



Decision

Matter of: U.S. Department of the Treasury, Internal Revenue Service—
Applicability of the Congressional Review Act to the Suspension of
Direct File

File: B-337954

Date: May 12, 2026

DIGEST

In the fall of 2025, the U.S. Department of the Treasury suspended the Internal Revenue Service Direct File program. This free service allowed taxpayers to prepare and file federal taxes online and facilitated taxpayers' transfer of data to state tax filing tools in participating states.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of a rule under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude the Suspension meets the APA definition of a rule but falls under CRA's exception for rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. The suspension affects how taxpayers can submit their income tax returns to IRS but does not affect their underlying rights or obligations under federal tax law. Based on the arrangements between IRS and participating states, the suspension similarly does not affect their rights or obligations. Therefore, the suspension is not a rule subject to CRA's submission requirements.

DECISION

In the fall of 2025, the U.S. Department of the Treasury (Treasury) announced the suspension of the Internal Revenue Service (IRS) Direct File program (the

Suspension).¹ We received a request for a decision as to whether the Suspension is a rule for purposes of the Congressional Review Act (CRA).²

Our practice when issuing decisions is to obtain the legal views of the relevant agency on the subject of the request.³ Accordingly, we reached out to IRS, within Treasury, to obtain the agency's views.⁴ We received IRS's response on February 20, 2026.⁵

BACKGROUND

IRS administers the nation's tax laws.⁶ Those laws require paying federal income

¹ Treasury announced the Suspension in a report, which IRS cited as the action suspending Direct File. Treasury, *Report on the Replacement of Direct File* (Oct. 2, 2025) (Treasury Report), available at <https://home.treasury.gov/system/files/131/Report-Replacement-of-Direct-File-2025.pdf> (last visited May 5, 2026), at 18; Letter from Acting Chief Counsel, IRS, to Managing Associate General Counsel for Appropriations Law, GAO (Feb. 19, 2026) (Response Letter), at 1. We therefore rely principally on the Treasury Report for our analysis of the Suspension. However, the Suspension was reflected in other communications including an IRS website and an IRS e-mail to states, the latter of which the requester identified and provided. IRS, *Direct File*, retrieved Dec. 16, 2025, from <https://directfile.irs.gov/> (Website Message) (archived printout on file with GAO); Letter from Senator Ron Wyden to Comptroller General, GAO (Nov. 25, 2025), at 6 (Addendum 1, Email from IRS Official to States, *Subject: IRS Direct File Update* (Nov. 3, 2025) (hereafter, Email)). Additionally, Treasury dated the report October 2, 2025, but publicly released it on November 5, 2025. Benjamin Valdez, Tax Notes, *IRS Shuttters Direct File, Citing Cost and Low Uptake* (Nov. 6, 2025), available at <https://www.taxnotes.com/featured-news/irs-shuttters-direct-file-citing-cost-and-low-uptake/2025/11/05/7t7q0> (last visited May 5, 2026).

² Letter from Senator Ron Wyden to Comptroller General, GAO (Nov. 25, 2025) (Request Letter).

³ GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 2024), available at <https://www.gao.gov/products/gao-24-107329>.

⁴ Letter from Managing Associate General Counsel for Appropriations Law, GAO, to Acting Chief Counsel, IRS (Dec. 16, 2025).

⁵ Response Letter.

⁶ See 26 U.S.C. § 7803(a)(2)(A).

taxes and filing tax returns.⁷ In 2022, Congress appropriated \$15 million for IRS to report on developing a direct electronic filing system for taxpayers.⁸ In 2023, IRS issued its report.⁹ In addition, Treasury ordered IRS to pilot a direct filing system during the 2024 tax season.¹⁰

Beginning in March 2024, IRS piloted Direct File in 12 states.¹¹ Direct File allowed taxpayers to file their federal taxes online for free directly with IRS.¹² It also interfaced with several state online filing systems.¹³ In May 2024, IRS made Direct File a permanent tax filing option and invited all 50 states and the District of

⁷ See *id.* §§ 1, 6011(a), 6012, 6017, 6072.

⁸ Pub. L. No. 117-169, § 10301(1)(B), 136 Stat. 1818, 1832 (Aug. 16, 2022).

⁹ IRS, *IRS Report to Congress: Inflation Reduction Act §10301(1)(B) IRS-Run Direct e-File Tax Return System*, Publication 5788 (Washington, D.C.: May 16, 2023); IRS, *IRS Submits Direct File Report to Congress; Treasury Department Directs Pilot to Evaluate Key Issues*, IR-2023-103 (May 16, 2023), available at <https://www.irs.gov/newsroom/irs-submits-direct-file-report-to-congress-treasury-department-directs-pilot-to-evaluate-key-issues> (last visited May 5, 2026).

¹⁰ IR-2023-103.

¹¹ IRS, *Direct File Officially Opens in 12 Pilot States Following Positive Early Reviews; Eligible Taxpayers Can File Online Directly with the IRS for Free*, IR-2024-68 (Mar. 12, 2024), available at <https://www.irs.gov/newsroom/direct-file-officially-opens-in-12-pilot-states-following-positive-early-reviews-eligible-taxpayers-can-file-online-directly-with-the-irs-for-free> (last visited May 5, 2026).

¹² IRS, *File for Free with IRS Direct File*, Publication 5916 (Rev. 2-2025), available at <https://www.irs.gov/pub/irs-pdf/p5916.pdf> (last visited May 5, 2026); IRS, *Direct File Media Guide*, Publication 6035 (Rev. 2-2025), available at <https://www.irs.gov/pub/irs-pdf/p6035.pdf> (last visited May 5, 2026), at 3.

¹³ See Treasury Report, at 8 (“Direct File did not prepare state tax returns, though, in some states, federal tax data could be transferred to state filing tools with the taxpayer’s consent.”); *Direct File Media Guide*, at 5 (“Direct File and the state tax authority work together to help you file both your federal and state return.”).

Columbia to participate.¹⁴ For tax year 2024, the program was available in 25 states.¹⁵

In July 2025, Congress appropriated another \$15 million for Treasury to report on replacing Direct File.¹⁶ On November 3, 2025, IRS emailed the states participating in Direct File for the 2025 tax filing season to announce that that the program was “now closed” for the 2025 season and “will not be available” in the 2026 season, with no future “launch date” set.¹⁷

Two days later, Treasury released its report to Congress. The report stated IRS “will suspend” Direct File due to its “high costs, limited participation, and the agency’s need to focus resources on other priorities.”¹⁸ IRS would instead prioritize existing free filing programs, especially Free File, and explore additional partnerships.¹⁹

¹⁴ Treasury, *U.S. Department of the Treasury, IRS Announce Direct File as Permanent Free Tax Filing Option, All 50 States and D.C. Invited to Join in Filing Season 2025* (May 30, 2024), available at <https://home.treasury.gov/news/press-releases/jy2385> (last visited May 5, 2026).

¹⁵ Treasury Report, at 1, 7.

¹⁶ Pub. L. No. 119-21, § 70607, 139 Stat. 72, 289 (July 4, 2025).

¹⁷ Email.

¹⁸ Treasury Report, at 18.

¹⁹ *Id.* at 2, 20. The Free File program provides qualified taxpayers with free tax preparation, free electronic filing, and free direct deposit of their federal tax refund if any using guided tax preparation software. IRS, *File for Free with IRS Free File*, IRS Tax Tip 2025-09 (Feb. 4, 2025), available at <https://www.irs.gov/newsroom/file-for-free-with-irs-free-file> (last visited May 5, 2026). Free File is available to approximately 70 percent of taxpayers. See IRS, *Ninth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated*, Article 3.1 (Nov. 11, 2023) (Free File MOU), available at <https://www.irs.gov/pub/irs-efile/ninth-memorandum-of-understanding-on-service-standards-and-disputes.pdf> (last visited May 5, 2026). IRS and a consortium of private sector partners administer Free File. See IRS, *Use IRS Free File to Conveniently File Your Return at No Cost*, IR-2026-05 (Jan. 9, 2026), available at <https://www.irs.gov/newsroom/use-irs-free-file-to-conveniently-file-your-return-at-no-cost> (last visited May 5, 2026).

The following month, in December 2025, IRS's Direct File website said the service was "closed" and "[m]ore information will be available at a later date."²⁰ That website is now offline.²¹

Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect.²² The report must contain a copy of the rule, "a concise general statement relating to the rule," and the rule's proposed effective date.²³ CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures.²⁴ If a resolution of disapproval is enacted, then the new rule has no force or effect.²⁵

CRA adopts the definition of a rule under the Administrative Procedure Act (APA), which states that a rule is "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency."²⁶ However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.²⁷

Treasury, including IRS, did not submit a CRA report to Congress or the Comptroller General on the Suspension.²⁸ In its response to us, IRS stated that the Suspension

²⁰ Website Message.

²¹ <https://directfile.irs.gov/> (stating in part that "This site can't be reached") (last visited May 5, 2026).

²² 5 U.S.C. § 801(a)(1)(A).

²³ *Id.*

²⁴ *Id.* § 802.

²⁵ *Id.* § 801(b)(1).

²⁶ *Id.* §§ 551(4), 804(3).

²⁷ *Id.* § 804(3).

²⁸ Response Letter, at 1.

is a rule of agency procedure and practice that does not substantially affect non-agency parties' rights or obligations.²⁹

DISCUSSION

At issue here is whether the Suspension meets CRA's definition of a rule, which adopts APA's definition of a rule, with three exceptions. As explained below, we conclude that it does. The next step is to determine whether any CRA exceptions apply. We conclude that the Suspension falls within the exception for rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The Suspension is a Rule under APA

Applying APA's definition of a rule, the Suspension meets all of the required elements.

First, the Suspension is an agency statement. The Treasury Report appeared on IRS's official website and publicly articulated the agency's plans regarding Direct File.³⁰ The Website Message also appeared on IRS's official website and publicly articulated the agency's plans regarding Direct File. The Email is an announcement by IRS to state revenue agencies explaining Direct File's status.³¹ Therefore, the Suspension constitutes an agency statement.³²

Second, the Suspension is of future effect. The Treasury Report, Website Message, and Email have future effect by announcing IRS's intentions and plans regarding Direct File, stating the program would be unavailable going forward.³³

²⁹ *Id.*

³⁰ See B-335516, Jan. 24, 2024 (fact sheet was an agency statement as it appeared on the agency's official website and the press office issued it); B-329916, May 17, 2018 (IRS statement publicly articulating its plans regarding certain electronically filed returns for the 2018 tax filing season was an agency statement).

³¹ See B-334411, June 5, 2023 (memorandum from U.S. Department of Agriculture component to regional and state program directors was an agency statement).

³² As noted above, we rely principally on the Treasury Report for our CRA analysis, but recognize Treasury and IRS communicated the Suspension in several ways.

³³ B-329916, May 17, 2018 (IRS statement was of future effect by describing IRS's intentions with respect to certain electronically filed returns).

Finally, the Suspension implements law or policy. An agency action implements, interprets, or prescribes law or policy when the action prescribes new regulations, changes regulatory requirements or official policy, or alters how the agency will exercise its discretion, among other things.³⁴ Here, the Treasury Report, Website Message, and Email changed IRS's official policy toward Direct File and how the agency in its discretion accepts tax filings. They also directed taxpayers to other filing options.³⁵ As such, the Suspension meets the third element of the APA definition of a rule.

Having satisfied all the required elements, the Suspension meets the APA definition of a rule.

CRA Exceptions

We must next determine whether any of CRA's three exceptions apply. CRA provides for three types of rules that are not subject to its requirements: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.³⁶

(1) Rule of Particular Applicability

The Suspension is a rule of general, rather than particular, applicability. Rules of particular applicability are addressed to specific, identified persons or entities and determine actions that person or entity may or may not take, considering facts and circumstances specific to those persons or entities.³⁷ In determining whether a rule is one of general or particular applicability, we have noted that a rule need not apply to the population as a whole to be considered a rule of general applicability; rather,

³⁴ B-337673, Jan. 16, 2026.

³⁵ See B-334032, Dec. 15, 2022 (agency memorandum prescribed policy by announcing a preference for certain types of projects and instructing agency employees to encourage funding recipients to select those types of projects). The Website Message also included a banner stating "Direct File is now closed. Still need to file your federal taxes? Find another way to file," which linked to another IRS webpage on filing taxes. Website Message (linking to IRS, *File Your Tax Return*, available at <https://www.irs.gov/filing/individuals/how-to-file> (last visited May 5, 2026)).

³⁶ 5 U.S.C. § 804(3).

³⁷ B-337673, Jan. 16, 2026.

all that is required is that the rule has general applicability within its intended range, regardless of the magnitude of the range.³⁸

Here, the Treasury Report and Website Message are public announcements applicable to taxpayers who file electronic returns.³⁹ The Email was sent to state agency contacts but extends to all states participating in Direct File and applies to taxpayers filing electronically.⁴⁰ Accordingly, by applying to electronic tax filers and participating states, the Suspension has general applicability.

(2) Rule of Agency Management or Personnel

The Suspension is not a rule of agency management or personnel. Rules that fall into this category relate to purely internal matters, such as controlling, directing, or supervising internal management issues.⁴¹

The Suspension does not concern purely internal agency matters. Rather, the Treasury Report, Website Message, and the Email announced that taxpayers and states may no longer use Direct File. Because the Suspension concerns the public availability of Direct File, rather than management of IRS itself or its personnel, it is not a rule of agency management or personnel. Therefore, the Suspension does not meet the second exception.

(3) Rule of Agency Organization, Procedure, or Practice that Does Not Substantially Affect Non-Agency Parties

Lastly, the Suspension satisfies the exception for rules of agency organization, procedure, or practice with no substantial effect on the rights or obligations of non-agency parties.⁴² We have previously explained that this exception was modeled on the APA exception to notice-and-comment rulemaking requirements for

³⁸ B-337059, May 28, 2025.

³⁹ B-329916, May 17, 2018 (IRS statement applying to all taxpayers filing electronic tax returns had general applicability).

⁴⁰ See B-316048, Apr. 17, 2008 (federal agency's letter to state health officials was of general applicability since it extended to all states seeking to enroll and that have enrolled eligible children in State Children's Health Insurance Programs); B-329916, May 17, 2018.

⁴¹ B-337673, Jan. 16, 2026 (citations omitted).

⁴² 5 U.S.C. § 804(3)(C).

“rules of agency organization, procedure, or practice.”⁴³ The purpose of the APA exception is to ensure “that agencies retain latitude in organizing their internal operations,” so long as such rules do not have a substantial impact on non-agency parties.⁴⁴

Initially, we must determine whether the Suspension is a rule of agency organization, procedure, or practice. Such rules are “limited to an agency’s methods of operation or how the agency organizes its internal operations.”⁴⁵ They include rules that affect the way regulated entities submit information to an agency, how the agency reviews that information, and the type or timing of actions the agency will take based on that submission.⁴⁶

Here, the Suspension alters IRS’s procedure for accepting tax returns.⁴⁷ The Treasury Report, Website Message, and Email affect the way taxpayers submit information to IRS by eliminating Direct File as a tax filing option.⁴⁸ IRS will no longer process tax filings using Direct File. Therefore, the Suspension is a rule of agency organization, procedure, or practice.

Next, we must consider whether the Suspension substantially affects the rights or obligations of non-agency parties. We have previously determined that a rule that “does not alter the rights or interests of non-agency parties but merely alters the manner in which parties present themselves or their viewpoints to the agency does not substantially affect those parties’ rights or obligations.”⁴⁹

For example, in B-329916, May 17, 2018, we evaluated an IRS Statement announcing that it would be altering the timing of certain compliance checks

⁴³ 5 U.S.C. § 553(b)(A); see B-337705, Jan. 15, 2026 (citations omitted).

⁴⁴ *Id.* (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)).

⁴⁵ B-336217, Aug. 6, 2024.

⁴⁶ *Id.* See, e.g., *JEM Broadcasting Co. v. FCC*, 22 F.3d 320, 326–28 (D.C. Cir. 1994) (involving rules for processing license applications, including a fixed filing period and process for returning deficient applications without opportunity for amendment).

⁴⁷ B-329916, May 17, 2018 (stating IRS’s “processing of silent returns, including acceptance of a return, is an agency procedure”).

⁴⁸ See B-337673, Jan. 16, 2026 (agency’s withdrawal of reporting requirements was a rule of agency organization, procedure, or practice).

⁴⁹ B-336217, Aug. 6, 2024.

conducted on individual income tax returns. IRS's previous policy was to assess compliance with certain statutory requirements after the tax return had been filed, IRS had processed the return, and the taxpayer paid taxes due or received a refund.⁵⁰ In its Statement, IRS announced that it would instead be assessing compliance when the taxpayer filed the return, and that it would no longer accept noncompliant filings.⁵¹ There, we concluded that the IRS Statement did not substantially affect the rights or obligations of non-agency parties because the Statement merely altered the timing of IRS's compliance assessment but did not alter the underlying substantive obligations of the taxpayers to comply with the relevant statutes.⁵² Because the Statement did not impose or confer new burdens, penalties, or rights on the taxpayers, we concluded that the Statement fell within that exception.

Similarly, in B-336217, Aug. 6, 2024, we concluded that a Supervision and Regulation Letter from the Board of Governors of the Federal Reserve System (FRB) that, among other things, set a 30-day deadline for state member banks to submit a required notification to FRB relating to certain dollar token activities did not substantially affect the rights or obligations of non-agency parties. There, the state member banks already had an underlying obligation to report the required information to FRB relating to their dollar token activities.⁵³ Therefore, the imposition of a new 30-day deadline for submission "merely affect[ed] the manner in which state member banks present[ed] themselves and their viewpoints to FRB and [did] not substantially affect the banks' rights or obligations."⁵⁴

Here, the Suspension made a change in how taxpayers can submit income tax returns to IRS.⁵⁵ However, as explained below, we conclude that it does not substantially affect taxpayers' rights or obligations. First, federal law and implementing regulations require taxpayers to pay and file income taxes.⁵⁶ Those underlying statutory obligations and implementing regulations exist irrespective of

⁵⁰ B-329916, May 17, 2018.

⁵¹ *Id.*

⁵² *Id.*

⁵³ B-336217, Aug. 6, 2024.

⁵⁴ *Id.*

⁵⁵ Response Letter, at 2.

⁵⁶ See 26 U.S.C. §§ 1, 6011(a), 6012, 6017, 6072; 26 C.F.R. §§ 1.1-1, 1.6011-1, 1.6012-1, 1.6072-1.

Direct File’s status and are unchanged by the Suspension.⁵⁷ Rather, as in B-336217, Aug. 6, 2024, the Suspension merely affects the manner in which taxpayers present themselves to IRS—namely, they may no longer file taxes using Direct File.

Second, IRS has wide discretion over Direct File. Congress has not statutorily prescribed that IRS manage a Direct File tax program.⁵⁸ And IRS has funded Direct File using lump-sum appropriations, which afford agencies inherent flexibility and discretion.⁵⁹ IRS’s discretion regarding Direct File is evident in how Treasury, not Congress, piloted and later expanded the program.

Third, taxpayers have several alternatives to Direct File.⁶⁰ Although taxpayers may no longer use Direct File in particular, major free filing programs remain available to them.⁶¹ They include Free File, the Free File Fillable Forms program, the Volunteer Income Tax Assistance Program, and the Tax Counseling for the Elderly Program.⁶² Other options include free commercial software and MilTax for military personnel.⁶³

⁵⁷ See B-335516, Jan. 24, 2024 (Department of Education fact sheet announcing changes to the agency’s enforcement procedures for non-payment of student loans did not change borrowers’ underlying obligation to make payments, which were “still legally due”).

⁵⁸ See B-330108, Dec. 23, 2020 (“Where Congress does not intend to permit an agency flexibility, but intends to impose a legally binding restriction on an agency’s use of funds, it does so by means of explicit statutory language.”); B-292045, May 19, 2003 (stating that discontinuance of Department of Veterans Affairs (VA) loan program was the type of management decision left to the VA Secretary’s discretion).

⁵⁹ See, e.g., Treasury Inspector General for Tax Administration, *Inflation Reduction Act: Results of the Direct File Pilot*, Report No. 2025-408-015 (Mar. 20, 2025), at 6.

⁶⁰ See IRS, *File Your Tax Return*, available at <https://www.irs.gov/filing/individuals/how-to-file> (discussing other ways to file) (last visited May 5, 2026).

⁶¹ Response Letter, at 2.

⁶² *Id.*; Treasury Report, at 10–11.

⁶³ See Treasury Report, at 10–11; IRS, *Free Online Tax Help for Military Members and Their Families*, available at <https://www.irs.gov/newsroom/free-online-tax-help-for-military-members-and-their-families> (last visited May 5, 2026).

IRS acknowledges that the Suspension will prevent taxpayers from using Direct File to electronically file for the 2026 filing season.⁶⁴ IRS explained that taxpayers have alternatives to Direct File such as Free File, which is available to approximately 70 percent of individual taxpayers.⁶⁵ While taxpayers may have fewer options to file electronically, this is a matter of the form in which they file, and the Suspension does not impose or confer new burdens, penalties, or rights on taxpayers; that is, taxpayers must still file their taxes.⁶⁶ Therefore, the Suspension does not substantially affect taxpayers' rights or obligations.

Nor does the Suspension substantially affect states' rights or obligations. With regard to state arrangements, these were similarly not statutorily required and provided latitude for IRS and the states to withdraw or terminate the agreements. Several state revenue agencies and IRS signed Memoranda of Understanding (MOUs) regarding Direct File for filing season 2025 and beyond.⁶⁷ For example, two signed MOUs we reviewed stated they did not create or imply various legal relationships, that the parties lacked authority to incur obligations or expenses on the other's behalf, and emphasized federal-state collaboration.⁶⁸ The MOUs also provided that if issues arise that cannot be resolved through cooperation and collaboration, each party has the right to terminate the agreement through written

⁶⁴ See Response Letter, at 2.

⁶⁵ *Id.*; see IRS, *Top Things to Know About the IRS Direct File Pilot as April Filing Deadline Approaches*, FS-2024-09 (Apr. 2024), available at <https://www.irs.gov/newsroom/top-things-to-know-about-the-irs-direct-file-pilot-as-april-filing-deadline-approaches> (last visited May 5, 2026) (archived IRS webpage advising if Direct File “is not the right fit, simply choose another option to file, such as other free filing options, a tax professional or paid commercial tax software. Taxpayers who try Direct File but aren't eligible for the pilot, are directed to other available electronic options to file including IRS Free File”); Free File MOU, Article 1.2 (defining Free File filers in part as those taxpayers with an adjusted gross income equal to or less than 70 percent of all U.S. taxpayers or below for the prior year, “including those least able to afford e-filing tax returns”).

⁶⁶ *Accord* B-329916, May 17, 2018 (IRS statement regarding certain electronically filed tax returns did not impose or confer new burdens, penalties, or rights on taxpayers).

⁶⁷ See Request Letter, at 6–12 (Addendum 2, *Memorandum of Understanding, IRS Direct File, IRS – Oregon Department of Revenue* (July 22, 2024) (hereafter Oregon MOU)); *Memorandum of Understanding, IRS Direct File, IRS – New Mexico Taxation and Revenue Department* (July 30, 2024) (hereafter New Mexico MOU).

⁶⁸ Oregon MOU, at 3, 5; New Mexico MOU, at 3, 5.

notification to the other at least 30 days before withdrawal “at any time and for any reason through their work on Direct File.”⁶⁹

These agreements, then, were terminable at will. And while there may be challenges due to the Suspension, they agreed to this termination provision. Since the states agreed that they or IRS could terminate their MOU at will, the Suspension’s apparent nullification of these MOUs does not substantially affect states’ rights or obligations under CRA.⁷⁰

Regarding the Free File program, we understand that members of Free File, Inc., a consortium of tax preparation companies, are not obligated to offer free state filing services in non-Free File states or facilitate data sharing with state revenue departments.⁷¹ It is conceivable that a taxpayer might be unable to avail themselves of any free state filing option, and thus would be unable to electronically file a free state return after the Suspension. However, there is no statutory right to electronically file a free state return and suspending Direct File does not substantially affect taxpayers’ rights or obligations.

We also address our decision in B-337397, Aug. 27, 2025, that stands for the proposition that agency policies that are not statutorily required may still confer “rights” to third parties if a policy is treated as binding within the agency and find that it is distinguishable. That case involved an agency action eliminating non-agency parties’ judicially enforceable rights to notice of agency proceedings and opportunity to submit information that could affect the agency’s decisions.

The Suspension does not implicate, nor eliminate, any such rights. The lack of an express statutory basis or mandate for Direct File means IRS has considerable discretion over the program. This discretion includes the ability for agency leadership to declare the program to be binding, or non-binding, within the agency. Moreover, Direct File was an entirely voluntary agency initiative that states and taxpayers elected to join. Thus, rather than involving the wholesale creation or termination of a right, Direct File confers no rights to state participation, free electronic tax filing, or otherwise. Our decision under the CRA does not address whether as a matter of policy, Direct File should be available to taxpayers; we only

⁶⁹ Oregon MOU, at 5; New Mexico MOU, at 5.

⁷⁰ Whether the Email constituted proper written notification to terminate the MOUs is beyond the scope of this decision.

⁷¹ See IRS, *Many Taxpayers May be Able to File Their State Tax Return Using IRS Free File*, available at <https://www.irs.gov/newsroom/many-taxpayers-may-be-able-to-file-their-state-tax-return-using-irs-free-file> (“Not all IRS Free File partners offer free state return filing, and those that do may not offer it for all states.”) (last visited May 5, 2026).

consider whether the Suspension is a rule under the CRA that must be submitted to Congress and the Comptroller General.

For these reasons, the Suspension does not substantially affect non-agency parties' rights or obligations. Therefore, the Suspension falls within the third exception and is not subject to the CRA's requirements.

CONCLUSION

The Suspension meets the APA definition of a rule but falls within CRA's exception for rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. Therefore, it is not subject to CRA's submission requirements.

A handwritten signature in black ink that reads "Edda Emmanuelle Perez". The signature is written in a cursive style with a large, stylized initial "E".

Edda Emmanuelli Perez
General Counsel