

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Lina M. Khan, Chair**  
**Noah Joshua Phillips**  
**Rebecca Kelly Slaughter**  
**Christine S. Wilson**

**In the Matter of:**

**Docket No. 9408**

**Intuit Inc., a corporation.**

**REDACTED PUBLIC VERSION**

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Intuit Inc., a corporation (“Respondent”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Intuit Inc. is a Delaware corporation with its principal office or place of business at 2700 Coast Ave., Mountain View, California 94043.
2. Respondent has advertised, marketed, promoted, distributed, and sold online tax preparation products and services, including TurboTax.
3. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

**Summary of the Case**

4. Respondent Intuit advertises, markets, promotes, distributes, and sells TurboTax, a commonly used online tax preparation service that enables users to prepare and file their income tax returns. (As used in this Complaint, “TurboTax” only refers to online products and services.)

5. Much of Intuit's advertising for TurboTax conveys the message that consumers can file their taxes for free using TurboTax, even going so far as to air commercials in which almost every word spoken is the word "free." For example, an ad called "Auctioneer," which depicts a cattle auction with a fast-talking auctioneer and a crowd of grizzled cowboys:



AUCTIONEER: And free, and free, and free, and free, and free. Now a bidder and free! Now give me another bidder and free, and a free here and a free free free a free free free. Now a bidder and free! Now give me another bidder and free, and a free free free. And free, and free, and free, and free free free and free. Here we go at free, free, free and free. Free! Now give me another bidder and free. Hit free and here, free, free, free, freeeeeeeeeeeee. Free!

VOICEOVER: That's right, TurboTax Free Edition is free. See details at TurboTax.com.

6. In truth, TurboTax is only free for some users, based on the tax forms they need. For many others, Intuit tells them, after they have invested time and effort gathering and inputting into TurboTax their sensitive personal and financial information to prepare their tax returns, that they cannot continue for free; they will need to upgrade to a paid TurboTax service to complete and file their taxes.

7. Until 2021, Intuit offered a free online version of TurboTax through the IRS Free File Program, a public-private partnership with the IRS, that was available to low-income consumers regardless of which tax forms they need.

8. As detailed herein, Intuit has engaged in, and is engaging in, deceptive business practices in the advertising, marketing, distribution, and sale of TurboTax.

### **Respondent's Business Activities**

#### **I. TurboTax's "Freemium" Version: TurboTax Free Edition**

9. [REDACTED]

10. [REDACTED] involves, in part, growing Intuit's customer base by offering free services to consumers [REDACTED]

11. [REDACTED] also involves persuading consumers to upgrade from free to paid versions of TurboTax.

12. [REDACTED] further involves "brand loyalty," or retention of consumers who previously filed their taxes for free in the "freemium" version of TurboTax returning to TurboTax in subsequent years when they are no longer eligible for the "freemium" version, and paying Intuit for a paid version of TurboTax.

13. Since at least 2017, Intuit has called the "freemium" version of TurboTax the "TurboTax Free Edition." In 2016, Intuit called the "freemium" version of TurboTax the "Federal Free Edition."

14. The "freemium" version of TurboTax is available only to consumers with "simple" tax returns, as defined by Intuit; other consumers are required to upgrade to paid versions of TurboTax.

15. In 2017 and 2018, when consumers filed tax returns for Tax Year ("TY") 2016 and 2017 (e.g. taxes filed in 2017 for income earned in 2016), Intuit defined a "simple" tax return as a return that could be filed using a 1040A or 1040EZ tax form.

16. In 2019 and 2020, when consumers filed tax returns for TY 2018 and 2019, Intuit defined a “simple” tax return as a return that could be filed on a Form 1040, with no attached schedules.

17. In 2021, when consumers filed tax returns for TY 2020, Intuit defined a “simple” tax return as a return that could be filed on a Form 1040, with no attached schedules, except to claim unemployment income.

18. Intuit currently (for TY 2021) defines “simple” tax return as a return that can be filed on a Form 1040 with limited attached schedules to cover a few distinct tax situations, including student loan interest paid.

19. Consumers who receive income reported through certain types of IRS Form 1099 are not eligible for the “freemium” version of TurboTax, regardless of their income. This includes consumers who receive independent contractor or small business income, such as consumers working in the gig economy by, for example, providing rideshare services or delivering groceries.

20. From TY 2018 to at least TY 2019, consumers who claimed student loan interest deductions were not eligible for the “freemium” version of TurboTax, regardless of their income.

## **II. Advertising Practices: Intuit’s Ads Misrepresent that Consumers Can File Their Taxes for Free Using TurboTax**

21. Since at least 2016, Intuit has promoted TurboTax through advertising that represents that consumers can file their taxes for free using TurboTax.

22. [REDACTED]

23. Intuit has employed ads, including via television, YouTube, and other social media, marketing the “freemium” version of TurboTax, including but not limited to those in its “Absolute Zero” and “Free, Free, Free, Free” campaigns.

24. Intuit’s “Absolute Zero” campaign informed consumers “at least your taxes are free.”

25. For the Absolute Zero campaign, Intuit’s goal was for consumers to believe the offering was truly free, and Intuit included the words “Free Guaranteed”

in its Absolute Zero marketing to bolster and emphasize the claim that the offer was truly free.

26. Intuit also continues to run an ad campaign it calls “Free, Free, Free, Free” in which “free” is essentially the only word spoken by the actors in the commercials, until the voice over at the end of the advertisement. Intuit used at least six different advertisements in this campaign, including an advertisement in which “free” was a word in a spelling bee, another in which a court stenographer recorded a legal proceeding in which “free” was the only word used, and another in which an exercise class instructor chants “free” while leading a group workout. A freeze frame with closed captioning from the exercise class commercial, which Intuit is currently airing, appears below. In several ads, the word “free” is repeated over 40 times in a 30-second ad.



27. Commercials in the “Free, Free, Free, Free” campaign have informed consumers that “TurboTax Free is free, free free free free.”

28. Many of Intuit’s ads contain a fine print disclaimer at the end of the commercial informing consumers that the offer is limited to consumers with “simple tax returns” or “simple U.S. returns only.”

29. The disclaimers are inadequate to cure the misrepresentation that consumers can file their taxes for free using TurboTax, when in truth, in numerous instances Intuit does not permit consumers to file their taxes for free using TurboTax. The disclaimers:

- a) Are disproportionately small compared to the prominent text emphasizing that the service is free.
- b) Appear for just a few seconds, when the commercials aired in 15-, 30-, and 60-second versions.
- c) Are in writing only, often in font color similar to the background color, and are not read by a voiceover.

30. Depicted below is a copy of a screen displayed to consumers during commercials aired as part of the “Free, Free, Free, Free” campaign, which includes a fine print disclaimer that the free offer was available only to consumers with “simple U.S. returns.”



31. What “simple” means can be a matter of interpretation, and Intuit’s definition of “simple” has changed over time.

32. While the above screen was shown to consumers during commercials, in at least some of Intuit’s commercials, an announcer said: “That’s right, TurboTax Free is free. Free, free free free.” The announcer did not read the fine print disclaimer that it is for the “Free Edition product only. For simple U.S. returns.” Intuit has never offered a product or service named only “TurboTax Free” – those words have always been a component of longer names such as “TurboTax Free Edition” (for the “freemium” version of TurboTax).

33. Depicted below is a copy of a screen displayed to consumers during commercials currently airing as part of the “Free, Free, Free, Free” campaign, which includes a similar fine print disclaimer:



34. While the above screen is shown to consumers briefly at the end of the “Free, Free, Free, Free” commercials, an announcer says: “That’s right, TurboTax Free Edition is free. See details at turbotax.com.” The announcer does not read the fine print disclaimer stating: “TurboTax Free Edition is for simple U.S. returns only.”

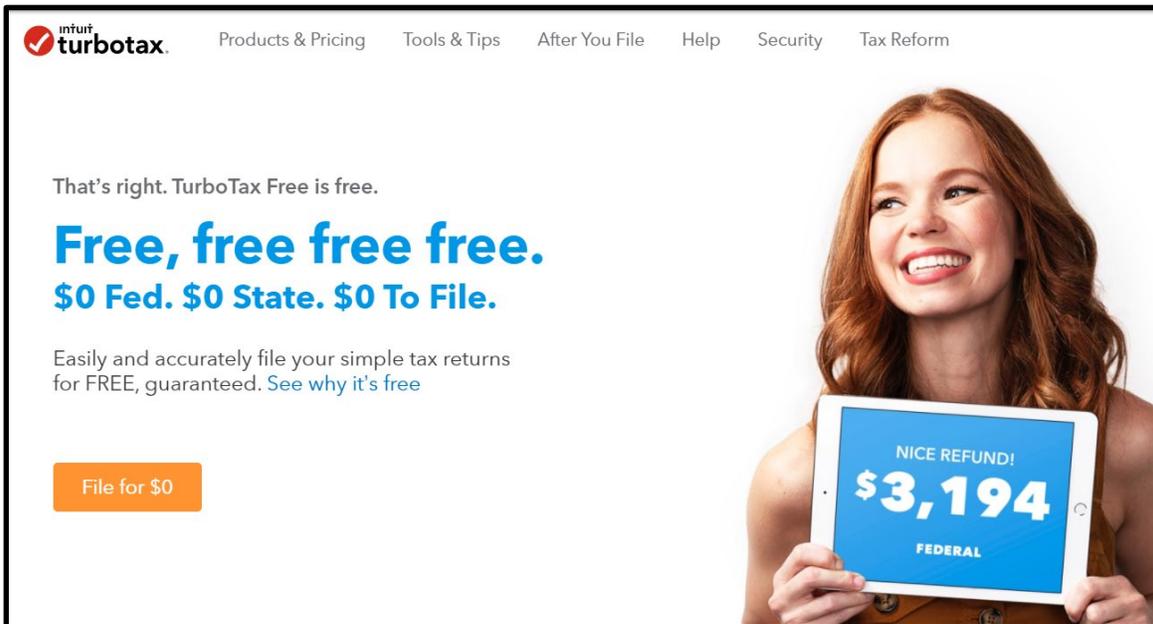
35. Given this advertising, reasonable consumers may believe that the TurboTax products and services Intuit advertises as free are free for them – that they can file their taxes for free using TurboTax. In addition, at least one of TurboTax’s competitors, Cash App Taxes (formerly Credit Karma Tax), has offered a truly free online tax preparation and filing service to all consumers for five years. Further, online products and services in many industries are routinely offered to consumers completely free of charge, leading consumers to understand that online tax preparation products and services are often truly free.

### III. Website Practices

#### A. Intuit’s TurboTax Home Page Misleads Consumers into Believing They Can File Their Taxes for Free Using TurboTax

36. The TurboTax website does not disclose adequately to consumers, including those who see Intuit’s advertisements, the limitations on eligibility for the “freemium” version of TurboTax.

37. For example, for TY 2018, the TurboTax home page contained the following screen, which mimicked the “Free, Free, Free, Free” ad campaign:

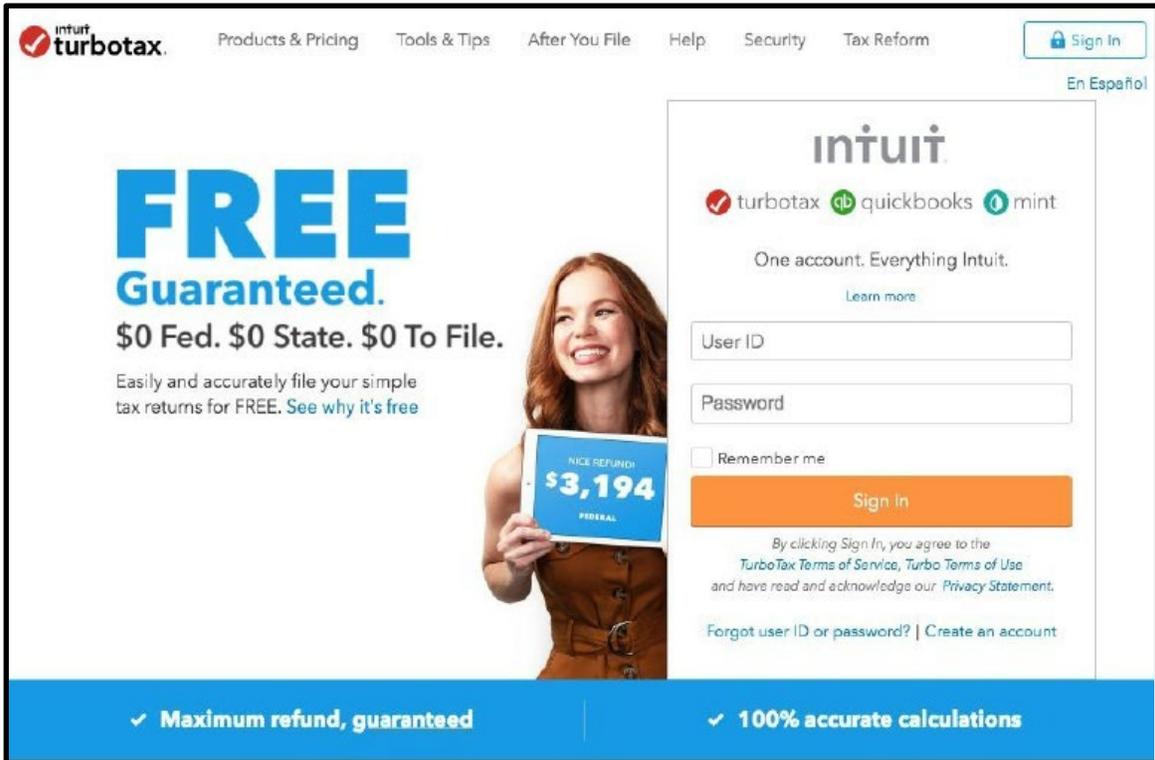


38. The screen above, shown to consumers filing tax returns for TY 2018, failed to disclose adequately the limitations on eligibility for at least three reasons:

- a) First, the limitations on eligibility were preceded by the words “FREE, guaranteed.” Intuit employees responsible for overseeing the marketing and marketing strategy for the “freemium” version of TurboTax included “guaranteed” [REDACTED]
- b) Second, the disclosure language stated that consumers could file their “simple tax returns for FREE,” but no guidance was given about the meaning of “simple tax return” on that screen. In a significant example, Intuit would not have considered consumers receiving income reported on certain types of IRS Form 1099 as having a “simple tax return.” This includes consumers receiving independent contractor or small business income, such as consumers working in the gig economy by, for example, providing rideshare services or delivering groceries.
- c) Third, the eligibility requirement disclosures were hidden behind a hyperlink over the words “See why it’s free.” Consumers had to click on the hyperlink to trigger a pop up explaining the limitations.

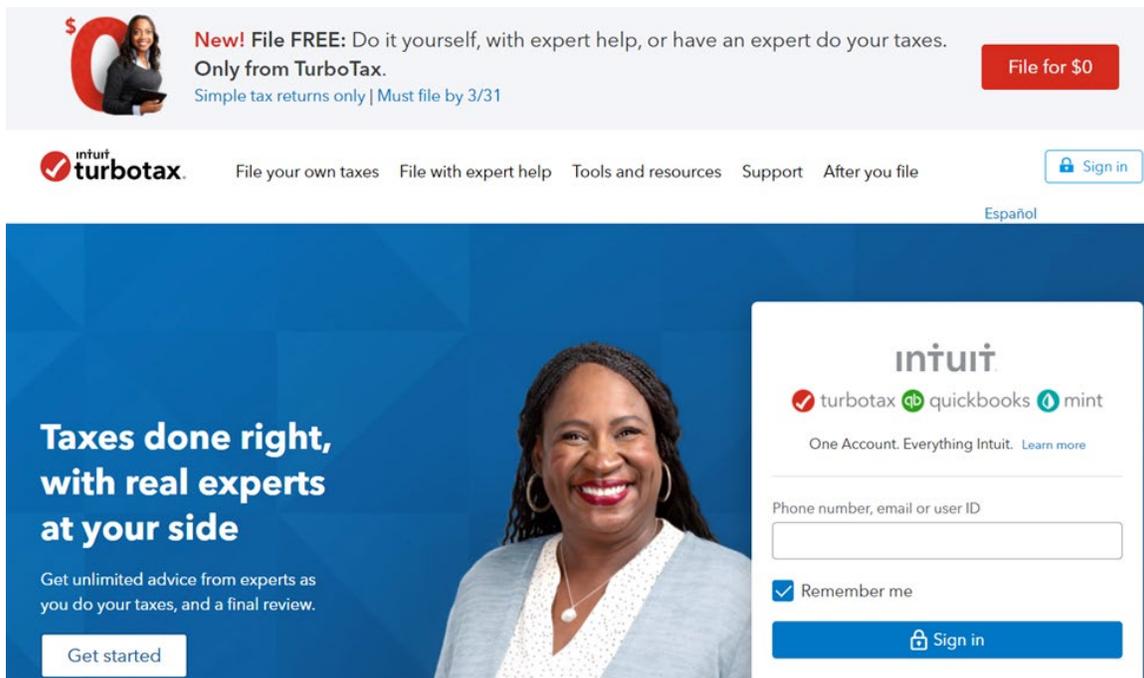
39. Consumers who clicked on the orange button saying “File for \$0” on the screen above were brought to a login screen to commence an online, automated “interview” to begin entering information to file their taxes. Consumers who were not eligible for the “freemium” version of TurboTax would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their sensitive personal and financial information into TurboTax.

40. For TY 2019, Intuit used a similar screen, pictured below, with an even greater emphasis that consumers were “guaranteed” to file their taxes for free. Again, consumers who were not eligible for the “freemium” version of TurboTax would not learn they were ineligible until they had already invested significant time and effort creating an account and inputting their sensitive personal and financial information into TurboTax.



41. Since TY 2020, Intuit has continued to employ a customer interview model in which consumers who are not eligible for the “freemium” version of TurboTax do not learn they are ineligible until they have already invested significant time and effort creating an account and inputting their sensitive personal and financial information into TurboTax.

42. The screen Intuit currently uses on its website, for TY 2021, is pictured below.



43. Once again, Intuit’s current website page emphasizes “FREE,” “\$0,” and “File for \$0” at the top of the page, when in numerous instances Intuit does not permit consumers to file their taxes for free using TurboTax. While “Simple tax returns only” is hyperlinked to more detailed terms and conditions, the term “simple tax returns” is not understood by many consumers, and consumers who assume they have a “simple tax return” are not likely to click to read more.

44. Thus, Intuit continues to bombard consumers with the message that they can file their taxes for “free.” Intuit baits consumers with deceptive ads and then compound the deception with more false claims and buried disclosures.

**B. The TurboTax Interview Process Uses Required Upgrades Called “Hard Stops” to Induce Consumers to Upgrade from Free to Paid Versions of TurboTax**

45. Intuit has represented, and currently represents, to consumers who are not eligible for the “freemium” version of TurboTax that they must pay Intuit to file their tax returns online with TurboTax. Intuit informed consumers of these required upgrades using screens its employees call “Hard Stops.” Consumers are later required to pay for the upgraded version of TurboTax, either by providing payment information or agreeing to an additional charge to pay using their tax refund after their returns have been prepared and are ready to file.

46. When consumers use the “freemium” version of TurboTax, it asks them a series of questions on successive webpages about their financial situation. These questions enable Intuit to determine whether consumers are eligible for the “freemium” version of TurboTax and include, among other things, whether the consumer paid student loan interest or was self-employed.

47. Next, consumers are prompted to input their income by category. When consumers indicate that they need to report income on certain types of IRS Form 1099 (which could be because entities that paid them classified them as independent contractors, such as consumers working in the gig economy by, for example, providing rideshare services or delivering groceries), the “freemium” version of TurboTax displays a Hard Stop informing them that they cannot proceed for free. For example, Intuit’s TY 2019 “Business Income Upgrade” Hard Stop, depicted below, told consumers: “To accurately report this income, you’ll need to upgrade.” Hard Stop screens then offer consumers the option to upgrade and pay for a paid version of TurboTax, such as TurboTax Deluxe or TurboTax Self-

FEDERAL REFUND (in progress) \$0 NJ REFUND (in progress) \$0 Hide Search Help Live Tax Advice

Wages & Income Deductions & Credits Health Insurance Other Tax Situations Federal Review

To accurately report this income, you'll need to upgrade

BENEFITS	Free Edition	Deluxe	Self-Employed
Report W-2 income	●	●	●
Report multiple sources of income—includes 1099-MISC, 1099-K, and more.		●	●
One-on-one help—get customized answers to your product and support questions from a TurboTax specialist.		●	●
Maximize deductions—claim self-employed expenses such as vehicle, phone, supplies, and more (Schedule C).			●

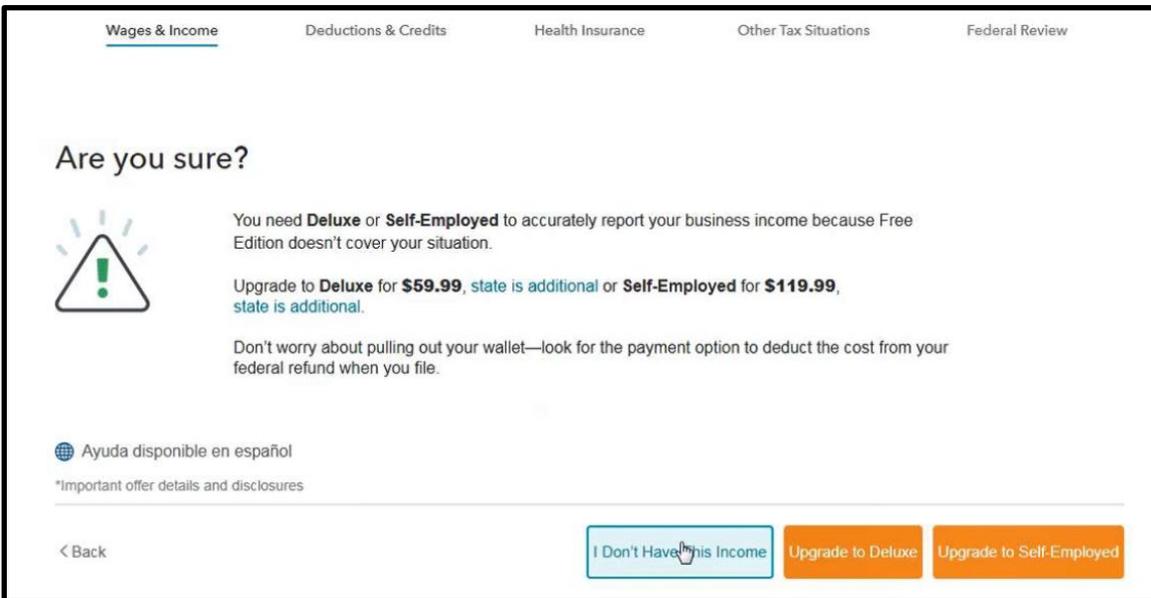
Keep Free \$0 Upgrade \$59.99 State additional Upgrade \$119.99 State additional Pays for Itself

Employed. At various times during TY 2018 and 2017, Intuit charged \$59.99 for TurboTax Deluxe and \$119.99 for TurboTax Self-Employed.

48. The headline in the Business Income Hard Stop states that consumers must upgrade to a paid version of TurboTax to “accurately report this income.”

49. [REDACTED]

50. The chart in the Business Income Hard Stop depicted above included a button that said “keep free” below the column for TurboTax Free Edition, even though the consumer could not actually continue using TurboTax Free Edition and report all of their income to the IRS. Indeed, consumers who clicked on the keep free button were shown what Intuit calls its “Are you sure,” or “AYS” screen, depicted below.



51. The Are You Sure screen again used the headline: “You need Deluxe or Self-Employed to accurately report your business income because Free Edition doesn’t cover your situation.”

52. Consumers who clicked the “I don’t have this income” button on the Are You Sure screen were prompted to re-enter their income. Consumers who again entered the same Form 1099 income were again shown the Business Income Hard Stop; in TY 2018 and prior, when those same consumers again clicked “Keep Free” the second time they encountered it, they would have again been shown the Are You Sure screen, placing those consumers into a feedback loop that ended only if

they upgraded to a paid version of TurboTax or chose not to report that Form 1099 income.

53. A current Hard Stop, depicted below, tells consumers: “To accurately report this income, you’ll need to upgrade.” The Hard Stop screen offer consumers the option to upgrade and pay up to \$59.99 for TurboTax Deluxe and up to \$119 for TurboTax Self-Employed at full price (though discounts may be available, as in the case below).



### To accurately report this income, you’ll need to upgrade

	Free Edition	Deluxe	Self-Employed
<b>Report W-2 income</b>	✓	✓	✓
<b>Report multiple sources of income</b> —1099-NEC, 1099-MISC, 1099-K, & more		✓	✓
<b>One-on-one help</b> —get personalized answers from a TurboTax specialist		👤	👤
<b>Maximize deductions</b> —claim business expenses related to auto, utilities, supplies, & more			✓
	<b>\$0*</b>	<del>\$59</del> <b>\$39*</b> State additional	<del>\$119</del> <b>\$89*</b> State additional Pays for itself
	<a href="#">Don't upgrade</a>	<a href="#">Upgrade</a>	<a href="#">Upgrade</a>

Don't worry about pulling out your wallet—look for the payment option to deduct the cost from your federal refund when you file.

[\\* Important offer details and disclosures](#)

54. Intuit has used and is using many other Hard Stops to induce consumers who start in the “freemium” version of TurboTax to upgrade to a paid version based on certain types of income, such as income from a farm, farm rental or farm equipment; selling a home; a prior year state tax refund; or investments.

55. Intuit also has used and is using Hard Stops to induce consumers who start in the “freemium” version of TurboTax to upgrade to a paid version when

seeking certain tax credits or deductions. An example that was in place during at least TY 2018 and TY 2019 was a deduction for paying student loan interest.

56. [REDACTED]

57. Thus, Intuit’s deceptive door-opener ads described above bring consumers to the TurboTax website representing that consumers can file their taxes for free using TurboTax, but once there, many consumers encounter screens that inform them that they cannot complete and file their taxes for free.

58. In the case of the Hard Stop screens, this confrontation comes after consumers have already created a TurboTax account and expended substantial time inputting sensitive personal and financial information into Intuit’s user interface.

#### **IV. Intuit’s Truly Free Version of TurboTax: The Free File Version**

59. Intuit’s advertisements funneled consumers to the purportedly-free version of TurboTax, only to require [REDACTED] upgrade and pay Intuit to file their taxes after consumers had invested time and shared sensitive information with Intuit.

60. All the while, many low- and middle-income consumers that paid Intuit to upgrade to a paid version of TurboTax would have been eligible to prepare and file their taxes electronically at no cost through the IRS Free File Program, a public-private partnership formed in 2002 between the IRS and a consortium of online tax preparation and filing companies, formerly including Intuit, pursuant to a Memorandum of Understanding (“MOU”).

61. [REDACTED]

62. Until 2021, when Intuit left the IRS Free File Program, the Free File version of TurboTax provided an online solution for all IRS tax forms, regardless of consumers’ sources or types of income or the variety of their deductions or tax credits, so long as consumers fell within the prescribed adjusted gross income threshold that Intuit set each year. The only other version of TurboTax that would

have provided equal coverage for all tax situations and tax forms is its most expensive paid version of TurboTax, TurboTax Self Employed.

#### **A. The IRS Free File Program**

63. Under the IRS Free File Program MOU, participating companies offer free online tax preparation services to low- and middle-income Americans. Participating companies are prohibited from marketing to consumers while those consumers use their Free File offerings. In exchange, the IRS agreed not to compete with the participating companies in providing free, online tax return preparation and filing services to consumers. In a December 2019 addendum to the most recent MOU concerning the program, the IRS dropped its agreement to refrain from competing with the private providers; however, there is no current indication that the IRS intends to enter the market.

64. Historically, consumer participation in the IRS Free File Program has been low. In 2018, approximately three million of the nearly 104 million consumers who were eligible to do so used the IRS Free File Program to file their federal taxes. At its peak usage in 2005, 5,142,125 consumers used the IRS Free File Program to file their federal taxes.

65. The IRS has set eligibility thresholds for participation in the Free File Program based on consumers' adjusted gross income ("AGI"). Consumers with an AGI equal to or less than 70% of the U.S. consumer population are meant to be eligible for the program. The MOU, however, requires that no company make its Free File offering available to more than 50%, or less than 10%, of eligible consumers. Each company is free to set its own eligibility requirements to stay within that range.

#### **B. The Free File Version of TurboTax**

66. From 2003 to October 2021, Intuit offered the Free File version of TurboTax as part of the IRS Free File Program.

67. Intuit employees involved in marketing and strategy related to offering the "freemium" and Free File versions of TurboTax acknowledged that these two versions of TurboTax competed with each other.

68. From 2017 (for TY 2016) to 2021 (for TY 2020), Intuit made the Free File version of TurboTax available to all consumers who were eligible for the earned income tax credit.

69. From 2017 to 2021, Intuit also made the Free File version of TurboTax available to all consumers with an AGI that did not exceed specified AGI thresholds:

<b>Tax Year</b>	<b>Maximum AGI</b>
2016 (returns filed in 2017)	\$33,000
2017 (returns filed in 2018)	\$33,000
2018 (returns filed in 2019)	\$34,000
2019 (returns filed in 2020)	\$36,000
2020 (returns filed in 2021)	\$39,000

70. From 2017 to 2021, Intuit also made the Free File version of TurboTax available to all active duty military service members with an AGI that did not exceed specified AGI thresholds:

<b>Tax Year</b>	<b>Maximum AGI</b>
2016 (returns filed in 2017)	\$64,000
2017 (returns filed in 2018)	\$66,000
2018 (returns filed in 2019)	\$66,000
2019 (returns filed in 2020)	\$69,000
2020 (returns filed in 2021)	\$72,000

(These limits were the maximum AGIs allowable in the IRS Free File Program for any consumer using any participating company for those years.)

71. Although consumers primarily accessed the Free File version of TurboTax via IRS.gov, they have also accessed it directly via Intuit's internet landing page for the Free File version of TurboTax, which is different from the landing page for its "freemium" and paid versions of TurboTax.

72. Intuit changed the name of the Free File version of TurboTax several times. Intuit also used different names for the Free File version of TurboTax at the same time, depending on where the Free File version of TurboTax was being marketed.

73. Prior to TY 2018, Intuit called the Free File version of TurboTax "TurboTax Freedom Edition." Upon information and belief, the internet landing page for TurboTax Freedom Edition prior to TY 2018 was [turbotax.intuit.com/taxfreedom](http://turbotax.intuit.com/taxfreedom).

74. For TY 2018, Intuit changed the name of the Free File version of TurboTax to "TurboTax Free File Program." Intuit used the same internet landing

page for TurboTax Free File Program as it did for TurboTax Freedom Edition: [turbotax.intuit.com/taxfreedom](https://turbotax.intuit.com/taxfreedom).

75. From at least TY 2016 through and including TY 2018, Intuit used a different name to market the Free File version of TurboTax on the IRS.gov website. On the IRS.gov website, Intuit marketed the Free File version of TurboTax as “TurboTax All Free <sup>SM</sup>.”

76. Intuit sought and obtained registered trademark protection for the name TurboTax All Free.

77. For TY 2019 and 2020, Intuit changed the name of the Free File version of TurboTax to “IRS Free File Program Delivered by TurboTax.” This change was required by an amendment to the MOU between the IRS and the participating tax preparation companies that required uniform naming of all IRS Free File Program offerings. The internet landing page for the IRS Free File Program Delivered by TurboTax for TY 2019 was <https://freefile.intuit.com/>.

### **C. The Tension Between the Free File and “Freemium” Versions of TurboTax**

78. Intuit has long feared that the government would “encroach” on its tax preparation business. To address this risk, the company had a comprehensive anti-encroachment strategy, including the Free File version of TurboTax, which yielded benefits to the company. Intuit called the company’s participation in the IRS Free File Program the “lynchpin” of its efforts to avoid government “encroachment” into the tax preparation industry.

79. As the Treasury Inspector General for Tax Administration testified before the House Ways and Means Committee on April 6, 2006, the “primary goal” of the Free File Program “is to keep the Federal Government from entering the tax preparation business.”

80. Indeed, Intuit has acknowledged the competitive threat of a government-run free e-filing system. In Securities and Exchange Commission (“SEC”) filings, Intuit stated that “We ... face potential competitive challenges from publicly funded government entities that offer electronic tax preparation and filing services at no cost to individual taxpayers.” Intuit further acknowledged that participation in the IRS Free File Program “has kept the federal government from being a direct competitor to Intuit’s tax offerings.”

81. In a Form 10-Q for the quarterly period ending January 31, 2019, Intuit stated that: "Our consumer tax business also faces significant competition from the public sector .... If the Free File Program were to be terminated and the IRS were to enter the software development and return preparation space, the federal government would become a publicly funded direct competitor of the U.S. tax services industry and of Intuit. Government funded services that curtail or eliminate the role of taxpayers in preparing their own taxes could potentially have material and adverse revenue implications."

82. Intuit employees have recognized a need to keep participation in the IRS Free File Program at numbers sufficiently high to ensure the continued viability of the program.

83. Intuit has recognized that high participation in the IRS Free File Program would dent its bottom line, but that, at the time, it had to keep Free File enrollments at a certain level to prevent government "encroachment."

84. At the same time, as one Intuit employee wrote, "we need to make sure that FFA [the Free File Alliance] is not cannibalizing the our [sic] commercial products."

**D. Consumer Confusion About the Names of the Free File and "Freemium" Versions of TurboTax and Intuit's Decision to Change the Name of the Free File Version of TurboTax**

85. For several years prior to TY 2018, Intuit employees tasked with overseeing the marketing strategy for both the Free File and "freemium" versions of TurboTax considered changing the name of the Free File version of TurboTax.

86. Since at least 2013, Intuit knew that consumers were confused by the similarity of the names of these versions of TurboTax.

87. 

88. Intuit included the word "free" in the name of its commercial "freemium" version of TurboTax, TurboTax "Free Edition," even though, in TY 2020, for example, it was not free for two-thirds of U.S. taxpayers.

89. From at least TY 2015 through TY 2017, Intuit named the Free File version of TurboTax "Freedom Edition," which does not indicate that it is free

despite being part of a program that provides free tax preparation and filing services for 70% of taxpayers.

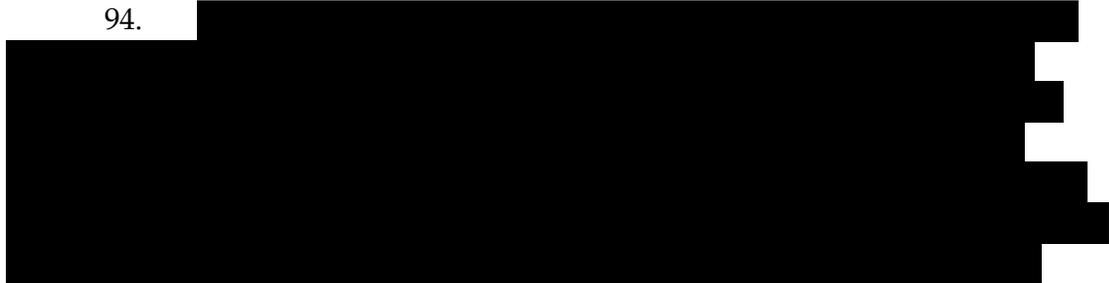
90. In 2013, one employee tasked with branding and marketing strategy for both the Free File and “freemium” versions of TurboTax wrote: “As you know, our customers get confused between the ‘Freedom Edition’ and the ‘Federal Free Edition.’ We’d like to try to drive more clarity between the two products and I think a name change would help.”

91. In 2014, Intuit employees again considered whether to change the name of the Free File version of TurboTax.

92. On June 18, 2018, *Pro Publica*, an independent online investigative journalism organization, reported that the IRS Free File Program was underused by eligible consumers, stating that only about 3% of eligible consumers used it. The article theorized that part of the reason for low usage was that companies such as Intuit had confusing names for their free offerings, noting the similarity between TurboTax Free Edition and TurboTax Freedom Edition. Intuit employees also noted around the same time that *The Hill* and *CBS Sunday Morning* issued similar reports.

93. The next month, in July 2018, Intuit’s head of government affairs unsuccessfully urged that the company change the name of the Free File version of TurboTax from TurboTax Freedom Edition to TurboTax Free File Edition.

94.



95. Although Intuit changed the name of the Free File version of TurboTax to TurboTax Free File Program for TY 2018, it continued to market the Free File version of TurboTax on the IRS.gov website using the trademarked name TurboTax All Free. Moreover, Intuit was aware that changing the name to TurboTax Free File Program would not create any additional clarity for its customers and that consumers would be confused between TurboTax Free File Program and TurboTax Free Edition, especially due to the company’s focus on the use of “free” in marketing TurboTax.

96. In 2019, this time pursuant to an amendment to the IRS Free File MOU, Intuit again changed the name of the Free File version of TurboTax, renaming it to IRS Free File Program Delivered by TurboTax.

**E. For TY 2018, Intuit Hid Its Free File Landing Page from Search Engines for Approximately Five Months During the Peak of Tax Season**

97. While Intuit funneled consumers to the “freemium” version of TurboTax and ultimately directed many to upgrade and pay, it made it difficult for consumers to find the Free File version of TurboTax.

98. [REDACTED]

99. In July 2018, one Intuit employee involved with the marketing strategy related to both the Free File and “freemium” versions of TurboTax explained that: “From a [search engine optimization] perspective, changing to ‘Free File’ in the name [REDACTED] think that any TTFE [TurboTax Freedom Edition] product name [REDACTED] with our ‘Free Edition’.”

100. [REDACTED]

[REDACTED] Revenue growth is the most important financial indicator Intuit uses to assess its business, including revenue growth for each reportable segment of the company.

101. In September 2018, one Intuit employee explained: “it sounds like we have the ability to block our FFA offering/landing page from organic search if we rename to TurboTax Free Edition. This sounds like a great solution if we learn that TurboTax Free File does start to outrank our commercial Free.”

102. Facing this risk of lost revenue and [REDACTED] for TY 2018, Intuit blocked the landing page for its newly named Free File version of TurboTax so that it would not be indexed (listed) by online search engines. That block was in place from November

13, 2018, to April 26, 2019. This timeframe covered the vast majority of Intuit’s 2019 tax filing season, which is the time it received revenue from consumers using TurboTax to file tax returns for TY 2018.

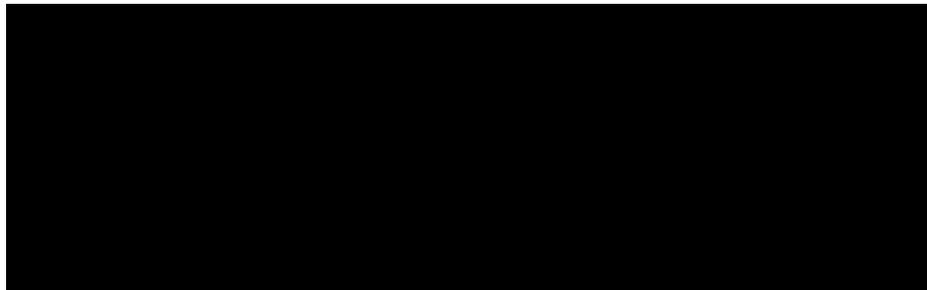
103. For TY 2017, almost 1,225,000 consumers filed their federal tax returns using the Free File version of TurboTax, representing 3.8% of all of Intuit’s online tax filings. For TY 2018, while Intuit had blocked its Free File landing page so it would not appear in organic search engine search results, that number fell to less than 1.2 million consumers, representing 3.5% of all of Intuit’s online tax filings.

**F. Intuit Used Paid Search Terms to Direct Consumers Searching for the IRS Free File Program to the “Freemium” and Paid Versions of TurboTax**

104. As part of its advertising and marketing practices, Intuit bid on paid search terms with search engines such as Google and Bing. When a consumer queried a search engine for a search term and Intuit won the search engine’s instant auction for that paid search term, the consumer would be served an ad selected by Intuit that included a hyperlink directing the consumer to a specific website. Intuit selected both the content of the ad and the link directing consumers to a specific website.

105. For many years, including TY 2018 while Intuit had blocked the landing page for the Free File version of TurboTax from appearing in online search results, Intuit bid on search terms relevant to the IRS Free File Program.

106. In many instances, these search terms relevant to the IRS Free File Program indicated consumers were likely searching for information about, or links to reach the website for, the IRS Free File Program. [REDACTED]



107. [REDACTED] search terms referenced in paragraph 106, during TY 2018 – while Intuit had blocked the landing page for the Free File version of TurboTax from appearing in search results – Intuit inserted hyperlinks into ads

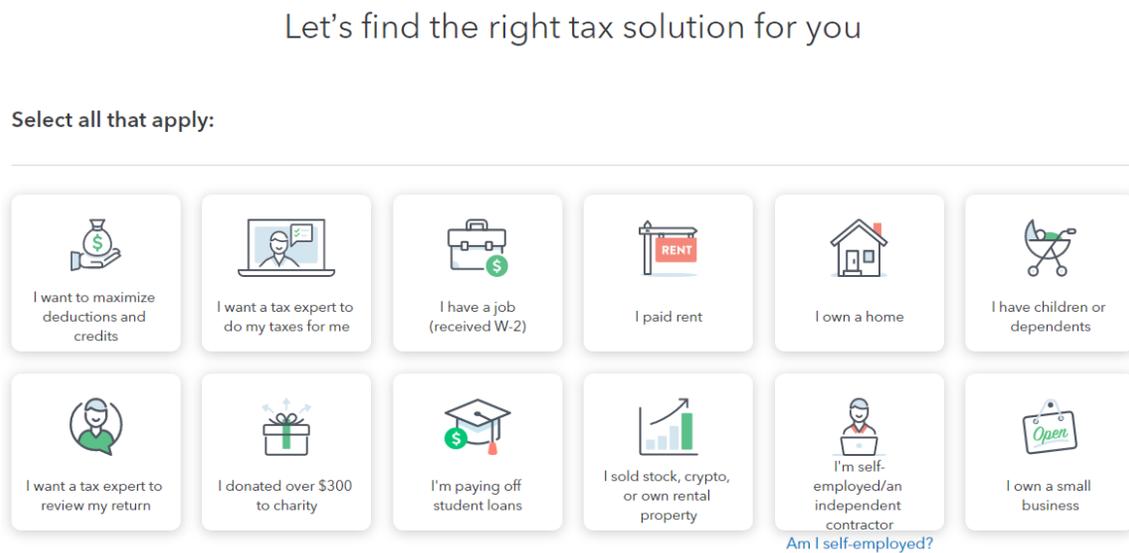
served to consumers for those keywords that directed consumers to Intuit’s commercial website with the “freemium” and paid versions of TurboTax, rather than the IRS.gov website for the IRS Free File Program or the landing page for the Free File version of TurboTax.

108. During TY 2018, Intuit directed consumers towards the website for the “freemium” and paid versions of TurboTax when consumers searched for the Free File version of TurboTax by its exact name: Turbo Tax Free File Program.

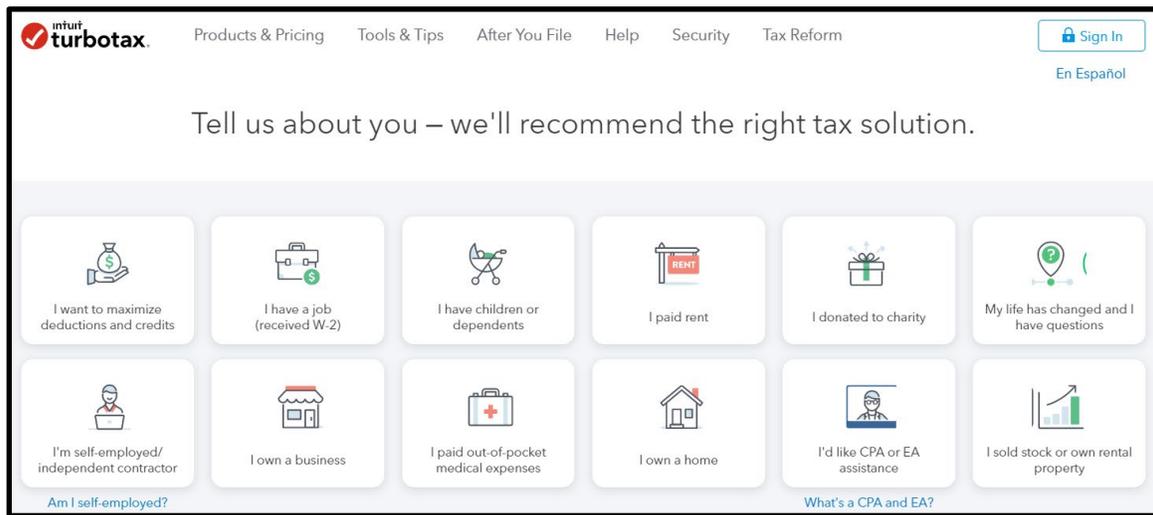
109. Intuit knew that some of its customers were misled by these practices, and Intuit developed an answer for customer service staff to respond to the following question: “How come when I searched for Free TurboTax, it didn’t list the FREE IRS version but it took me to your PAID free version, where I ended up having to pay?”

**G. Intuit’s TurboTax Website Does Not Mention the Free File Version of TurboTax and Funnels Consumers to the Paid and “Freemium” Versions of TurboTax**

110. Intuit’s TurboTax website has featured a screen Intuit calls its “Products and Pricing” screen. The current headline on this screen tells consumers: “Let’s find the right tax solution for you.” A copy of that screen is below.



111. For TY 2018, the headline on this screen informed consumers: “Tell us about you – we’ll recommend the right tax solution.” A copy of that screen is below.



112. When consumers click, or clicked, on one of the tiles pictured in the screens above, the TurboTax website then recommends, or recommended, one of four versions of TurboTax: (1) the “freemium” version of TurboTax, marketed as Free Edition; (2) Deluxe; (3) Premier; or (4) Self-Employed – the latter three being the paid do-it-yourself versions of TurboTax. The bottom of these screens list all four versions of TurboTax with the recommended version highlighted.

113. These screens did not display the Free File version of TurboTax to consumers.

114. In TY 2019, the TurboTax website had a site index at the bottom of the home page with a link to “All online tax preparation software.” That link brought consumers to the Products and Pricing screen, which did not include the Free File version of TurboTax. Likewise, during TY 2020, the TurboTax app contained a similar list of “all products” that did not include the Free File version of TurboTax.

## H. Summary

115. For eligible consumers based on their AGI, Intuit’s former Free File version of TurboTax covered all tax situations, forms, and deductions, thus providing coverage equal to Intuit’s most expensive version of TurboTax, Self-Employed.

116. [REDACTED]

[REDACTED]

117.

[REDACTED]

118.

[REDACTED]

**Count I  
Deceptive Advertisements**

119. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of online tax preparation products or services, Respondent represents, directly or indirectly, expressly or by implication, that consumers can file their taxes for free using TurboTax.

120. In fact, in numerous instances Respondent does not permit consumers to file their taxes for free using TurboTax.

121. Therefore, the representation set forth in Paragraph 119 is false or misleading.

**Violations of Section 5**

122. The acts and practices of Respondent as alleged in Count I of this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

**NOTICE**

You are notified that on September 14, 2022, at 10:00 a.m., at the Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Room 532-H,

Washington, DC 20580, an Administrative Law Judge of the Federal Trade Commission, will hold a hearing on the charges set forth in this Complaint. At that time and place, you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this Complaint.

You are notified that you are afforded the opportunity to file with the Federal Trade Commission (“Commission”) an answer to this Complaint on or before the 14th day after service of the Complaint upon you. An answer in which the allegations of the Complaint are contested must contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the Complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the Complaint not thus answered will be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the Complaint, the answer should consist of a statement that you admit all of the material facts to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the Complaint and, together with the Complaint, will provide a record basis on which the Commission may issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under FTC Rule § 3.46.

Failure to answer timely will be deemed to constitute a waiver of your right to appear and contest the allegations of the Complaint. It will also authorize the Commission, without further notice to you, to find the facts to be as alleged in the Complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will hold an initial prehearing scheduling conference to be held not later than 10 days after the answer is filed by the Respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room 532-H, Washington, DC 20580. Rule 3.21(a) requires a meeting of the parties’ counsel as early as practicable before the prehearing scheduling conference, but in any event no later than 5 days after the answer is filed by the Respondent. Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a Respondent’s answer, to make certain initial disclosures without awaiting a formal discovery request.

The following is the form of the order which the Commission has reason to believe should issue if the facts are found to be as alleged in the Complaint. If, however, the Commission concludes from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to Respondent might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary and appropriate including corrective advertising or other affirmative disclosures.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the Complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations. Such relief could be in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

#### **NOTICE OF CONTEMPLATED RELIEF**

Should the Commission conclude from the record developed in any adjudicative proceedings in this matter that the deceptive acts or practices challenged in this proceeding violates Section 5 of the Federal Trade Commission Act, as amended, the Commission may order such relief against Respondent as is supported by the record and is necessary and appropriate to fully protect the consuming public, including, but not limited to:

1. A prohibition against misrepresenting that a good or service is “free.”
2. A prohibition against misrepresenting any material fact, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, including: (a) the cost of any of Respondent’s goods or services, including any TurboTax product or service; and (b) any other fact material to consumers concerning any good or service, such as: the total costs; any refund policy; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.
3. A requirement that Respondent notify customers of the relief ordered by the Commission.
4. A requirement to file periodic compliance reports with the Commission.

5. A requirement to create and keep certain records including:  
(a) accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;  
(b) personnel records showing, for each person providing services in relation to any aspect of the relief ordered by the Commission; (c) copies or records of all consumer complaints and refund requests; and (d) a copy of each unique advertisement or other marketing material making a representation subject to the relief ordered by the Commission.

6. Any other relief appropriate to correct or remedy Respondent's deceptive advertising.

**THEREFORE**, the Federal Trade Commission this twenty-eighth day of March, 2022, has issued this Complaint against Respondent.

By the Commission.

April J. Tabor  
Secretary

SEAL: