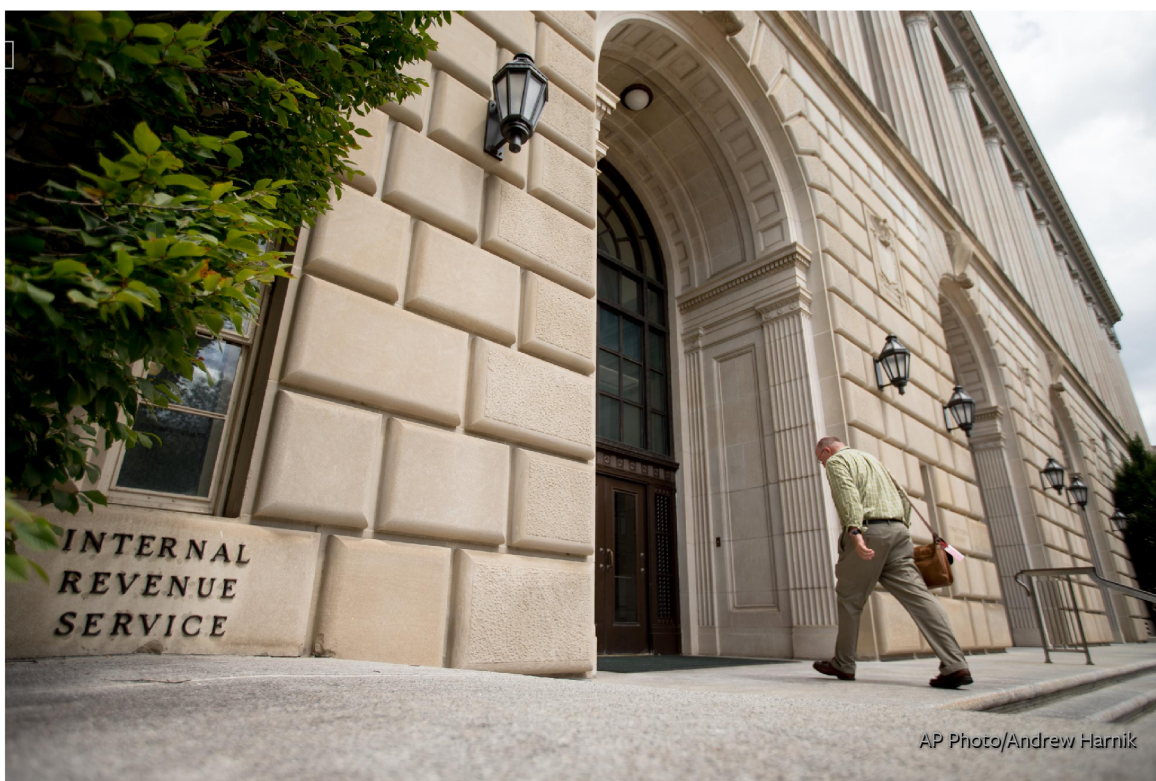


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Tax Administration Woes Extend Beyond Just Refunds

Unpaid call-center workers, shuttered tax courts, and loads of unfinished guidance are just a few of the issues brought on by the one-two punch of a government shutdown and tax-code overhaul.

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Thousands of workers are headed back to the IRS to process returns and refunds for the filing season, but that won't stop all the challenges stemming from the shutdown and tax-code overhaul.

With just 11 days until the IRS begins accepting tax returns, the tax system is under heavy strain. The shutdown has furloughed thousands of employees and regulators continue to issue major rules for the 2017 tax law.

The agency is taking steps to mitigate the worst effects, but the combination could remain troublesome for taxpayers, tax practitioners and policy experts said.

“In any new year, a set of new tax laws is always a challenge to implement, and anytime you have a shutdown, that creates a lot of problems for taxpayers,” said Tim Steffen, director of advanced planning at the Milwaukee office of Robert W. Baird & Co. “Having the two of them come at the same time is going to make things incredibly challenging for both taxpayers and the IRS.”

Lawmakers are noticing as well.

Rep. Richard Neal said Thursday that in his first hearing as chairman of the House Ways and Means Committee, he plans to examine the impact of the government shutdown on the Treasury Department and taxpayers. Neal sent a [letter](https://democrats-waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/1.16.19%20Neal%20Sec%20Mnuchin%20invite.pdf) (<https://democrats-waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/1.16.19%20Neal%20Sec%20Mnuchin%20invite.pdf>) to Treasury Secretary Steven Mnuchin inviting him to testify at the Jan. 24 hearing, but Ways and Means Democrats said Thursday night that Mnuchin had declined.

Committee members may delve into more than just the shutdown. Speaking to reporters Thursday, Rep. Earl Blumenauer—a senior Ways and Means member—pointed out the overall decline in IRS funding over the past decade and its impact on taxpayer services, as well as complications the 2017 tax bill may impose on the filing season.

“It has been a continued assault by the Republicans on the capacity of the IRS to function while they have made the tax code more complicated, and what they just passed is the most complicated, confusing system,” Blumenauer said of the tax overhaul. “People are scrambling to figure out what it means.”

The agency’s 2018 funding did include additional money to implement the tax overhaul, though funding for sections like enforcement remain lower when compared to 2010 levels.

The hearing announcement comes on the heels of the Trump administration’s Tuesday [notice](https://home.treasury.gov/system/files/266/IRS-Lapse-in-Appropriations-Contingency-Plan_Filing-Season_2019-01-15.pdf?mod=article_inline) (https://home.treasury.gov/system/files/266/IRS-Lapse-in-Appropriations-Contingency-Plan_Filing-Season_2019-01-15.pdf?mod=article_inline) that it would recall some 46,000 furloughed IRS employees to process tax returns for the filing season. Those employees won’t be paid until Congress and the White House resolve their funding impasse.

Along with return processors, the agency will also bring back employees to staff call centers and process overdue IRS debt, among other duties. Most audit investigations will not continue during the shutdown, however.

Since the shutdown, there had been “no outreach, whatsoever” from the IRS, said Dennis Brager, founder of the Los Angeles-based Brager Tax Law Group, which handles tax litigation and controversy cases.

“Normally my phone is ringing all day long with various revenue officers who want to know why my clients haven’t paid their taxes,” said Brager.

Bringing the employees back for filing season, however, “is good news for the system,” he said.

“Some of our clients have been waiting to resolve payment plans and offers-in-compromise with the IRS and have not been happy that the process has been slowed,” Brager said.

But even with some employees back, not all the challenges to processing this year’s returns are solved, said Nicole Kaeding, director of federal projects for the Tax Foundation. It doesn’t do much for morale being forced to work for delayed pay, and there could be a scenario similar to the airport Transportation Security Administration screeners, who have called in sick in droves to protest, she said.

Individual taxpayers might notice some longer wait times at call-service centers, Kaeding said, adding that the centers may be busier than average this year with taxpayers calling in with questions about the new tax law. Any slowdown is likely to hit low- to middle-income individuals first, as they’re more likely to file their returns at the beginning of the season in anticipation of tax refunds.

Outside of the Treasury and IRS, tax law is stalled. The U.S. Tax Court will remain [shut down](https://www.ustaxcourt.gov/) (<https://www.ustaxcourt.gov/>), putting tax cases on hold.

Brager said some of his clients had trials scheduled for the beginning of January that have been postponed. That could impose additional costs on clients who are disputing tax debt, he said. If they ultimately lose their case, clients could end up owing the government more money as their date in court is pushed further into 2019.

“Assuming they wind up owing money, interest continues to accrue, and if the debt isn’t determined, then it’s not going to be paid,” Brager said.

Last year’s IRS funding bill appropriated money solely for implementing the 2017 tax overhaul, so some rulemaking as well as preparation of new tax forms continues during the shutdown. Still, the enormous, \$1.5 trillion tax code overhaul requires Treasury issue a significant number of regulations, a task that is likely to extend beyond the filing season.

Accountants and taxpayers have been concerned about the lack of final regulations for the 20 percent deduction for qualified business income, a tax break for pass-through entities, sole proprietorships and other businesses that pass tax liability directly to the owner. They may get a reprieve soon, however, as

the Office of Management and Budget announced it had completed its regulatory review of the guidance, meaning the Treasury will release the final version soon.

Taxpayers looking for guidance on other provisions may have to wait longer.

The Treasury canceled a Jan. 10 hearing for another tax-overhaul provision, the qualified opportunity-zones-tax break, because of the shutdown. The provision offers a tax breaks to investors who develop projects in about 9,000 designated low-income areas across the country. The Treasury has proposed guidance on the tax break, but has yet to finalize anything, leaving investors without direction on how the provisions will work.

Steffen said taxpayers are still waiting on final IRS rules banning some of the [workarounds](https://www.nationaljournal.com/s/666082/new-york-rolls-dice-salt-workaround) (<https://www.nationaljournal.com/s/666082/new-york-rolls-dice-salt-workaround>) that states have implemented to help residents avoid the new \$10,000 state-and-local-deduction cap. The lack of clarity could impact how they file their taxes this year.

“Taxpayers are still going to be held to their filing deadlines,” Steffen said. “They’ve still got to get their returns in by April, or October if you extend, and if you don’t have the final rules by then you are just going to have to make some calls between you and your accountant. The IRS, on the other hand, has three years to come back at you.”