

**WRITTEN TESTIMONY
OF
STEVEN T. MILLER
DEPUTY COMMISSIONER FOR SERVICES AND ENFORCEMENT
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT
HEARING ON
IMPLEMENTATION OF TAX LAW CHANGES IN
THE AFFORDABLE CARE ACT
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INTRODUCTION

Chairman Boustany, Ranking Member Lewis and members of the Subcommittee, thank you for the opportunity to update you on the IRS' staged implementation of the tax law changes contained in the Affordable Care Act (ACA).

Whenever Congress passes changes to the tax law, the IRS must take the necessary steps to educate and communicate with taxpayers about the changes, update relevant forms and publications, change or re-program its information technology systems, and implement appropriate programs to sustain high levels of compliance with the new provisions. The ACA is no exception.

Both short-term implementation and long-term planning began immediately upon passage of the legislation. Our efforts focused on: (1) ensuring tax law changes that were retroactively or immediately effective were implemented in an expedited manner; and (2) putting structures and processes in place to begin planning for provisions with future effective dates.

EARLY IMPLEMENTATION EFFORTS

The IRS moved quickly to implement a number of tax law provisions in the ACA that immediately went into effect upon enactment. Let me discuss a few provisions that the IRS implemented immediately upon enactment of the ACA in 2010.

The IRS conducted an extensive outreach and implementation program for the Small Business Health Care Tax Credit. Shortly after the ACA was passed, the IRS determined the necessary steps to both implement the credit and track these efforts. The IRS conducted significant outreach, communication, and educational activities to inform small businesses and tax professionals about the credit.

We created a special page on our web site, IRS.gov, just for the Small Business Health Care Tax Credit. From there, taxpayers could use a step-by-step guide to see if they

qualified for the credit and how to claim it. There are also links to a Question and Answer section, a special You Tube video, legal guidance, news releases, and information flyers.

The ACA also expanded the existing adoption tax credit. The dollar value of the Adoption Credit was not only increased from \$12,150 to \$13,170 but was also made refundable. In 2010, we issued guidance on the expanded adoption credit and updated forms and instructions so that eligible taxpayers could claim the newly expanded adoption credit on their 2010 tax returns.

Taxpayers and practitioners could also find on IRS.gov a step-by-step procedure for claiming the credit, including a link to “Instructions for Form 8839” which has a detailed list of the acceptable required documentation. The documentation required can vary depending on whether it is a domestic or foreign adoption.

This online article also spells out what happens if a taxpayer’s return claiming the credit is selected for review. For example, the taxpayer will receive a notice from the IRS explaining the steps he or she must take, such as providing certain documentation to resolve the issue.

Finally, the IRS quickly communicated with taxpayers and issued guidance relating to the ACA provision requiring group health plans and health insurance issuers that provide dependent coverage of children to continue to make such coverage available for an adult child until age 26. The ACA amended the Internal Revenue Code to give certain favorable tax treatment to this coverage for adult children. The IRS guidance explained that the statutory provision provides that health coverage provided for an employee’s children less than 27 years of age is generally tax-free to the employee, effective March 30, 2010.

PREMIUM TAX CREDITS

The IRS’ most substantial implementation effort relates to the delivery of premium assistance tax credits that will help millions of American families afford health insurance starting in 2014.

The Department of Health and Human Services (HHS) is the lead agency on defining the structure and operations of the Affordable Insurance Exchange or, “Exchanges,” with Treasury/IRS defining the associated rules for how tax credits can help subsidize the coverage available through the Exchanges.

Starting in 2014, individuals who do not have access to affordable employer-sponsored insurance or other minimum essential coverage may be eligible to receive advance premium tax credits for private insurance that they purchase through the Exchanges. HHS will publish guidance on how the Exchanges will administer the advance payments of the credits. It is important to note that the advance payments of the credit will be paid directly to the insurer, and cannot be accessed directly by the taxpayer.

Taxpayers will reconcile these advance payments on their tax returns. If the actual credit is larger than the sum of advance payments, the taxpayer will be entitled to a refund. If the actual credit is smaller than the sum of the advance payments, the taxpayer will owe the difference, subject to caps for certain individuals included in the ACA, as amended.

Separately, the ACA provides an important role for tax return information in helping to determine eligibility for both Medicaid and premium tax credits. IRS staff has been working closely with HHS and the states on developing secure and efficient systems.

MINIMUM COVERAGE PROVISION

The ACA also stipulates that starting in 2014 individuals who can afford health insurance coverage, and are not eligible for exemptions, must either purchase minimum essential coverage, or make a payment with their tax returns.

The individual minimum coverage provision is projected to affect only a small percentage of the total population when it comes into effect in 2014. The Congressional Budget Office and Joint Committee on Taxation previously estimated that approximately four million people – approximately 1 percent of the projected population – will make a payment (or, in the case of dependents, have a payment made on their behalf) in 2016. Let me be clear that the payment only applies to taxpayers who can afford insurance but do not purchase it. There are also a number of individuals who will be exempt from the individual coverage provision, such as those with income below the tax filing threshold or those whose premiums are not affordable.

Taxpayers will get a form at the end of every year from their insurer to use when they prepare their tax returns. It is important to note that the information that insurers provide to the IRS will show the fact of insurance coverage, and will not include any personal health information.

In most cases, taxpayers will file their tax returns reporting their health insurance coverage, and/or making a payment, and there will be no need for further interactions with the IRS. The IRS process for verifying coverage will be very similar to the one that the IRS has used for years to verify wages and withholding. The follow-up will generally be performed by written correspondence, and will allow taxpayers time to gather the information needed to respond, or get help in understanding the details of the provision.

In this regard, let me clear up one misconception. Generally, revenue agents – who are specially trained on more complicated aspects of the tax code – would not work on resolving these types of issues, just as they don't work on resolving mismatches between W-2s and income tax returns today. Typically, these issues are addressed and resolved through written correspondence.

The law also clearly specifies that the IRS will not use levies or file notices of federal tax lien if taxpayers have unpaid amounts related to the individual coverage provision. Moreover, taxpayers will not be criminally prosecuted for non-payment of this amount.

IMPLEMENTATION EFFORTS

Because these and other tax provisions included in the ACA are substantial and require long-term planning, the IRS has established enterprise-wide governance and planning processes, both in its business operations as well as its information technology division. These planning efforts have had the benefit of independent reviews by both the Government Accountability Office (GAO) and the Treasury Inspector General for Tax Administration (TIGTA).

Our budget requests in recent years reflect the need to invest in information technology (IT) systems to generally update our tax systems as well as administer the premium tax credit and other tax law provisions of the ACA. Of the funding requested in our FY 2012 and FY 2013 budgets related to ACA tax law implementation, 82% and 92%, respectively, was in our Operations Support account, which funds our IT and operations investments.

CONCLUSION

Mr. Chairman, thank you again for this opportunity to testify on the IRS' planning and implementation efforts related to the tax provisions contained in the ACA. Through the involvement of top leadership and by employing leading and best practices, important progress on implementation has been made. This is a great tribute to the highly dedicated and professional men and women of the IRS who have devoted themselves to this project. I would be happy to answer your questions.