so crucial that survey researchers have tried to adopt numerous strategies to distinguish between the two.⁴⁹ For example, if respondents have seen advertisements from a variety of tax preparation providers,

⁴⁶ Novemsky Declaration, ¶ 20 (emphasis added).

⁴⁷ “[C]ontrols play a central role in enabling a survey to rule out threats to valid causal inference. A control group design that includes an appropriate control is the best way to ensure that noise from preexisting beliefs, yea-saying, and guessing (both random and biased) cannot explain away or undermine evidence of confusion or deception reflected in the responses of survey participants. [...] Designing an appropriate control is thus an analytic rather than a mechanical task, one that is crucial in a valid trademark or deceptive advertising survey.” Diamond, S. S., 2012. “Control Foundations: Rationales and Approaches.” In *Trademark and Deceptive Advertising Surveys: Law, Science, and Design*, 201-239. American Bar Association, p. 216; “Hence experiments are well-suited to studying causal relationships. No other scientific method regularly matches the characteristics of causal relationships so well.” Shadish, W.R., Cook, T.D. and Campbell, D.T., 2002. “*Experimental and Quasi-Experimental Designs for Generalized Causal Inference*.” Wadsworth Cengage Learning, p. 7.

⁴⁸ By comparison, the Kirk Fair Declaration and 2020 Kirk Fair Memorandum include discussion of the Kirk Fair Disclosure Survey, which employed a test and control experimental design.

⁴⁹ “Some surveys attempt to reduce the impact of preexisting impressions on respondents’ answers by instructing respondents to focus solely on the stimulus as a basis for their answers. Thus, the survey includes a preface (e.g., ‘based on the commercial you just saw’) or directs the respondent’s attention to the mark at issue (e.g., ‘these stripes on the package’). Such efforts are likely to be only partially successful. It is often difficult for respondents to identify accurately the source of their impressions.” Diamond, S. S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. National Academies Press, pp. 397–398, citing Nisbett, R.E. and Wilson, T.D., 1977. “Telling More Than We Can Know: Verbal Reports on Mental Processes.” *Psychological Review*, 84(3), 231–259.

including from entities other than Intuit, they might infer that free filing is available from all providers. The test-and-control methodology requires a comparison of respondents' perceptions between those who were exposed to the alleged misrepresentation and those who were exposed to a neutral or corrective disclosure.

35. An appropriate test-and-control experimental study design, also known as a randomized control trial in medical testing, involves presenting respondents in the test group with a stimulus that contains the causal aspect that is being studied (in this case, the "free" claims that Complaint Counsel allege are deceptive). Typically, a control group answers the same questions as the test group, but the control group would be shown a neutral stimulus. In this manner, the control group serves as a proxy for the but-for world, where consumers are not exposed to the allegedly deceptive claims and/or are provided with more information.

36. To establish causality, it is important that respondents be assigned randomly between the test and control groups. Random assignment ensures that respondents do not differ between groups on the characteristic that is being measured or on characteristics that affect the topics being examined. For example, because education is correlated with income, it would not be appropriate to compare highly educated consumers in one group to less educated consumers in a second group and then infer (falsely) that a test stimulus affects income. Likewise, it would not be appropriate to test a stimulus by assigning consumers based on whether or not they had seen the stimulus in the past. For example, the Novemsky Survey's Group B would not be an appropriate control for Group A. Not only are respondents not assigned randomly, but Group B respondents, who self-reported having experience using a TurboTax paid product, are likely to be more familiar with TurboTax. The respondents in Group B are systematically different than the respondents in Group A on characteristics other than whether or not the respondents were exposed to at-issue advertising or website statements and can be expected to differ in their responses to the survey questions simply because they have or have not used TurboTax. When respondents are allowed to

self-select themselves into the test or control group based on characteristics that affect what is being measured, the resulting bias is known as a self-selection bias.⁵⁰

37. If respondents are assigned randomly to the test group (shown the at-issue stimuli) or to the control group (shown comparable stimuli adjusted for the at-issue content), then the survey expert can examine the differences in responses between the test group and the control group.⁵¹ However, accurate estimates of the impact of the causal aspect can only be obtained if the stimuli and the questions in the test and control groups are otherwise reliable, do not introduce biases that inflate the differences between the groups, do not add excessive noise, and are accurate, realistic, and externally valid. Thus, even if the Novemsky Survey had shown the respondents stimuli, the analysis of the survey data would not have been able to identify any causal effect of Intuit's advertising or Intuit's website without a randomly assigned control group. The threats to inference are compounded if the Novemsky Survey did not show any stimuli. Thus, even if the Novemsky Survey had shown respondents stimuli and used a test-versus-control design, the unrepresentative sample and biased questions render it unreliable.

38. In other contexts, Professor Novemsky is an advocate of test and control experimental design. He has published several academic articles in which he described conducting experiments that randomly assigned participants into one of two or multiple experimental groups.⁵²

⁵⁰ "Self-selection bias is the problem that very often results when survey respondents are allowed to decide entirely for themselves whether or not they want to participate in a survey," See, Lavrakas, P., 2008. "Self-Selection Bias." *Sage Research Methods*.

⁵¹ "In the simplest version of such a survey experiment, respondents are assigned randomly to one of two conditions. For example, respondents assigned to the experimental condition view an allegedly deceptive commercial, and respondents assigned to the control condition either view a commercial that does not contain the allegedly deceptive material or do not view any commercial." Diamond, S.S., 2011. "Reference Guide on Survey Research." In *Reference Manual on Scientific Evidence*, 359-423. National Academies Press, p. 398.

⁵² See, e.g., Frederick, S. et al, 2009. "Opportunity Cost Neglect." *Journal of Consumer Research*, 36(4), 553-561; Novemsky, N. et al, 2007. "Preference Fluency in Choice." *Journal of Marketing Research*, 44(3), 347-356; Baskin, E. et al., 2016. "Proximity of Snacks to Beverages Increases Food Consumption in the Workplace: A Field Study." *Appetite*, 103, 244-248; Wang, J. et al, 2010. "Trade-offs and Depletion in Choice." *Journal of Marketing Research*, 47(5), 910-919; Pocheptsova, A. and Novemsky, N., 2010. "When Do Incidental Mood Effects Last? Lay Beliefs versus Actual Effects." *Journal of Consumer Research*, 36(6), 992-1001.

Professor Novemsky is familiar with the fact that test and control experimental methods are necessary for causal inferences, but he decided not to adopt that approach in the Novemsky Survey. He does so without providing any explanation for this decision.

39. Because the Novemsky Survey does not employ a test and control design, it cannot net out potential noise and cannot distinguish respondents' pre-existing impressions from those attributable to the alleged misrepresentations. For example, it is not clear if respondents' impressions would be different absent the alleged misrepresentations or if respondents generally believe they can file for free regardless of the tax filing provider. Without a control group, it is impossible to tie the results to the at-issue Intuit advertisements and communications that Complaint Counsel are seeking to restrict.

3. *The Novemsky Survey's Source Question Cannot Be Used to Reliably Establish the Source of Respondents' Impressions*

40. Rather than testing for causal relationships between respondents' impressions and the allegedly deceptive statements and disclosures, the Novemsky Survey includes a set of questions (TAT255 and TAT265) asking respondents directly: "*You have stated that you [think/don't think] you can file your 2021 income taxes for free using TurboTax online software. Which of the following sources played a role in you forming that impression?*"⁵³ The response options include:

- "TurboTax advertisements,"
- "TurboTax website,"
- "Word of mouth (such as information from family, friends, etc.),"
- "Advice from a financial professional (such as an accountant or a tax preparer),"
- "Information online not from TurboTax (such as articles on websites, blog posts, etc.),"
- "Other,"

⁵³ Novemsky Survey Programming Instructions, GX-305, Questions TAT255 and TAT265.

- “Don’t know / Not sure.”

41. Questions TAT255 and TAT265 are simply a memory test and do not establish causality. Because there is no control whatsoever, the Novemsky Declaration cannot rule out that the results of the Novemsky Survey are driven by the myriad flaws in this question that render it unusable to establish the origin of respondents’ perceptions. The Novemsky Declaration also cannot rule out any other sources of information (other than the at-issue communications) that led to consumer beliefs for at least six reasons.

42. First, these questions are subject to a demand artifact. Demand artifacts include any parts of the survey which cause subjects to form an interpretation of the purpose of the study and change their behavior to align with what they believe is desired by the experimenter.⁵⁴ The questions are abrupt and do not encourage the respondent to reflect on potential sources of information, instead simply highlighting that their belief must come from someplace and implying that the respondent should provide an answer. Because advertisements or websites are common sources of information, the respondent is encouraged to guess that these sources are the source of origin.

43. Second, the list of options is incomplete and biased toward a finding that the source of information is Complaint Counsel’s hypothesis. Consumers must file their taxes every year and a critical source of information about tax preparation options is likely to be the consumers’ own prior experiences. The Novemsky Survey’s Group A respondents self-reported that they are not recent TurboTax customers and therefore are more likely to have had recent experiences and familiarity with competing tax preparation providers, while Group B respondents self-reported that they have recent experience with TurboTax in particular. Group A’s experience therefore likely includes other online tax preparation providers with similar models that include qualification requirements for their free products. Although the Novemsky Survey does provide an “other”

⁵⁴ Schwarz, N., 1999. “Self-Reports. How the Questions Shape the Answers.” *American Psychologist*, 54(2), 93-105, abstract.

category, such an “other” category is not sufficient if missing options would have been chosen at a high rate.

44. Third, consumer recall is subject to many biases. When answering recall questions, respondents may use cues from their general knowledge and expectations as well as the question context in addition to what they retrieve from memory.⁵⁵ Without careful pretesting, the Novemsky Survey cannot establish that respondents would be able to remember, rather than guess or construct, the source of their beliefs.⁵⁶

45. Fourth, recall measures are specifically unreliable when asking about the source of a consumer’s beliefs, as the Novemsky Survey does here. For example:

[s]ource Amnesia is the inability to recall where, when, or how one has learned knowledge that has been acquired and retained. In a 2008 NY Times article, psychologists Sandra Aamodt and Sam Wang explained: ‘False beliefs are everywhere. Dispelling false information may be more difficult than it seems, due to the quirky way our brains store memories...in time, a fact is separated from the context in which it was learned. For example, you probably know that the capital of California is Sacramento, but you probably don’t remember how you learned it. This phenomenon, known as source amnesia, can also lead people to forget whether a statement is true.’⁵⁷

⁵⁵ “[R]espondents may use both information retrieved from memory and cues from the situations in formulating their answers.” “[M]emory for experience is intertwined with general knowledge; similarly, the process of remembering what actually happened is inextricably bound up with the process of inferring what probably happened,” Tourangeau, R., Rips, L.J. and Rasinski, K., 2009. *“The Psychology of Survey Response.”* Cambridge University Press, pp. 17, 97.

⁵⁶ Although the Novemsky Declaration refers to pretesting, it gives no details. (See, Novemsky Declaration, ¶ 16 n.1). There is no indication or results to indicate that the Novemsky Declaration has established that respondents are able to remember, rather than guess or construct, the source of their beliefs.

⁵⁷ Wilson, A. and Smith, L., 2016. “Source Amnesia (working paper),” available at https://economics.harvard.edu/files/economics/files/wilson_spring_2016.pdf.

46. Fifth, the Novemsky Survey is relying on respondents remembering advertising that they may or may not have seen over the past months (or even years). In fact, Intuit is not the only provider which advertises free filing.⁵⁸ Respondents may have seen advertising from competing tax preparation providers that advertise their own free options or that compare their tax preparation offerings to TurboTax, and not necessarily the at-issue advertising or website. The Novemsky Survey does not establish or even try to establish that the at-issue advertising is so salient that the advertising would be the sole source of the respondents' beliefs or that it would be remembered.⁵⁹

47. Finally, because recall of the source of a belief is often difficult, respondents may not have an opinion on the question they are asked. The Novemsky Survey includes a quasi-filter on this question ("Don't know/ Not sure"). However, very few respondents (11 out of 607 or 1.8%) selected this option. Given the critical nature of this question to the conclusions of the Novemsky Declaration, a full filter would have been justified. A full filter would ask whether or not the respondent can recall the source before asking for the source.⁶⁰

48. Each of these flaws is individually problematic, but they also have the potential to interact and compound the biases associated with each flaw. The Novemsky Survey asks respondents a question that is particularly difficult to reliably answer due to consumers' well-

⁵⁸ For example, H&R Block's current advertising of its Free Online product states, "[t]he best part about doing things yourself? It's free. Like doing your own taxes with H&R Block Free Online." The advertisement then goes on to draw a direct comparison with TurboTax Free Edition by claiming that "more people can file free than with TurboTax." See, "File Online Free," *H&R Block*, February 14, 2022, available at <https://www.youtube.com/watch?v=EnzdfD0bcr4>.

⁵⁹ "[I]t is important to note that recall aids can only be effective for material that was encoded in memory. [...] When information is encoded in memory, its retrieval is strongly affected by both the information's salience and the elapsed time since the information was encoded." Krosnick, J.A. and Presser, S., 2009. "Question and Questionnaire Design." In *Handbook of Survey Research*. Elsevier, p. 288.

⁶⁰ "The survey can include full-filter questions, that is, questions that lay the groundwork for the substantive question by first asking the respondent if he or she has an opinion about the issue or happened to notice the feature that the interviewer is preparing to ask about (e.g., 'Based on the commercial you just saw, do you have an opinion about how long Clover stated or implied that its guarantee lasts?'). The interviewer then asks the substantive question only of those respondents who have indicated that they have an opinion on the issue." Diamond, S.S., 2011. "Reference Guide on Survey Research." In *Reference Manual on Scientific Evidence*, 359-423. National Academies Press, pp. 389-390.

studied difficulties with recall and source amnesia and then, rather than assisting respondents with the difficult task, presents an incomplete list of options without sufficient filtering. In sum, the Novemsky Survey's approach of apparently attempting to connect respondents' general impressions with Intuit's communications via this question rather than simply providing respondents with the at-issue advertisements, website communications, or disclosures is inappropriate, misleading, and completely unreliable. It is extremely unlikely that respondents, when faced with a non-exhaustive list that clearly emphasizes TurboTax, would accurately recall the sources of their impressions about whether they qualified for the TurboTax free product.

C. The Novemsky Survey Sample Is Not Representative of the Target Population and Is Biased

49. The Novemsky Declaration defines the Novemsky Survey's target population as "potential taxpayers who were considering using an online tax preparation service to file their 2021 taxes and do not qualify to file for free using TurboTax Free Edition."⁶¹ However, the screening procedure in the Novemsky Survey does not generate a sample representative of its target population.

50. First, the Novemsky Survey was in the field from March 11 to March 24, 2022 and only surveyed respondents who had not yet filed their taxes.⁶² To the extent that later filers are different from earlier filers, the under-representative sample affects the results from the survey and the overall conclusions of the Novemsky Declaration. In fact, according to a 2018 study, early filers tend to be younger and have lower incomes than later filers.⁶³ Early filers also tend to be owed higher refunds. These discrepancies in demographics suggests that the Novemsky Survey's

⁶¹ Novemsky Declaration, ¶ 18.

⁶² Novemsky Declaration, ¶ 18.

⁶³ Farrell, D., Greig, F. and Hamoudi, A., "Filing Taxes Early, Getting Healthcare Late," *JPMorgan Chase & Co.*, April 2018, available at <https://www.jpmorganchase.com/institute/research/healthcare/insight-filing-taxes-early#finding-1>.

respondents, none of whom could be considered an early filer, were not representative of its target population.

51. Second, the Novemsky Survey screening method was insufficient to isolate relevant respondents. Specifically, the Novemsky Survey's sample includes respondents who do not make their household's tax filing decisions. In the survey screener, respondents were asked about their level of involvement in the tax-filing process in their household, and the Novemsky Survey allowed respondents who selected "I contribute to the tax filing decisions, but someone else in my household makes the decisions" to proceed with the survey.^{64,65} The Novemsky Survey relies on these respondents who are less involved in tax filing (*i.e.*, they do not make the filing decisions) to provide accurate responses on these very detailed questions about their tax situations, including about the types of income they've received, whether they plan to take a standard or itemized deduction, and other specific tax situations. Importantly, immediately before asking the involvement question, the survey states: "*We will now ask you some questions about the income tax return you may file this year, based on your income in 2021. These questions are being asked solely for the purposes of determining whether you qualify for the survey.*"⁶⁶ Because the survey discloses the purpose for asking these questions, it is likely that some respondents falsely claim involvement in the tax-filing process and/or falsely claim to have more complicated tax situations only to qualify for the survey and receive compensation. The Second Novemsky Declaration attempts to isolate the effect of including low-involvement respondents in the survey.⁶⁷ But Mr. Novemsky cannot identify respondents who falsely claimed high involvement in order to receive

⁶⁴ Novemsky Survey Programming Instructions, GX-305, Question S70, pp. 3-4.

⁶⁵ The Novemsky Survey also included respondents who "make the tax-filing decisions jointly with others in my household." The Novemsky Declaration provides no evidence that these respondents were sufficiently versed in tax preparation to answer the Novemsky Survey questions accurately.

⁶⁶ Novemsky Survey Programming Instructions, GX-305, Question S50, p. 3. Emphasis added.

⁶⁷ Second Novemsky Declaration, GX-315, S70 Sensitivity, Table 1, p. 1.

compensation. Thus, even the Second Novemsky Declaration still understates the potential effect of low involvement respondents on the results.⁶⁸

52. These screening issues are exacerbated because of a phenomenon known as “professional respondents” or “inattentive respondents.”⁶⁹ Survey panelists receive incentives to complete surveys. Although incentives are common and do not, by themselves, bias results, they do bias results if the survey researcher does not use sufficient screening methods to eliminate professional or inattentive respondents. For example, a respondent who is taking the survey only for the incentive has sufficient experience to know that the respondent needs to pass screening questions and, hence, the respondent would answer “yes” to all screening questions. Such respondents are not qualified to take the survey, but are included nonetheless. Such respondents also have a tendency to click randomly and hence add noise to survey answers. For example, many such respondents would guess the answers to Question S140 and thus falsely indicate their beliefs about whether or not they could file their tax returns for free using TurboTax.⁷⁰

53. To screen out such respondents, researchers can use a number of methods including “red herring” options such as a believable but fictitious response option in Question S90 in order to eliminate respondents who take the survey too rapidly, or “instructional manipulation checks (IMC)” designed to “trap” professional/inattentive respondents.⁷¹ To its credit, the Novemsky Survey uses one instructional manipulation check, but there is no indication it uses any other methods to eliminate unqualified respondents. The Novemsky Declaration does not provide any data on the number of respondents screened out by the IMC, hence I cannot, at this time, evaluate

⁶⁸ Second Novemsky Declaration, GX-315, S70 Sensitivity, Table 1, p. 1.

⁶⁹ See, e.g., Paas, L.J. and Morren, M., 2018. “Please do not answer if you are reading this: respondent inattention in online panels.” *Marketing Letters*, 29, 13-21, p. 13; Oppenheimer, D., Meyvis, T. and Davidenko, N., 2009. “Instructional Manipulation Checks: Detecting Satisficing to Increase Statistical Power.” *Journal of Experimental Social Psychology*, 45(4), 867-872, p. 867.

⁷⁰ Novemsky Survey Programming Instructions, GX-305, Question S140, p. 6.

⁷¹ See, e.g., Oppenheimer, D., Meyvis, T. and Davidenko, N., 2009. “Instructional Manipulation Checks: Detecting Satisficing to Increase Statistical Power.” *Journal of Experimental Social Psychology*, 45(4), 867-872, p. 867; Paas, L.J. and Morren, M., 2018. “Please do not answer if you are reading this: respondent inattention in online panels.” *Marketing Letters*, 29, 13-21, p. 13.

the adequacy of the instructional manipulation check. The lack of such screening methods and/or the use of a potentially weak IMC is particularly important when — as is true here — the survey does not use a control group to eliminate the effect of noise.^{72, 73}

54. In addition to the selection of the initial sample, which is prone to allowing inattentive respondents, there is significant potential for selection bias resulting from respondents being able to opt-out of the survey after completion. At the end of the survey, the Novemsky Survey informs respondents about the sponsor of the survey (the FTC), the entity being investigated (Intuit), and the purpose for the survey (an investigation into “unfair and deceptive conduct”).⁷⁴ The survey even claims that “The FTC investigates unfair and deceptive conduct by companies. The information you provide could help us further our mission under the FTC Act to protect consumers” and that “[t]he information collected in this survey may be made available to others (for example, in the course of litigation against companies for potential alleged violations of consumer protection laws, or if required by a court).”⁷⁵ The survey then asks respondents if they would like to delete or keep their submission.⁷⁶ According to the Second Novemsky Declaration and associated disclosures, 164 respondents chose to delete their submissions.⁷⁷ Critically, respondents who request to opt-out may fundamentally differ from respondents who do not in ways that would be unobservable after the fact, raising the likelihood of bias in the final sample

⁷² With a valid control group, guessing occurs at the same rate in the control group as in the test group. This enables the survey expert to net out noise as is done in the Kirk Fair Disclosure Survey. The Novemsky Survey does not use a control group and Group B is not a valid control group for Group A, thus the Novemsky Survey cannot net out noise.

⁷³ My Purchase Driver Survey, which I discuss in **Section V**, includes both a red herring tax preparation provider (FastTax Filing) and a red herring activity (Climbed Mount Kashoun) in its screener.

⁷⁴ FN25 of the Second Novemsky Declaration states that disclosures might be required by federal law. I note that respondents to the Novemsky Survey were drawn from two well-established panels, Dynata and Schlesinger Group, who typically ensure that responses are anonymous and cannot be tied to respondents. Respondents were promised that “answers will be kept confidential.” I am not an attorney, hence I cannot comment on Dr. Novemsky’s interpretation of the relevant laws. Nonetheless, the survey bias remains and could be substantial.

⁷⁵ Novemsky Survey Programming Instructions, GX-305, p. 10.

⁷⁶ Novemsky Survey Programming Instructions, GX-305, Question TAT400, pp. 10-11.

⁷⁷ Second Novemsky Declaration, GX-314, Opt-out Sensitivity A Table 1, p. 1.

population. It may very well be the case that those with more positive views of TurboTax exited the survey after learning that it was designed to be used *against* TurboTax.

55. Furthermore, it is typical in surveys for the purposes of litigation to ask respondents if they are familiar with any litigation that relates to the at-issue stimuli or more generally the parties to the litigation. Such consumers may react to at-issue stimuli or to the parties' products differently than consumers who are not aware of relevant litigation. The facts at issue in the FTC's investigation into Intuit have received substantial media attention for the past several years.⁷⁸ The focus on TurboTax throughout the Novemsky Survey coupled with the FTC opt-out provision at the end would likely clue in any respondents familiar with the allegations to the purpose of the survey. The Novemsky Survey does not appear to ask any questions to identify such respondents and cannot analyze them separately or screen them out.⁷⁹

D. The Novemsky Survey Asks Leading Questions that Likely Create Demand Artifacts

56. The Novemsky Declaration claims that "[t]he design, implementation, and fielding" of the Novemsky Survey were "consistent with guidelines for survey research" such that "[t]he questions asked were clear and not leading."⁸⁰ But this is not accurate. Several elements in the screening and main questionnaire of the Novemsky Survey are likely to create demand artifacts and lead respondents into providing certain responses favorable to Complaint Counsel's position. As discussed earlier, demand artifacts "include all aspects of the experiment which cause the subject to perceive, interpret, and act upon what he believes is expected or desired of him by the

⁷⁸ See, Elliot, J., "The FTC Is Investigating Intuit Over TurboTax Practices," *ProPublica*, September 8, 2020, available at <https://www.propublica.org/article/the-ftc-is-investigating-intuit-over-turbotax-practices>; Sandler, R., "FTC Probes Intuit Over Suspicions It Diverted TurboTax Users From Free Filing," *Forbes*, September 8, 2020, available at <https://www.forbes.com/sites/rachelsandler/2020/09/08/ftc-probes-intuit-over-suspicions-it-diverted-turbotax-users-from-free-filing/?sh=2f7d8bec265a>.

⁷⁹ My Purchase Driver Survey asked respondents whether they were aware of any media reports, investigations, or lawsuits involving tax preparation websites or providers.

⁸⁰ Novemsky Declaration, ¶ 17.

experimenter.”⁸¹ Specifically, “[s]elf-reports of behaviors and attitudes are strongly influenced by features of the research instrument, including question wording, format, and context.”⁸² The following elements in Novemsky Survey likely create demand artifacts in favor of Complaint Counsel.

1. The Novemsky Survey Asks One-Sided Questions that Are Leading and Likely Create Demand Artifacts

57. To avoid putting undue emphasis on certain answer options, a survey should ask survey questions in a double-sided manner when feasible (*e.g.*, “do you or do you not ...”). In fact, “[w]hen the question itself or the response options provided with the question are weighted more in one direction rather than another, the question is a leading question. Failure to be balanced assumes many different forms.”⁸³

58. Key questions in the Novemsky Survey screener and in the main questionnaire are asked in one-sided manner. For example, S100 in the screener asks: “*Are you planning to itemize your deductions or claim the standard deduction on your 2021 income tax return?*”⁸⁴ This format (along with the seeming lack of rotation in the order of those two options in the question itself, based on the lack of instructions) could have led some respondents who were not actually planning to itemize their deductions in 2022 (or who would not ultimately find it in their interest to do so) to indicate they were planning to do so, and hence, could have screened in unqualified

⁸¹ Sawyer, A.G., 1975. “Demand Artifacts in Laboratory Experiments in Consumer Research.” *Journal of Consumer Research*, 1(4), 20-30, p. 20.

⁸² Schwarz, N., 1999. “Self-Reports. How the Questions Shape the Answers.” *American Psychologist*, 54(2), 93-105, abstract.

⁸³ Jacoby, J., 2012. “Are Closed-Ended Questions Leading Questions?” In *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, 261-285. American Bar Association, p. 274.

⁸⁴ Novemsky Survey Programming Instructions, GX-305, Question S100, pp. 4-5. *See also*, Questions S60 and S140.

respondents.⁸⁵ Questions S60 and S140 are also one-sided. The effect of a one-sided versus two-sided question has a real and measurable impact.⁸⁶

2. *The Novemsky Survey's Key Question on Respondents' Ability to File for Free Encourages Guessing and Is Unreliable*

59. The Novemsky Survey's key question to assess "the likelihood of [taxpayers who are not eligible to use a free version of TurboTax] having the misimpression that they can file their income taxes for free using TurboTax" is TAT240:⁸⁷

TAT240. You may have already said this above, but please tell us again, which of the following best describes your understanding of filing your 2021 income taxes for free using TurboTax online software?

Select one only.

[PROGRAMMER: RANDOMIZE ASCENDING / DESCENDING 1 to 3. KEEP 4 LAST.]

[IF RESPONDENT SELECTS 1, GO TO TAT250]

[IF RESPONDENT SELECTS 2, GO TO TAT260]

[IF RESPONDENT SELECTS 3, GO TO TAT270]

[OTHERWISE GO TO TAT290]

1. I think I can file my 2021 income taxes for free using TurboTax online software
2. I don't think I can file my 2021 income taxes for free using TurboTax online software
3. I do not have enough information to say whether or not I can file my 2021 income taxes for free using TurboTax online software
4. I'm not sure

60. This question design is fundamentally flawed because Question TAT240 encourages guessing by including the word "understanding" in the question and "I think" as a

⁸⁵ For example, a two-sided question would have asked "Are you or are you not"

⁸⁶ Novemsky Survey Programming Instructions, GX-305, Questions S60 and S140, pp. 3, 6. The effect of one- vs. two-sided questions depends upon the context and can be very large or more modest. Although the Novemsky Declaration refers to pretesting, it gives no details, so we cannot know the extent of the bias. For example, there are many examples in Payne, S.L., 1951. *"The Art of Asking Questions."* Princeton University Press, Princeton, New Jersey. In one example, changing a question from "should allow" to "should not forbid" resulted in a change of an affirmative response from 21% to 39%. *See*, Payne, Stanley L., 1951, "The Art of Asking Questions" Princeton University Press, Princeton, New Jersey, p. 57. In another example, making the negative option explicit resulted in a change from 77% to 74%. *See*, Payne, S.L., 1951. *"The Art of Asking Questions."* Princeton University Press, Princeton, New Jersey, pp. 56-57. There are other examples in Chapter 4 of Payne and in the literature.

⁸⁷ I note that the open-ended answers may be considered even more critical to understanding respondent impressions, but these have not been provided to me nor analyzed in the Novemsky Declaration.

qualifier to the responses and failing to include any ability to reference the qualification requirements. The first two answer options include “I think” as a qualifier, which encourages respondents who have some doubt to select one of the two options rather than “I do not have enough information.” Thus, even though the Novemsky Survey uses quasi-filters (“I do not have enough information,” “I’m not sure”), the format of the answer options undermines the advantage of quasi-filters. The question phrasing “*which of the following **best** describes your understanding*” (emphasis added) further encourages guessing if the respondent is unsure. Respondents do not like to admit that they do not know the answer to something, and therefore respondents can be prone to guessing if encouraged to do so, particularly in the absence of relevant information.⁸⁸

61. Not surprisingly, a relatively small share of respondents responded that they “do not have enough information to say,” or “are not sure,” which is notable evidence of guessing by respondents. This is particularly true for Group A — which is described as taxpayers who have not used TurboTax to file their taxes in the past three years and have not yet filed their taxes this year, and therefore are unlikely to have had exposure to the information and disclosures related to qualifications that are available on the TurboTax website. Yet, only 20% of respondents with no TurboTax experience in the last three years, indicated they couldn’t answer definitively.⁸⁹ With little or no prior experience with TurboTax *and* having been provided no information about TurboTax’s allegedly deceptive advertisements, website communications, or disclosures, Group A is particularly prone to guessing. In light of this implicit permission to guess, it is no wonder that 80% of respondents provided a decisive answer.

62. Not only do the answer choices lead respondents to be overly determinative in their assessment of their ability to file with TurboTax for free, the absence of information in the survey

⁸⁸ Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, pp. 389-390.

⁸⁹ TurboTax’s home page and products and pricing webpage contains a link titled “Simple tax returns only” directly beneath the Free Edition product offering. This link opens a pop-up panel which lists “situations covered in TurboTax Free Edition” and “situations not covered in TurboTax Free Edition.” See, “Three ways to get your taxes done right,” *Intuit TurboTax*, available at <https://turbotax.intuit.com/personal-taxes/online/>.

related to TurboTax's actual advertisements, website communications, or disclosures will likely lead respondents to be overly optimistic about their ability to file for free. At the point of responding to the survey, respondents may hold these aspirational expectations that they can file for free with TurboTax — not because of Intuit's advertisements, website communications, or disclosures — but because they've seen other offers for free tax preparation support from competitors with different qualification criteria (or possibly even used these competitor products for free);⁹⁰ because they have an impression that the qualification rules have changed over time; or because they simply would like to believe that they could file for free. As noted earlier, the inclusion of the "I think" qualifier in the answer options to this question gives respondents license to guess when they have very little information. It is fully reasonable that, in the absence of any information provided by the survey itself and having not yet filed taxes for the year, respondents would not know for sure whether they would qualify for a particular tax preparation provider's free product, and therefore, would be more prone to guessing.

63. The Novemsky Survey's Group B results reveal this inherent bias towards overly optimistic responses. That is, the Novemsky Survey finds that 24.1% of Group B respondents report that they think they could file for free, when they have also reported that they filed their taxes with TurboTax and *did not* file for free in the past three years. These respondents have been provided no information in the Novemsky Survey suggesting that they could file for free or otherwise exposing them to the allegedly deceptive claims and have prior experience that indicates that they could not file for free. Yet a large proportion still report that they believe they could file

⁹⁰ For example, H&R Block Free Online currently covers several situations which are not included in TurboTax Free Edition, such as Form 1098-T (Tuition and Fees Statement), Form 8863 (Education Credits), and Form 8615 (Tax for certain children with investment income). *See*, "H&R Block Free Online vs. TurboTax Free Edition: Get More FREE with Block," *H&R Block*, available at <https://www.hrblock.com/tax-center/around-block/offers/hrblock-free-vs-turbotax-free/>. *See also*, "Three ways to get your taxes done right," *Intuit TurboTax*, available at <https://turbotax.intuit.com/personal-taxes/online/>.

for free.⁹¹ This large percentage demonstrates the biased nature of this key question in the Novemsky Survey and is not, as the Novemsky Declaration would suggest, evidence of deception.

64. Due to the design choices in the Novemsky Survey, specifically the failure to use stimuli and to employ the necessary test-control design to infer causation and to net out noise and bias stemming from the structure of the questions, answers, and survey instrument, the results cannot be analyzed in a manner that controls for the bias described above.

3. *The Novemsky Survey's Key Question on Respondents' Understanding of "Simple U.S. Returns" Is Leading and Unreliable*

65. The Novemsky Survey's key question to assess "taxpayers' understanding of the phrase 'simple U.S. returns'"⁹² (TAT290) uses a yes/no format, which is generally considered leading because it is "much more likely" to create "yes" responses than "no" responses.⁹³ This question likely leads the respondent to an answer preferred by Complaint Counsel.

TAT290. Thank you! You are almost done. Just a few more questions...

In some of its advertisements, TurboTax mentions "simple U.S. returns".

Do you think that your 2021 income tax return meets TurboTax's definition of a "simple U.S. return"?

[PROGRAMMER: RANDOMIZE 1, 2. ANCHOR 3 LAST]

[IF RESPONDENT SELECTS 1 ("Yes"), GO TO TAT300]

[IF RESPONDENT SELECTS 2 ("No"), GO TO TAT310]

[OTHERWISE GO TO NEXT PAGE]

1. Yes, I think my 2021 income tax return meets TurboTax's definition of a "simple U.S. return"
2. No, I don't think my 2021 income tax return meets TurboTax's definition of a "simple U.S. return"
3. Don't know / Not sure

⁹¹ Novemsky Declaration, ¶ 4.

⁹² Novemsky Declaration, ¶ 2.

⁹³ Novemsky Survey Programming Instructions, GX-305, Question TAT290, p. 9. Jacoby, J., 2012. "Are Closed-Ended Questions Leading Questions?" In *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, 261-285. American Bar Association, p. 274.

66. Yes/no questions have long been discussed in the literature as “a systematic source of bias that has produced an inflation effect of 10% across a number of studies.”⁹⁴ In fact, “respondents—generally, agreeable people who have agreed to participate in the first place—are more inclined to be agreeable and answer ‘yes’ than to answer ‘no.’”⁹⁵ Here, the question text highlights the phrase “simple U.S. returns,” signaling to the respondent that it might be important. Respondents might infer that it is expected from them to answer this question affirmatively, and thus, select “Yes, I think my 2021 income tax return meets TurboTax’s definition of a ‘simple U.S. return.’” The tendency to answer “yes” is reinforced by the statement in TAT290 that “You are almost done.” The respondent might infer (correctly as it turns out) that if they answer “no,” they will be asked to explain their “no” answer. Having been promised that they are almost done, they might like to avoid further elaboration. This effect would be exacerbated for “professional” respondents who were not screened out. If the question wording or format is not changed, the preferred solution to deal with the leading nature of yes/no questions is to add control groups or control questions to the survey.⁹⁶ The Novemsky Survey does not include any such control group or control questions, and as a result, any results based on TAT290 are very likely inflated, and in this instance, inflated in Complaint Counsel’s favor.

67. Moreover, in the absence of any information in the survey about what constitutes “simple returns,” respondents will be prone to guessing in the artificial context of the Novemsky Survey. As discussed above, respondents do not like to admit that they do not know the answer to

⁹⁴ “One form of closed-ended question format that typically produces some distortion is the popular agree/disagree, true/false, or yes/no question. Although this format is appealing because it is easy to write and score these questions and their responses, the format is also seriously problematic. With its simplicity comes acquiescence, ‘[T]he tendency to endorse any assertion made in a question, regardless of its content,’ is a systematic source of bias that has produced an inflation effect of 10% across a number of studies.” Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, p. 394.

⁹⁵ Jacoby, Jacob, 2012. “Are Closed-Ended Questions Leading Questions?” In *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, 261-285. American Bar Association, p. 274.

⁹⁶ “Only when control groups or control questions are added to the survey design can [yes/no] question format provide reasonable response estimates.” Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, p. 394.

something, and therefore will be more like to guess rather than say that they don't know the answer.⁹⁷ In the real world, however, consumers who were unsure about whether their tax situation qualified would be likely to conduct research and seek out the information needed, if that information is important to them. For example, the Kirk Fair Disclosure Survey found that 17% of respondents indicated in open-ended responses that they would, after seeing an upgrade screen that says they don't qualify for free, conduct additional research or otherwise evaluate which product would best fit their needs.⁹⁸ Consumers looking for additional information on whether their tax situation constitutes a "simple return" will find that information readily available from multiple sources, including from the disclosures on the TurboTax website and through several third-party product reviews that describe the eligibility requirements for using TurboTax's free products.⁹⁹ This information is available to consumers both before they start a return at TurboTax and throughout the preparation process.

E. The Novemsky Declaration Does Not Report Any Respondent Statistics nor Provide Data or Backup

68. The information provided in the Novemsky Declaration was particularly sparse with respect to the actual results and fielding of the Novemsky Survey. In particular, the Novemsky Declaration does not discuss any attempts to screen out speeders/laggers or nonsense answers. Additionally, there was little to no reporting of direct responses to open-ended questions or clarity on how those were interpreted. Each and every one of these items of evidence provide important

⁹⁷ Diamond, S.S., 2011. "Reference Guide on Survey Research." In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, pp. 389-390.

⁹⁸ Kirk Fair Declaration, Section V.C. For a brief description of the Kirk Fair Disclosure Survey, *see*, **Section V.D.**

⁹⁹ *See, e.g.*, Parys, S. and Orem, T., "TurboTax Review 2022," *Nerdwallet*, March 3, 2022, available at <https://www.nerdwallet.com/article/taxes/turbotax-review/>; Ward, C., "TurboTax Review In-Depth: Does Free Really Mean Free?," *Listen Money Matters*, available at <https://www.listenmoneymatters.com/turbotax-review/>; Rosenberg, E., "TurboTax review: Not the cheapest online tax software, but good for complex situations," *Business Insider*, March 24, 2022, available at <https://www.businessinsider.com/personal-finance/turbotax-review>; and Baluch, A., Van Bloom, C. and Rosenberg, E., "TurboTax Tax Software Review," *U.S. News & World Reports*, February 2, 2022, available at <https://www.usnews.com/360-reviews/technology/tax-software/turbotax>.

insight into the reliability of the survey or the reported results. I will supplement my analysis if this information is provided at a later date.

V. PROPERLY DESIGNED SURVEYS DEMONSTRATE THAT CONSUMERS ACTIVELY ENGAGE IN FINDING AND SELECTING A TAX PREPARATION PROVIDER AND ARE NOT DECEIVED

69. The Novemsky Survey attempts to study consumer “impressions” generally, in the seeming absence of any stimuli and without accounting for the process by which consumers make purchase decisions. Tax preparation is typically considered a high-involvement product because it relates directly to consumers’ personal finances and, in some cases, a tax refund can be the single largest check a consumer receives in a particular year.¹⁰⁰ With high-involvement goods, consumers typically engage closely with the purchase process and conduct substantial research prior to making a purchase decision. The Novemsky Survey ignores the valuable information that consumers gain through the process of researching and evaluating available tax filing solutions. In fact, by selecting respondents who have not yet filed their taxes this year, the Novemsky Survey specifically studies respondents who had not yet filed in 2022 and thus may not have invested in the relevant consumer buying process yet. In addition, the Novemsky Survey allows respondents who may never engage in the consumer buying process because they are not substantially involved in the tax filing decision in their household.¹⁰¹ Understanding the consumer buying process for tax preparation is critical both to assessing the likelihood that actual users of paid TurboTax products were confused by the time they paid for their filing service and to evaluating the reliability of responses to questions about the sources of information or impressions in the Novemsky Survey.

¹⁰⁰ Assael, H., 2004. “*Consumer Behavior: A Strategic Approach*.” Houghton Mifflin Company, Boston, MA, pp. 90-91. Tax software can be considered important to the consumer and can entail significant risk, making its purchase more likely to be a high-involvement, considered process; Farrell, D., Greig, F. and Hamoudi, A., “Filing Taxes Early, Getting Healthcare Late,” *JPMorgan Chase & Co.*, April 2018, available at <https://www.jpmorganchase.com/institute/research/healthcare/insight-filing-taxes-early#finding-1>.

¹⁰¹ Novemsky Survey Programming Instructions, GX-305, Question S70.

70. To study the process of information acquisition, I designed, conducted, and analyzed an online survey (the “Purchase Driver Survey”) to evaluate the process that tax filers go through to identify a tax preparation solution, including any research they may conduct, and the factors they consider important when selecting a tax preparation method/provider. My Purchase Driver Survey was fielded from July 1, 2021 to July 9, 2021, after the 2021 filing deadline¹⁰² and, therefore, after tax filers made a decision with respect to tax preparation for that year. A comprehensive description of my Purchase Driver Survey design, target population, pretesting, and independent coding analysis of open-ended responses is attached as **Appendix C** to my Declaration.

71. Contrary to the allegations outlined by Complaint Counsel, I found that consumers conduct substantial research when selecting a tax preparation method/provider. During this research they could learn more about the eligibility requirements of TurboTax Free Edition. Most also do not rely solely or primarily on advertisements in their process. Results from my Purchase Driver Survey also demonstrate that consumers find a variety of factors important when selecting a tax preparation method/provider and that consumers do not display a simple preference for “free” options. Additionally, the Purchase Driver Survey provides evidence that consumers generally do not feel “locked in” to a tax software provider and instead feel comfortable abandoning returns and switching providers, both within and across tax years. These points are also supported by evidence from public-facing resources, internal Intuit materials, as well as the Kirk Fair Declaration.

¹⁰² “The 2021 Tax Deadline Extension: Everything You Need to Know,” *TurboTax*, January 21, 2022, available at <https://turbotax.intuit.com/tax-tips/general/the-2020-tax-deadline-extension-everything-you-need-to-know/L8Ph4Vnci>.

A. My Purchase Driver Survey Demonstrates That Consumers Conduct Substantial Research Before Selecting a Tax Preparation Provider and Do Not Rely Solely on Advertisements

72. When shopping for high-involvement goods like tax software, consumers typically engage in an involved purchase process. Consistent with this general finding, my Purchase Driver Survey results indicate that consumers conduct substantial research when choosing a tax preparation provider or method. On average, respondents reported using 3.0 different sources of information in their research process, with 73.6% of respondents reporting using two or more sources of information when researching tax preparation methods.¹⁰³ Respondents repeatedly mentioned exploring tax preparation websites, reading reviews or testimonials, and speaking with friends and family — results consistent in both unaided open-ended answer choices and in aided closed-ended answers. For example, one respondent, when asked what research the respondent conducted noted, “I checked around [for] prices as well as how long [it] would take to get my taxes back. I called around places and did a lot of reading before going back to the site I used before.”¹⁰⁴ Another respondent stated, “I researched who had the best pricing for what I needed, and also offered the best support. I used an online search engine to compare and read reviews.”¹⁰⁵ A third respondent noted that the respondent, “asked friends and did google searches.”¹⁰⁶

73. When consumers research tax preparation solutions, they are likely to find that many third-party consumer-facing websites report that TurboTax Free Edition is not free for everyone and that describe the eligibility requirements. For example:

- *NerdWallet* has included information on the eligibility requirements for TurboTax Free Edition in every annual review since at least 2018.¹⁰⁷

¹⁰³ **Exhibit 7.**

¹⁰⁴ Respondent ID 1708.

¹⁰⁵ Respondent ID 1670.

¹⁰⁶ Respondent ID 1698.

¹⁰⁷ See, Orem, T., “TurboTax Review 2018,” *Nerdwallet*, January 26, 2018, available at

- The TurboTax review on *Listen Money Matters*, a personal finance resource website, even entitled their review “TurboTax Review In-Depth: Does Free Really Mean Free?” and described TurboTax Free Edition’s limitations.¹⁰⁸
- *Business Insider*’s TurboTax review notes what tax situations qualify for TurboTax Free Edition.¹⁰⁹
- The TurboTax review on *U.S. News & World Report* also explains what TurboTax means by “simple” tax returns.¹¹⁰
- Consumers could have also learned about limitations for filing for free from competitor websites like H&R Block¹¹¹ or YouTube How-To videos.^{112, 113}

74. My Purchase Driver Survey results confirm that consumers are not likely to have relied solely on advertisements or email marketing when researching tax preparation solutions. In open-ended responses, only 2.4% of respondents were identified by independent judges, who were

<https://web.archive.org/web/20180925035640/https://www.nerdwallet.com/blog/taxes/turbotax-review/>; Orem, T., “TurboTax Review 2019,” *Nerdwallet*, January 25, 2019, available at <https://web.archive.org/web/20190722074738/https://www.nerdwallet.com/blog/taxes/turbotax-review/>; Orem, T., “TurboTax Review 2020,” *Nerdwallet*, April 7, 2020, available at <https://web.archive.org/web/20200610162627/https://www.nerdwallet.com/blog/taxes/turbotax-review/>; Orem, T., “TurboTax Review 2021,” *Nerdwallet*, March 15, 2021, available at <https://web.archive.org/web/20210403145347/https://www.nerdwallet.com/article/taxes/turbotax-review/>; Parys, S., and Orem, T., “TurboTax Review 2022,” *Nerdwallet*, March 3, 2022, available at <https://www.nerdwallet.com/article/taxes/turbotax-review/>.

¹⁰⁸ Ward, C., “TurboTax Review In-Depth: Does Free Really Mean Free?,” *Listen Money Matters*, available at <https://www.listenmoneymatters.com/turbo-tax-review/>. *See also*, Fiebert, Andrew “About Listen Money Matters,” *Listen Money Matters*, available at <https://www.listenmoneymatters.com/about/>.

¹⁰⁹ Rosenberg, Eric “TurboTax review: Not the cheapest online tax software, but good for complex situations,” *Business Insider*, March 24, 2022, available at <https://www.businessinsider.com/personal-finance/turbotax-review>.

¹¹⁰ Baluch, A., Van Bloom, C. and Rosenberg, E., “TurboTax Tax Software Review,” *U.S. News & World Reports*, February 2, 2022, available at <https://www.usnews.com/360-reviews/technology/tax-software/turbotax>.

¹¹¹ *See*, “H&R Block Free Online vs. TurboTax Free Edition: Get More FREE with Block,” *H&R Block*, available at <https://www.hrblock.com/tax-center/around-block/offers/hrblock-free-vs-turbotax-free/>.

¹¹² *See*, Lee, B., “2022 Step by Step EASY TurboTax Tutorial: How To File Your Own Taxes This Year!,” available at <https://www.youtube.com/watch?v=WwyDmU7iaSQ>.

¹¹³ Although the Novemsky Survey, *e.g.*, TAT265, allows respondents to indicate that they have considered such sources, there are many biases in the question design that encourage respondents to answer other options. *See*, **Section IV.B.3** for discussion of the flaws in TAT265.

blind to any hypotheses, as mentioning “Viewed advertisements” as a research method.¹¹⁴ Even when prompted with a closed-ended answer choice, only 26.4% of respondents selected “Viewed advertisements” as a research method.¹¹⁵ Of note, the vast majority of these respondents selected other research methods in addition to viewing advertisements. Only three respondents out of 125 (2.4%) in Tracks 2, 3, and 4 of my Purchase Driver Survey reported that they *only* “Viewed Advertisements” and/or “Reviewed Marketing Emails.”¹¹⁶

75. This significant amount of research by consumers is not surprising given consumers’ general understanding that for-profit companies earn revenue and do not provide everything for free. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]¹¹⁹

76. Together, this evidence shows that most consumers do not simply rely solely on a TurboTax advertisement like the advertising at-issue in this matter, and they do not go directly to filing after seeing an advertisement. Instead, most consumers engage in significant research using

¹¹⁴ **Exhibit 6b.**

¹¹⁵ **Exhibit 6a.**

¹¹⁶ In their open-ended responses, two of these respondents also alluded to conducting price comparisons between different services before choosing their method/provider. When asked about what research they conducted, respondent ID 767 noted, “I looked at prices online to compare,” and respondent ID 1179 described, “I looked at different prices for Tax services. I tried to determine how easy/difficult it would be to switch my information over from Turbo Tax. I looked at what safety measures store front tax prep services in my area were using in light of COVID.”

¹¹⁷ INTUIT-FFA-FTC-000139031-032. *See also*, Motion for Summary Decision, p. 8.

¹¹⁸ INTUIT-FFA-FTC-000549928-959 at 950.

¹¹⁹ [REDACTED]

a variety of methods. During this research, consumers are likely to encounter information about TurboTax Free Edition from Intuit, as well as a variety of popular, reputable consumer-facing sources, and are thus unlikely to be deceived as alleged by Complaint Counsel.

77. Consumers' willingness to conduct research is not limited to the time period before starting a return. The Kirk Fair Disclosure Survey¹²⁰ finds that a meaningful share of respondents indicated that, upon seeing an upgrade screen in the TurboTax "hard stop" upgrade process, respondents would pause and conduct further research to understand why they were being asked to upgrade, or respondents would shop around and see what other alternative tax preparation methods or providers would offer in terms of price and support.¹²¹ Even if consumers were motivated to start their return with TurboTax based on Intuit's Free Edition marketing as alleged by Complaint Counsel, these survey data suggest that consumers generally would conduct additional research to make sure the upgrade was the right next step for their tax situation.

B. My Purchase Driver Survey Demonstrates That "Free" Is Not a Universal Priority for Consumers in Selecting Tax Preparation Providers

78. My Purchase Driver Survey results indicate that, as one might expect, price is an important factor that respondents considered in choosing a tax preparation provider. However, respondents do not focus exclusively on price and, in fact, regularly separate the concept of a good or reasonable price from a desire for a *free* option.

79. My Purchase Driver Survey asked respondents to cite factors important to them in their choice of a tax preparation provider — respondents could cite a single factor or more than one factor. As with most products, price was the most frequently cited factor that was important to respondents in their choice of a tax preparation provider, with 70.4% of respondents indicating so.¹²² Critically, though, price is not the *only* factor consumers consider and having an interest in the price of a product is not the equivalent to seeking a "free" product. Respondents frequently

¹²⁰ For a brief description of the Kirk Fair Disclosure Survey, *see*, **Section V.D.**

¹²¹ Kirk Fair Declaration, Section V.C.

¹²² **Exhibit 8a.**

cited non-price factors such as ease of use (68.8%), confidence in the accuracy and reliability of the results (52.8%), and data security (45.6%) as important factors in their choice of a tax preparation method/provider.¹²³ On average, respondents reported 4.6 different product attributes that were important in their choice of a tax preparation method/provider, and 91.2% of respondents selected two or more factors.¹²⁴ Although consumers may consider price in their choices, they clearly also care about factors relating to the quality of the service they receive.

80. Many consumers consider price and quality-indicating factors as trade-offs when selecting a tax preparation provider. Academic literature finds that consumers tend to view higher priced products as higher quality or value.¹²⁵ Consumers form perceptions about price based on price tiers, which capture the range of acceptable prices for products in a particular category. Ultimately, consumers' perceived value of a product is informed, among other factors, by price, which also factors into consumers' ultimate purchase decisions.¹²⁶ Further, it is common that consumers pay more for products they perceive as higher quality or value, even if there is a free alternative. For example, consumers often choose to pay to purchase books or other media even if there is a library nearby offering free rentals. It is therefore reasonable that consumers could have preferences for alternatives other than the lowest priced tax filing option they can find.

81. Popular, consumer-facing websites publish reviews of TurboTax products, with several noting that while TurboTax is generally more expensive than other online options (though still less than in-person or accountants), it is worth the extra cost. For example:

- A 2021 *Nerdwallet* review noted that “TurboTax is generally pricier than everything else out there, but even though confident filers may not need all the bells

¹²³ **Exhibit 8a.**

¹²⁴ **Exhibit 9.**

¹²⁵ Keller, K. and Swaminathan, V., 2020. “*Strategic Brand Management - Building, Measuring and Managing Brand Equity.*” Pearson Education, Hoboken, New Jersey, pp. 160-161.

¹²⁶ Keller, K. and Swaminathan, V., 2020. “*Strategic Brand Management - Building, Measuring and Managing Brand Equity.*” Pearson Education, Hoboken, New Jersey, pp. 160-161.

and whistles that most TurboTax online products offer, many people will find the experience and the availability of human help worth the extra cost.”¹²⁷

- A 2022 *U.S. News & World Report* review similarly states “TurboTax retains the top spot in our annual analysis of the best tax software. While it’s not the cheapest option around, TurboTax provides the best overall user interface that makes it easy to do your taxes, efficiently handling most households’ needs for inputting your income from work, self-employment, investments, or rental properties, and most common deductions and credits.”¹²⁸
- A 2022 *Business Insider* review was even titled “TurboTax review: Not the cheapest online tax software, but good for complex situations”¹²⁹ and the current *Listen Money Matters* review highlights that “TurboTax offers accurate and user-friendly software. It’s a steal if you qualify to use it for free.”¹³⁰

82. Consumers’ consideration of “price” as part of this product choice does not mean that “free” is necessarily the only price the consumer will consider. In analyzing the open-ended responses from my Purchase Driver Survey, the independent judges identified two distinct concepts of “price” as a factor in respondents’ choices: “affordability” and “free service.”¹³¹ Some respondents indicated a preference for a “free service” (14.4%),¹³² while many more described the

¹²⁷ Orem, T., “TurboTax Review 2021,” *Nerdwallet*, March 15, 2021, available at <https://web.archive.org/web/20210403145347/https://www.nerdwallet.com/article/taxes/turbotax-review/>.

¹²⁸ Baluch, A., Van Bloom, C. and Rosenberg, A., “TurboTax Tax Software Review,” *U.S. News & World Report*, February 2, 2022, available at <https://www.usnews.com/360-reviews/technology/tax-software/turbotax>.

¹²⁹ Rosenberg, E., “TurboTax review: Not the cheapest online tax software, but good for complex situations,” *Insider*, March 24, 2022, available at <https://www.businessinsider.com/personal-finance/turbotax-review>.

¹³⁰ Ward, C., “TurboTax Review In-Depth: Does Free Really Mean Free?,” *Listen Money Matters*, available at <https://www.listenmoneymatters.com/turbo-tax-review/>. See also, Fiebert, A., “About Listen Money Matters,” *Listen Money Matters*, available at <https://www.listenmoneymatters.com/about/>.

¹³¹ See, **Appendix C, Section C.ii** for a discussion of the independent coding process.

¹³² For example, when asked about what product attributes were important to them, respondent ID 872 noted “that I could file for free. I could get help if [I] needed it.” Across all open-ended questions, there

“affordability” of the service as a key consideration (43.2%).¹³³ [REDACTED]

[REDACTED]

[REDACTED]

¹³⁴ More recently, a 2022 MITRE Report found that only 27% of respondents expressed an unwillingness to pay for “products or services to help [them] file their taxes,” while 29% of respondents expressed a willingness to pay up to \$50 and another 44% of respondents expressed a willingness to pay more than \$50.¹³⁵

83. This means that while some consumers may prioritize (and therefore seek out) free options, others would be willing to pay some amount in order to satisfy other preferences. Academic research distinguishes between different decision-making processes that consumers factor into purchase decisions, namely compensatory and non-compensatory processes. A compensatory decision-making process allows a preferred feature to balance out (“compensate

are a total of 18 respondents (14.4%) who the independent judges coded as preferring a “free service”. Any respondent who indicated a preference for “affordability” in one set of questions but free service in a different set of questions is counted as preferring a “free service.” See, **Exhibit 6b** and **Exhibit 8b** for the count of respondents that prefer a “free service” by group of open-ended questions.

¹³³ For example, when asked about what product attributes were important to them, respondent ID 767 noted “Easy convenient and reasonably priced.” Across all open-ended questions, there are a total of 54 respondents (43.2%) who the independent judges coded as prioritizing “affordability.” Any respondent who indicated a preference for “affordability” in one set of questions but free service in a different set of questions is counted as preferring a “free service.” See, **Exhibit 6b** and **Exhibit 8b** for the count of respondents that prioritize “affordability” by group of open-ended questions.

The remaining 53 respondents (42.4%) did not mention either “affordability” or “free service” their open-ended responses on important product attributes. Responses from these respondents include for example: “I’d like something that is easy to understand, easy to use, helps me make sense of my taxes, and gets the job done accurately,” (Respondent ID 84); “The ease of preparing, the accuracy of preparing, and making sure that I get the most out of my returns.” (Respondent ID 28). This finding is consistent with the 2022 MITRE Report which explains that their, “survey responses show clearly that the reasons for choosing filing methods are varied and cost is not always a factor. Many taxpayers, even if they’re aware of the program, will choose something different.” See, Patterson, J. et. al., “Final Report: Key Findings and Implications for the IRS Free File Program,” *The MITRE Corporation*, January 2022, p. 45.

¹³⁴ INTUIT-FFA-FTC-000139031-032.

¹³⁵ Patterson, J. et. al., “Final Report: Key Findings and Implications for the IRS Free File Program,” *The MITRE Corporation*, January 2022, Appendix F, tab a) Cost.

for”) a non-preferred feature in a product.¹³⁶ For example, a consumer may prefer non-sugary cereals but allow for increased calcium in the cereal to compensate for a high sugar content. In contrast, a non-compensatory decision-making process includes strict “must have” or “must not have” rules.¹³⁷ The purchase process for tax solutions is more likely non-compensatory than compensatory in that some consumers are likely to have a few “must have” features, based on their preferences or unique tax situation, that drive consideration and purchase rather than trading off all features in a service. When selecting among feature-rich products, such as the various tax solution services available to taxpayers, academic research also indicates that some consumers use non-compensatory heuristics to quickly narrow the set of alternatives from which to select.¹³⁸ This means that some consumers may prefer tax preparation solutions that have certain “must have” features even if the tax preparation solutions require a payment or fee. Even when the decision process is compensatory, the other features of the tax preparation solution, such as higher potential refund or more security in the accuracy of their return, can compensate for the price that is paid.

84. Complaint Counsel allege that TurboTax’s “door-opener” ads lure consumers to the TurboTax website with the “free” promise. However, the evidence shows that consumers care about more than just finding the lowest cost tax filing option or filing for free and thus a door-opener strategy would be ineffective. Consumers consider factors relating the quality and value of TurboTax relative to the price paid, rather than focusing exclusively on free offers. Even if the “free” offer may be enticing to some consumers, consumers will generally conduct research to

¹³⁶ Bettman, J., Luce, M. and Payne, J., 1998. “Constructive Consumer Choice Processes.” *Journal of Consumer Research*, 25, 187-217; Chakravarti, A. and Janiszewski, C., 2003. “The Influence of Macro-Level Motives on Consideration Set Composition in Novel Purchase Situations.” *Journal of Consumer Research*, 30(2), 244-258, p. 244.

¹³⁷ Bettman, J., Luce, M. and Payne, J., 1998. “Constructive Consumer Choice Processes.” *Journal of Consumer Research*, 25, 187-217, p. 190; Chakravarti, A. and Janiszewski, C., 2003. “The Influence of Macro-Level Motives on Consideration Set Composition in Novel Purchase Situations.” *Journal of Consumer Research*, 30(2), 244-258, p. 246.

¹³⁸ Ding, M. et al., 2011. “Unstructured Direct Elicitation of Decision Rules.” *Journal of Marketing Research*, 48(1), 116-127; Payne, J., 1976. “Task Complexity and Contingent Processing in Decision Making: An Information Search and Protocol Analysis.” *Organizational Behavior and Human Performance*, 16(2), 366-387, p. 366.

make their own assessment of the trade-off between price and features of the services they choose for this important task.

C. My Purchase Driver Survey Demonstrates That Most Consumers Do Not Feel “Locked In” To A Provider After Entering Information

85. Complaint Counsel allege that taxpayers are lured in to using TurboTax by the allegedly deceptive advertising and, after filling in their personal and financial information, face a “hard stop” upgrade screen.¹³⁹ Complaint Counsel imply that the inconvenience of changing to a different provider would coerce taxpayers to purchase the paid products to finish filing. While my Purchase Driver Survey was not designed to focus specifically on consumer actions after filling in their income and tax information, the results of my Purchase Driver Survey are consistent with the idea that consumers are comfortable conducting research even after starting a return online. In unaided open-ended questions, two respondents affirmatively reported that they had tried out tax preparation websites without filing. For example, one respondent said “I went to tax act as well as hr block to see which place would get more money..[sic] I went to each site and filled in all my W2 info, and answered any questions given so I could find tax breaks, turbo tax was more thorough.”¹⁴⁰ In aided closed-ended responses, 21.6% of respondents reported this sort of trial use.¹⁴¹ Real world data also demonstrate that consumers are willing to start and not finish their returns with TurboTax; in TY 2019, around 30% of users who logged into TurboTax Online never actually filed their taxes.¹⁴²

86. My Purchase Driver Survey results indicate that respondents change methods/providers. 43.3% of respondents either used or considered using a different

¹³⁹ Motion for Summary Decision, pp. 4-5; Complaint, ¶¶ 45-58.

¹⁴⁰ Respondent ID 1722.

¹⁴¹ **Exhibit 6a.**

¹⁴² Intuit, “Investor Day 2020,” September 23, 2020, p. 75, available at [https://s23.q4cdn.com/935127502/files/doc_presentations/2020/09/23/Intuit-Investor092320_POST_v8-\(2\).pdf](https://s23.q4cdn.com/935127502/files/doc_presentations/2020/09/23/Intuit-Investor092320_POST_v8-(2).pdf) (“51M logged into [TurboTax Online,]” “35.8M filed with [TurboTax Online,]” and 15.1M filers logged into TurboTax, but did not complete”).

method/provider than they used in the previous year.¹⁴³ Of the 103 respondents who indicated that they used TurboTax to prepare and file their taxes in 2021, 44 (42.7%) indicated that they considered using a different method/provider in 2021 but ultimately chose to use TurboTax again.

87. Tax preparation is what academics call a “repeated game.” Taxpayers must decide how to file their taxes each year and this decision is repeated year after year. Firms like Intuit rely heavily on repeat business from satisfied customers. In addition, firms often consider the “lifetime value of a consumer,” which depends upon the ability of the firm to retain its consumers year after year.¹⁴⁴ If consumers, as Complaint Counsel posit, felt deceived when they found they had to pay for a TurboTax product and *also* felt they could not reasonably change tax preparation methods at that point for that tax year, they would be unlikely to return to TurboTax in future years and TurboTax would lose that stream of revenue. [REDACTED]

[REDACTED]

[REDACTED]¹⁴⁵

88. My Purchase Driver Study finds that 47 out of 103 TurboTax users, 45.6%, used TurboTax in the previous year and did not consider switching (*i.e.*, sorted into Track 1). In open-ended responses, these respondents reported that this was because their current choice was familiar, satisfactory, and easy to use. For example, respondents noted that they didn’t consider another method/provider because “I was pleased with the service in prior years,” “I have always used Turbo Tax for filing my taxes because of how easy it was and the easy layout” and “I was satisfied with turbo tax and found it easy to use.”¹⁴⁶ This is consistent with TurboTax’s generally high

¹⁴³ Specifically, 11.0% of respondents “Used a different preparation method/provider in 2021” and 32.3% of respondents “Used the same preparation method/provider in 2021 and did consider using a different method/provider.” *See*, **Exhibit 4**. Similarly, the 2022 MITRE Report found that 49% of respondents “can see [themselves] switch[ing]” filing methods under certain circumstances. *See*, Patterson, J. et. al., “Final Report: Key Findings and Implications for the IRS Free File Program,” *The MITRE Corporation*, January 2022, Appendix F, tab b) Other methods considered.

¹⁴⁴ Lew, G., 2017. “The importance of customer lifetime value in determining their profitability.” *The Business and Management Review*, 8(4), 24-30, p. 24.

¹⁴⁵ [REDACTED]

¹⁴⁶ Respondent IDs 395, 297, and 92.

customer satisfaction ratings. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁴⁸ Users of TurboTax paid editions also left tens of thousands of 5-star reviews on the TurboTax website, further indicating their satisfaction with the tax filing process using TurboTax. For example, TurboTax Deluxe currently has more than 50,000 reviews, 78% of which have five stars. Only 3% of reviews have one star.¹⁴⁹

89. Evidence from my Purchase Driver Survey shows that consumers feel comfortable changing tax preparation providers even after starting their tax returns and will even do so strategically to find an appropriate tax solution for them. The high retention rates and customer satisfaction of existing TurboTax customers demonstrate that TurboTax customers are satisfied with their choice of TurboTax, rather than feeling duped or locked in. The Kirk Fair Disclosure Survey similarly finds that most consumers do not feel “locked into” filing their taxes with TurboTax.¹⁵⁰

D. The Kirk Fair Disclosure Survey Undermines Complaint Counsel’s Allegations that Consumers Were Deceived into Upgrading

90. The Kirk Fair Disclosure Survey tests whether consumers would respond to different information about alternative filing options as part of the hard stop upgrade process, including

¹⁴⁷ [REDACTED] Net Promoter Score (NPS) is a metric measuring consumer satisfaction where consumers rate on a scale of 0 - 10 how likely they would be to recommend a product to a friend. Customers who rate the product from 0 - 6 are considered “detractors,” while customers who rate the brand a 9 or 10 are called “promoters.” The NPS is then calculated by netting out detractors from promoters. *See*, Chen, E., “What is the Net Promoter Score (NPS)?” *MIT Orbit*, March 5, 2019, available at <https://orbit-kb.mit.edu/hc/en-us/articles/206440723-What-is-the-Net-Promoter-Score-NPS->.

¹⁴⁸ [REDACTED]

¹⁴⁹ “TurboTax Deluxe Reviews,” *Intuit TurboTax*, available at <https://turbotax.intuit.com/reviews/online/deluxe/?Sort=Rating:desc,SubmissionTime:desc,Helpfulness:desc>.

¹⁵⁰ Kirk Fair Declaration, Section V.B. For a brief description of the Kirk Fair Disclosure Survey, *see*, **Section V.D.**

additional information about other free filing options.¹⁵¹ That is, the Kirk Fair Disclosure Survey used a test and control experimental design in which respondents were randomly assigned to one of three groups: the “Representative Screen Group” of respondents saw an upgrade screen representing what TurboTax customers actually saw; the “Enhanced Information Screen Group” saw an upgrade screen that provided more information about free filing alternatives (specifically the IRS Free File Program);¹⁵² and the “Reduced Information Screen Group” saw an upgrade screen that provided respondents with limited information on alternative filing options.¹⁵³ Respondents were then asked a series of open-ended and closed-ended questions to understand respondents’ next steps after seeing the upgrade screen, including what tax preparation products they would consider and most likely choose to use.¹⁵⁴ All analyses were done to high scientific standards.

91. In this way, the Kirk Fair Disclosure Survey generally follows the process alleged in the Complaint and in the Motion for Summary Decision that consumers go through. Specifically, Complaint Counsel have suggested that consumers learn about TurboTax Free Edition via Intuit’s advertising, consumers visit the web page with expectations that they can file their return for free, then start a return still believing that they can file for free, only to be told in the middle of the process that they don’t qualify and must pay to file their taxes. If Complaint Counsel’s theory that reasonable consumers were deceived by Intuit’s advertisements, website communications, and disclosures were accurate, there are a few ways in which I would expect to see respondents in the Kirk Fair Disclosure Survey respond to the follow-up questions after seeing an upgrade screen.

¹⁵¹ Kirk Fair Declaration, Section IV. For a more detailed description of the Kirk Fair Disclosure Survey design, administration, and analysis, *see*, Kirk Fair Declaration, Appendix D pp. C1-C26.

¹⁵² The stimuli shown to the Enhanced Information Screen Group noted at the top of the upgrade screen in bold font: “**Based on what you told us about your tax situation, you’ll need to upgrade to accurately complete your taxes. Alternatively, you may be eligible to file for free through the IRS Free File Program.**” The stimuli also included the IRS Free File Program in the product table, allowing respondents to compare it directly alongside the TurboTax products.

¹⁵³ Kirk Fair Declaration, Section IV.

¹⁵⁴ Kirk Fair Declaration, Section IV. The target sample U.S. consumers over 18 years old who either (i) had filed taxes in 2019 (for 2018 income) or (ii) filed taxes in 2020 (for 2019 income); who used an online tax software to file their household taxes in 2019 or 2020; and who were the party primarily responsible for or substantially involved in preparing their household taxes. *See*, Kirk Fair Declaration, Appendix D, pp. C3-C4.

First, I would expect to see measurable differences in respondents' choices to upgrade to a TurboTax Paid Product across the three groups (Representative Screen, Reduced Information Screen, Enhanced Information Screen — each of which presents different information about filing options), but especially after sharing more detailed information about other free filing options in the Enhanced Information Screen Group. Second, I would expect to see a considerable number of open-ended responses consistent with respondents feeling like they “had no other choice” but to upgrade.

92. To the extent that consumers felt deceived or trapped upon seeing the TurboTax upgrade screen, I would expect to see that they would make different choices as far as which products they would most likely use to file their taxes based on the information provided in the upgrade screen. Importantly, by providing respondents with additional information about other free filing options (*i.e.*, the Enhanced Information Screen), I would expect to see fewer respondents choose to upgrade to TurboTax Paid products and more respondents choose to seek out these other free options, relative to TurboTax's representative upgrade screen. However, Ms. Kirk Fair finds that “consumers armed with more or less information about TurboTax Paid products do not alter their decisions about whether to upgrade or not.”¹⁵⁵ The Kirk Fair Disclosure Survey data indicate that respondents choose to upgrade to Paid TurboTax products (44%, 40%, and 46% in the Representative, Reduced, and Enhanced groups, respectively) at similar rates across conditions. The differences observed from adding incremental information (*i.e.*, Representative vs. Enhanced Information Screen groups) or removing information (*i.e.*, Representative vs. Reduced Information Screen groups) are small (2-4%) and not statistically significant.¹⁵⁶

93. Furthermore, to the extent that consumers felt deceived or trapped upon seeing the TurboTax upgrade screens, I would expect to find a considerable number of respondents whose open-ended responses reflect this sentiment. Yet, Ms. Kirk Fair's analysis of the open-ended

¹⁵⁵ Kirk Fair Declaration, ¶ 22.

¹⁵⁶ Kirk Fair Declaration, Exhibit 2.A.

response data “demonstrate respondents’ awareness of and willingness to consider other alternatives and to identify and use the appropriate product for their specific situation, whether that was TurboTax or an alternative provider.”¹⁵⁷ Nearly 39% of respondents provided responses indicating that they had the “agency to identify appropriate tax preparation products for their particular tax situation and preferences,” including those who said they would seek out an alternative product (15%), conduct additional research (17%), delete their account/exit the website (5%), upgrade based on what they understand about their tax situation (3%), or upgrade after conducting research (1%).¹⁵⁸ By comparison, Ms. Kirk Fair’s analysis found very few respondents (1-6%, overall) whose responses “indicated that they ‘had to’ upgrade or ‘couldn’t use Free Edition,’ i.e., they had no other choice.”¹⁵⁹

94. In sum, if consumers were deceived by Intuit’s advertising and representations about Free Edition, I would expect to see a substantial difference in the upgrade choices made across the experimental groups and to see a considerable number of open-ended responses reflecting this. The results of the Kirk Fair Disclosure Survey and analysis do not reflect these patterns, thus suggesting that consumers were not deceived.

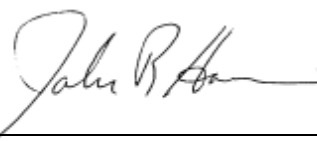
VI. CONCLUSION

95. The Novemsky Survey does not reliably assess whether Intuit’s advertisements, website communications, or disclosures caused consumers to have a misimpression that they would qualify to file for free with Free Edition. Each of the flaws I discuss above individually would render the survey unsuitable for its stated purpose, but when taken together, render the survey completely unreliable. By comparison, the properly designed surveys and rigorous analyses Ms. Kirk Fair and I have conducted speak directly to the current allegations. Taken together, I have seen no evidence that consumers were harmed by Intuit’s advertising, website communications, and disclosures.

¹⁵⁷ Kirk Fair Declaration, ¶ 26.

¹⁵⁸ Kirk Fair Declaration, ¶ 29; Exhibit 5.

¹⁵⁹ Kirk Fair Declaration, ¶ 32; Exhibits 5 and 6.

A handwritten signature in dark ink, appearing to read "John R. Hauser", written in a cursive style.

John R. Hauser

August 30, 2022

Exhibit 1
Survey Response Statistics

Status	Number of Respondents	% of Respondents
Total Survey Starts^[1]	1,797	100.0%
Screened out of survey, due to:	1,092	60.8%
Age ^[2]	240	13.4%
Gender ^[3]	37	2.1%
State ^[4]	1	0.1%
Employment ^[5]	69	3.8%
Participation in similar surveys ^[6]	89	5.0%
Did not file taxes in 2021 ^[7]	559	31.1%
Tax preparation method ^[8]	4	0.2%
Tax preparation role ^[9]	17	0.9%
Disqualified by panel provider ^[10]	29	1.6%
Failed attention check ^[11]	47	2.6%
Self Termination^[12]	166	9.2%
Exceeded Quota^[13]	239	13.3%
Completed Survey^[14]	300	16.7%
Completion Rate^[15]	64.4%	

Status	Number of Respondents	% of Respondents
Completed Survey	300	100.0%
Removed from analytical sample, due to:	18	6.0%
Non-Responsive Open Ended Responses ^[16]	5	1.7%
No Track ^[17]	3	1.0%
Filing Method - Other ^[18]	2	0.7%
FastTax Filing ^[19]	8	2.7%
Analytical Sample^[20]	282	94.0%

Notes:

[1] Includes only respondents who clicked on the survey and proceeded past the digital fingerprinting in S0 ("Please enter the code exactly as it appears in the image below, and then click continue") of the survey screener, had a non-duplicate IP address, an age and gender on file, and passed the Captcha Term

[2] Respondents who provided an age which did not match what panel provider had on file, said they were less than 18 years old or did not provide an age were screened out of the survey in S2

[3] Respondents who either selected "Other / Prefer not to answer" for gender or provided a gender which did not match their profile with panel provider were screened out of the survey in S3

[4] Respondents who selected "Other" in response to S4 were screened out of the survey

[5] Respondents who selected that they or a family member worked for "An accounting, tax, or a tax preparation service provider company," "A marketing, market research, or advertising agency," or "Your state or the federal government" in response to S5 were screened out of the survey

[6] Respondents who selected "Accounting or tax services" in response to S6 were screened out of the survey

[7] Respondents who did not select "Prepared and filed my household's taxes" in S7 were screened out of the survey

[8] Respondents who selected "Don't know / Unsure" in response to S8 were screened out of the survey

[9] Respondents who selected "I had little involvement in preparing my / our household taxes" or "Don't know / Unsure" in response to S10 were screened out of the survey

[10] Panel provider independently screened responses for quality based on open-ended responses, internal quality control flags, and survey complete time

[11] Respondents who either selected "Climbed Mount Kashoun" in response to S7, "FastTax Filing" in response to S9, or an incorrect response to S11 were screened out of the survey

[12] Respondents who self-terminated after proceeding past the digital fingerprinting in S0 were excluded from the survey

[13] Respondents who started the survey after the quota for their respective age, region, and gender had been filled were terminated

[14] Includes the 300 respondents who qualified for, and completed, the survey

[15] The completion rate is 64.4%, or: [completed survey]/[completed survey+self termination]

[16] Respondents who completed the survey but are excluded from the analytical sample as their open-ended responses were not responsive to the questions asked

[17] Respondents who completed the survey but are excluded from the analytical sample as they were not placed in a track (by indicating "Yes" in Q2: "Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?" and then "Don't know / Unsure" in Q3: "Did you or did you not consider using a different tax preparation method / provider this year?")

[18] Respondents who completed the survey but are excluded from the analytical sample as they answered "Other (Please Specify)" in response to S8

[19] Respondents who completed the survey but are excluded from the analytical sample as they selected "FastTax Filing" in response to F2

[20] The analytical sample is the remainder of respondents who completed the survey after the quality control steps as noted above were taken. Solely the analytical sample is used when referring to "All Respondents" in the following exhibits

Exhibit 2
Survey Response Statistics for Survey Completes

Demographic	Number of Respondents	% of Respondents
Gender ^[1]		
<i>Female</i>	153	54.3%
<i>Male</i>	129	45.7%
Age ^[2]		
<i>18 - 29 years old</i>	49	17.4%
<i>30 - 39 years old</i>	38	13.5%
<i>40 - 49 years old</i>	55	19.5%
<i>50 - 59 years old</i>	56	19.9%
<i>60 years old or older</i>	84	29.8%
Region ^[3]		
<i>Northeast</i>	51	18.1%
<i>Midwest</i>	67	23.8%
<i>South</i>	98	34.8%
<i>West</i>	66	23.4%
Household Income ^[4]		
<i>Less than \$25,000</i>	21	7.4%
<i>\$25,000 - \$49,999</i>	64	22.7%
<i>\$50,000 - \$74,999</i>	55	19.5%
<i>\$75,000 - \$99,999</i>	58	20.6%
<i>\$100,000 - \$150,000</i>	52	18.4%
<i>Greater than \$150,000</i>	25	8.9%
<i>Prefer not to answer</i>	7	2.5%
Total	282	100.0%

Notes:

[1] Respondents who selected their gender in response to S3 (“Please indicate your gender”).

[2] Respondents who selected their appropriate age bucket in response to S2 (“How old are you?”).

[3] Respondents who selected a state in response to S4 (“In what state do you currently reside?”) were categorized into census regions by panel provider.

[4] Respondents who selected their household income in response to F4 (“What was your total household income before taxes in 2020? As a reminder, all responses are anonymous.”).

Exhibit 3
Tabulation of Responses to S8 and S9

Question	Number of Respondents	% of Respondents
S8: Thinking about your personal income taxes filed in 2021, how did you prepare and file your taxes?		
I used an online tax website to prepare and file my / our household taxes ^[1]	190	67.4%
<i>TurboTax</i>	103	36.5%
<i>H&R Block</i>	22	7.8%
<i>TaxAct</i>	19	6.7%
<i>IRS FreeFile</i>	15	5.3%
<i>Credit Karma Tax</i>	10	3.5%
<i>TaxSlayer</i>	5	1.8%
<i>TaxHawk</i>	3	1.1%
<i>Liberty Tax</i>	2	0.7%
<i>Jackson Hewitt</i>	2	0.7%
<i>Other</i> ^[2]	7	2.5%
<i>Don't Know / Unsure</i>	2	0.7%
I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store)	46	16.3%
I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software)	37	13.1%
I self-prepared and filed my / our household taxes without using any service (e.g., I prepared my tax forms on paper, I manually filled in my tax forms online)	9	3.2%
Total	282	100.0%

Notes:

[1] People who selected this option for question S8 were asked S9: “You indicated that you used an online tax website to prepare and file your taxes in 2021. Which of the following online tax websites did you use to prepare and file your taxes in 2021?”

[2] All respondents who chose “Other” indicated that they used “FreeTaxUSA.”

Exhibit 4
Number of Respondents by Track

Name	Description	Number of Respondents	% of Respondents
Track 1 ^[1]	Used the same preparation method/provider in 2021 and did not consider using a different method/provider	157	55.7%
Track 2 ^[2]	Used the same preparation method/provider in 2021 and did consider using a different method/provider	91	32.3%
Track 3 ^[3]	Used a different preparation method/provider in 2021	31	11.0%
Track 4 ^[4]	Did not file taxes in 2020 / Didn't know	3	1.1%
Total		282	100.0%

Notes:

[1] Respondents in this track indicated “Yes” in Q2: “Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?” and then “No” in Q3: “Did you or did you not consider using a different tax preparation method / provider this year?”

[2] Respondents in this track indicated “Yes” in Q2: “Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?” and then “Yes” in Q3: “Did you or did you not consider using a different tax preparation method / provider this year?”

[3] Respondents in this track indicated “No” in Q2: “Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?”

[4] Respondents in this track indicated “I did not file taxes last year” or “Don't know / Unsure” in Q2: “Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?”

Exhibit 5
Tabulation of Responses to Consideration Open Ended Questions (Q4a, Q4b)
Respondents from Track 1

Question	Number of Respondents	% of Respondents^[2]
Q4a/b: In your own words, why did you not consider using another method / provider to prepare and file your taxes this year? ^[1]		
<i>Current choice is familiar</i>	96	61.1%
<i>Current choice is satisfactory</i>	76	48.4%
<i>Current choice is easy to use</i>	35	22.3%
<i>Past year's tax information is accessible</i>	32	20.4%
<i>Current choice is cost-effective</i>	24	15.3%
<i>Hesitant to learn new method</i>	10	6.4%
<i>Other methods researched were less preferable to current method / unavailable</i>	6	3.8%
<i>Not responsive to question</i>	0	0.0%
Total^[3]	157	

Notes:

[1] Answers to these open ended questions were coded into numerical 0-1 category variables by independent coders who were blind to the purpose of this analysis.

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected “None of the above” or “Don't Know / Unsure.”

[3] Total is inclusive of respondents who were shown the questions but did not provide a response.

Exhibit 6a
Tabulation of Responses to Research Methods Closed Ended Questions (Q6c, Q10c, Q13c)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents^[2]
Q6c, Q10c, Q13c: You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? ^[1]		
<i>Explored tax preparation software / service websites</i>	58	46.4%
<i>Spoke with friends / family</i>	54	43.2%
<i>Read customer reviews or testimonials</i>	47	37.6%
<i>Read articles, rankings, or third-party reviews</i>	46	36.8%
<i>Explored the IRS or state government websites</i>	33	26.4%
<i>Viewed advertisements</i>	33	26.4%
<i>Watched online tutorials / videos</i>	33	26.4%
<i>Tried out one or more online tax website(s) without filing</i>	27	21.6%
<i>Sought advice from a tax professional</i>	24	19.2%
<i>Reviewed marketing emails</i>	19	15.2%
<i>None of the above</i>	12	9.6%
<i>Other</i>	2	1.6%
<i>Don't Know / Unsure</i>	0	0.0%
Total	125	

Notes:

[1] Respondents who selected their chosen research method(s) in response to Q6c, Q10c, or Q13c.

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected “None of the above” or “Don't Know / Unsure.”

Exhibit 6b
Tabulation of Responses to Research Methods Open Ended Questions (Q6a, Q6b, Q10a, Q10b, Q13a, Q13b) and Anything Else (Q8, Q12, Q15)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents^[2]
Q6a/b, Q10a/b, Q13a/b: What, if any, research did you conduct into potential tax preparation methods / providers? ^[1]		
Research Method		
<i>Search engine</i>	48	38.4%
<i>Explored tax preparation software / service websites</i>	23	18.4%
<i>Read customer reviews or testimonials</i>	14	11.2%
<i>Spoke with friends / family</i>	13	10.4%
<i>No research</i>	11	8.8%
<i>Read articles, rankings, or third-party reviews</i>	10	8.0%
<i>Not responsive to question</i>	5	4.0%
<i>Watched online tutorials / videos</i>	4	3.2%
<i>Viewed advertisements</i>	3	2.4%
<i>Sought advice from a tax professional</i>	3	2.4%
<i>Tried out one or more online tax website(s) without filing</i>	2	1.6%
<i>Explored the IRS or state government websites</i>	1	0.8%
<i>Reviewed marketing emails</i>		
Research Topic		
<i>Researched affordable providers</i>	27	21.6%
<i>Researched free providers</i>	9	7.2%
<i>Researched providers based on convenience / ease of use</i>	8	6.4%
<i>Researched local options</i>	5	4.0%
<i>Researched reliable option</i>	3	2.4%
<i>Researched providers that would help with getting the highest return</i>	3	2.4%
<i>Researched methods that provide fast return</i>	2	1.6%
Total^[3]	125	

Notes:

[1] Answers to these open ended questions were coded into numerical 0-1 category variables by independent coders who were blind to the purpose of this analysis.

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected “None of the above” or “Don't Know / Unsure.”

[3] Total is inclusive of respondents who were shown the questions but did not provide a response.

[4] Statistics include research methods mentioned in research method open-ended questions (Q6a, Q6b, Q10a, Q10b, Q13a, Q13b) and anything else questions (Q8, Q12, Q15).

Exhibit 7
Frequency Tabulation of Responses to Research Methods Closed Ended Questions (Q6c, Q10c, Q13c)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents
Q6c, Q10c, Q13c: You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers?		
Number of Research Methods Selected^[1]		
0	12	9.6%
1	21	16.8%
2	20	16.0%
3	31	24.8%
4	16	12.8%
5	11	8.8%
6	6	4.8%
7	3	2.4%
8	2	1.6%
9	0	0.0%
10	3	2.4%
Average	3.0	
Total	125	100.0%

Note:

[1] Respondents who selected “None of the above” or “Don't Know / Unsure” fall under “0” Research Methods Selected.

Exhibit 8a
Tabulation of Responses to Important Factors Closed Ended Questions (Q7c, Q11c, Q14c)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents^[2]
Q7c, Q11c, Q14c: You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider? ^[1]		
<i>Price</i>	88	70.4%
<i>Ease of use</i>	86	68.8%
<i>Confidence in accuracy / reliability</i>	66	52.8%
<i>Data security</i>	57	45.6%
<i>Tax refund amount</i>	47	37.6%
<i>Brand / reputation</i>	47	37.6%
<i>Getting refund quickly</i>	35	28.0%
<i>Past experience with the tax preparation method / provider</i>	35	28.0%
<i>Accessing last year's tax information</i>	34	27.2%
<i>Having expert help / individualized attention</i>	33	26.4%
<i>Recommendations from friends / family</i>	24	19.2%
<i>Availability of additional services from the same provider</i>	21	16.8%
<i>Other</i>	1	0.8%
<i>None of the above</i>	1	0.8%
<i>Don't Know / Unsure</i>	0	0.0%
Total	125	

Notes:

[1] Respondents who selected their most important factors in response to Q7c, Q11c, or Q14c.

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected "None of the above" or "Don't Know / Unsure."

Exhibit 8b

Tabulation of Responses to Important Factors Open Ended Questions (Q7a, Q7b, Q11a, Q11b, Q14a, Q14b) and Anything Else (Q8, Q12, Q15)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents^[2]
Q7a/b, Q11a/b, Q14a/b: In your own words, what factors were important to you when choosing a tax preparation method / provider? ^[1]		
<i>Affordability</i>	51	40.8%
<i>Ease of use</i>	40	32.0%
<i>Confidence in accuracy / reliability</i>	33	26.4%
<i>Brand / reputation</i>	17	13.6%
<i>Free service</i>	16	12.8%
<i>Efficiency / Time spent filing</i>	13	10.4%
<i>Having expert help / individualized attention</i>	10	8.0%
<i>Tax refund amount</i>	10	8.0%
<i>Past experience with the tax preparation method / provider</i>	7	5.6%
<i>Getting refund quickly</i>	7	5.6%
<i>Data security</i>	4	3.2%
<i>Accessing last year's tax information within platform</i>	4	3.2%
<i>Not responsive to question</i>	4	3.2%
<i>Support regarding filing mistakes and audits</i>	3	2.4%
<i>Recommendations from friends / family</i>	2	1.6%
<i>No factors</i>	2	1.6%
<i>Availability of additional services from the same provider</i>	1	0.8%
<i>In-person provider following COVID guidelines</i>	1	0.8%
<i>Ease of transferring past tax information to a new platform</i>	1	0.8%
<i>IRS approved</i>	1	0.8%
Total^[3]	125	

Notes:

[1] Answers to these open ended questions were coded into numerical 0-1 category variables by independent coders who were blind to the purpose of this analysis.

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected "None of the above" or "Don't Know / Unsure."

[3] Total is inclusive of respondents who were shown the questions but did not provide a response.

[4] Statistics include factors mentioned in factor open-ended questions (Q7a, Q7b, Q11a, Q11b, Q14a, Q14b) and anything else questions (Q8, Q12, Q15).

Exhibit 9
Frequency Tabulation of Responses to Important Factors Closed Ended Questions (Q7c, Q11c, Q14c)
Respondents from Track 2, Track 3, and Track 4

Question	Number of Respondents	% of Respondents
Q7c, Q11c, Q14c: You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider?		
Number of Important Factors Selected^[1]		
0	1	0.8%
1	10	8.0%
2	14	11.2%
3	26	20.8%
4	23	18.4%
5	17	13.6%
6	11	8.8%
7	4	3.2%
8	6	4.8%
9	4	3.2%
10	1	0.8%
11	3	2.4%
12	5	4.0%
Average	4.6	
Total	125	100.0%

Note:

[1] Respondents who selected “None of the above” or “Don't Know / Unsure” fall under “0” Factors Selected.

Exhibit 10 Sensitivity
Tabulation of Responses to Research Methods Closed Ended Questions (Q6c, Q10c, Q13c)
Respondents from Track 2, Track 3, and Track 4

Question	Main Analytical Sample		All Respondents ^[3]		TurboTax Online Users ^[4]		No Speeders or Laggards ^[5]		Non-Litigation Aware ^[6]	
	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]
Q6c, Q10c, Q13c: You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? ^[1]										
<i>Explored tax preparation software / service websites</i>	58	46.4%	65	47.1%	29	51.8%	57	47.5%	40	47.6%
<i>Spoke with friends / family</i>	54	43.2%	58	42.0%	26	46.4%	51	42.5%	38	45.2%
<i>Read customer reviews or testimonials</i>	47	37.6%	53	38.4%	23	41.1%	44	36.7%	28	33.3%
<i>Read articles, rankings, or third-party reviews</i>	46	36.8%	52	37.7%	25	44.6%	45	37.5%	29	34.5%
<i>Explored the IRS or state government websites</i>	33	26.4%	38	27.5%	17	30.4%	31	25.8%	23	27.4%
<i>Viewed advertisements</i>	33	26.4%	38	27.5%	12	21.4%	32	26.7%	21	25.0%
<i>Watched online tutorials / videos</i>	33	26.4%	40	29.0%	18	32.1%	30	25.0%	22	26.2%
<i>Tried out one or more online tax website(s) without filing</i>	27	21.6%	30	21.7%	13	23.2%	25	20.8%	17	20.2%
<i>Sought advice from a tax professional</i>	24	19.2%	28	20.3%	14	25.0%	23	19.2%	15	17.9%
<i>Reviewed marketing emails</i>	19	15.2%	23	16.7%	6	10.7%	17	14.2%	11	13.1%
<i>None of the above</i>	12	9.6%	12	8.7%	3	5.4%	12	10.0%	7	8.3%
<i>Other</i>	2	1.6%	2	1.4%	0	0.0%	2	1.7%	1	1.2%
<i>Don't Know / Unsure</i>	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	125		138		56		120		84	

Notes:

[1] Respondents who selected their chosen research method(s) in response to Q6c, Q10c, or Q13c

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected "None of the above" or "Don't Know / Unsure "

[3] Includes all respondents who completed the Purchase Driver Survey, without exclusions that lead to the formation of the Main Analytical Sample

[4] Includes respondents in the Main Analytical Sample who selected "TurboTax" to question S9 ("You indicated that you used an online tax website to prepare and file your taxes in 2021. Which of the following online tax websites did you use to prepare and file your taxes in 2021?")

[5] Includes respondents in the Main Analytical Sample who took longer than 2 minutes and shorter than 30 minutes to complete the survey

[6] Includes respondents in the Main Analytical Sample who selected "No, I am not aware of any media reports, investigations, or lawsuits" in response to question F3 ("Are you or are you not aware of any media reports, investigations, or lawsuits involving a tax preparation website / software provider or accounting company?")

Exhibit 11 Sensitivity
Tabulation of Responses to Important Factors Closed Ended Questions (Q7c, Q11c, Q14c)
Respondents from Track 2, Track 3, and Track 4

Question	Main Analytical Sample		All Respondents ^[3]		TurboTax Online Users ^[4]		No Speeders or Laggards ^[5]		Non-Litigation Aware ^[6]	
	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]	Number of Respondents	% of Respondents ^[2]
Q7c, Q11c, Q14c: You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider? ^[1]										
<i>Price</i>	88	70.4%	93	67.4%	37	66.1%	86	71.7%	63	75.0%
<i>Ease of use</i>	86	68.8%	90	65.2%	36	64.3%	81	67.5%	56	66.7%
<i>Confidence in accuracy / reliability</i>	66	52.8%	70	50.7%	33	58.9%	63	52.5%	52	61.9%
<i>Data security</i>	57	45.6%	64	46.4%	25	44.6%	54	45.0%	36	42.9%
<i>Tax refund amount</i>	47	37.6%	54	39.1%	21	37.5%	45	37.5%	29	34.5%
<i>Brand / reputation</i>	47	37.6%	53	38.4%	21	37.5%	46	38.3%	33	39.3%
<i>Getting refund quickly</i>	35	28.0%	41	29.7%	16	28.6%	33	27.5%	23	27.4%
<i>Past experience with the tax preparation method / provider</i>	35	28.0%	38	27.5%	17	30.4%	34	28.3%	26	31.0%
<i>Accessing last year's tax information</i>	34	27.2%	37	26.8%	16	28.6%	31	25.8%	20	23.8%
<i>Having expert help / individualized attention</i>	33	26.4%	36	26.1%	15	26.8%	32	26.7%	23	27.4%
<i>Recommendations from friends / family</i>	24	19.2%	30	21.7%	11	19.6%	23	19.2%	16	19.0%
<i>Availability of additional services from the same provider</i>	21	16.8%	26	18.8%	10	17.9%	19	15.8%	10	11.9%
<i>Other</i>	1	0.8%	1	0.7%	0	0.0%	1	0.8%	1	1.2%
<i>None of the above</i>	1	0.8%	1	0.7%	1	1.8%	1	0.8%	1	1.2%
<i>Don't Know / Unsure</i>	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	125		138		56		120		84	

Notes:

[1] Respondents who selected their most important factors in response to Q7c, Q11c, or Q14c

[2] The percentages exceed 100% as respondents were allowed to select multiple responses unless they selected "None of the above" or "Don't Know / Unsure "

[3] Includes all respondents who completed the Purchase Driver Survey, without exclusions that lead to the formation of the Main Analytical Sample

[4] Includes respondents in the Main Analytical Sample who selected "TurboTax" to question S9 ("You indicated that you used an online tax website to prepare and file your taxes in 2021 Which of the following online tax websites did you use to prepare and

[5] Includes respondents in the Main Analytical Sample who took longer than 2 minutes and shorter than 30 minutes to complete the survey

[6] Includes respondents in the Main Analytical Sample who selected "No, I am not aware of any media reports, investigations, or lawsuits" in response to question F3 ("Are you or are you not aware of any media reports, investigations, or lawsuits involving a tax preparation website / software provider or accounting company?")

APPENDIX A
CV AND TESTIMONY LIST

Updated March 2022

ACADEMIC VITA
John R. Hauser

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Education

- Sc.D. M.I.T., 1975, Operations Research Dissertation: "A Normative Methodology for Predicting Consumer Response to Design Decisions: Issues, Models, Theory and Use."
Advisor: John D. C. Little. Committee members: Glen L. Urban and Moshe Ben-Akiva.
- S.M. M.I.T., 1973, Civil Engineering (Transportation Systems Division)
- S.M. M.I.T., 1973, Electrical Engineering
- S.B. M.I.T., 1973, Electrical Engineering
Joint Thesis (S.M.'s and S.B.): "An Efficient Method to Predict the Impacts of Operating Decisions for Conventional Bus Systems." Advisor: Nigel Wilson.

Honorary Degree

Doctor Honoris Causa, Erasmus School of Economics, Erasmus University, Dies Natalis 2016.

Lifetime Achievement Awards

- Buck Weaver Award 2013, INFORMS Society of Marketing Science (ISMS). This award recognizes lifetime contributions to the theory and practice of marketing science.
- Parlin Award 2001, The American Marketing Association describes this award as "the oldest and most distinguished award in the marketing research field."
- Converse Award 1996, the American Marketing Association, for "outstanding contributions to the development of the science of marketing."
- Churchill Award 2011, the American Marketing Association, Market Research Special Interest Group, for "Lifetime achievement in the academic study of marketing research."
- Fellow of the Institute for Operations Research and Management Science (INFORMS)
- Inaugural Fellow of the INFORMS Society of Marketing Science (ISMS)
- Highly Cited Researcher (ISI Web of Science), Since 2006.

Awards for Published Papers

INFORMS Society of Marketing Science John D.C. Little Best-paper Award 2020, Finalist

(formerly The Institute of Management Science)	<p>ISMS Long Term Impact Award, 2019, Finalist ISMS Long Term Impact Award, 2018, Finalist ISMS Long Term Impact Award, 2017, Finalist ISMS Long Term Impact Award, 2012, Finalist ISMS Long Term Impact Award, 2011, Finalist John D.C. Little Best-paper Award, 2015, Finalist John D.C. Little Best-paper Award, 2009, Finalist John D.C. Little Best-paper Award, 2003, First Place John D.C. Little Best-paper Award, 1998, Finalist John D.C. Little Best-paper Award, 1994, Finalist John D.C. Little Best-paper Award, 1993, First Place John D.C. Little Best-paper Award, 1990, Honorable Mention Best paper in Marketing Sciences Literature, 1984, Honorable mention. Best Paper in Marketing Sciences Literature, 1983, First Place. Best Paper in Marketing Sciences Literature, 1982, First Place. Two published articles were cited in 2007 as one of “the top 20 marketing science articles in the past 25 years.</p>
American Marketing Association:	<p>Explor Award (Leadership is on-line market research), 2004, First-Place Finalist, Paul Green Award for contributions to marketing research, 2004 MSI Award for Most Significant Contribution to Practice of Marketing in 1996. Finalist, O'dell Award for best paper in the <i>Journal of Marketing Research</i>, published in 1986, awarded in 1991.</p> <p>One of the top 50 most prolific marketing scholars (top journals) in the last 25 years (1982-2006). Total articles, rate of publication, and author-adjusted rate.</p>
Product Development Management Assoc.	<p>Best Paper Award, Finalist, 2003. Best Paper Award, Finalist, 2002. One of ten most-cited papers in the <i>Journal of Product Innovation Management</i>. One of the top articles in educational citations in the last twenty years.</p>
European Marketing Academy	Best Paper in <i>IJRM</i> , Finalist, 2014
Sawtooth Software Conference	Best Presentation and Paper, 2006; Runner-up, 2008, Honorable Mention, 2016.
European Society of Marketing Research	Best Paper at Rome conference, September 1984.
Emerald Management Reviews	2010 Citation of Excellence (top 50 of 15,000 published papers in 2009)
Doctoral Consortia Faculty	<p>American Marketing Association, 1979, 1984, 1985, 1986, 1988, 1989, 1991, 1993, 1995, 1997, 1998, 2001, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2012, 2013, 2014.</p> <p>INFORMS Society of Marketing Science, 2002 (founding member), 2003, 2004, 2012, 2014, 2015, 2017, 2018.</p>
<i>Awards, Teaching</i>	European Marketing Academy, 1985
MIT Sloan School of Management:	<p>Nominated for Excellence in Teaching Award 2000, 2007, 2008, 2020 Named "Outstanding Faculty" by <i>Business Week Guide to the Best Business Schools</i> (1995).</p> <p>Excellence in Teaching Award 1994 (Awarded by the Master's Student class).</p>
<i>Awards for Thesis Supervision</i>	

American Marketing Association (Ph.D.):	Winner John Howard Dissertation Award (2010, Matt Selove, Committee) Co-winner John Howard Dissertation Award (2005, Olivier Toubia) 1st Place (1981, Ken Wisniewski) Honorable Mention (1979, Patricia Simmie).
INFORMS (Ph.D.)	ISMS Doctoral Dissertation Proposal Award (2016, Artem Timoshenko) Winner of the Frank Bass Award (2004, Olivier Toubia, awarded 2005) Winner of the Frank Bass Award (1989, Abbie Griffin, awarded 1995)
MIT Sloan School of Management (Ph.D.):	1st Place (1987, Peter Fader)
MIT Sloan School of Management (Master's):	1st Place (1991, Jon Silver and John Thompson) 1st Place (1983, Steve Gaskin) Honorable Mention (1982, Larry Kahn).
Marketing Science Institute	MSI Alden G. Clayton Doctoral Dissertation Proposal Competition 2017, Artem Timoshenko

Awards, Other

Who's Who in America	Since 1997
Who's Who in Management Science	Since 2000
Who's Who in Economics	Since 2003
Who's Who in Finance and Business	Since 2009
Harvard Business School:	Marvin Bower Fellow, 1987 - 1988.
National Science Foundation Fellowship:	1971 - 1974.
M.I.T.	National Scholar, 1967 - 1971.
Honor Societies:	Tau Beta Pi, Eta Kappa Nu, Sigma Xi

Directorships, Trustee, Advisory Board

2016 – Present	Founder, Board of Directors, Hyper Morphing Technologies, B.V.
1988 – Present	Founder, Senior Product Development Consultant at Applied Marketing Science, Inc.
March 2003 – July 2009	Trustee, Marketing Science Institute

Academic Appointments

January 1989 - Present	Kirin Professor of Marketing MIT Sloan School of Management Massachusetts Institute of Technology Cambridge, Massachusetts 02142
July 2017 – present	Head, Marketing Group
January 2020-June 2020	Acting Area Head, Management Science Area and member of Governance Committee
July 2010 – June 2011	Head, Marketing Group
July 2005 – June 2009	Area Head, Management Science Area

July 1988 – June 2003	Head, Marketing Group
September 1993 - May 2000	co-Director, International Center for Research on the Management of Technology
September 1997 - May 2000	Research Director, Center for Innovation in Product Development
June 2001 – June 2006	Virtual Customer Initiative Leader, Center for Innovation in Product Development
July 1984 - January 1989	Professor of Management Science MIT Sloan School of Management Massachusetts Institute of Technology Cambridge, Massachusetts 02142
July 1987 - June 1988	Marvin Bower Fellow Harvard Business School Harvard University Cambridge, Massachusetts 02163
March 1985 - May 1985	Visiting Lecturer European Institute of Business Administration Fontainebleau, FRANCE
September 1980 - June 1984	Associate Professor of Management Science MIT Sloan School of Management Massachusetts Institute of Technology Cambridge, Massachusetts 02142
September 1975 - August 1980	Assistant Professor of Marketing and of Transportation (granted tenure and promoted in 1980) Graduate School of Management and Transportation Center Northwestern University Evanston, Illinois 60201

Teaching Interests

Marketing Management, New Product and Service Development, Competitive Marketing Strategy, Marketing Models, Measurement and Marketing Research, Research Methodology, Marketing Analytics.

Research Interests

Consumer decision measurement: conjoint analysis, non-compensatory methods, adaptive methods, machine-learning methods, strategic importance of accuracy. Product forecasting: information acceleration, really-new products, incentive-aligned games. Consumer behavior: cognitive simplicity in decision making and in dynamic models, theory-based models, vivid stimuli. Morphing: website, banner, product assortment. Voice of the customer methods, defensive and competitive strategy, new product development, experimental and quasi-experimental methods.

Books

Hauser, John R. and Glen L. Urban (2016), *From Little's Law to Marketing Science: Essays in Honor of John D. C. Little*, MIT Press: Cambridge MA.

This is an edited volume that serves as a Festschrift to honor the lifetime achievements of John D. C. Little.

Urban, Glen L. and John R. Hauser (1993), *Design and Marketing of New Products*, 2E, Prentice-Hall.

A comprehensive text that integrates advanced, state-of-the-art techniques to provide graduate-level students and marketing professionals with an understanding of the techniques and an operating ability to design, test, and implement new products and services.

This text has been honored by being selected for both the Prentice-Hall International Series in Management and the Series in Marketing. It has been adopted at a number of major universities. In a 1988 survey it was identified the 1980 version as the most widely used new product textbook at the graduate level.

The revision includes new material on designing for quality, reduced cycle times, prelaunch forecasting, quality improvement, defensive and competitive strategy, value mapping, the integration of marketing and engineering, new issues of organization, customer satisfaction, and new international examples. It is available in Korean and is being translated into Japanese and Chinese. Many current texts draw heavily from our material.

Third most cited work in the *Journal of Product Innovation*, 1984-2004. (Cited May 2010.)

Urban, Glen L., John R. Hauser, and Niki Dholakia (1986), *Essentials of New Product Management*, Prentice Hall.

This is an undergraduate textbook which presents the essential concepts but written for a non-technical audience. It has been translated to Japanese and has sold well in Japan.

Hauser, John R. (1986), *Applying Marketing Management: Four Simulations*, Scientific Press.

This mini-text and software package contains four tutorial exercises for marketing management concepts. With this package students learn positioning, competitive strategy, new product development, and life cycle forecasting while using the personal computer to simulate marketing management problems. A detailed instructor's manual and transparency masters are also available. It is available in Japanese.

Hauser, John R. (1989), *ENTERPRISE: An Integrating Management Exercise*, Scientific Press.

This mini-text and software package contains a comprehensive competitive simulation. Students compete in six markets by making marketing and production decisions. A detailed instructor's manual and administrative software is also available. It is available in Japanese.

Journal Editor

Marketing Science, Editor-in-Chief for volumes 8, 9, 10, 11, 12, and 13 (1989-1994). Four issues per year including periodic editorials and journal management. Processed about 120 new papers per year. Special Editor for issues on the Theory and Practice of Marketing (2014) and Big Data (2016).

Journal Publications (Almost all available for download at web.mit.edu/hauser/www.)

Citations Reports: Google Scholar: 31,136 citations, H-index of 61. Visited December 23, 2021.

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Finalist, INFORMS Society for Marketing Science Long Term Impact Award, 2017, 2018, 2019

2010 Emerald Management Reviews Citation of Excellence for one of best articles published in the top 400 business and management journals in 2009. (Top 50 of 15,000 articles.)

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Hauser, John R., and Frank S. Koppelman (1979), "An Empirical Comparison of Techniques to Model Consumer Perceptions and Preferences," in A. D. Shocker, ed., *Analytic Approaches to Product and Marketing Planning*, (Marketing Science Institute: Cambridge, Massachusetts), 216-238.

Tybout, Alice M., John R. Hauser, and Frank S. Koppelman (1977), "Consumer-Oriented Transportation Planning: An Integrated Methodology for Modeling Consumer Perceptions, Preferences and Behavior," *Advances in Consumer Research*, Vol. 5, (Chicago, Illinois), October.

Hauser, John R. and Steven M. Shugan (1977), "Extended Conjoint Analysis with Intensity Measures and Computer Assisted Interviews: Applications to Telecommunications and Travel," *Advances in Consumer Research*, Vol. 5, (Chicago, Illinois), October.

Hauser, John R. and Frank S. Koppelman (1977), "Designing Transportation Services: A Marketing Approach," *Proceedings of the Transportation Research Forum*, (Atlanta, GA), October, 638-652.

Hauser, John R. and Peter R. Stopher (1976), "Choosing an Objective Function Based on Modeling Consumer Perceptions and Preferences," *Proceedings of the International Conference on Cybernetics and Society*, (Washington, D.C.), November, 26-31.

Magazine Article, Etc.

Hauser, John R. (2017). "How companies like United and Wells Fargo can win back consumer trust." *The Conversation*, April 19, 2017.

Chintagunta, Pradeep, Dominique Hanssens, John R. Hauser (2016), "Marketing and Data Science: Together the Future is Ours," forthcoming, *The GfK Marketing Intelligence Review*, Special Issue on Data Science, November 2016

Hauser, John R., Abbie Griffin, and Steve Gaskin (2011), "The House of Quality," *Wiley International Encyclopedia of Marketing*, (Chichester, West Sussex UK: John Wiley & Sons, Ltd.).

Abbie Griffin, Steve Gaskin, Robert Klein, Gerry Katz, and John R. Hauser (2009), "The Voice of the Customer," *Wiley International Encyclopedia of Marketing*, (Chichester, West Sussex UK: John Wiley & Sons, Ltd.).

Hauser, John R. (2002), "Marketing Makes a Difference," *Marketing Management*, (January/February), 11, 1, 46-47.

Hauser, John R. (2000), "Going Overboard on Platforms," *AMS Voices*, 8.

Hauser, John R. (1997), "The Problem with Pinball," *AMS Voices*, 4.

Hauser, John R. (1996), "You Are What You Measure," *AMS Voices*, 1.

Hauser, John R. (1995), "Internal Customers," *Insight*, 4, 1.

Hauser, John R. (1994), "Quality Function Deployment," *Marketing Encyclopedia for the Year 2000*, Jeffrey Heilbrunn, ed., American Marketing Association, Chicago, IL, 60606.

Hauser, John R. (1993), "Are Customer-Satisfaction Programs Profitable?," *Insight*, 3.

Hauser, John R. (1988), "Customer Driven Engineering," *Design News*, (July 18), p. 50.

Hauser, John R. and Robert L. Klein (1988), "Without Good Research, Quality is a Shot in the Dark," *Marketing News*, Vol. 22, No. 1, January 4. Page 1.

Hauser, John R. (1986), "'Defender' Helps Mature Brands Ward off New Foes," *Marketing Educator*, 5, 3, (Fall), 5.

Working Papers

Dzyabura, Daria, Siham El Kihal, John R. Hauser, and Marat Ibragimov (2022), "Leveraging the Power of Images in Predicting Product Return Rates," (Cambridge, MA: MIT Sloan School of Management). Under third review, *Marketing Science*.

Burnap, Alex and John R. Hauser (2022), "Design and Evaluation of Product Aesthetics: A Human-Machine Hybrid Approach," (Cambridge, MA: MIT Sloan School of Management). Under third review, *Marketing Science*.

Burnap, Alex and John R. Hauser (2021), "Predicting "Design Gaps" in the Market: Deep Consumer Choice Models under Probabilistic Design Constraints," (Cambridge, MA: MIT Sloan School of Management). In draft.

Eggers, Felix, John R. Hauser, Matthew Selove (2017), "Scale Matters: How Craft in Conjoint Analysis Affects Price and Positioning Strategies," (Cambridge, MA: MIT Sloan School of Management).

Ibragimov, Marat, Siham El Kihal, and John R. Hauser (2021), "Customer Search and Product Returns," Cambridge, MA: MIT Sloan School of Management). In draft.

Liberali, Gui, Eric Boersma, Hester Lingsma, Jasper Brugts, Diederik Dippel, John R. Hauser (2021), "Adaptation of Bayesian Trials in the Presence of Interim Information," (Rotterdam, NL: Erasmus University).

Classic Working Papers (Support published papers with additional information)

Braun, Michael, Clarence Lee, Glen L. Urban, and John R. Hauser (2009), "Does Matching Website Characteristics to Cognitive Styles Increase Online Sales?," (Cambridge, MA: MIT Sloan School of Management).

Zettelmeyer, Florian and John R. Hauser (1995), "Metrics to Evaluate R&D Groups: Phase I, Qualitative Interviews," Working Paper, International Center for Research on the Management of Technology, MIT, Cambridge, MA, 02142.

Hauser, John R. (1991), "Comparison of Importance Measurement Methodologies and their Relationship to Consumer Satisfaction," (Cambridge, MA: MIT Sloan School of Management).

Shugan, Steven M. and John R. Hauser (1978), "Designing and Building a Marketing Research Information System," Working Paper, Northwestern University, Evanston, IL.

Research in Progress

Design gaps in product development using deep learning

Search and returns.

Fractional updating for Multi-arm bandit approaches to the design of randomized medical clinical trials

Research Reports (not otherwise listed)

Hauser, John R. (1996), "R&D Metrics: An Annotated Bibliography," ICRMOT Working Paper, M.I.T., Cambridge, MA 02142. (June) Also available as a Marketing Science Institute Working Paper (November).

Hauser, John R. and Greg Cirmak (1987), "Consumer Driven Engineering for the CHEK Automobiles," Information Resources, Inc. Report to General Motors, Inc. Details the results of a major study on consumer perceptions and preferences of luxury automobiles. April.

Hauser, John R. (1983), "Critique of Market Studies for Cellular Radio Telephone:. Affidavits before the FCC evaluating market studies, June and September.

Hauser, John R. (1983), "Forecasts of Demand and Cellular Radio Telephone,: Affidavits before the FCC for five major and nine minor markets. June and April.

Hauser, John R., and J. Bertan (1982), "Auto Show Interviews," Internal Report to Buick Division of General Motors, June.

Hauser, John R., and Kenneth J. Wisniewski (1981), "Monitoring the Implementation of Innovative Transportation Services, Phase I: Final Report," Technical Report to the Urban Mass Transit Administration, Research Grant IL-11-0012, May.

Hauser, John R. and Kenneth J. Wisniewski (1979), "Consumer Analysis for General Travel Destinations," Technical Report, Transportation Center, Northwestern University, March.

Hauser, John R. and Steven M. Shugan (1978), "Designing and Building a Market Research Information System," Technical Report, Transportation Center, Northwestern University, February.

Hauser, John R. (1978), "Forecasting and Influencing the Adoption of Technological Innovations," Technical Report, Transportation Center, Northwestern University, October.

Hauser, John R., Alice M. Tybout and Frank S. Koppelman (1978), "Consumer-Oriented Transportation Services Planning: The Development and Implementation of a Questionnaire to Determine Consumer Wants and Needs," Technical Report, Transportation Center, Northwestern University, October.

Tybout, Alice M., Frank S. Koppelman and John R. Hauser (1977), "Consumer Views of Transportation in Evanston: A Report Based on Focus Group Interviews," Technical Report, Transportation Center, Northwestern University, June.

Koppelman, Frank S., John R. Hauser and Alice M. Tybout (1977), "Preliminary Analysis of Perceptions, Preferences, Beliefs and Usage of Transportation Services for Travel to Downtown Evanston," Technical, Report, Transportation Center, Northwestern University, May.

Hauser, John R. (1977), "Results of the Focus Group Interviews for Shared Ride Auto Transit," Cambridge Systematics Consultant's Report, May.

Hauser, John R. (1976), "Report on the Applicability of Attitudinal research for Improving the Effectiveness of Transportation Demand Models," Position Paper commissioned by Cambridge Systematics, Inc., April.

Wilson, Nigel, R. W. Weissberg and John R. Hauser (1976), "Advanced Dial-a-Ride Algorithms--Final Report," M.I.T. Department of Civil Engineering Technical Report, April.

Hauser, John R., et al. (1974), "The Chemung County Transit Survey." Volunteers in Technical Assistance (a division of VISTA) publication for Chemung County, NY, June. (Includes analysis of transportation options based on the results of the survey designed and implemented by the technical team.)

Hauser, John R. (1974), "A Cost Model for RTS (Rochester, NY) Conventional Bus Routes," M.I.T., Department of Civil Engineering Report, January.

Hauser, John R. (1973), "An Efficient Model for Planning Bus Routes in Communities with Populations Between 20,000 and 250,000," M.I.T., Operations Research Center Working Paper OR-029-993, November.

Research Grants

July 2007 – June 2008	Understanding Non-compensatory Decision Making for Consideration Decisions (under Consortium with MIT Center for eBusiness and General Motors, Inc.)
June 2000 – May 2006	Center for Innovation in Product Development, MIT, Initiative Leader, Virtual Customer.
January 2001 – May 2002	eBusiness Center at MIT. Design and Delivery of Online Promotions. (with John Little, Duncan Simester, and Glen Urban).
January 1997 – May 2000	Center for Innovation in Product Development, Engineering Research Center Grant from the National Science Foundation. Research Director. In addition, research grants for non-monetary incentives, procurement metrics, and virtual customer methods.
June 1999 – May 2000	"Metrics Thermostat," International Center for Research on the Management of Technology (Principal Investigator).
June 1999- May 2001	"New Product Metrics at Ford and the US Navy," Center for Innovation in Product Development
June 1999- May 2001	"Lean Sustainment Metrics at the USAF," Lean Sustainment Initiative at MIT
June 1994 - May 1999	"Metrics to Value R&D," International Center for Research on the Management of Technology (Principal Investigator). General topic. Detailed proposals were for various aspects of the problem.
June 1991 - May 1994	"Customer Needs, Customer Satisfaction, Sales, and Profit: Providing the Right Incentives to Engineering and R&D," International Center for Research on the Management of Technology (co-Principal Investigator with Birger Wernerfelt)
January 1990 - June 1992	"Information Acceleration and Preproduction Forecasting of New Autos, Phases I and II." General Motors Electric Vehicle Project. (Associate)
December 1988 - June 1990	"Improved Methodologies to Measure Consumer Needs," Procter & Gamble Company. (Principal Investigator)
September 1981 - December 1985	"Prelaunch Forecasting System for New Consumer Durables and Its Applications to Auto Purchases," General Motors, Buick Division (co-Principal Investigator with Glen L. Urban).
January 1981 - May 1981	"Marketing Approaches in Travel Demand," United Parcel Service Grant (Faculty Advisor).
January 1979 - August 1980	"Monitoring the Implementation of Innovative Public Transportation Services" from University Research Program of the Urban Mass Transportation Administration (Principal Investigator).
July 1975 - September 1977	"Consumer-Oriented Transportation Service Planning," from the Program of University Research, U.S. Department of Transportation (Faculty Associate).

September 1977 - January 1978	"Consumer-oriented Transportation Service: Modification and Evaluation" from Program of University Research, USDOT (Faculty Associate).
May 1976 - September 1978	"Enhancement of Communications with a Small Scientific Community Using Slow-Scan Televideo Terminals and Voice-Grade Telephone Lines" from the National Science Foundation (Faculty Associate).
January 1976 - December 1976	"A Method for Assessing Pricing and Structural Changes on Transport Mode Use," U.S. Department of Transportation (Faculty Associate).
September 1976 - June 1977	"Prediction of Urban Recreational Demand" from the National Science Foundation (Faculty Consultant).

Invited Lectures (Outside the MIT Sloan School)

The Wroe Alderson Virtual Symposium 2021, Wharton School, the University of Pennsylvania, May 25, 2021. "An Enjoyable Journey into the Future"

Whitman School of Management, Syracuse University, Syracuse, NY, April 14, 2021, "Aesthetics in Product Design."

Northeastern University Seminar Series, Boston, MA, November 11, 2019, "Product Recommendations when Consumers Learn their Preferences." (joint research with Daria Dzyabura).

Carnegie Mellon University, April 8, 2016, "The Effect of Precision on Strategic Positioning."

University of North Carolina, Kenan-Flagler Business School, Marketing Department. March 7, 2014. "Learning from Experience, Simply."

Marketing Science Institute, November 2012, "Panel Discussion: Perspectives on Big Data from Marketing Scholars," Cambridge, MA.

Wharton School, University of Pennsylvania, April 2009, "Website Morphing"

Max Planck Institute for Human Development, Center for Adaptive Behavior and Cognition, Summer Institute on Bounded Rationality in Psychology and Economics, August 2006, "Greedoid-Based Non-Compensatory Consider-then-Choice Inference."

Northwestern University, Evanston, IL, April 2006, "Greedoid-based Non-compensatory Inference."

University of Michigan, Seminar Series, October 2004, "Table Stakes: Non-compensatory Consideration-then-Choice Inference."

Management Roundtable Special Conference on "Taking the Voice of the Customer to the Next Level," Boston, MA October 2004, "The Virtual Customer."

Marketing Science Institute Research Generation Conference, Atlanta, GA, May 2004, "New Products/Innovation," (with Gerry Tellis).

Marketing Science Institute Conference on Emerging Approaches for Successful Innovation, Chicago, IL, May 2003, "'Listening-In' to Find Unmet Customer Needs and Solutions."

University of California at Los Angeles, "Polyhedral CBC (and other fun stuff), February 2003

New York University, "Polyhedral Methods," March 2003.

Industrial Liaison Program – Research Directors' Conference, April 2002, "The Virtual Customer."

University of Maryland, "Polyhedral Methods for Conjoint Analysis," March 2002.

Marketing Science Institute Trustees Meeting on Marketing Outside the Silo, Boston, MA, April 2002, "Challenges and Visions for Marketing's Role in Product Development Processes."

Managing Corporate Innovation -- ILP Symposium celebrating ten years of Management of Technology Research at MIT. "Dealing with the Virtual Customer: Fast Web-based Customer Input." April 2001

Epoch Foundation, Cambridge, MA, October 2000, "The Virtual Customer."

Yale University Research Seminar in Marketing, New Haven, CN, March 2000, "Metrics Thermostat."

Analysis Group Economics Seminar, Boston, MA, December 1999, "The Use of Marketing Research in Litigation." Also New York, NY, March 2000 and Washington, D. C., March 2002.

Boston Chapter of the Society for Concurrent Engineering, Waltham, MA, October 1999, "Metrics Thermostat."

University of Michigan DuPont Distinguished Speakers' Series, Ann Arbor, MI, March 1998, "New Product Metrics."

Kirin Brewery Co. Limited, Tokyo, JAPAN, December 1998, "You Are What You Measure!" and "Scientific Studies of the Voice of the Customer."

NEC Corporation, Tokyo, JAPA, December 1998, "Scientific Studies of the Voice of the Customer."

University of California at Los Angeles, Los Angeles, CA, February 1997, "Research, Development, and Engineering Metrics"

Stanford University, Stanford, CA, December 1996, "Metrics to Value R,D&E"

University of California at Los Angeles, Los Angeles, CA, February 1997, "Research, Development, and Engineering Metrics"

Duke University, Durham, NC, "Internal Customers and Internal Suppliers," Nov. 1995.

University of Minnesota, Minneapolis, MN, "Voice of the Customer," "Internal Customers and Captive Suppliers," May 1995.

Winter Retreat, University of Florida, Gainesville, FL, "Internal Customers and Captive Suppliers," December 1993.

Product Development Association - Boston, "Design and Marketing of New Products II: Advances in Product Development Management over the Last 13 Years," May 1993.

3M, Minneapolis, MN, "Incentives to Encourage a Long-term Perspective and a Customer Focus," Workshop on "Towards a World-class Research, Development, and Engineering Organization," November 1992.

Baxter Health Care, Orange County, CA, "The Voice of the Customer," August 1992.

TIMS College on the Practice of Management Science (*New Directions in Management Science*), Cambridge, MA: "The Voice of the Customer," October 1991.

IBM, Inc., Boca Raton, FL: "Voice of the Customer for Performance Graphics," May 1991.

Kirin Brewery Company, Ltd. Tokyo, JAPAN: "New Product Development" and "Customer Satisfaction and Customer Needs," April 1991.

American Iron and Steel Institute, Detroit, MI: "Satisfying the Customer -- Technical Issues," February 1991.

Warner Lambert, Inc., Mountain Laurel, PA: "Communication Among R&D and Marketing," October 1990.

Digital Equipment Corporation, Maynard, MA: "Voice of the Customer," May 1990.

Life Insurance Marketing and Research Association, Inc.: 31st Research Planning Conference, Boston, MA, "The House of Quality." June 1989.

University of Illinois: "Customer Driven Engineering." April, 1988.

Marketing Science Institute and IBM Thornwood Educational Facility: Quality through Customer Driven Engineering." April, 1988.

Harvard Business School: "Customer Driven Engineering: Integrating Marketing and Engineering." February, 1988.

Vanderbilt University: "Competitive Price and Advertising Strategies" and "Customer Driven Engineering." October, 1988.

Columbia University: "Price, Positioning, and Advertising Games: To Equilibrate or Not, Does it Pay to be Smart?" May, 1987.

New York Marketing Modelers' Club: "Would You Really Rather Have a Buick?: Prelaunch Forecasting of New Automobiles," May 1987.

M.I.T. Applied Economics: "Competitive Product Selection and Advertising Models." April, 1987.

Northwestern University: "Agendas and Consumer Choice," August, 1986.

AMA Faculty Consortium on Marketing Strategy at the University Tennessee, Knoxville. "Defender: Analyses for Competitive Strategy," July, 1986.

Ohio State University: "Defensive and Competitive Strategy." May, 1986.

Boston University: "Research in Competitive Strategy." November, 1985.

Midwest Electronics Association, Minneapolis, MN: "New Products for High-Tech Firms." October, 1985.

University of Pennsylvania: "Agendas and Consumer Choice," August, 1985.

Herstein Institute, Vienna Austria: "Competitive Strategy," May, 1985.

Cadbury-Schweppes, Birmingham, England: "New Product Development and Defensive Strategy." May, 1985.

Rhone-Poulenc and Aluminum Pechiney, Paris, France: "New Product Development." April, 1985.

University of Michigan: "Defensive and Competitive Strategy." February, 1985.

Marketing Science Institute Special Mini-Conference: "Defensive Marketing Strategies for Consumer Firms." September 1983.

University of Chicago, Graduate School of Business, Chicago, IL. "Agendas and Consumer Choice," May 1984.

European Institute for Business Administration (INSEAD), Fontainebleau, FRANCE. "Agendas and Consumer Choice," June 1984.

University of Connecticut. "Defensive Marketing: Theory, Measurement, and Models," April, 1983.

University of Osaka, JAPAN "Defensive Marketing: Theory, Measurement, and Models," August, 1983.

Kao Soap, Ltd., Tokyo, JAPAN: "Defensive Marketing," August, 1983.

Johnson & Johnson, K. K., Tokyo, JAPAN: "Defensive Marketing," August, 1983.

Analog Devices, Inc., Norwood, MA. "New Product Development," May, 1982.

University of Rochester Research Seminar, "Prelaunch Forecasting of New Consumer Durables," April 1982.

Frito-Lay R & D Laboratory, Dallas, TX, "Marketing and R & D for New Products," October 1981.

University of California at Los Angeles Research Seminar, "Defensive Marketing Strategies," July, 1981.

Purdue University Research Seminar, "Product Realization," October 1979.

Stanford University Research Seminar, "Product Realization," October 1979.

Elrick and Lavidge, Inc., Chicago, Illinois, "Product Realization," October 1979.

Booz, Allen and Hamilton, Inc., Chicago, Illinois, "New Service Planning for Hospitals," April 1979.

Cornell University Research Seminar, "Intensity Measures of Consumer Preference," February 1979.

University of Rochester Research Seminar, "Product Realization: Synthesis of Marketing and Economic Theory," December 1978.

Region VI Center of Health Planning, New Orleans, LA, "Finding the Linkage Through Marketing,": August 1978.

Nebraska Hospital Association, Kearney, NE, "Hospital Marketing Surveys," May 1978.

Executive Development Group, Waterloo Management Education Centre, Toronto, Ontario, Canada, "Designing New Industrial Products," February 1978.

Academic Update, Xavier University Graduate Program in Hospital and Health Administration, Cincinnati, OH, "Designing Hospital Services: A Marketing Approach," October 1977.

The Hospital Marketing Workshop, Ireland Educational Corporation, Chicago, Illinois, "Analyzing the Hospital Markets," January 1977 and May 1977.

Association for College Unions - International, 1976 Fall Conference in Green Bay, WI, Keynote Speech - "Designing Successful Services: A Marketing Approach," October 1976.

University of Chicago, Graduate School of Business, Research Seminar, "Testing Probabilistic Models," April 1976.

Council for the Advancement and Support of Education, Conference on Marketing Alumni Program, New York, NY, Keynote Speech, February 1976.

Presentations at Professional Meetings (No published proceedings, some co-presented or presented by co-author[s])*

44th ISMS Marketing Science Conference June 16-18, 2022, hosted by Chicago Booth, the University of Chicago Business School (Virtual).

- "Leveraging the Power of Images in Managing Product Return Rates: Now with Interpretable Machine-Learned Features" with Daria Dzyabura, Siham El Kihal, and Marat Ibragimov.
- "Discovering 'Product Gaps' in The Market" with Alex Burnap*
- "Consumer Search and Product Returns" with Siham El Kihal and Marat Ibragimov*

INFORMS Marketing Science Conference (Virtual), Simon Business School, the University of Rochester, June 2021. “Identifying Profitable and Feasible ‘Design Gaps’ for New Products” with Alex Burnap*.

2020 Conference on Artificial Intelligence, Machine Learning, and Business Analytics (Virtual), Temple University, December 11-12, 2020. “Identifying Profitable and Feasible Design Gaps for New Products” with Alex Burnap*.

INFORMS Marketing Science Conference (Virtual), Duke University, June 2020.

- “Leveraging the Power of Images in Managing Product Return Rates” with Daria Dzyabura, Siham El Kihal*, and Marat Ibragimov.
- “Design Gaps: Using Deep Learning to Balance Consumer Demand and Engineering Costs” with Alex Burnap*

New England Marketing Conference (NEMC), Cambridge, MA, October 11, 2019. “Issues In Ensuring That Marketing is a Viable Discipline Over the Next Decade.”

11th Triennial Invitational Choice Symposium, Cambridge, MD, May 29-June 1, 2019.

- “Leveraging the Power of Images in Predicting Product Return Rates. Joint research with Daria Dzyabura, Siham El Kihal, and Marat Ibragimov.
- “Design and Evaluation of Product Aesthetics: A Human-Machine Hybrid Approach.” Joint research with Alex Burnap* and Artem Timoshenko.

Smarter Choices for Better Health, Erasmus Initiative Conference, Rotterdam, NL, November 22, 2019, “Morphing Randomized Controlled Trials.” Joint research with Gui Liberali*.

ISMS Marketing Science Conference, Rome, Italy, June 20-22, 2019, “Generating and Testing Product Design Aesthetics: A Human-Machine Hybrid Approach.” Joint research with Alex Burnap* and Artem Timoshenko.

Theory + Practice in Marketing Conference, Columbia Business School, New York, NY, May 16-18, 2019, “Leveraging the Power of Images in Predicting Product Return Rates. Joint research with Daria Dzyabura, Siham El Kihal*, and Marat Ibragimov..

INFORMS Doctoral Consortium, Temple University, Philadelphia, PA. June 13, 2018. “Big Data and Machine Learning.”

INFORMS Marketing Science Conference, Temple University, Philadelphia, PA. June 14-16, 2018.

- John R. Hauser*, “Marketing Science’s Field Guide to Machine Learning and Algorithms.” Plenary Panel.
- John R. Hauser*, “Digital Marketing Applications of AI and Deep Learning,” Panel Discussion
- Alex Burnap*, Artem Timoshenko, and John R. Hauser, “Deep Learning to Predict Consumer Aesthetic Preferences and Augment Product Designers”
- Artem Timoshenko* and John R. Hauser, “Combining Machine Learning and Human Judgment to Identify Customer Needs—New Tests and Applications”
- Gui Liberali* and John R Hauser, “Morphing Randomized Controlled Trials”

INFORMS Doctoral Consortium, University of Southern California, Los Angeles, CA. June 7, 2017. “Machine learning applications for customer-oriented recommendation systems and the voice of the customer.”

INFORMS Marketing Science Conference, University of Southern California, Los Angeles, CA. June 8-10, 2017.

- Daria Dzyabura and John R. Hauser*, “Recommending Products When Consumers Learn Their Preferences.”
- Felix Eggers* and John R. Hauser, “Precision Matters: How Craft in Conjoint Analysis Affects Price and Positioning Strategies.”
- Artem Timoshenko* and John R. Hauser, “Identifying Customer Needs from User Generated Content.”

Dies Natalis Academic Symposium, Erasmus University, Rotterdam, The Netherlands, November 8, 2016, “Recommending Products When Consumers Learn their Preferences.” Based on research with Daria Dzyabura.

Erasmus Centre for Marketing and Innovation, Econometric Workshop, Erasmus University, Rotterdam, The Netherlands, “Strategic Implications of Precision in Conjoint Analysis. Based on research with Felix Eggers.

2016 Paul D. Converse Symposium, University of Illinois, Champaign, IL, April 21-23, 2016, “Academic

Achievements of Steven M. Shugan, Converse Winner.”

INFORMS Marketing Science Conference, Shanghai, China. June 16-18, 2016, Xinyu Cao*, T. Tony Ke, John R. Hauser, Juanjuan Zhang, “Competing for Limited Attention on Social Media.”

INFORMS Marketing Science Conference, Baltimore MD, June 2015. Songting Dong, John Hauser*, Min Ding, Lixin Huang, and Holger Dietrich, “The Sleuth Game: Predicting Consumer Response to as-yet-unspecified Product Features for Really New Products.”

AMA/Sheth Foundation Doctoral Consortium, Northwestern University, Evanston, IL, June 2014, “Bridging Empires and Practice.”

INFORMS Marketing Science Consortium, Emory University, Atlanta GA, June 2014, “Learning from Experience Simply.”

AMA Summer Educators’ Conference, San Francisco, CA, August 1-3, 2014. Guilherme Liberali,* Hauser, John R., and Glen L. Urban “Recent Advances in Morphing Theory: Challenges and Opportunities for Research.”

INFORMS Marketing Science Conference, Atlanta, GA, June 2014. Aliaa Atwi* and John R. Hauser, “Exploration vs. Exploitation in Rapid Coupon Personalization.”

AMA Sheth Foundation Doctoral Consortium 2013, University of Michigan, Ann Arbor, MI, June 6-9. “Managing Your Career (as a Marketing Academic).”

AMA Summer Educators’ Conference, Boston MA August 9-11, 2013. Panel on “Academic Integrity in the Publication Process” with Robert Meyer, Richard Lusch, John Hauser.*

10th Marketing Dynamics Conference, The University of North Carolina at Chapel Hill, May 30 – June 1, 2013. Song Lin*, Juanjuan Zhang, and John Hauser, “Learning from Experience, Simply.”

Joint Statistical Meetings 2013, Montreal, Ontario, August 2013. Song Lin*, Juanjuan Zhang, and John Hauser, “Learning from Experience, Simply.”

2012 AMA Sheth Foundation Doctoral Consortium, Foster School of Business, University of Washington, June 2012, Panel: 10 Steps to Successful Publishing.

INFORMS Marketing Science Conference, Boston, MA, June 2012.

- Song Lin*, Juanjuan Zhang, and John R. Hauser, “Learning from Experience, Simply.”
- Glen L. Urban, Guilherme Liberali, Erin MacDonald, Robert Bordley, and John R. Hauser*, “Morphing Banner Advertising”
- Matt Selove* and John R. Hauser, “The Strategic Importance of Accuracy in Conjoint Design.”
- Panel: Research Opportunities at the Marketing/Operations Interface

The 2012 Theory & Practice in Marketing (TPM) Conference on Marketing Strategy, Harvard University, Boston, MA. May 2-3, 2012. Glen L. Urban, Guilherme Liberali, Erin MacDonald, Robert Bordley, and John R. Hauser*, “Morphing Banner Advertising.”

New England Marketing Conference, Cambridge, MA, October 28, 2011. Gui Liberali, Glen L. Urban and John R. Hauser*, “Providing Unbiased Competitive Information to Encourage Trust, Consideration, and Sales: Two Field Experiments.”

Yale School of Management, Center for Customer Insight, The Customer Insights Conference, New Haven, CT, May 12-14, 2011. John R. Hauser and Matthew Selove*, “The Strategic Importance of Accuracy in the Relative Quality of Conjoint Analysis.”

INFORMS Marketing Science Conference, Cologne, Germany, June 2010 (*indicates primary presenter if not me)

- Liberali, Guilherme*, John R. Hauser, and Glen L. Urban, “Optimal Time-to-Morph and Cognitive Costs of Morphing.”

- Liberali, Guilherme, Glen L. Urban, and John R. Hauser, “Do Competitive Test Drives and Product Brochures Improve Sales?”
- Urban, Glen L.*, Jong Moon Kim, Erin MacDonald, John R. Hauser and Daria Dzyabura, “Developing Consideration Rules for Durable Goods Markets.”

2010 Advanced Research Techniques Forum, San Francisco, CA, June 6-9, 2010, “Unstructured Direct Elicitation of Non-compensatory and Compensatory Decision Rules,” with Min Ding, Songting Dong*, Daria Dzyabura (listed as Silinskaia), Zhilin Yang, Chenting Su, and Steven Gaskin.

2009 AMA Sheth Foundation Doctoral Consortium, J. Mack Robinson College of Business, Georgia State University, June 2009. E-Commerce and Digital Marketing Topics.

INFORMS Marketing Science Conference, Ann Arbor, MI, June 2009 (* indicates primary presenter if not me)

- “An Empirical Test of Incentive-Compatible Direct Elicitation of Heuristic Decision Rules for Consideration and Choice,” with Min Ding, Songting Dong, Daria Dzyabura, Zhilin Yang, Chenting Su, and Steven Gaskin
- “Adaptive Profile Evaluation to Identify Heuristic Decision Rules in “Large” and Challenging Experimental Designs,” with Daria Dzyabura (formerly Silinskaia)* and Glen L. Urban..
- “Morphing Websites in the Presence of Switching Costs,” with Guilherme Liberali* and Glen L. Urban.
- “Continuous-Time Markov-Process with Misclassification: Modeling and Application to Auto Marketing,” with Glen L. Urban* and Guilherme Liberali.
- “An Incentive-Aligned Sleuthing Game For Survey Research,” with Min Ding*
- “Would You Consider a Buick Even if It Were #1 in JD Power?” with Erin MacDonald* and Glen Urban
- “Cognitive Simplicity and Consideration Sets,” with Rene Befurt*, Daria Dzyabura, Olivier Toubia, and Theodoros Evgeniou
- “John D. C. Little, a Pioneer in Marketing Science (Festschrift paper),” with Glen L. Urban

INFORMS Marketing Science Conference, Vancouver, B.C., June 2008 (* indicates primary presenter if not me)

- “Cognitive Styles and Website Design,” with Michael Braun, Glen L. Urban, and Clarence Lee.
- Modeling Cognitive Complexity to Predict Consideration Sets,” with Daria Dzyabura (formerly Silinskaia)*, Theodoros Evgeniou, Olivier Toubia, and Rene Befurt.
- “Morphing Websites to Match Individual Cognitive Styles,” with Michael Braun*, Glen L. Urban, and Guilherme Liberali

Sawtooth Software Conference, Delray, FL, March 2009, “A Critical Review of Non-compensatory and Compensatory Models of Consideration-Set Decisions,” with Min Ding and Steven Gaskin

AMA Doctoral Consortium, Robert J. Trulaske, Sr. College of Business, University of Missouri, June 2007, “Looking Ahead: Directions for Scholarly Research in Marketing” and “Building Teaching Effectiveness: Stimulating Student Interest.”

Sawtooth Software Conference, Santa Rosa, CA, October 2007, “Two-Stage Models: Identifying Non-Compensatory Heuristics for the Consideration Set then Adaptive Polyhedral Methods Within the Consideration Set,” with Steven Gaskin, Theodoros Evgeniou, Daniel Bailiff.

AMA Advance Research Technologies Forum, Sante Fe, New Mexico, June 2007, “Two-Stage Models: Identifying Non-Compensatory Heuristics for the Consideration Set then Adaptive Polyhedral Methods Within the Consideration Set,” with Steven Gaskin, Theodoros Evgeniou, and Daniel Bailiff.

AMA Doctoral Consortium, W. P. Carey School of Business, Arizona State University, May 2007, “Consideration The New Battlefield in Product Development.”

Agent-based Models of Market Dynamics and Consumer Behaviour, University of Surrey, Guildford, UK, January 2006, “Co-opetition for the Diffusion of Resistant Innovations: A Case Study in the Global Wine Industry using an Agent-based Model.” with Rosanna Garcia. Also presented at the American Marketing Association’s Advanced Research Techniques (ART) Forum in June 2006 at Monterrey CA.

AMA Doctoral Consortium, University of Maryland, College Park, MD, July 2006, “Creating Value: Products and

Brands.”

Marketing Science Conference, University of Pittsburgh, Pittsburgh, PA, June 2006, “A Truth-telling Sleuthing Game for Survey Research,” with Min Ding.

Marketing Science Conference, University of Pittsburgh, Pittsburgh, PA, June 2006, On Managerially Efficient Experimental Designs,: with Olivier Toubia.

Sawtooth Software Conference on Conjoint Analysis, Delray Beach, FL, March 2006, “Must Have” Aspects vs. Tradeoff Aspects in Models of Customer Decisions,” with Michael Yee, James Orlin, Ely Dahan.

AMA Doctoral Consortium, University of Connecticut, Storrs CT, June 2005, “The Virtual Customer.”

Marketing Science Conference, Emory, Atlanta, GA, June 2005, “Direct, Nonparametric Product Optimization Using Interactive Genetic Algorithms,” with Kamal Malek and Kevin Karty.

Marketing Science Conference, Emory, Atlanta, GA, June 2005, “Non-Deterministic Polyhedral Methods for Adaptive Choice-Based Conjoint Analysis: Application to the Diffusion of the New Wine Cork,” with Olivier Toubia and Rosanna Garcia.

Marketing Science Conference, Emory, Atlanta, GA, June 2005, “Greedoid-Based Non-compensatory Two-Stage Consideration-then-Choice Inference,” with Michael Yee, Jim Orlin, and Ely Dahan.

Marketing Science Doctoral Consortium, Rotterdam, The Netherlands, June 2004, “Research that Has Impact.”

Marketing Science Conference, Rotterdam, The Netherlands, June 2004, “Improving Choice-Based Polyhedral Methods by Taking Response Error into Account,” with Olivier Toubia.

Marketing Science Conference, Rotterdam, The Netherlands, June 2004, “The Dream Versus Reality of CRM,” with Glen L. Urban, Eric Bradlow, and, Mahesh Kumar.

Marketing Science Conference, Rotterdam, The Netherlands, June 2004, “Non-compensatory Consideration-then-Choice Adaptive Conjoint Analysis,” with Michael Yee and James Orlin.

AMA Doctoral Consortium, Texas A&M University, College Station, TX, June 2004, "Virtual Customer Initiative."

AMA Advanced Research Techniques Forum, June 2004, “Conjoint Adaptive Ranking Database System (CARDS),” with Ely Dahan, James Orlin, and Michael Yee.

AMA Doctoral Consortium, University of Minnesota, Minneapolis, MN, June 2003, "The Review Process."

Marketing Science Doctoral Consortium, University of Maryland, June 2003, “Roots of Marketing Science Thought,” with John Little.

Marketing Science Conference, University of Maryland, June 12-15, 2003, "Individual-level Adaptation of Choice-Based Conjoint Questions: More Efficient Questions and More Accurate Estimation," (with Olivier Toubia and Duncan Simester).

Marketing Science Conference, University of Alberta, Canada, June 28, 2002, "Configurators, Utility Balance, and Managerial Use," (with Duncan Simester and Olivier Toubia).

Marketing Science Doctoral Consortium, University of Alberta, Canada, "Helping Managers Structure and Make Decisions," June 27, 2002. (Founding Consortium).

Marketing Science Conference, University of Alberta, Canada, June 28, 2002, "Adaptive Choice-Based Conjoint Analysis with Polyhedral Methods," (with Duncan Simester and Olivier Toubia*).

Advances in Marketing Research and Modeling: The Academic and Industry Impact of Paul E. Green, Wharton, Philadelphia, PA, May 2002, "New Methods of Data Collection and Estimation Using Polyhedral Estimation Techniques."

Production and Operations Management Society (POMS) Conference 2002 - High Tech POM, San Francisco, CA, April 2002, "The Virtual Customer," (with Ely Dahan*).

Product Development Association (PDMA) International Research Conference, Santa Clara, CA, October 2001, "The Virtual Customer," (with Ely Dahan*).

New England Marketing Conference, Cambridge, MA, September 2002, "Fast Polyhedral Adaptive Conjoint Estimation," (with Ely Dahan, Duncan Simester, and Olivier Toubia).

Marketing Science Conference, Wiesbaden, Germany, July 2001, "Empirical Test of Web-based Conjoint Analysis Including ACA, Efficient Fixed Designs, Polyhedral Methods, and Hybrid Methods," (with Ely Dahan, Duncan Simester, and Olivier Toubia*)

Marketing Science Conference, Wiesbaden, Germany, July 2001, "Evaluation of Fast Polyhedral Adaptive Conjoint Estimation," (with Duncan Simester and Olivier Toubia).

The 12th Annual Advanced Research Techniques Forum, Amelia Island, Florida, June 2001, "The Virtual Customer: Communication, Conceptualization, and Computation," (with Ely Dahan*).

AMA Doctoral Consortium, University of Miami, June 2001, "Role of Technology in Marketing."

Marketing Science Conference, UCLA, June 2000, "Applications of the Metrics Thermostat."

Marketing Science Conference, UCLA, June 2000, "The Virtual Customer." (with Ely Dahan and Duncan Simester).

Marketing Science Institute Marketing Metrics Workshop, Washington, D.C. October 1999, "Metrics for New Product Development: Making Agency Theory Practical," Plenary Speaker.

Marketing Science Conference, Syracuse, NY, May 1999, "Balancing Customer Input, Speed to Market, and Reduced Cost in New Product Development: What is the Most Profitable Strategy"

ICRMOT Conference on Technology Alliances and New Product Development: A Cross-cultural Perspective, Mishima, JAPAN, December 1998, "You Are What You Measure!"

AMA Doctoral Consortium, Athens, Georgia, August 1998, "Quantitative Advances in Marketing Models."

AMA Winter Educators' Conference, Austin, TX, February 1998 (Plenary Speaker), "New Challenges in the Marketing-Product Development Interface."

AMA Doctoral Consortium, Cincinnati OH, August 1997, "Working with Industry."

Marketing Science Conference, Berkeley CA, March 1997, "Cultivating Technological Managers for Customer Expertise."

Marketing Science Institute Conference on Interfunctional Interfaces: The Management of Corporate Fault Zones, Palo Alto, CA, December 1996, "Multi-Stage Modeling of R&D/Marketing Interfaces in New Product Development."

Marketing Science Conference, Berkeley CA, March 1997, "Cultivating Technological Managers for Customer Expertise."

Envisioning the Future on Internet Marketing: Research and Strategy Implications, M.I.T., September 1996, "Agents and Intermediaries: Roles, Trust, and Value."

"Can R&D be Evaluated on Market-Driven Criteria?," (with Florian Zettelmeyer). Marketing Science Conference,

University of Florida, Gainesville, March 1996

"Information Acceleration," (with Glen Urban, William Qualls, Bruce Weinberg, Jon Bohlmann, and Roberta Chicos). Wharton Conference on Innovation in Product Development, Philadelphia, PA, May 1995.

"Metrics by Which Managers Evaluate R&D Groups," (with Florian Zettelmeyer). Association of Consumer Research, Boston, MA, October 1994.

"Satisfying the Internal Customer," (with Birger Wernerfelt and Duncan Simester) Marketing Science Conference, University of Arizona, Tucson, AZ, March 1994.

"Customer-Satisfaction Based Incentive Systems," AMA Educator's Conference, Boston, MA, August 1993.

"Marketing in the 1990s: Emerging Issues," AMA Doctoral Consortium, University of Illinois, August 1993.

"Quality Function Deployment and the Voice of the Customer," Pharmaceutical Management Science Association, Phoenix AZ, May 1993.

"In a World of Active Time-constrained Customers, How Can a Firm be the Great Communicator," (with Birger Wernerfelt), Marketing Science Conference, Washington University, St. Louis, MO, March 1993.

"Customer Needs, Customer Satisfaction, Sales, and Profit," (with Birger Wernerfelt, Ronit Bodner, and Duncan Simester), ORSA/TIMS Joint National Conference, San Francisco, CA, November 1992.

"Customer Satisfaction and Employee Rewards," (with Birger Wernerfelt, Ronit Bodner, and Duncan Semester), Marketing Science Conference, London, England, June 1992.

"Information Acceleration and Preproduction Forecasting of Electric Autos," (with Glen L. Urban and Bruce Weinberg), Marketing Science Conference, London, England, June 1992.

"The Voice of the Customer and Customer Satisfaction," ORSA/TIMS Joint National Meeting, Anaheim, CA, October 1991.

"Modeling Marketing Phenomena," AMA Doctoral Consortium, University of Southern Calif. August 1991.

"Relationship of Satisfaction to Customer Needs and to Market Share," 1st Congress on Customer Satisfaction and Market-Driven Quality, American Marketing Association, Orlando FL, May 1991.

"Time Flies When You're Having Fun: How Consumers Allocate Their Time When Evaluating Products" (with Bruce Weinberg, Glen Urban, and Miguel Villas-Boas), Marketing Science Conference, Wilmington, DL, March 1991.

"Information Acceleration and Preproduction Forecasting of New Autos," (with Glen Urban, and Bruce Weinberg), Marketing Science Conference, Wilmington, DL, March 1991.

"Beyond Quality Function Deployment," ORSA/TIMS Joint National Meeting, Philadelphia, PA October 1990. (Conference-wide Tutorial)

"Competitive Marketing Strategies," Operations Research 1990 (Osterreichische Gesellschaft fur Operations Research), Vienna, Austria, August 1990. (Invited Speaker)

"New Product Development: A Quantitative Analysis of Interfunctional Communication" (with Abbie Griffin), Marketing Science Conference, Urbana, IL, March 1990.

"Integrated Product Development: New Methodological Developments" (with Abbie Griffin), Marketing Science Conference, Durham, N.C., March 1989.

"Customer Driven Engineering" (with Gregory Cirmak and Robert Klein), ORSA/TIMS Joint National Meeting,

Washington, D.C., April 1988.

"Competitive Advertising and Pricing in Duopolies" (with Birger Wernerfelt), Marketing Science Conference, Seattle, Washington, March 1988.

"Customer Driven Engineering" (with Abbie Griffin), Marketing Science Conference, Seattle, Washington, March 1988.

"Customer Needs," Visions of Design Practices for the Future, Newton, MA, October 1987.

"Effective Strategies in Oligopoly" (with Peter Fader), ORSA/TIMS Joint National Meeting, Miami Beach, Florida, November 1986.

"Competitive Strategy Contest: Result and Analysis" (with Peter Fader), Marketing Science Conference, Dallas, TX, March 1986.

"The PC As a Tool to Teach Complex Marketing Science Concepts," Marketing Science Conference, Dallas, TX, March 1986.

"The Coming Revolution in Marketing Theory," Plenary Speaker, European Marketing Conference, Bielefeld, West Germany. April 1985.

"Defensive Strategy" Confer. on Economics of the Firm, Universite de Paris X, Nanterre, France, April 1985.

"Competitive Marketing Strategies" Marketing Science Conference, Nashville, Tennessee, March 1985.

"Developing New Product Management: Past Progress, Current Efforts, Current Needs" (Panel) Marketing Science Conference, Nashville, Tennessee, March 1985.

"Testing Competitive Marketing Structures: Theory and Applications" (with Glen Urban) ORSA/TIMS Joint National Meeting, Dallas, TX November 1984.

"Competitive Strategy," ORSA/TIMS Joint National Meeting, Dallas, Texas, November 1984.

"Forecasting Automobile Sales: An Application of a Value Priority Algorithm," (with Glen Urban), John Roberts and John Dabels), TIMS XXVI International Meeting, Copenhagen, Denmark, June 1984.

"Consumer Durables: The Actual Consumer Budgets Compared to the Value Priority Model," (with Glen Urban), Marketing Science Conference, Chicago, Illinois, March 1984.

"Defensive Strategy Models: Application and Predictive Text," (with Steven Gaskin, and Karl Irons) ORSA/TIMS Joint National Meeting, Orlando, Florida, November 1983.

"New Product Research: Focus on Defensive strategies," Roundtable Program, ORSA/TIMS Joint National Meeting, Orlando, FL, November 1983.

"Intensity of Preference," (with Steven Shugan) ORSA/TIMS Joint National meeting, San Diego, CA, October 1982.

"Measurement Error Theories for von Neumann-Morgenstern Utility Functions," (with Jehoshua Eliashberg) ORSA/TIMS Joint National Meeting, San Diego, CA, October 1982.

"Consumer Preference Models: Axioms and Statistics," ORSA/TIMS Joint National Meeting, Houston, Texas, October 1981.

"Economic Models of Consumer Behavior," (panel discussion), ORSA/TIMS Joint National Meeting, Houston, Texas, October 1981.

"Defensive Marketing Strategies, Part II," (with Steven Shugan), ORSA/TIMS Joint National Meeting, Houston, Texas, October 1981.

"Agendas and Choice Probabilities," (with Amos Tversky), Association of Consumer Research, St. Louis, Missouri, October 1981, and Special Conference on Choice Theory, Durham, North Carolina, June 1981.

"Strategic Response to Competitive New Products," (with Steven Shugan), ORSA/TIMS Joint National Meeting, Toronto, Ontario, Canada, May 1981.

"Applications of a Dynamic Semi-Markov Model of Consumer Choice," (with Ken Wisniewski), ORSA/TIMS Joint National Meeting, Colorado Springs, Colorado, November 1980.

"Models of Consumer Behavior," (panel discussion), ORSA/TIMS joint National Meetings, Colorado Springs, Colorado, November 1980.

"Dynamic Semi-Markov Models of Consumer Behavior," (with Ken Wisniewski) TIMS International Conference on Marketing, Paris, June 1980.

"Profit Maximizing Perceptual Positioning," (with Patricia Simmie) TIMS International Conference on Marketing, Paris, June 1980.

"An Error Theory for von Neumann-Morgenstern Utility Assessment," (with Jehoshua Eliashberg), ORSA/TIMS Joint National Meeting, Washington, D.C., May 1980.

"Defender: Defensive Strategies Against New Products" (with Steven Shugan), ORSA/TIMS Second Special Interest Conference on Marketing Measurement and Analysis, Austin, Texas, March 1980.

"Adaptive Control of New Product Launches," (with Ken Wisniewski), ORSA/TIMS Joint National Meeting, Milwaukee, Wisconsin, October 1979.

"The Value of Up-front Research in New Products," (with Glen Urban), TIMS International Meeting, Honolulu, Hawaii, June 1979.

"Methods for Computing Probabilities of Choice," (with Steven Shugan), TIMS International Meeting, Honolulu, Hawaii, June 1979.

"Forecasting and Improving the Adoption of New High Technology Products," (with Pat Lyon), ORSA/TIMS Joint National Meeting, New Orleans, Louisiana, May 1979.

"A Methodology for Product Realization: Multi-method Procedures," (with Patricia Simmie), ORSA/TIMS Joint National Meeting, Los Angeles, California, November 1978.

"Searching for Marketing Segments" (with Ken Wisniewski), ORSA/TIMS Joint National Meeting, New York, New York, May 1978.

"P.A.R.I.S.: An Interactive Market Research System," (with Steven Shugan), ORSA/TIMS Joint National Meeting, New York, New York, May 1978.

"Extended Conjoint Analysis," (with Steven Shugan), ORSA/TIMS Joint National Meeting, Atlanta, Georgia, November 1977.

"Consumer Preference Functions: Theory, Measurement, Estimation, and Application," (with Steven Shugan), ORSA/TIMS Joint National Meeting, Atlanta, Georgia, November 1977.

"Measuring Consumer Preferences for Health Care Plans," (with Glen Urban), ORSA/TIMS Joint National Meeting, San Francisco, California, May 1977.

"Improved Transportation Design with Consumer Response Models: An AMTRAK Example" (with Frank Koppelman), ORSA/TIMS Joint National Meeting, Miami, Florida, November 1976.

"A Comparison of Statistical and Direct Multiattribute Utility Assessment Procedures," (with Glen Urban), ORSA/TIMS Joint National Meeting, Las Vegas, Nevada, November 1985.

"Measuring Consumer Preferences: An Axiomatization for Describing Choice," ORSA/TIMS Joint National Meeting, Las Vegas, Nevada, November 1975.

"Modeling Consumer Response to Innovations," (1) Milwaukee Chapter of ORSA/TIMS, November 1985; (2) Chicago Chapter of ORSA/TIMS, December 1975.

"Modeling Decisions of Choice Among Finite Alternatives: Applications to Marketing and to Transportation Demand Theory," ORSA/TIMS Joint National Meeting, San Juan, Puerto, Rico, October 1974.

"An Efficient Model for Planning Bus Routes in Medium Sized Communities," ORSA/TIMS Joint National Meeting, San Diego, CA, November 1973.

Professional Affiliations

The Institute for Operations Research and Management Science (INFORMS)

INFORMS Society of Marketing Science (ISMS)

American Marketing Association

Product Development and Management Association, Certified New Product Development Professional

Professional Services

President, INFORMS Society of Marketing Science (January 2014 –December 2015). President-elect (a board position, January 2012 – December 2013). Past-President (a board position, January 2016 – December 2017).

Secretary, INFORMS Society of Marketing (January 2002 – December 2005). Founding Officer.

Advisory Council, INFORMS College of Marketing (1994 - 2002)

Council of The Institute of Management Sciences (TIMS, 1987 - 1989)

Associate Editor for Marketing, *Management Science*, (1980 - 1981)

Department Editor for Marketing, *Management Science*, (1982 - 1988)

Editor-in-Chief, *Marketing Science*, (1989 - 1994)

Editor, Special Issue on Big Data, *Marketing Science*, 2016. Senior Editor, Practice Papers, *Marketing Science*, 2016-2018. Associate Editor, Special Issue on the Theory and Practice of Marketing, *Marketing Science*, 2014.

Editorial Advisory Board, *Sloan Management Review* (2000-2002).

Associate Editor, *Journal of Marketing Research* (April 2006 – June 2009). First time in journal history that Associate Editors had been appointed.

Associate Editor, *Journal of Marketing Research* (2020 – 2021, on hiatus at my request)

Senior Advisory Board, *Journal of Marketing Research* (July 2009 – 2016). First time such an advisory board was formed. Advisory Board (July 2020 to present.)

Advisory Board, *Marketing Science* (2010 – present).

Advisory Board, *Journal of Product Innovation Management* (2011 – 2018)

Emeritus Editorial Board, *Marketing Science* (includes active reviewing of papers).

Editorial Boards, *Marketing Science*, (1980 – 1988, Editor 1989-1995, 2003- 2008, including acting Area Editor), *Journal of Product Innovation Management* (1997 - 2010), *Journal of Marketing* (2005- 2008, outstanding reviewer 2006), *European Management Journal* (advisory, 1998 - 2002), *International Journal for Research in Marketing* (2007 – 2014).

Conference Chairman: Conference Chair, Profitable Customer-Driven Organizations: Developing the Blueprint, Management Roundtable, May 1994.

Segment Chairman: Yale School of Management, Center for Customer Insight, The Customer Insights Conference, New Haven, CT. May 12-14, 2011. New Product Innovations.

Non-traditional Models of Consumer Preference and Choice, Adaptive Preference and Estimation, Optimizing Product Design and Customer Targeting, Obtaining Information From or About Consumers (Atlanta, GA, 2005, co-chair four sessions)

TIMS International Meeting, Copenhagen, Denmark, June 1984 (two sessions).

TIMS College of Marketing, Houston, Texas, October 1981 (twelve sessions).

TIMS College of Marketing, Milwaukee, Wisconsin, October 1979 (five sessions).

American Marketing Association Educator's Conference, Chicago, Illinois, August 1978, (three sessions).

INFORMS Marketing Science Conference, Atlanta GA, June 2005 (four sessions)

Session Chairman: *INFORMS (Previously named ORSA or TIMS)*

Virtual Customer Initiative (Rotterdam, The Netherlands, 2004)

New Approaches to Mapping (University of Maryland, 2003)

The Virtual Customer (University of Alberta, Canada 2002)

The Virtual Customer (Wiesbaden, Germany 2001)

Building Competitive Advantage Through Product Quality and R&D (Gainesville, FL 1996)

Customer Satisfaction and Its Role in Global Competition (San Francisco, CA 1992)

Competitive R&D (Washington, D.C., April 1988)

Competitive Marketing Strategy, (St. Louis, Michigan, November 1987)

Competition in Multiattributed Spaces (Atlanta, Georgia, November 1985).

Marketing: Consumer Measurement (Copenhagen, Denmark, June 1984)

Marketing: Dynamic Structures (Copenhagen, Denmark, June 1984)

Product Policy (Orlando, Florida, November 1983)

Product Policy (San Diego, California, October 1982)

New Product Introduction and Defense in Competitive Environments, (Detroit, Michigan, April 1982)

New Product and Product Policy Models, (Houston, Texas, October 1981)

New Product Models (Toronto, Ontario, Canada, May 1981)

Models of Consumer Behavior (Colorado Springs, Colorado, November 1980)

New Product Realization and Selection (Los Angeles, California, November 1978).

Session Chairman: *Association of Consumer Research*

Mathematical Theories of Consumer Behavior (St. Louis, Missouri, October 1981)

Committee Memberships

Editor Selection Committee, *Marketing Science*, INFORMS College of Marketing, 2001 (chair), 2004 (chair), 2007.

Editor Selection Committee, *Journal of Marketing Research*, American Marketing Association, 1999.

Conference Steering Committee, Duke Invitational Symposium on Choice Modeling and Behavior, June 1993.

Editor Selection Committee, *Management Science*, TIMS.

Founding Committee for *Marketing Science*, TIMS College of Marketing, (1979 - 1982).

Management Science Roundtable, TIMS, (1982 - 1988)

Marketing Strategy Steering Committee, Marketing Science Institute, (1983 - 1984).

Organizing Committee for Conference on Economics of the Firm, April 1985, Universite de Paris X Nanterre.

Organizing Committee for 1985 Conference in Bielefeld, West Germany, European Marketing Academy.

Publications Committee (1980 - 1982), Operations Society of America.

Scientific Committee for 1986 Conference in Helsinki, Finland.

Student Affairs Committee (1978 - 1979), Operations Society of America.

*Litigation Consulting (on behalf of, *deposition testimony, †court, commission, or arbitration testimony)*

ABC, Inc., American Broadcasting Company, Inc., and Disney Enterprises, Inc., Plaintiffs, v. Dish Network L.L.C.
and Dish Network Corp., (Preliminary Injunction)

Joseph Adinolfi, et al., v. United Technologies Corp., d/b/a Pratt & Whitney (class action, damages)* †

Alcatel-Lucent USA Inc. v. Amazon.com, Inc. et al. (Patent Infringement)* †

Allergan, Inc. Engagement. (Off-label Prescriptions)

American Express Travel Related Services, Inc. v. Visa USA, Inc., et. al. (Evaluation of marketing research)*

In Re American Express Anti-Steering Rules Antitrust Litigation (II) (Evaluation of marketing research)*

American Multi-Cinema, Inc. v. American Movie Classics Company, Inc., et. al. (Confusion)

Amway v. Procter & Gamble (Damages)*

Garth A. Anderson, et al. v. American Family Insurance Company (Class Action) *
 Anoush Cab, Inc., et al. v. Uber Technologies, Inc., Rasier, LLC (damages) †
Apple, Inc. v. Samsung Electronics Company, Ltd, et al. (Patent infringement, two cases) ** †††
 Dane Ashely Burce Tress v. FCA Canada, Inc. and FCA US LLC. (Class action)*
 Atlantic Recording Corporation, et. al. v. XM Satellite Radio, Inc. (Copyright infringement).
 Ariza, Et Al. v. Luxottica Retail North America (class action)*
Axcan Scandipharm, Inc. V. Global Pharmaceuticals And Impax Laboratories, Inc. (False Advertising)
 Avaya Inc. v. SNMP Research International, C.A. (Damages) *
 Berlex v. Biogen, Inc. (Damages)*
 Blue Mountain Arts, Susan Polis Schutz, and Stephen Schutz v. Hallmark Card, Inc. (Trade Dress)
 James And Lisa Camenson, et al.; v. Milgard Manufacturing Inc., et. al. (Class action)
 CBS Corporation, CBS Broadcasting Inc., CBS Studios Inc., and Survivor Productions, LLC. v. and DISH Network Corporation, DISH Network L.L.C. (damages).
Clearchannel Communications, Inc. (v. SoundExchange) in the Webcasting IV. (Rate setting) *†
 Comm-Tract Corp. v. Northern Telecom, Inc. (Advice only)
Comcast Cable Communications. LLC v. Sprint Communications Company (Patent Infringement)*
 Computer Aid, Inc. v. Hewlett Packard (damages)*
Dayna Craft, et al. v. Philip Morris Companies, Inc. and Philip Morris Inc. (Class Action).*
Creative Laboratories, Inc. v. Apple Computer, Inc. (Intellectual Property)
CTC Communications Corporation v. Bell Atlantic Corporation (Damages)
 Eagle Harbor Holdings LLC, and Mediustech LLC, v. Ford Motor Company (Patent infringement).
 Anne Elkind And Sharon Rosen, et al. v. Revlon Consumer Products Corporation, Inc. (Class Action)
 EPD v. Curtis (Product Confusion)†
FCA Canada Inc. and FCA US LLC, re Canadian Class Actions re Diesel Fuel Emissions, specifically, Shane Witham, et al. v. FCA Canada Inc., FCA US LLC, and FIAT Chrysler Automobiles N.V. (Class Action) †
 Fox Broadcasting Company, Inc., Twentieth Century Fox Film Corp., and Fox Television Holdings. Inc., Plaintiffs, v. Dish Network L.L.C. and Dish Network Corp., (Preliminary Injunction, Damages)*
 Stephen S. Gallagher, et. al. v. State Farm Mutual Automobile Insurance Company, et al. (Class Action)
 Geico v. Google and Overture Services (Yahoo), Inc. (Trademark Infringement)
 In Re: General Motors, LLC Ignition Switch Litigation (non-testifying expert)
Gillette v. S. C. Johnson (Patent Infringement)
Gyrodatta, Inc. v. Atlantic Inertial Systems Inc (“AIS”), et al. (consulting expert)
 Heublein vs. Seagrams and Gallo (Liability)
Hewlett-Packard, Inc. v. Factory Mutual Insurance Company (Insurance Coverage)*
 IMS Health Incorporated v. Symphony Health Solutions Corporation, Source Healthcare Analytics, LLC, and ImpactRx, Inc., C.A. No. 1:13-cv-2071-GMS (D. Del.). (Patent infringement, technical expert.)
 Intel v. Advanced Micro Devices (Damages)*
 J. B. D. L. Corp. d/b/a, Beckett Apothecary v. Wyeth-Ayerst Laboratories, Inc. and American Home Products Corporation, (Class Action)

Jerry Jacobs, et. al. v. Osmose Inc., et. al. (Class Action)*
Jay Kordich, et. al. v. Salton Maxim Housewares, Inc., et. al. (Trademark)†
In RE J.P. Morgan Chase Cash Balance Litigation (Class Action)*
Michael Kors, Inc. v. Costco Wholesale Corporation (False Advertising, Damages)*
L.A. Taxi Cooperative, Inc. et al. v. Uber Technologies, Inc.; Rasier, LLC; and Rasier-CA, LLC. (False Advertising)*.
Lending Tree, Inc. v. The Gator Corporation (Intellectual Property)
Lotus v. Borland (Damages)*
Louis Vuitton Malletier, S. A. v. Hyundai Motor America (Trademark Infringement)*
Malden Transportation, Inc. et al. vs. Uber Technologies, Inc., Rasier, LLC*† (damages). See also Anoush.
Marvin Lumber and Cedar Company v. PPG Industries, Inc., et. al. (Survey Design)
MasterCard International, Inc. v. First National Bank of Omaha (Product Confusion)*
Mayo Foundation v. Mayo Health Facilities (Product Confusion)†
Mead Johnson Nutritionals v. unnamed party (False Advertising)
Merck & Co. (Lanham Act Advice)
In Re Microsoft Corporation Antitrust Litigation (Multi-district Litigation)*
Millennium Laboratories, Inc. v. Ameritox, Ltd. (False Advertising)
Scott Miller, et al. v. Fuhu, Inc. and Fuhu Holdings, Inc. (Class Certification)*
MillerCoors, LLC v. Anheuser-Busch Companies, LLC. (False Advertising) *
National Association of Broadcasters v. SoundExchange in Webcasting V (Rate Setting) *†
Pacific Bell Telephone Company in New Regulatory Framework Review of Customer Satisfaction before the California Public Utility Commission†
Luciano F. Paone v. Microsoft Corporation (Patent Infringement)*
Pfizer Consumer Healthcare (Lanham Act Advice)
Playtex v. Procter & Gamble (Claims Substantiation)*†
Procter & Gamble v. Amway (Liability and Damages)*†
Procter & Gamble v. Haugan, et. al. (Liability and Damages)†
Putnum Fund Trustees. (Investment Fraud, advice on market research)
Ram Broadcasting, Inc. (Cellular Telephone Filings)
RealPlayer, Inc. v. Microsoft Corporation (Anti-trust)
Roberts et. al. v. Enterprise Rent-a-Car Company of Boston, Inc. (Class Action)
The Republic of Columbia v. Diageo North America, et al. (Anti-trust).
St. Clair Intellectual Property Consultants, Inc. v. Research in Motion, Ltd. and General Imaging Co. (Patent infringement)
Curt Schlesinger and Peter Lore, on behalf themselves and the Certified Class, Plaintiffs, v. Ticketmaster (Class action, false advertising, confusion)*
Barbara Schwab, et. al. v. Philip Morris, USA (Class Action)*
SoundExchange, Inc. v. Sirius Satellite Radio, Inc. and XM Satellite Radio, Inc.: In the Matter of Adjustment of Rates and Terms for Preexisting Subscription Services and Satellite Digital Radio Services. SDARS I, II,

and III. (Rate setting) 2007*†. 2012*†. 2017*†.

SoundExchange, Inc. v. iHeart Media (2015) and the National Association of Broadcasters (2020), In the Matter of Determination of Rates and Terms for Digital Performance in Sound Recordings and Ephemeral Recordings. Web IV, V. (Rate Setting). 2015*†, 2020*†

Sprint Communications Company L.P. et al. v. Comcast Cable Communications, LLC. et al. (Damages)*

Spotify v. Royalty Rates Holders for Making and Distributing Phonorecords. In the Matter of Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (*Phonorecords IV*). (Rate setting) 2021

State of Colorado, et. al. v. Warner Chilcott Holdings Company III, Ltd., et. al. (Anti-trust)* †

State of Florida and Plaintiff States Antitrust Litigation for Disposable Contact Lenses (Survey Analysis)†

State of Washington v. Comcast, et al. (False Advertising)* †

Stipic, et. al. v. Behr Process Corporation and Masco International (Class Action)*

Straumann Company v. Lifecore Biomedical, Inc. (Product Confusion)*

Sun Microsystems, Inc. v. Microsoft Corporation (Anti-trust).

Symphony Health Solutions Corporation v. IMS Medical Radar (Technical Expert)*.

Takada Pharmaceuticals USA, Inc. v. Par Pharmaceutical Companies, Inc. Par Pharmaceutical, Inc., Amneal Pharmaceuticals, LLC, Watson Laboratories, Inc. West-Ward Pharmaceutical Corp., Hikma Americas PLC. (Patent Infringement).

Charles Tillage et al. v. Comcast Corporation (Class Action)*

Tivo, Inc. v. Echostar Communications Corporation, et. al* (Patent Infringement)

Tropicana Products, Inc. v. Vero Beach Groves, Inc. (Lanham Act)† (Declaration accepted as court testimony.)

United States of America Department of Justice v. AT&T Inc., DirecTV Group Holdings, LLC, And Time Warner Inc.* †

Wal-Mart Stores, Inc (and other retailers) v. Mastercard International, Inc. (Liability and Damages, Anti-trust)*

We Media, Inc. v. We: Women's Entertainment, LLC. (Product Confusion)*.

Yahoo Holdings, Inc., et al. v. Mozilla Corporation (customer satisfaction) *

Olua Zakaria, et al. v. Gerber Products Co. d/b/a Nestle Nutrition, Nestle Infant and Nestle Nutrition North America (class action, damages)*.

Marketing, Marketing Research, and Product Development Consulting Not Otherwise Listed

American Home Foods, Inc.; American Airlines; American Hospital Supply Corporation; Analog Devices, Inc; Andersen Consulting, Inc. (Accenture), Applied Marketing Science, Inc.; A.T.&T.; Avon; Barton-Aschmann Associates; Baxter Cardiovascular Group, Booz Allen Hamilton, Inc., Cambridge Systematics, Inc.; Chrysler, LLC; Colgate-Palmolive; Costello Associates, Inc.; Economics' Laboratories, Inc.; Elrick and Lavidge, Inc.; Evanston Hospital; Evanston, Illinois and Schaumburg, Illinois (Transportation Planning); Fiat Chrysler Automobiles, Fidelity Investments; Ford Motor Company; French's Inc., G.D. Searle, Inc.; General Foods, Inc.; General Motors, Inc., Buick Division, Chevrolet Division, Marketing and Product Planning; Gillette; IBM, Inc.; Information Resources, Inc.; Intel, Inc., Johnson & Johnson; Kodak; Macromedia, Inc., Management Decision Systems, Inc.; M/A/R/C, Inc.; Merck, Inc., Navistar International, Inc.; Pacific Gas and Electric Company, Pepsi-Cola, Inc.; Polaroid; Procter &

Gamble Company; Product Genesis, Inc.; RAM Broadcasting, Inc.; Regional Transportation Authority; Richardson-Vicks, Inc.; Southern Company Services, Inc.; Time-Life Books; Volunteers in Technical Assistance, and Wyeth-Ayerst Laboratories, Inc. Co-founder, senior product development consultant, Applied Marketing Science, Inc., Advisory Board (former), Affinova, Inc.

M.I.T. or MIT Sloan Committee Work

Associated Faculty Committee to Review the Organizational Learning Center (MIT Sloan), 1995.

Building Committee for the E51 Expansion, MIT Sloan, 1992, Ad Hoc.

Center for Innovation in Product Development

Leader, Virtual Customer Initiative, 2000 - 2006

Research Director, 1997 – 2000

Center for Transportation Studies, 1981 - 1982.

Master of Science in Transportation Committee.

Committee on the Masters in Analytics, 2014-2016.

Committee on the Undergraduate Program, 2003 – 2005.

Committee to Investigate Sloan-Logo Research Notes (MIT Sloan, chair), 2001-2002.

Dean's Consultation Committee (MIT Sloan), 2008-2009.

Dean Search Committee (MIT Sloan), 1993.

Executive Educational Programs Committee (MIT Sloan), 1983 – 1985, 1998-1999, 2007.

Faculty Admissions Committee, 2004-2009.

Faculty Council (MIT Sloan), 1999.

International Center on Research for the Management of Technology (MIT Sloan).

Co-Director, (1993 - 2000).

Joint Steering Committee (1990 - 1993).

Management Science Area, MIT Sloan School of Management.

Area Head, (2005- 2009).

Chairman of Subcommittee on Peer Group Comparisons, (1981 - 1982).

Committee on Management Science Curriculum Redesign, (1982 - 1983).

Marketing Group Head (1986, 1988 – 2003, 2010-2011).

Marketing PhD Admissions, Head (2015, 2016)

Management of Technology Program Committee (MIT Sloan), (2001- 2003).

Master's Program Committee, MIT Sloan, (1980 – 1987, 2007 – 2015).

Ad hoc committee to develop a Marketing, Operations and Strategy Track (2011-2012).

Ad hoc committee to understand gender issues in class participation (2015-2016)

Chairman: Subcommittee On Placement, (1981 - 1982).

Core Curriculum Implementation Committee (1992-1994).

Core Curriculum Reassessment Committee (1991-1992).

Subcommittee on Admissions, Special Consideration, (2007 – 2009).

Subcommittee on Course Ratings (2011).

Subcommittee on Entrepreneurship and Innovation Evaluation (Chair, 2008).

Subcommittee on Fellowship Awards (2014-2015)

Subcommittee on the Management Science Core, (1982 - 1983).

Subcommittee on Tracks (2008-2009).

Subcommittee on Strategy Curriculum (2009).

MIT Sloan Committee on Educational Technology, 2004 – 2006.

Operations Research Center

Admissions Committee, (1981 - 1982).

Associated Faculty (1980 – 2000).

Operations Research Committee (2001- 2003).

President's Committee (1984).

Organization Committee for the New MIT Sloan Building, E62, (2007- 2009).

Personnel and Policy Committee, MIT Sloan (Executive Committee, 2005 – 2009, 2013-2014).

Chair of ad hoc committees for reappointment, promotion, and tenure (1983 - 2014).

Member of ad hoc committees for reappointment, promotion, and tenure (1981 - 2014).

Sloan Appreciation Awards Committee (2013-2014)

Symposium Director, Marketing Center, MIT Sloan School, M.I.T., (1981 - 1982).

Zannetos Dissertation Award Committee, MIT Sloan, (1981-82, 1996-97, chair 1997-1998).

M.I.T. Subjects Taught (often multiple sections)

15.810, Marketing Management (Core)

Spring 1990, 1991, 1992, 1993, 1994, 1995, 1997, 1998, 1999, 2001, 2004, 2005, 2006, 2018. Fall 1999, 2006, 2007, 2008, 2011, 2012, 2013, 2014, 2015. (Teaching awards listed on page 2 of vita.). Retitled

	Marketing Innovation in 2018.
15.812, Marketing Management (UG)	Fall 1981, 1982, 1984, 1985, 1986. Spring 1981, 1984, 2006, 2018. Retitled Marketing Innovation in 2018.
15.813, Marketing Management in Public Sector	Fall 1980.
15.814, Marketing Innovation	Spring 2019, 2020
15.8141, Marketing Innovation (UG)	Spring 2019, 2020
15.814, Marketing Mgmt (Mgmt of Technology)	Fall 1988, 1993, 1999, 2001.
15.820, Advanced Marketing Management	Spring 1990
15.821, Listening to the Customer	Spring 2021, 2022
15.828, New Product Development	Spring 1981, 1982, 1989; Fall 1982, 1984; 1985.
15.838, Ph.D. Seminar (Various Topics)	Spring 1986, 1997, 2002, 2006, 2011, 2013, 2014, 2015, 2016, 2021.
15.839, Marketing and Statistics Workshop	Spring 1982; Fall 1982, 1984.
15.TH4, Thesis Project on Competitive Strategy	Spring 1985, 1986.
CS.113, Core Ethics: Ethics in Marketing	Fall 2014, 2015, 2016, 2017, 2019.
CS.108, Core Ethics: Ethics in Drug and Vaccine Tests	Fall 2020, 2021

Summer Session, ILP, and External Executive

A.T.&T Course on New Product Development, 1986.

European Institute for Business Administration (INSEAD) European Marketing Programme, 1985.

Greater Boston Area Executive Program, 1982, 1983.

M.I.T. Civil Engineering, Demand Theory, 1980, 1981, and 1982.

M.I.T. ILP, Marketing Strategy and Models in the Information age, 1983.

M.I.T., Management of R&D, 1989, 1990, 1991, 1992, 1993, 1994. 1995, 1996, 1997, 1998, 1999.

M.I.T. Marketing Science Symposium, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988.

M.I.T./M.I.P. Executive Program, 1992.

M.I.T. New Product Development, 1997.

Pedagogical Developments.

In 2021, I redesigned a course on listening to the customer, including entirely new sessions updated with new material and new case studies.

In 2017-2019, I headed an effort to redesign the basic marketing course with further consideration of redesigning the entire marketing curriculum.

In 2012, I redesigned the core curriculum in marketing to reflect new developments in marketing analytics, big data, and new media.

In 1990 and 1991, Prof. John D. C. Little and I redesigned the core curriculum in Marketing Management and taught the course to the entire Master's class.

In the 1991-1992 I was part of a committee of six faculty members that redesigned the core curriculum at the Sloan School. I supervised the voice-of-the-customer analyses of students and recruiters and encouraged the committee to design a program that these customers would find exciting. The new core was implemented in the 1993-1994 academic year. Student satisfaction increased significantly.

Teaching Notes

Note on Defensive Marketing Strategy (2005, for 15.810, Marketing Management)

Note on Product Development (2055, for 15.810, Marketing Management)

Note on the Voice of the Customer (2018 for 15.814, Marketing Innovation)

Note on Consumer Behavior (2015, for 15.810, Marketing Management)

Note on Life Cycle Diffusion Models (2005, for 15.810, Marketing Management)

Note on Engineering Product Design (2006, for 15.810, Marketing Management)

Note on Conjoint Analysis (2018, for 15.814, Marketing Innovation)

M.I.T. Thesis Supervision

(a) MIT Sloan School of Management, Master's Theses

Hafiz Adamjee (joint with John Scaife), "The Face of the Customer: The Use of Multimedia in Quality Function Deployment," - (1993). This product was subsequently commercialized and was a finalist for the *New Media* Invision 1994 Multimedia award at COMDEX/Spring '94.

Ramay Akras, "Competitive Strategy in the Marketing of Small DDP Computers: an Analysis of Emerging Price and Product Position Patterns," - (1986).

Frederic Amerson, "Strategic Marketing Simulation: Improvements to the Enterprise Integrating Exercise," - (1989).

Sébastien Andrivet (Sloan Fellows Program), "Customer research, customer-driven design, and business strategy in Massively Multiplayer Online Games," – (2007)

Andrew Anagnos (joint with Karen Van Kirk), "A Framework for Analyzing Quality in the News Media," - (1991)

Allen Aerni, "Measurement of Customer Satisfaction," - (1994).

Joel Berez, "An Investigation of Decision Hierarchies" - (1981).

Harel Beit-on, "Competitive Strategy for Small Business Jet Aircraft," - (1985).

Willy Biberstein (SDM Program), "Framework for Customer Interaction Throughout the Automotive Product Development Process," (February 2002).

Andre Borschberg (joint with Webb Elkins), "Defensive Marketing Strategy: Its Application to a financial Decision Support System" - Reader (1983).

Philippe Bosquet, "European Airline Deregulation: Defining Air France's Strategy for the 1990's," - Reader (1989)

Jill A. Christians, (joint with Cheryl M. Duckworth), "Expectations and Customer Satisfaction: A Market Research Study for Plimoth Plantation," Reader (1994).

Poh-Kian Chua (MOT Program), "R,D&E Metrics: Shaping the Outcomes of Your R,D&E Investment," – (1998).

Leslie K. Cooper, "The Structure of Recruiter Needs at the Sloan School of Management: A Quantitative Assessment," - (1992).

Teruyuki Daino (Sloan Fellows Program), "How a Leading Company Can Overcome a Competitive Challenge: A Case Study of Anheuser-Busch Company." – (1998).

Laura E. Donohue, "Software Product Development: An Application of the Integration of R&D and Marketing via Quality Function Deployment" - (1990)

Cheryl M. Duckworth (joint with Jill A. Christians), "Expectations and Customer Satisfaction: A Market Research Study for Plimoth Plantation," Reader (1994).

Webb Elkins (joint with Andre Borschberg), "Defensive Marketing Strategy: Its Application to a Financial Decision Support System" - Reader (1983).

Rasheed El-Moslimany (LFM Program), "Getting Value from the Value Chain: Comfort Choice," Co-Advisor. (June 2002)

Merve Ergez (Master of Science in Management Studies), Strategic Scent Selection: A Marketing Research Study for Olivita Brand," (June 2014).

Julio Faura (MOT Program), "Contribution to Web-based Conjoint Analysis for Market Research," (2000).

Richard Feldman, "Decision Support Systems for Forecasting Communications in the Home," - Reader (1985).

Anders T. Fornander, "The Continuing Operating System Battle in the Personal Computer Industry," - Reader (1994).

Carl Frank (MOT Program), "Metrics Thermostat for Strategic Priorities in Military System Acquisition Projects," (2000).

Mihaela Fulga, "Competitive Pricing and Positioning Strategies in the Dating Service Market," - (1986).

Steven P. Gaskin, "Defender: Test and Application of a Defensive Marketing Model" - (1986). 1st Place, Brooks Award.

Peter N. Goettler, "A Pre-market Forecasting Model of New Consumer Durables: Development and Application," - Reader (1986).

Patti N. Goldberger, "Competitive Strategy in the Market for Running Shoes," - (1985).

Akhil Gupta, "The Personal Computer Industry: Economic and Market Influences on Product Positioning Strategies," - (1986).

Michael Halloran (joint with Marc Silver), "Defensive Marketing Strategy: Empirical Applications" - (1983).

Carla Heaton, "Competitive Strategy in the Facsimile Market," - (1985).

Judith Hee, "Determining Manufacturer's Coupon Strategies" - Reader (1981).

Jonathan E. Higginson, "Understanding Dependencies in Research and Development at the Charles Stark Draper Laboratory." - (1997).

Scott D. Hill, "Correlation of Core Competencies with Market-Driven or Self-Guided Research," - (1995).

Dan Isaacs, "Competitive Pricing and Positioning Strategies in the Imported Beer Marketing," - (1986).

Francois Jacques, "Marketing Strategies in Innovative Industries: The Case of Package/Document Delivery Services," - Co-Advisor (1985).

Lawrence Kahn, "Competitive Positioning: A Study of Recruiter's and Employer's Perceptions of the Sloan School of Management" - (1982). Honorable mention Brooke's Thesis Prize.

D. Darcy Kay, "Competitive Strategy for Anti-arthritis Drugs" - (1985).

Young Joo Kim (MOT Program), "R&D Management Applications of The Dynamic Metrics Framework" – (1998)

Priya Kher (Systems Design and Management Program), "Using Application Generated Data to Provide Personalized User Experience in Software Applications" – (2018)

Sidney A. Kriger, "The Effect of Quality Function Deployment on Communications of the New Product Development Teams," - (1989)

Yasuke Kume, "New Marketing Strategy of Telecommunications in Japan" - Reader (1981).

Elvind Lange, "Measuring Market Response to Marketing Mix Variables Using Dynamic Modeling and Its Implications for Brand Strategy" - Reader (1981).

Stephen P. Langhans, "Defensive Marketing Strategy: A Consumer Semi-Durable Case Example" - (1983).

In-Kyu Lee, "Evaluating System for the Upstream Center of R&D for being Market-Oriented in a Consumer Electronics Company," - (1995).

Michael Leslie (joint with Joel Wachtler), "A Methodology for Making International Marketing Mix Decisions," - Reader (1985).

Kit Mee Lim, "Competitive Strategy among Companies Offering Credit Cards," - Reader (1985).

James A. Lutz, "Competitive Marketing Strategy in the CAD Marketplace," - (1985).

Larry D. Lyons, "Forecasting the Impact of Competitive Entries on Sales of a New Consumer Durable" - Reader (1984).

Arpita Majundar (SDM Program), "Strategic Metrics for Product Development at Ford Motor Company," - (2000).

Catherine E. Manion, "A Survey of Customer Satisfaction Incentive Systems for Salespersons," - (1993).

Maureen E. Matamoros, "Information Overload," – Reader (1986).

Meghan McArdle (LFM Program), "Internet-based Rapid Customer Feedback for Design Feature Tradeoff Analysis," – co-Advisor (2000)

Fernando Motta, "Competitive Strategy Among Panamanian Banks," - (1985).

Neil Novich, "Price and Promotion Analysis Using Scanner Data" - Reader (1981).

Kenji Nozaki, "Marketing and Technology Strategy for the Japanese Architectural Design Company," - (1989).

Seiji Nozawa, "Voice of the Customer Analysis in the Japanese Beer Market." - (1997).

Minho Park (MOT Program), "R&D Matrix at LG Electronics." - (1997)

Stephen Pearse, "Production and Sales Forecasting: A Case Study and Analysis" - Reader (1982).

Ning P. Peng, "An Exploration of the Impact and Success of Customer Satisfaction Programs," - (1994).

Homer Pien (MOT Program), "Competitive Advantage through Successful Management of R&D." - (1997)

Susan B. Poulin, "Defensive Strategy in the Automatic Test Equipment Industry" (1984).

Jill W. Roberts, "MBA Recruiters' Needs: Voice of the Customer Analysis," - (1992).

Lisa Gayle Ross, "A Voice of the Customer Analysis of M.B.A. Schools: The Student Segment," - (1992). Lisa was a runner-up for the George Hay Brown Marketing Scholar of the Year in 1992.

Tamaki Sano, "Strategy for Kirin as a Global Brand" – (2009) Sloan Fellow.

John Scaife (joint with Hafiz Adamjee), "The Face of the Customer: The Use of Multimedia in Quality Function Deployment," - (1993). See award listed under Adamjee.

Paul E. Schoidt, "Advertising, Price, and Positioning Equilibria," - (1986).

Hongmei Shang, "A Simulation Analysis of Optimal Task Assignment for Growing Managers from R&D Labs," – (February 2000).

Rosemarie Shield, "Competitive Pricing and Positioning Strategies in the Chromatographic Instruments Market," - , (1986).

Jon Silver (joint with John C. Thompson, Jr.), "Beta-binomial Analysis of Customer Needs -- Channels for Personal Computers," - (1991). 1st Prize, Brooks Award.

Marc Silver (joint with Michael Halloran), "Defensive Marketing Strategy: Empirical Applications" - (1983).

Lisa Silverman, "An Application of New Product Growth Modeling to Automobile Introductions" - (1982).

Sheryl Sligh, "An Assessment of the Analog Modem Market," - (1991).

Jamie Smith, "Industrial Buying Process of Pension Funds for Real Estate," - (1982).

Yoshihito Takahashi (MOT), "Analysis of Strategy in an Ethical Drug Industry," – Reader (2000).

Genevieve Tchang, "A Methodology for Planning and Evaluating External Relations at Business Schools" - Reader (1982).

John C. Thompson, Jr. (joint with Jon Silver), "Beta-binomial Analysis of Customer Needs -- Channels for Personal Computers," - (1991). 1st Place, Brooks Award.

V. Mullin Traynor, "The Dissemination and Adoption of New Technology: Control Data's Computer-Based Training System, Plato, and the Electric Utilities" - (1982).

Karen Van Kirk (joint with Andrew Anagnos), "A Framework for Analyzing Quality in the News Media," - (1991)

Joel Wachtler (joint with Michael Leslie), "A Methodology for Making International Marketing Mix Decisions," - Reader (1985).

Tamao Watanabe, "Customer Analysis of the U.S. Cardiovascular Drug Market: Focusing on Physician's Drug Choice" - (1991)

Stephen L. Weise, "Expert Decision Support Systems for Marketing Management," – Reader (1986).

Nancy Werner, "Competitive Price and Positioning in the Integrated Office Automation Systems Market" - (1986).

Julie Wherry, "Pre-Test Marketing: Its Current State in the Consumer Goods Industry and Its Effect on Determining a Networked Good." - (2006).

Ali Yalcin, "The Potentials and Limitations of Customer Satisfaction Indices in Captive Customer-Supplier Environments," - (1995)

Sandra Yie, "The Core Curriculum at Sloan: Establishing a Hierarchy of Needs," - (1992).

Judy Young, "Responsive Marketing Strategy at AT&T" - (1982).

(b) *Aeronautics S.M. Theses*

Keith Russell (LSI), "Reengineering Metrics Systems for Aircraft Sustainment Teams: A Metrics Thermostat for Use in Strategic Priority Management," (February 2001).

(c) *Electrical Engineering, S.B. and M.Eng. Theses*

Chan, Christine W. Y. (M. Eng), "Measuring Non-Monetary Incentives Using Conjoint Analysis," Co-Advisor (1999).

Emily Hui (M.Eng.), "Application of Polyhedral Conjoint Analysis to the Design of Sloan's Executive Education Programs." June 2003.

Brian T. Miller (S. B.), "A Verification of Price Equilibria Based on Non-Zero Conjectural Variation," (1986).

(d) *Mechanical Engineering, Master's Theses*

Burt D. LaFountain, "An Empirical Exploration of Metrics for Product Development Teams" – (1999)

Tina Savage, "The Virtual Customer: A Distributed Methodology for Linking Product Design and Customer Preferences." Co-Advisor (1998).

(e) *Operations Research Center, Master's Theses*

Jeffrey Moffit (ORC), "Applying the Metrics Thermostat to Naval Acquisitions for Improving the Total Ownership Cost – Effectiveness of New Systems," (2001)

Olivier Toubia (ORC), "Interior-point Methods Applied to Internet Conjoint Analysis," (February 2001), Co-Advisor.

(f) *Urban Studies, Master's Theses*

Marijoan Bull, "Affirmative Fair Housing Marketing" - Committee Member (1982).

Barry Cosgrove, "Marketing Analysis for the Brockton Area Transportation Authority" – Committee Member (1981).

(g) *MIT Sloan School of Management, Ph.D. Theses (Universities listed are last known appointment)*

Makoto Abe, "A Marketing Mix Model Developed from Single Source Data: A Semiparametric Approach." Committee member (August 1991). Abe is on the faculty at the University of Tokyo.

Cao, Xinyu, "Consumer Inattention, Uncertainty, and Marketing Strategy." Committee member (June 2018). Cao is joining the faculty at New York University.

Daria Dzyabura, "Essays on Machine Learning in Marketing (tentative title)," Chairman (June 2012). Dzyabura is on the faculty at the New Economic School in Russia.

Peter Fader, "Effective Strategies in Oligopolies," Chairman (February 1987). Sloan School of Management, Zannetos Prize, 1st Place. Fader is on the faculty at the University of Pennsylvania.

Fred Feinberg, "Pulsing Policies for Aggregate Advertising Models" Committee Member (August 1988). Feinberg is on the faculty of the University of Michigan.

Dave Godes, "Friend or Foe?: The Relationship Between Learning and Incentives and two additional essays in marketing," (June 2000), Committee Member. Primary advisor on listed essay. Zannetos Prize, 1st Place. Godes is on the faculty of the University of Maryland.

Abbie Griffin, "Functionally Integrated New Product Development: Improving the Product Development Process Through Linking Marketing and Technology Development," Chairman. (June 1989). Griffin is on the faculty at the University of Utah and was editor of *Journal of Product Innovation Management* from 1997-2003 Frank Bass Dissertation Award (INFORMS).

Gurumurthy Kalyanaram, "Empirical Modeling of the Dynamics of the Order of Entry Effect on Market Share, Trial Penetration and Repeat Purchases for Frequently Purchased Consumer Goods," Committee Member (March 1989). G. K. was on the faculty at the University of Texas, Dallas.

Eriko Kitazawa, "Customer Satisfaction at Japanese Utility Franchises," Committee Member (1996).

Li, Xitong, "Using Web Data and Services: Technology, Theory, and Evidence," Co-chairman (2014). Li is on the faculty at HEC Paris.

Eleanor (Nell) Putnam-Farr, "The Effects of Framing on Enrollment and Participation – Field Experiments Using Different Recruitment Language." June 2015. Putnam-Farr joined Yale University as a post-doctoral fellow. She is joining the faculty at Rice University.

John H. Roberts, "A Multiattributed Utility Diffusion Model: Theory and Application to the Prelaunch Forecasting of Autos". Committee Member (February 1984). Roberts is on the faculty at the London Business School and the Australian Graduate School of Management..

Matt Selove, "The Strategic Importance of Accuracy in Conjoint Design," Committee Member (June 2010). Selove joined the faculty at the University of Southern California. He is now on the faculty at the Chapman University. John Howard Dissertation Award (AMA), 2010.

Duncan I. Simester, "Analytical Essays on Marketing," Committee Member, (June 1993). Sloan School of Management, Zannetos Prize, Honorable Mention. Simester is on the faculty of M.I.T.

Artem Timoshenko, "Essays on Machine Learning in Marketing (tentative ,June 2019),." Timoshenko is on the faculty of Northwestern University.

Olivier Toubia, "New Approaches to Idea Generation and Consumer Input in the Product Development Process," (June 2004). Toubia is on the faculty of Columbia University. Frank M. Bass Dissertation Award (INFORMS), 2005, John Howard Dissertation Award (AMA), 2005. ISMS Long-term Impact Award 2016.

Miguel Villas-Boas, "On Promotions and Advertising Policies: A Strategic Approach." Committee member (February 1991). Villas-Boas is on the faculty at the University of California, Berkeley.

Bruce Weinberg, "An Information-Acceleration-Based Methodology for Developing Preproduction Forecasts for Durable Goods: Design, Development, and Initial Validation." Committee Member. (August 1992). Weinberg was on the faculty at Boston University.

Florian Zettelmeyer, "Three Essays on Strategic and Organizational Uses of Information in Marketing." Committee Member. Zettelmeyer is on the faculty of Northwestern University.

(h) *Civil Engineering, Ph.D. Thesis*

Karla Karash (Ph.D.), "An Application of the Lens Model in Measuring Retail Attractiveness and the Effects of Transportation Programs" - Committee Member (August 1983). Karash was at the MBTA.

(j) *Mechanical Engineering, Ph.D. Thesis*

Javier Gonzalez-Zugasti (Mechanical Engineering, Ph.D.), "Models for Product Family Design and Selection," (June 2000), Committee Member.

(k) *Operations Research Center, Ph.D. Thesis*

Yee, Michael (Operations Research, Ph.D.), "Inferring Non-Compensatory Choice Heuristics," (June 2006), Co-Advisor. Yee is at MIT's Lincoln Laboratories.

Northwestern University Ph.D. Thesis Supervision (1975 - 1980 Academic Years)

Steven M. Shugan, "A Descriptive Stochastic Preference Theory and Dynamic Optimization: Applications Toward Predicting Consumer Choice' Chairman (September 1977). Shugan is on the faculty at the University of Florida and was editor of *Marketing Science* for six years.

Patricia Simmie, "Product Realization: Theory, Models, and Application" - Chairman (June 1979), American Marketing Association Dissertation Prize, Honorable Mention. Simmie was at York University.

Ken J. Wisniewski, "A Semi-Markov Theory of Consumer Response: New Theoretical Properties, Simulation Testing, and Empirical Application" Chairman (June 1981). American Marketing Association Dissertation Prize, First Place. Wisniewski was on the University of Chicago.

APPENDIX B
MATERIALS CONSIDERED

Case Documents

“Complaint Counsel’s Motion for Summary Decision,” August 22, 2022, *In the Matter of: Intuit Inc., a corporation, Respondent.*, Docket No. 9408.

“Complaint,” March 28, 2022, *In the Matter of: Intuit Inc., a corporation*, Docket No. 9408.

Declaration of John R. Hauser, Sc.D., April 4, 2022, *Federal Trade Commission v. Intuit Inc.*, No. 3:22-cv-1973, United States District Court Northern District of California San Francisco Division.

Declaration of Nathan Novemsky, March 28, 2022, GX-302, and associated backup.

Declaration of Rebecca Kirk Fair, August 30, 2022.

Kirk Fair, R., “Analysis of Consumer Choices in a Test and Control Study of TurboTax Upgrade Screens,” Submitted to the FTC on November 4, 2020, and associated backup.

Second Declaration of Nathan Novemsky, April 8, 2022, GX-313, and associated backup.

Internal Intuit Documents

Intuit, 2017 Consumer Group FY18 Go-To-Market White Paper.

Intuit, 2019 Our Competitors Study.

Intuit, 2019 TurboTax Defection Study.

Intuit, 2021 TurboTax Online TY20 NPS Study.

INTUIT-FFA-FTC-000139031-032.

INTUIT-FFA-FTC-000549928-959.

Academic Literature

Assael, H., 2004. “*Consumer Behavior: A Strategic Approach.*” Houghton Mifflin Company, Boston, MA.

Baskin, E. et al., 2016. “Proximity of Snacks to Beverages Increases Food Consumption in the Workplace: A Field Study.” *Appetite*, 103, 244-248.

Bettman, J., Luce, M. and Payne, J., 1998. “Constructive Consumer Choice Processes.” *Journal of Consumer Research*, 25, 187-217.

Birks, D. et. al., 2011. “Shifting Boundaries of Research.” *Sixth ASC International Conference*, University of Bristol, UK.

Chakravarti, A. and Janiszewski, C., 2003. “The Influence of Macro-Level Motives on Consideration Set Composition in Novel Purchase Situations.” *Journal of Consumer Research*, 30(2), 244-258.

Dahan, E. and Hauser, J.R., 2002. “The Virtual Customer,” *Journal of Product Innovation Management*, 19(5), 332-353.

Diamond, S. S., 2012. "Control Foundations: Rationales and Approaches." In *Trademark and Deceptive Advertising Surveys: Law, Science, and Design*, 201-239. American Bar Association.

Diamond, S.S., 2011. "Reference Guide on Survey Research." In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press.

Ding, M. et al., 2011. "Unstructured Direct Elicitation of Decision Rules." *Journal of Marketing Research*, 48(1), 116-127.

Frederick, S. et al, 2009. "Opportunity Cost Neglect." *Journal of Consumer Research*, 36(4), 553-561.

Hauser, D. and Schwarz, N., 2015. "It's a Trap! Instructional Manipulation Checks Prompt Systematic Thinking on "Tricky Tasks." *SAGE Open*.

Jacoby, J., 2012. "Are Closed-Ended Questions Leading Questions?" In *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, 261-285. American Bar Association.

Keller, K. and Swaminathan, V., 2020. "*Strategic Brand Management - Building, Measuring and Managing Brand Equity*." Pearson Education, Hoboken, New Jersey.

Krosnick, J.A. and Presser, S., 2009. "Question and Questionnaire Design." In *Handbook of Survey Research*. Elsevier.

Lavrakas, P., 2008. "Self-Selection Bias." *Sage Research Methods*.

Lew, G., 2017. "The importance of customer lifetime value in determining their profitability." *The Business and Management Review*, 8(4), 24-30.

Federal Judicial Center, 2004. "*Manual for Complex Litigation*."

Morren, M. and Paas, L., 2020. "Short and Long Instructional Manipulation Checks: What Do They Measure?" *International Journal of Public Opinion Research*, 32(4).

Novemsky, N. et al, 2007. "Preference Fluency in Choice." *Journal of Marketing Research*, 44(3), 347-356.

Oppenheimer, D., Meyvis, T. and Davidenko, N., 2009. "Instructional Manipulation Checks: Detecting Satisficing to Increase Statistical Power." *Journal of Experimental Social Psychology*, 45(4), 867-872.

Paas, L.J. and Morren, M., 2018. "Please do not answer if you are reading this: respondent inattention in online panels." *Marketing Letters*, 29, 13-21.

Payne, J., 1976. "Task Complexity and Contingent Processing in Decision Making: An Information Search and Protocol Analysis." *Organizational Behavior and Human Performance*, 16(2), 366-387.

Payne, Stanley L., 1951, "*The Art of Asking Questions*." Princeton University Press.

Pocheptsova, A. and Novemsky, N., 2010. "When Do Incidental Mood Effects Last? Lay Beliefs versus Actual Effects." *Journal of Consumer Research*, 36(6), 992-1001.

Sawyer, A.G., 1975. "Demand Artifacts in Laboratory Experiments in Consumer Research." *Journal of Consumer Research*, 1(4), 20-30.

Schwarz, N., 1999. "Self-Reports. How the Questions Shape the Answers." *American Psychologist*, 54(2), 93-105.

Shadish, W.R., Cook, T.D. and Campbell, D.T., 2002. "*Experimental and Quasi-Experimental Designs for Generalized Causal Inference*." Wadsworth Cengage Learning.

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APPENDIX C
PURCHASE DRIVER SURVEY TECHNICAL APPENDIX

1. Based on my assignment, I designed, conducted, and analyzed an online survey (the “Purchase Driver Survey”) to evaluate the process that tax filers go through to identify a tax preparation solution, including any research they may conduct, and the factors they consider when selecting a tax preparation method / provider.

A. Survey Design

2. I conducted my Purchase Driver Survey in accordance with the framework cited in the Federal Judicial Center’s Manual for Complex Litigation, which specifies the following factors as necessary for an appropriate and acceptable sampling method: (i) the population should be properly chosen and defined; (ii) the sample chosen should be representative of that population; (iii) the survey should be conducted by qualified people following proper interview procedures; (iv) the questions asked should be clear and not leading; (v) the data gathered should be accurately reported; (vi) the data should be analyzed in accordance with accepted statistical principles; and (vii) the process should be conducted to ensure objectivity. The Reference Manual on Scientific Evidence, also published by the Federal Judicial Center, includes the “Reference Guide on Survey Research” which expands on these criteria.

i. Target Population and Sample

3. The “Reference Guide on Survey Research” highlights the importance of defining the relevant target population, which “consists of all elements (i.e., individuals or other units) whose characteristics or perceptions the survey is intended to represent.”¹ The relevant target population of this survey is individuals in the United States age 18 or older who have previously prepared and filed their household’s taxes. I included all tax filers in my target population, irrespective of their tax preparation method or provider. Doing so provides a broader perspective on the types of research conducted by tax filers and the product attributes that are important to tax filers—including, but not limited to, TurboTax’s existing customers. To minimize potential issues with recall, I focused on respondents who had filed their household’s taxes within 12 months before taking the Purchase Driver Survey. As the Purchase

¹ Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, p. 376.

Driver Survey was fielded in July 2021, respondents would have filed their 2021 taxes (for 2020 income) within the prior two to seven months.²

ii. Additional Survey Design Considerations

4. Qualitative Interviews: In developing the Purchase Driver Survey, I first began with a series of qualitative interviews to better understand how consumers think about their decision-making process in choosing a tax preparation method/provider. These qualitative interviews informed word choices and closed-ended options in the survey instrument. I asked Schlesinger Group to recruit 15 interview participants for an open-ended conversation about their tax filing experience and decision-making process.³ These conversations were conducted between June 3 and June 11, 2021. The qualitative interview guide used to structure these conversations is attached as **Appendix F**.
5. Pretests: After designing the Purchase Driver Survey, I conducted a pretest with 11 respondents from the survey target population on June 23 and June 24, 2021.⁴ As is best practice, respondents completed the survey while on the phone with a blind-to-the-purpose moderator who asked respondents a series of follow-up questions aimed at understanding whether there were any questions that were confusing or not clear, and if the respondents could guess the purpose of the Purchase Driver Survey. These pretests were also observed by members of my support staff at Analysis Group. The pretest moderator instructions related to the Purchase Driver Survey are attached as **Appendix G**. No pretest respondents were able to guess the purpose of the Purchase Driver Survey. After being briefed on the results of the pretests by my staff at Analysis Group, I made a few minor clarifying changes to question wording based on

² The 2021 tax deadline was extended to May 17, 2021. “Tax Day for individuals extended to May 17: Treasury, IRS extend filing and payment deadline,” *IRS*, March 17, 2021, available at <https://www.irs.gov/newsroom/tax-day-for-individuals-extended-to-may-17-treasury-irs-extend-filing-and-payment-deadline>.

³ Schlesinger Group is a market research survey company that specializes in data collection services and operates in six different countries around the world. *See*, “Who We Are,” *Schlesinger Group*, available at <https://www.schlesingergroup.com/en/company/purpose/>.

⁴ Pretests are critical in the design of surveys used both in litigation and in academia, as they “increase the likelihood that questions are clear and unambiguous” enabling more accurate and consistent responses. A carefully conducted pretest affords the researcher the opportunity to unearth and address weaknesses of the survey, which can cause “systematically distort[ed] responses if respondents are misled in a particular direction.” Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, pp. 388-389.

the pretest. Any observations made by respondents during the pretesting were addressed prior to the launch of the Purchase Driver Survey. These changes are provided in **Appendix H**, which is a report of pretest results.

B. Survey Administration

6. Dynata, a well-known market research and consumer panel company with which I have been collaborating for more than a decade, recruited respondents to participate in the Purchase Driver Survey from a U.S. national sample.⁵ At my direction, Dynata targeted an audience of individuals aged 18 or older, balancing the inbound sample on age, gender, and geographic region according to the United States Census. The survey administration consisted of a screener, a main questionnaire, and a set of follow-up questions at the end of the survey.

i. Screener

7. Invitation and CAPTCHA (S1): Respondents were first asked to complete a human identification procedure (i.e., a “CAPTCHA”).
8. Representative sample (S2, S3, and S4): Respondents were then asked to report their age and gender,⁶ and to input the state in which they currently reside. Respondents whose age or gender did not match the age and gender on file with the survey panel company were screened out of the Purchase Driver Survey.
9. Occupation (S5): Respondents who reported that they worked for, or anyone in their family worked for, an accounting, tax, or a tax preparation service provider company, a marketing, market research, or advertising agency, or their state or federal government were excluded. These screening criteria are standard screening criteria and protect the reliability of the Purchase Driver Survey without adversely affecting the representativeness.

⁵ Dynata is a leading provider of first-party data contributed by 60 million consumers and professionals in over 45 countries including the U.S. See, “Panel Book,” *Dynata*, available at https://www.dynata.com/panel-book-form/?cid=7D84CE0F-D852-EC11-8C62-000D3A9DE12E&cid=7D84CE0F-D852-EC11-8C62-000D3A9DE12E&utm_source=google&utm_medium=cpc&utm_campaign=panel_book&utm_content=ad_panel_book&gclid=EAIaIQobChMIk6qciJnv9glVF_rICh1FFg37EAAYASABEgJaCfD_BwE.

10. Recent tax filing and red herring (S7): To qualify for the Purchase Driver Survey, respondents were offered a list of potential activities they may have undertaken in the last 12 months. The order of options was randomized to avoid order effects.⁷ To qualify, respondents must have selected “Prepared and filed my household’s taxes.” Additionally, respondents who selected “Climbed Mount Kashoun” were excluded. This response option was included as a “red herring” as Mount Kashoun does not exist. Including answer choices “that are not legitimate options [...] is very effective in identifying ‘bad’ survey takers” who may provide inaccurate data.⁸ Terminating respondents who fall into this “trap” ensures that data are only created by respondents who are truthfully and carefully responding to the questions.
11. Tax preparation method and product (S8 and S9): Respondents were also asked to report how they prepared and filed their income taxes in 2021 as seen in question S8. Those who answered “Don’t know / Unsure” were terminated. Respondents who selected “I used an online tax website to prepare and file my / our household taxes” were then asked to identify which tax website they used. Respondents who selected the “red herring” option “FastTax Filing” were terminated to further ensure respondents were carefully considering their responses. These responses were also used to tailor subsequent questions in the Purchase Driver Survey to the respondents’ chosen tax preparation method/provider.
12. Tax preparation role (S10): Respondents were then asked about their role in deciding how they would prepare their taxes. Respondents who did not report that they were at least substantially involved in deciding how they would prepare their taxes were excluded.
13. Attention check (S11): Finally, I included an “attention check” question to ensure that respondents paid sufficient attention to the Purchase Driver Survey and provided meaningful

⁷ In close-ended questions with several answer choices, respondents might be more likely to choose a certain option simply because it is first or last on the list. This phenomenon is known as “order effects.” “To control for order effects, the order of the questions and the order of the response choices in a survey should be rotated.” Diamond, S.S., 2011. “Reference Guide on Survey Research.” In *Reference Manual on Scientific Evidence*, 359-423. The National Academies Press, pp. 395-396.

⁸ Reimann, C., “Conducting an Online Survey? How to Make Sure You Don’t Get Bad Data,” *KS&R*, available at http://www.ksrinc.com/thought-leadership/pdf/KSR_Online_Data_Integrity.pdf.

responses.⁹ Respondents who did not select the matching answer choice were excluded from the Purchase Driver Survey.¹⁰ Such attention check questions, also known as “Instructional Manipulation Checks (IMCs),” are increasingly common in both academic research and applied survey research. IMCs enhance survey quality and reliability, do not compromise scale validity, and do not induce any biased responses.¹¹ My use of “red herring” questions complements my use of IMCs to assure that only attentive respondents complete my survey.

ii. Main Questionnaire

14. Introduction and Assignment of Tracks (Q1, Q2, and Q3): Following the screening questions, respondents were told that they would be asked questions to learn about their experience filing taxes in 2021 (for 2020 income). They were then asked questions about their tax preparation method/provider in the previous (2020) tax season. These questions were used to assign respondents to “tracks”, or groups of questions relevant to the respondent’s experience according to their responses.

Q2. You indicated that you prepared and filed your personal income taxes in 2021 (for 2020 income) through [**CHOSEN METHOD**]. Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)? (*Select only one option*)

- ☐ Yes, I used this same preparation method / provider last year
- ☐ No, I used a different preparation method / provider last year
- ☐ I did not file taxes last year
- ☐ Don’t know / Unsure

15. Respondents who selected “Yes, I used this same preparation method / provider last year” in response to question Q2 were asked a follow up question about whether they *considered* using

⁹ Because “inattentive respondents...do not provide thoughtful answers to survey questions,” these respondents may generate inaccurate data. To “catch the ‘bad’ survey takers,” asking respondents to “pick a certain answer” to a question can identify inattentive respondents for removal from the sample. *See*, Reimann, C., “Conducting an Online Survey? How to Make Sure You Don’t Get Bad Data,” *KS&R*, available at http://www.ksrinc.com/thought-leadership/pdf/KSR_Online_Data_Integrity.pdf.

¹⁰ Overall, 47 respondents were terminated from the Purchase Driver Survey for having selected “Climbed Mount Kashoun” in response to S7, “FastTax Filing” in response to S9, or an incorrect response to S11. *See*, **Exhibit 1**.

¹¹ Hauser, D. and Schwarz, N., 2015. “It’s a Trap! Instructional Manipulation Checks Prompt Systematic Thinking on “Tricky Tasks.” *SAGE Open*; Morren, M. and Paas, L., 2020. “Short and Long Instructional Manipulation Checks: What Do They Measure?” *International Journal of Public Opinion Research*, 32(4).

another provider in 2021 (Q3). Based on their responses to Q2-Q3, respondents were assigned to one of four question Tracks as summarized in **Figure 1** below.

Figure 1¹²
Number of Respondents by Track
All Respondents

Name	Description	Number of Respondents	% of Respondents
Track 1	Used the same preparation method/provider in 2021 and did not consider using a different method/provider	157	55.7%
Track 2	Used the same preparation method/provider in 2021 and did consider using a different method/provider	91	32.3%
Track 3	Used a different preparation method/provider in 2021	31	11.0%
Track 4	Did not file taxes in 2020 / Didn't know	3	1.1%
Total		282	100.0%

16. Track 1: Did Not Consider (Q4a and Q4b): Based on their assigned track, respondents were asked questions to help understand their tax filing process and experience. Respondents in Track 1 indicated that they did not consider using a different method/provider in 2021 and thus were not asked detailed questions about their decision-making process. These respondents would have most recently made a considered decision regarding their tax preparation method/provider more than a year prior and may no longer have detailed recollection of their thinking. Therefore, respondents in Track 1 were asked open-ended questions about why they did not consider using another method / provider to prepare and file their taxes in 2021. Track 1 respondents were shown the following questions:

Q4a. In your own words, why did you not consider using another method / provider to prepare and file your taxes this year?

Q4b. Is there anything else you would like to add about why you did not consider using another method / provider to prepare and file your taxes this year?

17. Tracks 2, 3, and 4: Research Conducted (Q6a-c, Q10a-c, and Q13a-c): Respondents in Tracks 2, 3, and 4 indicated that they either chose to prepare and file via a new tax preparation method/provider in 2021 or at least considered doing so. These respondents were asked more

¹² See, **Exhibit 4**. Of the three respondents in Track 4, one respondent selected “I did not file taxes last year” and two respondents selected “Don’t know / Unsure” in response to Q2: “Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?”

detailed questions about their decision-making process, including questions about the research they conducted and the factors that were important to them in choosing a provider. First, these respondents were asked open-ended questions about the research they conducted when choosing a tax preparation method / provider, followed by a closed-ended question listing possible research they may have conducted.¹³ For example, Track 2 respondents were shown the following questions:¹⁴

Q6a. What, if any, research did you conduct into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.

Q6b. Is there anything else you would like to add about **the research that you conducted** when choosing a tax preparation method / provider?

Q6c. You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? *(Select all that apply)*

- ☐ Explored the IRS or state government websites
- ☐ Reviewed marketing emails
- ☐ Watched online tutorials / videos
- ☐ Viewed advertisements
- ☐ Read customer reviews or testimonials
- ☐ Spoke with friends / family
- ☐ Sought advice from a tax professional
- ☐ Explored tax preparation software / service websites
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Read articles, rankings, or third-party reviews
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

18. Tracks 2, 3, 4: Factors Considered (Q7a-c, Q11a-c, and Q14a-c): Next, respondents in Tracks 2, 3, and 4 were asked open-ended questions about the factors that were important to them when choosing a tax preparation method / provider, followed by a closed-ended question

¹³ Closed-ended answer choices were informed by the qualitative interviews conducted prior to the administration of the Purchase Driver Survey.

¹⁴ Similar questions were shown to respondents in Tracks 2, 3 and 4. They varied only to account for differences in how the tracks were defined. As is best practice, I asked respondents closed-ended questions after the open-ended questions in order to elicit respondents' open-ended responses unbiased by any answer choices listed in the closed-ended question.

listing possible factors that may have been important to them.¹⁵ For example, respondents in Track 2 were asked:¹⁶

Q7a. In your own words, *what factors were important* to you when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.

Q7b. Is there anything else you would like to add about *the factors that were important to you* when choosing a tax preparation method / provider?

Q7c. You may have already mentioned this, but which of these factors, if any, *were important to you* when choosing a tax preparation method / provider?
(Select all that apply)

- ☐ Recommendations from friends / family
- ☐ Accessing last year's tax information
- ☐ Data security
- ☐ Having expert help / individualized attention
- ☐ Price
- ☐ Ease of use
- ☐ Past experience with the tax preparation method / provider
- ☐ Confidence in accuracy / reliability
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Getting refund quickly
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't know / unsure

iii. End-of-Survey Follow-Up Questions

19. Following the main questionnaire, all respondents were also asked a series of follow-up questions, which were included to conduct sensitivity analyses and robustness checks on my results.

¹⁵ Closed-ended answer choices were informed by the qualitative interviews conducted prior to the administration of the Purchase Driver Survey.

¹⁶ Similar questions were shown to respondents in Tracks 2, 3 and 4. They varied only to account for differences in how the tracks were defined. Again, as is best practice, I asked respondents closed-ended questions after the open-ended questions in order to elicit respondents' open-ended responses unbiased by any answer choices listed in the closed-ended question.

20. Paid (F1): The first follow-up question asked whether or not the respondent paid to use their chosen tax preparation method/provider in 2021 (aside from what they may have paid the government in taxes).
21. Recent Software Use (F2): The second follow-up question asked which tax preparation websites / software the respondent has used to prepare and file their taxes within the last 5 years.
22. Media Awareness (F3): The third follow-up question asked whether or not the respondent was aware of any media reports, investigations, or lawsuits involving a tax preparation website / software provider or accounting company.
23. Income (F4): The fourth and final follow-up question asked what the respondent's total household income was in 2020.
24. The survey instrument for the Purchase Driver Survey is attached as **Appendix D**, and the screenshots of the online survey as it appeared to respondents is attached as **Appendix E**.

C. Data Analysis

25. The Purchase Driver Survey was in the field from July 1, 2021 to July 9, 2021.

i. Analysis of Survey Response Statistics

26. Over the nine days in the field, 1,797 Dynata panel participants clicked on the survey invitation link to start the Purchase Driver Survey. Of those, 300 respondents qualified for and completed the Purchase Driver Survey. Of the remaining respondents, 1,092 were screened out of the survey for sample balancing and qualification reasons, 29 were excluded as part of Dynata's internal quality control process,¹⁷ and 166 self-terminated (i.e., abandoned the survey prior to completion).

¹⁷ See, **Exhibit 1**. Dynata independently screened responses for quality based on open-ended responses, internal quality control flags, and survey complete time.

27. After excluding respondents who: (1) provided non-responsive answers to open-ended questions; (2) were not placed into a track;¹⁸ (3) selected “Other” in response to S8;¹⁹ or (4) selected the “red herring” option “FastTax Filing” in response to question F2, 282 respondents are included in the Main Analytical Sample. Respondents in the Main Analytical Sample took, on average, 6 minutes and 7 seconds to complete the Purchase Driver Survey. **Exhibit 1** summarizes the sample selection process for the Purchase Driver Survey.
28. The inbound sample was balanced according to the United States Census with regard to age,²⁰ gender,²¹ and geographic region.²² **Exhibit 2** outlines the demographic information of respondents in my Purchase Driver Survey. Because the Purchase Driver Survey screens for respondents who are substantially involved in filing their taxes and included quotas for respondents who use online filing solutions, the demographic characteristics of respondents cannot be expected to match the census.
29. The share of respondents who use different online tax software providers in the Main Analytical Sample is also consistent with what is described in internal Intuit competitor studies.²³ **Exhibit 3** outlines the share of respondents who indicate using different tax preparation methods in my Purchase Driver Survey.

¹⁸ Respondents who indicated in Q3 that they used the same tax preparation method/provider in 2020 as in 2021 and did not know / were unsure whether or not they considered using another method/provider in 2021 were not placed into a track.

¹⁹ Respondents who selected “Other” in response to S8, “Thinking about your personal income taxes filed in 2021, how did you prepare and file your taxes?” were excluded since they did not provide a standard method / provider.

²⁰ Patterson, J. et. al., “Final Report: Key Findings and Implications for the IRS Free File Program,” *The MITRE Corporation*, January 2022, Appendix E.

²¹ “QuickFacts United States,” *United States Census Bureau*, available at <https://www.census.gov/quickfacts/fact/table/US#>.

²² “Tax Year 2019: Historic Table 2 (SOI Bulletin), Total File All States.xlsx,” *IRS*, available at <https://www.irs.gov/statistics/soi-tax-stats-historic-table-2>. This data can be used to calculate the percent of total U.S. returns filed in each U.S. region (Northeast, South, Midwest, and West) by grouping states based on region and then finding the proportion of total returns in each region to total U.S. returns.

²³ Intuit, 2019 Our Competitors Study, pp. 3-5.

30. The share of respondents who pay to use their chosen tax preparation method / provider in the Main Analytical Sample is also similar to the U.S. population average.²⁴

ii. Analysis of Open-Ended Responses

31. To analyze the open-ended responses to my questions, I designed a “blind” coding procedure. Two independent judges who had no knowledge of the purpose or sponsor of the Purchase Driver Survey were provided with the verbatim open-ended responses to the open-ended questions and asked to categorize, or “code,” the responses. The judges were not provided with any information about the context of the matter and were asked to use their best judgment in deciding what each respondent meant in their response.
32. The judges were asked to review four “sets” of question responses: (1) responses from Track 1 respondents to open-ended questions about why they did not consider switching tax preparation providers/methods; (2) responses from Tracks 2-4 respondents to open-ended questions regarding the research they conducted; (3) responses from Tracks 2-4 respondents to open-ended questions regarding factors that were important to them in a tax preparation provider/method; and (4) responses from Tracks 2-4 respondents to open-ended questions regarding if there was anything else they wanted to add about how they decided upon their chosen provider/method.
33. For Question Set 1, which included responses to open-ended questions in Track 1, the judges were not provided any potential categories to start their evaluation. For Question Sets 2, 3, and 4, which included responses to open-ended questions in Tracks 2-4, the judges were provided the answer choices from the related closed-ended questions in Tracks 2-4 as an initial list of potential categories. These categories were based on the qualitative pretests and are thus an appropriate starting point. For example, for Question Set 2 and Question Set 3 the judges were provided the closed-ended answer choices from Q6c and Q7c, respectively, as an initial list of potential categories for evaluating the open-ended responses related to the types of research

²⁴ Patel, K., “Tax Preparation Services in the US,” *IBISWorld*, August 2019, available at <https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf>, p. 13.

respondents conducted and factors they considered. For Question Set 4, the judges were provided the full list of potential categories from Question Sets 2 and 3.

34. After considering these potential categories, the judges were instructed to review the open-ended responses, and “judge whether new or different categories are needed, including whether some categories should be combined or disaggregated.” The judges then met with each other to discuss their category lists and mutually decided on one list of categories for each question set.
35. Next, each judge independently reviewed the open-ended responses and assigned each response to one or more of the agreed upon categories. The judges then met to discuss and resolve (“tiebreak”) any differences in coding. For the instructions provided to the independent judges for the Purchase Driver Survey, see **Appendix I**.

iii. Sensitivity Analyses

36. I conducted additional sensitivity analyses (analyses on select sets of respondents) to confirm the robustness of my results. These analyses allow me to confirm that the results of my Purchase Driver Survey remain stable across different sub-groups of respondents. Individual sensitivities may reveal additional insights about the respondents and their chosen research methods and important factors, but the overall findings of these sensitivities are consistent with the findings from the Main Analytical Sample.
37. My sensitivity analyses included:
- Analysis of all respondents in Tracks 2-4 (instead of limiting to the Main Analytical Sample)
 - Analysis of TurboTax users in Tracks 2-4
 - Analysis excluding respondents from the Main Analytical Sample who indicated they were aware of media reports, investigations, or lawsuits involving tax preparation websites / providers.
 - Analysis excluding speeders and laggards from the Main Analytical Sample
38. The results of all my sensitivity analyses were consistent with my Main Analytical Sample. The sensitivity analyses discussed above are included in **Exhibit 10** and **Exhibit 11**.

APPENDIX D
PURCHASE DRIVER SURVEY INSTRUMENT

Programmer Instructions

[PROGRAMMER NOTES IN BOLD CAPS AND IN BRACKETS.]

[FOR CLOSED-ENDED QUESTIONS, DO NOT ALLOW RESPONDENT TO CLICK “CONTINUE” WITHOUT CHOOSING AN ANSWER OPTION. FOR OPEN-ENDED QUESTIONS, DO NOT ALLOW RESPONDENT TO CLICK “CONTINUE” WITHOUT TYPING IN AN ANSWER OR CHOOSING ANOTHER ANSWER OPTION IF PRESENT.]

[ROTATE ORDER OF YES / NO ANSWERS IN THE FIRST INSTANCE OF A YES / NO QUESTION. USE THE SAME ORDER FOR ALL OTHER YES / NO QUESTIONS WITHIN EACH RESPONDENT.]

[DISABLE THE BROWSER “BACK” BUTTON.]

[TEXT FOR TERMINATES: “THANK YOU FOR YOUR INTEREST IN OUR STUDY. WE ARE NO LONGER LOOKING FOR PEOPLE WHO MATCH YOUR CHARACTERISTICS. WE APPRECIATE YOUR TIME.”]

Introduction and Screening

[NO SURVEY / SECTION TITLES TO BE DISPLAYED TO RESPONDENTS.]

[300 COMPLETES FROM AN 18+ NATIONAL SAMPLE. AT LEAST 200 COMPLETES FROM RESPONDENTS WHO HAVE SELECTED THE ONLINE OPTION FOR QUESTION S8]

[PANEL MEMBERS WHO START THE SURVEY AND ANSWER QUESTIONS S2-S5 SHOULD BE MATCHED TO THE CENSUS ON AGE, GENDER, AND REGION DISTRIBUTION IN THE UNITED STATES.]

[DETECT AND RECORD DEVICE RESPONDENT IS USING; SMARTPHONES OR OTHER MOBILE DEVICES MAY NOT BE USED]

[EACH QUESTION ON A NEW PAGE UNLESS OTHERWISE SPECIFIED]

S0. Digital fingerprinting

S1. Captcha

Thank you for your participation in our study. All your answers will remain confidential. Please answer all questions to the best of your ability. We are interested in your opinions and reactions. There are no right or wrong answers, and we will not try to sell you anything based on your answers. Please do not consult any outside sources (e.g., internet or phone) while taking the survey.

If you do not know, do not recall, are unsure, or have no opinion, please do not guess. Simply select the “Don’t know / Unsure” option.

The “Back” button on your browser has been disabled for the duration of the survey. Please do not use it while taking the survey.

- ☐ If you understand these instructions and agree to participate in this survey, please check this box and click “Continue” to continue.

S2. How old are you? *(Select only one option)* **[RANDOMIZE BETWEEN THIS ORDER AND REVERSE; KEEP “PREFER NOT TO ANSWER” LAST]**

- ☐ Under 18 years old **[TERMINATE]**
- ☐ 18 – 29 years old
- ☐ 30 – 39 years old
- ☐ 40 – 49 years old
- ☐ 50 – 59 years old
- ☐ 60 years or older
- ☐ Prefer not to answer **[TERMINATE]**

[TERMINATE IF AGE DOES NOT MATCH THE VALUE ON FILE]

S3. Please indicate your gender: *(Select only one option)* **[RANDOMIZE “FEMALE” AND “MALE”]**

- ☐ Female
- ☐ Male
- ☐ Other / Prefer not to answer **[TERMINATE]**

[TERMINATE IF GENDER DOES NOT MATCH THE VALUE ON FILE]

S4. In which state do you currently reside? *(Select only one option)*

[INSERT DROP DOWN MENU FOR STATE]

S5. Are you or any of your family members employed by...? *(Select all that apply)*
[RANDOMIZE ORDER; KEEP “NONE OF THE ABOVE” LAST]

- ☐ A home hardware or power tools manufacturer, distributor, or retailer
- ☐ An electronics manufacturer, distributor, or retailer
- ☐ A university or school
- ☐ A food manufacturer, distributor, or retailer
- ☐ An accounting, tax, or a tax preparation service provider company **[TERMINATE]**
- ☐ A marketing, market research, or advertising agency **[TERMINATE]**
- ☐ Your state or the federal government **[TERMINATE]**
- ☐ None of the above **[EXCLUSIVE]**

[THOSE WHO ARE ASKED S5 SHOULD BE MATCHED TO THE CENSUS ON AGE, GENDER, REGION]

S6. Have you taken any surveys in the last 30 days on any of these topics? *(Select all that apply)*
[RANDOMIZE ORDER; KEEP “NONE OF THE ABOVE” LAST]

- Sporting goods or outdoor gear
- Accounting or tax services **[TERMINATE]**
- Finance and banking
- Investing in the stock market
- Clothing
- Video games
- Music streaming
- Shopping at retail stores
- None of the above **[EXCLUSIVE]**

S7. Which of the following activities, if any, have you done in the last 12 months? (*Select all that apply*) **[RANDOMIZE ORDER; KEEP “NONE OF THE ABOVE” LAST]**

- Prepared and filed my household’s taxes **[TERMINATE IF NOT SELECTED]**
- Sold my home
- Listened to a music streaming service
- Climbed Mount Kashoun **[TERMINATE IF SELECTED]**
- Opened a new bank account
- Gone on a vacation
- Resold clothes online
- None of the above **[EXCLUSIVE]**

S8. Thinking about your personal income taxes filed in 2021, how did you prepare and file your taxes? (*Select only one option*) **[RANDOMIZE ORDER; KEEP “OTHER” AND “DON’T KNOW / UNSURE” LAST]**

- ☐ I used an online tax website to prepare and file my / our household taxes
- ☐ I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software)
- ☐ I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I self-prepared and filed my / our household taxes without using any service (e.g., I prepared my tax forms on paper, I manually filled in my tax forms online)
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ Don’t know / Unsure **[TERMINATE]**

S9. **[ASK IF S8=“I used an online tax website to prepare and file my / our household taxes”]** You indicated that you used an online tax website to prepare and file your taxes in 2021. Which of the following online tax websites did you use to prepare and file your taxes in 2021? (*Select only one option*) **[RANDOMIZE ORDER; KEEP “OTHER” AND “DON’T KNOW / UNSURE” LAST]**

- TurboTax
- IRS Free File Program (any provider)
- H&R Block
- TaxAct
- TaxHawk
- Credit Karma Tax
- TaxSlayer
- Jackson Hewitt

- Liberty Tax
- FastTax Filing **[TERMINATE]**
- Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- Don't know / Unsure

S10. Thinking of your taxes filed in 2021, which of the following best describes your role in deciding how you would prepare your taxes? *(Select only one option)* **[RANDOMIZE ORDER, AS IS AND REVERSE; KEEP “DON'T KNOW / UNSURE” LAST]**

- I was primarily responsible for selecting my / our household tax preparation method / provider
- I was substantially involved in selecting my / our household tax preparation method / provider
- I had little involvement in selecting my / our household tax preparation method / provider **[TERMINATE]**
- Don't know / Unsure **[TERMINATE]**

S11. People vary in the amount they pay attention to these kinds of surveys. Some take them seriously and read each question, whereas others go very quickly and barely read the questions at all. If you have read this question carefully, please select **“[RANDOMLY SELECT ONE OF THE OPTIONS IN LIST BELOW]”** below. *(Select one only)* **[TERMINATE IF CORRECT RESPONSE IS NOT SELECTED]**

- HP
- Dell
- Apple
- IBM
- Microsoft
- Sony
- Acer
- Other (please specify) _____ **[TERMINATE]**

[RECORD IF THE RESPONDENT QUALIFIES OR NOT. THE 200 COUNT SHOULD BE OF QUALIFIED RESPONDENTS. FOR NON-QUALIFYING RESPONDENTS, DISPLAY PANEL'S TERMINATION PAGE.]

Main Questionnaire

Q1. Thank you! In this survey, we would like to learn about your experience filing taxes in 2021 (for 2020 income). In the following questions, we will ask about your tax filing process and will try to learn from your experiences or expectations.

Q2. You indicated that you prepared and filed your personal income taxes in 2021 (for 2020 income) through **[IF S8=“I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store),” DISPLAY “a tax**

professional”; IF S8=“I self-prepared and filed my / our taxes without using any service (e.g., I prepared my tax forms on paper, I manually filled in my tax forms online),” DISPLAY “self-preparing”; IF S8=“I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software),” DISPLAY “an installed software”; IF S8=“Other,” DISPLAY THE RELEVANT INSERTED TEXT; IF S9=“Other,” DISPLAY THE RELEVANT INSERTED TEXT; IF S9 =“Don’t Know / Unsure,” DISPLAY “an online tax website”; IF S9=“TurboTax” OR “H&R Block” OR “TaxAct” OR “TaxHawk” OR “Credit Karma Tax” OR “TaxSlayer” OR “Jackson Hewitt” OR “Liberty Tax,” DISPLAY THE SELECTED OPTION, IF S9= “IRS FREE FILE PROGRAM” DISPLAY “the IRS Free File Program”]. Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)? *(Select only one option)* [KEEP SAME YES / NO ORDER AS IN S7]

- Yes, I used this same preparation method / provider last year
- No, I used a different preparation method / provider last year [Skip to Track 3]
- I did not file taxes last year [Skip to Track 4]
- Don’t know / Unsure [Skip to Track 4]

Q3. You indicated that you used the same method / provider to prepare and file your taxes in 2020 and 2021. Did you or did you not consider using a different tax preparation method / provider this year? *(Select only one option)* [KEEP SAME YES / NO ORDER AS IN S7]

- Yes, I considered using another method / provider to prepare and file my taxes this year [Skip to Track 2]
- No, I did not consider using another method / provider to prepare and file my taxes this year [Skip to Track 1]
- Don’t know / Unsure [Skip to F1]

Track 1 - Did not consider another preparation method

[Respondents should only see these questions if Q3= “No, I did not consider using another method / provider to prepare and file my taxes this year”]

Q4a. In your own words, why did you **not** consider using another method / provider to prepare and file your taxes this year?

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Don’t know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q4b. Is there anything else you would like to add about why you did **not** consider using another method / provider to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

[Respondents who answer this question should then be moved to F1]

Track 2 - Considered another preparation method

[Respondents should only see these questions if Q3= “Yes, I considered using another method / provider to prepare and file my taxes this year”]

Q5. You indicated that you considered using another tax preparation method / provider this year. Which of the following tax preparation methods / providers did you consider using this year? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP “OTHER” AND “DON’T KNOW / UNSURE” LAST]**

- ☐ I considered **[using an]** online tax website to prepare and file my / our household taxes **[IF S8=“I used an online tax website to prepare and file my / our household taxes,” CHANGE “using an” TO “using a different”]**
- ☐ I considered **[using a]** tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software) **[IF S8=“I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software),” CHANGE “using a” TO “using a different”]**
- ☐ I considered **[working with a]** tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store) **[IF S8=“I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store),” CHANGE “working with a” TO “working with a different”]**
- ☐ I considered self-preparing and filing my / our household taxes without using any service **[IF S8=“I self-prepared and filed my / our household taxes without using any service (e.g., I prepared my tax forms on paper, I manually filled in my tax forms online),” DO NOT DISPLAY THIS OPTION]**
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ Don’t know / Unsure **[EXCLUSIVE]**

Q6a. What, if any, **research did you conduct** into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☉ *Don’t know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q6b. Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

Q6c. You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP “OTHER,” “NONE OF THE ABOVE,” AND “DON’T KNOW / UNSURE” LAST]**

- ☐ Explored the IRS or state government websites
- ☐ Reviewed marketing emails
- ☐ Watched online tutorials / videos
- ☐ Viewed advertisements
- ☐ Read customer reviews or testimonials
- ☐ Spoke with friends / family
- ☐ Sought advice from a tax professional
- ☐ Explored tax preparation software / service websites
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Read articles, rankings, or third-party reviews
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don’t Know / Unsure **[EXCLUSIVE]**

Q7a. In your own words, what factors were important to you when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Don’t know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q7b. Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

Q7c. You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP “OTHER,” “NONE OF THE ABOVE,” AND “DON’T KNOW / UNSURE” LAST]**

- ☐ Recommendations from friends / family
- ☐ Accessing last year’s tax information
- ☐ Data security
- ☐ Having expert help / individualized attention
- ☐ Price
- ☐ Ease of use
- ☐ Past experience with the tax preparation method / provider
- ☐ Confidence in accuracy / reliability
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Getting refund quickly
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don’t know / unsure **[EXCLUSIVE]**

Q8. Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

[Respondents who answer this question should then be moved to F1]

Track 3 - Used a different preparation method last year

[Respondents should only see these questions if Q2= “No, I used a different preparation method / provider last year”]

Q9. You indicated that you used a different method / provider to prepare and file your taxes last year. Which tax preparation method / provider did you use last year? *(Select only one option)*

[RANDOMIZE ORDER; KEEP “OTHER” AND “DON’T KNOW / UNSURE” LAST]

- ☐ I [used an] online tax website to prepare and file my / our household taxes [IF S8=“I used an online tax website to prepare and file my / our household taxes,” CHANGE “used an” TO “used a different”]
- ☐ I [used a] tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software) [IF S8=“I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software),” CHANGE “used a” TO “used a different”]
- ☐ I [worked with a] tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store) [IF S8=“I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store),” CHANGE “worked with a” TO “worked with a different”]
- ☐ I self-prepared and filed my / our household taxes without using any service [IF S8=“I self-prepared and filed my / our household taxes without using any service (e.g., I prepared my tax forms on paper, I manually filled in my tax forms online),” DO NOT DISPLAY THIS OPTION]
- ☐ Other (Please specify) [PROVIDE APPROPRIATE SPACE FOR ANSWER]
- ☐ Don’t know / Unsure [EXCLUSIVE]

Q10a. You indicated that you used a different method / provider of tax preparation this year. What, if any, research did you conduct into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☉ Don’t know / Unsure

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q10b. Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

Q10c. You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP “OTHER,” “NONE OF THES ABOVE,” AND “DON’T KNOW / UNSURE” LAST]**

- ☐ Explored the IRS or state government websites
- ☐ Reviewed marketing emails
- ☐ Watched online tutorials / videos
- ☐ Viewed advertisements
- ☐ Read customer reviews or testimonials
- ☐ Spoke with friends / family
- ☐ Sought advice from a tax professional
- ☐ Explored tax preparation software / service websites
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Read articles, rankings, or third-party reviews
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don’t Know / Unsure **[EXCLUSIVE]**

Q11a. In your own words, what factors were important to you when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Don’t know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q11b. Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

Q11c. You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider? *(Select all that apply)*

[RANDOMIZE ORDER; KEEP “OTHER,” “NONE OF THE ABOVE,” AND “DON’T KNOW / UNSURE” LAST]

- ☐ Recommendations from friends / family
- ☐ Accessing last year’s tax information
- ☐ Data security
- ☐ Having expert help / individualized attention
- ☐ Price
- ☐ Ease of use
- ☐ Past experience with the tax preparation method / provider
- ☐ Confidence in accuracy / reliability
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Getting refund quickly
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don’t Know / Unsure **[EXCLUSIVE]**

Q12. Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

[Respondents who answer this question should then be moved to F1]

Track 4 - Did not file taxes last year or Unsure of method

[Respondents should only see these questions if Q2= “I did not file taxes last year” OR “Don’t know / Unsure”]

Q13a. What, if any, research did you conduct when choosing your method / provider of tax preparation this year? Please describe the research you conducted in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select “Don’t know / Unsure.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☐ *Don’t know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “DON’T KNOW / UNSURE”]

Q13b. Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select “Nothing else.”)

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☐ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT “NOTHING ELSE”]

Q13c. You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers? *(Select all that apply)* [RANDOMIZE ORDER; KEEP “OTHER,” “NONE OF THE ABOVE,” AND “DON’T KNOW / UNSURE” LAST]

- ☐ Explored the IRS or state government websites
- ☐ Reviewed marketing emails
- ☐ Watched online tutorials / videos
- ☐ Viewed advertisements
- ☐ Read customer reviews or testimonials

- ☐ Spoke with friends / family
- ☐ Sought advice from a tax professional
- ☐ Explored tax preparation software / service websites
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Read articles, rankings, or third-party reviews
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don't Know / Unsure **[EXCLUSIVE]**

Q14a. In your own words, what factors were important to you when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Don't know / Unsure*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT "DON'T KNOW / UNSURE"]

Q14b. Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT "NOTHING ELSE"]

Q14c. You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider? *(Select all that apply)*

[RANDOMIZE ORDER; KEEP "OTHER," "NONE OF THE ABOVE," AND "DON'T KNOW / UNSURE" LAST]

- ☐ Recommendations from friends / family
- ☐ Accessing last year's tax information
- ☐ Data security
- ☐ Having expert help / individualized attention
- ☐ Price
- ☐ Ease of use
- ☐ Past experience with the tax preparation method / provider

- ☐ Confidence in accuracy / reliability
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Getting refund quickly
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ None of the above **[EXCLUSIVE]**
- ☐ Don't Know / Unsure **[EXCLUSIVE]**

Q15. Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select "Nothing else."

[OPEN-ENDED TEXT BOX, LIMITED TO 2000 CHARACTERS]

☒ *Nothing else*

[REQUIRE RESPONDENT TO ENTER AT LEAST 4 CHARACTERS OR SELECT "NOTHING ELSE"]

[Respondents who answer this question should then be moved to F1]

Follow-up Questions

F1. In 2021, did you or did you not pay to use your chosen tax preparation method / provider (aside from what you may have paid the government in taxes)? *(Select only one option)* **[KEEP SAME YES / NO ORDER AS IN S7; KEEP “DON’T KNOW / UNSURE” LAST]**

- ☐ Yes, I did pay to prepare my taxes in 2021 (for 2020 income)
- ☐ No, I did not pay to prepare my taxes in 2021 (for 2020 income)
- ☐ Don’t know / Unsure

F2. Which of the following, if any, tax preparation websites / software have you used to prepare and file your taxes within the last 5 years? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP “Other (please specify)”, “I did not use any tax preparation website / software within the last 5 years,” AND “Don’t Know / Unsure” LAST]**

- ☐ TurboTax
- ☐ IRS Free File Program (any provider)
- ☐ H&R Block
- ☐ TaxAct
- ☐ TaxHawk
- ☐ Credit Karma Tax
- ☐ TaxSlayer
- ☐ Jackson Hewitt
- ☐ Liberty Tax
- ☐ FastTax Filing
- ☐ Other (Please specify) **[PROVIDE APPROPRIATE SPACE FOR ANSWER]**
- ☐ I did not use any tax preparation website / software within the last 5 years **[EXCLUSIVE]**
- ☐ Don’t know / Unsure **[EXCLUSIVE]**

F3. Are you or are you not aware of any media reports, investigations, or lawsuits involving a tax preparation website / software provider or accounting company? *(Select only one option)* **[KEEP SAME YES / NO ORDER AS IN S7; KEEP “DON’T KNOW / UNSURE” LAST]**

- ☐ Yes, I am aware of at least one media report, investigation, or lawsuit
- ☐ No, I am not aware of any media reports, investigations, or lawsuits
- ☐ Don’t know / Unsure

F4. What was your total household income before taxes in 2020? As a reminder, all responses are anonymous. *(Select only one option)*

[RANDOMIZE ORDER AS IS AND REVERSE; KEEP “DON’TKNOW / UNSURE” AND “PREFER NOT TO ANSWER” LAST]

- ☐ Less than \$25,000
- ☐ \$25,000 - \$49,999
- ☐ \$50,000 - \$74,999
- ☐ \$75,000 - \$99,999

- \$100,000 - \$150,000
- Greater than \$150,000
- Don't know / Unsure
- Prefer not to answer

[GO TO PANEL 'THANK YOU' PAGE]

APPENDIX E
PURCHASE DRIVER SURVEY SCREENSHOTS

I. Introduction and Screening

I've detected that your browser has already completed this survey but I'll let you in anyway for testing.

Please enter the code exactly as it appears in the image below, and then click "Continue" to continue.

VDDARP

Continue

How old are you?

Select only one option

- ☐ Under 18 years old
- ☐ 18 - 29 years old
- ☐ 30 - 39 years old
- ☐ 40 - 49 years old
- ☐ 50 - 59 years old
- ☐ 60 years or older
- ☐ Prefer not to answer

Continue

Please indicate your gender:

Select only one option

- ☐ Female
- ☐ Male
- ☐ Other / Prefer not to answer

Continue

In which state do you currently reside?

Select only one option

Select one...

Continue

Are you or any of your family members employed by...?

Select all that apply

- ☐ A home hardware or power tools manufacturer, distributor, or retailer
- ☐ A marketing, market research, or advertising agency
- ☐ A food manufacturer, distributor, or retailer
- ☐ An accounting, tax, or a tax preparation service provider company
- ☐ A university or school
- ☐ An electronics manufacturer, distributor, or retailer
- ☐ Your state or the federal government
- ☐ None of the above

Continue

Have you taken any surveys in the last 30 days on any of these topics?

Select all that apply

- ☐ Sporting goods or outdoor gear
- ☐ Clothing
- ☐ Shopping at retail stores
- ☐ Investing in the stock market
- ☐ Finance and banking
- ☐ Video games
- ☐ Music streaming
- ☐ Accounting or tax services
- ☐ None of the above

Continue

Which of the following activities, if any, have you done in the last 12 months?

Select all that apply

- ☐ Climbed Mount Kashiou
- ☐ Sold my home
- ☐ Gone on a vacation
- ☐ Prepared and filed my household's taxes
- ☐ Resold clothes online
- ☐ Opened a new bank account
- ☐ Listened to a music streaming service
- ☐ None of the above

Continue

Thinking about your personal income taxes filed in 2021, how did you prepare and file your taxes?

Select only one option

- ☐ I self-prepared and filed my / our household taxes without using any service (e.g., I prepared my tax forms on paper, I manually filed in my tax forms online)
- ☐ I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software)
- ☐ I used an online tax website to prepare and file my / our household taxes
- ☐ Other (Please specify)
- ☐ Don't know / Unsure

Continue

You indicated that you used an online tax website to prepare and file your taxes in 2021. Which of the following online tax websites did you use to prepare and file your taxes in 2021?

Select only one option

- ☐ H&R Block
- ☐ TaxHawk
- ☐ Jackson Hewitt
- ☐ FastTax Filing
- ☐ Liberty Tax
- ☐ TaxAct
- ☐ IRS Free File Program (any provider)
- ☐ TurboTax
- ☐ Credit Karma Tax
- ☐ TaxSlayer
- ☐ Other (Please specify)
- ☐ Don't know / Unsure

Thinking of your taxes filed in 2021, which of the following best describes your role in deciding how you would prepare your taxes?

Select only one option

- ☐ I was primarily responsible for selecting my / our household tax preparation method / provider
- ☐ I was substantially involved in selecting my / our household tax preparation method / provider
- ☐ I had little involvement in selecting my / our household tax preparation method / provider
- ☐ Don't know / Unsure

Continue

People vary in the amount they pay attention to these kinds of surveys. Some take them seriously and read each question, whereas others go very quickly and barely read the questions at all. If you have read this question carefully, please select "HP" below.

Select only one option

- ☐ HP
- ☐ Dell
- ☐ Apple
- ☐ IBM
- ☐ Microsoft
- ☐ Sony
- ☐ Acer
- ☐ Other (please specify)

Continue

II. Main Questionnaire

Thank you! In this survey, we would like to learn about your experience filing taxes in 2021 (for 2020 income). In the following questions, we will ask about your tax filing process and will try to learn from your experiences or expectations.

Continue

You indicated that you prepared and filed your personal income taxes in 2021 (for 2020 income) through TurboTax. Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?

Select only one option

- ☐ No, I used a different preparation method / provider last year
- ☐ Yes, I used this same preparation method / provider last year
- ☐ I did not file taxes last year
- ☐ Don't know / Unsure

Continue

You indicated that you used the same method / provider to prepare and file your taxes in 2020 and 2021. Did you or did you not consider using a different tax preparation method / provider this year?

Select only one option

- ☐ No, I did not consider using another method / provider to prepare and file my taxes this year
- ☐ Yes, I considered using another method / provider to prepare and file my taxes this year
- ☐ Don't know / Unsure

Continue

III. Track 1

In your own words, why did you not consider using another method / provider to prepare and file your taxes this year?

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about why you did not consider using another method / provider to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

IV. Track 2

You indicated that you considered using another tax preparation method / provider this year. Which of the following tax preparation methods / providers did you consider using this year?

Select all that apply

- ☐ I considered using a different online tax website to prepare and file my / our household taxes
- ☐ I considered working with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I considered self-preparing and filing my / our household taxes without using any service
- ☐ I considered using a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software)
- ☐ Other (Please specify):
- ☐ Don't know / Unsure

Continue

What, if any, research did you conduct into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers?

Select all that apply

- ☐ Read articles, rankings, or third-party reviews
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Spoke with friends / family
- ☐ Read customer reviews or testimonials
- ☐ Explored tax preparation software / service websites
- ☐ Sought advice from a tax professional
- ☐ Explored the IRS or state government websites
- ☐ Viewed advertisements
- ☐ Reviewed marketing emails
- ☐ Watched online tutorials / videos
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

In your own words, what factors were important to you when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider?

Select all that apply

- ☐ Getting refund quickly
- ☐ Ease of use
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Having expert help / individualized attention
- ☐ Past experience with the tax preparation method / provider
- ☐ Brand / reputation
- ☐ Confidence in accuracy / reliability
- ☐ Recommendations from friends / family
- ☐ Data security
- ☐ Accessing last year's tax information
- ☐ Price
- ☐ Other (Please specify):
- ☐ None of the above
- ☐ Don't Know / Unsure

Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

V. Track 3

You indicated that you used a different method / provider to prepare and file your taxes last year. Which tax preparation method / provider did you use last year?

Select only one option

- ☐ I worked with a tax professional to prepare and file my / our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I used a tax software installed on my computer to prepare and file my / our household taxes (e.g., I used a disk / CD or downloaded software)
- ☐ I self-prepared and filed my / our household taxes without using any service
- ☐ I used a different online tax website to prepare and file my / our household taxes
- ☐ Other (Please specify)
- ☐ Don't know / Unsure

Continue

You indicated that you used a different method / provider of tax preparation this year. What, if any, research did you conduct into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers?

Select all that apply

- ☐ Read customer reviews or testimonials
- ☐ Viewed advertisements
- ☐ Explored the IRS or state government websites
- ☐ Reviewed marketing emails
- ☐ Explored tax preparation software / service websites
- ☐ Sought advice from a tax professional
- ☐ Read articles, rankings, or third-party reviews
- ☐ Watched online tutorials / videos
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Spoke with friends / family
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

Continue

In your own words, what factors were important to you when choosing a tax preparation method / provider?
Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider?

Select all that apply

- ☐ Data security
- ☐ Ease of use
- ☐ Recommendations from friends / family
- ☐ Having expert help / individualized attention
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Past experience with the tax preparation method / provider
- ☐ Getting refund quickly
- ☐ Accessing last year's tax information
- ☐ Confidence in accuracy / reliability
- ☐ Price
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

Continue

Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

VI. Track 4

What, if any, research did you conduct when choosing your method / provider of tax preparation this year? Please describe the research you conducted in as much detail as possible.

(Please type in your response. If you have nothing else to add, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the research that you conducted when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these, if any, did you do in researching tax preparation methods / providers?

Select all that apply

- ☐ Watched online tutorials / videos
- ☐ Viewed advertisements
- ☐ Read customer reviews or testimonials
- ☐ Explored the IRS or state government websites
- ☐ Spoke with friends / family
- ☐ Read articles, rankings, or third-party reviews
- ☐ Explored tax preparation software / service websites
- ☐ Tried out one or more online tax website(s) without filing
- ☐ Reviewed marketing emails
- ☐ Sought advice from a tax professional
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

Continue

In your own words, what factors were important to you when choosing a tax preparation method / provider?
Please describe those factors in as much detail as possible.

(Please type in your response. If you do not know the answer or are unsure, please select "Don't know / Unsure.")

Please be as specific as possible

☐ Don't know / Unsure

Continue

Is there anything else you would like to add about the factors that were important to you when choosing a tax preparation method / provider?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

You may have already mentioned this, but which of these factors, if any, were important to you when choosing a tax preparation method / provider?

Select all that apply

- ☐ Ease of use
- ☐ Getting refund quickly
- ☐ Recommendations from friends / family
- ☐ Confidence in accuracy / reliability
- ☐ Price
- ☐ Past experience with the tax preparation method / provider
- ☐ Accessing last year's tax information
- ☐ Data security
- ☐ Brand / reputation
- ☐ Availability of additional services from the same provider
- ☐ Tax refund amount
- ☐ Having expert help / individualized attention
- ☐ Other (Please specify)
- ☐ None of the above
- ☐ Don't Know / Unsure

Continue

Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

(Please type in your response. If you have nothing else to add, please select "Nothing else.")

Please be as specific as possible

☐ Nothing else

Continue

VII. Follow-Up Questions

In 2021, did you or did you not pay to use your chosen tax preparation method / provider (aside from what you may have paid the government in taxes)?

Select only one option

- ☐ Yes, I did pay to prepare my taxes in 2021 (for 2020 income)
- ☐ No, I did not pay to prepare my taxes in 2021 (for 2020 income)
- ☐ Don't know / Unsure

Continue

Which of the following, if any, tax preparation websites / software have you used to prepare and file your taxes within the last 5 years?

Select all that apply

- ☐ H&R Block
- ☐ FastTax Filing
- ☐ IRS Free File Program (any provider)
- ☐ Liberty Tax
- ☐ TaxHawk
- ☐ Credit Karma Tax
- ☐ TaxSlayer
- ☐ Jackson Hewitt
- ☐ TurboTax
- ☐ TaxAct
- ☐ Other (Please specify)
- ☐ I did not use any tax preparation website / software within the last 5 years
- ☐ Don't know / Unsure

Continue

Are you or are you not aware of any media reports, investigations, or lawsuits involving a tax preparation website / software provider or accounting company?

Select only one option

- ☐ Yes, I am aware of at least one media report, investigation, or lawsuit
- ☐ No, I am not aware of any media reports, investigations, or lawsuits
- ☐ Don't know / Unsure

Continue

What was your total household income before taxes in 2020? As a reminder, all responses are anonymous.

Select only one option

- ☐ Less than \$25,000
- ☐ \$25,000 - \$49,999
- ☐ \$50,000 - \$74,999
- ☐ \$75,000 - \$99,999
- ☐ \$100,000 - \$150,000
- ☐ Greater than \$150,000
- ☐ Don't know / Unsure
- ☐ Prefer not to answer

Continue

APPENDIX F
QUALITATIVE INTERVIEW GUIDE

I. INTRODUCTION

Thank you for making time today and talking on the phone with us.

Hello, my name is _____. I work for a consulting firm located in Boston, MA and today we'll be discussing your past and present experiences as a tax filer. In particular, we'll be discussing topics related to your experiences with, thoughts of, and preferences for various features of your tax filing experience.

I'd like our conversation to be very open-ended. You may notice that I will be asking "why" a lot, and that I will ask you to elaborate on your answers. Some of these questions might seem obvious or redundant, but it is important that I hear the details in your own words. There are no right or wrong answers; I just want to understand your experience and opinions.

A few things before we begin:

- We will remove any personally-identifying information (such as your name) in the results we provide to our client.
- Everything you tell me will be kept confidential and be used for research purposes only.
- I will not ask you to provide any personal information about your income, the amount you pay in taxes, the size of your refund, or your personal financial situation.
- I want to be respectful of your time. This conversation will last no more than 30 minutes.

Do you have any questions before we begin?

II. DISCUSSION TOPICS

Please open a conversation and have the respondent talk about how he or she filed taxes this year. Explore the entire experience. Below are some potential topics to discuss with the respondent. Each topic does not need to be explored in every interview.

1. Method of preparing and filing respondent's taxes this year
 - a. Whether this method differs from prior years
 - b. Whether respondent considered other methods this year
 - c. Whether respondent paid for tax preparation
2. Research the respondent conducted when deciding among potential tax preparation methods
3. Factors that were important to the respondent in selecting their chosen tax preparation method
4. Knowledge of the IRS Free File program

III. POTENTIAL THEMES FOR ADDITIONAL PROBING

During the course of the conversation, the following themes may come up and could be probed further on.

Topic 1:

- Brands of in-person tax preparation services respondents may have used:
 - An independent CPA
 - H&R Block
 - Jackson Hewitt
 - Liberty Tax
- Brands of tax preparation software respondents may have used:
 - TurboTax
 - IRS Free File Program
 - H&R Block
 - TaxAct
 - TaxHawk
 - Credit Karma
 - TaxSlayer
 - Jackson Hewitt
 - Liberty Tax
- Methods of tax preparation respondents may have used:
 - Self-preparing
 - Tax preparation software installed on their computer
 - Using a CPA (online or in person, including friends/family providing CPA services for free)
 - Website with online tax preparation software
- Other methods of preparing and filing taxes that were considered
- Previous methods for preparing and filing taxes
- Whether the respondent started their taxes in another method or tested multiple methods/brands

Topic 2:

- Time and effort spent researching

- Types of research respondents may have conducted:
 - Advertisements
 - Advice from an accountant, financial advisor, or other expert
 - Customer reviews or testimonials
 - Online articles
 - Rankings or third-party reviews
 - Recommendations from friends/family
 - Videos/tutorials
 - Websites of different tax preparation companies

Topic 3

- Factors related to price of tax preparation:
 - Paying for add-ons or extras
 - Paying for federal and/or state returns
 - Starting in free versions and upgrading
 - Whether respondent compared prices across providers
- Factors that may be important to respondents:
 - Availability of a Refund Anticipation Check or Loan
 - Brand
 - Confidence/trust in accuracy
 - Convenience
 - Ease of use
 - Efficiency/speed of filing
 - Expert advice
 - Getting refund quickly
 - Maximizing refund
 - Past experience with tax preparation method
 - Price/cost of service
 - Product features or extras
 - Product/service ratings or reviews
 - Protection from audits/mistakes
 - Recommendations from friends/family

Topic 4

- Consideration of the IRS Free File Program in the future
- Describing the IRS Free File Program

Thank you for your time!

APPENDIX G
PURCHASE DRIVER PRETEST MODERATOR INSTRUCTIONS

Pretest Moderator Instructions

Twelve respondents are recruited to participate in pretest interviews.

The participants satisfy all inclusion criteria listed on the screener section of the survey. Three respondents should be allocated to each of the four survey tracks based on their answers to Q2 and Q3.

Interviews are conducted over the phone by a blind-to-the-purpose moderator while respondents complete the survey online.

Notes to moderator are in brackets, bolded, and all capital letters.

[Section I: Introduction and Questionnaire]

[MODERATOR TO READ]

Hello, **[FIRST NAME]**? My name is _____.

[IF NEEDED] We are calling you for an interview that you scheduled with us. It is a research study on consumer products and you agreed to help us by giving your opinions.

Thank you so much for agreeing to take this survey today. I need to let you know that this call may be monitored for quality assurance purposes. This survey might last up to 30 minutes. Is that all right?

Great! I am going to be on the phone while you take the online survey, so feel free to “think out loud” or bring up anything you would like while you are taking the survey. If you find any of the questions or answer options unclear, please feel free to bring that up as well. After you are done taking the survey, I will ask you a couple of follow-up questions. Does that all sound okay?

Great, let's start. You will need to open a link to the survey. It was provided in an email you received from us. Please follow the survey link. **[IF NECESSARY REMIND WHO THE SENDER OF THE EMAIL WAS]**.

[ALLOW THE RESPONDENT TO TAKE THE SURVEY AND FINISH]

[NOTE: IF THE RESPONDENT IS SCREENED OUT, THE PAGE WILL SAY “THANK YOU FOR YOUR INTEREST IN OUR STUDY. WE ARE NO LONGER LOOKING FOR PEOPLE WHO MATCH YOUR CHARACTERISTICS. WE APPRECIATE YOUR TIME.” PLEASE SAY “That's OK, That can happen sometimes. Unfortunately we cannot proceed with the survey. Thank you very much for your time, and have a nice rest of the day.”]

[Section II: Follow-up Questions]

[QUESTIONS TO ASK AFTER THE RESPONDENT FINISHED RESPONDING TO ALL SURVEY QUESTIONS AND INDICATES SO. ADD PROBES SUCH AS “ANYTHING ELSE” TO CONFIRM THAT RESPONDENTS HAVE GIVEN A COMPLETE ANSWER.]

Q1. Did you have any problems while taking the survey? *[If respondent says “Yes”]*
Can you tell me more about what problems you had?

Q2. Did you think any questions were unclear? *[If respondent says “Yes”]* Which ones and why?

Q3. Did you think any of the response options were unclear? *[If respondent says “Yes”]* Which ones and why?

Q4. Did any questions in the survey make you feel that you should answer one way or the other? *[If respondent says “Yes”]* Which ones and why?

Q5. Was there anything else about the survey exercise you found unclear? *[If respondent says “Yes”]* What parts and why?

Q6. What do you think might be the purpose for conducting this survey?

Q7. What makes you think so?

Q8. Is there anything else you would like to say about the survey?

Thank you so much for your time. Your participation is appreciated and we will make sure you get credit for completing this survey.

APPENDIX H
SUMMARY REPORT OF THE PRETEST OF THE PURCHASE DRIVER STUDY

Summary Report of the Pretest of the Purchase Driver Study

Dynata conducted phone-based pretests of the Purchase Driver Study from June 23, 2021 through June 24, 2021. During the pretest, Dynata interviewed a total of 11 qualified respondents.¹ At least two respondents were interviewed for each of Tracks 1, 2, and 3 of the Purchase Driver Study. Consistent with the low incidence rate for Track 4 in the Purchase Driver Study, no pretest respondents were recruited for Track 4. However, the Track 4 questions were carefully reviewed for consistency with Tracks 1-3. The device that respondents used to take the survey varied, and respondents were able to take the survey on a computer or a tablet.

Following the pretest moderator instructions, the blind-to-the purpose interviewer asked respondents to fill out the Purchase Driver Study on their device and asked a series of follow up questions over the phone (Q1-Q8 in Appendix G) to determine whether respondents encountered any problems while taking the survey.

Based on the pretest interviews, changes were identified to improve the survey, and these changes are noted in the table below. No respondents were able to guess the purpose or the sponsor of the Purchase Driver Survey.

Change(s) made to:	From	To	Rationale
S11	<p>People vary in the amount they pay attention to these kinds of surveys. Some take them seriously and read each question, whereas others go very quickly and barely read the questions at all. If you have read this question carefully, please select “5” below.</p> <ul style="list-style-type: none"> ○ 0 - Not at all [TERMINATE] ○ 1 [TERMINATE] ○ 2 [TERMINATE] ○ 3 [TERMINATE] ○ 4 [TERMINATE] ○ 5 ○ 6 - Very [TERMINATE] 	<p>People vary in the amount they pay attention to these kinds of surveys. Some take them seriously and read each question, whereas others go very quickly and barely read the questions at all. If you have read this question carefully, please select “[RANDOMLY SELECT ONE OF THE OPTIONS IN LIST BELOW]” below. (Select one only)</p> <p>[TERMINATE IF</p>	<ul style="list-style-type: none"> • This is a stronger instructional manipulation check that will help make sure qualified respondents are paying attention to their responses.

¹ One additional respondent indicated in the pretest recruitment that they considered using another tax preparation method last year, but in the live pretest they indicated that they did not consider using another tax preparation method last year. An 11th interview was conducted to ensure 10 complete, qualified responses. Changes were made to S11 to ensure quality responses and to Q2-Q3 to further clarify the wording.

	<p>○ Other (please specify)</p> <p>[TERMINATE]</p>	<p>CORRECT RESPONSE IS NOT SELECTED]</p> <p>○ HP</p> <p>○ Dell</p> <p>○ Apple</p> <p>○ IBM</p> <p>○ Microsoft</p> <p>○ Sony</p> <p>○ Acer</p> <p>○ Other (please specify)</p> <p>[TERMINATE]</p>	
Q2 (similarly applies to S10, Q3-Q15, F1)	<p>Did you or did you not use this same method to prepare and file your taxes last year, in 2020 (for 2019 income)?</p> <p>○ Yes, I used this same preparation method last year</p> <p>○ No, I used a different preparation method last year [Skip to Track 3]</p> <p>○ I did not file taxes last year [Skip to Track 4]</p> <p>○ Don't know / Unsure [Skip to Track 4]</p>	<p>Did you or did you not use this same method / provider to prepare and file your taxes last year, in 2020 (for 2019 income)?</p> <p>○ Yes, I used this same preparation method / provider last year</p> <p>○ No, I used a different preparation method / provider last year [Skip to Track 3]</p> <p>○ I did not file taxes last year [Skip to Track 4]</p> <p>○ Don't know / Unsure [Skip to Track 4]</p>	<ul style="list-style-type: none"> • “Method / provider” was inserted to clarify the level of detail respondents should consider to be the same. (e.g., working with one CPA this year and a different CPA last year is considered as a different method.)
Q4a	<p>In your own words, why did you not consider using another method to prepare and file your taxes this year?</p>	<p>In your own words, why did you <i>not</i> consider using another method / provider to prepare and file your taxes this year?</p>	<ul style="list-style-type: none"> • One respondent indicated that they have trouble identifying when the question has the word “not.” • The word “not” was bolded, underlined, and italicized to make it stand out in the question.
Q4b	<p>Is there anything else you would like to add about why you did not consider using another method to</p>	<p>Is there anything else you would like to add about why you did <i>not</i> consider using another method / provider to</p>	<ul style="list-style-type: none"> • One respondent indicated that they have trouble identifying when the

	prepare and file your taxes this year?	prepare and file your taxes this year?	<p>question has the word “not.”</p> <ul style="list-style-type: none"> The word “not” was bolded, underlined, and italicized to make it stand out in the question.
Q10b	Is there anything else you would like to add about <u><i>the research that you conducted</i></u> when choosing this method of tax preparation?	Is there anything else you would like to add about <u><i>the research that you conducted</i></u> when choosing a tax preparation method / provider?	<ul style="list-style-type: none"> “This method of tax preparation” was replaced with “a tax preparation method / provider” for consistency and clarity throughout the survey.
Q13b	Is there anything else you would like to add about <u><i>the research that you conducted</i></u> when choosing this method of tax preparation?	Is there anything else you would like to add about <u><i>the research that you conducted</i></u> when choosing a tax preparation method / provider?	<ul style="list-style-type: none"> “This method of tax preparation” was replaced with “a tax preparation method / provider” for consistency and clarity throughout the survey.
F2	Which of the following, if any, tax preparation websites / software have you used within the last 5 years?	Which of the following, if any, tax preparation websites / software have you used to prepare and file your taxes within the last 5 years?	<ul style="list-style-type: none"> Two respondents indicated that they were unsure whether the question was intended only to capture websites / software that they filed taxes with in the past 5 years or if they should include any websites that they tried but didn’t ultimately use to file. “Prepare and file” was added in order to maintain consistency with other questions in the survey and to clarify the intent.

APPENDIX I
INDEPENDENT CODER INSTRUCTIONS

Survey Overview

- 1) You are being asked to be one of two coders of an online survey conducted for market research about tax preparation in 2021. In this research, respondents were asked several open-ended questions. We are asking you, in your role as a coder, to carefully review and categorize their responses.
- 2) Each respondent was assigned to one of four tracks: Track 1, Track 2, Track 3, or Track 4, depending on their answers to closed-ended screener questions. They were then asked a series of questions about their decision-making process in choosing a tax preparation method for 2021.
- 3) You are being asked to code open-ended answers to four sets of survey questions:
 - a. **Question Set 1: Consideration¹**
 - i. In your own words, why did you **not** consider using another method / provider to prepare and file your taxes this year?
 - ii. Is there anything else you would like to add about why you did **not** consider using another method / provider to prepare and file your taxes this year?
 - b. **Question Set 2: Research²**
 - i. What, if any, **research did you conduct** into potential tax preparation methods / providers? Please describe the research that you conducted in as much detail as possible.
 - ii. Is there anything else you would like to add about **the research that you conducted** when choosing a tax preparation method / provider?
 - c. **Question Set 3: Factors³**
 - i. In your own words, **what factors were important to you** when choosing a tax preparation method / provider? Please describe those factors in as much detail as possible.
 - ii. Is there anything else you would like to add about **the factors that were important to you** when choosing a tax preparation method / provider?

¹ Question Set 1: Consideration was asked of respondents in Track 1 only. These respondents indicated they had used the same tax preparation method/provider as last year and didn't consider using a different one this year. These respondents were not asked any further open-ended questions.

² Question Set 2: Research was asked of respondents in Tracks 2-4 only. These respondents indicated they: (1) used the same preparation method/provider last year but had considered using a different method/provider this year (Track 2); (2) used a different preparation method/provider last year (Track 3); or (3) did not file taxes last year (Track 4). These respondents were also asked Question Sets 3-4.

³ Question Set 3: Factors was asked of respondents in Tracks 2-4 only. These respondents indicated they: (1) used the same preparation method/provider last year but had considered using a different method/provider this year (Track 2); (2) used a different preparation method/provider last year (Track 3); or (3) did not file taxes last year (Track 4). These respondents were also asked Question Sets 2 and 4.

d. Question Set 4: Anything Else⁴

- i. Is there anything else you would like to add about how you decided which method / provider to use to prepare and file your taxes this year?

Instructions

- 1) You will be responsible for coding open-ended answers to the survey questions above. On the pages that follow, you will see coding instructions and examples of how one might code responses.
- 2) You will be given a single spreadsheet with tabs for the four Question Sets. Each tab will include the open-ended answer responses for the relevant Question Set.
- 3) Your job is to categorize each open-ended answer into relevant bucket(s) using either a “0” or a “1”. To do so, you are instructed to follow the steps explained below to develop/code categories:

Development of Categories

- 1) Each coder will review the open-ended responses in each Question Set tab and develop categories that can be used to commonly describe responses in that Question Set.
- 2) Please note that at this stage, you are not expected to begin placing respondents into your defined categories. This process will come after you meet with the other coder.
- 3) Respondents may mention more than one thing in response to a question. A category should describe a common theme across responses but need not identify the totality of the response; that is, a given open-ended answer can be categorized in multiple categories.
 - a. For example, you might generate multiple categories associated with the answer “Boston, lobster, TV” (e.g., cities, foods, and electronics) rather than one category.
- 4) For Question Sets 2-4, you have been provided with some potential categories. Please review these categories and judge whether new or different categories are needed, including whether some categories should be combined or disaggregated.
 - a. For Question Set 2, the potential categories are:
 - i. Explored the IRS or state government websites
 - ii. Reviewed marketing emails
 - iii. Watched online tutorials / videos
 - iv. Viewed advertisements
 - v. Read customer reviews or testimonials

⁴ Question Set 4: Anything Else was asked of respondents in Tracks 2-4 only. These respondents indicated they: (1) used the same preparation method/provider last year but had considered using a different method/provider this year (Track 2); (2) used a different preparation method/provider last year (Track 3); or (3) did not file taxes last year (Track 4). These respondents were also asked Question Sets 2-3.

- vi. Spoke with friends / family
- vii. Sought advice from a tax professional
- viii. Explored tax preparation software / service websites
- ix. Tried out one or more online tax website(s) without filing
- x. Read articles, rankings, or third-party reviews

b. For Question Set 3, the potential categories are:

- i. Recommendations from friends / family
- ii. Accessing last year's tax information
- iii. Data security
- iv. Having expert help / individualized attention
- v. Price
- vi. Ease of use
- vii. Past experience with the tax preparation method / provider
- viii. Confidence in accuracy / reliability
- ix. Brand / reputation
- x. Availability of additional services from the same provider
- xi. Tax refund amount
- xii. Getting refund quickly

c. For Question Set 4, respondents may have provided answers related to either research or factors. You have been provided with the full set of categories from Question Sets 2-3 as potential categories.

- 5) Once reviewed, coders will meet with each other to discuss their category lists. Ultimately, together, you will decide on one list of categories for each Question Set.

Coding of Answers

- 1) Once the lists of categories are confirmed, you will independently review the open-ended answers and assign each response to one or more of the categories.
- 2) You will assign each open-ended answer the value of "1" if you judge that its content belongs in a particular category and a value of "0" if its content does not belong in a particular category. Use only one code ("0" or "1") for each open-ended answer and category.
- 3) For Question Set 4, please also identify whether the answer relates to research methods (Question Set 2), factors (Question Set 3), or both.
- 4) A response should be assigned to the category or categories that best fit. You may code a response to more than one category, if appropriate.
- 5) Do not rush – take your time. Read the question and answer twice before deciding on a code.

- 6) Respondents may misspell an answer. For example, a respondent might type “Bostan” when they meant “Boston.” You are to use your judgment of what the respondent meant when typing the answer.
- 7) Use your own judgment – do NOT consult with anyone else. This is very important.
- 6) After both coders have categorized the respondents using the agreed upon list of categories, you will meet to resolve (“tiebreak”) any differences in coding. In the case of disagreement, you will jointly recode the response in question while keeping track of each coder’s initial categorizations and the final categorizations.

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

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

Declaration of Rebecca Kirk Fair

August 30, 2022

CONTENTS

I.	Introduction.....	1
A.	Qualifications.....	1
B.	Assignment	2
II.	Relevant Allegations.....	3
III.	Summary of Opinions.....	4
IV.	My Disclosure Survey Was Designed to Test the Effect of Different Upgrade Screens on Consumer Choices	5
V.	My Disclosure Survey’s Results Contradict The Theory That Consumers were Deceived into Upgrading to TurboTax Paid Products.....	9
A.	TurboTax Upgrade Screens Do Not Induce Upgrades to Paid Products	9
B.	Consumers Upgrade to TurboTax Paid Products for Reasons other than the Allegedly Deceptive “Free” Advertising and Upgrade Screens	11
C.	Many Respondents Demonstrate a Willingness to Consider Alternatives and To Identify and Use the Appropriate Product for Their Specific Situation	13
VI.	Conclusion	18

I. INTRODUCTION

A. Qualifications

1. I am a Managing Principal with Analysis Group, Inc., a consulting firm headquartered in Boston, Massachusetts. I have a Master of Business Administration degree in finance and applied economics from the MIT Sloan School of Management in Boston, Massachusetts and a B.A. from Middlebury College, where I majored in economics and minored in computer science.
2. Over more than twenty-five years, I have supported the design and implementation of online, mall-intercept, and telephone surveys using a variety of methodologies. I have served as an expert witness in matters involving the design, implementation, and analyses of consumer surveys, studying usage, preferences, and perceptions among businesses and consumers. Over the course of these assignments and through formal graduate and undergraduate course work, I have developed expertise in survey design, defining and soliciting target sample populations, and data analyses. I also have experience in the evaluation of surveys conducted by opposing experts related to consumer perception, feature value, and other aspects of marketing and consumer demand in connection with consumer protection, antitrust, intellectual property, and trademark matters. I have been invited to speak on topics related to surveys by the American Bar Association, the Canadian Bar Association, and the Knowledge Group, and I have written numerous articles on survey design, surveys in litigation, and merger review.
3. Over my career at Analysis Group, I have also conducted economic analyses and consulted in a broad range of cases requiring processing and statistical analysis of large datasets, and I have managed projects involving those large datasets to measure damages or assess class

certification issues. I also have extensive experience in survey development and administration, and analysis of data on consumer behavior.

4. I have worked on over 350 intellectual property, false advertising, class certification, and antitrust litigations and investigations. My testimony on these topics have been consistently accepted by courts.
5. My curriculum vitae is attached as **Appendix A**, and a list of my prior testimony is attached as **Appendix B**.
6. I previously filed a memorandum on November 4, 2020 in connection with this case outlining my Disclosure Survey design, methodology and findings (“2020 Kirk Fair Memorandum”).

B. Assignment

7. I have been asked by Counsel for Intuit to study the extent to which providing consumers with more or less information about alternative methods of filing their taxes, including alternative free filing solutions, affects consumers’ purchase decisions for tax preparation solutions. In this assignment, I relied on my “Disclosure Survey,” a test and control survey that I conducted in 2020 in connection with the FTC’s investigation into Intuit. This survey evaluates how consumers who view advertisements for TurboTax Free Edition, and then begin preparing their taxes using TurboTax Free Edition, respond to a “Hard Stops,” i.e., information screens that inform consumers that they will need to upgrade or use a different product to accurately complete their tax returns.
8. **Appendix C** includes a complete list of materials I have considered in connection with this assignment. I have also attached a complete copy of the 2020 Kirk Fair Memorandum shared

with the FTC as part of its initial investigation as **Appendix D**. I may supplement or update my analysis in the event that new information relevant to my opinions becomes available.

9. Analysis Group is being compensated at a rate of \$905 per hour for my time on this case. Part of the work conducted in connection with this assignment was performed under my direction by others at Analysis Group, whose hourly rates range from \$415-\$650. No compensation is contingent on the nature of my findings or on the outcome of this litigation.
10. I reserve the right to supplement my opinions in response to any additional information provided to me or in light of documents or testimony brought forth.

II. RELEVANT ALLEGATIONS

11. The FTC has filed a Complaint and a Motion for Summary Decision against Intuit.¹ According to the Complaint, “Intuit has engaged in, and continues to engage in, deceptive business practices in the advertising, marketing, distribution, and sale of TurboTax.”² Similarly, the Motion for Summary Decision argues that Intuit uses “deceptive door-opener” advertisements to “get consumers to come to TurboTax.com seeking to file their taxes for free.”³
12. Further, these allegations state that once users have “invest[ed] time and effort gathering and inputting into TurboTax their sensitive personal and financial information,” they are told “they’ll have to pay Intuit... to file their taxes.”⁴ The upgrade screens where customers are told

¹ “Complaint,” *In the Matter of: Intuit Inc., a corporation*, United States of America Before the Federal Trade Commission, Docket No. 9408, March 28, 2022 (“Complaint”); “Complaint Counsel’s Motion for Summary Decision,” *In the Matter of: Intuit Inc., a corporation*, United States of America Before the Federal Trade Commission, Docket No. 9408, August 22, 2022 (“Motion for Summary Decision”).

² Complaint, ¶ 8.

³ Motion for Summary Decision, pp. 4-5.

⁴ Motion for Summary Decision, pp. 4-5.

they will need to upgrade to a paid product are referred to as “Hard Stops.” The Complaint states that “Intuit has used and is using many ... Hard Stops to induce consumers who start in the ‘freemium’ version of TurboTax to upgrade to a paid version.”⁵

III. SUMMARY OF OPINIONS

13. Based on my analysis of the Disclosure Survey results, I conclude that:

- My Disclosure Survey demonstrates that consumers upgrade to TurboTax Paid products for reasons other than the allegedly deceptive “free” advertising and being locked into that choice. If consumers had been deceived by Intuit’s ads, as the FTC alleges, I would expect to see substantial, statistically significant differences in respondent choices upon learning about an additional free option at the point of the hard stop screen. In contrast to what would be predicted based on the FTC’s allegation, I find that consumers with more information about alternative filing options, including information about an alternative free solution (the IRS Free File program), chose to upgrade to a TurboTax Paid product at similar rates as when they saw a representative upgrade screen and additionally selected other alternative solutions at comparable rates.
- The intersection of Intuit’s free advertising and upgrade screens do not induce upgrades from TurboTax Free Edition to a Paid version of TurboTax. That is, I find no evidence that consumers armed with more or less information about TurboTax Paid products alter their decisions about whether to upgrade or not. Specifically, I find (i) no statistically significant difference in respondents’

⁵ Complaint, ¶ 54.

selection of a TurboTax Paid product (i.e., Deluxe, Premier, or Self-Employed) between respondents shown an upgrade screen that represents what TurboTax customers actually saw, or a reduced information upgrade screen without information about TurboTax's Paid filing solutions and no "upgrade" prompting, and (ii) no statistically significant difference in respondents' selection of a Paid TurboTax product between respondents shown a representative upgrade screen or an upgrade screen with more information about Paid TurboTax products and an alternative "free" tax filing solution.

- My survey also demonstrates that those exposed to all versions of the upgrade screen express interest in conducting research or considering other options. The open-ended responses to follow on questions in my Disclosure Survey provide relevant information to understanding why respondents' preferences do not change with different information about alternative filing options in the upgrade screens. Specifically, open-ended responses reveal consumers' general preference to identify and use appropriate options for their particular tax situation, and consumers' willingness to conduct additional research to determine that appropriate option, whether it was within TurboTax or with an alternative provider. Respondents did not appear to believe that they were required to use TurboTax to the exclusion of other tax preparation options.

IV. MY DISCLOSURE SURVEY WAS DESIGNED TO TEST THE EFFECT OF DIFFERENT UPGRADE SCREENS ON CONSUMER CHOICES

14. To determine whether and to what extent the presence of free advertising and the use of the at-issue upgrade screens affect consumers' online tax software choices, I conducted a survey

using an experimental design. An experimental design allows one to “test directly the influence of the stimulus” on respondents.⁶ In my Disclosure Survey, I present a free advertisement by Intuit and an instruction that respondents started their returns in the Free File Edition of TurboTax. I then test whether more or less information about alternative filing options at the “Hard Stop” influences consumer preferences.⁷ In designing, pretesting, fielding, and analyzing the data of my survey, I applied best practices, both generally for marketing research and for research conducted for the purpose of litigation.⁸ Throughout my survey, I minimize the possibility of noise and bias affecting the survey results by presenting clear questions and answer choices, asking balanced questions, and rotating answer options, among other best practices.⁹ A complete description of my survey, my experimental approach, the target population studied, and other design features of the Disclosure Survey is provided in my 2020 Kirk Fair Memorandum, attached as **Appendix D**.

15. The purpose of my Disclosure Survey was to assess whether and to what extent the information presented to prospective TurboTax customers through the software’s upgrade screens affects their selection of various tax preparation solutions. Of particular interest was understanding how respondents who see the allegedly deceptive advertisements for TurboTax Free Edition

⁶ Diamond, Shari S., “Reference Guide on Survey Research,” in *Reference Manual on Scientific Evidence*, 2011, Third Edition, National Academies Press (“Diamond”), p. 398.

⁷ Respondents were asked to assume they had started their tax return in Free Edition. In the survey context, they were not asked to enter any information about their income or particular tax situation before they were prompted with the “hard stop” upgrade screen.

⁸ I closely adhered to the standards set forth by Federal Judicial Center, in the “Reference Guide on Survey Research” and in the “Manual for Complex Litigation.” Both are critical references for designing and conducting valid and reliable studies used in litigation. See, e.g., Diamond, pp. 359-423; see also *Manual for Complex Litigation*, Federal Judicial Center, 2004, Fourth Edition (“Manual for Complex Litigation”), p. 103.

⁹ See, e.g., Jacoby, Jacob, “Are Closed-Ended Questions Leading Questions?” in *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, eds. Shari S. Diamond and Jerre B. Swann, 2012, American Bar Association, pp. 261-284, pp. 274-275; Diamond, pp. 387, 396.

and begin preparing their taxes using TurboTax's Free Edition product respond to the information contained in these upgrade screens. Qualified respondents to my survey included U.S. taxpayers who had filed their taxes in 2019 or 2020 (for tax years 2018 and 2019) using an online tax preparation software product and who were primarily responsible or substantially involved in filing their own/household taxes.

16. To study whether and to what extent the intersection of Intuit's "free" advertising and its upgrade screens affect the product selection of prospective TurboTax Free Edition customers, I designed the Disclosure Survey as a simulation of the process by which consumers might learn about Free Edition (i.e., by viewing a TurboTax banner advertisement claiming "Free Guaranteed" and "\$0 Fed \$0 State \$0 To File," and TurboTax's product information pages on its website), followed by a presentation of an upgrade screen (which varied across experimental groups) and questions regarding the respondent's consideration and selection of different options for preparing their taxes.¹⁰ Specifically, to assess changes in customers' product selections, I studied three different experimental groups:

- The *Reduced Information Screen Group* was presented with a screen that contained limited information on alternative solutions, i.e., respondents were only informed that they would need to file their taxes through a different TurboTax product or another filing option.¹¹

¹⁰ This simplified simulation was a conservative exercise in that I asked all respondents to assume that they had chosen to begin preparing their taxes using the Free Edition product, despite my understanding that TurboTax makes efforts to direct customers to the appropriate product level before they begin the filing process. Deposition of Gregory Johnson, In the Matter of TurboTax, Inc., September 29, 2020, pp. 66-67 ("We try and ensure consumers get into the product for which they intend."). See also, for example, INTUIT-FFA-FTC-000329046-9033, a presentation on A/B Test Learning.

¹¹ I included this group as part of my experimental design to serve as a control for measuring respondents' behavior in the absence of the guidance provided in representative TurboTax upgrade screens. As described in more detail below, I use this group to test whether the representative TurboTax upgrade screens induce customers to pay for TurboTax products versus a version of the screen with limited amounts of information.

- The *Representative Screen Group* was presented with an upgrade screen that informed respondents that they would need to upgrade to file their taxes accurately and presented respondents with three products: Free Edition, TurboTax Deluxe, and TurboTax Self-Employed.¹²
- The *Enhanced Information Screen Group* was presented with an upgrade screen that informed respondents they would need to upgrade to file their taxes accurately and presented respondents with four products: Free Edition, TurboTax Deluxe, TurboTax Self-Employed, and IRS Free File Program. The upgrade screen also contained information regarding eligibility for the IRS Free File Program, noting in boldface type that “**Based on what you told us about your tax situation, you’ll need to upgrade to accurately complete your taxes. Alternatively, you may be eligible to file for free through the IRS Free File Program.**”

17. In order to test whether and to what extent respondents’ choices are influenced by the nature and detail of information presented in these upgrade screens, I presented respondents with both open- and closed-ended questions regarding: (1) the various tax preparation solutions they would consider using and (2) which of those solutions they would most likely select. By comparing the rates of selecting alternative tax preparation solutions after the presentation of

¹² The Representative Screen stimulus is based on a 2019 upgrade screen that was shown to TurboTax Free Edition customers who reported 1099-MISC income, but was modified to represent a generic upgrade message. The “FUS_Business_Income” upgrade screen was the most frequently shown “Hard Stop” (3M customers) in TY2017 and the second most frequently shown (3.3M customers) in TY2018. (See, INTUIT_FFA_FTC_C013.01-C013.053 at C013.033, Letter from David Gringer to Ian Barlow et al., re: FTC Matter No. 1923119, July 31, 2020.) The generic upgrade language I used to modify the screen closely adhered to that of other TurboTax upgrade screens (e.g., TurboTax Deluxe generic upgrade screen), which inform the user that, “based on what you told us about your tax situation,” “you’ll need to upgrade” “to accurately complete your taxes.” See, for example, INTUIT-FFA-FTC-000032744 and INTUIT-FFA-FTC-000032766, screenshots of TurboTax upgrade screens. I referred to the Representative Screen Group of respondents as the Current Screen Group in the 2020 Kirk Fair Memorandum.

one of the three upgrade screens, I can assess whether there is any change in consumer outcomes consistent with the FTC's allegations. For additional information on the design and implementation of my Disclosure Survey, please see **Appendix D**.

V. MY DISCLOSURE SURVEY'S RESULTS CONTRADICT THE THEORY THAT CONSUMERS WERE DECEIVED INTO UPGRADING TO TURBOTAX PAID PRODUCTS

18. My Disclosure Survey focused on three main questions: (1) whether or not upgrade screens, in concert with an at-issue advertisement, induce upgrades to Paid versions of TurboTax; (2) what effect, if any, might an enhanced upgrade screen that includes information pertaining to alternative free filing options have on respondents' selection of Turbo Tax Paid products; and (3) whether or not there is any evidence to demonstrate that respondents feel locked-in to TurboTax if they started their tax returns in the Free Edition, i.e., do consumers believe they have agency in choosing how to prepare and file their taxes. To understand the effect, if any, of the representative upgrade screens relative to the provision of either more or less information in a modified upgrade screen on respondents' stated product choices, I analyzed both closed-ended (Q7 and Q8) and open-ended (Q6 and Q9) responses from respondents by experimental group. My analyses reveal that the representative upgrade screens *do not* induce selection of Paid TurboTax products, they *do not* alter respondents' selection of a tax filing solution, and that consumers *can* and *do* research their tax preparation options before making their decisions. I discuss my findings on each of these points below.

A. TurboTax Upgrade Screens Do Not Induce Upgrades to Paid Products

19. The results of my survey contradict the FTC's allegations that Intuit's upgrade screens induce upgrades to Paid products (described in **Section II**) and indicate that TurboTax upgrade screens do not induce more consumers to upgrade to Paid versions of the product. Additionally, as I

discuss further below in **Section V.C**, the results of my Disclosure Survey indicate that consumers understand the circumstances of their tax-filing needs and/or educate themselves about appropriate tax solutions, and that many are already aware of the array of competitive options for preparing taxes.

20. To evaluate the question of whether TurboTax upgrade screens induce customers to upgrade to a Paid TurboTax product, I first compared respondents' selection of a Paid version of TurboTax (i.e., Deluxe, Premier, or Self-Employed) as a result of being shown the Representative Screen, rather than the limited amount of information in the Reduced Information Screen. I find that there is no statistically significant difference between respondents' selection of a Paid version of TurboTax (i.e., Deluxe, Premier, or Self-Employed) between the Representative Screen and Reduced Information Screen Groups. Specifically, 40 percent of respondents indicated that they would be most likely to select one of the Paid products when presented with the Reduced Information Screen stimulus. By comparison, 44 percent of respondents in the Representative Screen Group indicated that they would be most likely to select one of the Paid products. This difference is small and not statistically significant between the two experimental groups (see **Exhibit 2.A**).

21. To further evaluate the question of whether TurboTax upgrade screens induced customers to upgrade to a Paid TurboTax product, I also compared respondents' selection of a Paid version of TurboTax (i.e., Deluxe, Premier, or Self-Employed) as a result of being shown the Enhanced Information Screen, which contains supplemental information regarding the TurboTax Paid products and an alternative free filing solution, rather than the Representative Screen. I find that there is no statistically significant difference between respondents' selection of a Paid version of TurboTax between the Enhanced Information Screen and the Representative Screen

Groups. Specifically, 46 percent of respondents indicated that they would be most likely to select a Paid product when presented with the Enhanced Information Screen stimulus. By comparison, 44 percent of respondents in the Representative Screen Group indicated that they would be most likely to select a Paid product. This difference is small and not statistically significant between the two experimental groups (see **Exhibit 2.A**).

22. These results indicate that consumers armed with more or less information about TurboTax Paid products do not alter their decisions about whether to upgrade or not.

B. Consumers Upgrade to TurboTax Paid Products for Reasons other than the Allegedly Deceptive “Free” Advertising and Upgrade Screens

23. The FTC’s allegations and Complaint Counsel’s arguments (described in **Section II**) imply that reasonable consumers were only interested in using TurboTax because they had been deceived into believing they could file their taxes for free, and that consumers upgrade to a Paid TurboTax product because, at the point they learn they cannot file for free, they are locked in. To evaluate the merits of this allegation, I compared respondents’ selection of tax filing solutions after being shown the Enhanced Information Screen, which contains supplemental information regarding the IRS Free File Program, to the Representative Screen, which does not mention the IRS Free File Program.
24. If it was true that consumers start filing their taxes with TurboTax because they are deceived into believing it is free for them and only learn that they have to pay when they view an upgrade screen, I would expect to see a substantial, statistically significant reduction in respondents’ selection of a TurboTax Paid product (i.e., Deluxe, Premier, or Self-Employed) after learning about the additional free option at the point of the hard stop. I would also expect to see this reduction in selection of TurboTax Paid products if consumers choose to upgrade because they

feel locked in to the TurboTax platform and not because they prefer TurboTax. However, as established above in **Section V.A**, I find that the difference between respondents' selection of TurboTax Paid products between the Representative Screen Group and the Enhanced Screen Group is small and not statistically significant (see **Exhibit 2.A**). This suggests that consumers upgrade to TurboTax Paid products for reasons other than the allegedly deceptive "free" advertising and that they do not feel locked in.¹³ It also provides evidence that finding the cheapest tax solution is not the number one priority for many consumers.

25. As a sensitivity, I also evaluated whether taxpayers who have previously paid to prepare their taxes using online tax software might have been misled or deceived into doing so by Intuit's representative upgrade screens. This group would be particularly relevant to my analyses of the FTC's allegations, as these respondents would theoretically include consumers who had previously been deceived by Intuit's advertising and should respond to the enhanced information regarding alternative free filing options. To test this hypothesis, I analyzed the subset of respondents who, in response to F1, indicated having "pa[id] for online tax software to file [their] taxes" in 2019 or 2020. Notably, I again found no statistically significant difference in the selection of the IRS Free File Program across the two groups for this subset of my sample (see **Exhibit 7.A**).¹⁴

¹³ The Enhanced Disclosure Screen also includes the suggestion that "you may file using another filing option," and I similarly find that the difference between respondents' selection of an "Alternative Program" between the Representative Screen Group and the Enhanced Screen Group is small and not statistically significant (see **Exhibit 2.A**).

¹⁴ Specifically, 5 percent of respondents presented with the Enhanced Information Screen indicated that they would be most likely to select the IRS Free File Program. 3 percent of respondents in the Representative Screen Group indicated that they would be most likely to select the IRS Free File Program.

C. Many Respondents Demonstrate a Willingness to Consider Alternatives and To Identify and Use the Appropriate Product for Their Specific Situation

26. My Disclosure Survey demonstrates that actual market outcomes reflect underlying preferences and do not support the allegations of deception or lock-in (described in **Section II**). Far from the evidence supporting these allegations, my analyses of both the closed-ended and open-ended questions in the Disclosure Survey demonstrate respondents' awareness of and willingness to consider other alternatives and to identify and use the appropriate product for their specific situation, whether that was TurboTax or an alternative provider. The data also indicated that consumers largely understand the circumstances of their tax-filing needs and/or educate themselves about the appropriate tax solution for their needs.
27. As an initial point, meaningful shares of respondents indicated in Q8 that, after viewing the upgrade screen, they would most likely select alternative tax preparation solutions, including another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing (see **Exhibit 2.B**).¹⁵ Moreover, I find no statistically significant differences in respondents' selections of these alternative solutions between the Representative Screen and Enhanced Information Screen Groups, indicating respondents are clearly willing to select alternatives to Intuit's products if relevant or preferred, regardless of the information contained in the upgrade screens.^{16,17} [REDACTED]

¹⁵ Across the three experimental groups, 17 percent of respondents (124 respondents) in the Disclosure Survey indicated that they would most likely select another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing (see **Exhibit 2.B**).

¹⁶ See, **Exhibit 2.B**. I find statistically significant differences in respondents' selection of these "Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)" between the Reduced Information Screen Group and the Representative Screen Group. This finding is consistent with my expectation that when provided with limited information regarding next steps, respondents in the Reduced Information Group are more likely to seek out alternative solutions.

¹⁷ Notably, 17 percent of respondents indicated that they had used two or more online tax preparation software providers in the past five years. 21 percent of respondents who indicated they had used TurboTax in the past five years had also used an alternative tax preparation software provider during that period.

[REDACTED]

[REDACTED] 18

28. More importantly, respondents' open-ended answers to Q6 demonstrate that prospective TurboTax customers are well-informed, pursue information from other sources, and have direct experience with other tax preparation service providers. Except in very few instances (as discussed below), they did not express a view that they were locked in to TurboTax.
29. Two independent coders who were unaware of the purpose of the research (throughout referred to as "coders") analyzed the open-ended answers to Q6 and found that across the three experimental groups, nearly 39 percent, or more than a third of respondents in the Disclosure Survey, explicitly described having the agency to identify appropriate tax preparation products for their particular tax situation and preferences (see **Exhibit 5**).¹⁹ Across the three experimental groups, 15 percent of respondents stated, upon viewing the upgrade screen that

18 [REDACTED]

¹⁹ In addition to the 15 percent of respondents who stated upon viewing the upgrade screen that they would not upgrade and instead would seek out an alternative solution, and the approximately 17 percent of respondents who indicated that they would need to conduct additional research or otherwise evaluate which product would best fit their needs, other relevant categories include 5 percent of customers who indicated they would "delete account / exit the site," 3 percent of customers who indicated they would likely upgrade due to their "Tax Situation," and 1 percent of customers who indicated they would likely "upgrade after conducting additional research." Accounting for responses that were coded as more than one category (e.g., the 14 responses to Q6 coded as both "delete account / exit the site" and "consider other alternatives"), these five categories collectively capture 39 percent of respondents. When respondents in the Reduced Information Screen Group are shown limited information regarding next steps, they are more likely to seek information and alternatives outside of TurboTax. Similarly, respondents in the Enhanced Information Screen who were shown supplemental information regarding the IRS Free File Program mention considering the IRS Free File Program, consistent with an aided recall context.

they would not upgrade and instead would seek out an alternative solution (see **Exhibit 5**).²⁰

For example, respondents indicated that, after viewing the upgrade screen:

- “I would close out of the TurboTax window and file my taxes with H&R Block instead.”
- “As I'm no longer able to file with the free edition, I would search the internet and compare the Turbo Tax pay for edition with other tax platforms with comparable features.”
- “Probably leave, knowing my situation (I would never qualify for free!). If I really though free filing a possibility I would go back to see what caused it (capital gains? too much income? What?). I would next put TurboTax aside and look at the other free providers - not everyone has the same thresholds and exclusions.”
- “Look into other options where I wouldn't have to pay \$60. Maybe H&R Block. I'd ask friends how they filed.”

30. Relatedly, approximately 17 percent of respondents indicated in their answers to Q6 that they would need to conduct additional research or otherwise evaluate which product would best fit their needs (see **Exhibit 5**). For example:

- “I will need to check online with TurboTax to find another product to use to file my taxes. I assume the free version will not work properly with my

²⁰ Alternative products specified by respondents include H&R Block, Credit Karma, TaxAct, TaxSlayer, FreeTax USA, IRS Free File Program, and other generic alternatives.

information. I could also change my filing [sic] option to see if I can continue to use the free version.”

- “I would then go to reviews of each of the paid for services. This would help me decide if I want to upgrade.”
- “Decide how complicated my taxes are to see if I need to pay for additional services.”
- “I would ask chat why they have made that upgrade recommendation. 'what is more complicated that Turbo free can't handle it?'”
- “I would move on to next screen and find out what I need to do differently and how much it would cost. I would then probably go to another website to see what they say about the same information provided and compare price.”
- “I would double check to see if I really need an upgrade to finish my taxes and then if I really did I would choose the correct product. If not I would continue on with the free product.”
- “I would wonder why I needed to upgrade and would investigate accordingly.”
- “I would then go to google and type in Turbo Tax Intuit and read some reviews from other people who have used it.”

31. Further, open-ended responses also indicated that respondents who did elect to upgrade understood what the specifics of their tax filing needs required. The coders also analyzed the open-ended answers to Q9 for respondents who indicated that they would most likely select a

Paid version of TurboTax and categorized the responses into groups with other similarly indicated answers. The majority of respondents who chose to upgrade to Paid products (e.g., Deluxe, Premier, or Self-Employed) indicated that they did so because of their particular tax situation (47 percent), their preference for and/or trust in the Intuit products (35 percent), or because of the value/price point (9 percent) (see **Exhibit 6**). These responses indicate that consumers reflect on their experiences and information beyond what is presented by TurboTax in an upgrade screen when making tax solution choices. For example:

- “My taxes aren't especially complicated, but I have a few other issues (like student loan interest) that make it more complicated than a simple return can do. The next step up is the one that normally makes the most sense for me.”
- “I believe it best suits my needs. I would rather pay to have my taxes done easily rather than try a different product or use the IRS program which may cause errors.”
- “Because I'm a homeowner and I itemize my deductions”
- “I have been using TurboTax Deluxe for many years now so I know that it is best suited to my tax situation.”
- “Although it will cost a bit more money, I trust that TurboTax Deluxe would be worth it in the long run by providing me with simplified taxes.”
- “I like having the best support and tax version possible. the deluxe version also helps in the case of an audit so it is a piece of mind.”

- “The deluxe seems to have a number of extra help pieces that aren't available with the free version. Also it isn't unreasonably priced.”
- “It adjusts to my needs. It is a good value for my money”

32. Lastly, I asked the coders to highlight responses to Q6 and Q9 where the responses suggested that respondent would upgrade, but only because the respondent indicated that they “had to” upgrade or “couldn’t use Free Edition,” i.e., they had no other choice. The coders identified only 11 respondents out of 751 (1 percent) in Q6 and 20 respondents out of 325 (6 percent) in Q9 whose answers could be interpreted in this manner (see **Exhibits 5 and 6**). Thus, it is unlikely that reasonable consumers who see an upgrade message on TurboTax believe that they must continue with the TurboTax software in order to prepare their taxes or that the IRS requires them to do so.

VI. CONCLUSION

33. My Disclosure Survey yields statistically reliable results that can be used to assess whether and to what extent the information presented to prospective TurboTax customers through the software’s upgrade screens affects their selection of various tax preparation solutions. It can also be used to assess whether and to what extent consumers’ purchase decisions could have been influenced differently by potential changes made to these prompts and enhanced information about alternative filing solutions.²¹

34. Based on my survey results and other research, I conclude that the intersection of Intuit’s free advertising and upgrade screens do not induce upgrades from TurboTax’s Free Edition to Paid

²¹ To confirm that my results are robust, I performed additional sensitivity analyses, i.e., analyses with of respondents that let me examine the stability of my survey results across different sub-groups of respondents. See **Exhibits 7.A, 7.B and 7.C** for further detail.

versions of TurboTax. Instead, consumers upgrade to TurboTax Paid products for reasons other than the allegedly deceptive “free” advertising and being locked into that choice. The open-ended responses to follow-up questions in my Disclosure Survey provide relevant information to understanding why respondents’ preferences do not change with different information about alternative filing options in the upgrade screens. Specifically, the open-ended responses demonstrate respondents’ awareness of and willingness to consider other alternatives and to identify and use the appropriate product for their specific situation, whether that was TurboTax or an alternative provider.



Rebecca Kirk Fair

August 30, 2022

Exhibit 1
Survey Response Statistics

Status	Number of Respondents	Percent of Total
Completed Survey ^[1]	751	24.7%
Screened Out of Survey, due to:	2,195	72.3%
Age ^[2]	497	16.4%
Gender ^[3]	70	2.3%
Employment ^[4]	169	5.6%
Participation in similar surveys ^[5]	171	5.6%
Did not file taxes in 2019 or 2020 ^[6]	274	9.0%
Tax preparation method ^[7]	906	29.9%
Tax preparation role ^[8]	95	3.1%
Survey Speed ^[9]	0	0.0%
Quality control ^[10]	13	0.4%
Self Termination ^[11]	88	2.9%
Exceeded Quota ^[12]	1	0.0%
Total Survey Starts ^[13]	3,035	100.0%
Completion Rate ^[14]	89.5%	

Notes:

[1] Includes the 751 respondents who qualified for, and completed, the survey

[2] Respondents who provided an age which did not match what Dynata had on file were screened out of the survey in S2

[3] Respondents who provided a gender which did not match their profile with Dynata were screened out of the survey in S3

[4] Respondents who selected that they or a family member worked for “An accounting, tax, or a tax preparation service provider company,” “A marketing, market research, or advertising,” or “Your state or the federal government” in response to S5 were screened out of the survey

[5] Respondents who selected “Accounting or tax services” in response to S6 were screened out of the survey

[6] Respondents who selected “No” in response to both S7 (“Did you file taxes in 2019 (for 2018 income)?”) and S8 (“Did you file taxes in 2020 (for 2019 income)?”) were screened out of the survey. Respondents who responded “Don't Recall/Unsure” to S8 were also screened out

[7] Respondents who did not select “I used an online tax software to file my/our household taxes” in response to S9 were screened out of the survey

[8] Respondents who selected “I had little involvement in preparing my/our household taxes” or “Don't Recall/Unsure” in response to S10 were screened out of the survey

[9] Respondents who completed the survey in less than 1/3 the median time-to-complete were excluded from the survey

[10] Respondents who did not select “Fourth” in response to S12 were screened out of the survey

[11] Respondents who self-terminated after proceeding past the digital fingerprinting in S0 were excluded from the survey

[12] Respondents who started the survey after the quota for their respective age, region, and gender had been filled were terminated

[13] Includes only respondents who clicked on the survey and proceeded past the digital fingerprinting in S0 (“Please enter the code exactly as it appears in the image below, and then click continue”) of the survey screener (see 2020 Kirk Fair Memorandum **Appendices D.1 and D.2**)

[14] The completion rate is 89.5%, or: [completed survey]/[completed survey+self termination]

Exhibit 2.A
Comparison of Respondents' Selection of Tax Preparation Products
Based on Question 7 and Question 8

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>					
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66	26%	37	15%	60	24%			0.001 ***	0.520
TurboTax Paid Products ^[1]	109	44%	100	40%	116	46%			0.414	0.556
IRS Free File Program	18	7%	22	9%	25	10%	0.002 ***	0.386	0.510	0.270
Alternative Program ^[2]	36	14%	64	26%	38	15%			0.002 ***	0.816
Don't Know / Unsure ^[3]	21	8%	27	11%	12	5%			0.362	0.102
Total	250		250		251					

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[3] Includes the 60 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 34 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 26 respondents answered “Don't Know / Unsure” in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level

Exhibit 2.B
Comparison of Respondents' Selection of Tax Preparation Products
Based on Question 7 and Question 8

	Representative Screen Group <i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		Reduced Information Screen Group <i>No Upgrade Information Provided</i>		Enhanced Information Screen Group <i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66	26%	37	15%	60	24%			0 001 ***	0 520
TurboTax Deluxe	89	36%	64	26%	83	33%			0 015 **	0 551
TurboTax Premier	14	6%	29	12%	27	11%			0 017 **	0 035 **
TurboTax Self-Employed	6	2%	7	3%	6	2%			0 779	0 994
IRS Free File Program	18	7%	22	9%	25	10%			0 510	0 270
Other Online Filing Options	29	12%	47	19%	26	10%	0 002 ***	0 385	0 025 **	0 657
Accountant Supported Paper Filing	2	1%	4	2%	2	1%			0 411	0 997
Self-Filed Paper Filing	2	1%	6	2%	6	2%			0 154	0 156
Other	3	1%	7	3%	4	2%			0 201	0 707
Don't Know / Unsure (Q7) ^[1]	12	5%	16	6%	6	2%			0 437	0 147
Don't Know / Unsure (Q8) ^[2]	9	4%	11	4%	6	2%			0 648	0 427
Total	250		250		251					

Notes:

[1] A total of 34 respondents answered "Don't Know / Unsure" in response to Q7 and were not subsequently asked Q8

[2] A total of 26 respondents answered "Don't Know / Unsure" in response to Q8

[3] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. "****" indicates significance at 1% level, "***" indicates significance at 5% level, "**" indicates significance at 10% level.

Exhibit 3.A
Comparison of Responses to Q7

Question 7: “Which of the following options would you consider using to file your taxes upon seeing this prompt?”

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Number of	Percent of	Number of	Percent of	Number of	Percent of		
	Respondents	Respondents	Respondents	Respondents	Respondents	Respondents	P-value	P-value
TurboTax Free Edition	88	35%	66	26%	94	37%	0.033 **	0.601
TurboTax Paid Products ^[1]	132	53%	115	46%	136	54%	0.128	0.756
IRS Free File Program	33	13%	51	20%	55	22%	0.031 **	0.010 **
Alternative Program ^[2]	59	24%	106	42%	66	26%	0.000 ***	0.486
Don't Know / Unsure	12	5%	16	6%	6	2%	0.437	0.147
Total	250		250		251			

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options. The count represents unique respondents who indicated they would consider a TurboTax Paid Product.

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options. The count represents unique respondents who indicated they would consider an alternative program.

[3] The tests for equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

[4] Respondents were allowed to select more than one answer option for Q7, so the sum of product category counts exceeds the number of total respondents.

Exhibit 3.B
Comparison of Responses to Q7

Question 7: “Which of the following options would you consider using to file your taxes upon seeing this prompt?”

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value
TurboTax Free Edition	88	35%	66	26%	94	37%	0.033 **	0.601
TurboTax Deluxe	110	44%	82	33%	106	42%	0.010 **	0.689
TurboTax Premier	27	11%	53	21%	41	16%	0.002 ***	0.071 *
TurboTax Self-Employed	15	6%	17	7%	18	7%	0.715	0.597
IRS Free File Program	33	13%	51	20%	55	22%	0.031 **	0.010 **
Other Online Filing Options	48	19%	81	32%	45	18%	0.001 ***	0.714
Accountant Supported Paper Filing	6	2%	12	5%	7	3%	0.150	0.784
Self-Filed Paper Filing	7	3%	21	8%	19	8%	0.006 ***	0.016 **
Other	4	2%	10	4%	8	3%	0.104	0.245
Don't Know / Unsure	12	5%	16	6%	6	2%	0.437	0.147
Total	250		250		251			

Notes:

[1] The tests for equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

[2] Respondents were allowed to select more than one answer option for Q7, so the sum of product category counts exceeds the number of total respondents.

Exhibit 4.A
Comparison of Responses to Q8:

Question 8: “Which of the following options would you most likely select upon seeing this prompt?”

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66	28%	37	16%	60	24%			0 002 ***	0 417
TurboTax Paid Products ^[1]	109	46%	100	43%	116	47%			0 503	0 733
IRS Free File Program	18	8%	22	9%	25	10%	0 002 ***	0 700	0 473	0 308
Alternative Program ^[2]	36	15%	64	27%	38	16%			0 001 ***	0 907
Don't Know / Unsure ^[3]	9	4%	11	5%	6	2%			0 620	0 399
Total	238		234		245					

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[3] Does not include the 34 respondents who answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0 05 reflect statistical significance, i.e., p-values below 0 05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

Exhibit 4.B
Comparison of Responses to Q8:

Question 8: “Which of the following options would you most likely select upon seeing this prompt?”

						Test of Equality of Distribution		Test of Equality of Proportions		
Representative Screen Group				Enhanced Information Screen Group						
Upgrade Screen with TT Deluxe & Self-Employed Products		Reduced Information Screen Group		Enhanced Upgrade Screen with IRS Free File Option Included		Representative vs. Reduced	Representative vs. Enhanced	Representative vs. Reduced	Representative vs. Enhanced	
Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value	
TurboTax Free Edition	66	28%	37	16%	60	24%	0 002 ***	0 479	0 002 ***	0 417
TurboTax Deluxe	89	37%	64	27%	83	34%			0 020 **	0 420
TurboTax Premier	14	6%	29	12%	27	11%			0 014 **	0 043 **
TurboTax Self-Employed	6	3%	7	3%	6	2%			0 755	0 959
IRS Free File Program	18	8%	22	9%	25	10%			0 473	0 308
Other Online Filing Options	29	12%	47	20%	26	11%			0 020 **	0 586
Accountant Supported Paper Filing	2	1%	4	2%	2	1%			0 399	0 977
Self-Filed Paper Filing	2	1%	6	3%	6	2%			0 147	0 166
Other	3	1%	7	3%	4	2%			0 192	0 732
Don't Know / Unsure ^[1]	9	4%	11	5%	6	2%		0 620	0 399	
Total	238		234		245					

Notes:

[1] Does not include the 34 respondents who answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8

[2] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

Exhibit 5
Comparison of Responses to Q6
Question 6: "In your own words, what would you do next upon seeing this screen?"

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		All Test Groups	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>			
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents
Upgrade								
No Other Information Provided	50	20%	9	4%	43	17%	102	14%
Tax Situation	12	5%	4	2%	9	4%	25	3%
No Other Choice	4	2%	2	1%	5	2%	11	1%
Brand and Value	3	1%	1	0%	3	1%	7	1%
Upgrade after Conducting Research	3	1%	1	0%	3	1%	7	1%
Follow Instructions	2	1%	1	0%	4	2%	7	1%
Total	72	29%	18	7%	66	26%	156	21%
Don't Upgrade								
Consider other Alternatives ^[2]	23	9%	45	18%	44	18%	112	15%
No Other Information Provided	34	14%	0	0%	23	9%	57	8%
Free Edition	21	8%	2	1%	14	6%	37	5%
Delete Account/ Exit the Site	4	2%	23	9%	10	4%	37	5%
Total	81	32%	61	24%	87	35%	229	30%
Unclear Whether Upgrade or not Upgrade								
Unclear Next Steps	21	8%	25	10%	16	6%	62	8%
Respondent Unsure	7	3%	7	3%	5	2%	19	3%
Total	28	11%	32	13%	21	8%	81	11%
Additional Research / Consideration	32	13%	55	22%	38	15%	125	17%
Follow Instructions Provided / Continue	22	9%	65	26%	21	8%	108	14%
Excluded	17	7%	23	9%	18	7%	58	8%
Total	250		250		251		751	

Notes:

[1] Two independent coders working under my direction reviewed and analyzed the open-ended answers to Q6 and categorized them into groups with similarly-indicated answers. 2020 Kirk Fair Memorandum **Appendix G** contains the full set of instructions provided to the coders.

[2] Alternative products specified by respondents include H&R Block, Credit Karma, TaxAct, TaxSlayer, FreeTax USA, IRS Free File, and generic alternatives.

[3] Responses categorized as "Excluded" are defined in the coding instructions as "any response that does not belong to any of the categories defined above," and include non-descriptive, non-relevant responses or random strings.

[4] Response categories are non-exclusive, so the sum of all categorized responses may exceed the count of total respondents in each product choice and experimental group.

[5] Percent of respondents figures represent [Number of Responses in Category]/[Total Respondents Within Experimental Group].

Exhibit 6
Comparison of Responses to Q9 Among Respondents Who Selected Paid TurboTax Products in Q8
Question 9: "What is the reasoning behind your decision? Why did you select [INSERT ANSWER FROM Q8]?"

	Representative Screen Group <i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		Reduced Information Screen Group <i>No Upgrade Information Provided</i>		Enhanced Information Screen Group <i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		All Test Groups	
	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]
TurboTax Deluxe								
Tax Situation	44	49%	20	31%	35	42%	99	42%
Brand/ Preference	31	35%	27	42%	32	39%	90	38%
Value/ Price Point	9	10%	5	8%	13	16%	27	11%
No Other Choice	5	6%	6	9%	7	8%	18	8%
Excluded ^[4]	6	7%	3	5%	4	5%	13	6%
Next Best Alternative	2	2%	8	13%	6	7%	16	7%
Follow Instructions	1	1%	1	2%	0	0%	2	1%
Total	89		64		83		236	
TurboTax Premier								
Tax Situation	8	57%	12	41%	16	59%	36	51%
Brand/ Preference	5	36%	10	34%	9	33%	24	34%
Value/ Price Point	0	0%	2	7%	1	4%	3	4%
No Other Choice	0	0%	1	3%	0	0%	1	1%
Excluded ^[4]	1	7%	5	17%	1	4%	7	10%
Next Best Alternative	0	0%	0	0%	0	0%	0	0%
Follow Instructions	0	0%	0	0%	0	0%	0	0%
Total	14		29		27		70	
TurboTax Self-Employed								
Tax Situation	6	100%	6	86%	5	83%	17	89%
Brand/ Preference	0	0%	0	0%	1	17%	1	5%
Value/ Price Point	0	0%	0	0%	0	0%	0	0%
No Other Choice	0	0%	1	14%	0	0%	1	5%
Excluded ^[4]	0	0%	0	0%	0	0%	0	0%
Next Best Alternative	0	0%	0	0%	0	0%	0	0%
Follow Instructions	0	0%	0	0%	0	0%	0	0%
Total	6		7		6		19	
All Paid TurboTax Products								
Tax Situation	58	53%	38	38%	56	48%	152	47%
Brand/ Preference	36	33%	37	37%	42	36%	115	35%
Value/ Price Point	9	8%	7	7%	14	12%	30	9%
No Other Choice	5	5%	8	8%	7	6%	20	6%
Excluded ^[4]	7	6%	8	8%	5	4%	20	6%
Next Best Alternative	2	2%	8	8%	6	5%	16	5%
Follow Instructions	1	1%	1	1%	0	0%	2	1%
Total	109		100		116		325	

Notes:

[1] Two independent coders working under my direction reviewed and analyzed the open-ended answers to Q9 (for three subsets of respondents) and categorized them into groups with similarly-indicated answers. 2020 Kirk Fair Memorandum **Appendix G** contains the full set of instructions provided to the coders.

[2] Response categories are non-exclusive, so the sum of all categorized responses may exceed the count of total respondents in each product choice and experimental group.

[3] Percent of respondents figures represent [Number of Responses in Category]/[Total Respondents Within Product Choice and Experimental Group].

[4] Responses categorized as "Excluded" are defined in the coding instructions as "any response that does not belong to any of the categories defined above," and include non-descriptive, non-relevant responses or random strings.

Exhibit 7.A

Comparison of Respondents' Selection of Tax Preparation Products for Respondents who Paid for Online Tax Software to File Their Taxes in 2019 or 2020^[1]
Based on Question 7 and Question 8

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	20	14%	16	10%	21	14%			0 390	0 994
TurboTax Paid Products ^[2]	92	63%	80	52%	104	68%			0 062 *	0 368
IRS Free File Program	5	3%	9	6%	7	5%	0 140	0 667	0 314	0 612
Alternative Program ^[3]	20	14%	31	20%	16	10%			0 131	0 390
Don't Know / Unsure ^[4]	10	7%	18	12%	6	4%			0 145	0 261
Total	147		154		154					

Notes:

[1] The 296 respondents who answered “No, I did not pay for online tax software to file my taxes” or “Don’t recall / Unsure” to Question F1 (“Did you or did you not pay for online tax software to file your taxes in [if S7=YES, “2019” or if S8=YES, “2020”]?”) are excluded from this sample

[2] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[3] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[4] Includes the 34 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 17 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 17 respondents answered “Don't Know / Unsure” in response to Q8

[5] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level

Exhibit 7.B
Comparison of Respondents' Selection of Tax Preparation Products Excluding Litigation Aware Respondents^[1]
Based on Question 7 and Question 8

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Upgrade Screen with TT Deluxe & Self-Employed Products		No Upgrade Information Provided		Enhanced Upgrade Screen with IRS Free File Option Included					
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	56	27%	29	14%	51	25%			0 001 ***	0 635
TurboTax Paid Products ^[2]	92	44%	84	40%	91	44%			0 406	0 976
IRS Free File Program	14	7%	17	8%	20	10%	0 001 ***	0 540	0 585	0 264
Alternative Program ^[3]	30	14%	55	26%	34	16%			0 003 ***	0 545
Don't Know / Unsure ^[4]	19	9%	27	13%	12	6%			0 218	0 206
Total	211		212		208					

Notes:

[1] The 120 respondents who answered "I am aware of at least one media report, investigation, or lawsuit" to Question F2 ("Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax filing software provider or accounting company?") are excluded from this sample

[2] TurboTax Paid Products refer to "TurboTax Deluxe", "TurboTax Premier", and "TurboTax Self-Employed" answer options

[3] Alternative programs refer to "Other Online Filing Options", "Accountant Supported Paper Filing", "Self-filed Paper Filing", and "Other" answer options

[4] Includes the 58 respondents who said "Don't Know / Unsure" to either Q7 or Q8. Specifically, 34 respondents answered "Don't Know / Unsure" in response to Q7 and were not subsequently asked Q8 and 24 respondents answered "Don't Know / Unsure" in response to Q8

[5] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. "****" indicates significance at 1% level, "***" indicates significance at 5% level, "**" indicates significance at 10% level

Exhibit 7.C
Comparison of Respondents' Selection of Tax Preparation Products Excluding Respondents with Outlier Response Times^[1]
Based on Question 7 and Question 8

	Representative Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>	<i>Representative vs. Reduced</i>	<i>Representative vs. Enhanced</i>
	Upgrade Screen with TT Deluxe & Self-Employed Products		No Upgrade Information Provided		Enhanced Upgrade Screen with IRS Free File Option Included					
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	61	26%	34	15%	56	24%			0 002 ***	0 612
TurboTax Paid Products ^[2]	101	44%	95	41%	107	46%			0 573	0 547
IRS Free File Program	18	8%	21	9%	20	9%	0 004 ***	0 658	0 616	0 724
Alternative Program ^[3]	35	15%	59	25%	38	16%			0 006 ***	0 687
Don't Know / Unsure ^[4]	17	7%	23	10%	10	4%			0 321	0 169
Total	232		232		231					

Notes:

[1] The 29 respondents who completed the survey in under 3 minutes and the 27 respondents who completed the survey in over 30 minutes are excluded from this sample

[2] TurboTax Paid Products refer to "TurboTax Deluxe", "TurboTax Premier", and "TurboTax Self-Employed" answer options

[3] Alternative programs refer to "Other Online Filing Options", "Accountant Supported Paper Filing", "Self-filed Paper Filing", and "Other" answer options

[4] Includes the 50 respondents who said "Don't Know / Unsure" to either Q7 or Q8. Specifically, 28 respondents answered "Don't Know / Unsure" in response to Q7 and were not subsequently asked Q8 and 22 respondents answered "Don't Know / Unsure" in response to Q8

[5] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. **** indicates significance at 1% level, *** indicates significance at 5% level, ** indicates significance at 10% level.

**APPENDIX A
CURRICULUM VITA**

REBECCA KIRK FAIR
Managing Principal

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Ms. Kirk Fair has over 25 years of experience conducting economic analysis and managing case teams in a broad range of matters. These include major antitrust litigation, merger and agency competition review, intellectual property (IP), false advertising, tax, and class certification. Ms. Kirk Fair specializes in applying market research to the evaluation of competition and substitution patterns to examine potential competitive effects in mergers and but-for outcomes in antitrust litigation. She has significant experience in cartel matters, in which she has analyzed economic and statistical issues, provided expert testimony, and supported academic experts in prominent cases involving technology, consumer products, and financial services.

Ms. Kirk Fair has conducted quantitative analysis and performed industry and market research to evaluate competition, pricing, and outputs in connection with merger investigations in the US, Canada, and the EU. In addition to having served as a compliance monitor for several years, she has also supported the US Department of Justice (DOJ), the Federal Trade Commission (FTC), and the Canadian Competition Bureau (CCB) in a variety of merger investigations. Ms. Kirk Fair regularly speaks and writes on the use of surveys in litigation. She has received numerous awards for her accomplishments, including the W@ “40 in Their 40s: Notable Women Competition Professionals” and the Concurrences Antitrust Writing Award for her coauthored article “The Tyranny of Market Shares: Incorporating Survey-Based Evidence into Merger Analysis” (*Corporate Disputes*).

EDUCATION

M.B.A. MIT Sloan School of Management, Cambridge, MA

B.A. Economics (with honors), Middlebury College, Middlebury, VT

SELECTED EXPERT TESTIMONY

- ***Earl L. McClure, et al. v. State Farm Life Insurance Company***
US District Court, District of Arizona
Expert witness on behalf of State Farm Life in a class action matter related to consumer decision making when purchasing life insurance. Submitted an expert report and testified at deposition.
- ***District of Columbia vs. Maplebear, Inc. d/b/a Instacart***
Superior Court of the District of Columbia – Civil Division
Expert witness on behalf of Instacart. Submitted an expert rebuttal report analyzing consumer behavior following interface design changes and the materiality of the at-issue fees. Testified at deposition.

- ***Pegasystems Inc. vs. Appian Corporation and Business Process Management, Inc.***
US District Court, District of Massachusetts
Expert witness on behalf of Pegasystems. Assessed disgorgement damages resulting from false advertising claims. Submitted an expert rebuttal report in response to counterclaims of Appian. Testified at deposition.
- ***Gettys Bryant Millwood, et al. v. State Farm Life Insurance Company***
US District Court, District of South Carolina, Spartanburg Division
Expert witness on behalf of State Farm Life in class action breach of contract litigation. Submitted expert report describing and assessing the ways in which consumers evaluate information and make decisions to purchase life insurance policies. Testified at deposition.
- ***Eric Fishon, et al. v. Peloton Interactive, Inc.***
US District Court, Southern District of New York
Expert witness on behalf of Peloton. Conducted consumer perception and materiality surveys and submitted an expert report analyzing survey results and evaluating the survey design of the plaintiff's expert. Testified at deposition.
- ***Jennifer Hasemann and Debbie Hoth v. Gerber Products Company***
US District Court, Eastern District of New York
Expert rebuttal witness on behalf of Gerber. Submitted an expert rebuttal report in response to the survey conducted by the plaintiff's expert, addressing the survey's theoretical framework and design. Testified at deposition.
- ***Kieran O'Hara et al. v. Diageo-Guinness UAS Inc. et al.***
United States District Court District of Massachusetts
Expert witness on behalf of Diageo. Conducted a purchase intent survey and submitted an expert report analyzing the survey results and the heterogeneity in consumer beer purchasing decisions. Testified at deposition.
- ***Bond v. Berkshire Bank, et al.***
US District Court, District of Massachusetts, Western Division
Expert witness on behalf of Berkshire Bank. Conducted a survey and testified at deposition on banking consumers' purchase decisions and heterogeneity in consumer banking behaviors, specifically with regard to overdraft services.
- ***YETI Coolers, LLC, v. RTIC Coolers, LLC***
US District Court, Western District of Texas
Testified at deposition on an experiment designed to evaluate the likelihood of confusion in the high-end cooler market.

- ***PersonalWeb Technologies LLC and Level 3 Communications, LLC. v. International Business Machines Corporation***
US District Court, Northern District of California
 Expert witness on behalf of IBM in a patent infringement case. Conducted an online survey of IT professionals and analyzed the survey results in an affirmative report. Testified at deposition.
- ***United States of America and the States of California, Illinois, North Carolina, and Ohio v. DISH Network, LLC***
US District Court, Central District of Illinois
 Expert witness on behalf of Dish. Submitted an expert report evaluating the sampling methodology and statistical analysis put forth by the plaintiffs' expert witness. Testified at deposition and at trial.
- ***Sterling Jewelers Inc. v. Artistry Ltd.***
US District Court, Northern District of Ohio, Eastern Division
 Expert witness on behalf of Sterling Jewelers in a trademark infringement case. Assessed whether Artistry Ltd. suffered damages and determined whether Sterling had been enriched by the alleged infringement in an affirmative report. Testified at deposition.

SELECTED CONSULTING EXPERIENCE

Antitrust Litigation

- ***Watson v. Bank of America Corporation***
Supreme Court of British Columbia
 Provided consulting support to several banks in a class action brought by merchants in British Columbia alleging that they were forced to pay excessive interchange fees because of anticompetitive agreements between Visa, MasterCard, and various banks.
- **Large price-fixing cases in airline travel industry**
 Worked with multiple airlines in a joint defense group to provide analytical support in litigation matters in which the plaintiffs claimed that the airlines conspired to limit domestic air travel capacity below competitive levels.
- ***In re: Transpacific Passenger Air Transportation Antitrust Litigation***
US District Court, Northern District of California
 Assisted ANA and Japan Airlines International Co., in a class action in which ANA was accused of colluding with Japan Airlines to fix prices for flights and set fuel surcharges. Case settled favorably for the defendant.
- ***Dahl, et al. v. Kohlberg Kravis Roberts & Co., et al.***
US District Court, District of Massachusetts
 Worked with the joint defense group in support of numerous experts on issues of class certification and damages for group and individual private equity firms in a matter involving allegations of collusion.

- **Large price-fixing cases in IT manufacturing industries**
Assisted in quantitative analysis and industry research to evaluate competition, pricing, and outputs in connection with two separate international price-fixing investigations in IT manufacturing industries.
- **Large price-fixing cases in various sectors of the financial service industry**
Assisted in quantitative analysis and market research to examine consistency of plaintiffs in multiple class certification matters.
- ***GO Computer v. Microsoft***
Superior Court of California, County of San Francisco
Supported Professor Catherine Tucker of the Massachusetts Institute of Technology in an analysis of competition among operating systems and computing platforms.
- **Microsoft litigations in various forums**
Economic analysis on behalf of Microsoft in numerous competitor and consumer litigations on issues of competition, pricing, and damages. Supported survey design and research related to server software. Developed and critiqued damages models related to computer security, software pricing, and product development.

Class Certification Litigation

- **State Farm Life Insurance litigation matters**
Expert witness on behalf of State Farm Life in class action breach of contract litigations. Submitted expert reports describing and assessing the ways in which consumers evaluate information and make decisions to purchase life insurance policies.
- ***Elizabeth A. Bally v. State Farm Life Insurance Company***
US District Court, Northern District of California
Served as expert witness on behalf of State Farm in a class certification matter. Submitted an expert report describing and evaluating the ways in which consumers make decisions to purchase life insurance policies.
- ***Kenneth Hobbs, et al. v. Brother International Corporation, et al.***
US District Court, Central District of California
Supported marketing expert Joel Steckel in a consumer class action regarding alleged misrepresentations in the marketing and sale of multi-function printers.
- ***State of Washington v. Comcast Corporation***
Superior Court of Washington, King County
Supported marketing expert John Hauser in a consumer class action in which Comcast was accused of violating the Consumer Protection Act.

- **Financial exchange cartel litigation**
Supported multiple experts on issues of class certification, marketplace analyses, and damages models for the defendant in a matter alleging collusion related to a financial instrument exchange platform.
- **Air cargo litigations**
Evaluated industry dynamics, transaction data, and damages exposure for several Air Cargo defendants, including an evaluation of impact of plea agreements. Marketplace analysis included comparison of pricing patterns in areas covered and excluded from plea agreements.
- **Antitrust litigation in the transportation sector**
Case work included assisting with settlement negotiations and developing affirmative analyses in connection with ongoing class certification proceedings, on behalf of the defendants.
- **Auto parts litigation**
Supported affirmative and rebuttal analyses for an indirect purchaser class action in an auto filters cartel case. Analyzed wholesale and retail transaction data, evaluated pass-through, and calculated firm and product profitability.
- **Light cigarettes marketing litigations**
Worked with plaintiffs in class action lawsuits in California, Massachusetts, and Missouri filed against the makers of “light” cigarettes. Supported marketing expert Joel Steckel to conduct conjoint analyses of consumer preference of light tobacco and nicotine in connection with a damages analysis.
- **MasterCard litigations**
Assisted in economic analysis on behalf of MasterCard in government and consumer litigations, including several class actions in the US and Canada. Supported design and analysis of consumer survey regarding the use of various payment methods. Supported counsel in all phases of trial, including the development of direct testimony, trial demonstratives, and cross-examination questions.

Intellectual Property and Commercial Litigation

- **Major pandemic MAE litigation**
Supported industry expert Pat Moran to examine the appropriate “industry” definition to evaluate economic performance of a commercial payments company per a merger agreement in the context of a material adverse event merger dispute.
- ***MillerCoors, LLC v. Anheuser-Busch Companies, LLC***
US District Court, Western District of Wisconsin
Supported survey expert John Hauser in designing and implementing a survey in a false advertising litigation in which MillerCoors alleged that TV advertisements by Anheuser-Busch violated the Lanham Act.
- ***TS Media, Inc., et al. v. Public Broadcasting Service***
Superior Court, District of Columbia
Supported expert Tülin Erdem in the determination of the importance of the PBS brand and the

reputational harm that the network would likely suffer as a result of its association with Tavis Smiley's alleged actions.

- ***MBIA Insurance v. Credit Suisse Securities***
Supreme Court of New York, New York County
Supported expert Antoinette Schoar in a rebuttal report of Joseph Stiglitz, evaluating the relationship between economic and contractual incentives in mortgage-backed securities. Supported expert Arnold Barnett in a rebuttal report evaluating the statistical relationship among a sample of loans on prediction of overall loan performance.
- ***Front-Loading Washers***
Multiple jurisdictions
Supported conjoint study and economic analysis in support of multiple damages analyses in product defect litigations against several manufacturers of front-loading washing machines.
- ***Burst.com v. Microsoft Corp.***
US District Court, District of Maryland
Assisted in an analysis of both patent and trade secrets damages and antitrust damages in a case involving software used for streaming media. Responded to the plaintiff's claim of lost profits damages and unjust enrichment arising from the misappropriation of trade secrets.

Merger Analyses

- **LANXESS Acquisition of Emerald Kalama Chemical**
Supported economic analyses and antitrust review in Lanxess global acquisition of Emerald Kalama Chemical. Both companies are manufacturers of specialty chemicals. The transaction was approved in all jurisdictions.
- **AbbVie Inc. acquisition of Allergan PLC**
Supported AbbVie in its acquisition of Allergan, as well as securing clearance for two distinct divestiture transactions of Allergan assets to Nestlé and AstraZeneca, by providing economic analyses to evaluate potential concerns that the transaction would stifle competition and increase prices. The client obtained unconditional clearance from the FTC.
- **PSAV acquisition of Encore Event Technologies**
Supported Blackstone Capital Partners and its portfolio company, PSAV, in the acquisition of Encore Event Technologies by providing economic analysis to assess the competitive effects of the merger. The client obtained unconditional clearance from the FTC.
- **Merger of Chewy Inc. and PetSmart**
Supported expert Edward Snyder in analyzing the potential competitive effects of the merger between Chewy, an online pet supply company, and PetSmart, a retail pet supply and services company. The client obtained unconditional clearance from the FTC.

- **WEX acquisition of EFS**
Supported both parties through the second request and the FTC's inquiry into the potential unilateral and coordinated effects of the merger of two of the country's largest fleet card companies. The transaction was consummated.
- **Zimmer's acquisition of Biomet**
Supported Biomet in its second request compliance and an analysis of product comparability, substitution rates, and customer loyalty using transaction and market data.
- **Archipelago/NYSE Merger**
Supported Professor Robert Pindyck of the Massachusetts Institute of Technology in his economic analysis on behalf of the parties, related to ease of entry, order internalization, and technological advancements. The transaction was consummated.
- **Cintas Corporation acquisition of G&K Services**
Supported both parties through the second request phase of the FTC merger review process to evaluate the potential competitive effects of the acquisition. The transaction was consummated with no remedies or divestitures.
- **Discovery Communications acquisition of Scripps Networks**
Supported Scripps Networks in its acquisition by Discovery Communications to evaluate potential competitive concerns in negotiations with multichannel video programming distributors (MVPDs) for bundled programming. The transaction was consummated with no remedies or divestitures.

Survey-Related Litigation

- ***Lucent v. Amazon, et al.***
US District Court, Eastern District of Texas
Supported John Hauser in the design, implementation, and analysis of a survey to demonstrate that patented technologies provided substantial value to online retailers.
- **Commercial litigation and damages case in online retail industry**
Assisted in the assessment of the impact on consumer purchase behavior and price recall of allegedly misleading measures, including advertising language, in a commercial litigation and damages case. Supported field experiments, lab experiments, and analysis to assess consumer interpretation of comparison pricing language.
- **Antitrust and intellectual property litigations on behalf of Microsoft**
Assisted Microsoft in various IP and antitrust matters in the assessment of the impact on consumer behavior, product adoptions, and functionality usage. Matters involved desktop media, browser, office productivity, and security software, as well as server software. Supported lab experiments, qualitative interviews, and web-scraping studies to assess consumer behavior and usage amongst end-customers and IT professionals.

- **Trademark infringement matter of athletic apparel company**
Supported marketing expert Joel Steckel in a trademark infringement case in which an athletic apparel company claimed that a sports drink maker infringed on its trademark and diluted its brand.
- **Trademark dispute in music services**
Developed, designed, and launched a pilot study in a trademark dispute to evaluate respondent perception by customer segment.
- **Trademark infringement matter of a candy company**
Supported marketing expert Joel Steckel in a trademark infringement case in front of the TTAB in which a candy company was trying to bar entry of a foreign competitor that had infringed on its trademark and may have diluted its brand.
- **Trademark infringement matter between two apparel companies**
Supported marketing expert Joel Steckel in designing and implementing a reverse confusion survey in a trademark infringement case in which an apparel company claimed that an athletic company infringed on its design mark.
- **American Express v. Visa and MasterCard and related litigation**
Supported marketing expert John Hauser in rebutting an opposing expert's survey by showing that small methodological improvements to the original survey led to substantial differences in results, in a case involving credit card payment procedures.
- ***Fox Broadcasting Company, et al. v. DISH Network LLC, et al.***
US District Court, Central District of California
Supported marketing expert John Hauser in designing and implementing two surveys pertaining to use of television services, as well as in analyzing an array of industry data. After more than two years of litigation, a California federal judge found that Analysis Group client DISH's Hopper DVR does not infringe Fox's copyrights.
- **Trademark infringement matter in the food industry**
Supported marketing expert Joel Steckel in designing a forward confusion and two reverse confusion surveys and implementing the forward confusion survey in a trademark infringement case in which an author / speaker claimed that the title of his book was inappropriately used in a TV commercial of a packaged food product.
- **Confusion matter in the entertainment industry**
Supported marketing expert Joel Steckel in a trademark infringement case in which a TV company used a name for its show (and a company featured in the show) that was similar to the name of an existing company; assisted with design of forward and reverse confusion surveys.

Transfer Pricing Litigation

- **Confidential hard disk drive (HDD) manufacturer**
Supported experts in the examination of an HDD maker's Asian manufacturing arm to assess evidence of its contributions to overall revenue and profit of the firm.

- ***Glaxo Americas, et al. v. Internal Revenue Service***
US Tax Court
 Supported expert in econometric analysis and evaluation of pharmaceutical marketing in the pharmaceutical industry. Case settled.
- ***AstraZeneca, et al. v. Her Majesty's Revenue and Customs***
US Tax Court
 Supported consulting expert team on pharmaceutical valuation and licensing issues. Case settled.

SELECTED PRESENTATIONS AND SPEAKING ENGAGEMENTS

“Price Gouging, Global Markets, and Uncertainty,” American Bar Association (ABA) Pricing Conduct Committee panel (May 2, 2022)

“Platform Economics and Unilateral Conduct Cases,” USC Marshall School of Business (April 26, 2022)

“The Economics of Consumer Class Actions in Food Products,” UCLA Law School (April 25, 2022)

“2020 Vision: Post-Pandemic Merger Review,” ABA Virtual Spring Meeting (March 24, 2021)

“The Future of Economics in Antitrust,” ABA Virtual Fall Forum (November 12, 2020)

“Are You Down with APP (Algorithmic Pricing),” ABA Pricing Conduct Committee/Cartel Committee Panel (November 3, 2020)

“Market Research Methods in Litigation,” Consumer Class Action CLE webinar (May 19, 2020)

“Fighting Unconscious Bias in the Quest for Authentic Leadership,” 2019 MIT Sloan Global Women’s Conference (October 3, 2019)

“Fall 2018 iLead Speaker Series: Analysis Group,” MIT Sloan School of Management and the MIT Leadership Center (September 7, 2018)

“Antitrust in the Amazon World,” ABA webinar (May 31, 2018)

“Practical Issues in Counseling at the Intersection of IP and Antitrust,” New York State Bar Association Antitrust Law Section Meeting (January 25, 2018)

“Legal Challenges to State Laws Prohibiting Surcharges on Credit Card Transactions: Implications for the Industry,” ABA (July 14, 2016)

“The Use of Survey Evidence in Class Litigation,” California Bar Association (May 25, 2016)

“The Next Frontiers: Social Media and Other Cutting Edge Issues in Advertising and Marketing,” Canadian Bar Association Competition Law Fall Conference (October 2, 2015)

“Is False Advertising Anticompetitive,” ABA Antitrust Section Spring Meeting, Washington DC (April 17, 2015)

“Antitrust Enforcement and the Bazaarvoice Case,” New York State Bar Association Antitrust Law Section panel (May 21, 2014)

“Branding & Brands in Law, Accounting & Marketing,” The Kenan Institute, University of North Carolina (April 12, 2012)

“Reverse Payments – Balancing IP and Antitrust Concerns,” Boston Bar Association (May 20, 2009)

Discussion and guided case study analysis on strategic planning and financial analysis with an emphasis on the use of historical financial data in monitoring a public company, DirectWomen Board Institute (February 22, 2008)

“Survey Analysis Report,” First Annual Business Technology Outlook, North Dallas Chamber of Commerce (October 24, 2007)

“Patent Holding Company Panel,” Streaming Media East Show, New York City (May 15, 2007)

“Innovative Application of Economic Methods,” Analysis Group seminar on patent damages (March 2007)

“Data & Discovery – The Economist’s Perspective,” Analysis Group seminar (May 10, 2005)

PUBLICATIONS

“Reading (New and Old) Tea Leaves: U.S. Agencies’ Request for Information May Give Insights into the Future of Merger Review,” with Cecilia Caliendo and Aaron Yeater, *Antitrust Report* (June 2022)

“Moore v. Trader Joe’s Co.,” with Genna Liu and Rene Befurt, *Top Food and Drug Cases, 2021, & Cases to Watch, 2022*, ed. August T. Horvath (June 2022)

“Economic Evidence and Modern Antitrust,” with Emily Cotton and Philipp Tillmann, *Competition Policy International Antitrust Chronicle* (March 2021)

“Survey Says: Tips on Getting Over the Daubert Hurdle,” with Peter Hess and Vendela Fehrm, *Law Journal Newsletters: The Intellectual Property Strategist* (July 2020)

“Why Does the Consumer Welfare Standard Work? Matching Methods to Markets,” with James Bernard and D. Daniel Sokol, *Competition Policy International Antitrust Chronicle* (November 2019)

“Hilsley v. Ocean Spray Cranberries, Inc.,” with Rene Befurt, *Top Food and Drug Cases, 2018 & Cases to Watch, 2019*, ed. August T. Horvath (May 2019)

“United States – E-commerce Economics: Market Power and Enforcement in Vertical Markets,” with Nikita Piankov and Emmanuel Frot, chapter in *GCR Insights: E-Commerce Competition Enforcement Guide*, ed. Claire Jeffs (January 2019)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses under Different Legal Frameworks,” with Aaron Yeater, *American Bar Association Section of Intellectual Property Law, Landslide*, Vol. 11 No. 2 (November/December 2018)

“Trademark Confusion And The Confusing Eveready Survey,” with Stephen Cacciola and Maggie Hadley, *Law360* (October 23, 2018)

“The Tyranny of Market Shares: Incorporating Survey-based Evidence into Merger Analysis,” with Rene Befurt and Emily Cotton, *Corporate Disputes* (July–September 2018)

“Singleton v. Fifth Generation, Inc.,” with August T. Horvath, chapter in *Top Food and Drug Cases, 2017, & Cases to Watch, 2018*, ed. August T. Horvath (May 2018)

“Avoiding bias: ensuring validity and admissibility of survey evidence in litigations,” with Laura O’Laughlin, chapter in *Handbook of Marketing Analytics*, eds. Natalie Mizik and Dominique M. Hanssens (April 2018)

“How To Interpret A Contract? Ask Those Who’d Sign It,” with Omri Ben-Shahar, Lior Strahilevitz, Duo Jiang, and Kristina Shampanier, *Law360* (March 21, 2018)

“Estimating Lost Sales Damages in Antitrust Cases: Can’t Count on Success,” with Aaron Yeater, *The Witness Chair*, Issue 71 (Winter 2018)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses,” with Aaron Yeater, chapter in *Lost Profits Damages: Principles, Methods, and Applications*, eds. Everett P. Harry, III and Jeffrey H. Kinrich (2017)

“Managing Multiple Expert Witnesses: Best Practices and Pitfalls,” with Laura Comstock, Andrea Okie, and Carletta Wong, *American Bar Association Section of Litigation, The Woman Advocate* (August 17, 2017)

“Survey And Real-World Data: A Winning Combination,” with Peter Simon, Kristina Shampanier, and Riddhima Sharma, *Law360* (July 14, 2017)

“What Consumers Really Think About Reference Price Labels,” with Joel Steckel, Kristina Shampanier, Laura O’Laughlin, and Jesse Shea, *Law360* (March 21, 2017)

“Ensuring Validity and Admissibility of Consumer Surveys,” with Laura O’Laughlin, *American Bar Association Section of Litigation Consumer Litigation Newsletter* (Winter 2017)

“Antitrust Enforcement in Two-Sided Markets,” with Juliette Caminade, Federico Mantovanelli, and David Toniatti, *American Bar Association Section of Antitrust Law Economics Committee Newsletter* (Winter 2016)

“3 Questions to Ask When Using Surveys in Litigation,” with Laura O’Laughlin, *Law360* (May 15, 2015)

Is It Worth Anything? Using Surveys in Intellectual Property Cases, with Joel Steckel and Rene Befurt, white paper (2013)

“Tools for Handling Mortgage-Based FCA Claims,” with David Mishol, *Law360* (September 26, 2012)

“Digital Media Patents for Profit,” with Dan Rayburn and Almudena Arcelus, *Streaming Media Magazine: Industry Sourcebook 2007*

PROFESSIONAL AFFILIATIONS AND AWARDS

Affiliations

American Bar Association (ABA)

- Section of Antitrust Law
 - Vice Chair of the Pricing Conduct Committee: 2020–Present
- Section of Intellectual Property Law

American Marketing Association (AMA)

Women’s Competition Network (WCN)

Awards

Concurrences

- Antitrust Writing Awards: Business Articles, Economics (2019)
 - For “The Tyranny of Market Shares: Incorporating Survey-Based Evidence into Merger Analysis” *Corporate Disputes*, July–September 2018

Global Competition Review (GCR)

- *GCR*’s Merger Control Matter of the Year – Americas (2020)

W@

- 40 in Their 40s – Notable Women Competition Professionals (2019)

Who’s Who Legal

- Competition: Future Leaders – Economists (2018–2019)
- Consulting Experts: Future Leaders – Competition Economists (2018–2019)

**APPENDIX B
TESTIMONY LIST**

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111 Huntington Avenue
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EXPERT TESTIMONY

- ***District of Columbia vs. Maplebear, Inc. D/B/A Instacart***
Superior Court of the District of Columbia – Civil Division
Expert witness on behalf of Instacart. Submitted an expert rebuttal report conducting analyses assessing consumer behavior following interface design changes and materiality of at-issue fees. Testified at deposition.
- ***Pegasystems Inc. vs. Appian Corporation and Business Process Management, Inc.***
US District Court, District of Massachusetts
Expert witness on behalf of Pegasystems. Assessed disgorgement damages resulting from false advertising claims. Submitted an expert rebuttal report in response to counterclaims of Appian. Testified at deposition.
- ***Gettys Bryant Millwood, et al. v. State Farm Life Insurance Company***
US District Court, District of South Carolina, Spartanburg Division
Expert witness on behalf of State Farm Life in class action breach of contract litigation. Submitted expert report describing and assessing the ways in which consumers evaluate information and make decisions to purchase life insurance policies. Testified at deposition.
- ***Eric Fishon, et al. v. Peloton Interactive, Inc.***
US District Court, Southern District of New York
Expert witness on behalf of Peloton. Conducted consumer perception and materiality surveys and submitted an expert report analyzing survey results and evaluating survey design of Plaintiff's expert. Testified at deposition.
- ***Jennifer Hasemann and Debbie Hoth v. Gerber Products Company***
United States District Court for the Eastern District of New York
Expert rebuttal witness on behalf of Gerber. Submitted an expert rebuttal report in response to the survey conducted by Plaintiff's expert, addressing the theoretical framework and survey design. Testified at deposition.
- ***Kieran O'Hara et al. v. Diageo-Guinness UAS Inc. et al.***
United States District Court District of Massachusetts
Expert witness on behalf of Diageo. Conducted a purchase intent survey and submitted an expert report analyzing the survey results and the heterogeneity in consumer beer purchasing decisions. Testified at deposition.
- ***Bond v. Berkshire Bank, et al.***
US District Court, District of Massachusetts, Western Division
Expert witness on behalf of Berkshire Bank. Conducted a survey and testified at deposition on

banking consumers' purchase decisions and heterogeneity in consumer banking behaviors, specifically with regard to overdraft services.

- ***YETI Coolers, LLC v. RTIC Coolers, LLC***
US District Court, Western District of Texas
Testified at deposition on likelihood of confusion in the high-end cooler market.
- ***PersonalWeb Technologies LLC and Level 3 Communications, LLC v. International Business Machines Corporation***
US District Court, Northern District of California
Expert witness on behalf of IBM in a patent infringement case. Conducted an online survey of IT professionals and analyzed the survey results in an affirmative report. Testified at deposition.
- ***U.S. and the States of California, Illinois, North Carolina and Ohio v. DISH Network, LLC***
US District Court, Central District of Illinois
Expert witness on behalf of Dish. Submitted an expert report evaluating the sampling methodology and statistical analysis put forth by plaintiffs' expert witness. Testified at deposition and at trial.
- ***Sterling Jewelers Inc. v. Artistry Ltd.***
US District Court, Northern District of Ohio, Eastern Division
Expert witness on behalf of Sterling Jewelers in a trademark infringement case. Assessed whether Artistry Ltd. suffered damages and determined whether Sterling Jewelers Inc. had been enriched by the alleged infringement in an affirmative report. Testified at deposition.

APPENDIX C
MATERIALS RELIED UPON

Additional materials relied upon for my 2020 Kirk Fair Memorandum can be found in the 2020 Kirk Fair Memorandum, Appendix B.

Legal Documents and Depositions

“Complaint Counsel’s Motion for Summary Decision,” *In the Matter of: Intuit Inc., a corporation, United States of America Before the Federal Trade Commission*, Docket No. 9408, August 22, 2022.

“Complaint,” *In the Matter of: Intuit Inc., a corporation, United States of America Before the Federal Trade Commission*, Docket No. 9408, March 28, 2022.

Deposition of Gregory Johnson, In the Matter of TurboTax, Inc., September 29, 2020.

Academic Literature

Diamond, Shari S., “Reference Guide on Survey Research,” in *Reference Manual on Scientific Evidence*, 2011, Third Edition, National Academies Press.

Jacoby, J., “Are Closed-Ended Questions Leading Questions?” in *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, eds. Shari S. Diamond and Jerre B. Swann, 2012, American Bar Association, pp. 261-284.

Bates-Stamped Materials

INTUIT_FFA_FTC_C013.01-C013.053, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No. 1923119, July 31, 2020.

INTUIT-FFA-FTC-000032744.

INTUIT-FFA-FTC-000032766.

INTUIT-FFA-FTC-000329046-9033.

APPENDIX D
2020 KIRK FAIR MEMORANDUM

To: Federal Trade Commission

From: Rebecca Kirk Fair,¹ Managing Principal, Analysis Group

Date: November 4, 2020

Re: Analysis of Consumer Choices in a Test and Control Study of TurboTax Upgrade Screens

1. I understand from Counsel for Intuit that the FTC is investigating whether Intuit's presentation of its product offerings to customers who begin their tax preparation process through TurboTax's Free Edition is unfair or deceptive with respect to customers who are not eligible for that product and who see upgrade screens providing the option to complete their returns using a different TurboTax SKU. Further, I understand that the FTC is investigating whether the fact that TurboTax does not directly reference the IRS Free File Program on its upgrade screens is unfair and/or deceptive.² As part of its investigation, I understand that two central theories the FTC is evaluating are whether (1) customers would select the IRS Free File Program instead of Intuit's Paid commercial products in greater numbers if the Program were presented as part of Intuit's presentations of "upgrade options" on its website; and (2) whether consumers perceive the message on Intuit's required upgrade screen as compelling or requiring them to upgrade to the exclusion of all other tax preparation options. My survey directly speaks to both issues with objective data and makes clear that neither concern is warranted.
2. To understand whether the presentation of upgrade options misleads taxpayers, one can examine whether (or the extent to which) the presentation of those upgrade options with additional information changes consumer behavior. To evaluate this question, I conducted a test and control study designed to evaluate the effect of these upgrade screens on consumer choices, if any. To the extent that the information provided in the TurboTax upgrade screens affected consumers' decisions to upgrade to a Paid TurboTax product (i.e., Deluxe, Premier, or Self-Employed versions) or to use (or not use) the IRS Free File Program, one should observe systematic differences in the tax preparation products selected by respondents across the study conditions I examined in this survey. By contrast, the absence of significant

¹ M.B.A., Finance and Applied Economics, MIT Sloan School of Management; B.A., Economics, Middlebury College. My CV is attached as **Appendix A** and a list of materials relied upon is attached as **Appendix B**.

² Civil Investigative Demand, Matter No. 1923119, Federal Trade Commission, May 19, 2020 ("FTC Civil Investigative Demand, May 19, 2020"), Interrogatories 12, 14-16 ("Hard stops"), pp. 6-8, 13. I understand that the FTC defines "hard stops" as "the scenarios in the Free and Paid Commercial Tax Product flows described as 'Specific Upgrades,' 'Generic Upgrades,' and 'Hard Stops' in the documents labeled INTUIT-FFA-FTC-000169123, list of TY16 Required Upsells and INTUIT-FFA-FTC-000169124, list of TY17 Required Upsells. For the purposes of this discussion, I refer to these types of screens that prompt respondents to upgrade from Free Edition to a Paid version of TurboTax broadly as "upgrade screens" throughout this memo and other materials.

differences in respondents' choices would indicate that the current TurboTax upgrade screens do not change consumer behavior.

3. My research demonstrates that there is no material difference in consumers' selection of an upgrade to Paid TurboTax products or selection of the IRS Free File Program across study conditions. Further analyses of responses also suggest that consumers can and do conduct additional research to identify and use the "right" product for their tax situation, whether that is within the TurboTax platform or with an alternative provider, including the IRS Free File Program. Thus, I conclude that the current upgrade screens do not induce greater use of TurboTax Paid products, nor does providing customers with additional information regarding the IRS Free File Program materially change consumers' selection of the IRS Free File Program. Put differently, consumers are no more likely to choose the IRS Free File Program even when provided with that express option in an upgrade screen.

I. Executive Summary

4. In connection with the FTC's investigation and in anticipation of potential litigation, I have been asked by Counsel for Intuit to evaluate whether and to what extent consumers' decisions to upgrade to TurboTax's Paid products were affected by the existing upgrade screens, and whether and to what extent consumers' purchase decisions could have been influenced differently by potential changes made to these screens. To do so, I conducted a test and control survey, identified as my "Disclosure Survey," to evaluate how consumers who view advertisements for TurboTax's Free Edition, and then begin preparing their taxes using TurboTax Free Edition, respond once they are informed that they will need to upgrade or use a different product to accurately complete their taxes. In my survey, I presented qualified respondents (U.S. taxpayers who had filed their taxes in 2019 or 2020 using an online tax preparation software product and who were primarily responsible or substantially involved in filing their own/household taxes) with one of three "upgrade" screens: (1) a current upgrade screen used by Intuit; (2) a "Reduced Information Screen," reflecting less information than currently provided by Intuit; and (3) an "Enhanced Information Screen," reflecting more information than currently provided by Intuit.
5. Based on my analysis of the Disclosure Survey results, I conclude that:
 - Intuit's current upgrade screens do not induce upgrades from TurboTax's Free Edition to Paid versions of TurboTax.
 - Providing customers with additional information regarding the IRS Free File Program does not materially change customers' product selection choices. Moreover, even among respondents who were provided with supplemental information regarding the IRS Free File Program, overall interest and adoption of the IRS Free File Program remains low and largely unchanged. Notably, this

finding is consistent with other publicly-available data, and overall consumer usage patterns.

- Open-ended responses reveal a general preference to identify and use the “right” options for their particular tax situation, and consumers’ willingness to conduct additional research to determine that “right” option, whether it was within TurboTax or with an alternative provider. Respondents did not appear to believe that they were required to use TurboTax to the exclusion of other tax preparation options.

II. Design of Disclosure Survey

6. To determine whether and to what extent the at-issue upgrade screens affect consumers’ online tax software choices, I conducted a survey using an experimental design. An experimental design allows one to “test directly the influence of the stimulus” on respondents.³ In designing, pretesting, fielding, and analyzing the data of my survey, I applied best practices, both generally for marketing research and for research conducted for the purpose of litigation.⁴ Throughout my survey, I minimize the possibility of noise and bias affecting the survey results by presenting clear questions and answer choices, asking balanced questions, and rotating answer options, among other best practices.⁵ A complete description of my survey, my experimental approach, the target population studied, and other design features of the Disclosure Survey is provided as **Appendix C**.
7. The purpose of the Disclosure Survey was to assess whether and to what extent the information presented to prospective TurboTax customers through the software’s upgrade screens affects their selection of various tax preparation solutions. Of particular interest was understanding how respondents who see advertisements for TurboTax Free Edition and begin preparing their taxes using TurboTax’s Free Edition product respond to the information contained in these upgrade screens.
8. To study whether and to what extent the upgrade screens and associated communications affect the product selection of prospective TurboTax Free Edition customers, I designed the Disclosure Survey as a simulation of the process by which consumers might learn about Free Edition (i.e., by viewing a TurboTax advertisement and TurboTax’s product information pages

³ Diamond, Shari S., “Reference Guide on Survey Research,” in *Reference Manual on Scientific Evidence*, 2011, Third Edition, National Academies Press (“Diamond”), p. 398.

⁴ I closely adhered to the standards set forth by Federal Judicial Center, in the “Reference Guide on Survey Research” and in the “Manual for Complex Litigation.” Both are critical references for designing and conducting valid and reliable studies used in litigation. See, e.g., Diamond, pp. 359-423; see also *Manual for Complex Litigation*, Federal Judicial Center, 2004, Fourth Edition (“Manual for Complex Litigation”), p. 103.

⁵ See, e.g., Jacoby, Jacob, “Are Closed-Ended Questions Leading Questions?” in *Trademark and Deceptive Advertising Surveys: Law, Science and Design*, eds. Shari S. Diamond and Jerre B. Swann, 2012, American Bar Association, pp. 261-284, pp. 274-275; Diamond, pp. 387, 396.

on its website), followed by a presentation of an upgrade screen (which varied across experimental groups) and questions regarding the respondent's consideration and selection of different options for preparing their taxes.⁶ Specifically, to assess changes in customers' product selections, I studied three different experimental groups:

- The *Reduced Information Screen Group* was presented with a screen that contained limited information on alternative solutions, i.e., respondents were only informed that they would need to file their taxes through a different TurboTax product or another filing option.⁷
- The *Current Screen Group* was presented with an upgrade screen that informed respondents that they would need to upgrade to file their taxes accurately and presented respondents with three products: Free Edition, TurboTax Deluxe, and TurboTax Self-Employed.⁸
- The *Enhanced Information Screen Group* was presented with an upgrade screen that informed respondents they would need to upgrade to file their taxes accurately and presented respondents with four products: Free Edition, TurboTax Deluxe, TurboTax Self-Employed, and IRS Free File Program. The upgrade screen also contained information regarding eligibility for the IRS Free File Program, noting in boldface type that **“Based on what you told us about your tax situation, you’ll need to upgrade to accurately complete your taxes. Alternatively, you may be eligible to file for free through the IRS Free File Program.”**

9. In order to test whether and to what extent respondents' choices are influenced by the nature and detail of information presented in these upgrade screens, I presented respondents with both

⁶ This simplified simulation was a conservative exercise in that I asked all respondents to assume that they had chosen to begin preparing their taxes using the Free Edition product, despite my understanding that TurboTax makes efforts to direct customers to the appropriate product level before they begin the filing process. Deposition of Gregory Johnson, In the Matter of TurboTax, Inc., September 29, 2020, pp. 66-67 (“We try and ensure consumers get into the product for which they intend.”). See also, for example, INTUIT-FFA-FTC-000329046-9033, a presentation on A/B Test Learning.

⁷ I included this group as part of my experimental design to serve as a control for measuring respondents' behavior in the absence of the guidance provided in the current TurboTax upgrade screens. As described in more detail below, I use this group to test whether the current TurboTax upgrade screens induce customers to pay for TurboTax services versus a version of the screen with limited amounts of information.

⁸ The Current Screen stimulus is based on a 2019 upgrade screen that was shown to TurboTax Free Edition customers who reported 1099-MISC income, but was modified to represent a generic upgrade message. The “FUS_Business_Income” upgrade screen was the most frequently shown “Hard Stop” (3M customers) in TY2017 and the second most frequently shown (3.3M customers) in TY2018. (See, INTUIT_FFA_FTC_C013.01-C013.053 at C013.033, Letter from David Gringer to Ian Barlow et al., re: FTC Matter No. 1923119, July 31, 2020.) The generic upgrade language I used to modify the screen closely adhered to that of other TurboTax upgrade screens (e.g., TurboTax Deluxe generic upgrade screen), which inform the user that, “based on what you told us about your tax situation,” “you’ll need to upgrade” “to accurately complete your taxes”. See, for example, INTUIT-FFA-FTC-000032744 and INTUIT-FFA-FTC-000032766, screenshots of TurboTax upgrade screens.

open- and closed-ended questions regarding: (1) the various tax preparation solutions they would consider using and (2) which of those solutions, they would most likely select. By comparing the rates of selecting alternative tax preparation solutions after the presentation of one of the three upgrade screens, I can assess whether there is any change in consumer outcomes consistent with the FTC's investigation.

10. As I discuss here, my research indicates that TurboTax's upgrade screen **does not** materially change the rate at which customers upgrade or the rate at which they select IRS Free File Program. Specifically, when I compare the rate at which taxpayers select a TurboTax Paid product or at which they select the IRS Free File Program, there is no statistically significant difference across the study groups that I tested. For additional information on the design and implementation of my Disclosure Survey, please see **Appendices C and D.1-D.2**.

III. Analysis of Disclosure Survey

11. My Disclosure Survey focused on three main questions: (1) whether or not the current upgrade screens induce upgrades to Paid versions of TurboTax; (2) what effect, if any, might an enhanced upgrade screen that includes information pertaining to the IRS Free File Program have on respondents' selection of the IRS Free File Program; and (3) whether or not there is any evidence to demonstrate that respondents have agency in choosing how to prepare and file their taxes. To understand the effect, if any, of the current upgrade screens relative to the provision of either more or less information in a modified upgrade screen on respondents' stated product choices, I analyzed both closed-ended (Q7 and Q8) and open-ended (Q6 and Q9) responses from respondents by experimental group. My analyses reveal that the current upgrade screens *do not* induce selection of Paid TurboTax products, they *do not* alter respondents' selection of the IRS Free File Program, and that consumers *can* and *do* research their tax preparation options before making their decisions. I discuss my findings on each of these points below.
12. The Current Upgrade Screens Do Not Induce Upgrades to Paid Products: I understand that the FTC has expressed concerns that Intuit's current upgrade screens mislead consumers in a manner that induces customers to upgrade to Paid versions of TurboTax.⁹ My data do not support this concern and suggest that it is unwarranted. The results of my survey indicate that the upgrade screen that has been used by Intuit does not induce upgrading to Paid versions of TurboTax. Additionally, as I discuss further below, the results of my Disclosure Survey indicate that consumers understand the circumstances of their tax-filing needs and/or educate themselves about the right tax solutions and that many are already aware of the array of competitive options for preparing taxes.

⁹ INTUIT_FFA_FTC_C013.01-C013.053 at C013.028, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No: 1923119, July 31, 2020.

13. To evaluate the question of whether the current TurboTax upgrade screens induced customers to pay for TurboTax services, I compared respondents' selection of a Paid version of TurboTax (i.e., Deluxe, Premier, or Self-Employed) as a result of being shown the Current Screen, rather than the limited amount of information in the Reduced Information Screen. I find that there is no statistically significant difference between respondent selection of Paid versions of TurboTax between the Current Screen or Reduced Information Screen Groups. Specifically, 40 percent of respondents indicated that they would be most likely to select a Paid product when presented with the Reduced Information Screen stimulus. By comparison, 44 percent of respondents in the Current Screen Group indicated that they would be most likely to select a Paid product. This difference is small and not statistically significant between the two experimental groups (see **Exhibit 2.A**).
14. An Enhanced Upgrade Screen Would Not Result in Additional Usage of IRS Free File Program: I also understand that the FTC may have concerns that Intuit's current upgrade screens have the potential to mislead consumers in a manner that reduces prospective taxpayer usage of the IRS Free File Program, including amongst those customers who may be eligible for the Program, and also that the FTC is evaluating whether increased disclosure of the IRS Free File Program as part of Intuit's presentation of upgrade options in its interview process to customers who would otherwise pay to file their taxes on TurboTax would result in increased use of the Program. I find that regardless of whether respondents are specifically educated about the IRS Free File Program during the TurboTax upgrade process, their selection of the IRS Free File Program is largely unaffected.
15. To evaluate the question of potential impact of the upgrade screens on IRS Free File Program usage, I compared respondents' selection of the IRS Free File Program after being shown the Enhanced Information Screen with supplemental information regarding the IRS Free File Program, relative to the Current Screen. I used the Enhanced Information Screen to measure how customers are likely to respond if provided with supplemental information regarding the IRS Free File Program offerings, relative to the Current Screen, which did not include any supplemental information regarding the IRS Free File Program. I find that the difference across the two groups is not material and lacks statistical significance. Ten percent of respondents in the Enhanced Information Screen Group indicated that they would be most likely to select the IRS Free File Program. Similarly, 7 percent of respondents in the Current Screen Group indicated that they would be most likely to select the IRS Free File Program. This difference is small and not statistically significant between the two experimental groups, suggesting that the supplemental information does not materially increase selection of the IRS Free File Program (see **Exhibit 2.A**).¹⁰

¹⁰ I also compared the overall distribution of respondents' selections between the Current Screen Group and the Enhanced Information Screen Group using a classic chi-squared test and found no statistically significant differences.

16. As a sensitivity, I also evaluated whether taxpayers who have previously paid to prepare their taxes using online tax software might have been misled or deceived into doing so by Intuit's current upgrade screens. To test this hypothesis, I analyzed the subset of respondents who, in response to F1, indicated having "pa[id] for online tax software to file [their] taxes" in 2019 or 2020. Notably, I again found no statistically significant difference in the selection of the IRS Free File Program across the two groups for this subset of my sample (see **Exhibit 7.A**).¹¹
17. Moreover, even among respondents who were provided with supplemental information regarding the availability of the IRS Free File Program in the Enhanced Information Screen Group, overall interest and adoption of the IRS Free File Program remains low. As presented, in my full sample of respondents, only 10 percent of respondents in Enhanced Information Screen Group indicated that they would be most likely to select the IRS Free File Program (see **Exhibit 2.A**). Given estimates that more than 70 percent of U.S. taxpayers are eligible to use the IRS Free File Program and my in-bound qualification procedures reflect the overall U.S. census, a selection rate of 10 percent is notably low.¹²
18. This low rate of adoption in my study is consistent with other publicly-available survey data suggesting that consumers are uninterested in using government-sponsored tax preparation products, and those consumers who are aware of the IRS Free File Program do not find it an appealing option, even without necessarily knowing that the Program lacks a substantial number of features and services available for free on TurboTax's commercial website.¹³ Moreover, I understand that approximately ten times more taxpayers use TurboTax's Free Edition to file their taxes completely for free each year than use the software it donates to the IRS Free File Program.¹⁴ These data and my findings are also consistent with research conducted in other countries. For example, statistics published by the Australian Taxation

¹¹ Specifically, 5 percent of respondents presented with the Enhanced Information Screen indicated that they would be most likely to select the IRS Free File Program. 3 percent of respondents in the Current Screen Group indicated that they would be most likely to select the IRS Free File Program.

¹² See, "Tax Time Guide: Try Money-Saving IRS Free File," IRS, March 1, 2018, available at <https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file> ("More than 70 percent of all taxpayers – over 107 million people – are eligible for the software products."). The inbound sample of respondents to my study was representative of the adult population in the U.S. based on census information linked to age, gender, and regional distribution.

¹³ See, e.g., "Memorandum Re: Taxpayer Attitudes Concerning Annual Return Preparation," Computer & Communications' Industry Association, April 5, 2019, available at <https://www.ccianet.org/wp-content/uploads/2019/04/PublicOpinionTaxPoll.pdf>; INTUIT-FFA-FTC-000549993 at 9993, a recent tax survey by Guggenheim Securities; "Independent Assessment of the Free File Program," October 3, 2019, ("MITRE Report"), p. xi.

¹⁴ Approximately 12.6 million customers filed their federal return for free using Free Edition in TY 2018. In the same tax year, approximately 1.2 million customers filed their federal return using the TurboTax Free File product. See, e.g., INTUIT_FFA_FTC_C002.01-C002.016 at C002.09-C002.010, Letter from D. Reed Freeman to Tejasvi Srimushnam et al., re: FTC Matter No: 1923119, July 31, 2019, pp. 9-10.

Office reveal that the majority of taxpayers choose to pay to have their taxes prepared for a fee rather than prepare them for free with the Australian Taxation Office's TaxPack booklet.¹⁵

19. Many Respondents Demonstrate a Willingness to Consider Alternatives and To Identify and Use the "Right" Product for Their Specific Situation: I understand that the FTC is investigating whether Intuit's upgrade screens resulted in customers being "tricked" or "misled" into paying for unintended upgrades. Far from this being the case, my analyses of both the closed-ended and open-ended questions in the Disclosure Survey demonstrate respondents' awareness of and willingness to consider other alternatives and to identify and use the "right" product for their specific situation, whether that was TurboTax or an alternative provider. The data also indicated that consumers also largely understand the circumstances of their tax-filing needs and/or educate themselves about the right tax solution for their needs.
20. As an initial point, meaningful shares of respondents indicated in Q8 that, after viewing the upgrade screen, they would most likely select alternative tax preparation solutions, including another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing (see **Exhibit 2.B**).¹⁶ Moreover, I find no statistically significant differences in respondents' selections of these alternative solutions between the Current Screen and Enhanced Information Screen Groups, indicating respondents are clearly willing to select alternatives to Intuit's products if relevant or preferred, regardless of the information contained in the upgrade screens.^{17,18} Indeed, Intuit's data maintained in the normal course of business and shared with the FTC also makes clear that millions of consumers each year decide to prepare their taxes a different way after reaching an upgrade screen.¹⁹

¹⁵ In the 2001-2002 tax year, approximately 75 percent of personal tax returns in Australia were submitted by tax agents on behalf of individual clients. See, "Taxation Statistics 2001-02," Australian Taxation Office, available at <https://data.gov.au/data/dataset/67265383-0ecc-4523-8ffd-02790297a65a/resource/0a765a72-d548-40e4-97bc-339168abb011/download/2001-02-taxstats.pdf>, pp. 3, 10.

¹⁶ Across the three experimental groups, 17 percent of respondents (124 respondents) in the Disclosure Survey indicated that they would most likely select another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing. See **Exhibit 2.B**.

¹⁷ See, **Exhibit 2.B**. As discussed paragraph 14, I find statistically significant differences in respondent's selection of these "Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)," between the Reduced Information Screen Group and the Current Screen Group. This finding is consistent with my expectation that when provided with limited information regarding next steps, respondents in the Reduced Information Group are more likely to see out alternative solutions.

¹⁸ Notably, 17 percent of respondents indicated that they had used two or more online tax preparation software providers in the past five years. 21 percent of respondents who indicated they had used TurboTax in the past five years had also used an alternative tax preparation software provider during that period.

¹⁹ I understand that Intuit has provided the FTC with data illustrating "that consumers using Intuit's Free Edition were aware of various other tax preparation options available to them, including on the TurboTax website, through the IRS Free File program, and other providers." Data produced in response to Interrogatory 14(f) includes the number of customers, by upgrade screen, who started in Free Edition and ultimately filed with a Paid Commercial product, a Free Commercial product, the TurboTax Free File Program, or in some other way

21. Perhaps more importantly, respondents' open-ended answers to Q6 demonstrate that prospective TurboTax customers are well-informed, pursue information from other sources, and have direct experience with other tax preparation service providers. Except in very few instances (as discussed below), they did not express a view that they were "locked in" to TurboTax.
22. Two independent coders who were unaware of the purpose of the research (throughout referred to as "coders") analyzed the open-ended answers to Q6 and found that across the three experimental groups, nearly 39 percent, or more than a third of respondents in the Disclosure Survey, explicitly described having the agency to identify the right tax preparation product for their particular tax situation and preferences (see **Exhibit 5**).²⁰ That is, across the three experimental groups, 15 percent of respondents stated, upon viewing the upgrade screen that they would not upgrade and instead would seek out an alternative solution (see **Exhibit 5**).²¹ For example, respondents indicated that, after viewing the upgrade screen:

- "I would close out of the TurboTax window and file my taxes with H&R Block instead."
- "As I'm no longer able to file with the free edition, I would search the internet and compare the Turbo Tax pay for edition with other tax platforms with comparable features."
- "Probably leave, knowing my situation (I would never qualify for free!). If I really though free filing a possibility I would go back to see what caused it (capital gains? too much income? What?). I would next put Turbotax aside and look at the other free providers - not everyone has the same thresholds and exclusions."

(i.e., "did not file" with TurboTax). See, INTUIT_FFA_FTC_C013.01-C013.053 at C013.035-C013.037, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No. 1923119, July 31, 2020.

²⁰ In addition to the 15 percent of respondents who stated upon viewing the upgrade screen that they would not upgrade and instead would seek out an alternative solution, and the approximately 17 percent of respondents who indicated that they would need to conduct additional research or otherwise evaluate which product would best fit their needs, other relevant categories include 5 percent of customers who indicated they would "delete account / exit the site," 3 percent of customers who indicated they would likely upgrade due to their "Tax Situation," and 1 percent of customers who indicated they would likely "upgrade after conducting additional research." Accounting for responses that were coded as more than one category (e.g., the 14 responses to Q6 coded as both "delete account / exit the site" and "consider other alternatives"), these five categories collectively capture 39 percent of respondents. As noted above, when respondents in the Reduced Information Screen Group are shown limited information regarding next steps, they are more likely to seek information and alternatives outside of TurboTax. Similarly, respondents in the Enhanced Information Screen who were shown supplemental information regarding the IRS Free File Program mention considering the IRS Free File Program, consistent with an aided recall context.

²¹ Alternative products specified by respondents include H&R Block, Credit Karma, TaxAct, TaxSlayer, FreeTax USA, IRS Free File Program, and other generic alternatives.

- “Look into other options where I wouldn’t have to pay \$60. Maybe H&R Block. I’d ask friends how they filed.”

23. Relatedly, approximately 17 percent of respondents indicated in their answers to Q6 that they would need to conduct additional research or otherwise evaluate which product would best fit their needs (see **Exhibit 5**). For example:

- “I will need to check online with TurboTax to find another product to use to file my taxes. I assume the free version will not work properly with my information. I could also change my filing [sic] option to see if I can continue to use the free version.”
- “I would then go to reviews of each of the paid for services. This would help me decide if I want to upgrade.”
- “Decide how complicated my taxes are to see if I need to pay for additional services.”
- “I would ask chat why they have made that upgrade recommendation. 'what is more complicated that Turbo free can't handle it?'”
- “I would move on to next screen and find out what I need to do differently and how much it would cost. I would then probably go to another website to see what they say about the same information provided and compare price.”
- “I would double check to see if I really need an upgrade to finish my taxes and then if I really did I would choose the correct product. If not I would continue on with the free product.”
- “I would wonder why I needed to upgrade and would investigate accordingly.”
- “I would then go to google and type in Turbo Tax Intuit and read some reviews from other people who have used it.”

24. Further, open-ended responses also indicated that respondents who did elect to upgrade understood what the specifics of their tax filing needs required. The coders also analyzed the open-ended answers to Q9 for respondents who indicated that they would most likely select a Paid version of TurboTax and categorized the responses into groups with other similarly-indicated answers. The majority of respondents who chose to upgrade to Paid products (e.g., Deluxe, Premier, Self-Employed) indicated that they did so because of their particular tax situation (47 percent), their preference for and/or trust in the Intuit products (35 percent), or because of the value/price point (9 percent) (see **Exhibit 6**). These responses indicate that consumers reflect on their experiences and information beyond what is presented by TurboTax in an upgrade screen when making tax solution choices. For example:

- “My taxes aren't especially complicated, but I have a few other issues (like student loan interest) that make it more complicated than a simple return can do. The next step up is the one that normally makes the most sense for me.”
- “I believe it best suits my needs. I would rather pay to have my taxes done easily rather than try a different product or use the IRS program which may cause errors.”
- “Because I'm a homeowner and I itemize my deductions”
- “I have been using TurboTax Deluxe for many years now so I know that it is best suited to my tax situation.”
- “Although it will cost a bit more money, I trust that TurboTax Deluxe would be worth it in the long run by providing me with simplified taxes.”
- “I like having the best support and tax version possible. the deluxe version also helps in the case of an audit so it is a piece of mind.”
- “The deluxe seems to have a number of extra help pieces that aren't available with the free version. Also it isn't unreasonably priced.”
- “It adjusts to my needs. It is a good value for my money”

25. Lastly, I asked the coders to highlight responses to Q6 and Q9 where the responses suggested that respondent would upgrade, but only because the respondent indicated that they “had to” upgrade or “couldn’t use Free Edition,” i.e., they had no other choice. The coders identified only 11 respondents out of 751 (1 percent) in Q6 and 20 respondents out of 325 (6 percent) in Q9 whose answers could be interpreted in this manner (see **Exhibits 5 and 6**). Thus, it is unlikely that reasonable consumers who see an upgrade message on TurboTax believe that they must continue with the TurboTax software in order to prepare their taxes or that the IRS requires them to do so.

IV. Conclusion

26. My Disclosure Survey yields statistically reliable results that can be used to assess the materiality, if any, of Intuit’s current upgrade screens and proposed changes to those upgrade screens on consumers’ selection of various tax preparation software programs.²² In particular, my results can be used to measure whether and to what extent consumers’ decisions to upgrade to the Paid versions of TurboTax were affected by the existing upgrade screens, and whether

²² To confirm that my results are robust, I performed additional sensitivity analyses, i.e., analyses with of respondents that let me examine the stability of my survey results across different sub-groups of respondents. See **Appendix C** for further detail.

and to what extent consumers' purchase decisions could have been influenced differently by potential changes made to these prompts.

27. Based on my survey results and other research, I conclude that:

- The current TurboTax upgrade screens do not induce upgrades from TurboTax's Free Edition to Paid versions of TurboTax.
- Providing customers with additional information regarding the IRS Free File Program does not materially change customers' product selection choices. Moreover, even among respondents who were provided with supplemental information regarding the IRS Free File Program, overall interest and adoption of the IRS Free File Program remains low and unchanged. Notably, this finding is consistent with other publicly-available data, and overall consumer usage patterns.²³
- Open-ended responses reveal a general preference to identify and use the "right" options for their particular tax situation, and consumers' willingness to conduct additional research to determine that "right" option, whether it was within TurboTax or with an alternative provider. Respondents did not appear to believe that they were required to use TurboTax to the exclusion of other tax preparation options.

²³ MITRE Report, p. viii; INTUIT-FFA-FTC - C002.01-C002.016 at C002.09-C002.010, Letter from D. Reed Freeman to Tejasvi Srimushnam et al., Re: FTC Matter No: 1923119, July 31, 2019.

Exhibit 1
Survey Response Statistics

Status	Number of Respondents	Percent of Total
Completed Survey ^[1]	751	24.7%
Screened Out of Survey, due to:	2,195	72.3%
<i>Age</i> ^[2]	497	16.4%
<i>Gender</i> ^[3]	70	2.3%
<i>Employment</i> ^[4]	169	5.6%
<i>Participation in similar surveys</i> ^[5]	171	5.6%
<i>Did not file taxes in 2019 or 2020</i> ^[6]	274	9.0%
<i>Tax preparation method</i> ^[7]	906	29.9%
<i>Tax preparation role</i> ^[8]	95	3.1%
<i>Survey Speed</i> ^[9]	0	0.0%
<i>Quality control</i> ^[10]	13	0.4%
Self Termination ^[11]	88	2.9%
Exceeded Quota ^[12]	1	0.0%
Total Survey Starts ^[13]	3,035	100.0%
Completion Rate ^[14]	89.5%	

Notes:

[1] Includes the 751 respondents who qualified for, and completed, the survey.

[2] Respondents who provided an age which did not match what Dynata had on file were screened out of the survey in S2.

[3] Respondents who provided a gender which did not match their profile with Dynata were screened out of the survey in S3.

[4] Respondents who selected that they or a family member worked for “An accounting, tax, or a tax preparation service provider company,” “A marketing, market research, or advertising,” or “Your state or the federal government” in response to S5 were screened out of the survey.

[5] Respondents who selected “Accounting or tax services” in response to S6 were screened out of the survey.

[6] Respondents who selected “No” in response to both S7 (“Did you file taxes in 2019 (for 2018 income)?”) and S8 (“Did you file taxes in 2020 (for 2019 income)?”) were screened out of the survey. Respondents who responded “Don't Recall/Unsure” to S8 were also screened out.

[7] Respondents who did not select “I used an online tax software to file my/our household taxes” in response to S9 were screened out of the survey.

[8] Respondents who selected “I had little involvement in preparing my/our household taxes” or “Don't Recall/Unsure” in response to S10 were screened out of the survey.

[9] Respondents who completed the survey in less than 1/3 the median time-to-complete were excluded from the survey.

[10] Respondents who did not select “Fourth” in response to S12 were screened out of the survey.

[11] Respondents who self-terminated after proceeding past the digital fingerprinting in S0 were excluded from the survey.

[12] Respondents who started the survey after the quota for their respective age, region, and gender had been filled were terminated.

[13] Includes only respondents who clicked on the survey and proceeded past the digital fingerprinting in S0 (“Please enter the code exactly as it appears in the image below, and then click continue.”) of the survey screener (see **Appendices D.1 and D.2**).

[14] The completion rate is 89.5%, or: [completed survey]/[completed survey+self termination].

Exhibit 2.A
Comparison of Respondents' Selection of Tax Preparation Products
Based on Question 7 and Question 8

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Current vs.</i>	<i>Current vs.</i>	<i>Current vs.</i>	<i>Current vs.</i>
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Reduced</i>	<i>Enhanced</i>	<i>Reduced</i>	<i>Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66	26%	37	15%	60	24%			0 001 ***	0 520
TurboTax Paid Products ^[1]	109	44%	100	40%	116	46%			0 414	0 556
IRS Free File Program	18	7%	22	9%	25	10%	0 002 ***	0 386	0 510	0 270
Alternative Program ^[2]	36	14%	64	26%	38	15%			0 002 ***	0 816
Don't Know / Unsure ^[3]	21	8%	27	11%	12	5%			0 648	0 427
Total	250		250		251					

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[3] Includes the 60 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 34 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 26 respondents answered “Don't Know / Unsure” in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

Exhibit 2.B
Comparison of Respondents' Selection of Tax Preparation Products
Based on Question 7 and Question 8

						Test of Equality of Distribution		Test of Equality of Proportions	
Current Screen Group		Enhanced Information Screen Group							
Upgrade Screen with TT Deluxe & Self-Employed Products		Reduced Information Screen Group		Enhanced Upgrade Screen with IRS Free File Option Included		Current vs. Reduced	Current vs. Enhanced	Current vs. Reduced	Current vs. Enhanced
Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66 26%	37 15%		60 24%				0.001 ***	0.520
TurboTax Deluxe	89 36%	64 26%		83 33%				0.015 **	0.551
TurboTax Premier	14 6%	29 12%		27 11%				0.017 **	0.035 **
TurboTax Self-Employed	6 2%	7 3%		6 2%				0.779	0.994
IRS Free File Program	18 7%	22 9%		25 10%				0.510	0.270
Other Online Filing Options	29 12%	47 19%		26 10%		0.002 ***	0.385	0.025 **	0.657
Accountant Supported Paper Filing	2 1%	4 2%		2 1%				0.411	0.997
Self-Filed Paper Filing	2 1%	6 2%		6 2%				0.154	0.156
Other	3 1%	7 3%		4 2%				0.201	0.707
Don't Know / Unsure (Q7) ^[1]	12 5%	16 6%		6 2%				0.437	0.147
Don't Know / Unsure (Q8) ^[2]	9 4%	11 4%		6 2%				0.648	0.427
Total	250	250		251					

Notes:

[1] A total of 34 respondents answered "Don't Know / Unsure" in response to Q7 and were not subsequently asked Q8

[2] A total of 26 respondents answered "Don't Know / Unsure" in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. "****" indicates significance at 1% level, "***" indicates significance at 5% level, "**" indicates significance at 10% level.

Exhibit 3.A

Comparison of Responses to Q7

Question 7: “Which of the following options would you consider using to file your taxes upon seeing this prompt?”

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Current vs. Reduced</i>	<i>Current vs. Enhanced</i>
	Number of	Percent of	Number of	Percent of	Number of	Percent of		
	Respondents	Respondents	Respondents	Respondents	Respondents	Respondents	P-value	P-value
TurboTax Free Edition	88	35%	66	26%	94	37%	0.033 **	0.601
TurboTax Paid Products ^[1]	132	53%	115	46%	136	54%	0.128	0.756
IRS Free File Program	33	13%	51	20%	55	22%	0.031 **	0.010 **
Alternative Program ^[2]	59	24%	106	42%	66	26%	0.000 ***	0.486
Don't Know / Unsure	12	5%	16	6%	6	2%	0.437	0.147
Total	250		250		251			

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options. The count represents unique respondents who indicated they would consider a TurboTax Paid Product.

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options. The count represents unique respondents who indicated they would consider an alternative program.

[3] The tests for equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the proportions are different across groups at the 5% significance level. “***” indicates significance at 1% level, “**” indicates significance at 5% level, “*” indicates significance at 10% level.

[4] Respondents were allowed to select more than one answer option for Q7, so the sum of product category counts exceeds the number of total respondents.

Exhibit 3.B
Comparison of Responses to Q7

Question 7: “Which of the following options would you consider using to file your taxes upon seeing this prompt?”

							Test of Equality of Proportions	
	Current Screen Group		Enhanced Information Screen Group				Current vs. Reduced	Current vs. Enhanced
	Upgrade Screen with TT Deluxe		Reduced Information Screen Group		Enhanced Upgrade Screen			
	& Self-Employed Products		No Upgrade Information Provided		with IRS Free File Option Included			
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents		
TurboTax Free Edition	88	35%	66	26%	94	37%	0.033 **	0.601
TurboTax Deluxe	110	44%	82	33%	106	42%	0.010 **	0.689
TurboTax Premier	27	11%	53	21%	41	16%	0.002 ***	0.071 *
TurboTax Self-Employed	15	6%	17	7%	18	7%	0.715	0.597
IRS Free File Program	33	13%	51	20%	55	22%	0.031 **	0.010 **
Other Online Filing Options	48	19%	81	32%	45	18%	0.001 ***	0.714
Accountant Supported Paper Filing	6	2%	12	5%	7	3%	0.150	0.784
Self-Filed Paper Filing	7	3%	21	8%	19	8%	0.006 ***	0.016 **
Other	4	2%	10	4%	8	3%	0.104	0.245
Don't Know / Unsure	12	5%	16	6%	6	2%	0.437	0.147
Total	250		250		251			

Notes:

[3] The tests for equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

[2] Respondents were allowed to select more than one answer option for Q7, so the sum of product category counts exceeds the number of total respondents.

Exhibit 4.A

Comparison of Responses to Q8:

Question 8: “Which of the following options would you most likely select upon seeing this prompt?”

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							Current vs.	Current vs.	Current vs.	Current vs.
	Upgrade Screen with TT Deluxe & Self-Employed Products		No Upgrade Information Provided		Enhanced Upgrade Screen with IRS Free File Option Included		Reduced	Enhanced	Reduced	Enhanced
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	66	28%	37	16%	60	24%			0 002 ***	0 417
TurboTax Paid Products ^[1]	109	46%	100	43%	116	47%			0 503	0 733
IRS Free File Program	18	8%	22	9%	25	10%	0 002 ***	0 700	0 473	0 308
Alternative Program ^[2]	36	15%	64	27%	38	16%			0 001 ***	0 907
Don't Know / Unsure ^[3]	9	4%	11	5%	6	2%			0 620	0 399
Total	238		234		245					

Notes:

[1] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[2] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[3] Does not include the 34 respondents who answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

Exhibit 4.B
Comparison of Responses to Q8:

Question 8: “Which of the following options would you most likely select upon seeing this prompt?”

							Test of Equality of Distribution		Test of Equality of Proportions				
Current Screen Group				Enhanced Information Screen Group									
Upgrade Screen with TT Deluxe & Self-Employed Products		Reduced Information Screen Group No Upgrade Information Provided		Enhanced Upgrade Screen with IRS Free File Option Included		Current vs. Reduced		Current vs. Enhanced		Current vs. Reduced		Current vs. Enhanced	
Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents					P-value		P-value	
TurboTax Free Edition	66	28%	37	16%	60	24%	0 002 ***	0 479			0 002 ***	0 417	
TurboTax Deluxe	89	37%	64	27%	83	34%					0 020 **	0 420	
TurboTax Premier	14	6%	29	12%	27	11%					0 014 **	0 043 **	
TurboTax Self-Employed	6	3%	7	3%	6	2%					0 755	0 959	
IRS Free File Program	18	8%	22	9%	25	10%					0 473	0 308	
Other Online Filing Options	29	12%	47	20%	26	11%					0 020 **	0 586	
Accountant Supported Paper Filing	2	1%	4	2%	2	1%					0 399	0 977	
Self-Filed Paper Filing	2	1%	6	3%	6	2%					0 147	0 166	
Other	3	1%	7	3%	4	2%					0 192	0 732	
Don't Know / Unsure ^[1]	9	4%	11	5%	6	2%					0 620	0 399	
Total	238		234		245								

Notes:

[1] Does not include the 34 respondents who answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test P-values below 0 05 reflect statistical significance, i e , p-values below 0 05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level

Exhibit 5

Comparison of Responses to Q6

Question 6: "In your own words, what would you do next upon seeing this screen?"

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		All Test Groups	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>			
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents
Upgrade								
No Other Information Provided	50	20%	9	4%	43	17%	102	14%
Tax Situation	12	5%	4	2%	9	4%	25	3%
No Other Choice	4	2%	2	1%	5	2%	11	1%
Brand and Value	3	1%	1	0%	3	1%	7	1%
Upgrade after Conducting Research	3	1%	1	0%	3	1%	7	1%
Follow Instructions	2	1%	1	0%	4	2%	7	1%
Total	72	29%	18	7%	66	26%	156	21%
Don't Upgrade								
Consider other Alternatives ^[2]	23	9%	45	18%	44	18%	112	15%
No Other Information Provided	34	14%	0	0%	23	9%	57	8%
Free Edition	21	8%	2	1%	14	6%	37	5%
Delete Account/ Exit the Site	4	2%	23	9%	10	4%	37	5%
Total	81	32%	61	24%	87	35%	229	30%
Unclear Whether Upgrade or not Upgrade								
Unclear Next Steps	21	8%	25	10%	16	6%	62	8%
Respondent Unsure	7	3%	7	3%	5	2%	19	3%
Total	28	11%	32	13%	21	8%	81	11%
Additional Research / Consideration	32	13%	55	22%	38	15%	125	17%
Follow Instructions Provided / Continue	22	9%	65	26%	21	8%	108	14%
Excluded	17	7%	23	9%	18	7%	58	8%
Total	250		250		251		751	

Notes:

[1] Two independent coders working under my direction reviewed and analyzed the open-ended answers to Q6 and categorized them into groups with similarly-indicated answers. **Appendix G** contains the full set of instructions provided to the coders.

[2] Alternative products specified by respondents include H&R Block, Credit Karma, TaxAct, TaxSlayer, FreeTax USA, IRS Free File, and other generic alternatives.

[3] Responses categorized as "Excluded" are defined in the coding instructions as "any response that does not belong to any of the categories defined above," and include non-descriptive, non-relevant responses or random strings.

[4] Response categories are non-exclusive, so the sum of all categorized responses may exceed the count of total respondents in each product choice and experimental group.

[5] Percent of respondents figures represent [Number of Responses in Category]/[Total Respondents Within Experimental Group].

Exhibit 6
Comparison of Responses to Q9 Among Respondents Who Selected Paid TurboTax Products in Q8
Question 9: "What is the reasoning behind your decision? Why did you select [INSERT ANSWER FROM Q8]?"

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		All Test Groups	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>			
	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]	Number of Respondents	Percent of Respondents ^[3]
TurboTax Deluxe								
Tax Situation	44	49%	20	31%	35	42%	99	42%
Brand/ Preference	31	35%	27	42%	32	39%	90	38%
Value/ Price Point	9	10%	5	8%	13	16%	27	11%
No Other Choice	5	6%	6	9%	7	8%	18	8%
Excluded ^[4]	6	7%	3	5%	4	5%	13	6%
Next Best Alternative	2	2%	8	13%	6	7%	16	7%
Follow Instructions	1	1%	1	2%	0	0%	2	1%
Total	89		64		83		236	
TurboTax Premier								
Tax Situation	8	57%	12	41%	16	59%	36	51%
Brand/ Preference	5	36%	10	34%	9	33%	24	34%
Value/ Price Point	0	0%	2	7%	1	4%	3	4%
No Other Choice	0	0%	1	3%	0	0%	1	1%
Excluded ^[4]	1	7%	5	17%	1	4%	7	10%
Next Best Alternative	0	0%	0	0%	0	0%	0	0%
Follow Instructions	0	0%	0	0%	0	0%	0	0%
Total	14		29		27		70	
TurboTax Self-Employed								
Tax Situation	6	100%	6	86%	5	83%	17	89%
Brand/ Preference	0	0%	0	0%	1	17%	1	5%
Value/ Price Point	0	0%	0	0%	0	0%	0	0%
No Other Choice	0	0%	1	14%	0	0%	1	5%
Excluded ^[4]	0	0%	0	0%	0	0%	0	0%
Next Best Alternative	0	0%	0	0%	0	0%	0	0%
Follow Instructions	0	0%	0	0%	0	0%	0	0%
Total	6		7		6		19	
All Paid TurboTax Products								
Tax Situation	58	53%	38	38%	56	48%	152	47%
Brand/ Preference	36	33%	37	37%	42	36%	115	35%
Value/ Price Point	9	8%	7	7%	14	12%	30	9%
No Other Choice	5	5%	8	8%	7	6%	20	6%
Excluded ^[4]	7	6%	8	8%	5	4%	20	6%
Next Best Alternative	2	2%	8	8%	6	5%	16	5%
Follow Instructions	1	1%	1	1%	0	0%	2	1%
Total	109		100		116		325	

Notes:

[1] Two independent coders working under my direction reviewed and analyzed the open-ended answers to Q9 (for three subsets of respondents) and categorized them into groups with similarly-indicated answers **Appendix G** contains the full set of instructions provided to the coders

[2] Response categories are non-exclusive, so the sum of all categorized responses may exceed the count of total respondents in each product choice and experimental group

[3] Percent of respondents figures represent [Number of Responses in Category]/[Total Respondents Within Product Choice and Experimental Group]

[4] Responses categorized as "Excluded" are defined in the coding instructions as "any response that does not belong to any of the categories defined above," and include non-descriptive, non-relevant responses or random strings

Exhibit 7.A

Comparison of Respondents' Selection of Tax Preparation Products for Respondents who Paid for Online Tax Software to File Their Taxes in 2019 or 2020^[1]
Based on Question 7 and Question 8

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>		<i>Current vs. Reduced</i>	<i>Current vs. Enhanced</i>	<i>Current vs. Reduced</i>	<i>Current vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	20	14%	16	10%	21	14%			0.390	0.994
TurboTax Paid Products ^[2]	92	63%	80	52%	104	68%			0.062 *	0.368
IRS Free File Program	5	3%	9	6%	7	5%	0.140	0.113	0.314	0.612
Alternative Program ^[3]	20	14%	31	20%	16	10%			0.131	0.390
Don't Know / Unsure ^[4]	10	7%	18	12%	6	4%			0.444	0.682
Total	147		154		154					

Notes:

[1] The 296 respondents who answered “No, I did not pay for online tax software to file my taxes” or “Don’t recall / Unsure” to Question F1 (“Did you or did you not pay for online tax software to file your taxes in [if S7=YES, “2019” or if S8=YES, “2020”]?”) are excluded from this sample

[2] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[3] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[4] Includes the 34 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 17 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 17 respondents answered “Don't Know / Unsure” in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level

Exhibit 7.B
Comparison of Respondents' Selection of Tax Preparation Products Excluding Litigation Aware Respondents^[1]
Based on Question 7 and Question 8

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Current vs. Reduced</i>	<i>Current vs. Enhanced</i>	<i>Current vs. Reduced</i>	<i>Current vs. Enhanced</i>
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	56	27%	29	14%	51	25%			0 001 ***	0 635
TurboTax Paid Products ^[2]	92	44%	84	40%	91	44%			0 406	0 976
IRS Free File Program	14	7%	17	8%	20	10%	0 001 ***	0 191	0 585	0 264
Alternative Program ^[3]	30	14%	55	26%	34	16%			0 003 ***	0 545
Don't Know / Unsure ^[4]	19	9%	27	13%	12	6%			0 340	0 798
Total	211		212		208					

Notes:

[1] The 120 respondents who answered “I am aware of at least one media report, investigation, or lawsuit” to Question F2 (“Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax filing software provider or accounting company?”) are excluded from this sample

[2] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[3] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[4] Includes the 58 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 34 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 24 respondents answered “Don't Know / Unsure” in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level.

Exhibit 7.C
Comparison of Respondents' Selection of Tax Preparation Products Excluding Respondents with Outlier Response Times^[1]
Based on Question 7 and Question 8

	Current Screen Group		Reduced Information Screen Group		Enhanced Information Screen Group		Test of Equality of Distribution		Test of Equality of Proportions	
							<i>Current vs. Reduced</i>		<i>Current vs. Enhanced</i>	
	<i>Upgrade Screen with TT Deluxe & Self-Employed Products</i>		<i>No Upgrade Information Provided</i>		<i>Enhanced Upgrade Screen with IRS Free File Option Included</i>					
	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	Number of Respondents	Percent of Respondents	P-value	P-value	P-value	P-value
TurboTax Free Edition	61	26%	34	15%	56	24%			0 002 ***	0 612
TurboTax Paid Products ^[2]	101	44%	95	41%	107	46%			0 573	0 547
IRS Free File Program	18	8%	21	9%	20	9%	0 004 ***	0 389	0 616	0 724
Alternative Program ^[3]	35	15%	59	25%	38	16%			0 006 ***	0 687
Don't Know / Unsure ^[4]	17	7%	23	10%	10	4%			0 611	0 785
Total	232		232		231					

Notes:

[1] The 29 respondents who completed the survey in under 3 minutes and the 27 respondents who completed the survey in over 30 minutes are excluded from this sample

[2] TurboTax Paid Products refer to “TurboTax Deluxe”, “TurboTax Premier”, and “TurboTax Self-Employed” answer options

[3] Alternative programs refer to “Other Online Filing Options”, “Accountant Supported Paper Filing”, “Self-filed Paper Filing”, and “Other” answer options

[4] Includes the 50 respondents who said “Don't Know / Unsure” to either Q7 or Q8. Specifically, 28 respondents answered “Don't Know / Unsure” in response to Q7 and were not subsequently asked Q8 and 22 respondents answered “Don't Know / Unsure” in response to Q8

[4] The tests for equality of distribution and equality of proportions between groups are based on a chi-squared test. P-values below 0.05 reflect statistical significance, i.e., p-values below 0.05 show that the answers are differently distributed across groups or the proportions are different across groups at the 5% significance level. “****” indicates significance at 1% level, “***” indicates significance at 5% level, “**” indicates significance at 10% level

**APPENDIX A
CURRICULUM VITAE**

REBECCA KIRK FAIR
Managing Principal

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111 Huntington Avenue
14th Floor
Boston, MA 02199

Ms. Kirk Fair has over 20 years of experience in conducting economic analysis, managing case teams, and designing survey instruments in a broad range of matters. Specifically, she has extensive experience in the development, administration, and analysis of surveys in intellectual property, antitrust, false advertising, and strategy matters. She has supported the design and implementation of online, mall-intercept, and telephone surveys using a variety of methodologies, including conjoint and experimental designs. Ms. Kirk Fair has served as an expert witness in matters involving rebuttal analysis of survey evidence in an IP matter involving smartphones, corporate valuation, and damages stemming from a breach of contract. Her experience includes analyses of consumer perception, feature value, and marketing procedures in connection with fraudulent claims suits and trademark matters.

Ms. Kirk Fair has received numerous awards for her accomplishments, including the Women@ “40 in Their 40s: Notable Women Competition Professionals” and the Concurrences Antitrust Writing Award for her coauthored article “The Tyranny of Market Shares: Incorporating Survey-Based Evidence into Merger Analysis” (*Corporate Disputes*).

EDUCATION

M.B.A. MIT Sloan School of Management, Cambridge, MA

B.A. Economics (with honors), Middlebury College, Middlebury, VT

SELECTED EXPERT TESTIMONY

- ***Bond v. Berkshire Bank, et al.***
US District Court, District of Massachusetts, Western Division
Expert witness on behalf of Berkshire Bank. Conducted a survey and testified at deposition on banking consumers’ purchase decisions and heterogeneity in consumer banking behaviors, specifically with regard to overdraft services.
- ***YETI Coolers, LLC., v. RTIC Coolers, LLC***
US District Court, Western District of Texas
Testified at deposition on an experiment designed to evaluate the likelihood of confusion in the high-end cooler market.
- ***PersonalWeb Technologies LLC and Level 3 Communications, LLC. v. International Business Machines Corporation***
US District Court, Northern District of California
Expert witness on behalf of IBM in a patent infringement case. Conducted an online survey of IT professionals and analyzed the survey results in an affirmative report. Testified at deposition.

- ***U.S. and the States of California, Illinois, North Carolina and Ohio v. DISH Network, LLC***
US District Court, Central District of Illinois
 Expert witness on behalf of Dish. Submitted an expert report evaluating the sampling methodology and statistical analysis put forth by the plaintiffs' expert witness. Testified at deposition and at trial.
- ***Sterling Jewelers Inc. v. Artistry Ltd.***
US District Court, Northern District of Ohio, Eastern Division
 Expert witness on behalf of Sterling Jewelers in a trademark infringement case. Assessed whether Artistry Ltd. suffered damages and determined whether Sterling had been enriched by the alleged infringement in an affirmative report. Testified at deposition.

SELECTED CONSULTING EXPERIENCE

Survey-related Litigation

- ***Elizabeth A. Bally v. State Farm Life Insurance Company***
US District Court, Northern District of California
 Assisted in the implementation and assessment of a survey of the impact on consumer purchase behavior and price recall of allegedly misleading measures, including advertising language, in a commercial litigation and damages case. Supported field experiments, lab experiments, and analysis to assess consumer interpretation of comparison pricing language.
- **Large patent infringement suits in online retail industry**
 Assisted in the design, implementation, and analysis of a survey to demonstrate that patented technologies provided substantial value to online retailers. In a similar ongoing matter, demonstrated the consumer impact of a copyrighted feature that provides functionality to a consumer electronics product.
- **Commercial litigation and damages case in online retail industry**
 Assisted in the assessment of the impact on consumer purchase behavior and price recall of allegedly misleading measures, including advertising language, in a commercial litigation and damages case. Supported field experiments, lab experiments, and analysis to assess consumer interpretation of comparison pricing language.
- **Antitrust and intellectual property litigations on behalf of Microsoft**
 Assisted Microsoft in various IP and antitrust matters in the assessment of the impact on consumer behavior, product adoptions, and functionality usage. Matters involved desktop media, browser, office productivity, and security software, as well as server software. Supported lab experiments, qualitative interviews, and web-scraping studies to assess consumer behavior and usage amongst end-customers and IT professionals.
- **Trademark infringement matter of athletic apparel company**
 Supported marketing expert Joel Steckel in a trademark infringement case in which an athletic apparel company claimed that a sports drink maker infringed on its trademark and diluted its brand.
- **Trademark dispute in music services**
 Developed, designed, and launched a pilot study in a trademark dispute to evaluate respondent perception by customer segment.

- **Trademark infringement matter of a candy company**
Supported marketing expert Joel Steckel in a trademark infringement case in front of the TTAB in which a candy company was trying to bar entry of a foreign competitor that had infringed on its trademark and may have diluted its brand.
- **Trademark infringement matter between two apparel companies**
Supported marketing expert Joel Steckel in designing and implementing a reverse confusion survey in a trademark infringement case in which an apparel company claimed that an athletic company infringed on its design mark.
- **Antitrust case in the credit card industry**
Supported marketing expert John Hauser in rebutting an opposing expert's survey by showing that small methodological improvements to the original survey lead to substantial differences in results, in a case involving credit card payment procedures.
- ***Fox Broadcasting Company et al. v. DISH Network LLC et al.***
Supported marketing expert John Hauser in designing and implementing two surveys pertaining to use of television services, as well as in analyzing an array of industry data. After more than two years of litigation, a California federal judge found that Analysis Group client DISH's Hopper DVR does not infringe Fox's copyrights.
- **Trademark infringement matter in the food industry**
Supported marketing expert Joel Steckel in designing a forward confusion and two reverse confusion surveys and implementing the forward confusion survey in a trademark infringement case in which an author / speaker claimed that the title of his book was inappropriately used in a TV commercial of a packaged food product.
- **Confusion matter in the entertainment industry**
Supported marketing expert Joel Steckel in a trademark infringement case in which a TV company used a name for its show (and a company featured in the show) that was similar to the name of an existing company; assisted with design of forward and reverse confusion surveys.

Antitrust Litigation

- ***Dahl, et al. v. Kohlberg Kravis Roberts & Co., et al.***
Worked with the JDG in support of numerous experts on issues of class certification and damages for group and individual private equity firms in matter alleging collusion.
- **Large price-fixing cases in IT manufacturing industries**
Assisted in quantitative analysis and industry research to evaluate competition, pricing, and outputs in connection with two separate international price-fixing investigations in IT manufacturing industries.
- **Large price-fixing cases in various sectors of the financial service industry**
Assisted in quantitative analysis and market research to examine consistency of plaintiffs in multiple class certification matters.
- ***GO Computer v. Microsoft***
Supported Professor Catherine Tucker of MIT in an analysis of competition amongst operating systems and computing platforms.
- **Microsoft litigations in various forums**
Economic analysis on behalf of Microsoft in numerous competitor and consumer litigations on issues

of competition, pricing, and damages. Supported survey design and research related to server software. Developed and critiqued damages models related to computer security, software pricing, and product development.

Class Certification Litigation

- **Financial exchange cartel litigation**
Supported multiple experts on issues of class certification, marketplace analyses, and damages models for the defendant in a matter alleging collusion related to a financial instrument exchange platform.
- **Air cargo litigations**
Evaluated industry dynamics, transaction data, and damages exposure for several Air Cargo defendants, including an evaluation of impact of plea agreements. Marketplace analysis included comparison of pricing patterns in areas covered and excluded from plea agreements.
- **Antitrust litigation in the transportation sector**
Casework included assisting with settlement negotiations and developing affirmative analyses in connection with ongoing class certification proceedings, on behalf of the defendants.
- **Auto parts litigation**
Supported affirmative and rebuttal analyses for an indirect purchaser class action in an auto filters cartel case. Analyzed wholesale and retail transaction data, evaluated pass-through, and calculated firm and product profitability.
- **Light cigarettes marketing litigations**
Worked with plaintiffs in class action lawsuits in California, Massachusetts, and Missouri filed against the makers of “light” cigarettes. Supported marketing expert Joel Steckel to conduct conjoint analyses of consumer preference of light tobacco and nicotine in connection with a damages analysis.
- **MasterCard litigations**
Assisted in economic analysis on behalf of MasterCard in government and consumer litigations, including several class actions in the US and Canada. Supported design and analysis of consumer survey regarding the use of various payment methods. Supported counsel in all phases of trial, including the development of direct testimony, trial demonstratives, and cross-examination questions.

Intellectual Property and Commercial Litigation

- ***TS Media, Inc., et al. v. Public Broadcasting Service***
Superior Court of the District of Columbia
Supported expert witness in the determination of the importance of the PBS brand and the reputational harm that the network would likely suffer as a result of its association with Tavis Smiley’s alleged actions.
- ***Berlex Laboratories, Inc. v. Biogen, Inc.***
US District Court, District of Massachusetts
Supported expert witness in the determination of a reasonable royalty-related damages claim in a patent infringement case in the pharmaceutical industry. Assisted in the design and analysis of a market research survey of multiple sclerosis patients for use in damages model.

- ***MBIA Insurance v. Credit Suisse Securities***
Supported expert witness Antoinette Schoar in a rebuttal report of Joseph Stiglitz, evaluating the relationship between economic and contractual incentives in mortgage-backed securities. Supported expert witness Arnold Barnett in a rebuttal report, evaluating statistical relationship between a sample of loans on prediction of overall loan performance.
- ***Front-Loading Washers***
Multiple jurisdictions
Supported conjoint study and economic analysis in support of multiple damages analyses, in product defect litigations against several manufacturers of front-loading washing machines.
- ***T-Netix, Inc. v. MCI WorldCom Communications, Inc. and Global Tel*Link Corp.***
US District Court, Eastern District of Texas, Marshall Division
Supported expert witness in all aspects of expert report preparation and deposition testimony in the estimation of lost profits and reasonable royalty damages from alleged infringement of patents related to prison phone systems.
- ***Burst.com v. Microsoft Corp.***
US District Court, District of Maryland
Assisted in an analysis of both patent and trade secrets damages and antitrust damages in a case involving software used for streaming media. Responded to plaintiff's claim of lost profits damages and unjust enrichment arising from the misappropriation of trade secrets.
- ***Gary Kosseff v. James Ciocia et al.***
Court of Chancery of the State of Delaware in and for New Castle County
Supported expert witness in the determination of fair market value of assets sold in a private transaction. Assisted expert in assessment and valuation of comparable companies and rebuttal testimony.
- ***Adelson, et al., v. Adelson***
Massachusetts Superior Court, Middlesex County
Assisted in the valuation of a family business involving COMDEX. Assisted expert and counsel in deposition and trial testimony.

Merger Analyses

- **WEX acquisition of EFS**
Supported both parties through the second request and the FTC's inquiry into the potential unilateral and coordinated effects of the merger of two of the country's largest fleet card companies. The transaction was consummated.
- **Zimmer's acquisition of Biomet**
Supported Biomet in its second request compliance and an analysis of product comparability, substitution rates, and customer loyalty using transaction and market data.
- **Archipelago/NYSE Merger**
Supported Professor Robert Pindyck of MIT in his economic analysis on behalf of the parties, related to ease of entry, order internalization, and technological advancements. The transaction was consummated.

- **Cintas Corporation Acquisition of G&K Services**

Supported both parties through the second request phase of the FTC merger review process to evaluate the potential competitive effects of the acquisition. The transaction was consummated with no remedies or divestitures.

- **Scripps Networks/Discovery Communications**

Supported Scripps Networks in its acquisition by Discovery Communications to evaluate potential competitive concerns in negotiations with multichannel video programming distributors (MVPDs) for bundled programming. The transaction was consummated with no remedies or divestitures.

Transfer Pricing Litigation

- ***Glaxo Americas, et al. v. Internal Revenue Service***

US Tax Court

Supported expert in econometric analysis and evaluation of pharmaceutical marketing in the pharmaceutical industry. Case settled.

- ***AstraZeneca, et al. v. Her Majesty's Revenue and Customs***

US Tax Court

Supported consulting expert team on pharmaceutical valuation and licensing issues. Case settled.

SELECTED PRESENTATIONS AND SPEAKING ENGAGEMENTS

“Market Research Methods in Litigation,” Consumer Class Action CLE webinar (May 19, 2020)

“Fighting Unconscious Bias in the Quest for Authentic Leadership,” 2019 MIT Sloan Global Women’s Conference (October 3, 2019)

“Fall 2018 iLead Speaker Series: Analysis Group,” MIT Sloan School of Management and the MIT Leadership Center (September 7, 2018)

“Antitrust in the Amazon World,” American Bar Association webinar (May 31, 2018)

“Practical Issues in Counseling at the Intersection of IP and Antitrust,” New York State Bar Association Antitrust Law Section Meeting (January 25, 2018)

“Legal Challenges to State Laws Prohibiting Surcharges on Credit Card Transactions: Implications for the Industry,” American Bar Association (July 14, 2016)

“The Use of Survey Evidence in Class Litigation,” California Bar Association (May 25, 2016)

“The Next Frontiers: Social Media and Other Cutting Edge Issues in Advertising and Marketing,” Canadian Bar Association Competition Law Fall Conference (October 2, 2015)

“Is False Advertising Anticompetitive,” American Bar Association Antitrust Section Spring Meeting, Washington DC (April 17, 2015)

“Antitrust Enforcement and the Bazaarvoice Case,” New York State Bar Association Antitrust Law Section panel (May 21, 2014)

“Branding & Brands in Law, Accounting & Marketing,” The Kenan Institute, University of North Carolina (April 12, 2012)

“Reverse Payments – Balancing IP and Antitrust Concerns,” Boston Bar Association (May 20, 2009)

Discussion and guided case study analysis on strategic planning and financial analysis with an emphasis on the use of historical financial data in monitoring a public company, DirectWomen Board Institute (February 22, 2008)

“Survey Analysis Report,” First Annual Business Technology Outlook, North Dallas Chamber of Commerce (October 24, 2007)

“Patent Holding Company Panel,” Streaming Media East Show, New York City (May 15, 2007)

“Innovative Application of Economic Methods,” Analysis Group seminar on patent damages (March 2007)

“Data & Discovery – The Economist’s Perspective,” Analysis Group seminar (May 10, 2005)

PUBLICATIONS

“Why Does the Consumer Welfare Standard Work? Matching Methods to Markets,” with James Bernard and D. Daniel Sokol, *Competition Policy International Antitrust Chronicle* (November 2019)

“Hilsley v. Ocean Spray Cranberries, Inc.,” with Rene Befurt, *Top Food and Drug Cases, 2018 & Cases to Watch, 2019*, ed. August T. Horvath (May 2019)

“United States – E-commerce Economics: Market Power and Enforcement in Vertical Markets,” with Nikita Piankov and Emmanuel Frot, chapter in *GCR Insights: E-Commerce Competition Enforcement Guide*, ed. Claire Jeffs (January 2019)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses under Different Legal Frameworks,” with Aaron Yeater, *American Bar Association Section of Intellectual Property Law, Landslide*, Vol. 11 No. 2 (November/December 2018)

“Trademark Confusion And The Confusing Eveready Survey,” with Stephen Cacciola and Maggie Hadley, *Law360* (October 23, 2018)

“The Tyranny of Market Shares: Incorporating Survey-based Evidence into Merger Analysis,” with Rene Befurt and Emily Cotton, *Corporate Disputes* (July–September 2018)

“Singleton v. Fifth Generation, Inc.,” with August T. Horvath, chapter in *Top Food and Drug Cases, 2017, & Cases to Watch, 2018*, ed. August T. Horvath (May 2018)

“Avoiding bias: ensuring validity and admissibility of survey evidence in litigations,” with Laura O’Laughlin, chapter in *Handbook of Marketing Analytics*, eds. Natalie Mizik and Dominique M. Hanssens (April 2018)

“How To Interpret A Contract? Ask Those Who’d Sign It,” with Omri Ben-Shahar, Lior Strahilevitz, Duo Jiang, and Kristina Shampanier, *Law360* (March 21, 2018)

“Estimating Lost Sales Damages in Antitrust Cases: Can’t Count on Success,” with Aaron Yeater, *The Witness Chair*, Issue 71 (Winter 2018)

“The Ability to Achieve Lost Sales as a Consideration in Damages Analyses,” with Aaron Yeater, chapter in *Lost Profits Damages: Principles, Methods, and Applications*, eds. Everett P. Harry, III and Jeffrey H. Kinrich (2017)

“Managing Multiple Expert Witnesses: Best Practices and Pitfalls,” with Laura Comstock, Andrea Okie, and Carletta Wong, *American Bar Association Section of Litigation, The Woman Advocate* (August 17, 2017)

“Survey And Real-World Data: A Winning Combination,” with Peter Simon, Kristina Shampanier, and Riddhima Sharma, *Law360* (July 14, 2017)

“What Consumers Really Think About Reference Price Labels,” with Joel Steckel, Kristina Shampanier, Laura O’Laughlin, and Jesse Shea, *Law360* (March 21, 2017)

“Ensuring Validity and Admissibility of Consumer Surveys,” with Laura O’Laughlin, *American Bar Association Section of Litigation Consumer Litigation Newsletter* (Winter 2017)

“Antitrust Enforcement in Two-Sided Markets,” with Juliette Caminade, Federico Mantovanelli, and David Toniatti, *American Bar Association Section of Antitrust Law Economics Committee Newsletter* (Winter 2016)

“3 Questions to Ask When Using Surveys in Litigation,” with Laura O’Laughlin, *Law360* (May 15, 2015)

Is It Worth Anything? Using Surveys in Intellectual Property Cases, with Joel Steckel and Rene Befurt, white paper (2013)

“Tools for Handling Mortgage-Based FCA Claims,” with David Mishol, *Law360* (September 26, 2012)

“Digital Media Patents for Profit,” with Dan Rayburn and Almudena Arcelus, *Streaming Media Magazine: Industry Sourcebook 2007*

PROFESSIONAL AFFILIATIONS AND AWARDS

Affiliations

ABA (American Bar Association)

- Section of Antitrust Law
- Section of Intellectual Property Law

American Marketing Association (AMA)

Women’s Competition Network (WCN)

Awards

Concurrences

- Antitrust Writing Awards: Business Articles, Economics (2019)
 - For “The Tyranny of Market Shares: Incorporating Survey-Based Evidence into Merger Analysis” *Corporate Disputes Magazine*, July–September 2018

W@Competition

- 40 in Their 40s – Notable Women Competition Professionals (2019)

Who’s Who Legal

- Competition: Future Leaders – Economists (2018–2019)
- Consulting Experts: Future Leaders – Competition Economists (2018–2019)

APPENDIX B
MATERIALS RELIED UPON

Legal Documents and Depositions

Civil Investigative Demand, Matter No. 1923119, Federal Trade Commission, May 19, 2020.

Deposition of Catherine Goode, In the Matter of TurboTax, Inc., October 23, 2020.

Deposition of Gregory Johnson, In the Matter of TurboTax, Inc., September 29, 2020.

Deposition of Jack Rubin, In the Matter of TurboTax, Inc., October 30, 2020.

Academic Literature

Diamond, Shari S., "Reference Guide on Survey Research," in *Reference Manual on Scientific Evidence*, 2011, Third Edition, National Academies Press.

Hauser, J., "A Marketing Science Perspective on Recognition-Based Heuristics (and the Fast-and-Frugal Paradigm)," *Judgment and Decision Making*, Vol. 6, No. 5, 2011, pp. 396-408.

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Olson, D., "Awareness As an Indicator of New Product Performance," *Advances in Consumer Research*, Vol. 2, 1975, pp. 495-506.

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Bates-Stamped Materials

INTUIT_FFA_FTC_C002.01-C002.016, Letter from Reed Freeman to Tejasvi Srimushnam et al., Re: FTC Matter No: 1923119, July 31, 2019.

INTUIT_FFA_FTC_C013.01-C013.053, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No. 1923119, July 31, 2020.

INTUIT-FFA-FTC-000032744.

INTUIT-FFA-FTC-000032766.

INTUIT-FFA-FTC-000169067-9113.

INTUIT-FFA-FTC-000169123.

INTUIT-FFA-FTC-000169124.

INTUIT-FFA-FTC-000259551-9591.

INTUIT-FFA-FTC-000329046-9066.

INTUIT-FFA-FTC-000549993.

Publicly Available Documents

“Dynata Panel Book,” Dynata, available at <http://info.dynata.com/rs/105-ZDT-791/images/Dynata-Panel-Book-2020.pdf>.

“Independent Assessment of the Free File Program,” The MITRE Corporation, October 3, 2019.

“Memorandum Re: Taxpayer Attitudes Concerning Annual Return Preparation,” Computer & Communication’s Industry Association, April 5, 2019, available at <https://www.ccianet.org/wp-content/uploads/2019/04/PublicOpinionTaxPoll.pdf>.

“Products & Pricing,” TurboTax, available at <https://turbotax.intuit.com/personal-taxes/online/>.

“Tax Time Guide: Try Money-Saving IRS Free File,” IRS, available at <https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file>.

“Taxation Statistics 2001-02,” Australian Taxation Office, July 2004, available at <https://data.gov.au/data/dataset/67265383-0ecc-4523-8ffd-02790297a65a/resource/0a765a72-d548-40e4-97bc-339168abb011/download/2001-02-taxstats.pdf>

“Tell us about you -- we’ll recommend the right tax solution,” TurboTax, *Wayback Machine*, available at <https://web.archive.org/web/20190325200422/https://turbotax.intuit.com/personal-taxes/online/>.

“TurboTax Free Edition,” TurboTax, available at <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>.

“TurboTax Free Edition,” TurboTax, *Wayback Machine*, available at <https://web.archive.org/web/20190323234438/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>.

APPENDIX C
DISCLOSURE SURVEY: TECHNICAL APPENDIX

1. In addressing my assignment, I conducted primary research, reviewed relevant production materials provided to me by counsel, and reviewed third-party sources. To determine whether and to what extent the current TurboTax upgrade screens¹ affect consumers' tax preparation choices, I conducted a survey using an experimental design. The design enables me to isolate the effect of different upgrade screens and information contained within, on consumers' selection of tax preparation services. My survey examines (1) whether and to what extent consumers' decisions to upgrade to the Paid versions of TurboTax (e.g., Deluxe, Premier, Self-Employed) were affected by the existing upgrade screens, and (2) whether and to what extent consumers' purchase decisions could have been differentially influenced by potential changes made to these upgrade screens.
2. Using well-accepted principles of survey design and administration, my Disclosure Survey finds that exposure to various upgrade screens have, on average, no material effect on consumers' decision to upgrade within the TurboTax environment, nor on consumers' selection of the IRS Free File Program. I discuss the survey design, administration, and data analysis in turn below.

A. Survey Design

3. In the sections that follow, I provide an overview of my survey design. I present my experimental approach, describe the target population selected and stimuli used, and discuss additional methodological and design features implemented in the survey. In designing, pretesting, fielding, and analyzing the data of my survey, I applied best practices, both generally for marketing research and for research conducted for the purpose of litigation.²

¹ I refer to the screens that prompt respondents to upgrade from Free Edition to a Paid version of TurboTax broadly as "upgrade screens." Civil Investigative Demand, Matter No. 1923119, Federal Trade Commission, May 19, 2020 ("FTC Civil Investigative Demand, May 19, 2020"), Interrogatories 12, 14-16 ("Hard stops"), pp. 6-8, 13. I understand that the FTC defines "hard stops" as "the scenarios in the Free and Paid Commercial Tax Product flows described as 'Specific Upgrades,' 'Generic Upgrades,' and 'Hard Stops' in INTUIT-FFA-FTC-000169123, list of TY16 Required Upsells and INTUIT-FFA-FTC-000169124, list of TY17 Required Upsells.

² I closely adhered to the standards set forth in by Federal Judicial Center, in the "Reference Guide on Survey Research" and in the "Manual for Complex Litigation." Both are critical references for designing and conducting valid and reliable studies used in litigation. See, e.g., Diamond, Shari S., "Reference Guide on Survey Research," in *Reference Manual on Scientific Evidence*, 2011, Third Edition, National Academies Press, pp. 359-423 ("Diamond"); see also, *Manual for Complex Litigation*, Federal Judicial Center, 2004, Fourth Edition ("Manual for Complex Litigation"), p. 103.

i. Experimental Design

4. A test and control experimental design (or A/B test) is the appropriate way to isolate and examine the potential effect, if any, of the current TurboTax upgrade screens and information presentation on consumers' tax software choices. Experimental designs randomly assign respondents to one of two (or more) experimental groups, or "conditions," to determine the effect of a particular characteristic, claim, or other feature. The purpose of an experimental survey design is to account for any possible alternative explanations for survey respondents' answers to questions and reactions to the hypothesized causal characteristic(s). Specifically, materials are presented to respondents that vary on the key dimensions in question, and then respondents perform a task or respond to questions that allows for the measurement of respondents' reactions to the characteristic(s) of interest. The results of respondent tasks or questions are then compared across groups to isolate the effect, if any, of specific changes to the stimuli presented to respondents. If analyzed without a comparison to a control or baseline, reactions to a stimulus could be affected by factors other than the characteristic(s) of interest. Without controlling for these other effects, concluding that respondents' reactions were caused by the characteristic(s) of interest may be incorrect.
5. In this matter, I was asked to study whether and to what extent the information presented to prospective TurboTax customers through the software's upgrade screens affects taxpayer selection of various tax preparation solutions. Of particular interest was understanding how consumers who begin preparing their taxes using TurboTax's Free Edition, respond once they are informed that they will need to upgrade to a Paid product or use a different product to accurately complete their taxes. To study the effect of the upgrade screens on the product selection of prospective TurboTax customers, I simulated the process by which consumers might learn about Free Edition, namely by viewing an advertisement for TurboTax's Free Edition and viewing TurboTax's product information pages on its website. I then asked respondents to assume that they had chosen to begin preparing their taxes using the Free Edition product, before prompting them with an upgrade screen informing them that they

would need to upgrade to file their taxes accurately.³ The information contained in this upgrade screen varied across the three experimental groups in my study, and I measured the differences in respondents' reactions to these upgrade screens via both closed-ended and open-end questions to understand whether and to what extent the information presented affected respondents' selection of various tax preparation solutions.

6. In my survey, respondents were randomly assigned to one of three experience conditions, which vary with respect to what information was presented to respondents upon notification that they would not qualify for the TurboTax Free Edition: a *Current Screen* condition that features a current TurboTax upgrade screen; an *Enhanced Information Screen* condition that features an upgrade screen with supplemental information regarding the IRS Free File Program, including guidance on eligibility requirements for the IRS Free File Program; and a *Reduced Information Screen* condition that provides respondents with very limited information as to how to proceed with filing their taxes. The three groups differed by the tax preparation options and information presented on the upgrade screen stimulus, which I discuss in more detail in **Section A.iii** below.

ii. Target Population and Sample

7. One of the most crucial steps during survey design is identifying the population of interest. As noted by Dr. Shari Diamond in the "Reference Guide on Survey Research," "[o]ne of the first steps in designing a survey [...] is to identify the target population (or universe). The target population consists of all elements (i.e. individuals or other units) whose characteristics or perceptions the survey is intended to represent."⁴
8. Given that my assignment is to determine whether and, if so, the extent to which, consumers' choice of tax preparation method is affected by the presence of TurboTax's current upgrade screens and the information contained within, the appropriate target population for my Disclosure Survey was U.S. taxpayers who had filed their taxes using an online tax preparation

³ I understand that TurboTax seeks to assist customers with identifying and starting in the appropriate level product for their specific tax situation. *See*, for example, INTUIT-FFA-FTC-000329046-9066, a presentation on A/B Test Learnings. However, for the purposes of my study, I have simplified and assume that all prospective TurboTax customers begin preparing their taxes using the Free Edition product.

⁴ Diamond, p. 376.

software product. Consistent with this definition, I recruited respondents to participate in my Disclosure Survey who were U.S. consumers over 18 years old who either (i) had filed taxes in 2019 (for 2018 income) or (ii) filed taxes in 2020 (for 2019 income); who used an online tax software to file their household taxes in 2019 or 2020; and who were the party primarily responsible for or substantially involved in preparing their household taxes. Furthermore, my survey screened out respondents with specialized knowledge or expertise, specifically those who work, or whose family members work, for an accounting, tax, or a tax preparation service provider company, a state or the federal government, or a marketing, market research, or advertising agency.

9. I relied on a well-respected survey panel company, Dynata, to ensure the inbound sample to the survey was balanced on the U.S. census for age (18 years old and over), gender, and geographical region. I obtained a nationwide respondent group of consumers who had filed their 2018 or 2019 taxes using online tax software.

iii. Survey Stimuli

10. As noted above, I sought to study how respondents who begin preparing their taxes using TurboTax's Free Edition product respond to the information contained in an upgrade screen based on the current website, relative to either further reduced or enhanced hypothetical upgrade screens. I first simulated the process by which consumers might learn about Free Edition and what it includes relative to TurboTax's other Paid products. As first step, respondents were required to view the image of an advertisement for TurboTax's Free Edition product. This advertisement reflects an online banner ad that prospective TurboTax customers would have viewed online as part of TurboTax's 2019 tax season campaign and features the "FREE guaranteed" language that I understand is part of the FTC's investigation.⁵ Next, respondents viewed a TurboTax product information screen that included details about different TurboTax products and would allow respondents to compare the various TurboTax

⁵ INTUIT-FFA-FTC-000259551-9591, presentation on TurboTax advertisements; see also, INTUIT-FFA-FTC-000169067-9113, list of TurboTax advertisements.

product offerings.⁶ This information screen and similar information screens were also available to prospective TurboTax customers interested in learning more about TurboTax and its various product offerings in 2019 and 2020.⁷ On the next screen, respondents were asked to assume they chose “to learn more about TurboTax’s ‘Free Edition’ product to prepare and file your federal and, if needed, state tax returns. You click on the ‘Learn more’ button for the Free Edition product and are directed to the following webpage.” Respondents were presented on this screen with an image of the “TurboTax Free Edition” product page that was available to prospective TurboTax customers on the TurboTax website in 2019, and which included further details specific to the TurboTax Free Edition product.⁸ A similar screen was also available to prospective TurboTax customers in 2020.⁹

11. Next, I introduced respondents to the tax filing process. For this exercise, I asked respondents to assume that they had chosen to begin preparing their taxes using the Free Edition product.¹⁰ To encourage respondents to bring their own experience and preferences to the exercise, I instructed them to “examine the contents in the image as if you were on TurboTax’s website deciding about your tax filing options.”¹¹ Respondents were subsequently prompted with an upgrade screen informing them that they would “need to upgrade” or “need to file [their] taxes using a different TurboTax product [...] or use another filing option” in order to file their taxes

⁶ I used the Wayback Machine to generate the website interface that respondents would have viewed on March 25, 2019. “Tell us about you — we’ll recommend the right tax solution,” TurboTax, *Wayback Machine*, available at <https://web.archive.org/web/20190325200422/https://turbotax.intuit.com/personal-taxes/online/>.

⁷ “Tell us about you — we’ll recommend the right tax solution,” TurboTax, available at, <https://turbotax.intuit.com/personal-taxes/online/>

⁸ I used the Wayback Machine to generate the Free Edition product page that respondents would have viewed on March 23, 2019. “TurboTax Free Edition,” TurboTax, *Wayback Machine*, available at <https://web.archive.org/web/20190323234438/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>.

⁹ “TurboTax Free Edition,” TurboTax, available at <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>

¹⁰ For the purposes of my study, I did not screen respondents based on their specific tax situation or eligibility for TurboTax Free Edition. This simplified simulation was a conservative exercise in that I asked all respondents to assume that they had chosen to begin preparing their taxes using the Free Edition product, despite my understanding that TurboTax makes efforts to direct customers to the appropriate product level before they begin the filing process. Deposition of Gregory Johnson, In the Matter of TurboTax, Inc., September 29, 2020, pp. 66-67 (“We try and ensure consumers get into the product for which they intend.”). See also, for example, INTUIT-FFA-FTC-000329046-9066, a presentation on A/B Test Learnings.

¹¹ Appendix D.2, p.28.

accurately. As discussed above, the three experimental groups were exposed to different upgrade screens that differed in terms of the information provided to respondents regarding their tax filing options. Specifically:

- The *Reduced Information Screen Group* was instructed: “[b]ased on what you told us about your tax situation, you’ll need to file your taxes using a different TurboTax product on TurboTax.Intuit.com, or use another filing option to accurately file your taxes.” Respondents viewed a stimulus that contained no information on their alternative solutions.¹²
- The *Current Screen Group* was instructed: “[b]ased on what you told us about your tax situation, you’ll need to upgrade to accurately file your taxes.” Respondents viewed a table that compared product information for three TurboTax products: Free Edition, TurboTax Deluxe, and TurboTax Self-Employed.^{13,14}
- The *Enhanced Information Screen Group* was instructed: “[b]ased on what you told us about your tax situation, you’ll need to upgrade to accurately file your taxes. Alternatively, you may be eligible to file for free through the IRS Free File Program.” Respondents

¹² I included this group as part of my experimental design to serve as a control for measuring respondents’ behavior in the absence of the guidance provided in the current TurboTax upgrade screens. As described in more detail below, I use this group to test whether the current TurboTax upgrade screens induce customers to pay for TurboTax services versus a version of the screen with limited amounts of information.

¹³ The Current Screen stimulus is based on a 2019 upgrade screen that was shown to TurboTax Free Edition customers who reported 1099-MISC income, but was modified to represent a generic upgrade message. The “FUS_Business_Income” upgrade screen was the most frequently shown “Hardstop” (3M customers) in TY2017 and the second most frequently shown (3.3M customers) in TY2018. (See, INTUIT_FFA_FTC_C013.01-C013.053 at C013.033, Letter from David Gringer to Ian Barlow et al., re: FTC Matter No. 1923119, July 31, 2020.) The generic upgrade language I used to modify the screen closely adhered to that of other TurboTax upgrade screens (e.g., TurboTax Deluxe generic upgrade screen), which inform the user that, “based on what you told us about your tax situation” “you’ll need to upgrade” “to accurately complete your taxes.” See, for example, INTUIT-FFA-FTC-000032744 and INTUIT-FFA-FTC-000032766, screenshots of TurboTax upgrade screens.

¹⁴ To ensure respondents could understand the upgrade screen within the context of their own tax situation, I utilized a generic upgrade screen that did not provide a specific reason why the respondent needed to upgrade (e.g., mortgage interest deductions, or investment income). This simplification helps respondents remain in the frame of mind of their own particular tax situation, although it may be confusing for some respondents who do not understand why they would not qualify for Free Edition (which TurboTax attempts to avoid). See for example respondents who indicated in their responses to Q6: “I would wonder why I needed to upgrade and would investigate accordingly,” or “I’d probably use the chat feature to ask why I had to stop using that method. Perhaps I don’t need to claim and deductions other than the standard deduction and stay with the simple and free return version.” See also, Deposition of Catherine Goode, In the Matter of TurboTax, Inc., October 23, 2020, pp. 194-195: (“Obviously, we feel like the clearer we are, the more likely it is that a customer will upgrade, because we want to make sure they understand why it is they are seeing this required upgrade. And what we learned before in the past is the clearer we are, the more likely it is that a customer will understand and accept it, because we do not want to lose customers at this point.”).

viewed a table that compared product information for four products: TurboTax Free Edition, TurboTax Deluxe, TurboTax Self-Employed, and IRS Free File Program. The upgrade screen also contained information regarding eligibility for the IRS Free File Program.

12. Respondents were required to spend at least ten seconds viewing each of the stimuli images. The Free Edition advertisement (Q2), TurboTax and Free Edition product pages (Q3 and Q4), and upgrade screen (Q5) images could be enlarged. While answering the key product consideration and selection questions (Q6-Q9), respondents were able to click on a thumbnails of the upgrade screen image, which allowed them to see a large-scale version of the image. For detailed programming instructions and stimuli images, see **Appendix D.1**.

iv. Additional Survey Design Considerations

13. It is widely acknowledged in the survey field that clarity of the survey questions is critical for the reliability of the resulting data. As the “Reference Guide on Survey Research” emphasizes: “[w]hen unclear questions are included in a survey, they may threaten the validity of the survey by systematically distorting responses if respondents are misled in a particular direction, or by inflating random error if respondents guess because they do not understand the question.”¹⁵ Throughout my survey, I minimize the possibility of noise and bias affecting the survey results by presenting clear questions and answer choices and rotating answer options.
14. For example, all closed-ended questions in the survey are presented as a clear and concise set of choices, in which response options were rotated across respondents.¹⁶ For example, the answer choices for Q7 were rotated with the TurboTax options kept together randomized in order and in reverse. I also avoided forced guessing by offering a “Don’t know / Unsure” or

¹⁵ Diamond, p. 388.

¹⁶ According to the “Reference Guide on Survey Research,” “[t]he order in which questions are asked on a survey and the order in which response alternatives are provided in a closed-ended question can influence the answers.” Diamond, p. 395. In order to avoid such potential order effects, the “Reference Guide on Survey Research” recommends that “the order of the questions and the order of the response choices in a survey should be rotated.” Diamond, p. 396.

“Don’t recall / Unsure” option as relevant throughout the survey.¹⁷ The “Don’t know / Unsure” and “Don’t recall / Unsure” answer choices were anchored to always appear last.

15. I took additional steps to minimize demand artifacts. Demand artifacts occur when experimental conditions suggest to respondents that they should provide a particular response that is “demanded” by the survey.¹⁸ To avoid demand artifacts, I conducted a pretest of the study and implemented a “blind-to-the-purpose” methodology.

16. Pretests: According to the American Association for Public Opinion Research, Best Practices (2011), “[b]ecause it is rarely possible to foresee all the potential misunderstandings or biasing effects of different questions or procedures, it is vital for a well-designed survey operation to include provision for a pretest.”¹⁹ A pretest is conducted to confirm that all questions in a survey are clearly understood by respondents, the survey is navigable, and respondents cannot guess the purpose of the survey.²⁰ Before the Disclosure Survey was fielded, I conducted fifteen pretests (five for each condition) under my direction, with respondents selected from the chosen target population (i.e., U.S. taxpayers who had filed their taxes in 2019 or 2020 using an online tax preparation software product and who were primarily responsible or substantially involved in filing their own/household taxes). After the respondents completed the online survey, the pretest moderator asked a series of follow-up questions aimed to determine whether the questions and answer options were understood by all respondents and whether respondents could guess the purpose of the survey. The questions used in my pretest were in accordance with best research practices to explore respondent understanding of the

¹⁷ “[T]he survey can use a quasi-filter question to reduce guessing by providing ‘don’t know’ or ‘no opinion’ options as part of the questionBy signaling to the respondent that it is appropriate not to have an opinion, the question reduces the demand for an answer and, as a result, the inclination to hazard a guess just to comply.” Diamond, p. 390.

¹⁸ For a discussion of demand artifacts, see Sawyer, Alan G., “Demand Artifacts in Laboratory Experiments in Consumer Research,” *Journal of Consumer Research*, Vol. 1, No. 4, March 1975, pp. 20-30.

¹⁹ Diamond, p. 389, footnote 131.

²⁰ The “Reference Guide on Survey Research” recommends pretests be conducted on a sample of people who would be eligible to take the actual survey. Furthermore, the “Reference Guide on Survey Research” recommends that “interviewers observe the respondents for any difficulties they may have with the questions and probe for the source of any such difficulties so that the questions can be rephrased if confusion or other difficulties arise.” Diamond, pp. 388-389.

measure of interest (see **Appendix E**). Based on pretest results, I made two minor changes to the wording of questions in the survey and then pretested again with three additional respondents.²¹ The pretest did not indicate the need for any further changes prior to conducting the survey.²² No respondents were able to guess the purpose of the survey based on the survey questionnaire.

17. Blind-to-purpose methodology: Respondents and pretest moderators were not provided with information on the sponsor or purpose of the survey during, or after the completion of their participation, and my pretest assured the effectiveness of this double-blind approach.²³ Without survey purpose and/or sponsorship information, respondents and moderators were not able to adapt their behavior or responses to what they perceived the sponsors of the survey wanted. The survey was conducted online by a computer program in order to avoid the potential for interview bias, i.e., where an in-person interviewer provides cues to the respondents as to preferred answers. In addition, an online survey approximates taxpayers' real journey as they navigate through online tax software to file their taxes. As noted, my pretests confirmed that respondents could not guess the purpose or sponsor of the survey.
18. Further, respondents who qualified to participate in the Disclosure Survey were introduced to the main questionnaire as a generic study of online tax software providers, "Thank you! In this survey, we would like to learn about your experience with online tax software providers. In the following questions, we will ask you about one online tax software provider and will try to learn from your experiences or expectations" (Q1). Respondents were then told that they had "been selected to answer questions about preparing and filing tax returns with TurboTax" (Q2). The purpose of this statement was to encourage respondents to believe that TurboTax was

²¹ I clarified in S7 that taxes filed in 2019 would be for 2018 income by asking "Did you file taxes in 2019 (for 2018 income)?" Similarly, in S8, I clarified that taxes filed in 2020 would be for 2019 income by asking "Did you file taxes in 2020 (for 2019 income)?" I also modified the follow up question F2 to reflect media reports as well as any investigations or lawsuits by asking "Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax filing software provider or accounting company?"

²² Respondents reported that they were able to clearly view the stimulus, understood the questions and answer options, and did not feel that the survey wanted them to respond in a particular way.

²³ Diamond, pp. 410-411.

simply one of the online tax software providers being studied as another safeguard against demand artifacts.

B. Survey Administration

19. The Disclosure Survey was administered online, using Dynata’s online panel.²⁴ The survey administration consisted of a screener, a main questionnaire, and end-of-survey follow-up questions. The Disclosure Survey was in the field from July 29, 2020 to August 3, 2020.

i. Screener

20. Invitation and device check: Potential respondents were invited to participate through two standard channels used by Dynata to recruit survey respondents: (1) their Dynata accounts,²⁵ and (2) external websites (affiliate partners with databases of users).²⁶ Panel members were provided customary Dynata incentives for completing a survey.²⁷ This multi-pronged approach to recruiting is used by panel companies to optimize response rates. Additionally, if respondents were not taking the survey on a desktop, laptop, or tablet, they were asked to close the window and re-open the link on one of those devices to participate in the survey to ensure that respondents could view the stimuli properly. Finally, I asked Dynata to ensure the inbound sample was representative of the adult population in the U.S. based on census information linked to age, gender, and regional distribution (see **Appendix D.1**).

²⁴ Dynata’s online panel provides access to over 60 million qualified market research participants in over 90 countries including the U.S. Dynata ensures that their panelists are properly incentivized, draws samples from a variety of sources, and monitors data quality through various checks to ensure high quality data to Dynata’s clients. See “Panel Book,” Dynata, available at <http://info.dynata.com/rs/105-ZDT-791/images/Dynata-Panel-Book-2020.pdf> (“Dynata Panel Book”).

²⁵ Members of Dynata’s panel (individuals who previously agreed to participate in surveys) receive an invitation with a link to “START SURVEY” (see **Appendix F**). If respondents click the link, they are directed to a survey for which they qualify. Respondents also have access to a dashboard where they can see the different surveys for which they qualify. Respondents are shown the survey length and the incentive for completing the survey and then decides whether to proceed with the survey.

²⁶ Dynata also recruited respondents through partner websites, using Dynata survey links or banners (see **Appendix F** for an example). If users of such a partner website click on the survey link or banner, they are directed to a verification page specific to each partner website before beginning a survey. Also see, Dynata Panel Book.

²⁷ Per Dynata’s standard practice, panelists received a certain number of points towards their account upon completing the survey. See, Dynata Panel Book.

21. Representative sample (S2-S6): The survey started with a screening section to arrive to a sample representative of the target population. Respondents were asked to provide their age (S2), indicate their gender (S3), and select the state in which they currently reside (S4). Respondents were only able to continue to the next questions if their responses aligned with the defined target population and the information on record with the panel provider. Next, respondents were terminated if they or a family member were employed by an accounting, tax, or a tax preparation service provider company, state or the federal government, or a marketing, market research, or advertising agency (S5). Respondents were also terminated if in the past thirty days they had engaged with another survey on accounting or tax services topics (S6).
22. Recent filing of taxes (S7-S8): Respondents were then screened whether they had filed taxes in 2019 (for 2018 income) (S7) and allowed to proceed if they selected “Yes” and therefore indicated they had filed taxes in 2019. Respondents who did not select “Yes” in S7 were then screened for whether they had filed taxes in 2020 (for 2019 income) (S8) and once again allowed to proceed if they selected “Yes.” Respondents who did not indicate that they had either filed taxes in 2019 (for 2018 income) or in 2020 (for 2019 income) were terminated.²⁸
23. Tax preparation method (S9): Respondents who indicated that they had either filed taxes in 2019 (for 2018 income) or in 2020 (for 2019 income) were then screened for tax preparation method. Respondents were asked about the tax preparation method used for preparing their 2019 or 2020 taxes and allowed to proceed if they indicated they had used an online tax software to file their household taxes. Respondents who responded they worked with a “third party provider,” or “self-prepared,” or used “other” methods, or selected “Don’t recall / Unsure” were terminated.
24. Tax preparation role (S10): Respondents who indicated that they had either filed taxes in 2019 (for 2018 income) or in 2020 (for 2019 income) and used an online tax software to file their household taxes, were then screened for their role in preparing and filing taxes. In particular, respondents were asked about their role in filing their 2019 or 2020 taxes and allowed to proceed if they indicated they were “the party primarily responsible for preparing [their]

²⁸ In my sample of qualifying respondents, 97.3 percent of respondents indicated they had filed taxes in 2019 (for 2018 income), and 2.7 percent of respondents indicated that they had filed taxes *only* in 2020 (for 2019 income).

household taxes,” or “substantially involved in preparing [their] household taxes.” Respondents who indicated they had “little involvement in preparing [their] household taxes” or selected “Don’t recall / Unsure” were terminated.

25. Tax preparation product (S11): Respondents who indicated that they had either filed taxes in 2019 (for 2018 income) or in 2020 (for 2019 income), and used an online tax software to file their household taxes, and who were primarily responsible or substantially involved in filing their own/household taxes were then asked to specify the online tax software providers they had used in the past five years. The options included “TurboTax,” “TaxAct,” “TaxSlayer,” “H&R Block,” “FreeTaxUSA,” “Other,” and “Don’t recall/Unsure.” Respondents were allowed to select all options that applied, and no respondents were terminated based on their response to S11.
26. Attention check (S12): The final question in the screener section acted as an attention check to make sure respondents were reading questions and answers carefully. Respondents were asked to select a specific answer (“Fourth”) from a list of words presented to them (S12). The order of these answers was randomized for each respondent. Respondents who did not provide the appropriate answer were terminated. A summary of respondents excluded from the survey is shown in **Exhibit 1**.

ii. Main Questionnaire

27. Introduction to main survey (Q1-Q4): To minimize demand artifacts, respondents who qualified for the Disclosure Survey were instructed that “[i]n this survey, we would like to learn about your experience with online tax software providers. In the following questions, we will ask you about one online tax software provider and will try to learn from your experiences or expectations” (Q1). Respondents were then told that they had “been selected to answer questions about preparing and filing tax returns with TurboTax” (Q2). The purpose of this statement was to encourage respondents to believe that TurboTax was simply one of the online tax software providers being studied, as another safeguard against demand artifacts. On the same screen, respondents were presented with an image of TurboTax advertisement and instructed:

Please imagine that you are preparing to file your income taxes for last year’s income and view the following advertisement for TurboTax’s online tax software.

On the next screen (Q3), respondents were shown an image of a TurboTax product information screen from the TurboTax website and were told:

Please imagine that you visit TurboTax's website and are presented with the following product information screen.

Next, respondents were presented with an image of the TurboTax Free Edition product page (Q4) and were told:

Please assume you choose to learn more about TurboTax's "Free Edition" product to prepare and file your federal and, if needed, state tax returns. You click on the "Learn more" button for the Free Edition product and are directed to the following webpage.

28. Random assignment to experimental groups and stimuli: After having viewed the three stimuli images (Q1-Q4) to simulate learning about TurboTax's product offerings and in particular, Free Edition, respondents were randomly assigned to one of the three experimental groups. As a simplification of the typical product selection process, respondents were asked to imagine that they "choose to use TurboTax's 'Free Edition' product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with a screen with some information," (Q5).

29. Product consideration and selection (Q6-Q9): After viewing the appropriate upgrade screen for their experimental group, respondents were asked a series of open- and closed-end questions to understand their reactions to the information contained in the upgrade screen. More specifically, respondents were asked:

[a]gain, imagine that you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with some information in the screen above. In your own words, what would you do next upon seeing this screen?

Respondents were provided appropriate space to type in their open-ended responses for this question (Q6). Respondents were then asked "[y]ou may have already indicated this, but which of the following options would you *consider* using to file your taxes upon seeing this prompt?" and provided multiple answer choices and the "Don't know/ Unsure" option (Q7). In the set

of answer choices, I included TurboTax products (i.e., Free Edition²⁹ and all three Paid products), the IRS Free File Program, other online tax software offerings, and offline alternatives. I allowed respondents to indicate that they would consider more than one tax preparation product. If respondents chose any option other than “Don’t know/Unsure” in Q7, they were asked a follow-up question: “[o]f the option(s) you mentioned you would consider in the previous question, which of the following options would you *most likely select* upon seeing this prompt?” (Q8). Respondents were presented with the set of products they had indicated in Q7 they would consider using to file their taxes, as well as a “Don’t know / Unsure” option. Finally, respondents were asked about the “reasoning behind [their] decision” (Q9) and provided appropriate space to type in their open-ended responses.

iii. End-of-Survey Follow-Up Questions

30. Online tax software payment (F1): After the stimuli-related questions, all respondents were asked if they had paid for online tax software in the year they had confirmed tax software use (2019 if they had answered “YES” to S7, and “2020” if they had answered “YES” to S8). Respondents were provided the possible answer options: “Yes, I paid for online tax software to file my taxes,” “No, I did not pay for online tax software to file my taxes,” and “Don’t recall / Unsure.”
31. Lawsuit awareness (F2): Finally, at the end of the survey, all respondents were asked: “Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax filing software provider or accounting company? (Select only one option)” and provided with three possible answer options: “I am aware of at least one media report, investigation, or lawsuit,” “I am not aware of any media reports, investigations, or lawsuits,” and “Don’t know / Unsure.”

²⁹ Because my Disclosure Survey was designed as a simplified exercise, I did not screen on respondents’ particular tax situation, and as a result, it is likely that some portion of respondents are in fact eligible to use Free Edition. For this reason, I included Free Edition as a possible answer choice to Q7 and Q8. In my Disclosure Survey, respondents’ consideration and selection of Free Edition under the Current Screen Group (35 percent and 26 percent, respectively) is generally less than the share of TurboTax customers that start in Free Edition and are able to file using Free Edition in the actual world. As acknowledged by Mr. Jack Rubin, approximately 70 percent of customers who start in Free Edition, end up finishing in Free Edition. See, INTUIT FFA FTC C013.01-C013.053 at C013.040-041, Letter from David Gringer to Ian Barlow et al., re: FTC Matter No. 1923119, July 31, 2020. Deposition of Jack Rubin, In the Matter of TurboTax, Inc., October 30, 2020, p. 209. Also see **Exhibits 2.A** and **3.A**.

32. The full questionnaire, including the images of the stimuli included in the survey, is presented in **Appendix D.1**, and screenshots of the survey as experienced by respondents are presented in **Appendix D.2**.

C. Data Analysis

33. By comparing the set of tax preparation products that respondents' indicated they would most likely select across the Current Screen, Enhanced Information Screen, and Reduced Information Screen Groups, it is possible to isolate the effect, if any, that the current upgrade screens and any proposed modifications to the upgrade screens had on respondents. My analyses as presented in the sub-sections below demonstrate that the current TurboTax upgrade screens do not have a statistically significant effect on consumers' selection of a Paid TurboTax product or the IRS Free File Program. Specifically, when I compare the rate at which taxpayers select a TurboTax Paid product or at which they select the IRS Free File Program, there is no statistically significant difference across the study groups that I tested. I also conducted sensitivity analyses amongst sub-populations of respondents based on whether they paid to file their taxes in a prior year; their reported awareness of media reports, investigations, or lawsuits (i.e., litigation awareness); and their pace of responding (i.e., excluded respondents who completed the survey significantly slower or faster than the majority of respondents). The results of these sensitivity analyses further affirm my conclusions. More details on my analysis are described in the sections below.

i. Response Statistics

34. A total of 751 respondents completed the Disclosure Survey, with 250 respondents randomly assigned to each of the three experimental groups.³⁰ A complete description of the survey respondents is provided in **Exhibit 1**.

ii. Analysis of Responses

35. To understand the effect, if any, of the current upgrade screens relative to the provision of either more or less information in a modified upgrade screen on respondents' stated product

³⁰ The Enhanced Information Screen Group included 251 respondents that completed the study. The Reduced Information Screen Group and Current Screen Group each had 250 completes.

selections, I analyzed both closed-ended (Q7 and Q8) and open-ended (Q6 and Q9) responses from respondents by experimental group. I have organized my analysis below topically.

36. The Current Upgrade Screens Do Not Induce Upgrades to Paid Products: I understand that the FTC has expressed concerns that Intuit's current upgrade screens mislead consumers in a manner that induces customers to upgrade to Paid versions of TurboTax.³¹ My data do not support this concern and suggest that it is unwarranted. First, the results of my survey indicate that the upgrade screen that has been used by Intuit does not induce upgrading to Paid versions of TurboTax. Second, and as I discuss further below, the results of my Disclosure Survey indicate that consumers understand the circumstances of their tax-filing needs and/or educate themselves about the right tax solutions and that many are already aware of the array of competitive options for preparing taxes.
37. I evaluated the question of whether the current TurboTax upgrade screens could have induced customers to pay for TurboTax services by comparing respondents' selection of a Paid version of TurboTax (i.e., Deluxe, Premier, or Self-Employed products) as a result of being shown the Current Screen rather than the limited amount of information in the Reduced Information Screen.³² In this comparison, the Reduced Information Screen Group acts as a control. It measures whether customers are more likely to select an upgrade to a Paid version of TurboTax when provided with the information found in the actual world relative to when provided with less information. I find that there is no statistically significant difference between respondents' selection of Paid TurboTax products between the Current Screen or Reduced Information Screen conditions.³³ Specifically, 40 percent of respondents in the Reduced Information Screen

³¹ INTUIT_FFA_FTC_C013.01-C013.053 at C013.028, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No: 1923119, July 31, 2020.

³² Each respondent is asked to first identify the services they will *consider* and then from those which tax filing solution they are most likely to *select*. Given that some respondents indicated uncertainty in their consideration set, to understand the distribution of actual tax filing solution selection, I included the 34 respondents who indicated at Q7 that they were not sure which product(s) they would consider and therefore were not asked Q8 in my tabulations in my presentation of my primary analysis in **Exhibits 2.A** and **2.B**. For completeness, I have also tabulated Q7 (respondents' consideration) and Q8 (respondents' selection) separately in **Exhibits 3.A-B** and **4.A-B**, respectively.

³³ My primary results are based on respondents' selection choices. However, for completeness I also evaluated respondents' *consideration* of Paid versions of TurboTax across study groups and I similarly find that the difference between the Current Screen Group and Reduced Information Screen Group is not statistically

Group indicated that they would be most likely to select a Paid product when presented with the Reduced Information Screen stimuli. By comparison, 44 percent of respondents in the Current Screen Group indicated that they would most likely to select a Paid product. This difference is small and not statistically significant between the two experimental groups (see **Exhibit 2.A**).

38. An Enhanced Upgrade Screen Would Not Result in Additional Usage of IRS Free File Program:

I also understand that the FTC has expressed concerns that Intuit's current upgrade screens have the potential to mislead consumers in a manner that reduces prospective taxpayer usage of the IRS Free File Program, including amongst those customers who may be eligible for the Program, and also that the FTC is evaluating whether increased disclosure of the IRS Free File Program as part of Intuit's presentation of upgrade options in its interview process to customers who would otherwise pay to file their taxes on TurboTax would result in increased use of the Program. Again, the results of my survey indicate that consumers educate themselves about the right tax solutions and that many are aware of the array of competitive options for tax filing. Further, I confirmed that regardless of whether respondents are specifically educated about the IRS Free File Program during the TurboTax upgrade process, their selection of the IRS Free File Program is largely unaffected.

39. I evaluated the question of potential impact of the upgrade screen on IRS Free File Program usage by comparing respondents' selection of the IRS Free File Program as a result of being shown an Enhanced Information Screen with supplemental information regarding the IRS Free File Program, relative to the Current Screen. I used the Enhanced Information Screen to measure how customers are likely to respond if provided with supplemental information regarding the IRS Free File Program offerings, relative to the Current Screen, which did not

significant. I find that 46 percent of respondents in the Reduced Information Screen Group indicated that they would consider a Paid product when presented with the Reduced Information Screen stimuli. By comparison, 53 percent of respondents in the Current Screen Group indicated that they would consider a Paid product. This difference is small and not statistically significant between the two experimental groups. See **Exhibit 3.A**.

If I consider the rate of selection conditional on considering an upgrade to a Paid product, 87 percent (100 out of 115) of respondents in the Reduced Information Screen Group who indicated that they would consider a Paid product ultimately indicated they would most likely select a Paid product. For the Current Screen Group, this rate of selecting a Paid product was 83 percent (109 out of 132 respondents). See **Exhibits 3.A and 4.A**.

include any supplemental information regarding the IRS Free File Program. I find that the difference between the two groups is not material and lacks statistical significance. Ten percent of respondents in the Enhanced Information Screen Group indicated that they would be most likely to select the IRS Free File Program. Similarly, 7 percent of respondents in the Current Screen Group indicated that they would be most likely to select the IRS Free File Program.³⁴ This difference is small and not statistically significant between the two experimental groups, suggesting that the supplemental information does not materially increase selection of the IRS Free File Program (see **Exhibit 2.A**).³⁵

40. I understand that the FTC is likely most concerned as to whether taxpayers who have previously paid to prepare their taxes using online tax software might have been misled or deceived into doing so by Intuit's current upgrade screens. To test this hypothesis, I also analyzed as a sensitivity the subset of respondents who, in response to F1, indicated having "pa[id] for online tax software to file [their] taxes" in 2019 or 2020. Notably, I again found no statistically significant difference in the selection of the IRS Free File Program across the

³⁴ I also compared the overall distribution of respondents' selections between the Current Screen Group and the Enhanced Information Screen Group using a classic chi-squared test and found no statistically significant differences.

³⁵ Again, for completeness I also evaluated respondents' *consideration* of the IRS Free File versions of TurboTax and find a small but statistically significant difference between the Current Screen Group and the Enhanced Information Screen Group. I find that 22 percent of respondents in the Enhanced Information Screen Group indicated that they would consider the IRS Free File Program when presented with the Enhanced Information Screen stimuli. By comparison, 13 percent of respondents in the Current Screen Group indicated that they would consider the IRS Free File Program. See **Exhibit 3.A**. This is consistent with my expectation that in an aided recall setting, when respondents are provided with cues to facilitate their memory of particular responses (i.e., the IRS Free File Program) that are of relevance to the purpose of the study, a slightly higher proportions of people are expected to choose that option. See, e.g., Hauser, J., "A Marketing Science Perspective on Recognition-Based Heuristics (and the Fast-and-Frugal Paradigm)," *Judgment and Decision Making*, Vol. 6, No. 5, 2011, pp. 396-408; Olson, D., "Awareness As an Indicator of New Product Performance," *Advances in Consumer Research*, Vol. 2, 1975, pp. 495-506.

If I consider the rate of selection conditional on considering the IRS Free File Program, 45 percent (25 out of 55) of respondents in the Enhanced Information Screen Group who indicated that they would consider the IRS Free File Program ultimately indicated they would most likely select the IRS Free File Program. For the Current Screen Group, this rate of selecting the IRS Free File Program was 55 percent (18 out of 33 respondents). See **Exhibits 3.A** and **4.A**.

Enhanced Information Screen and the Current Screen Groups for this subset of my sample (see **Exhibit 7.A**).³⁶

41. Moreover, even among respondents who were provided with supplemental information regarding the IRS Free File Program in the Enhanced Information Screen Group, overall interest and adoption of the IRS Free File Program remains low. As presented, in my full sample of respondents, only 10 percent of respondents in Enhanced Information Screen Group indicated that they would be most likely to select the IRS Free File Program (see **Exhibit 2.A**). Given estimates that more than 70 percent of U.S. taxpayers are eligible to use the IRS Free File Program and my in-bound qualification procedures reflect the overall U.S. census, a selection rate of 10 percent is notably low.³⁷
42. This low rate of adoption in my study is consistent with other publicly-available survey data suggesting that consumers are uninterested in using government-sponsored tax preparation products, and those consumers who are aware of the IRS Free File Program do not find it an appealing option, even without necessarily knowing that the Program lacks a substantial number of features and services available for free on TurboTax's commercial website.³⁸ Indeed, respondents in the Enhanced Information Screen Group indicated that they would be more likely to select: TurboTax Deluxe (33 percent), TurboTax Free Edition (24 percent), TurboTax Premier (11 percent), and Other Online Filing Options (10 percent) than IRS Free

³⁶ Specifically, 5 percent of respondents presented with the Enhanced Information Screen indicated that they would be most likely to select the IRS Free File Program. Three percent of respondents in the Current Screen Group indicated that they would be most likely to select the IRS Free File Program (see **Exhibit 7.A**).

³⁷ See, "Tax Time Guide: Try Money-Saving IRS Free File," IRS, March 1, 2018, available at <https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file> ("More than 70 percent of all taxpayers – over 107 million people – are eligible for the software products."). The inbound sample of respondents to my study was representative of the adult population in the U.S. based on census information linked to age, gender, and regional distribution.

³⁸ See, "Memorandum Re: Taxpayer Attitudes Concerning Annual Return Preparation," Computer & Communication's Industry Association, April 5, 2019, available at <https://www.ccianet.org/wp-content/uploads/2019/04/PublicOpinionTaxPoll.pdf>; INTUIT-FFA-FTC-000549993 at 9993, a recent tax survey by Guggenheim Securities; "Independent Assessment of the Free File Program," The MITRE Corporation, October 3, 2019, ("MITRE Report"), p. xi.

One respondent in my survey echoed this sentiment, stating that they would select an upgrade because "I believe it best suits my needs. I would rather pay to have my taxes done easily rather than try a different product or use the IRS program which may cause errors."

File Program (10 percent), even after providing respondents with this supplemental information (see **Exhibit 2.B**). Moreover, I understand that approximately ten times more taxpayers use TurboTax's Free Edition to file their taxes completely for free each year than use the software it donates to the IRS Free File Program.³⁹ These data and my findings are also consistent with research conducted in other countries. For example, statistics published by the Australian Taxation Office reveal that the majority of taxpayers choose to pay to have their taxes prepared for a fee rather than prepare them for free with the Australian Taxation Office's TaxPack booklet.⁴⁰

43. Many Respondents Demonstrate a Willingness to Consider Alternatives and To Identify and Use the "Right" Product for Their Specific Situation: I understand that the FTC is investigating whether Intuit's upgrade screens resulted in customers being "tricked" or "misled" into paying for unintended upgrades. Far from this being the case, my analyses of both the closed-ended and open-ended questions in the Disclosure Survey demonstrate respondents' awareness of and willingness to consider other alternatives and to identify and use the "right" product for their specific situation, whether that was TurboTax or an alternative provider. The data also indicated that consumers also understand the circumstances of their tax-filing needs and/or educate themselves about the right tax solution for their needs.
44. As an initial point, meaningful shares of respondents indicated in Q8 that, after viewing the upgrade screen, they would most likely select alternative tax preparation solutions, including another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing (see **Exhibit 2.B**).⁴¹ Moreover, I find no statistically significant

³⁹ Approximately 12.6 million customers filed their federal return for free using Free Edition in TY 2018. In the same tax year, approximately 1.2 million customers filed their federal return using the TurboTax Free File product. See, INTUIT_FFA_FTC_C002.01-C002.016 at C002.09-010, Letter from Reed Freeman to Tejasvi Srimushnam et al., re: FTC Matter No: 1923119, July 31, 2019.

⁴⁰ In the 2001-2002 tax year, approximately 75 percent of personal tax returns in Australia were submitted by tax agents on behalf of individual clients. See, "Taxation Statistics 2001-02," Australian Taxation Office, available at <https://data.gov.au/data/dataset/67265383-0ecc-4523-8ffd-02790297a65a/resource/0a765a72-d548-40e4-97bc-339168abb011/download/2001-02-taxstats.pdf>, pp. 3, 10.

⁴¹ Across the three experimental groups, 17 percent of respondents (124 respondents) in the Disclosure Survey indicated that they would most likely select another online tax preparation software provider, a self-filed paper filing, or an accountant supported paper filing. See **Exhibit 2.B**.

differences in respondents' selections of these alternative solutions between the Current Screen and Enhanced Information Screen Groups, indicating respondents are clearly willing to select alternatives to Intuit's products if relevant or preferred, regardless of the information contained in the upgrade screens.^{42,43} Indeed, Intuit's data maintained in the normal course of business and shared with the FTC also makes clear that millions of consumers each year decide to prepare their taxes a different way after reaching an upgrade screen.⁴⁴

45. Perhaps more importantly, respondents' open-ended answers to Q6 demonstrate that prospective TurboTax customers are well-informed, pursue information from other sources, and have direct experience with other tax preparation service providers. Except in very few instances (as discussed below), they did not express a view that they were "locked in" to TurboTax.
46. Two independent coders who were unaware of the purpose of the research (throughout referred to as "coders") working under my direction reviewed and analyzed the open-ended answers to

⁴² See, **Exhibit 2.B**. I find statistically significant differences in respondents' selection of "Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)," between the Reduced Information Screen Group and the Current Screen Group. This finding is consistent with my expectation that when provided with limited information regarding next steps, respondents in the Reduced Information Screen Group are more likely to seek out alternative solutions. This is also consistent with TurboTax's experience that if customers have a positive experience, they will be more likely to complete their returns and to return or recommend TurboTax in following years. See, Deposition of Catherine Goode, In the Matter of TurboTax, Inc., October 23, 2020, pp. 194-195 ("And what we learned before in the past is the clearer we are, the more likely it is that a customer will understand and accept it, because we do not want to lose customers at this point."); and Deposition of Jack Rubin, In the Matter of TurboTax, Inc., October 30, 2020, pp. 208-209 ("Because we want them to be satisfied with their experience and come back year after year and tell their friends. [...] And of the folks who actually pay for one of TurboTax's products, they're repeat rate is actually higher than those who don't. And so you can actually see in market that, you know, we want people to be satisfied, and we want them to come back year after year. We want them to tell their friends about what a great experience it is, and that's we're doing.").

⁴³ Notably, 17 percent of respondents indicated that they had used two or more online tax preparation software providers in the past five years. 21 percent of respondents who indicated they had used TurboTax in the past five years had also used an alternative tax preparation software provider during that period.

⁴⁴ I understand that Intuit has provided the FTC with data illustrating "that consumers using Intuit's Free Edition were aware of various other tax preparation options available to them, including on the TurboTax website, through the IRS Free File program, and other providers." Data produced in response to Interrogatory 14(c)-14(f) includes the number of customers, by upgrade screen, who started in Free Edition and ultimately filed with a Paid Commercial product, a Free Commercial product, TurboTax's Free File Program, or in some other way (i.e., "did not file" with TurboTax). See, INTUIT_FFA_FTC_C013.01-C013.053 at C013.035-C013.037, Letter from David Gringer to Ian Barlow et al., Re: FTC Matter No. 1923119, July 31, 2020.

Q6, categorizing respondents' answers into groups with other similarly-indicated answers.⁴⁵ Across the three experimental groups, 15 percent of respondents stated, upon viewing the upgrade screen, that they would not upgrade and instead would seek out an alternative solution (see **Exhibit 5**).⁴⁶ For example, respondents indicated that, after viewing the upgrade screen:

- “I would close out of the TurboTax window and file my taxes with H&R Block instead.”
- “As I'm no longer able to file with the free edition, I would search the internet and compare the Turbo Tax pay for edition with other tax platforms with comparable features.”
- “Probably leave, knowing my situation (I would never qualify for free!). If I really though free filing a possibility I would go back to see what caused it (capital gains? too much income? What?). I would next put Turbotax aside and look at the other free providers - not everyone has the same thresholds and exclusions.”
- “Look into other options where I wouldn't have to pay \$60. Maybe H&R Block. I'd ask friends how they filed.”

47. Relatedly, approximately 17 percent of respondents indicated in their answers to Q6 that they would need to conduct additional research or otherwise evaluate which product would best fit their needs (see **Exhibit 5**). For example:

- “I will need to check online with TurboTax to find another product to use to file my taxes. I assume the free version will not work properly with my information. I could also change my fining [*sic*] option to see if I can continue to use the free version.”
- “I would then go to reviews of each of the paid for services. This would help me decide if I want to upgrade.”
- “Decide how complicated my taxes are to see if I need to pay for additional services.”
- “I would ask chat why they have made that upgrade recommendation. 'what is more complicated that Turbo free can't handle it?'”

⁴⁵ Under my instruction, a team of two coders reviewed the open-ended responses to Q6 and Q9 (for specific subsets of respondents). **Appendix G** contains the full set of instructions provided to the coders.

⁴⁶ Alternative products specified by respondents include H&R Block, Credit Karma, TaxAct, TaxSlayer, FreeTax USA, IRS Free File Program, and other generic alternatives.

- “I would move on to next screen and find out what I need to do differently and how much it would cost. I would then probably go to another website to see what they say about the same information provided and compare price.”
- “I would double check to see if I really need an upgrade to finish my taxes and then if I really did I would choose the correct product. If not I would continue on with the free product.”
- “I would wonder why I needed to upgrade and would investigate accordingly.”
- “I would then go to google and type in Turbo Tax Intuit and read some reviews from other people who have used it.”

48. Taken together, these two categories of responses (along with some other smaller categories)⁴⁷ indicate that nearly 39 percent, or more than a third of respondents in the Disclosure Survey explicitly described having the agency to identify the right tax preparation product for their particular tax situation and preferences (see **Exhibit 5**).

49. Further, open-ended responses also indicated that respondents that did elect to upgrade understood that the specifics of their tax situation required an upgrade. After indicating which product they would be most likely to select in question Q8, I asked respondents for the “reasoning behind [their] decision,” to better understand their motivation for choosing a particular product. As described in **Appendix G**, two coders analyzed the open-ended answers for respondents who indicated that they would most likely select a Paid product version of TurboTax, and categorizing the responses into groups with other similarly-indicated answers.⁴⁸ Indeed, the majority of respondents who chose to upgrade to Paid products (e.g., Deluxe, Premier, Self-Employed) indicated that they did so because of their particular tax situation (47

⁴⁷ The coders categorized 5 percent of responses to Q6 as likely to “delete account / exit site” after seeing the upgrade prompts, 3 percent as likely upgrade due to their “Tax Situation,” and another 1 percent as likely “upgrade after conducting research.” Accounting for responses that were coded as more than one category (e.g., the 14 responses to Q6 coded as both “delete account / exit the site” and “consider other alternatives”), these five categories collectively capture 39 percent of respondents. See **Exhibit 5**.

⁴⁸ Under my instruction, a team of two independent coders reviewed the open-ended responses to Q6 and Q9 (for specific subsets of respondents). **Appendix G** contains the full set of instructions provided to the coders.

percent), their preference for and/or trust in the Intuit products (35 percent), or because of the value/price point (9 percent) (see **Exhibit 6**).⁴⁹ For example:

- “My taxes aren't especially complicated, but I have a few other issues (like student loan interest) that make it more complicated than a simple return can do. The next step up is the one that normally makes the most sense for me.”
- “I believe it best suits my needs. I would rather pay to have my taxes done easily rather than try a different product or use the IRS program which may cause errors.”
- “Because I'm a homeowner and I itemize my deductions”
- “I have been using TurboTax Deluxe for many years now so I know that it is best suited to my tax situation.”
- “Although it will cost a bit more money, I trust that TurboTax Deluxe would be worth it in the long run by providing me with simplified taxes.”
- “I like having the best support and tax version possible. the deluxe version also helps in the case of an audit so it is a piece of mind.”
- “The deluxe seems to have a number of extra help pieces that aren't available with the free version. Also it isn't unreasonably priced.”
- “It adjusts to my needs. It is a good value for my money”

Such responses indicate that consumers reflect on their experiences and information beyond what is presented by TurboTax in an upgrade screen when choosing a tax preparation method.

50. Lastly, I also asked the coders to highlight responses to Q6 and Q9 where the responses suggested that respondent would upgrade but only because they “had to” or “couldn’t use Free Edition,” i.e., they felt they had no other choice.⁵⁰ The coders identified only 11 respondents

⁴⁹ In the Reduced Information Screen Group, 8 percent of respondents that selected an upgrade to TurboTax Deluxe, Premier, or Self-Employed explained their choice in a way that implied feeling as if they had “no other choice.” In comparison, 5 percent of respondents in the Current Screen Group that selected an upgrade to a TurboTax Paid products, explained their choice in a similar way. See **Exhibit 6**.

⁵⁰ As discussed previously, the Disclosure Survey is a simplified exercise that does not pre-screen for respondents with a particular tax situation. As a consequence of this simplified approach, it may be that some respondents could indeed use Free Edition in the actual world and others may simply be disappointed to learn that they do not qualify for a free product.

out of 751 (1 percent) in Q6 and 20 respondents out of 325 (6 percent) in Q9 whose answers could be interpreted in this manner (see **Exhibits 5 and 6**). Thus, it is unlikely that reasonable consumers who see an upgrade message on TurboTax believe that they must continue with the TurboTax software in order to prepare their taxes or that the IRS requires them to do so.

iii. Sensitivity Analyses

51. To confirm that my results are robust, I performed additional sensitivity analyses, i.e., analyses with select sets of respondents that let me examine the stability of my survey results across different sub-groups of respondents.⁵¹ For example, I performed the same analyses of product selections across the three study groups based on the 455 respondents who indicated in F1, “Yes, I paid for online tax software to file my taxes” in 2019 or 2020 (**Exhibit 7.A**). As discussed above, I still find no statistically significant difference in respondents’ selection of the IRS Free File Program across groups. I do find a small but statistically significant difference in respondents’ selection of Paid products between the Current Screen (63 percent) and Reduced Information Screen Groups (52 percent); this is consistent with my expectation that respondents who have previously paid for online tax preparation software will expect more guidance and support through the tax preparation process and illustrates that Intuit’s incentives are to communicate information clearly with taxpayers.⁵²
52. I also performed the same analyses of product selection distribution between the three study groups, but excluded the 120 respondents who indicated in F2 that they were aware of “at least one media report, investigation, or lawsuit.”⁵³ (See **Exhibit 7.B**) This sensitivity analysis did

⁵¹ See backup calculations for a complete set of results to my sensitivity analyses. I performed the same analyses of tax product selection (based on Q7 and Q8), but: (1) excluded respondents who did not pay or were unsure if they paid to prepare their taxes in 2019 or 2020; (2) excluded respondents who were aware of “at least one media report, investigation, or lawsuit” and (3) excluded respondents who completed the survey in under 3 minutes or over 30 minutes.

⁵² See also, Deposition of Catherine Goode, In the Matter of TurboTax, Inc., October 23, 2020, pp. 192, 194-195; and Deposition of Jack Rubin, In the Matter of TurboTax, Inc., October 30, 2020, pp. 208-209. The rate of selecting a Paid TurboTax product is slightly higher for the Enhanced Information Screen Group, although the difference is not statistically significant.

⁵³ Specifically, in response to F2 (“Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax software provider or accounting company?”), 120 respondents indicated they were aware of “at least one media report, investigation, or lawsuit,” 545 respondents indicated they were not aware of “any media reports, investigations, or lawsuits,” and 86 respondents indicated they didn’t know / were unsure whether they were aware of “any media reports, investigations, or lawsuits.”

not change my results; I still find no statistically significant difference in respondents' selection of Paid TurboTax products across the three groups, and no statistically significant difference in respondents' selection of the IRS Free File Program between the Current Screen and Enhanced Information Screen Groups.

53. Similarly, I also performed a sensitivity analysis with respondents who took a longer or shorter amount of time to complete the survey. Specifically, I excluded those respondents who took the survey in either under 3 minutes or over 30 minutes based on the distribution of time-to-complete for all respondents. This resulted in the exclusion of 56 respondents, and I similarly compared the distribution of tax preparation products selected across the three survey groups with the remaining sample (see **Exhibit 7.C**). I still find no statistically significant difference in respondents' selection of Paid TurboTax products across the three groups, and no statistically significant difference in respondents' selection of the IRS Free File Program between the Current Screen and Enhanced Information Screen Groups. The results of these sensitivities do not change my findings.

APPENDIX D.1
DISCLOSURE SURVEY SCRIPT

Programmer Instructions

[PROGRAMMER NOTES IN BOLD CAPS AND IN BRACKETS.]

[FOR CLOSE-ENDED QUESTIONS, DO NOT ALLOW RESPONDENT TO CLICK “CONTINUE” WITHOUT CHOOSING AN ANSWER OPTION. FOR OPEN-ENDED QUESTIONS, DO NOT ALLOW RESPONDENT TO CLICK “CONTINUE” WITHOUT TYPING IN AN ANSWER OR CHOOSING ANOTHER ANSWER OPTION IF PRESENT.]

[ROTATE ORDER OF YES/NO ANSWERS IN THE FIRST INSTANCE OF A YES/NO QUESTION. USE THE SAME ORDER FOR ALL OTHER YES/NO QUESTIONS WITHIN EACH RESPONDENT.]

[DISABLE THE BROWSER “BACK” BUTTON.]

[QUALIFYING RESPONDENTS WILL BE RANDOMLY ASSIGNED TO ONE OF THREE GROUPS: TEST GROUP 1 (“CURRENT”), TEST GROUP 2 (“ENHANCED”), AND CONTROL (“REDUCED INFO”) GROUP.]

[TEXT FOR TERMINATES: “THANK YOU FOR YOUR INTEREST IN OUR STUDY. WE ARE NO LONGER LOOKING FOR PEOPLE WHO MATCH YOUR CHARACTERISTICS. WE APPRECIATE YOUR TIME.”]

Introduction and Screening

[NO SURVEY/SECTION TITLES TO BE DISPLAYED TO RESPONDENTS.]

[750 COMPLETES (250 IN EACH GROUP) FROM A 18+ NATIONAL SAMPLE]

[PANEL MEMBERS WHO START THE SURVEY AND ANSWER QUESTIONS S2-S5 SHOULD BE MATCHED TO THE CENSUS ON AGE, GENDER, AND REGION DISTRIBUTION IN THE UNITED STATES.]

[DETECT DEVICE RESPONDENT IS USING; IF IT’S A SMARTPHONE OR OTHER MOBILE DEVICE (NOT A DESKTOP, LAPTOP, OR TABLET COMPUTER), INSTRUCT TO LOG BACK IN WITH APPROVED DEVICE WITH THE MESSAGE: “Sorry, your device cannot be used for this survey. Please close this window and go to a desktop, laptop computer, or tablet device to take the survey to maximize your window. Once you are at one of these devices, click on the same link to take the survey.”]

[EACH QUESTION ON A NEW PAGE UNLESS OTHERWISE SPECIFIED]

S0. Digital fingerprinting

S1. Captcha

Thank you for your participation in our study. All your answers will remain confidential. Please try to answer all questions to the best of your ability. We are interested in your opinions and reactions. There are no right or wrong answers, and we will not try to sell you anything based on your answers. Please do not consult any outside sources (e.g., internet or phone) while taking the survey.

If you do not know, do not recall, are unsure, or have no opinion, please do not try to guess and simply select the “Don’t Know / Don’t Recall / Unsure” option.

The “Back” button on your browser has been disabled for the duration of the survey. Please do not use it while taking the survey.

- ☐ If you understand these instructions and agree to participate in this survey, please check this box and click “Continue” to continue.

S2. How old are you? *(Select only one option)* [RANDOMIZE BETWEEN THIS ORDER AND REVERSE; KEEP “PREFER NOT TO ANSWER” LAST]

- ☐ Under 18 years old [TERMINATE]
☐ 18 – 29 years old
☐ 30 – 39 years old
☐ 40 – 49 years old
☐ 50 – 59 years old
☐ 60 years or older
☐ Prefer not to answer [TERMINATE]

[TERMINATE IF AGE DOES NOT MATCH THE VALUE ON FILE]

S3. Please indicate your gender: *(Select only one option)* [RANDOMIZE “FEMALE” AND “MALE”]

- ☐ Female
☐ Male
☐ Prefer not to answer [TERMINATE]

[TERMINATE IF GENDER DOES NOT MATCH THE VALUE ON FILE]

S4. In which state do you currently reside? *(Select only one option)*

[INSERT DROP DOWN MENU FOR STATE]

S5. Are you or any of your family members employed by...? *(Select all that apply)* [RANDOMIZE ORDER; KEEP “NONE OF THE ABOVE” LAST]

- ☐ A home hardware or power tools manufacturer, distributor, or retailer
☐ An electronics manufacturer, distributor, or retailer
☐ A university or school
☐ A food manufacturer, distributor, or retailer
☐ An accounting, tax, or a tax preparation service provider company [TERMINATE]
☐ A marketing, market research, or advertising agency [TERMINATE]
☐ Your state or the federal government [TERMINATE]
☐ None of the above [EXCLUSIVE]

[THOSE WHO ARE ASKED S5 SHOULD BE MATCHED TO THE CENSUS ON AGE, GENDER, AND REGION]

S6. Have you taken any surveys in the last 30 days on any of these topics? *(Select all that apply)* [RANDOMIZE ORDER; KEEP “NONE OF THE ABOVE” LAST]

- ☐ Sporting goods or outdoor gear
☐ Advertisements on TV
☐ Accounting or tax services [TERMINATE]

- ☐ Clothing
- ☐ Video games
- ☐ Cosmetics
- ☐ Shopping at retail stores
- ☐ None of the above **[EXCLUSIVE]**

S7. Did you file taxes in 2019 (for 2018 income)? *(Select only one option)* **[RANDOMIZE ORDER; USE THE SAME ORDER FOR ALL OTHER YES/NO QUESTIONS WITHIN EACH RESPONDENT]**

- ☐ Yes
- ☐ No
- ☐ Don't recall / Unsure

[GO TO S8 IF "NO" OR "DON'T RECALL/ UNSURE" IS SELECTED. OTHERWISE SKIP TO S9]

S8. Did you file taxes in 2020 (for 2019 income)? *(Select only one option)* **[USE THE SAME ORDER AS S7]**

- ☐ Yes
- ☐ No **[TERMINATE]**
- ☐ Don't recall / Unsure **[TERMINATE]**

S9. Thinking about your taxes filed in [if S7=YES, "2019" or if S8=YES, "2020"], how did you prepare your taxes? *(Select only one option)* **[RANDOMIZE ORDER]**

- ☐ I used an online tax software to file my/our household taxes
- ☐ I worked with a third party provider to file my/our household taxes (e.g., I worked with a tax accountant, CPA, retail store) **[TERMINATE]**
- ☐ I self-prepared and filed my/our household taxes on paper **[TERMINATE]**
- ☐ Other **[TERMINATE]**
- ☐ Don't recall / Unsure **[TERMINATE]**

S10. Thinking of your taxes filed in [if S7=YES, "2019" or if S8=YES, "2020"], which of the following best describes your role? *(Select only one option)* **[RANDOMIZE ORDER, AS IS AND REVERSE; KEEP "DON'T RECALL / UNSURE" LAST]**

- ☐ I was the party primarily responsible for preparing my/our household taxes
- ☐ I was substantially involved in preparing my/our household taxes
- ☐ I had little involvement in preparing my/our household taxes **[TERMINATE]**
- ☐ Don't recall / Unsure **[TERMINATE]**

S11. You indicated that you used online tax software to file your taxes in [if S7=YES, "2019" or if S8=YES, "2020"]. Which of the following online tax software providers have you used in the past 5 years? *(Select all that apply)* **[RANDOMIZE ORDER]**

- ☐ TurboTax
- ☐ TaxAct
- ☐ TaxSlayer
- ☐ H&R Block
- ☐ FreeTaxUSA
- ☐ Other
- ☐ Don't recall / Unsure

S12. For quality control purposes, please select “Fourth” from the list below. *(Select only one option)*

[RANDOMIZE ORDER]

- ☐ First **[TERMINATE]**
- ☐ Second **[TERMINATE]**
- ☐ Third **[TERMINATE]**
- ☐ Fourth
- ☐ Fifth **[TERMINATE]**

[RECORD IF THE RESPONDENT QUALIFIES OR NOT. THE 750 COUNT (250 PER GROUP) SHOULD BE OF QUALIFIED RESPONDENTS. FOR NON-QUALIFYING RESPONDENTS, DISPLAY PANEL’S TERMINATION PAGE. RANDOMLY ASSIGN QUALIFYING RESPONDENTS TO EITHER THE TEST 1, TEST 2, OR CONTROL GROUP, A MINIMUM OF 250 RESPONDENTS PER GROUP.]

Main Questionnaire

Q1. Thank you! In this survey, we would like to learn about your experience with online tax software providers. In the following questions, we will ask you about one online tax software provider and will try to learn from your experiences or expectations.

Q2. You have been selected to answer questions about preparing and filing tax returns with TurboTax. Please imagine that you are preparing to file your income taxes for last year's income and view the following advertisement for TurboTax's online tax software.

[SHOW ADVERTISEMENT IMAGE ON PAGE. RESPONDENTS SHOULD NOT BE ABLE TO SKIP VIEWING THE IMAGE.]

THERE SHOULD BE A 10 SECOND DELAY BEFORE THE "CONTINUE" BUTTON APPEARS. A COUNT-DOWN SHOULD BE PRESENTED UNDER THE ADVERTISEMENT WITH THE FOLLOWING TEXT: "The "Continue" button will appear in X seconds." (THIS TEXT SHOULD BE REMOVED WHEN X=0) FOLLOWED BY "Click "Continue" when ready."]



Q3. Please imagine that you visit TurboTax's website and are presented with the following product information screen.

[SHOW IMAGE ON PAGE. RESPONDENTS SHOULD NOT BE ABLE TO SKIP VIEWING THE IMAGE. ALLOW RESPONDENTS TO ZOOM IN AND OUT ON THE PAGE.

THERE SHOULD BE A 10 SECOND DELAY BEFORE THE "CONTINUE" BUTTON APPEARS. A COUNT-DOWN SHOULD BE PRESENTED WITH THE FOLLOWING TEXT: "The "Continue" button will appear in X seconds." (THIS TEXT SHOULD BE REMOVED WHEN X=0) FOLLOWED BY "Click "Continue" when ready."]

You can do it

turbotaxlive
Do your taxes with a real CPA

America's #1 brand of tax software


Free Edition	Deluxe <small>MOST POPULAR</small>	Premier	Self-Employed
Simple tax returns	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 File.	\$59.99* State additional	\$79.99* State additional	\$119.99* State additional
File for \$0	Start for Free Pay only when you file	Start for Free Pay only when you file	Start for Free Pay only when you file
★★★★★ (4.8/5 37132 reviews)	★★★★★ (4.4/5 96018 reviews)	★★★★★ (4.5/5 12045 reviews)	★★★★★ (4.6/5 2392 reviews)
More Details	More Details	More Details	More Details
Included in Free Edition <ul style="list-style-type: none"> ✓ Easy prep, print, and e-file ✓ Jumpstart your taxes, snap a photo of your W-2 	Everything in Free Edition, plus <ul style="list-style-type: none"> ✓ Searches 350+ tax deductions and credits ✓ Maximizes mortgage and property tax deductions ✓ Turn donations into big deductions 	Everything in Deluxe, plus <ul style="list-style-type: none"> ✓ Covers stocks, bonds, ESPPs, and other investments ✓ Auto import of investment income ✓ Covers rental property income and tax deductions ✓ NEW! Accurately account for gains and losses from cryptocurrency transactions 	Everything in Premier, plus <ul style="list-style-type: none"> ✓ Guidance for contractors, freelancers, and small business owners ✓ Uncovers industry-specific deductions for more tax breaks ✓ One-on-one help from self-employment specialists ✓ File with confidence—personalized audit assessment to know it's right ✓ Effortless expense, mileage, and job tracking with FREE QuickBooks Self-Employed
Learn more	Learn more	Learn more	Learn more

Q4. Please assume you choose to learn more about TurboTax's "Free Edition" product to prepare and file your federal and, if needed, state tax returns. You click on the "Learn more" button for the Free Edition product and are directed to the following webpage.


Scroll to the bottom of the page to select the "Continue" button.

[SHOW THE FREE EDITION LANDING PAGE IMAGE BELOW AS A SCROLLABLE EMBEDDED IMAGE. RESPONDENTS SHOULD VIEW AND SCROLL TO THE BOTTOM OF THE IMAGE IN ORDER TO CLICK "CONTINUE." ALLOW RESPONDENTS TO ZOOM IN AND OUT IN THE POP-UP WINDOW.]

THERE SHOULD BE A 10 SECOND DELAY BEFORE THE "CONTINUE" BUTTON APPEARS. A COUNT-DOWN SHOULD BE PRESENTED WITH THE FOLLOWING TEXT: "The "Continue" button will appear in X seconds." (THIS TEXT SHOULD BE REMOVED WHEN X=0) FOLLOWED BY "Click "Continue" when ready."]


[Products & Pricing](#)
[Tools & Tips](#)
[After You File](#)
[Help](#)
[Security](#)
[Tax Reform](#)
[Sign In](#)

TurboTax / TurboTax Online Products / TurboTax Free Edition




TurboTax Free Edition

Simple tax returns
From federal taxes and state taxes


★★★★★ (84%) (1918 reviews)

File for \$0


\$0 Fed. \$0 State. \$0 File.
Get only \$1 fee




Free federal & state taxes
You'll pay nothing to file your complete federal and state taxes online, so you can file your free tax filing solution.




Customized to you
We ask questions to get to know you. Then we'll search for every tax deduction and credit that applies to you—all for free.




Snap, Tap, Done.™
Snap a photo of your W-2 to automatically pull your info into the right forms. Or we'll directly import your W-2 for you.



Answers 24/7
Free help is here. Get answers online from TurboTax specialists or other customers like you.



Get the green light to file
CompletedCheck™ will run a comprehensive review of your return before you file for free, so nothing gets missed.



Better understand your financial health
Get more than your credit score. Use where you truly stand financially with TurboTax.

Results

Reviews

Tax Forms

Requirements

More TurboTax Free Edition Online features

We've got you covered for tax reform
When tax laws change, we're on top of it, so you can be sure your tax return includes the latest IRS and state tax forms. We'll help you understand key tax reform changes for 2019, so you can file with total confidence.

50% done in a click
NEW! In a customer's comment, we'll transfer last year's information for FREE. Now you can save time and know that your tax return is accurate.

It's easy to switch
Get a pro tip—once you can easily import a PDF of last year's tax return from another tax software, you have the time made fast and easy.

Complex life, simplified taxes
We guide you through life changes and their impact on your taxes. TurboTax is personalized, so you get your deductions and credits you deserve.

Get your fastest possible tax refund
e-file your federal and state tax return with direct deposit to get your **fastest tax refund possible**.

Security is built into everything we do
TurboTax works hard to safeguard your information so you can file your taxes for free, and with total confidence.

Get tax credits for your dependents
Don't show you who qualifies in your dependents. You'll also find tax-saving credits like the **Earned Income Tax Credit (EITC)** and **Child Tax Credit**, all for free.

Taxes are no longer a mystery
You'll now updates to your tax refund (or taxes due) as you go. **EaselyWhy™** delivers personalized insight so you can truly understand your taxes.

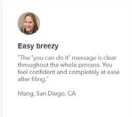
Anytime, anywhere
Get your taxes done right anytime from anywhere. Seamlessly switch between any device and securely go on right when you're off where it's convenient for you.

Go at your own pace—no appointment necessary
Finish your tax return in one visit or do a little at a time. We automatically save your progress so you can go back when you're ready to go.

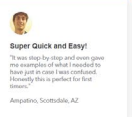
Personalized analysis and advice
Improve next year's return with personalized reports and tips about health insurance, paycheck withholding, retirement savings, and more.

Finish your state return faster and for free
Once you complete your federal tax return, we'll transfer your information over to your state tax return to help you finish quickly and easily, all included for free when you file with TurboTax Free Edition.

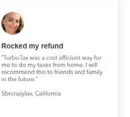
What customers are saying about TurboTax Free Edition



Easy breezy
"This 'you can do it' message is clear throughout the whole process. You feel confident and completely at ease after filing."
Mang, San Diego, CA




Super Quick and Easy!
"It was easy to step and was great. My examples of what I needed to know just fit clear and was confident. Honestly this is perfect for first timers."
Anapinto, Scottsdale, AZ




Rocked my refund
"TurboTax was a great all-in-one way for me to do my taxes from home. I will recommend this to friends and family in the future."
Brazynaylan, California


Get your maximum tax refund — guaranteed



100% GUARANTEED
We search over 400 tax deductions. We find every tax deduction and credit you qualify for to get you the biggest tax refund, **guaranteed**.




TURBOCHECK
Every detail reviewed. Get a comprehensive review of your tax return before you file so you can be confident nothing gets missed.




100% ACCURATE
Our calculations are 100% accurate so your taxes will be done right, guaranteed, or we'll pay you \$50 per error.

[Compare TurboTax Free Edition Online to our other products](#)



Your security. Built into everything we do.
[Learn more](#)







TurboTax has tax reform covered, file now!
[Learn more](#)

Important Offer Details and Disclosures

<p>About</p> <ul style="list-style-type: none"> How TurboTax works TurboTax guarantees How TurboTax has ACA covered TurboTax security and fraud protection Tax forms included with TurboTax TurboTax are required Self-employed tax center Tax Expert Network Tax reform center Tax Refund Advance Tax Consultation E-file Taxes Online 	<p>Online Software Products</p> <ul style="list-style-type: none"> TurboTax Free Edition Compare TurboTax products All online tax preparation software Free Edition tax prep Deliver tax prep to maximize deductions Premier Investment & rental property tax prep Self-employed tax prep Address tax prep discount All TurboTax Live Products TurboTax Live Basic TurboTax Live Deluxe TurboTax Live Premier TurboTax Live Self-Employed 	<p>CD/Download Products</p> <ul style="list-style-type: none"> TurboTax CD/Download/Print Compare CD/Download products All CD/Download products Check order status TurboTax Advantage program TurboTax Business for corps ProAdvisor for personal tax years TurboTax CD/Download support 	<p>Mobile Tax Apps</p> <ul style="list-style-type: none"> All TurboTax mobile apps Official TurboTax mobile app TaxCaster refund estimator app IRS deductible donation tracker app
<p>Help and Support</p> <ul style="list-style-type: none"> TurboTax support Contact us TurboTax Advantage support Where's My Refund? TurboTax Abuse Refund (SIR) File on IRS tax extension Getting started with TurboTax Refund status support Connect tax questions After filing your taxes 	<p>Tax Tools and Tips</p> <ul style="list-style-type: none"> What type of return Tax calculators & tools Tax center refund estimator Tax tracker calculator Check a file status refund tracker W-4 withholding calculator TurboTax deductible tax tool Self-employed expense estimator Payroll Estimated Taxes 	<p>Social</p> <ul style="list-style-type: none"> TurboTax customer reviews TurboTax blog TurboTax make a formal document TurboTax Super Bowl commercial Community Instant Tax & Financial Center 	<p>More Products from Intuit</p> <ul style="list-style-type: none"> TurboTax Canada Turbo: Get credit score & more More money manager Accounting software Payroll services QuickBooks Payments Professional tax software Professional accounting software More from Intuit







Screening: ☒ ☐

intuit company

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 Security Certification of the TurboTax Online application has been performed by U.S. Level Security.
 By accessing and using this page you agree to the [Terms and Conditions](#).

Q5. Imagine you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with a screen with some information.

You will view this screen on the next page. Please examine the contents in the image as if you were on TurboTax's website deciding about your tax filing options. You can look at the image for as long as you like. You may also click on the image to enlarge.

[STIMULI: ONCE RESPONDENTS CLICK CONTINUE, SHOW ONE IMAGE TO THE APPROPRIATE GROUP ON THE NEXT PAGE. RESPONDENTS SHOULD NOT BE ABLE TO SKIP VIEWING THE IMAGE.

ON THE PAGE WITH THE IMAGE, THERE SHOULD BE A 10 SECOND DELAY BEFORE THE "CONTINUE" BUTTON APPEARS. A COUNT-DOWN SHOULD BE PRESENTED WITH THE FOLLOWING TEXT: "*The "Continue" button will appear in X seconds.*" (THIS TEXT SHOULD BE REMOVED WHEN X=0) FOLLOWED BY "*Click "Continue" when ready.*"

RESPONDENTS SHOULD BE ABLE TO CLICK ON THE IMAGE TO ENLARGE IN A POP-UP WINDOW.

THE STIMULI SHOWN TO THE RESPONDENT SHOULD REMAIN AVAILABLE TO THE RESPONDENT UNTIL THE END OF THE MAIN QUESTIONNAIRE IN THE FORM OF CLICKABLE THUMBNAILS ABOVE THE QUESTION TEXT. IF THE THUMBNAIL IS CLICKED, THE IMAGE SHOULD APPEAR IN A FULL-SCREEN POP-UP WINDOW. IMMEDIATELY BELOW THE THUMBNAIL AND ABOVE EACH QUESTION WHERE THE THUMBNAIL IS DISPLAYED, INSERT THE INSTRUCTION. "Please click the X in the upper right corner to return to the survey."]

TEST GROUP 1 (N=250 RESPONDENTS) - CURRENT

Tax Home
Documents
2019 TAXES
My Info
Federal
State
Review
File
Upgrade
Tax Tools

Intuit Account
Sign Out

FEDERAL TAX DUE (in progress) **\$2,004** [Hide](#)

Search Help Live Tax Advice

Wages & Income Deductions & Credits Other Tax Situations Federal Review

Based on what you told us about your tax situation, you'll need to upgrade to accurately complete your taxes.

	TurboTax Free Edition	TurboTax Deluxe	TurboTax Self-Employed
Report W-2 income	✓	✓	✓
Report multiple sources of income—including 1099-MISC, 1099-K, and more		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist		🎧	🎧
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$59.99* State additional	\$119.99* State additional Pays for itself
	Don't upgrade	Upgrade	Upgrade

Don't worry about pulling out your wallet—look for the payment option to deduct the cost from your federal refund when you file.

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TEST GROUP 2 (N=250 RESPONDENTS) - ENHANCED

- Tax Home
- Documents
- 2019 TAXES
- My Info
- Federal
- State
- Review
- File
- Upgrade
- Tax Tools
- Intuit Account
- Sign Out

FEDERAL TAX DUE
(in progress)
\$2,004
[Hide](#)

[Search](#)
[Help](#)
[Live Tax Advice](#)

[Wages & Income](#)
[Deductions & Credits](#)
[Other Tax Situations](#)
[Federal Review](#)

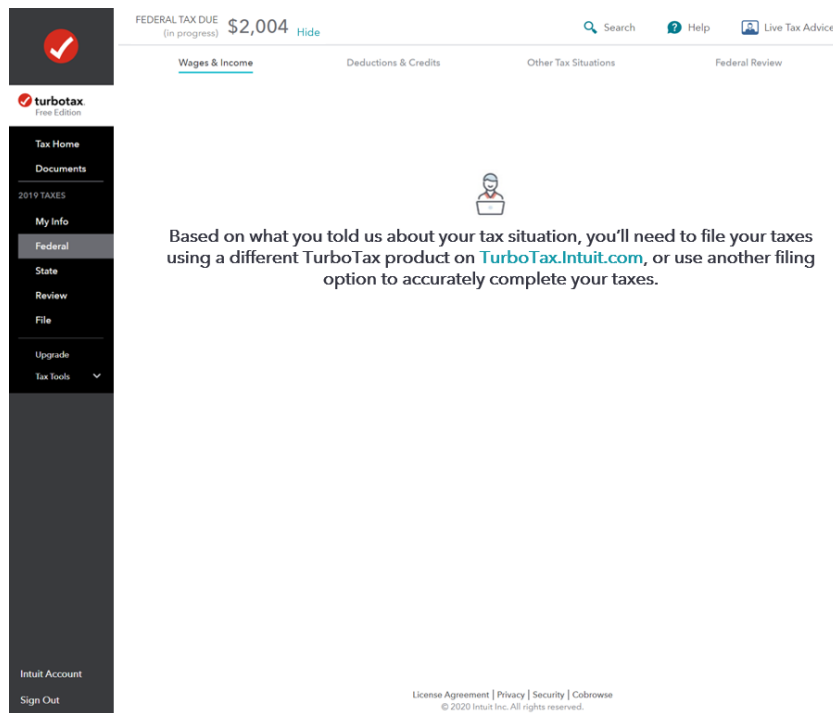
Based on what you told us about your tax situation, you'll need to upgrade to accurately complete your taxes. Alternatively, you may be eligible to file for free through the IRS Free File Program.

Customers who have an AGI of less than \$69,000 are eligible to file for free using the IRS Free File Program. If you log-in to the IRS Free File Program and are not eligible, you must create a new account to file your taxes using another product on [TurboTax.Intuit.com](#), or you may file using another filing option.

	TurboTax Free Edition	TurboTax Deluxe	TurboTax Self-Employed	IRS Free File Program
Report W-2 income	✓	✓	✓	✓
Report multiple sources of income—includes 1099-MISC, 1099-K, and more		✓	✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist		ⓘ	ⓘ	
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Port over the data you have already entered	✓	✓	✓	
Audit Defense	✓ Additional fees apply	✓ Additional fees apply	✓ Additional fees apply	
Pay with your refund	✓	✓	✓	
	\$0*	\$59.99* State additional	\$119.99* State additional Pays for itself	\$0* Eligibility requirements apply
	Don't upgrade	Upgrade	Upgrade	IRS.gov

Don't worry about pulling out your wallet—look for the payment option to deduct the cost from your federal refund when you file.

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CONTROL GROUP (N=250 RESPONDENTS) - REDUCED INFO

Q6. Again, imagine that you choose to use TurboTax’s “Free Edition” product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with some information in the screen above. In your own words, what would you do next upon seeing this screen?

[OPEN-ENDED QUESTION, PROVIDE APPROPRIATE SPACE FOR ANSWER]

Q7. You may have already indicated this, but which of the following options would you *consider* using to file your taxes upon seeing this prompt? *(Select all that apply)* **[RANDOMIZE ORDER; KEEP TURBOTAX OPTIONS TOGETHER AND RANDOMIZE ORDER, AS IS AND REVERSE; KEEP “OTHER” AND “DON’T KNOW / UNSURE” TOGETHER AND LAST; MAKE “DON’T KNOW/UNSURE” OPTION MUTUALLY EXCLUSIVE FROM ALL OTHER OPTIONS]**

- ☐ TurboTax Free Edition
- ☐ TurboTax Deluxe
- ☐ TurboTax Premier
- ☐ TurboTax Self-Employed
- ☐ IRS Free File Program
- ☐ Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)
- ☐ Accountant Supported Paper Filing
- ☐ Self-Filed Paper Filing

- ☐ Other
- ☐ Don't know / Unsure **[SKIP TO F1]**

Q8. Of the option(s) you mentioned you would consider in the previous question, which of the following options would you *most likely select* upon seeing this prompt? (*Select only one option*) **[THE ANSWER OPTIONS WOULD BE LIMITED TO THOSE SELECTED BY EACH RESPONDENT IN RESPONSE TO Q7 AND “Don't know / Unsure”]**

Q9. What is the reasoning behind your decision? Why did you select **[INSERT ANSWER FROM Q8]**?
[OPEN-ENDED QUESTION, PROVIDE APPROPRIATE SPACE FOR ANSWER]

Follow-up Question

[REMOVE POP UP WINDOW]

F1. Did you or did you not pay for online tax software to file your taxes in [if S7=YES, “2019” or if S8=YES, “2020”]?

- ☐ Yes, I paid for online tax software to file my taxes
- ☐ No, I did not pay for online tax software to file my taxes
- ☐ Don't recall / Unsure

F2. Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax software provider or accounting company? (*Select only one option*)

- ☐ I am aware of at least one media report, investigation, or lawsuit
- ☐ I am not aware of any media reports, investigations, or lawsuits
- ☐ Don't know / Unsure

[GO TO PANEL ‘THANK YOU’ PAGE]

APPENDIX D.2
DISCLOSURE SURVEY SCREENSHOTS

0%

Please enter the code exactly as it appears in the image below, and then click continue.

YGJ3F2

Continue >

0%

Thank you for your participation in our study. All your answers will remain confidential. Please try to answer all questions to the best of your ability. We are interested in your opinions and reactions. There are no right or wrong answers, and we will not try to sell you anything based on your answers. Please do not consult any outside sources (e.g., internet or phone) while taking the survey.

If you do not know, do not recall, are unsure, or have no opinion, please do not try to guess and simply select the "Don't Know / Don't Recall / Unsure" option.

The "Back" button on your browser has been disabled for the duration of the survey. Please do not use it while taking the survey.

☐ If you understand these instructions and agree to participate in this survey, please check this box and click "Continue" to continue.

[Continue >](#)

4%

How old are you?

(Select only one option)

- ☐ 60 years or older
- ☐ 50 - 59 years old
- ☐ 40 - 49 years old
- ☐ 30 - 39 years old
- ☐ 18 - 29 years old
- ☐ Under 18 years old
- ☐ Prefer not to answer

Continue >

8%

Please indicate your gender:

(Select only one option)

- ☐ Male
- ☐ Female
- ☐ Prefer not to answer

Continue >

12%

In which state do you currently reside?

Select only one option ▾

Continue >

17%

Are you or any of your family members employed by...?

(Select all that apply)

- ☐ An accounting, tax, or a tax preparation service provider company
- ☐ Your state or the federal government
- ☐ A marketing, market research, or advertising agency
- ☐ A food manufacturer, distributor, or retailer
- ☐ A university or school
- ☐ An electronics manufacturer, distributor, or retailer
- ☐ A home hardware or power tools manufacturer, distributor, or retailer
- ☐ None of the above

[Continue >](#)

21%

Have you taken any surveys in the last 30 days on any of these topics?

(Select all that apply)

- ☐ Sporting goods or outdoor gear
- ☐ Shopping at retail stores
- ☐ Advertisements on TV
- ☐ Accounting or tax services
- ☐ Clothing
- ☐ Video games
- ☐ Cosmetics
- ☐ None of the above

Continue >

25%

Did you file taxes in 2019 (for 2018 income)?

(Select only one option)

- ☐ No
- ☐ Yes
- ☐ Don't recall / Unsure

Continue >

30%

Did you file taxes in 2020 (for 2019 income)?

(Select only one option)

- ☐ No
- ☐ Yes
- ☐ Don't recall / Unsure

Continue >

30%

Thinking about your taxes filed in 2019, how did you prepare your taxes?

(Select only one option)

- ☐ I used an online tax software to file my/our household taxes
- ☐ I worked with a third party provider to file my/our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I self-prepared and filed my/our household taxes on paper
- ☐ Other
- ☐ Don't recall / Unsure

[Continue >](#)

34%

Thinking about your taxes filed in 2020, how did you prepare your taxes?

(Select only one option)

- ☐ I worked with a third party provider to file my/our household taxes (e.g., I worked with a tax accountant, CPA, retail store)
- ☐ I used an online tax software to file my/our household taxes
- ☐ I self-prepared and filed my/our household taxes on paper
- ☐ Other
- ☐ Don't recall / Unsure

Continue >

37%

Thinking of your taxes filed in 2019, which of the following best describes your role?

(Select only one option)

- ☐ I had little involvement in preparing my/our household taxes
- ☐ I was substantially involved in preparing my/our household taxes
- ☐ I was the party primarily responsible for preparing my/our household taxes
- ☐ Don't recall / Unsure

Continue >

37%

Thinking of your taxes filed in 2020, which of the following best describes your role?

(Select only one option)

- ☐ I had little involvement in preparing my/our household taxes
- ☐ I was substantially involved in preparing my/our household taxes
- ☐ I was the party primarily responsible for preparing my/our household taxes
- ☐ Don't recall / Unsure

Continue >

42%

You indicated that you used online tax software to file your taxes in 2019. Which of the following online tax software providers have you used in the past 5 years?

(Select all that apply)

- ☐ TaxAct
- ☐ TaxSlayer
- ☐ TurboTax
- ☐ H&R Block
- ☐ FreeTaxUSA
- ☐ Other
- ☐ Don't recall / Unsure

Continue >

42%

You indicated that you used online tax software to file your taxes in 2020. Which of the following online tax software providers have you used in the past 5 years?

(Select all that apply)

- ☐ FreeTaxUSA
- ☐ TurboTax
- ☐ TaxSlayer
- ☐ TaxAct
- ☐ H&R Block
- ☐ Other
- ☐ Don't recall / Unsure

Continue >

46%

For quality control purposes, please select "Fourth" from the list below.

(Select only one option)

- ☐ First
- ☐ Second
- ☐ Third
- ☐ Fifth
- ☐ Fourth

Continue >

Current Screen Group


50%

Thank you! In this survey, we would like to learn about your experience with online tax software providers. In the following questions, we will ask you about one online tax software provider and will try to learn from your experiences or expectations.

[Continue >](#)

55%

You have been selected to answer questions about preparing and filing tax returns with TurboTax. Please imagine that you are preparing to file your income taxes for last year's income and view the following advertisement for TurboTax's online tax software.



FREE

— guaranteed —

\$0 **\$0** **\$0**
Fed State To File



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File for \$0

Simple tax returns

Click "Continue" when ready.

Continue >

Please imagine that you visit TurboTax's website and are presented with the following product information screen.

You can do it

turbotaxlive
Do your taxes with a real CPA

America's #1 brand of tax software

Free Edition	Deluxe <small>MOST POPULAR</small>	Premier	Self-Employed
Simple tax returns	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 File.	\$59.99* <small>State additional</small>	\$79.99* <small>State additional</small>	\$119.99* <small>State additional</small>
File for \$0	Start for Free <small>Pay only when you file</small>	Start for Free <small>Pay only when you file</small>	Start for Free <small>Pay only when you file</small>
★★★★★ <small>(4.8/5 37132 reviews)</small>	★★★★★ <small>(4.4/5 96018 reviews)</small>	★★★★★ <small>(4.5/5 12045 reviews)</small>	★★★★★ <small>(4.6/5 2392 reviews)</small>
More Details	More Details	More Details	More Details
Included in Free Edition	Everything in Free Edition, plus	Everything in Deluxe, plus	Everything in Premier, plus
<ul style="list-style-type: none"> ✓ Easy prep, print, and e-file ✓ Jumpstart your taxes, snap a photo of your W-2 	<ul style="list-style-type: none"> ✓ Searches 350+ tax deductions and credits ✓ Maximizes mortgage and property tax deductions ✓ Turn donations into big deductions 	<ul style="list-style-type: none"> ✓ Covers stocks, bonds, ESPPs, and other investments ✓ Auto import of investment income ✓ Covers rental property income and tax deductions ✓ NEW! Accurately account for gains and losses from cryptocurrency transactions 	<ul style="list-style-type: none"> ✓ Guidance for contractors, freelancers, and small business owners ✓ Uncovers industry-specific deductions for more tax breaks ✓ One-on-one help from self-employment specialists ✓ File with confidence—personalized audit assessment to know it's right ✓ Effortless expense, mileage, and job tracking with FREE QuickBooks Self-Employed
Learn more	Learn more	Learn more	Learn more

Click "Continue" when ready.

[Continue >](#)

[illegible]

63%

Please assume you choose to learn more about TurboTax's "Free Edition" product to prepare and file your federal and, if needed, state tax returns. You click on the "Learn more" button for the Free Edition product and are directed to the following webpage.

Scroll to the bottom of the page to select the "Continue" button.

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TurboTax Free Edition

Simple tax returns

Free federal taxes and state taxes

★★★★★ (4.8/5 | 37976 reviews)

File for \$0

\$0 Fed. \$0 State. \$0 File.

[See why it's free](#)



Free federal & state taxes

You'll pay nothing to file your simple federal and state taxes online—we're your free tax filing solution.



Customized to you

We ask questions to get to know you. Then we'll search for every tax deduction and credit that applies to you—all for free.



Snap. Tap. Done.™

Snap a photo of your [W-2](#) to automatically put your info into all the right forms. Or we'll directly import your W-2 for you.



Answers 24/7

Free help is here. [Get answers online](#) from TurboTax specialists or other customers like you.



Get the green light to file

CompleteCheck™ will run a comprehensive review of your return before you file for free, so nothing gets missed.



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Get more than your credit score, see where you truly stand financially with TurboSM.

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We've got you covered for tax reform

When [tax laws change](#) we're on top of it, so you can be sure your tax return includes the latest IRS and state tax forms. We'll help you understand key tax reform changes for 2018, so you can file with total confidence.

50% done in a click

NEW! As a returning customer, we'll transfer last year's information for FREE. Now you can save time and know that your free tax return is accurate.

It's easy to switch

Get a jumpstart—you can easily import a PDF of last year's tax return from another tax software, for free tax filing made fast and easy.

Complex life, simplified taxes

We guide you through life changes and their impact on your taxes. TurboTax is personalized, so you get every tax deduction and credit you deserve.

Get your fastest possible tax refund

e-File your federal and state tax return with direct deposit to get your [fastest tax refund possible](#).

Security is built into everything we do

TurboTax works hard to [safeguard your information](#) so you can file your taxes for free, and with total confidence.

Get tax credits for your dependents

We'll show you who qualifies as your dependent. You'll also find tax-saving credits like the [Earned Income Tax Credit \(EIC\)](#), and [child tax credit](#), all for free.

Taxes are no longer a mystery

You'll see updates to your tax refund (or taxes due) as you go. ExplainWhy™ delivers personalized insights so you can truly understand your taxes.

Anytime, anywhere

Get your taxes done right anytime from anywhere. Seamlessly switch between any device and securely pick up right where you left off when it's convenient for you.

Go at your own pace—no appointment necessary

Finish your tax return in one visit or do a little at a time. We automatically save your progress as you go, so you can always pick up where you left off.

Personalized analysis and advice

Improve next year's refund with personalized reports and tips about health insurance, paycheck withholding, retirement savings, and more.

Finish your state return faster and for free

Once you complete your federal tax filing, we can transfer your information over to your state tax return to help you finish quickly and easily, all included for free when you file with TurboTax Free Edition.

What customers are saying about TurboTax Free Edition



Easy breezy

"The 'you can do it' message is clear throughout the whole process. You feel confident and completely at ease after filing."

hfang, San Diego, CA



Super Quick and Easy!

"It was step-by-step and even gave me examples of what I needed to have just in case I was confused. Honestly this is perfect for first timers."

Ampatino, Scottsdale, AZ



Rocked my refund

"TurboTax was a cost efficient way for me to do my taxes from home. I will recommend this to friends and family in the future."

Sbrcrazyluv, California

Get your maximum tax refund — **guaranteed**



We search over 400 tax deductions

We find every tax deduction and credit you qualify for to get you the biggest tax refund, **guaranteed**.



Every detail reviewed

Get a comprehensive review of your tax return before you file so you can be confident nothing gets missed.



100% accurate calculations

Our calculations are 100% accurate so your taxes will be **done right, guaranteed**, or we'll pay you any IRS penalties.

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Mobile Tax Apps

All TurboTax mobile apps
Official TurboTax mobile app
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ItsDeductible donation tracker app

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Mint money manager
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Turbo: Get credit score & more

Mint money manager

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Imagine you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with a screen with some information.

You will view this screen on the next page. Please examine the contents in the image as if you were on TurboTax's website deciding about your tax filing options. You can look at the image for as long as you like. You may also click on the image to enlarge.

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Based on what you told us about your tax situation, you'll need to upgrade to accurately complete your taxes.


	TurboTax Free Edition	TurboTax Deluxe	TurboTax Self-Employed
Report W-2 income	✓	✓	✓
Report multiple sources of income—including 1099-MISC, 1099-K, and more		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist			
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$59.99* State additional	\$119.99* State additional Pay for itself
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Report multiple sources of income—including 1099-MISC, 1099-K, and more		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist			
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$59.99* State additional	\$119.99* State additional Pays for itself
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	TurboTax Free Edition	TurboTax Deluxe	TurboTax Self-Employed
Report W-2 income	✓	✓	✓
Report multiple sources of income—includes 1099-MISC, 1099-K, and more		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist			
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$89.99* <small>State additional</small>	\$119.99* <small>State additional Pay for itself</small>
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Again, imagine that you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with some information in the screen above. In your own words, what would you do next upon seeing this screen?

Please be as specific as possible

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80%

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	TurboTax Free Edition	TurboTax Deluxe	TurboTax Self-Employed
Report W-2 income	✓	✓	✓
Report multiple sources of income—includes 1099-MISC, 1099-K, and more		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist		Ⓜ	Ⓜ
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$56.99* State additional	\$119.99* State additional Pay for food
	Don't upgrade	Upgrade	Upgrade

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You may have already indicated this, but which of the following options would you *consider* using to file your taxes upon seeing this prompt?

(Select all that apply)

☐ Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)
☐ Accountant Supported Paper Filing
☐ IRS Free File Program
☐ TurboTax Free Edition
☐ TurboTax Deluxe
☐ TurboTax Premier
☐ TurboTax Self-Employed
☐ Self-Filed Paper Filing
☐ Other
☐ Don't know / Unsure

Continue >

85%




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Report W-2 income	✓	✓	✓
Report multiple sources of income (includes 1099-MISC, 1099-K, and more)		✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist			
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓
	\$0*	\$59.99* State additional	\$119.99* State additional Payable later
	Don't upgrade	Upgrade	Upgrade

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Of the option(s) you mentioned you would consider in the previous question, which of the following options would you *most likely select* upon seeing this prompt?

(Select only one option)

☐ TurboTax Deluxe
☐ Don't know / Unsure

[Continue >](#)

87%

What is the reasoning behind your decision? Why did you select TurboTax Deluxe?

Please be as specific as possible

Continue >

Enhanced Information Group

50%

Thank you! In this survey, we would like to learn about your experience with online tax software providers. In the following questions, we will ask you about one online tax software provider and will try to learn from your experiences or expectations.

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You have been selected to answer questions about preparing and filing tax returns with TurboTax. Please imagine that you are preparing to file your income taxes for last year's income and view the following advertisement for TurboTax's online tax software.



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File for \$0
Simple tax returns

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Free Edition	Deluxe <small>MOST POPULAR</small>	Premier	Self-Employed
Simple tax returns	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 File.	\$59.99* <small>State additional</small>	\$79.99* <small>State additional</small>	\$119.99* <small>State additional</small>
File for \$0	Start for Free <small>Pay only when you file</small>	Start for Free <small>Pay only when you file</small>	Start for Free <small>Pay only when you file</small>
★★★★★ <small>(4.8/5 3/132 reviews)</small>	★★★★★ <small>(4.4/5 96018 reviews)</small>	★★★★★ <small>(4.5/5 12045 reviews)</small>	★★★★★ <small>(4.6/5 2392 reviews)</small>
More Details	More Details	More Details	More Details
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Get your taxes done right anytime from anywhere. Seamlessly switch between any device and securely pick up right where you left off when it's convenient for you.

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One-on-one help—get customized answers to your questions from a TurboTax specialist				
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Port over the data you have already entered	✓	✓	✓	
Audit Defense	✓ Additional fees apply	✓ Additional fees apply	✓ Additional fees apply	
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One-on-one help—get customized answers to your questions from a TurboTax specialist				
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Port over the data you have already entered	✓	✓	✓	
Audit Defense	✓ Additional fees apply	✓ Additional fees apply	✓ Additional fees apply	
Pay with your refund	✓	✓	✓	
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Report multiple sources of income—includes 1099-MISC, 1099-A, and more		✓	✓	✓
One-on-one help—get customized answers to your questions from a TurboTax specialist				
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Put over the data you have already entered	✓	✓	✓	
Audit Defense	✓ <small>Additional fees apply</small>	✓ <small>Additional fees apply</small>	✓ <small>Additional fees apply</small>	
Pay with your refund	✓	✓	✓	
	\$0*	\$39.99* <small>base additional fees for Self</small>	\$119.99* <small>base additional fees for Self</small>	\$0* <small>Eligibility requirements apply</small>
	Don't upgrade	Upgrade	Upgrade	Eligible

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Please be as specific as possible

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Review

File

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Maximize deductions—claim self-employment expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Put over the data you have already entered	✓	✓	✓	
Audit Defense	✓ Additional fees apply	✓ Additional fees apply	✓ Additional fees apply	
Pay with your refund	✓	✓	✓	
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You may have already indicated this, but which of the following options would you *consider* using to file your taxes upon seeing this prompt?

(Select all that apply)

☐ Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)
☐ Accountant Supported Paper Filing
☐ Self-Filed Paper Filing
☐ TurboTax Self-Employed
☐ TurboTax Premier
☐ TurboTax Deluxe
☐ TurboTax Free Edition
☐ IRS Free File Program
☐ Other
☐ Don't know / Unsure

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My Info

Federal

State

Review

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One-on-one help—get customized answers to your questions from a TurboTax specialist				
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C)			✓	✓
Port over the data you have already entered	✓	✓	✓	
Asset Defense	✓ Additional fees apply	✓ Additional fees apply	✓ Additional fees apply	
Pay with your refund	✓	✓	✓	
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Of the option(s) you mentioned you would consider in the previous question, which of the following options would you *most likely* select upon seeing this prompt?

(Select only one option)

☐ TurboTax Deluxe
 ☐ Don't know / Unsure

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87%

What is the reasoning behind your decision? Why did you select TurboTax Deluxe?

Please be as specific as possible

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68%

Imagine you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with a screen with some information.

You will view this screen on the next page. Please examine the contents in the image as if you were on TurboTax's website deciding about your tax filing options. You can look at the image for as long as you like. You may also click on the image to enlarge.

[Continue >](#)



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2019 TAXES

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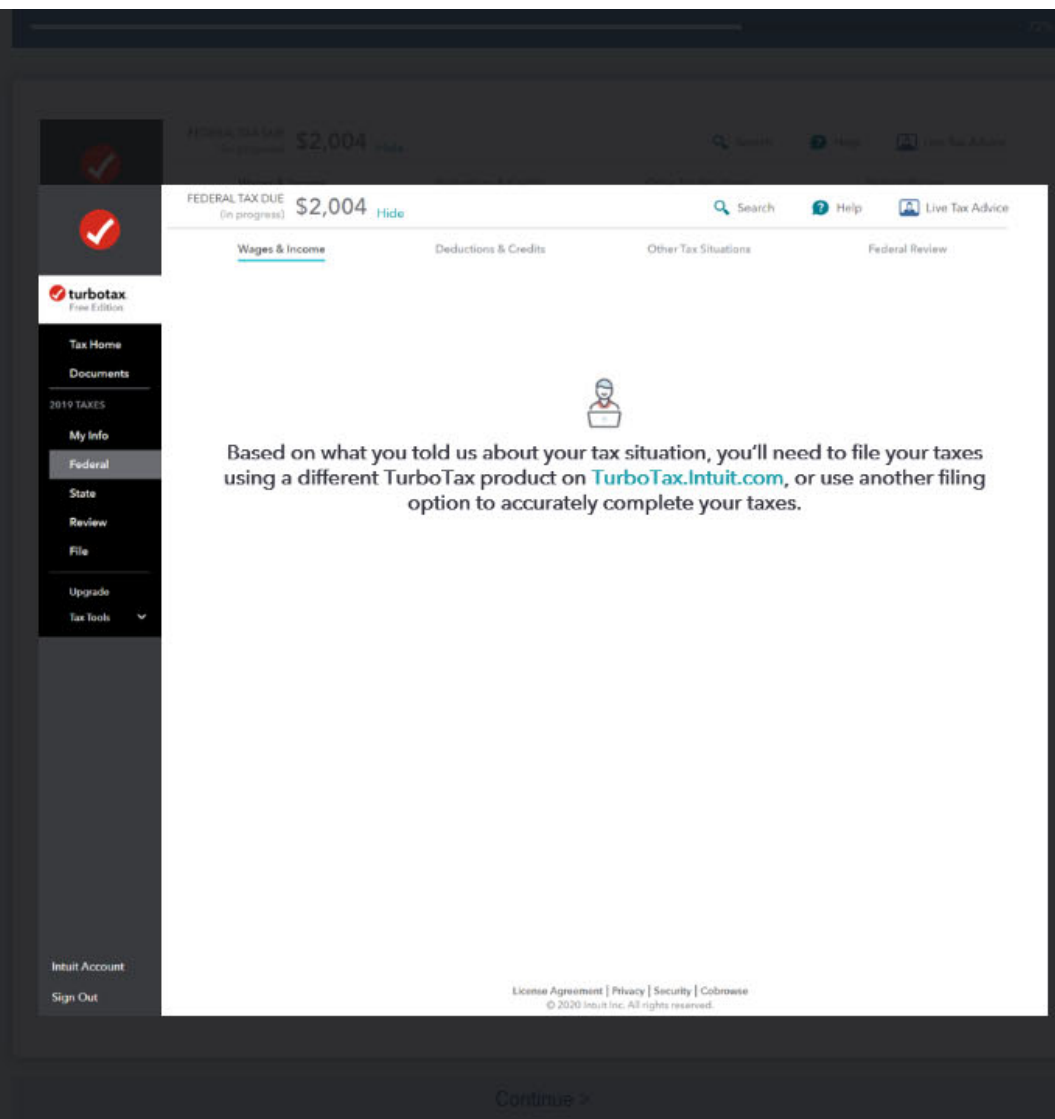


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78%



turbotax

Free Edition

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Again, imagine that you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with some information in the screen above. In your own words, what would you do next upon seeing this screen?

Please be as specific as possible

Continue >

80%



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2017 TAXES

My Info

Federal

State

Review

File

Upgrade

Tax Tools

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Wages & Income

Deductions & Credits


Other Tax Situations

Federal Review

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You may have already indicated this, but which of the following options would you *consider* using to file your taxes upon seeing this prompt?

(Select all that apply)

- ☐ Self-Filed Paper Filing
- ☐ IRS Free File Program
- ☐ TurboTax Self-Employed
- ☐ TurboTax Premier
- ☐ TurboTax Deluxe
- ☐ TurboTax Free Edition
- ☐ Accountant Supported Paper Filing
- ☐ Other Online Filing Options (e.g., H&R Block, TaxAct, TaxSlayer)
- ☐ Other
- ☐ Don't know / Unsure

Continue >

85%



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2019 TAXES

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Federal

State

Review

File

Upgrade


Tax Tools

Initial Account

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You may click on the image to enlarge. Please click the X in the upper right corner to return to the survey.

Of the option(s) you mentioned you would consider in the previous question, which of the following options would you *most likely select* upon seeing this prompt?

(Select only one option)

☐ TurboTax Deluxe

☐ Don't know / Unsure

Continue >

87%

What is the reasoning behind your decision? Why did you select TurboTax Deluxe?

Please be as specific as possible

Continue >

91%

Did you or did you not pay for online tax software to file your taxes in 2019?

(Select only one option)

- ☐ Yes, I paid for online tax software to file my taxes
- ☐ No, I did not pay for online tax software to file my taxes
- ☐ Don't recall / Unsure

Continue >

91%

Did you or did you not pay for online tax software to file your taxes in 2020?

(Select only one option)

- ☐ Yes, I paid for online tax software to file my taxes
- ☐ No, I did not pay for online tax software to file my taxes
- ☐ Don't recall / Unsure

Continue >

95%

Are you or are you not aware of any media reports, investigations, or lawsuits involving an online tax software provider or accounting company?

(Select only one option)

- ☐ I am aware of at least one media report, investigation, or lawsuit
- ☐ I am not aware of any media reports, investigations, or lawsuits
- ☐ Don't know / Unsure

Continue >

APPENDIX E
PRETEST MODERATOR INSTRUCTIONS

Pretest Moderator Instructions

The pretest sample will include respondents who meet the study screening criteria. A minimum of ten pretest interviews will be conducted over the phone by a trained, blind-to-the-purpose interviewer with blind-to-the-purpose respondents at Analysis Group.

Notes to moderator are in brackets, bolded, and all capital letters.

[Section I: Introduction and Questionnaire]

[MODERATOR TO READ]

Hello, **[FIRST NAME]**? My name is _____. Thank you so much for agreeing to take this survey today. I am going to be on the phone while you take an online survey. I will be on the phone the entire time you are taking the survey, so feel free to “think out loud” or bring up anything you would like while you are taking the survey. Please be thorough in your responses and take as much time as you need. After you are done taking the survey, I will ask you a couple of follow-up questions. Does that all sound okay?

[ALLOW THE RESPONDENT TO TAKE THE SURVEY AND FINISH]

[Section II: Follow-up Questions]

[QUESTIONS TO ASK AFTER THE RESPONDENT FINISHED RESPONDING TO ALL SURVEY QUESTIONS AND INDICATES SO. ADD PROBES SUCH AS “ANYTHING ELSE” TO CONFIRM THAT RESPONDENTS HAVE GIVEN A COMPLETE ANSWER.]

Date/time of pre-test:

Treatment group:

Length of time to complete survey:

General notes during survey, if any:

Q1. Did you have any problems while taking the survey?

Q2. Did you think any questions were unclear? If so, which ones and why?

Q3. Did you think any answer options were unclear? If so, which ones and why?

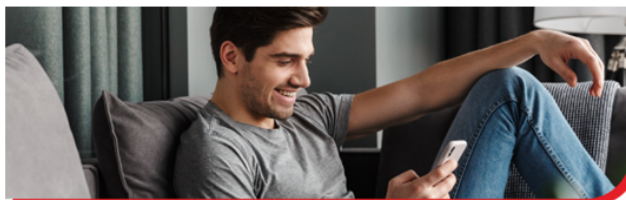
Q4. Did you or did you not have any difficulty viewing the image(s)?

Q5. What do you think might be the purpose for conducting this survey?

Q6. What makes you think so?

Q7. Is there anything else you would like to say about the survey?

APPENDIX F
DYNATA INVITE AND MATERIALS



New studies available now.

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Get it while it's fresh! This new survey is in need of answers, but it's filling up fast.


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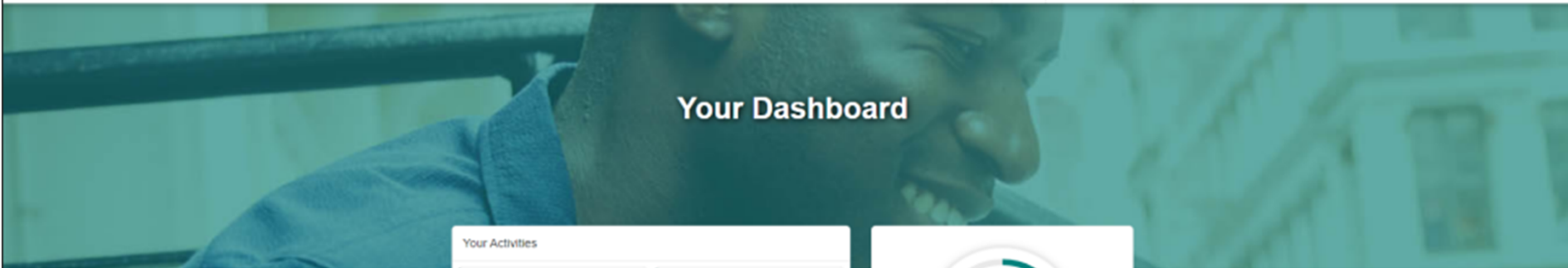
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\$1.00

eRewards







Currency


[Save ACCOUNT](#)



Your Dashboard

Your Activities

<div> Survey Social Topics</div> <div><div>\$4.00</div><div>10 mins.</div></div>	<div> Survey Social Topics</div> <div><div>\$0.25</div><div>2 mins.</div></div>
<div> Survey Entertainment</div> <div><div>\$4.50</div><div>20 mins.</div></div>	<div> Survey Healthcare</div> <div><div>\$7.00</div><div>30 mins.</div></div>
<div> Survey Healthcare</div> <div><div>\$7.00</div><div>30 mins.</div></div>	<div> Survey Healthcare</div> <div><div>\$7.00</div><div>30 mins.</div></div>



30%
COMPLETE

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You're a Bronze member


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APPENDIX G
INDEPENDENT CODER INSTRUCTIONS

Coding Instructions

You are being asked to be one of two coders of an online survey conducted for market research. In this research, 750 respondents were asked two open-ended questions. We are asking you, in your role as a coder, to carefully review and categorize their responses.

Each respondent was assigned to one of three groups: test group 1, test group 2, or control. Depending on the assigned group, each respondent viewed a certain stimulus. They were then asked a series of questions about how they would respond based on the information contained in the stimulus they viewed. The stimuli and script of the survey will be provided to you before you review any of the survey responses.

General Instructions

1) You will be responsible for coding open-ended answers to survey questions (i.e., assigning them to categories or “buckets” of responses). According to the descriptions provided to you for each category, you will assign each answer to a category using a “1” if the answer contains the content of interest and a “0” if it does not contain the content of interest. On the pages that follow, you will see the questions, coding instructions, descriptions for categories, and examples of how they are answered, and how one might code those responses.

2) You will be assigned to review open-ended answers to two questions (Q6 and Q9). For Q6, you will be given a single spreadsheet with all respondents’ answers to that question and pre-defined categories. For Q9, you will receive one spreadsheet with the answers to that question from a subset of respondents, along with pre-defined categories.

[See descriptions of categories on the following pages]

3) Your job is to categorize each open-ended answer into the relevant bucket(s) using either a “0” or a “1”. In order to do so, you are instructed to follow the steps explained below to categorize responses:

- a. Each coder will review responses to the open-ended questions for the first 100 respondents independently. Each coder will also review the pre-defined categories and you will meet with each other to discuss the list of pre-defined categories and propose modifications, if needed. Please judge whether new categories are needed, whether categories should be combined, or whether categories should be disaggregated. You will decide on one list of categories together.
- b. Once the list of categories is confirmed, you will independently review the open-ended answers and assign each response to one of the categories using flags of “0” or “1”. You will assign the answer to “1” if the answer contains the content of interest and will assign the answer to “0” if it does not contain the content of interest. Ideally, a response should be assigned to the category that best fits the response. But you may code an answer to more than one category as appropriate. Descriptions of the answer categories and some suggested keywords for each

category are provided to you as guidelines but you are welcome to suggest and incorporate additional keywords based on your review.

- c. After both coders have categorized the respondents using the agreed upon list of categories, you will meet to resolve (“tiebreak”) any differences in coding. In the case of disagreement, you will jointly recode the response in question while keeping track of each coder’s initial categorizations and the final categorizations.
-
- 4) Use only one code (“0” or “1”) for each open-ended answer and response bucket.
 - 5) Do not rush – take your time. Read the question and answer twice before deciding on a code.
 - 6) Respondents may misspell an answer. For example, a respondent might type “Bostan” when s/he meant “Boston.” You are to use your judgment of what the respondent meant when typing the answer.
 - 7) Use your own judgment – do NOT consult with anyone else. This is very, very important.

You will be coding answers to the following questions:

Q6. Again, imagine that you choose to use TurboTax's "Free Edition" product to begin preparing your tax returns. Upon creating or logging into your TurboTax account and responding to a series of questions on successive windows about your personal information, tax situation, and income, you are prompted with some information in the screen above. In your own words, what would you do next upon seeing this screen?

Q9. What is the reasoning behind your decision? Why did you select [TurboTax Deluxe/TurboTax Premier/TurboTax Self-Employed]?

For Q9, you will receive one spreadsheet that includes three subsets of respondents (1) Respondents who *selected* TurboTax Deluxe, (2) Respondents who *selected* TurboTax Premier, and (3) Respondents who *selected* TurboTax Self-Employed. This spreadsheet includes pre-defined categories relevant to these subsets.

You will be coding whether the answers reference products associated with TurboTax. Before you start coding, please spend 10 minutes reviewing the TurboTax products page:

<https://turbotax.intuit.com/personal-taxes/online/>

Click around the website to familiarize yourself with TurboTax's products. Then proceed to coding the pre-defined categories for each response as follows:

Question 6: Categories and descriptions

Please note that relevant keywords for each category are provided as guidelines. You are welcome to suggest and incorporate additional keywords based on your review and provide feedback on any of the keywords below.

Also, in the *Don't Upgrade - Consider Other Alternatives* category, please record the product mentioned by the respondent, if specified in their answer to Q6.

1. Upgrade**1.1. *No other information provided:***

- *Description:* Respondents who simply wrote "upgrade" with no additional information provided
- *Relevant keywords:* "upgrade" and any common misspellings, exclude responses that contain "don't upgrade" or "wouldn't upgrade"

1.2. *Follow instructions:*

- *Description:* Respondents who indicate they would upgrade because of the prompt
- *Relevant keywords:* "instructions" "prompt" "agree"

1.3. Tax situation:

- *Description:* Respondents who indicate they would upgrade because of their special tax situation and needs
- *Relevant keywords:* “1099” “personal” “investment” “multiple sources” “self-employed”

1.4. Brand and value:

- *Description:* Respondents who indicate they would upgrade because of a preference for or loyalty to TurboTax products
- *Relevant keywords:* “last year” “always” “prefer” “I’ve used” “value”

1.5. Upgrade after conducting research:

- *Description:* Respondents who indicate they would likely upgrade after reviewing their options or conducting further research
- *Relevant keywords:* “research the recommended upgrade” “compare options” AND “TurboTax”

1.6. No other choice:

- *Description:* Respondents who indicate they would upgrade because they “have to” or “have no choice”
- *Relevant keywords:* “have to upgrade” “need to upgrade” “must upgrade”

2. Don’t upgrade**2.1. No other information provided:**

- *Description:* Respondents who simply wrote “don’t upgrade” with no additional information
- *Relevant keywords:* “don’t upgrade” “wouldn’t upgrade” “do not upgrade”

2.2. Free Edition:

- *Description:* Respondents who indicate they believe their taxes are simple and would remain with the Free Edition product
- *Relevant keywords:* “stick to free” “have simple taxes” “simple income” and “free”

2.3. Delete account / Exit the site:

- *Description:* Respondents who indicate they will not upgrade and that they would delete their TurboTax account or exit the TurboTax site.
- *Relevant keywords:* “delete” “leave the website” “close” “get out” “quit”

2.4. Consider other alternatives:

- *Description:* Respondents who indicate they will not upgrade and that they would research, consider, or choose other alternatives, including TurboTax Free File and/ or competitors’ (free or paid) offerings

- *Please also specify:* Generic alternatives, TurboTax Free File, IRS Free File, H&R Block, TaxAct, TaxSlayer, etc.
- *Relevant keywords:* “H&R Block” “Other tax programs” “TaxAct” “TaxSlayer” “alternatives” “different service” “another tax service/software” “go to another” “another vendor”

3. Unclear Whether Upgrade or Not Upgrade

3.1. Unclear Next Steps:

- *Description:* Respondents who do not indicate whether they would or would not upgrade
- *Relevant keywords:* “do nothing” “maybe” “either”

3.2. Respondent Unsure:

- *Description:* Respondents who indicate they are unsure whether they would or would not upgrade
- *Relevant keywords:* “unsure” “don’t know”

4. Additional Research / Consideration:

- *Description:* Respondents who do not specify whether they would or would not upgrade, but specify that they will conduct additional research or consider their options
- *Relevant keywords:* “research other options” “read” “learn more” “learn more” “think more” “review” “consider which option”

5. Follow Instructions Provided / Continue:

- *Description:* Respondents who do not specify whether they would or would not upgrade, but who indicate that they will follow the instructions on the site or continue in their usage of the TurboTax site
- *Relevant keywords:* “click link” “follow directions” “enter information” “keep going”

6. Excluded:

- *Description:* Any response that does not belong to any of the categories defined above.
- *Examples:* “beautiful” “great” or random character strings

Question 9: Categories and descriptions

Please note that relevant keywords for each category are provided as guidelines. You are welcome to suggest and incorporate additional keywords based on your review and provide feedback on any of the keywords below.

1. Respondents who selected TurboTax Deluxe/TurboTax Premier/TurboTax Self-Employed

1.1. *Tax situation:*

- *Description:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because of their special tax situation and needs
- *Relevant keywords:* “income” “investment” “appropriate version” “tax circumstances” “form” “rental” “property” “fit my needs” “expenses” “complicated” “functionality” “relevant” “self-employed” “business” “fit my needs”

1.2. *Next Best Alternative:*

- *Description:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because it is the next best alternative to TT Free Edition
- *Relevant keywords:* “next” “step up”

1.3. *Follow Instructions:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because they are following the instructions in the prompt

1.4. *Brand / Preference:*

- *Description:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because of a preference for or loyalty to TurboTax products
- *Relevant keywords:* “comprehensive” “features” “familiar” “trust” “extra help” “best” “used in past” “like” “best option” “faster”

1.5. *Value / Price Point:*

- *Description:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because of the price or cost-effectiveness of the option they chose
- *Relevant keywords:* “value” “cheapest” “good price” “affordable” “good offer”

1.6. *No Other Choice:*

- *Description:* Respondents who select TT Deluxe/TT Premier/TT Self-Employed because they “have to” or “have no choice”
- *Relevant keywords:* “can’t use”/“don’t qualify” AND “free” or “have to” “need to” “must”

1.7. *Excluded*

- *Description:* Any response that does not belong to any of the categories defined above.
- *Examples:* “beautiful” “great” or random character strings

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2022, I filed the foregoing document electronically using the FTC's Accellion FTP encryption system, which will send notification of such filing to:

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

The Honorable D. Michael Chappell
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580
OALJ@ftc.gov

I further certify that on August 30, 2022, I caused the foregoing document to be served via email to:

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Federal Trade Commission
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Washington, DC 20580
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Rebecca Plett
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Counsel Supporting the Complaint

April Tabor
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The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580
OALJ@ftc.gov

Dated: August 30, 2022

Respectfully submitted,

/s/ Derek A. Woodman
DEREK A. WOODMAN
Counsel for Intuit Inc.