

**WRITTEN TESTIMONY OF  
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BEFORE THE  
HOUSE WAYS AND MEANS COMMITTEE  
SUBCOMMITTEE ON HEALTH  
ON IMPLEMENTATION OF THE AFFORDABLE CARE ACT  
SEPTEMBER 10, 2014**

Chairman Brady, Ranking Member McDermott and Members of the Subcommittee, thank you for the opportunity to appear before you today to update you on the work the Internal Revenue Service (IRS) is doing to fulfill our responsibilities under the Affordable Care Act (ACA).

The IRS has been charged with implementing the numerous tax-related provisions of the ACA. This testimony will focus on two major provisions taking effect this year, the premium tax credit and the individual shared responsibility provision, as well as the substantial work being done to prepare IRS business processes and systems to facilitate return filing and compliance with these two provisions beginning with the 2015 filing season. This work includes the significant effort we are making to ensure that taxpayers know how these two provisions may affect them.

IRS' work in relation to the ACA started soon after the legislation was signed into law in March 2010, as the agency moved quickly to implement a number of tax-related provisions that became effective immediately. These provisions included: the Small Business Health Care Tax Credit; the tax credit available under the Qualifying Therapeutic Discovery Project Program; the expansion of the tax exclusion for student loan forgiveness for health care professionals working in underserved areas; and the Indoor Tanning Services Excise Tax. Other tax-related ACA provisions implemented by the IRS since 2010 include the Branded Prescription Drug Fee and the Health Insurer Provider Fee.

Another ACA implementation effort by the IRS has involved providing information to facilitate the delivery of advance payments of premium tax credits that are designed to help millions of American families obtain affordable health insurance coverage through the Federal and state Health Insurance Marketplaces. The operation of these Marketplaces is overseen by the Department of Health and Human Services (HHS). The IRS's limited role in the operation of the Marketplaces is to provide Marketplaces with data and computational services for use in their determinations about eligibility for financial assistance.

The IRS provides support to the process that each Marketplace goes through when an individual seeking to purchase insurance through the Marketplace also seeks financial assistance: that is, the Marketplace must determine what assistance, if any, the applicant may qualify for, such as the advance payment of the premium tax credit, or Medicaid. As part of assembling data for that determination, the Marketplace requests Federal taxpayer return data. In response to such a request, the IRS securely provides certain limited tax data from the applicant's most recent Federal income tax return, as specifically authorized by the Affordable Care Act. State Medicaid and Children's Health Insurance Program agencies may also choose to request the tax data for their eligibility determinations.

Separate from the process of providing limited tax return data to the Marketplace for eligibility determinations, the IRS also supports the Marketplace by providing an optional computational service, known as the Premium Tax Credit Computation Engine.

This computational service is used if an applicant, instead of paying for the insurance up front and claiming the premium tax credit later on their tax return, chooses to have an advance payment of the credit sent straight to the insurer, on a monthly basis throughout the year. After the Marketplace determines a predicted 2014 income figure, and without identifying the applicant, the Marketplace submits a few data elements – such as a Marketplace-determined income figure and family size, and the Marketplace benchmark plan premium – to the IRS' optional computational service. The Marketplace then receives back a single figure: the maximum advance premium tax credit for which an individual may be eligible based on those data inputs.

The systems and processes the IRS developed to support enrollment in the Marketplaces were launched on schedule in October 2013, and they continue to work as planned. We have handled the information requests received via the HHS Federal Data Services Hub, and we have processed the transactions as intended. This conclusion is supported by the Treasury Inspector General for Tax Administration (TIGTA), which issued a report in July 2014 on the IRS' performance in regard to the more than 27 million requests for federal taxpayer return data and the more than 11 million computational requests received between October 1, 2013 and March 31, 2014. TIGTA determined that the IRS provided accurate responses for 99.97 percent of the requests for return data and 100 percent of the computational requests that TIGTA reviewed.

Let me turn now to the work the IRS is doing to prepare for the 2015 filing season.

In regard to the premium tax credit, as noted above, eligible individuals can choose to have their insurer receive advance payment of the tax credit, the amount of which is based on a determination made by the Marketplace. At the

end of the coverage year, taxpayers who opted for advance payment of the credit will reconcile the payment on their 2014 tax returns filed in 2015.

When filing tax returns, these taxpayers will calculate the actual credit they qualified for based on their actual 2014 income. If the actual premium tax credit is larger than the sum of advance payments made during the year, the individual will be entitled to an additional credit amount. If the actual credit is smaller than the sum of the advance payments, the individual's refund will be reduced or the amount of tax owed will be increased, subject to a statutory sliding scale of income-based repayment caps. The IRS recently issued a draft of new Form 8962, *Premium Tax Credit*, which taxpayers will use to make these calculations and will file with their income tax return.

The IRS has also developed the Form 1095-A, *Health Insurance Marketplace Statement*, to facilitate the reconciliation process for the premium tax credit. Beginning with coverage purchased in 2014, each Marketplace will issue the 1095-A to individuals who purchased a policy through the Marketplace. The IRS recently issued a draft version of the form and its accompanying instructions.

The transactional information contained in the 1095-A issued by the Marketplace will include not only the fact and cost of coverage, but also information on any advance payments of the premium tax credit made during the coverage year to the taxpayer's insurance company on his or her behalf. This information will also be supplied to the IRS. We are in a testing phase with the Federal and state Marketplaces, to ensure that our systems will be ready to operate as planned when filing season opens in early 2015. The Marketplaces, including state-based Marketplaces, are responsible for reporting this information accurately and on time.

Having data from the Marketplaces will allow the IRS to efficiently sort for the basic qualification and computational elements of the premium tax credit. While the IRS does not share publicly all of the tools and techniques used for detecting noncompliance, it can be noted that the IRS will, for example, be able to determine:

- Whether there is a record of anyone on the return having enrolled at a Marketplace (a basic requirement to claim the credit);
- Whether any advance payments made directly to the insurance company have been properly netted against the credit calculation; and
- If the tax return reports inaccurately high premium costs or inaccurately low advance payments as compared to the Marketplace data.

The IRS' preparations for the upcoming filing season in regard to the ACA also involve the individual shared responsibility provision. Under this provision, individuals are required to have qualifying health insurance coverage for each month of the year, have an exemption, or make an individual shared responsibility payment. I would note that the vast majority of taxpayers will have

health coverage from one source or another – such as the individual’s workplace, the Marketplace, Medicare or Medicaid – and so will have to do nothing more than check a box on their tax return.

There are a number of individuals who will be exempt from the individual shared responsibility provision. An exemption will apply for individuals who:

- Have no affordable coverage options because the minimum amount they must pay for the annual premiums is more than eight percent of their household income;
- Have a gap in coverage for less than three consecutive months; or
- Qualify for an exemption for one of several other reasons, including, but not limited to, having a hardship that prevents them from obtaining coverage.

Most individuals who qualify for an exemption and otherwise need to file a tax return will provide the exemption information with their returns. The IRS recently issued a draft of new Form 8965, *Health Coverage Exemptions*, which taxpayers will use to claim an exemption from the coverage requirement and will file with their tax return.

The small minority of individuals who do not have coverage and do not qualify for an exemption will need to make an individual shared responsibility payment. A worksheet will be provided for the calculation of the shared responsibility payment, but the worksheet will not be required to be attached to the tax return.

In general, the payment amount is either a percentage of the individual’s income or a flat dollar amount, whichever is greater. The amount owed is 1/12<sup>th</sup> of the annual payment for each month that a person or the person’s dependents are not covered and are not exempt. For 2014, the payment amount is the greater of:

- 1 percent of the person’s household income that is above the tax return threshold for their filing status; or
- A flat dollar amount, which is \$95 per adult and \$47.50 per child, limited to a maximum of \$285.

The individual shared responsibility payment is capped at the cost of the national average premium for the bronze level health plan available through the Marketplace in 2014.

Along with building and improving our processes and systems, and developing and issuing new forms and accompanying instructions in advance of the filing season, a major component of the IRS’ preparations involves making sure taxpayers know how these two major ACA provisions may affect them at tax time.

The IRS has taken – and continues to take – a number of steps to provide information to taxpayers about these changes. For example:

- Our website, IRS.gov, has a section devoted to the Affordable Care Act ([www.irs.gov/aca](http://www.irs.gov/aca)), which contains answers to many questions about the tax provisions, as well as links that will take persons to online ACA resources of other federal agencies. There already have been more than 2.5 million visits to this section;
- The IRS has issued 16 plain-language Health Care Tax Tips so far this year, and more are planned. These and other IRS Tax Tips are sent to more than 500,000 email subscribers in the tax and legal community as well as partner groups. These tips and other ACA information have been picked up widely by the media as well as on the web;
- Nine YouTube videos on ACA issues have been posted so far, including a series of question-and-answer sessions covering common taxpayer questions. We will continue to add to these videos, which also include videos in Spanish and American Sign Language;
- IRS officials have provided outreach to key groups such as the software community, and have presented information at numerous events, including this summer's five IRS Nationwide Tax Forums for tax return preparers. More than 10,000 tax professionals attended this year's Tax Forums, where key parts of the ACA were highlighted prominently during these three-day events, which in total provided more than 40 different tax law seminars on health care; and
- The agency has increased its use of social media to help people learn about the major ACA tax-related provisions. For example, a recent series of five Tumblr posts promoted the Health Care Tax Tips mentioned above, as well as the Premium Tax Credit and the Small Business Health Care Tax Credit. The IRS has also made use of Twitter, with more than 160 tweets promoting these and other ACA-related topics.

Providing information to individuals with regard to the premium tax credit has been a high priority. Throughout 2014, we have been making substantial efforts to ensure that individuals who opted for advance payment of the premium tax credit understand that a change in their circumstances during the year can make a big difference between the Marketplace's initial determination of how much credit a person qualifies for and the final premium tax credit amount.

Changes in circumstances during the year that should prompt individuals to update their information with the Marketplace include, but are not limited to: an increase or decrease in the individual's income; marriage or divorce; the birth or adoption of a child; starting a job with health insurance; gaining or losing eligibility for other health care coverage; and a change in residence.

Individuals receiving advance payments of the premium tax credit are required to notify the Marketplace of any changes in circumstances during the year as soon as possible, so their information can be updated and the amount of the advance payment adjusted if necessary. The IRS urges individuals to comply with this requirement, so the total advance payments made for the year will be the same

as or closely match the final premium tax credit amount on the individual's tax return.

The IRS' goal in its ACA-related communication efforts is to help people understand the law, which in turn will make their return filing experience easier next year. By providing this information in advance, we are attempting to anticipate and answer as many questions as possible before the filing season, to limit the number of people who would need to call us for help. The IRS adopted this approach because we have had success in steering potential callers to online resources in other areas. For example, one of the most popular features on IRS.gov is the "Where's My Refund?" electronic tracking tool, which taxpayers used more than 200 million times last year and more than 187 million times so far this year to find out about the status of their tax refund.

Notwithstanding our efforts to reach taxpayers in advance of filing season through all the channels described above, we still anticipate an increase in calls to our toll-free help lines in the 2015 filing season from taxpayers seeking assistance in regard to the ACA. Our ability to meet this demand may be strained due to ongoing budget constraints and the possibility of an additional increase in call volume related to the impact of tax extender legislation that may be passed later this year.

During the 2014 filing season, phone service outperformed our projections, notwithstanding our significant funding limitations. In addition to the diligent efforts of our employees, we attributed this improvement to our increased ability to provide information on IRS.gov, as well as to the lack of major tax legislation in 2013.

Now that filing season is over, we no longer have extra seasonal employees and thus have fewer people answering the phones. For this reason, we expect that our overall FY 2014 level of phone service will drop below our performance during the 2014 filing season.

The work being done to implement the major tax-related provisions of the ACA has occurred in the absence of appropriated dollars that had been requested for this effort. Nonetheless, the IRS continues to deliver on its Congressionally-mandated duties under the ACA by refocusing the needed funding from other priorities.

Addressing phone service waits, as well as the various operational and staffing shortages across the IRS, begins with the Administration's FY 2015 Budget request. Within this request there is new IRS funding, including the amount provided in the Opportunity, Growth, and Security Initiative, that would go towards taxpayer service programs. We estimate this would allow us to hire enough additional employees to answer 12 million more taxpayer calls. This increase in calls answered would amount to a level of phone service of more than 80 percent, which would be a significant improvement over the FY 2013

level. The additional calls answered would include calls from those seeking help with the tax-related provisions of the ACA as well as the expected tax extender legislation.

If we do not receive the requested funding and cannot hire the additional personnel necessary to handle our call volume, we estimate our level of phone service next year would decline significantly.

We will be watching developments in the budget process closely, in the hopes that Congress will ultimately provide adequate resources for the IRS for the next fiscal year. I stand ready to work with this Committee, the Senate Finance Committee and the Appropriations Committees to further explain the need to improve our current budget situation.

This concludes my testimony, and I would be happy to take your questions.