

**WRITTEN TESTIMONY OF
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BEFORE THE
HOUSE OVERSIGHT AND GOVERNMENT REFORM COMMITTEE
SUBCOMMITTEE ON ENERGY POLICY, HEALTH CARE AND
ENTITLEMENTS AND THE
HOUSE HOMELAND SECURITY COMMITTEE
SUBCOMMITTEE ON CYBERSECURITY, INFRASTRUCTURE PROTECTION
AND SECURITY TECHNOLOGIES
ON INFORMATION SHARING AMONG FEDERAL AGENCIES UNDER THE
AFFORDABLE CARE ACT
ON
JULY 17, 2013**

Introduction

Chairmen Lankford and Meehan, Ranking Members Speier and Clarke, and Members of the Subcommittees, thank you for the opportunity to appear before you today to discuss the systems being developed to facilitate information sharing among the IRS, the Department of Health and Human Services (HHS) and other federal agencies as part of the Affordable Care Act (ACA).

Before turning to the details of the work we are doing to prepare for the sharing of information to occur under the ACA, let me first outline the steps we have taken to implement the tax provisions of the statute. Initially we focused on implementing tax law changes that were retroactively or immediately effective. Examples of such provisions include the Small Business Health Care Tax Credit and the expansion of the Adoption Credit. This work is largely complete.

Our current focus is on putting structures and processes in place to plan for provisions with upcoming effective dates. Our most substantial implementation effort in this regard involves the delivery of premium tax credits that will help millions of American families afford health insurance starting in 2014, when the new Health Insurance Marketplace, also known as the Affordable Insurance Exchanges, will begin operating. HHS is the lead agency on defining the structure and operations of the Marketplace, and under the statute open enrollment for insurance purchased through the Marketplace will start October 1, 2013, with coverage beginning as soon as January 1, 2014.

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, paid directly to the insurer, for private insurance that they purchase through the Marketplace. Treasury and the IRS have provided guidance on how these tax credits work and can help subsidize this coverage, and HHS has provided guidance on

how advance payments can be requested at the Marketplace. Under the ACA, the Marketplace requests tax return information from the IRS to determine eligibility for financial assistance such as premium tax credits. IRS staff have been working closely with HHS and the states on developing secure and efficient systems for the flow of this information.

Taxpayers who qualify for advance payments of the credit will reconcile these payments on their 2014 tax returns filed in 2015. If the actual credit is larger than the sum of advance payments, the taxpayer will be entitled to additional credit. If the actual credit is smaller than the sum of the advance payments, the taxpayer will owe the difference, subject to certain repayment caps included in the ACA, as amended.

Because the provisions mentioned above are substantial and require advance preparation, the IRS has established enterprise-wide governance and planning processes, coordinating efforts among our business operations, information technology function, legal counsel and our Office of Safeguards. These planning efforts have had the benefit of independent reviews by both the Government Accountability Office and the Treasury Inspector General for Tax Administration.

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 percent and 92 percent, respectively, was in our Operations Support account, which funds our IT and operations investments; almost 70 percent of the 2014 budget proposal for ACA is requested to continue the necessary IT development as the ACA is rolled out.

IRS Role in Information Sharing

The proper operation of some components of the ACA requires the IRS, HHS and other federal agencies to share certain information about individuals. For example, the Marketplace will need federal taxpayer data to help verify individuals' eligibility for premium tax credits. Upon request, the IRS will provide income, family size and filing status information from recent tax returns. Medicaid and the Children's Health Insurance Program may also choose to request the tax data for their eligibility determinations. Separately, the IRS will provide a support service to compute the maximum advance premium credit based on inputs from the Marketplace.

The ACA designates HHS as the conduit for information being shared with the Marketplace. The taxpayer data supplied by the IRS will be transmitted over secure, encrypted channels to the HHS Federal Data Services Hub, which was developed to facilitate these data transfers. The Federal Data Services Hub will not be storing taxpayer information, but merely routing that information to authorized users.

Our ability to share data with HHS is being brought about through new systems and services that our IT division has been developing. For example, the IT division has

created a Coverage Data Repository, which pre-positions tax return data to be used to respond to Marketplace data requests, via the HHS Data Hub. We are also creating a Transactional Portal Environment, which serves as the secure gateway for data passing to and from the IRS.

We are on target to have our new systems ready for deployment when open enrollment in the Marketplace begins on October 1. Our IT project teams completed systems development in June, and they completed interagency testing with HHS and the Center for Medicare and Medicaid Services (CMS) that same month. Performance testing of these systems will continue through the summer.

It is important to note that information sharing under the ACA will be done against the backdrop of very strong confidentiality protections that have long been a part of the tax laws. In general, section 6103 of the Internal Revenue Code prohibits the IRS from sharing tax return data with anyone outside the agency.

Over the years, however, Congress has created a series of narrow exceptions to the restrictions in section 6103. Those exceptions allow the IRS to share taxpayer information for specific purposes and with proper safeguards. For example, the IRS is permitted to disclose tax return information to other Federal agencies and state tax authorities to facilitate efficient tax administration. The ACA provides a specific exception to section 6103 for information sharing activities that the IRS will perform under the statute.

Let me turn now to the steps that the IRS is taking to ensure the safety and security of the data being shared under the ACA. The IRS is already well positioned to provide the needed safeguards, given the longstanding experience it has in overseeing the transmission of data to Federal and state agencies under previously enacted exceptions to section 6103. Agencies receiving return information from the IRS must meet significant safeguarding requirements, including strict recordkeeping and proper handling, storage and disposal of tax records.

The IRS Office of Safeguards has the responsibility for monitoring the nearly 300 Federal and state agencies that currently are permitted to receive tax return data, to ensure they are complying with all requirements. IRS Publication 1075, *Tax Information Security Guidelines for Federal, States and Local Agencies*, provides detailed background and procedures for data recipients.

In regard to upcoming data sharing under the ACA, the IRS has been collaborating with the other Federal and state agencies involved in ACA implementation on the various processes and written agreements that are necessary for safeguarding personal information, including tax return data. We meet on a regular basis with every state and Federal government entity that might receive taxpayer data, to provide them with outreach and education, one-on-one consultations, and technical assistance on IRS data security requirements.

Among our collaborative efforts, the IRS and HHS have entered into a Computer Matching Agreement to meet the requirements of the Computer Matching and Privacy Protection Act. This agreement details the operations of the data exchange, as well as various disclosure restrictions and other requirements. The IRS and CMS have entered into an Information Exchange Agreement covering the use of HHS systems by the Marketplaces to transmit monthly and annual information reports to the IRS, and also covering use of the Premium Tax Credit Computation Engine by the Marketplaces. The IRS and CMS also have an Interconnection Security Agreement covering the security of the connection between the agencies. Because HHS is the conduit for the tax return information, it will in turn enter into similar agreements with all entities receiving the return information.

The IRS holds the Marketplaces and state agencies seeking tax return data under the ACA to significant data protection requirements. Before one of these entities can obtain tax return information, it must submit a Safeguard Procedures Report (SPR) to the IRS, and the IRS must approve it. This report details the steps that the entity has established or plans to take to protect the confidentiality of the tax records it will be handling. Taxpayer data will be withheld from entities that fail to establish adequate safeguards. Going forward, we will work with HHS and all other entities involved to ensure adequate data safeguards are in place, and we will provide ongoing oversight to ensure that all entities involved in data sharing continue to meet the safeguarding requirements.

While the focus for October 2013 is on the key information being shared under the ACA flowing out of the IRS, the agency will also be receiving information, beginning in 2014, to enable it to implement certain ACA provisions. It is important to note that the IRS already routinely receives third-party information that helps it verify the accuracy of tax returns, and we have longstanding policies in place related to the safety and privacy of this information. We will use this experience to guide us in making sure that any ACA-related taxpayer information we receive is properly safeguarded.

The Marketplaces will, for example, be sending to the IRS enrollment information for individuals buying insurance through the Marketplace. This information will include the fact and cost of coverage, and information on any advance payments of the premium tax credit made during the coverage year. The IRS will reconcile this information with what the individuals report on their tax returns so that the IRS can verify whether they received the proper amount of credit, are owed more, or must repay any excess advance payments. This information will help the IRS speed processing of returns and spot fraudulent claims of the credit.

Conclusion

Chairmen Lankford and Meehan, Ranking Members Speier and Clarke, thank you again for the opportunity to testify on the steps we are taking to facilitate information sharing among Federal agencies under the ACA. We are taking all necessary steps to ensure that tax return information that flows to the Marketplace and state agencies carrying out the

provisions of the ACA is secure and properly safeguarded. This concludes my testimony. I would be happy to take your questions.