WRITTEN TESTIMONY
OF
COMMISSIONER OF INTERNAL REVENUE
DOUGLAS H. SHULMAN
BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITEE
HEARING ON
IMPLEMENTATION OF TAX LAW CHANGES IN
THE AFFORDABLE CARE ACT
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INTRODUCTION

Chairman Issa, Ranking Member Cummings and members of the Committee, thank you for the opportunity to appear before the Committee 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 reprogram its information technology systems, and implement appropriate programs to sustain high levels of compliance with the new provisions. The Affordable Care Act 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 Affordable Care Act 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 Affordable Care Act 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 has published 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 return. 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 Affordable Care Act, as amended.

Separately, the Affordable Care Act 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 Affordable Care Act 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 estimate 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 which they will use when they prepare their tax returns. It is important to note that the information that insurers provide to the IRS will show fact of insurance coverage, and will not include any personal health information.

In most cases, taxpayers will file their tax return 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 Affordable Care Act 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 Affordable Care Act. 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.

Commissioner of Internal Revenue Douglas H. Shulman

Douglas H. Shulman is the 47th Commissioner of Internal Revenue. As Commissioner, he presides over the nation's tax system, which collects approximately $2.4 trillion in tax revenue that funds most government operations and public services. Shulman manages an agency of about 100,000 employees and a budget of more than $12 billion. The agency touches every facet of American society, including individual taxpayers, the tax-exempt sector, small businesses and large corporations.

As Commissioner, Shulman has emphasized the necessity of maintaining a balance between taxpayer service and tax enforcement. His goals for the IRS are improving service to make voluntary compliance easier for taxpayers while at the same time enforcing the law to make sure everyone meets their obligation to pay the taxes they owe.

During Commissioner Shulman's tenure, the IRS played a major role in the economic recovery efforts by delivering about $300 billion — or 40% of the money of the American Recovery and Reinvestment Act — through the tax system as well as by designing IRS programs to assist individuals and businesses struggling through difficult economic times. In the face of increasing globalization of tax administration, Shulman has stepped up IRS activity on a variety of international tax issues, including offshore tax evasion. He has served as the Chair of the Organization for Economic Co-operation and Development's Forum on Tax Administration since 2009. He has also led an effort to reshape the relationship with corporate taxpayers, by focusing on issue resolution, certainty and transparency. Also under Shulman's direction, the IRS launched the Return Preparer Initiative to ensure high standards of ethics and service across the tax preparation industry.

During his tenure, Commissioner Shulman has focused on employee engagement and performance. Under his leadership, the Agency has jumped from 8th to 3rd out of the 14 largest agencies in the federal government-wide Best Places to Work in Government survey. Also during his tenure, the IRS embarked on and is scheduled to finish a major modernization of IRS's core technology account database which will achieve the goal IRS set in 1988 to process all tax returns on a daily cycle, rather than weekly batch cycle, which leads to significant improvement in customer service and compliance activities. Other major initiatives launched during his tenure include expanded use of data analytics to enhance service and compliance, and shifting the agency to resolve taxpayer issues at the earliest possible time.

Commissioner Shulman came to the IRS from the Financial Industry Regulatory Authority (FINRA), the private-sector regulator of all securities firms doing business in the United States, where he served as Vice Chairman. He served in the same role at the National Association of Securities Dealers (NASD) before its 2007 consolidation with New York Stock Exchange Member Regulation, which resulted in the formation of FINRA. After joining NASD in 2000, Commissioner Shulman played an integral role in restructuring the company, led the negotiations of the sale of the NASDAQ stock market and American Stock Exchange, oversaw the launch of industry-wide bond market transparency and modernized NASD's technology operations.

Earlier in his career, Commissioner Shulman helped to co-found Teach for America, was involved with several start-up organizations, was a vice president of a private investment firm and served as Senior Policy
Advisor and then Chief of Staff of the National Commission on Restructuring the Internal Revenue Service.

Commissioner Shulman holds a B.A. from Williams College, an M.P.A. from Harvard University's John F. Kennedy School of Government and a J.D. from Georgetown University Law Center.