A Summary of Discussion and Comments

Overview of The IRS Oversight Board Public Meeting

On May 1, 2013 the IRS Oversight Board conducted its annual public meeting with external stakeholders to hear their comments and insights regarding the IRS and the tax administration system.
Board Chair Paul Cherecwich, Jr. welcomed the attendees to the event. He said the meeting would consist of three panels where the panelists provided oral statements followed by questions from the Board and discussions related to the panel topic.

The Chair welcomed IRS executives and senior staff attending the meeting, which was held for the second year in the auditorium of the main IRS building. He then introduced Board member Bob Tobias, moderator of the first panel.

This report summarizes the three panel discussions at the public meeting.

Panel 1: Focus Forward – The Next Five Years in Tax Administration

Moderator: Bob Tobias, Chair, IRS Oversight Board Operations Committee
Panelists:

- *Bernie McKay*, Chief Public Policy Officer and Vice President for Corporate Affairs, Intuit
- *Pete Isberg*, President, National Payroll Reporting Consortium (NPRC)
- *Harry Cooper*, Executive Deputy Director, South Carolina Department of Revenue
- *Lonnie Gary*, EA, Chair, Government Relations Committee, National Association of Enrolled Agents (NAEA)

Bob Tobias welcomed the panelists and in his introductory remarks said that the panel would talk about the IRS' Real-Time Tax exploratory effort, the growth and potential in the information return document arena, and opportunities to advance IRS online services to better meet the needs of taxpayers. He said that if third-party information returns were electronically available to the IRS during the income tax filing season, there would be dramatic improvements to the tax system in terms of efficiency, accuracy, and reduced taxpayer burden. It would also allow the IRS to identify discrepancies and permit individuals filing returns to address problems at the time of filing rather than much later, as often happens with the current process.

Mr. Tobias asked each panelist to make some opening remarks which would be followed by questions from the Board members.

Panelist Statements

Pete Isberg, President of the National Payroll Reporting Consortium, said that to effectively combat tax refund fraud, the IRS must be able to verify taxpayer-reported income and withholding claims before releasing refunds. He said these improvements can be achieved with moderate changes to systems, rules, and deadlines. He noted that despite its significance to the tax system (compliance is over 99% when tax information is reported), information reporting has changed very little since it was implemented. Given dramatic advances in technology, the timing and use of information returns will be a critical element of next-generation tax systems.

Isberg suggested a number of alternatives to accelerate the availability of tax information. He said the most obvious was earlier employer reporting deadlines, but there could be a trade-off between timeliness and accuracy. He said further study would be needed to assess the earliest deadline that would not compromise accuracy or impose increased employer burden. His other suggestions included quarterly rather than annual W-2 reporting; reporting directly to the IRS rather than to the Social Security Administration; expanded electronic filing of information returns; and expansion of special rules regarding employer reporting of certain in-kind fringe benefits, such as the taxable value of an employer-provided vehicle.

The second panelist, Bernie McKay, Vice President for Corporate Affairs, Intuit, opened his remarks by saying the issues of enhancing the accuracy of tax returns and combatting identity theft and fraud are strategic priorities, not only for the IRS but for all participants in tax administration. He agreed with Pete Isberg that there may be alternative implementation strategies that should be carefully considered that could make real-time accuracy goals more achievable and affordable.

McKay said the automatic electronic downloading of essential financial data directly into tax returns from their original sources has been a technological capability of the private sector in tax software and services for a decade, but is still not the standard way tax returns are prepared in the U.S. McKay suggested a public-private partnership could evolve to develop and operate such a system. Harnessing the private sector to deliver this capability would ensure continuous private investment and innovation in these data service capabilities rather than implementing a static public solution at high cost.

The third panelist, Lonnie Gary, Chair of the Government Relations Committee of the National Association of Enrolled Agents, supported the concept of checking tax return accuracy in real time, but asked what would happen if a taxpayer's e-filed tax return failed to match the information documents in the IRS systems. He said missing or inaccurate information could be problematic and require complex interaction with the IRS just to enable the taxpayer to file the return. He also said a real-time processing system sensitive to the needs of taxpayers and tax professionals would require real time customer service, a significant challenge of increased telephone call volumes that would strain the Service's current capabilities and place added burdens on tax practitioners during the filing season.

The final panelist, Harry Cooper, Executive Deputy Director of the South Carolina Department of Revenue, said a real time tax system could provide many benefits for state revenue departments, such as upfront verification of income items or payments and a way for return filing issues to be resolved sooner. Other benefits could include savings of postage for mailing notices; fewer amended returns to process each year; and real-time fraud detection. He also outlined some costs associated with a real-time tax system, including changing due dates to accommodate the collection of informational returns needed for verification, and a possibility that taxpayers may file multiple copies of returns if original returns are delayed in processing. He suggested a pilot program with a specific restricted population of taxpayers, for example EZ filers, could uncover issues that might arise with a new real time system.

Cooper also discussed the cyber attack and security breach of the South Carolina Department of Revenue taxpayer data. He strongly emphasized that the first and last consideration of any real time system should be security. He said security is non-negotiable and continuous education, training, and communication are keys to reducing risk. He said relying on technology creates a false sense of security, and that people with access to a system created the greatest risk. Meaningful risk assessment and security must be woven into the fabric of every aspect of an organization and its processes.

Questions

The panelists were asked whether the problems are so large that consideration for a real-time tax system should stop. They all agreed such a system was worth consideration as the world continues to move toward more complex electronic transactions. They said there needs to be a strategic discussion of how such a system could be created and function, including the substantial changes that would be needed in the way tax returns are filed and processed today. The panelists said the voluntary tax system has become a tax eco-system where all the parts combined, from software tools, accountants, trained tax professionals, and the range of services provided to taxpayers, are necessary to make the system work.

The panelists were also queried on whether a real time tax system might open up new areas for fraud regarding income verification and whether the IRS would have access to funding that would allow for implementation of such a complex new system in conjunction with the new healthcare requirements. The panelists agreed that there would be significant challenges for the IRS to address with a real time system.

Panel 2: Working Together to Combat Fraud

Moderator: E. Edwin Eck, Chair, IRS Oversight Board Operations Support Committee
Panelists:

- *James R. White*, Director, Tax Issues, Strategic Issues Team, Government Accountability Office
- *Michael Phillips*, Acting Principal Deputy Inspector General, Treasury Inspector General for Tax Administration (TIGTA)
- *Jeffrey A. Porter*, CPA, Chair, Tax Executive Committee, American Institute of Certified Public Accountants (AICPA)
- *Larry Gray*, CPA, National Association of Tax Professionals (NATP)

Ed Eck welcomed the panelists for the second panel and asked them to introduce themselves and describe their experiences with tax administration. In his introductory remarks, Eck said that tax refund fraud is not only about the loss of revenue, but the loss of public confidence in the tax system. He credited the IRS for attempting to address tax refund fraud through preparer regulation and criminal investigation efforts. He said the panel would discuss how the IRS and its partners can work together to prevent fraud, including strategies for addressing identity theft, return preparer fraud, and security of taxpayer data. He introduced each panelist, and asked James White from the Government Accountability Office to begin with his remarks.

Panelist Statements

James White, Director of Strategic Tax Issues at the Government Accountability Office (GAO), began by providing an overview of the nature of tax fraud. He said there are not good estimates of the total amount of tax fraud because it is difficult to distinguish between intentional tax evasion and unintentional errors, and also because it comes from multiple sources. He said that because it is so varied in nature, multiple approaches are needed to reduce it.

White then suggested different ways tax fraud might be addressed. Coordination between the IRS and third parties is one way to improve tax administration, including enhancing information reporting and revising some types of information reporting, such as tuition and education expenses. He also recommended leveraging paid tax return preparers as a way to increase the resources devoted to fighting tax fraud. His other suggestions included the IRS expanding compliance checks before issuing refunds, addressing offshore tax evasion, and allocating enforcement resources based on return-on-investment measures. In closing, he said addressing business noncompliance and simplifying the tax code would also impact tax fraud.

Michael Phillips, Acting Principal Deputy Inspector General for the Treasury Inspector General for Tax Administration (TIGTA), described the work TIGTA has done over the last few years dealing with refund fraud, identity theft, and return preparers. He said the growth, noncompliance, and fraud in refundable tax credits, such as the Earned Income Tax Credit and Child Tax Credits, has led to the issuance of many fraudulent tax refunds. Incidents of identity theft have continued to rise since 2011, and by the end of 2012, the IRS had identified almost 1.8 million tax returns and $12.1 billion in potential fraudulent refunds due to incidents of identity theft. He said TIGTA had recommended that the IRS should implement additional controls to identify and stop erroneous claims for refundable credits before the credits are issued.

Phillips also said while the IRS has stated that a well-educated and competent tax return preparer program can prevent inadvertent errors, it will take years for the IRS to implement such a program and fully realize its impact. He said TIGTA had recommended the IRS improve its oversight of return preparers, but that the IRS is currently enjoined by court order from enforcing the regulatory requirements for return preparers.

Jeffrey A. Porter, CPA, Chair of the Tax Executive Committee, American Institute of Certified Public Accountants (AICPA), said the IRS had made great strides in combatting fraud as illustrated by the expansion of its law enforcement assistance program and continuing to emphasize criminal investigations. He said the AICPA viewed it as positive that the IRS had expanded the identity protection personal identification number (IP-PIN) pilot and resolution of over 200,000 identity theft victim-related cases since the beginning of 2013. He suggested the IRS increase the level of staffing dedicated to identity theft cases and improve training for agency assistors to ensure proper assistance for identity theft victims.

Porter also applauded the issuance of truncated taxpayer identification numbers and proposed regulations authorizing filers of certain information returns to voluntarily truncate a taxpayer's identifying number as a positive step towards privacy and security of personal information. He said the AICPA supported an extension of the truncation program to permit use of truncated numbers on all types of tax forms and returns provided to taxpayers, employees, or other recipients. Porter also said the AICPA supported the IRS' regulation of paid tax return preparers, and the issuance of preparer tax identification numbers (PTINs), as a framework to address fraud in the tax preparation industry.

Larry Gray, CPA, representing the National Association of Tax Professionals (NATP), agreed with suggestions already presented, and further suggested focusing on simple ideas that could effectively assist with combatting tax fraud. One suggestion, he said, is to act sooner by trying to stop fraud before it happens. He also suggested creating a secured method of communication via a system of shared secrets that would validate the taxpayer's identification at the time of return filing. He suggested the IRS could get more out of what they already have available, by using the valuable tool of data mining to perform initial screens of tax returns to detect potential fraud. Finally, he said it might be a good idea for the IRS to expand the IP-PIN program to all taxpayers as a preventative measure against identity theft.

Questions

Mr. Eck asked the panelists for their thoughts on the two or three most significant things Congress could do that would reduce fraud of any type, including refund fraud, but not have tremendous costs. The panelists suggested such things as tax simplification, spreading out refunds, implementing a real-time tax system, and increased information reporting and matching. Mr. Cherecwich asked the panelists about truncating Social Security Numbers, saying that SSNs are pervasive throughout government, and a change of that magnitude would be expensive to implement.

Mr. Phillips said the IRS might look at technology solutions to help focus on high-risk areas to prevent tax fraud. He said it is better to stop the refund before it goes out the door than attempting to get it back once it is gone. Mr. White said that the IRS should develop better information about return-on-investment estimates to assist it with decision-making regarding where to target its resources. He also said research is needed to track the impact on voluntary compliance when resources are applied to various compliance programs. He said data analytics is envisioned to be a process that is a major step forward in dealing with tax fraud.

Mr. Eck asked the panelists for their thoughts about Congress increasing the civil penalty for participating in refund fraud. Mr. White said that refund fraud is a crime and the penalty should involve jail time and the IRS has to work with the Justice Department on prosecution cases.

Mr. Eck then asked the panelists what their associations could advocate that would reduce tax fraud; suggestions included a focus on preparer education and standards of ethical conduct and better methods of communication about current issues. Mr. White responded that with the new preparer identification numbers in place, the IRS could match preparers to the returns they prepare and look for patterns of errors and indicators of fraud.

Panel 3: The View from the Global Table

Moderator: Raymond T. Wagner, Jr., IRS Oversight Board Member
Panelists:
- *Carita R. Twinem*, President, Tax Executives Institute (TEI)
- *Kevin Brown*, Principal and Leader, Tax Controversy Team, PricewaterhouseCoopers Washington National Tax Services
- *Fred Murray*, Managing Director, Grant Thornton LLP
- *Carol Doran Klein*, Vice President and International Tax Counsel, U.S. Council of International Business

Ray Wagner opened the discussion about emerging issues in the international arena, including the challenge of how limited resources should be allocated to meet goals and objectives yet satisfy external expectations of good service and reduced compliance burden. He said business tax reforms are in progress around the world and governments continue to reform their tax systems despite global uncertainty. He said the focus is on reducing administrative burdens and improving online systems for tax compliance. He said the IRS has devoted resources to improving international tax administration, yet international taxpayers grapple with compliance challenges and inadequate customer service. He said the challenge for tax administrators today is how to allocate limited resources to meet expectations.

Mr. Wagner then asked the panelists to introduce themselves and begin their statements.

Panelist Statements

Carita R. Twinem, President, Tax Executives Institute (TEI), said multinational enterprises place a high value on their ability to finalize tax positions in a timely and efficient manner. She said that based on her own personal experience, three aspects of international tax administration are central to achieving this objective: transparent relationships with tax administrators, examinations based on commercial awareness, and clear and certain pathways to resolution. She said many countries are shifting away from having an adversarial relationship towards a more cooperative and collaborative approach with taxpayers. Multinational taxpayers are motivated by the uncertain nature of international tax compliance, and tax authorities are motivated by increased efficiency and cost savings to move to streamlined audits.

Kevin Brown, Principal and Leader, Tax Controversy Team, PricewaterhouseCoopers Washington National Tax Services, said that in terms of the global tax controversy environment, it is a difficult time for companies for a number of reasons. There is an unprecedented increase in documentation reporting and disclosure requirements. There is also an increase in the number of audits by both developed and emerging countries. Also, there is a lot of information-sharing now among various tax authorities and taxpayers are often caught in the middle. There may be common issues worldwide, but countries have differing views on how tax laws apply and even whether they do apply. Finally, he said there is a debate about morality and paying "your fair share" versus paying "what you owe." Trying to determine what is a "fair share" is an extraordinarily difficult endeavor.

Fred Murray, Managing Director, Grant Thornton LLP, touched on three topical areas important to international tax administration. First, he said the expansion of the global economy has changed information flows and countries are attempting to protect their revenue bases. The U.S. is at the forefront in the development of exchange of information and cross-border cooperation in tax administration. He said the information reporting can be quite complex and has necessitated a new group of international agreements among the U.S. and other governments. In a number of these countries, there is controversy not only about providing information to the U.S., but also about how that information impacts their own country. The main concern for taxpayers is the burden all of this imposes upon them.

Murray also discussed the transfer pricing and the advance pricing agreement programs. He said reaching an agreement between the taxpayer and the affected tax administrations with respect to its transfer pricing and allocation of income between jurisdictions has long been one of the most difficult areas of tax administration for government and taxpayers alike, with many situations resulting in costly litigation lasting as long as twenty years. He said a lot of progress has been made with the Advanced Pricing Agreement process, but given limited resources, he said there is a need to look at ways to make the program work even better. Murray also discussed the Offshore Voluntary Disclosure Programs and said that the programs apply a resource-intensive, burdensome, and punitive approach designed for violators to those who inadvertently violated the rules. He said this approach and the severity of the penalties is having a perverse effect on voluntary compliance in these cases.

The final panelist, Carol Doran Klein, Vice President and International Tax Counsel, U.S. Council of International Business, discussed two topics important to improving customer services for international taxpayers. First, she said the direct and indirect costs of transfer pricing compliance have increased substantially in recent years and that better practices in the area of documentation could both reduce compliance costs to taxpayers and improve the focus of the IRS. Documentation should be both limited and timely, as well as consistent across borders. She said her second topic, dispute resolution, would allow agreement on fundamental principles to be reached so disputes are avoided. She said an important step in this direction would be the expansion of the use of safe harbors in the area of transfer pricing.

Questions

Mr. Wagner asked how the IRS could go about transparency and dispute resolution at the macro- and micro-levels. At the micro-level, how will auditors have the flexibility to be cooperative and move from adversarial to collaborative? And on a macro-level, what should the IRS be doing to develop and implement new procedures in these areas?

Ms. Twinem said that the Commissioner of LB&I, Heather Maloy, is making an impact to change the culture at IRS. She said Ms. Maloy recognizes that companies are working to comply and is empowering IRS employees to be more understanding of the businesses they audit. Mr. Brown said most companies are seeking certainty, and he mentioned the compliance assurance process (CAP) and pre-filing agreements as good ways to get to certainty. Mr. Murray said the treaty arbitration process brings taxpayers to the table to get resolution. He said that rather than worry about whether income is located in some other jurisdiction that has a lower rate of tax, the primary focus should be whether the company is paying the appropriate amount of tax here in the United States.

Closing Remarks

At the completion of the discussions, Chairman Cherecwich thanked the panelists and the audience for their participation and the meeting was adjourned.