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TEACHING NOTE

**DIGITAL GOVERNMENT,
PUBLIC-PRIVATE
PARTNERSHIPS, AND
ADMINISTRATIVE BURDENS:**

THE FREE FILE PROGRAM

Donald Moynihan

McCourt School of Public Policy

Georgetown University

Teaching Note for Digital Government, Public-Private Partnerships, and Administrative Burdens: The Free File Program

Donald Moynihan, McCourt School of Public Policy, Georgetown University

This case can be used to understand the ways in which digital governance services evolve, efforts to reduce administrative burden, and the potential of public-private partnerships to work. It tracks a two-decade partnership between IRS and a collection of private tax preparation companies. In doing so, it maps out the political economy of these relationships, including the role of political power to enable rent-seeking.

When teaching this case, I will ask students to prepare a one-page memo that addresses the questions:

Why did the Free File program not succeed? What could be done to fix it?

Here are some additional prompts for discussion:

Free File is billed as a public private partnership, but is it actually a partnership? If no, what attributes of a partnership are missing?

Is e-filing a public service? The private tax preparation industry argues that because there is a market for tax preparation, government-provided tax preparation software encroaches on their territory. Others might claim that the government has an inherent interest in facilitating easy access to a mandated citizen-state interaction.

How does the private tax preparation industry use its power to shape the terms of the partnership?

How does the private tax preparation industry use its expertise to limit use of the Free File option?

What could the IRS have done differently?

What conditions would have been necessary to make Free File successful?

In memos or discussion, here are some common themes that emerge:

- There is not goal alignment between the government (who, initially at least, want to expand e-filing and free filing) and the private tax preparation industry (who want to expand e-filing but monetize tax filing). With such goal misalignment, the partnership was destined to fail.
- The private partners took control over a public process, and used their expertise and lobbying power to both prevent the public sector both from providing a public option, and enforcing terribly high expectations of the Free File product offered to the public.
- In an environment where the private partners hold political power, it becomes difficult for the public actor to enforce accountability. The private actors not just donated money to

members of Congress, but leveraged ideological arguments and government processes, e.g. by invoking the A-76 process, and arguing that tax preparation was a private service that government should not participate in.

- The partnership ultimately helped the dominant market players to limit the development of a public e-filing service, while also making the free file offering of low enough quality and hard enough to find that few people used it.
- A significant barrier for the IRS is that its leaders never felt that Congress would provide a level of support that would allow them to create and support online e-filing. This made their willingness to turn to private vendors more likely. The long-term decline of the IRS in terms of staff suggests the leader's assessment of Congressional support was not misplaced. Thus, the IRS seems stuck in a cycle of low resources limiting their ability to improve performance.
- The IRS can be faulted for lax oversight. Once the partnership was up and running, the IRS did little to ensure the Free File offerings functioned. It reduced investments in outreach and assessments of the quality of Free File options. Tax preparation firms therefore had neither incentive nor much pressure to improve the quality of Free File options relative to their "free to fee" products. The IRS seems to gradually accept the claim that the purpose of the Free File partnership is not to increase free filing, but e-filing. The report of the relationship that the IRS commissioned after the failures in the partnership became public seems to make explicit an assumption that public-private partnerships will inevitably result in acceding to the private goals of the partnership at the expense of public interests
- Firms like Intuit want to codify the MOU in law, which would maintain the status quo. Having gotten their way for the best part of two decades, they fail in this effort. One reason for this failure is that the issue moves from narrow interest group politics, centered on the issue of how the partnership should work, to an issue of concern for the mass public, where there is broad public outrage at the idea that the private tax preparation industry has engaged in deception and aggressive lobbying in order to ensure that people cannot access free tax filing.

Readings

Herd, Pamela and Donald Moynihan. 2018. *Administrative Burden: Policymaking by Other Means*. (Introduction can be found here:

<https://www.russellsage.org/sites/default/files/Herd-Moynihan-introduction.pdf>).

MacLean, Don, and Ryad Titah. 2021. A Systematic Literature Review of Empirical Research on the Impacts of e-Government: A Public Value Perspective. *Public Administration Review*. 82(1): 23-38.

Vining, Aidan R., and Anthony E. Boardman. 2008. Public—private partnerships: Eight rules for governments. *Public Works Management & Policy* 13(2): 149-161