

THE TURBOTAX TRAP

Inside TurboTax's 20-Year Fight to Stop Americans From Filing Their Taxes for Free

Using lobbying, the revolving door and “dark pattern” customer tricks, Intuit fended off the government’s attempts to make tax filing free and easy, and created its multi-billion-dollar franchise.

by Justin Elliott and Paul Kiel, Oct. 17, 2019, 5 a.m. EDT



Richard Borge, special to ProPublica

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Last fall, Intuit’s longtime CEO Brad Smith embarked on a farewell tour of the company’s offices around the world. Smith had presided over 11 years of explosive growth, a period when Intuit had secured its place in the Silicon Valley pantheon, and the tour was like a long party.

In Ontario, employees wore T-shirts with Smith’s quasi-spiritual sayings: “Do whatever makes your heart beat fastest” and “Repetition doesn’t ruin the prayer.” In Bangalore, India, workers put on Smith face masks as they posed for selfies with the man himself. Fittingly, the tour culminated in San Diego, the home of TurboTax, the software that transformed the company’s fortunes. There, Smith arrived at his party in a DeLorean, and as he walked a red carpet, cheering employees waved “Brad is Rad” signs. To Smith’s delight, his favorite rock star, Gene Simmons of Kiss, emerged.

The two posed for pictures, Simmons clad in black and the beaming CEO flashing the “rock on” hand sign.

Intuit began in the 1980s as an accounting software company focused on helping people with their bookkeeping. Over time, the company, like the other giants of Big Tech, cultivated an image of being not just good at what it did, but good, period. In a recent Super Bowl ad, Intuit portrayed itself as a gentle robot that liberates small-business owners from paperwork. The company stresses values above all, urging employees to “deliver awesome” and pursue “integrity without compromise.”

Intuit’s QuickBooks accounting product remains a steady moneymaker, but in the past two decades TurboTax, its tax preparation product, has driven the company’s steadily growing profits and made it a Wall Street phenom. When Smith took over in 2008, TurboTax was a market leader, but only a small portion of Americans filed their taxes online. By 2019, nearly 40% of U.S. taxpayers filed online and some 40 million of them did so with TurboTax, far more than with any other product.

But the success of TurboTax rests on a shaky foundation, one that could collapse overnight if the U.S. government did what most wealthy countries did long ago and made tax filing simple and free for most citizens.

For more than 20 years, Intuit has waged a sophisticated, sometimes covert war to prevent the government from doing just that, according to internal company and IRS documents and interviews with insiders. The company unleashed a battalion of lobbyists and hired top officials from the agency that regulates it. From the beginning, Intuit recognized that its success depended on two parallel missions: stoking innovation in Silicon Valley while stifling it in Washington. Indeed, employees ruefully joke that the company’s motto should actually be “compromise without integrity.”

Internal presentations lay out company tactics for fighting “encroachment,” Intuit’s catchall term for any government initiative to make filing taxes easier — such as creating a free government filing system or pre-filing people’s returns with payroll or other data the IRS already has. “For a decade proposals have sought to create IRS tax software or a ReturnFree Tax System; All were stopped,” reads a confidential 2007 PowerPoint presentation from an Intuit board of directors meeting. The company’s 2014-15 plan included manufacturing “3rd-party grass roots” support. “Buy ads for op-eds/editorials/stories in African American and Latino media,” one internal PowerPoint slide states.

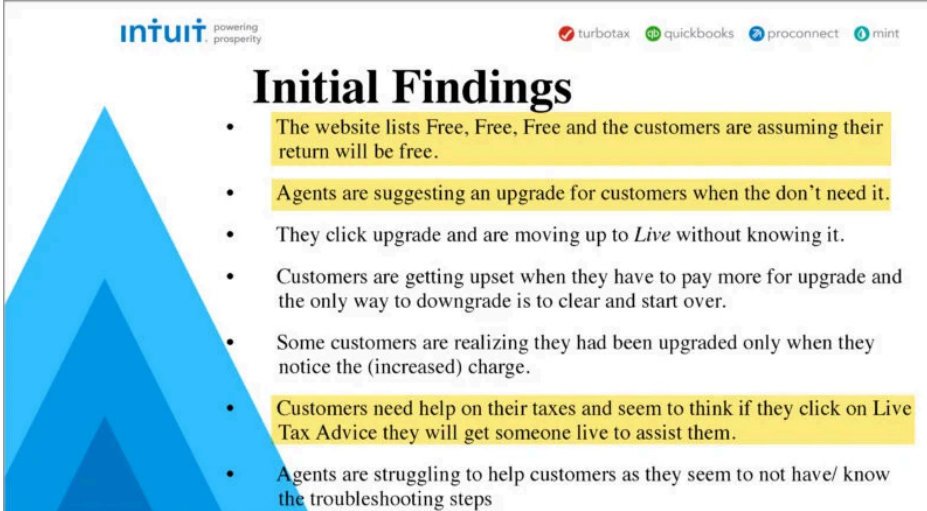
The centerpiece of Intuit’s anti-encroachment strategy has been the Free File program, hatched 17 years ago in a moment of crisis for the company. Under the terms of an agreement with the federal government, Intuit and other commercial tax prep companies promised to provide free online

filing to tens of millions of lower-income taxpayers. In exchange, the IRS pledged not to create a government-run system.

Since Free File's launch, Intuit has done everything it could to limit the program's reach while making sure the government stuck to its end of the deal. As ProPublica has reported, Intuit added code to the Free File landing page of TurboTax that hid it from search engines like Google, making it harder for would-be users to find.

Twelve years ago, Intuit launched its own "free" product: the similarly named "Free Edition" of TurboTax. But unlike the government program, this one comes with traps that can push customers lured with the promise of "free" into paying, some more than \$200. Free Edition was a smash hit for Intuit and its pitch for "free" prep remains core to the company's growth. Recently, it launched a "free, free free free" ad campaign for the Free Edition, including a crossword puzzle in The New York Times in which the answer to every clue was "f-r-e-e."

Intuit knows it's deceiving its customers, internal company documents obtained by ProPublica show. "The website lists Free, Free, Free and the customers are assuming their return will be free," said a company PowerPoint presentation that reported the results of an analysis of customer calls this year. "Customers are getting upset."



The image shows a screenshot of an internal Intuit PowerPoint slide. At the top left is the Intuit logo with the tagline "powering prosperity". At the top right are logos for "turbotax", "quickbooks", "proconnect", and "mint". The slide title is "Initial Findings". Below the title is a bulleted list of seven findings. The first, second, fifth, and sixth items are highlighted in yellow. The findings are:

- The website lists Free, Free, Free and the customers are assuming their return will be free.
- Agents are suggesting an upgrade for customers when the don't need it.
- They click upgrade and are moving up to *Live* without knowing it.
- Customers are getting upset when they have to pay more for upgrade and the only way to downgrade is to clear and start over.
- Some customers are realizing they had been upgraded only when they notice the (increased) charge.
- Customers need help on their taxes and seem to think if they click on Live Tax Advice they will get someone live to assist them.
- Agents are struggling to help customers as they seem to not have/ know the troubleshooting steps

An internal Intuit analysis of customer calls this year shows widespread customer confusion about ads for "free" TurboTax. (Highlights added by ProPublica.)

Intuit also continues to use "dark patterns" — design tricks to get users of its website to do things they don't necessarily mean to do — to ensure that as many customers as possible pay, former employees say. A marketing concept frequently invoked at Intuit, which goes by the acronym "FUD," seeks to tap into Americans' fear, uncertainty and doubt about the tax filing process.

An Intuit spokesman declined to answer ProPublica’s detailed questions about its efforts to fend off a government filing system, but he provided a statement.

“We empower our customers to take control of their financial lives, which includes being in charge of their own tax preparation,” he said, adding that a “government-run pre-filled tax preparation system that makes the tax collector (who is also the investigator, auditor and enforcer) the tax preparer is fraught with conflicts of interest.”

The IRS is seemingly the biggest threat to Intuit and other commercial tax prep businesses, but it has more frequently acted as the industry’s ally, defending the Free File program even in the face of critical internal reviews. The IRS declined to comment for this article.

The consequences of Intuit’s efforts affect a huge proportion of the taxpaying public. Americans spend an estimated 1.7 billion hours and \$31 billion doing their taxes each year. Just 2.8 million participated in the Free File program this year, down from 5.1 million at the program’s peak in 2005.

Intuit’s success has made the men who run the company rich. Smith, the CEO who stepped down last year and is now executive board chair, had a stake worth \$20 million when he became chief executive. It ballooned to \$220 million by last year. Co-founder Scott Cook is now among the country’s wealthiest people, his fortune soaring to \$3.3 billion.



Intuit CEO Brad Smith flashes the “rock on” hand sign next to Kiss’ Gene Simmons during Smith’s 2018 farewell tour at TurboTax in San Diego. (Rachael Marie Photography)

This year, Intuit was close to realizing a long-held goal: enshrining the Free File program in law, effectively closing the door on the IRS ever creating a

free tax filing system. But an outcry followed ProPublica's reporting on the matter and Intuit's treatment of its customers, prompting the provision to be dropped and state and federal investigations into Intuit's practices.

Yet even after this setback, the company remained steadfastly confident that its clout in Washington would win the day.

“What we're not gonna do is fight this publicly because that is exactly what they want us to do,” said Sasan Goodarzi, the new CEO, in a video released to staff this May and obtained by ProPublica. “We are actually working with the IRS and members of the Congress to ensure that the facts are very clear.”

Intuit has dominated the tax software market since 1993, when for \$225 million, it bought Chipsoft, the San Diego-based company that had created TurboTax. Even then, TurboTax was the most popular option, but Intuit pursued a plan of aggressive growth. The product necessarily came on a disk, and by the end of the 1990s TurboTax boxes were nearly ubiquitous, on shelves in office supply stores across America.

As internet speeds increased and dot-com mania took hold, it became apparent that Intuit's future was not in a box on a shelf. It was online.

The prospect of TurboTax's growth was vast for another reason. As late as 2001, around 45 million Americans still filled out their tax forms on paper. For Intuit, those were all potential customers.

But Intuit wasn't alone in seeing possibilities in the spread of high-speed internet. In Washington, lawmakers began pushing the IRS to modernize and get more taxpayers to file electronically. It was a no-brainer: Filing taxes online would be easier, and the IRS would save staff costs on processing paper returns.

The danger to Intuit's growing business was obvious. If the government succeeded in creating a system that allowed the vast majority of taxpayers to file online for free, TurboTax profits would plummet. Intuit recognized that the notion of “return-free filing” was not going away on its own.

And so in 1998, the company hired Bernie McKay, a onetime Carter administration aide and a senior lobbyist at AT&T, to be its vice president for corporate affairs. Intuit executives like to talk about having a “customer obsession” in developing their products. McKay's obsession is stopping government encroachment. Known to physically bang the table to drive home a point, McKay's style is “aggressive to the point of offense,” said one fellow tax prep lobbyist. An Intuit spokesman said, “This mischaracterization of Mr. McKay is pure fiction.”

McKay, for his part, when asked at a recent tax industry conference which Star Wars character he is, responded, “Darth Vader.”

The year McKay was hired, Congress passed a major overhaul of the IRS. The bill, reflecting Intuit’s lobbying, said that the IRS “should cooperate with and encourage the private sector” to increase electronic filing.

While McKay came through in his first big test, in 2002, the company found itself up against an unexpected foe, the George W. Bush administration. The threat came from a broad administration initiative to upgrade government technology. One of the proposals called for the IRS to develop “an easy, no-cost option for taxpayers to file their tax return online.”

Without such an option, taxpayers were stuck either filing on paper or, to file electronically, paying a tax professional or software company like TurboTax. Providing an alternative would be an obvious improvement, said Mark Forman, an official at the Office of Management and Budget who led the “e-government” program. The technology wasn’t all that complicated, and creating a free, automated filing system would help tens of millions of Americans. “This was seen as a low-cost, high-payoff initiative,” Forman recalled in a recent interview with ProPublica. Standing in the way, he said, was an industry “that lives off the complexity of the tax code.”

Intuit revved its new lobbying machine. Even before the OMB report was publicly released, a group of Republican lawmakers, led by TurboTax’s hometown congressman, wrote to the agency arguing that there was no reason for the government to “compete” with the “well-established” private tax prep companies. Intuit’s lobbyists also went above the OMB and pressed their case directly to the White House, Forman recalled.

At the IRS, “all hell broke loose,” remembered Terry Lutes, who was then the head of electronic filing at the agency. Intuit’s clout on the Hill meant that lawmakers were soon accusing the IRS of making “secret plans to undercut the industry,” Lutes said. The agency ran the risk of seeing its funding cut if it were to pursue the Bush plan.

The IRS commissioner at the time, Charles Rossotti, also opposed the idea. The IRS’ customer service staff, already too thin to respond adequately to Americans’ questions about the tax code, would have to grow substantially to handle millions of software queries. Congress “will never give you sufficient funding,” Rossotti told ProPublica.

So the IRS felt caught in the middle. The question became, Lutes said, “Is there some way to come out of this with something for taxpayers that

addresses the administration’s objective and at the same time is acceptable to industry?”

Intuit, it turned out, did have a way. Since 1999, as part of the company’s strategy to head off encroachment, TurboTax had been offering free tax prep to the poorest filers. It was a program that served to bolster the company’s arguments that government intervention was unnecessary.

This became the basis for a deal. The industry would offer free tax prep to a larger portion of taxpayers. In exchange, the IRS would promise not to develop its own system.

CEO Says Intuit Is Taking Its Case Directly to the IRS and Congress

In an internal video, CEO Sasan Goodarzi told Intuit staffers: “What we’re not gonna do is fight this publicly because that is exactly what they want us to do.”

Internal Video: CEO Says Intuit Is Taking Its Cas...



Intuit organized a coalition of tax prep companies under the name the Free File Alliance, and after negotiations with the IRS, the group agreed to provide free federal filing to 60% of taxpayers, or about 78 million people at the time. Government officials touted the solution as a marvel of public and private cooperation. Americans would get free tax prep, and it would cost the government almost nothing.

For Intuit, it was the culmination of years of lobbying. The IRS had signed a contract that said it “will not compete with the [Free File Alliance] in providing free, online tax return preparation and filing services to taxpayers.”

What’s more, “free” wasn’t as unprofitable as it sounded. The alliance, guided by a lawyer who was also an Intuit lobbyist, won a series of concessions that made the program palatable to industry. Free File only required the companies to offer free federal returns. They could charge for other products. The state return was the most common, but they could

also pitch loans, “audit defense” or even products that had nothing to do with taxes.

Free File had another bright side: The companies could tailor their Free File offers so that they didn’t cut into their base of paying customers. The agreement said the industry had to offer free federal services to at least 60% of taxpayers, but each company individually only had to cover 10% of taxpayers. Intuit and the others were free to limit their offers of free tax prep by age, income or state.

There was little incentive for the companies to publicize a free alternative to their paid products, and the IRS agreed that the Free File offers need only be listed on a special page of the agency’s website.

For Intuit, it was a major victory in the war against encroachment. The company could now focus on turning whatever new customers it acquired through the program into paying users, both that year and in the future.

The first year of Free File was 2003, and for Intuit, things went well. On paper, the Free File Alliance was a collection of 17 companies, all of them vying to serve the American taxpayer. But in reality, it was a group made up of two giants and a bunch of gnats. Intuit’s only significant competitor was H&R Block, and even it was a distant second. The rest of the alliance consisted mostly of tiny companies with names like Free1040TaxReturns.com. As a result, Intuit could tailor its Free File offer just the way it wanted.

But the next year, Intuit began to lose control of its creation. A scrappy competitor, TaxAct, decided to use Free File to stand out. The company decided it would try to pick up as many new customers as possible and then charge them for ancillary services. Instead of following Intuit’s lead and constraining its offer to a subset of low-income taxpayers, TaxAct went the opposite direction.

“Why not go for an offer that’s much simpler to understand?” is how Lance Dunn, the president of the maker of TaxAct, described the strategy in a later court hearing. It began advertising a pitch for “free federal online tax preparation and e-filing for all taxpayers. No restrictions. Everyone qualifies.”

TurboTax’s offer on the Free File page, meanwhile, was more difficult to parse: “if you are eligible for EIC, are age 22 or younger, age 62 or older, or active Military with a W2.” (EIC stood for the Earned Income Tax Credit.)

TaxAct’s ploy was a smashing success. The company’s volume exploded.

Alarmed, Intuit tried to get the other companies not to offer their products for free to too many potential customers, according to Dunn. Such a request could be collusion, a violation of antitrust law, Dunn said. “Intuit asked the Free File Alliance members that we should restrict offers, which I believe is probably not legal for that group to restrain trade,” he said.

ProPublica asked Intuit about Dunn’s accusation, but the company did not respond.

Dunn, who declined to speak with ProPublica, made these remarks during sworn testimony in 2011. The hearing was part of an antitrust case by the Justice Department against H&R Block after it tried to buy TaxAct. The U.S. argued that, by eliminating a competitor, the merger would create a duopoly of Intuit and H&R Block. Although the Justice Department ultimately blocked that takeover, the market has grown even more consolidated in recent years. In 2019, according to a ProPublica analysis of IRS data, the two giants accounted for 81% of all individual returns filed using tax prep software.

On the defensive, Intuit and H&R Block matched TaxAct’s “no restrictions” offer on Free File. Americans rushed to file for free, and in 2005, 5 million people filed their taxes through the program. Free File had become the most popular way to file taxes online.

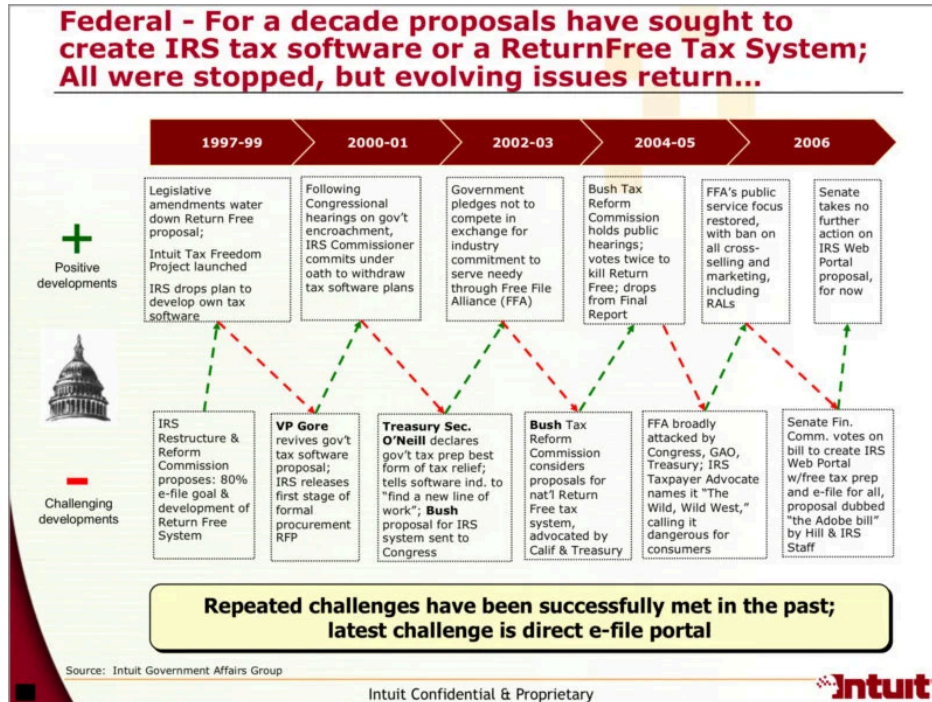
Intuit viewed the popularity of Free File as a serious threat and took its case to Congress. That year, Brad Smith, then a senior vice president at the company and head of TurboTax, told a House committee that “the current Free File Alliance program has drifted very far from its original public service purpose and objective,” as he put it. The program wasn’t supposed to be for everyone, he said: It was for the “disadvantaged, underprivileged and underserved taxpayer populations.”

Intuit’s arguments quickly gained traction at the IRS. Already, in March 2005, the IRS had written to the Justice Department for legal advice on modifying the Free File program. The agency wanted to know: Would it run afoul of antitrust laws if the IRS barred companies in the Free File Alliance from offering a free product to everyone?

The Justice Department responded in a May 2005 letter. Clearly, wrote Renata Hesse, an antitrust section chief at the department, “any agreement among Alliance members to restrict such free service is likely a form of price fixing” and thus illegal. But there was still a way for Intuit to get what it wanted. She wrote that if the IRS itself were to impose such a restriction, it would be legal.

The IRS swooped in to beat back Intuit’s competition, doing for Intuit what the company could not on its own. Despite just 5 million Americans using

a program that was purportedly available to 80 million, the IRS agreed that Free File needed to be reined in.



A confidential presentation for Intuit's board showed how the company, over a decade, beat back attempts to make tax filing easier.

The agency made its reasoning clear in a previously unreported letter sent to the Free File Alliance the following year. Bert DuMars, then head of electronic filing at the IRS, wrote that there'd been a huge jump in people using Free File in 2005, but no corresponding boom in people paying for tax prep. "If this trend continued, the IRS was concerned that it could cause many vendors to go out of business," he wrote. Stock market analysts, he pointed out, had said Free File "represented a threat to future revenues and profits of the publicly traded company participants." The IRS decided to remove this threat.

The new agreement, struck between the IRS and the alliance in 2005, gave Intuit what it had sought. Companies were now expressly barred from offering free tax prep to everyone through the program. Instead, only taxpayers under an income cap, then \$50,000 a year, would be eligible.

On paper, the program's eligibility had actually increased to 70% of taxpayers, or about 93 million households, up from the previous 78 million. But in practice, because broad, easy-to-understand offers were now barred, it was clear the program's use would decline.

Intuit had again bent the power of the federal government in its favor. After 2005, the Free File program was never again as popular, eventually falling to about half that year's level.

With the threat of government encroachment on ice and high-speed internet access proliferating in the mid-2000s, Intuit looked forward to steady growth and big profits. The upside of the online software business was huge, with the cost of producing each additional unit approaching zero. And TurboTax was hardly a niche product: Intuit executives still excitedly talk about the TAM, total available market, of TurboTax as every single tax filer in the country, now over 150 million households.

But TaxAct's Free File gambit had forever transformed the industry. Advertising "free" was a great lure, so TaxAct took the battle to a different venue. Barred from making a free offer to everyone through Free File on the IRS' website, TaxAct decided to make the offer on its own website in 2006. Intuit recognized a credible challenge from the upstart and countered the next year, launching TurboTax Free Edition on its website.

Confusingly, there were now two distinct options: the government-sponsored Free File and the commercial free editions.

For customers who managed to qualify, the new commercial options offered by these companies were similar to what they could get on the IRS' Free File website: The underlying software was the same, only the federal return was free, and the companies expected to make money on each customer through charging for a state tax return or other services.

But for the companies, there was a clear benefit to winning customers directly, rather than through the IRS program. The companies had complete control over how they handled customers from start to finish.

Intuit poured ad dollars into its Free Edition. Not only did the new product effectively meet TaxAct's challenge, it quickly became the major driver of TurboTax's customer growth.

That growth posed a challenge: how to, as internal company documents put it, "monetize free." Over successive tax seasons, Intuit unleashed teams of designers, engineers, marketers and data scientists on that problem, working at its headquarters in Mountain View and TurboTax's main offices in San Diego.

Part of the solution was to pitch users side products like loans or "Audit Defense." But it also meant misleading customers. Frequently "free" didn't mean free at all. Many who started in TurboTax Free Edition found that if their return required certain commonplace tax forms, they would have to upgrade to a paid edition in order to file.

The company came to a key insight: Americans' anxiety around tax filing is so powerful that it usually trumps any frustration with the TurboTax product, according to three former Intuit staffers. So even if customers

click on “free” and are ultimately asked to pay, they will usually do it rather than start the entire process anew. Intuit capitalized on this tendency by making sure the paywall popped up only when the taxpayer was deep into the filing process.

“There’s a lot of desperation — people will agree, will click, will do anything to file,” said a former longtime software developer.

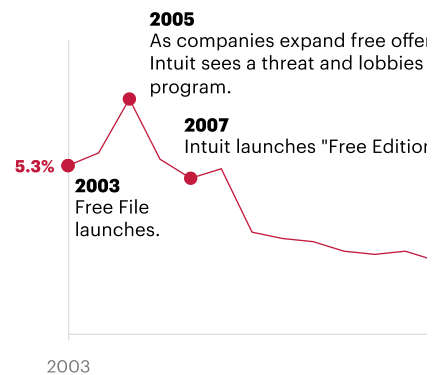
Every fall before tax season, the company puts every aspect of the TurboTax homepage and filing process through rigorous user testing. Design decisions down to color, word choice and other features are picked to maximize how many customers pay, regardless if they are eligible for the free product. “Dark patterns are something that are spoken of with pride and encouraged in design all hands” meetings, said one former designer. In the design world, “dark patterns” are tactics to get users to do something they don’t necessarily mean to do. (ProPublica previously documented dark patterns encountered by people trying to file their taxes for free.)

On TurboTax’s homepage, for example, the company carefully chooses how it describes the different editions. Prominently featured next to Deluxe Edition, which costs around \$100, is the phrase “maximize your deductions.”

If users initially click on the Deluxe software, they are never offered the choice to go to the Free Edition even if the no-cost option would produce the same return. “Maximize your deductions” was legendary at Intuit for its effectiveness in steering customers eligible for free filing to buy the paid product, according to a former marketing staffer.

Another celebrated feature, former staffers said, were the animations that appear as TurboTax users prepare their returns. One shows icons representing different tax deductions scrolling by, while another, at the end of the process, shows paper tax forms being scanned line-by-line and the phrase “Let’s comb through your returns.” What users are not told is

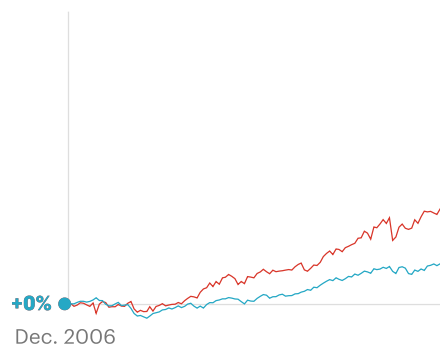
How Intuit Stopped Free File From Spreading



Note: Data reflects what per electronically filed individual returns were done via the sponsored Free File program

Source: IRS

Intuit's Share Price Has Shot Up in Recent Years



Source: Bloomberg

that these cartoons reflect no actual processing or calculations; rather, Intuit's designers deliberately added these delays to both reinforce and ease users' "Fear, Uncertainty, and Doubt." The animations emphasize that taxes are complicated but also reassure users that the technological wizardry of TurboTax will protect them from mistakes.

In a statement, the Intuit spokesman said, "The process of completing a tax return often has at least some level of stress and anxiety associated with it. ... To offset these feelings, we use a variety of design elements — content, animation, movement, etc. — to ensure our customers' peace of mind."

The 2007 launch of Free Edition started a period of rapid growth for TurboTax. Within two years, use of

its web products had almost doubled, and over the past decade, its website has grown each year by an average of 2 million more customers. The company reported this year that TurboTax online had handled 32 million returns. In a statement, it said around a third of that number used Free Edition.

The government's Free File program, meanwhile, has mostly faded into the background, drowned out by Intuit's and other companies' "free" offers. The IRS did try advertising campaigns, spending around \$2 million some years to spread the word. But compared with the reach of Intuit, this was a pittance: The company reported this year that it spent \$800 million on advertising. With its budget slashed by Congress, the IRS has spent no money at all to advertise the program in recent years.

Amid its success, Intuit has sometimes had to put down insurgents bent on reforming the tax filing system. In 2007, the same year Intuit launched its Free Edition, Barack Obama, then a candidate for president, took aim at the tax prep industry. In a speech to an audience of tax wonks in Washington, he promised that the IRS would establish a simple return

system. “This means no more worry, no more waste of time, no more extra expense for a tax preparer,” he declared.

But the Obama administration, as Bush’s had before, found that it was no match for Intuit.

Again, Bernie McKay, the lobbyist who had joined Intuit in the late 1990s and outlasted multiple CEOs, led the company’s campaign. In response to the Obama threat, McKay and Intuit’s small army of outside lobbyists turned to Congress, where lawmakers friendly to the company introduced a series of bills that would elevate Free File from a temporary deal with the IRS to the law of the land.

Republicans have historically been the company’s most reliable supporters, but some Democrats joined them. Rep. Zoe Lofgren, the California Democrat whose district includes part of Silicon Valley, has introduced or co-sponsored five bills over the years that would codify the Free File program, with names like the Free File Permanence Act. Lofgren’s spokesperson told ProPublica that the congresswoman believes the IRS, because of its role as tax collector, should not also be the tax preparer.

Hedging its bets, the company also sought to make sure the IRS could not spend a single dollar creating a public filing system. One internal document says Intuit would “advance legislative language in House Appropriations for ‘No Funds’ restriction on IRS spending” on such a system. It worked. Within a few years, Congress passed a 3,000-page appropriations bill that included a single sentence crucial to Intuit’s financial future: “No funds,” the law decreed, could be used “to provide to any person a proposed final return or statement.”

Another important aspect of Intuit’s influence strategy during the Obama years was covertly enlisting minority and women’s groups to press its case.

The internal 2014-15 “encroachment strategy” document discloses plans to “leverage trade groups to support House/Senate Free File bills.” It goes on to list the groups Women Impacting Public Policy, The Latino Coalition and the National Black Chamber of Commerce.

Intuit has given money to all of those groups over the years. All have signed letters urging Congress to make the Free File deal permanent. “The Free File program has been a clear success,” said one letter signed by The Latino Coalition and the Hispanic Leadership Fund.

A spokesperson for Women Impacting Public Policy said it has received \$70,000 from Intuit. The amounts given to the other groups are unknown, and they did not respond to requests for comment.

Company documents also outline plans to “mobilize” a “coalition” that included think tanks and academics, who published op-eds.

Will Marshall, president of the pro-business Progressive Policy Institute, opposed return-free filing in an op-ed in The Hill because doing one’s taxes is “a teachable moment [that] prompts us to review our financial circumstances.”

Anti-tax activist Grover Norquist, the most consistent champion of Intuit’s policy positions, warned that “big spenders in Washington, D.C. want to socialize all tax preparation in America.”

It is unclear whether they were paid by Intuit or the Free File Alliance. Norquist didn’t respond to a request for comment, and a Progressive Policy Institute spokesman declined to say whether Intuit gave the group money.

Whatever external challenges to the status quo Intuit has faced, the company has been able to rely on the IRS’ continuing enthusiastic support of the Free File program. Every few years, the IRS and the industry got together to renew the deal.

In part, that was due to the relationships Intuit had developed with high-ranking IRS officials. One, Dave Williams, served as the agency’s top negotiator on the Free File program for several years and “was very commercially sensitive,” said Mark Ernst, the CEO of H&R Block until 2007. Ernst, who later held a senior role at the IRS, told ProPublica that Williams “didn’t want to offend the industry,” noting that “he was particularly open to having sidebar conversations with key people where he could imagine himself landing some day.”

Today, Williams works at Intuit, where he’s held the title of chief tax officer since 2013. He is one of several former IRS employees who have gone on to work there. In a statement, Williams told ProPublica he did not have discussions about future employment with Intuit or other companies until after he left the IRS. He added that his career in government was focused on “what is best for the taxpayer” and that he “joined Intuit for the same reason: to help the American taxpayer.”

Despite Free File’s declining use, the IRS often claimed that the program was nevertheless meeting one of its original goals: driving more people to file electronically instead of on paper. Ernst, who served as a senior official at the IRS from 2009 to 2010, didn’t believe that a program used by so few people was having any such effect. “It was a talking point that got trotted out all the time to justify the Free File Alliance,” he said.

Internally, IRS managers have also argued that the program is, in a way, a success, because it created “a free marketplace,” as one internal

management report in 2017 put it. Apparently, customers weren't the only ones taken in by the word "free."

In 2018, Intuit faced rare scrutiny from inside the IRS. The agency asked its Advisory Council, a group of outside experts, to take stock of Free File. To the company's alarm, it soon became apparent that the council's report might be sharply critical.

That July, council chair and University of California, Davis, law professor Dennis Ventry wrote two pieces criticizing an Intuit-backed bill in Congress that would make the program permanent. His op-ed in The Hill was called, "Free File providers scam taxpayers; Congress shouldn't be fooled."

In response, the IRS again rose to Intuit's aid. It rushed to assure the company that Ventry's power to affect the program was limited, according to emails to the Free File Alliance obtained through a public records request.

"The Commissioner has met directly with Mr. Ventry," IRS official Ken Corbin wrote to Steve Ryan, a lobbyist for Intuit who also represented the alliance. "Mr. Ventry will recuse himself from participating or contributing to the topic of Free File."

Corbin heads the IRS division that processes most Americans' tax returns and negotiates the Free File deal with Intuit and the industry.

A few days later, Ryan arrived at the IRS' Constitution Avenue headquarters in Washington to mount a defense of the program. A former Democratic Senate aide turned lawyer-lobbyist, Ryan is known on Capitol Hill for taking on politically fraught clients, including Trump attorney Michael Cohen and the government of Qatar. He helped create Free File in the early 2000s, and it was now his job to secure its future.

Ryan's PowerPoint presentation at the IRS rehashed arguments that the company had been making for the past 15 years. It also highlighted a 2013 study by Brown University professor John Friedman, a former Obama National Economic Council official, to make the point that the program had been successful in generating "Free Tax Returns **Outside** of Free File." The presentation did not mention that Friedman's study was paid for by the Free File companies and was not published in an academic journal. Friedman declined to say what he was paid but told ProPublica he "wrote the piece based on my analysis of the issues, which I stand by."

Ventry, who attended the meeting, got a call the next day alerting him that a California public records request had been filed for his emails — they

were subject to such a request because he's an employee of a state university. It came from the Free File Alliance, as The New York Times later reported. The request, Ventry believes, was designed to "freak me out."

In early October, the council sent a version of its final report, which included a harsh appraisal of the Free File program, to the IRS to seek responses before releasing it publicly the following month.

But in mid-October, just weeks before the report saw the light of day, the Free File industry group fired off an "urgent" request to meet with IRS officials. The goal was to re-sign and "improve" the memorandum of understanding that governed the Free File program, according to the emails. The current agreement wasn't expiring for another two years, but Ryan cited the "time urgency to make changes that will benefit taxpayers" in the coming tax season, adding, "I have not darkened your door in 2018 and need your ... attention to this opportunity."

The IRS' Corbin signed the new deal on Oct. 31. Two weeks later, the Advisory Council report was released, with a damning indictment of the program: "The IRS's deficient oversight and performance standards for the Free File program put vulnerable taxpayers at risk," the report found.

The expert body recommended that the IRS negotiate a series of new provisions designed to increase the use and oversight of the program, including mandating advertising by the companies. But it was too late. A new deal had already been signed with modest changes. As it had in the past, Intuit and the alliance had effectively insulated the program from reform. Members of the council, Ventry said, were "pissed off."

A spokesman for the Free File Alliance said the group had pushed to renegotiate the deal in 2018 because of the looming 2020 presidential campaign. "The reason for the timing of the extension of the agreement was the political season," he said. The group had not seen the report before its release, he added.

(In August, ProPublica sued the IRS to get more correspondence between the agency and Intuit's lobbyists. In response to our Freedom of Information Act requests, the agency has withheld over 100 pages. The case is ongoing.)

The new deal included rules that barred Free File companies from offering extra products to the relatively small number of users who access the program. This makes it much more difficult to convert those users into paying customers.

At around the same time, the industry took steps to make the program more difficult to find. Both Intuit and H&R Block added code to their Free

File websites that shielded them from search engines such as Google. The Intuit spokesman said the company increased paid search advertising for Free File “by nearly 80 percent” over the last year and has data showing more people found the program through online search this year than last year, but he declined to provide specific figures.

What is clear is that Intuit’s business relies on keeping the use of Free File low. The company has repeatedly declined to say how many of its paying customers are eligible for the program, which is currently open to anyone who makes under \$66,000. But based on publicly available data and statements by Intuit executives, ProPublica estimates that roughly 15 million paying TurboTax customers could have filed for free if they found Free File. That represents more than \$1.5 billion in estimated revenue, or more than half the total that TurboTax generates. Those affected include retirees, students, people on disability and minimum-wage workers.

Customers, meanwhile, remain confused by Intuit’s myriad uses of “free,” and internal documents show the company knows it. Over just a two-week period this past filing season, Intuit received nearly 7,000 TurboTax customer calls in which the phrase “supposed to be free” was uttered, according to a company analysis. One customer complained that Intuit charged him even though “it says ‘free free free’ on the commercial.” The TurboTax representative responded: “That ad has been the bane of my existence.”

Even as TurboTax’s business thrived, 2019 has been a rocky year for Intuit’s long-running war against government encroachment. In April, the company was close to finally succeeding in its long-held goal to make Free File permanent. A bill called the Taxpayer First Act was sailing toward almost unanimous approval in Congress. But after ProPublica published a series of stories about the program, including a story showing that military families and students were particularly affected by Intuit’s business tactics, the bill stalled. Congress ultimately removed the provision that would have enshrined Free File in law.

After having enabled Intuit for so long, the IRS finally responded to the pressure. It hired a contractor to review the Free File program. But the contractor had previously argued against the IRS offering its own tax prep option, and the review did not recommend major changes. The agency has not yet announced its plans for the future of the program.

The agency’s inspector general also launched an audit, which is ongoing. Other investigations and litigation followed, ranging from class-action complaints, alleging that consumers had been deceived by Intuit’s tactics, to investigations and lawsuits by regulators and prosecutors in New York and California. Intuit has denied wrongdoing, saying it “has at all times been clear and fair with its customers.”

Despite the scrutiny, Wall Street has continued to embrace the company's business model. The company recently announced it made \$1.5 billion in profits for its fiscal year. It expects its TurboTax unit to grow by 10% next year. Last year the CEO was paid \$20 million. The share price hit an all-time record.

The company has returned to its old strategy: stay the course and take its case directly to the IRS and Congress. Its allies in the Senate have again advanced an appropriations bill that would bar the IRS from developing its own tax filing system. In the spring, Sasan Goodarzi, a former head of the TurboTax unit who took over as CEO of the entire company in January, sought to reassure employees.

“Our view is this will be in the press until there is a resolution with the IRS,” he said, according to the video obtained by ProPublica. “And we’re working with them and we feel very good about where this will end.”

Doris Burke contributed research to this story.

Do you have information about Intuit, the IRS or tax prep? We want to hear from you. Fill out our [questionnaire](#) or contact Justin at justin@propublica.org or via Signal at 774-826-6240.



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