



## Treasury Inspector General for Tax Administration Office of Audit

### **AFFORDABLE CARE ACT: DESPITE INITIAL CHALLENGES, THE INTERNAL REVENUE SERVICE SUCCESSFULLY IMPLEMENTED THE BRANDED PRESCRIPTION DRUG FEE**

Issued on May 16, 2014

## Highlights

Highlights of Report Number: 2014-33-032 to the Internal Revenue Service Commissioner for the Large Business and International Division.

### **IMPACT ON TAXPAYERS**

Section 9008 of the Patient Protection and Affordable Care Act (ACA) imposes an annual fee on pharmaceutical manufacturers and importers (referred to as covered entities) based on branded prescription drug sales made to specified Government agencies. The fees collected under the branded prescription drug fee program are to be transferred to the Medicare Part B Trust Fund, which is used to subsidize a portion of the Medicare Part B program. By accurately assessing and promptly collecting the branded prescription drug fees, the IRS ensures timely availability of these funds to the Medicare Part B program.

### **WHY TIGTA DID THE AUDIT**

This audit was initiated to assess the IRS's efforts to implement the branded prescription drug fee, which went into effect in Calendar Year 2011. The overall objective of this review was to determine the effectiveness of the IRS's efforts to implement Section 9008 of the ACA.

### **WHAT TIGTA FOUND**

The IRS successfully implemented the branded prescription drug fee through collaborative efforts with the various third parties and an alternative approach to calculate and assess the fee. The alternative approach was needed after the IRS learned that the purchasing Government agencies' branded prescription drug sales data would not be available until after the legislative deadline for calculating the annual fee.

The IRS developed a new reporting form (Form 8947, *Report of Branded Prescription Drug Information*) and instructions. It also developed procedures and a database to process covered entities' sales data and to accurately calculate the annual fees. TIGTA reviewed a judgmental sample of 15 Forms 8947 (representing more than 80 percent of the sales volume used to calculate the fee) for Calendar Years 2011 and 2012 and

independently calculated the fee assessments. TIGTA determined that the IRS's calculation, assessment, and collection of the fees were accurate for our sampled cases.

In addition, the IRS's efforts to identify noncompliant covered entities were effective. Data on branded prescription drug sales are reported to the IRS from both the covered entities and the Government agencies, creating a dual reporting process. The IRS merged and compared the data from each source to identify any inconsistencies and promptly followed up to resolve them.

TIGTA identified one area requiring management's attention. From TIGTA's sample of 15 cases, TIGTA determined that some covered entities incorrectly interpreted the temporary regulations. Changes to Form 8947 and its instructions should help clarify these issues and reduce the burden on taxpayers.

### **WHAT TIGTA RECOMMENDED**

TIGTA recommended that the Commissioner, Large Business and International Division, revise sections of Form 8947 and its instructions to clarify certain issues. Covered entities should also be notified of these revisions.

In their response to the report, IRS officials stated that they agreed with TIGTA's recommendation. IRS management plans to revise sections of Form 8947 and its instructions to clarify taxpayer understanding and reduce taxpayer burden.

### **READ THE FULL REPORT**

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2014reports/201433032fr.pdf>.

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