



*Affordable Care Act: Health Insurers
Were Generally Tax Compliant*

October 1, 2015

Reference Number: 2016-13-001

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS

AFFORDABLE CARE ACT: HEALTH INSURERS WERE GENERALLY TAX COMPLIANT

prior to its issuance and agreed with the facts and conclusions presented.

Highlights

Final Report issued on October 1, 2015

Highlights of Reference Number: 2016-13-001 to the Internal Revenue Service Commissioner, Small Business/Self-Employed Division; Chief Financial Officer; and Director, Affordable Care Act Office.

IMPACT ON TAXPAYERS

The Federal Government has paid health insurers participating in the Patient Protection and Affordable Care Act advance premium tax credit and cost-sharing reduction subsidy programs more than \$13 billion from January through September 2014. It is important that health insurers receiving Affordable Care Act advance premium tax credit and cost-sharing reduction subsidy payments are compliant with Federal tax laws.

WHY TIGTA DID THE AUDIT

This audit was initiated to evaluate compliance with Federal tax laws by health insurers receiving advance premium tax credit and cost-sharing reduction subsidy payments.

WHAT TIGTA FOUND

TIGTA determined that health insurers that were approved to participate in the advance premium tax credit and/or cost-sharing reduction programs and received subsidy payments on behalf of taxpayers were generally tax compliant. As of June 2015, TIGTA found
*****1*****
*****1*****. None of the 365 health insurers TIGTA reviewed had been convicted of a felony, and none were currently listed in the Excluded Parties List System as ineligible to receive any Federal payments or benefits.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations as a result of the work performed during this review. However, key IRS officials reviewed this report



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

October 1, 2015

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
CHIEF FINANCIAL OFFICER
DIRECTOR, AFFORDABLE CARE ACT OFFICE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Affordable Care Act: Health Insurers Were
Generally Tax Compliant (Audit #201510017)

This report presents the results of our review of the Federal tax compliance status of health insurers as part of the Health Care and Education Reconciliation Act of 2010 and the Patient Protection and Affordable Care Act (collectively referred to as the Affordable Care Act).¹ The overall objective of this review was to evaluate compliance with Federal tax payment laws by health insurers receiving advance premium tax credit and cost-sharing reduction subsidy payments. This audit addressed the major management challenges of Implementing the Affordable Care Act and Other Tax Law Changes and Fraudulent Claims and Improper Payments.

The Treasury Inspector General for Tax Administration made no recommendations as a result of the work performed during this review. However, key Internal Revenue Service officials reviewed this report prior to its issuance and agreed with the facts and conclusions presented.

Copies of the report are also being sent to the Internal Revenue Service managers affected by the report results. If you have any questions, please contact me or Greg Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

¹ Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in scattered sections of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.



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Abbreviations

ACA	Affordable Care Act
APTC	Advance Premium Tax Credit
CMS	Centers for Medicare and Medicaid Services
CSR	Cost-Sharing Reduction
IDRS	Integrated Data Retrieval System
IRS	Internal Revenue Service
PTC	Premium Tax Credit
TRCAT	Transaction Category Report



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Background

In March 2010, Congress passed two pieces of legislation that the President signed into law, the Health Care and Education Reconciliation Act of 2010 and the Patient Protection and Affordable Care Act.¹ Collectively, this legislation is referred to as the Affordable Care Act (ACA). The ACA seeks to:

- Provide more Americans with access to affordable health care by creating a new Health Insurance Marketplace (also commonly referred to as the Exchange).²
- Enforce patient/consumer protections.
- Provide Government subsidies for people who cannot afford insurance.

The ACA creates a new refundable tax credit,³ the premium tax credit (PTC), to assist eligible taxpayers with paying their health insurance premiums. Funding for the PTC is appropriated to the Department of the Treasury.⁴ An additional subsidy, the cost-sharing reduction (CSR), enables taxpayers who meet the income criteria and who obtain qualifying health coverage to reduce the amount they spend on costs such as deductibles, copayments, coinsurance, and total out-of-pocket spending limits.

When enrolling in a qualified health plan,⁵ the taxpayer may elect to claim the credit on his or her Federal tax return or choose to have some or all of the credit paid in advance directly to the health insurance issuer (known as an advance premium tax credit or APTC) in order to reduce the monthly premium that the taxpayer pays out-of-pocket. Once a Marketplace determines the amount of the APTC an individual is eligible to receive, the individual then elects the amount to be sent to their health insurance issuer on a monthly basis. The Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) subsequently sends a request to the Department of the Treasury's Bureau of the Fiscal Service to issue monthly APTC

¹ Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in scattered sections of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.

² The Marketplace is where taxpayers find information about health insurance options, purchase qualified health plans, and, if eligible, obtain help paying premiums and out-of-pocket costs. In addition to the Federally Facilitated Marketplace, HealthCare.gov, there are also State-Based Marketplaces.

³ Refundable tax credits can be used to reduce a taxpayer's tax liability to zero. Any excess of the credit beyond the tax liability can be refunded to the taxpayer.

⁴ The Internal Revenue Service implemented the PTC program on behalf of the Department of the Treasury. The Centers for Medicare and Medicaid Services implemented the PTC and CSR programs on behalf of the Department of Health and Human Services.

⁵ A qualified health plan is an insurance plan that is certified by the Health Insurance Marketplace and provides essential health benefits, follows established limits on cost-sharing, *i.e.*, deductibles, copayments, and out-of-pocket maximum amounts, and meets other requirements.



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payments to the individual's health insurance issuer. These payments are certified by the CMS and paid from an allocation account established for the use of the CMS from the Department of the Treasury's permanent indefinite appropriation. The purpose of this appropriation is to provide refunds of Internal Revenue tax collections as provided by law.⁶ A similar process is followed for taxpayers who qualify for advance CSR subsidy payments.

Health insurers wishing to participate in these programs apply through a website maintained by the CMS. The CMS application process requires health insurers to attest to compliance with Federal and State laws related to specific ACA provisions and requirements. Attestation to the status of Federal tax compliance is not currently required of health insurers as part of this application process; however, Congressional interest in preventing individuals and entities with unpaid Federal tax debts from receiving Federal funds has been an ongoing concern in recent years.

Memoranda of understanding between the Internal Revenue Service (IRS) and the CMS identify the responsibilities of each agency in supporting the payment and accounting of APTC and CSR payments. APTC and CSR payments to health insurers from January through September 2014 have totaled more than \$13 billion, and from October 2014 through March 2015, the payments have totaled more than \$12.3 billion.

This report reviewed the Federal tax compliance status of health insurers that were approved through the CMS application process to receive APTC and CSR subsidy payments on behalf of enrolled taxpayers. Specifically, we identified 365 health insurers that applied and were approved for participation in these programs during the period January 1, 2014, to March 31, 2015. This period represented the initial implementation of the APTC and CSR provisions through the most recent data available to us at the time of our review. (There was an extension to the enrollment period until April 30, 2015, that was not included in our data.) Our Transaction Category Report (TRCAT)⁷ research was conducted with quarterly data available as of March 2015. We did not review any other aspects of the APTC or CSR programs.

This review has been performed with information obtained from the IRS National Headquarters office of the Chief Financial Officer in Washington, D.C.; the CMS Headquarters office in Baltimore, Maryland; and the office of the Health and Human Services Assistant Secretary for Financial Resources and Chief Financial Officer in Washington, D.C., during the period February through June 2015. We have conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁶ 31 U.S.C. § 1324.

⁷ Files created as part of the IRS's Accounts Receivable Dollar Inventory. The files identify all taxpayer accounts with a balance due and also show the collection status of the accounts.



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Detailed information on our audit objectives, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

***Health Insurers Receiving Advance Premium Tax Credits and/or
Cost-Sharing Reduction Subsidies Were Generally Tax Compliant***

Our review of the Federal tax compliance status of health insurers having applied to the CMS for participation in the APTC and CSR programs found that the vast majority of health insurers we reviewed were tax compliant.

Specifically, we identified 365 health insurers that were approved for program participation during the period January 1, 2014, to March 31, 2015. As of June 2015, we found ****1****
*****1*****, pending the systemic processing of recent payments submitted.

We also researched the process in place for the health insurers to apply for participation in the APTC and CSR programs and determined that health insurers were required to certify that they were or were not suspended or debarred from eligibility to receive any Federal payments or benefits. However, these health insurers were not required to make any representations or certifications on their tax compliance status or certify that they had or had not been convicted of a felony.

Health insurers were not convicted of felonies or ineligible to receive Federal payments

We requested research assistance from the Recovery Operations Center within the Recovery, Accountability, and Transparency Board⁸ to determine if any of the 365 health insurers we reviewed had been convicted of a felony or were otherwise ineligible to receive payments from the Federal Government. The Recovery Operations Center found that none of the 365 health insurers were listed as a defendant in a felony conviction and none were currently listed in the Excluded Party List System⁹ as ineligible from doing business with the Federal Government.

⁸ The Recovery Accountability and Transparency Board (the Board) launched the Recovery Operations Center in November 2009 to provide a central data analytics service to support fraud detection and prevention related to American Recovery and Reinvestment Act of 2009 awards. In 2012, under the Consolidated Appropriations Act of 2012, the Board's authority was expanded to include oversight of all Federal funding.

⁹ An electronic, web-based system identifying parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and nonfinancial assistance and benefits. The Excluded Party List System keeps the Federal acquisition community aware of administrative and statutory exclusions across the Executive Branch.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to evaluate compliance with Federal tax payment laws by health insurers receiving APTC and CSR payments. To accomplish this objective, we:

- I. Researched background and guidance related to the APTC and CSR programs to answer questions of legality, authority, and funding restrictions.
 - A. Researched congressional, Office of Management and Budget, Department of the Treasury, and IRS guidance regarding the APTC.
 - B. Researched and answered questions about legality, authority, and funding restrictions associated with the APTC.
 1. Requested the Treasury Inspector General for Tax Administration's Office of Chief Counsel to provide its opinion on whether the IRS was prohibited from disbursing funds from its permanent allocation to any entity with Federal tax liability, similar to restrictions on awards from its annual appropriated authority.
 2. Requested Chief Counsel to provide its opinion on whether the IRS had any authority to determine if health insurers receiving APTC payments were current on their Federal taxes and whether the IRS was prohibited from disbursing funds to those insurers.
 3. Obtained a copy of the form(s) submitted by health insurers to register to participate and receive APTC and CSR payments.
 4. Determined whether such forms included controls regarding health insurer participation in APTC and CSR payments in relation to potential tax debt.
- II. Conducted data analysis of health insurers that participated in the APTC and CSR programs at any point during January 2014 through March 2015.
 - A. Obtained from the Health and Human Services Office of the Inspector General a list of 365 health insurers that participated in the APTC and CSR programs during January 2014 through March 2015.



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- B. Using corresponding TRCAT¹ data available as of March 2015, determined whether any health insurers were not in compliance with Federal tax laws by having an outstanding, finally determined, and assessed unpaid tax liability.²
 - C. Analyzed results of TRCAT research using the Integrated Data Retrieval System (IDRS)³ to determine the current liability status of insurance companies identified as having unpaid tax debt.
 - D. For insurance companies identified as having unpaid tax debt, determined the nature of the tax liability, such as type of taxes owed, and the status of IRS collection efforts.
 - E. Determined how tax debts identified through TRCAT analysis and subsequently identified through the IDRS as no longer being current were satisfied, such as through voluntary payment or collection activity.
- III. Performed additional testing not related to the tax compliance of health insurers to determine whether insurance companies receiving APTC and CSR payments had been convicted of felonies or had been excluded from receiving Federal benefits.
- IV. Performed validity testing to determine whether the 365 Taxpayer Identification Numbers related to our health insurer population were present in the IDRS and Master File.⁴ We determined that the data taken from the TRCAT, IDRS, and Master File were sufficient, appropriate, and reliable for our purposes. Also, we examined and reported on all 365 health insurers receiving payments under the APTC program, therefore, sampling was not used.
- V. Compared segments of the list of health insurers to the reporting and payment data the IRS receives monthly from the Marketplace Exchange.

¹ Files created as part of the IRS's Accounts Receivable Dollar Inventory. The files identify all taxpayer accounts with a balance due and also show the collection status of the accounts.

² Tax liability that has been assessed and for which all judicial and administrative remedies have been exhausted or have lapsed and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the unpaid Federal tax liability.

³ IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

⁴ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.



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Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

We determined that the following internal controls were relevant to our audit objectives: the IRS and CMS memoranda of understanding, restrictions on use of the Secretary of the Treasury's permanent indefinite appropriation to fund the PTC and CSR payments, and attestations on tax liabilities and felony convictions made by the health insurers. We evaluated these controls by interviewing management, consulting the Treasury Inspector General for Tax Administration's Office of Chief Counsel, reviewing the health insurer enrollment forms, analyzing tax records of the health insurers, and confirming that each health insurer was eligible to receive Federal payments and benefits.



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Appendix II

Major Contributors to This Report

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Appendix III

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