

April 15, 2024

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Chair Khan:

I am writing in support of the Federal Trade Commission's (FTC's) oversight of Intuit, Inc. (Intuit), the maker of the popular TurboTax tax filing software. The company deserves this scrutiny: it has, for years, abusively and unfairly piled junk fees onto users of its allegedly "free" products.¹ Despite lawsuits and settlements stemming from Intuit's deceptive "free" advertising practices,² the company continues to relentlessly upsell TurboTax users.³

Analysis by my staff conducted as part of a review of TurboTax's current website found that a sample taxpayer with a simple filing situation who would qualify for the IRS free Direct File tool would instead pay \$133 for federal and state filing on TurboTax – and get upsold or solicited for additional costly services eight more times in the process. The TurboTax website attempts to divert taxpayers away from free filing options early in the process – and continues to do so throughout their federal and state tax filings.⁴

Given these ongoing concerns, I support the FTC's work and urge you to continue to take action to protect taxpayers from tax preparation companies that pile junk fees onto taxpayers.

Filing taxes should be free and simple. But instead, Americans spend on average of nine hours, and \$150, to file their taxes, thanks to junk fees charged by Intuit and others.⁵

¹ Federal Trade Commission, "FTC Issues Opinion Finding that TurboTax Maker Intuit Inc. Engaged in Deceptive Practices," January 22, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-issues-opinion-finding-turbotax-maker-intuit-inc-engaged-deceptive-practices>.

² Pennsylvania Attorney General, "Attorney General Henry Announces \$141 Million Settlement for Millions of Americans Deceived by TurboTax Owner Intuit," May 4, 2023, <https://www.attorneygeneral.gov/taking-action/attorney-general-henry-announces-141-million-settlement-for-millions-of-americans-decieved-by-turbotax-owner-intuit/>.

³ Examples collected through TurboTax simulation, conducted by Senator Warren's office and Code for America, April 3, 2024, video on file with the office of Senator Warren; *see* Appendix.

⁴ *Id.*

⁵ Internal Revenue Service, "1040 (and 1040-SR) Instructions," *p.108*, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>.

The FTC first sued Intuit in 2022 for falsely advertising its products as free.⁶ The FTC estimated that “two-thirds of tax filers in 2020 would have been ineligible for the company's free offerings,” with freelance workers who received 1099 forms and people who earned farm income being forced to upgrade to deluxe or premium packages.⁷ Later that year, a similar lawsuit brought by state attorneys general led to a multistate settlement that forced Intuit to pay \$141 million to taxpayers for deceiving millions of low-income Americans into paying for tax services that should have been free.⁸

This January, the FTC issued an opinion that Intuit had violated the *Federal Trade Commission Act* by advertising practices in which it “ran ads for ‘free’ tax products and services for which many consumers were ineligible,” and prohibited Intuit from “advertising or marketing that any good or service is free unless it is free for all consumers,” unless Intuit discloses “clearly and conspicuously” the percentage of taxpayers who qualify for the free service.⁹ And in a similar suit this year, the FTC also sued H&R Block for deceptively marketing “free” online filing.¹⁰

I am glad that the FTC is working to put a stop to these shady practices by big tax prep companies, and that this filing season, the IRS is piloting a new Direct File tool, allowing taxpayers with simple filing situations in 12 states to file their returns easily and for free.¹¹

Despite these FTC actions, Intuit continues to try to trick and trap TurboTax users into paying junk fees to file even very simple tax returns. This month, my staff’s test of TurboTax revealed the cost of the filing service for ordinary taxpayers, and its ongoing efforts to upsell taxpayers repeatedly during the tax filing process – including forcing taxpayers to pay to upgrade even in tax situations that are supported for free on IRS Direct File tool.¹²

Specifically, my staff tested TurboTax with a sample tax return of a teacher’s aide in Massachusetts with two children, who had been laid off but found a new job and therefore reported unemployment income alongside W-2 wage income, educators’ expenses, and student

⁶ Federal Trade Commission, “FTC Issues Opinion Finding that TurboTax Maker Intuit Inc. Engaged in Deceptive Practices,” January 22, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-issues-opinion-finding-turbotax-maker-intuit-inc-engaged-deceptive-practices>.

⁷ *Id.*

⁸ Pennsylvania Attorney General, “Attorney General Henry Announces \$141 Million Settlement for Millions of Americans Deceived by TurboTax Owner Intuit,” May 4, 2023, <https://www.attorneygeneral.gov/taking-action/attorney-general-henry-announces-141-million-settlement-for-millions-of-americans-decieved-by-turbotax-owner-intuit/>.

⁹ Federal Trade Commission, “FTC Issues Opinion Finding that TurboTax Maker Intuit Inc. Engaged in Deceptive Practices,” January 22, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/01/ftc-issues-opinion-finding-turbotax-maker-intuit-inc-engaged-deceptive-practices>.

¹⁰ Federal Trade Commission, “FTC Takes Action Against Tax Prep Company H&R Block For Wiping Consumers’ Data, Deceptively Marketing ‘Free’ Online Filing,” February 23, 2024, <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-takes-action-against-tax-prep-company-hr-block-wiping-consumers-data-deceptively-marketing-free>.

¹¹ NBC News, “‘So darn easy’: IRS’ free Direct File pilot program already a hit with early users,” The Associated Press, March 6, 2024, <https://www.nbcnews.com/business/taxes/-darn-easy-irs-free-direct-file-pilot-program-already-hit-early-users-rcna142132>.

¹² See Appendix B; U.S. Department of the Treasury, “IRS Direct File Service,” <https://home.treasury.gov/policy-issues/inflation-reduction-act/irs-direct-file-service>.

debt payments.¹³ This simple filing situation for federal and state taxes is supported for free by the IRS Direct File pilot.¹⁴ The result on TurboTax? Filing this tax return would have cost this working mom \$133, and she would have been solicited for additional costly – and often unnecessary – services eight times in the process.¹⁵ In several cases, these solicitations appear to be efforts to mislead customers into thinking that they must pay the extra fees in order to file their taxes when that is not the case.¹⁶ For example, an initial screen defaulted to an \$89 tax filing package, which TurboTax highlighted as “the right option for you,” requiring a user who might qualify for free filing to scroll down and select a “Do It Yourself” option (\$0) under “You can also choose” section (see Appendix A, Images 1 and 2).

In total, my staff’s test of TurboTax found that this sample taxpayer, in the course of filing this simple tax return, was solicited for one upgrade to a Live Assisted plan (\$89), two upgrades to PLUS (\$29), two upgrades to Deluxe (\$69), one upgrade to Live Assisted Deluxe (\$139) and two upgrades to Max (\$59).¹⁷ Of these, the taxpayer was required to upgrade to Deluxe to report two tax situations: unemployment income received and money spent as a teacher (educator expenses).¹⁸ The other upgrades that were advertised—Live Assisted, PLUS, Live Assisted Deluxe, and Max, were all not required for this tax payer situation. These advertisements to upgrade take up the entire screen, requiring users to scroll to the bottom and respond “yes” in response to “Are you sure?” pop ups, or click “Don’t add [a given upgrade package]” that the page defaults to.¹⁹

With regard to state tax filing, the IRS Direct File website, after federal filing is complete, connects filers with their state’s online filing tool. In the case of Massachusetts, taxpayers are directed to the Massachusetts Department of Revenue, where they can file their state taxes for free²⁰—and in many cases, Direct File users can “import their federal return data directly to their state tool.”²¹ TurboTax does not offer a free state filing option, and would have charged this sample taxpayer \$64 to file their state taxes.²²

¹³ See Appendix. This sample taxpayer was the head of household with two dependents, made \$41,000 in 2023, had some unemployment income, qualified for the standard deduction, pays interest on student loans, and had teacher (educator) expenses. Code for America staff filled out this information on the TurboTax website, but did not file a return for this sample taxpayer.

¹⁴ U.S. Department of the Treasury, “IRS Direct File Service,” <https://home.treasury.gov/policy-issues/inflation-reduction-act/irs-direct-file-service>.

¹⁵ See Appendix D. Staff counted the number of times TurboTax advertised or required a paid upgrade to the user during the filing process. The analysis counted one offer to upgrade to a Live Assisted plan (\$89), two offers to upgrades to PLUS (\$29), two offers to upgrade to Deluxe (\$69), one offer to upgrade to Live Assisted Deluxe (\$139) and two offers to upgrade to Deluxe Max (\$59).

¹⁶ See Appendix A.

¹⁷ See Appendix B and C.

¹⁸ See Appendix B.

¹⁹ *Id.*

²⁰ Commonwealth of Massachusetts, “Completing your state tax return using Direct File,” <https://www.mass.gov/doc/completing-your-state-tax-return-using-direct-file/download>.

²¹ U.S. Department of the Treasury, “IRS Direct File Service,” <https://home.treasury.gov/policy-issues/inflation-reduction-act/irs-direct-file-service>.

²² See Appendix D.

In the end, after rejecting all but one required upgrade, a service that was supposed to start out as free would have cost this mom \$133.²³ Although each taxpayer is unique, with different income, income sources, and family circumstances, this sample taxpayer provides a concrete example of how TurboTax still appears to be ripping off taxpayers.

Given Intuit's ongoing anti-taxpayer practices, it is outrageous that the company continues to fight the FTC lawsuit and lobby against the IRS Direct File program.²⁴ I applaud your work to crack down on Intuit's false advertising and junk fees, and urge you to continue your efforts to protect taxpayers from these schemes.

Sincerely,



Elizabeth Warren
United States Senator

²³ See Appendix D.

²⁴ ProPublica, "Inside TurboTax's 20-Year Fight to Stop Americans From Filing Their Taxes for Free," Justin Elliott and Paul Kiel, October 17, 2019, <https://www.propublica.org/article/inside-turbotax-20-year-fight-to-stop-americans-from-filing-their-taxes-for-free>; Intuit Blog, "Intuit Responds to U.S. Federal Trade Commission's Flawed Decision," Intuit Blog team, January 22, 2024, <https://www.intuit.com/blog/news-social/intuit-responds-to-u-s-federal-trade-commissions-flawed-decision/>.

Appendix A.

Before beginning, TurboTax immediately recommended the taxpayer select the Live Assisted plan (\$89 plus state additional) (see Image 1), requiring the user to scroll down and select a “Do It Yourself” option (\$0) under “You can also choose” section (see Image 2).

Image 1.

Based on your answers, this is the right option for you:

LIVE Assisted

File your taxes confidently with expert assistance


Get unlimited help and a final review from tax experts, ensuring 100% accurate filing and maximize your refund - guaranteed.

\$89
State additional

[See what's included](#)

Start for free
Pay only when you file

★★★★★ (4.8 | 19,127 reviews)



- 1 FILE WITH COMPLETE CONFIDENCE**
You'll get your max refund, 100% accurate calculations and audit support for your return's full 7-year lifetime, **guaranteed**.
- 2 GET AN EXPERT FINAL REVIEW**
Only TurboTax Live includes a 100% accurate, expert final review at no extra charge.
- 3 UNLIMITED HELP WHILE YOU DO YOUR TAXES**
Get unlimited, on demand help from tax experts with an average of 10 years' experience.
- 4 PERSONALIZED AI SUPPORT**
Have all the tax knowledge at your fingertips with personalized answers from AI-powered Intuit Assist.

Have more questions? [Live Assisted FAQ](#)

Image 2.

You can also choose:

LIVE Full Service

Let an expert do taxes for you, start to finish

A local tax expert will find every dollar you deserve and get your taxes done 100% right, [Estimate my price](#)

Starting at
\$199
State additional

Stated price subject to change, final price based on your actual tax situation and forms used.

★★★★★ (4.9 | 9,159 reviews)

Start for free
Pay only when we file

[See how it works](#) ▾

Do It Yourself

Do your own taxes

File your own taxes with confidence with America's #1 tax prep provider

\$0*
~37% of filers qualify. Form 1040 + limited credits only. State included.

★★★★★ (4.8 | 35,877 reviews)

Start for \$0

[See how it works](#) ▾

Appendix B.

The taxpayer was twice shown a pop-up that she would be required to upgrade to Deluxe (\$69) to report two tax situations: unemployment income received and money spent as a teacher (educator expenses). When staff completing this return for the sample taxpayer chose not to upgrade the first time, they were forced later to upgrade before filing.

Image 1.

Based on your tax situation, you need to upgrade to
TurboTax Deluxe

The screenshot shows two product cards. The top card is for 'Free Edition', labeled 'Your current product'. It states that Free Edition is for those filing Form 1040 and limited credits only, and that ~37% of filers qualify. It notes that users cannot report unemployment income or paid family leave benefits. The price is listed as \$0* Federal and State included. The bottom card is for 'Deluxe', labeled 'Required for your tax situation'. It states that Deluxe covers unemployment income or paid family leave benefits, which are reported on Schedule 1. The price is listed as \$69* Federal and State additional.

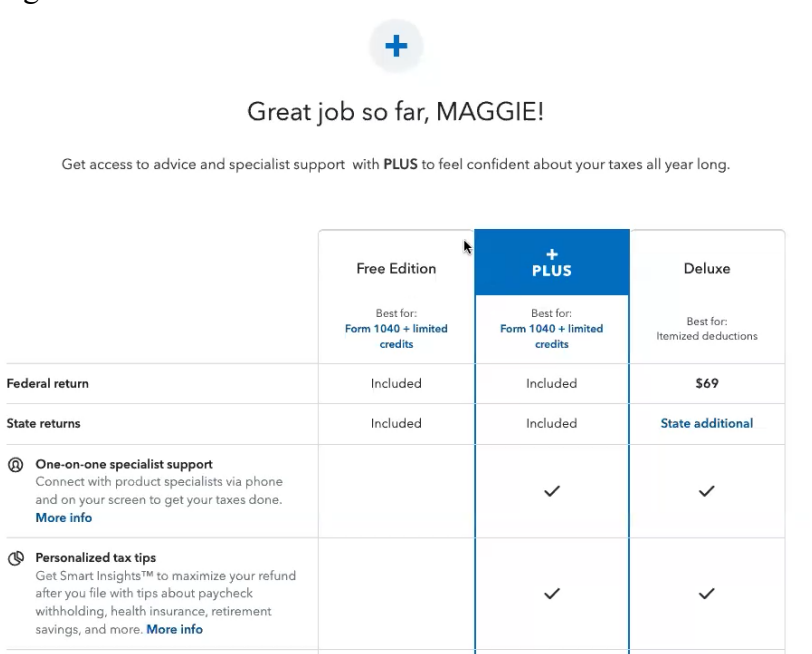
Image 2.

The screenshot shows a 'Live Tax Advice' pop-up with a warning icon. The text asks 'Are you sure?' and explains that TurboTax Deluxe is needed to accurately complete taxes because TurboTax Free Edition doesn't cover the user's situation. It offers to upgrade to TurboTax Deluxe for \$69*, with state additional. A note says 'Don't pull out your wallet—you won't need to pay until you file.' There is a link for '*More important details and disclosures'. At the bottom, there are three buttons: 'Back', 'Don't upgrade', and 'Upgrade to Deluxe'.

Appendix C.

TurboTax also showed pop-up ads that advertised upgrades for three additional plans: two advertisements to upgrade to PLUS (\$29), one advertisement to upgrade to Live Assisted Deluxe (\$139), and two advertisements to upgrade to Max (\$59).

Image 1.



The screenshot shows a pop-up window with a blue plus sign icon at the top center. Below the icon, the text reads "Great job so far, MAGGIE!". Underneath, a smaller line of text says "Get access to advice and specialist support with PLUS to feel confident about your taxes all year long." The main content is a comparison table for three editions: Free Edition, PLUS, and Deluxe. The PLUS edition is highlighted with a blue header. The table compares features like Federal and State returns, one-on-one specialist support, and personalized tax tips across the three editions.



	Free Edition	+ PLUS	Deluxe
	Best for: Form 1040 + limited credits	Best for: Form 1040 + limited credits	Best for: Itemized deductions
Federal return	Included	Included	\$69
State returns	Included	Included	State additional
 One-on-one specialist support Connect with product specialists via phone and on your screen to get your taxes done. More info		✓	✓
 Personalized tax tips Get Smart Insights™ to maximize your refund after you file with tips about paycheck withholding, health insurance, retirement savings, and more. More info		✓	✓

Image 2.

More info

<p>Included for FREE—option to pay with your refund Don't pull out your wallet—deduct this cost from your federal or state refund! Look for the federal or state payment option when you file. More info</p>	✓	Additional fee
<p>Maximize deductions and credits (Schedule A)</p>	✓	
Free Edition	<p>PLUS \$29* (\$119 value)</p>	<p>Deluxe \$69*</p>

*More important details and disclosures

[Get PLUS](#)

[Upgrade to Deluxe](#)


[Not now](#)

Image 3.

LIVE

File confidently, with experts by your side

Our experts answer your questions along the way and review your return before you file, so you get every dollar you deserve.



Kitty · Tax Expert, 34yrs

	TurboTax Deluxe	Live Assisted Deluxe	Live Assisted Deluxe + MAX
<p>Connect with TurboTax specialists via phone and on your screen to get your taxes done</p>	✓	✓	✓
<p>Talk to real tax experts on demand Simply click to connect live on your screen when you need advice or guidance as you do your taxes. More info</p>		✓	✓

Image 4.

	Live Deluxe	Live Deluxe + MAX
Price	\$139*	\$198*
Max (add-on)		+\$59*
Federal	State additional	State additional

Don't pull out your wallet—deduct this cost from your federal or state refund! Look for the federal or state payment option when you file.

† Live Assisted Deluxe (upgrade) and MAX (add-on) may be purchased separately. Get complete coverage by purchasing both.

*More important details and disclosures

[Upgrade to Live Deluxe + MAX](#)

[Upgrade to Live Deluxe](#)

[Deluxe only](#)


[Back](#)

Image 5.

Get full audit and identity theft protection with MAX




	Deluxe	★ MAX
Data encryption, multi-factor authentication, and security measures for your TurboTax account.	✓	✓
Trained agents will provide guidance if you're audited or your tax identity is stolen. More info	✓	✓
Full Audit Representation Audits by the IRS can be random. If you're audited, a dedicated expert will represent you, including talking to the IRS. Your return is covered for as long as it can be audited. More info		✓
Identity Theft Monitoring If suspicious activity related to your personal identity is detected online, you'll be notified promptly, and a dedicated Resolution Specialist can help you quickly react to protect your identity. More info		✓
Identity Theft Insurance† If you face financial loss caused by identity theft, you'll be reimbursed up to		✓

Image 6.

☰ 

🔔 🛒 🔍 ⓘ Live Tax Advice

If suspicious activity related to your personal identity is detected online, you'll be notified promptly, and a dedicated Resolution Specialist can help you quickly react to protect your identity. [More info](#)

 Identity Theft Insurance¹ If you face financial loss caused by identity theft, you'll be reimbursed up to \$250,000 to recover stolen funds, plus up to \$1 million to pay for legal fees and expenses. More info		✓
 Full Identity Restoration If you experience personal identity fraud, a dedicated Resolution Specialist will recover your identity for you. More info		✓
 Priority Care Get priority access to a TurboTax product specialist if you need help with your taxes. More info		✓
		Additional \$59* (\$125 value)

*More important details and disclosures





Get MAX

Don't add MAX

Back

Appendix D.

In the end, TurboTax charged this sample taxpayer \$133 – TurboTax required her to upgrade to Deluxe (\$69) to input unemployment income and educator expenses, and the MA state return costs \$64 through Turbo Tax.

Order Summary		^
	TurboTax Deluxe 2023 federal filing Included 	\$69
	Massachusetts state return 2023 state filing Included 	\$64
Subtotal		\$133 Excludes sales tax