



News Release

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**PREPARED REMARKS OF
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22ND ANNUAL INSTITUTE ON
CURRENT ISSUES ON INTERNATIONAL TAXATION
WASHINGTON, DC**

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WASHINGTON — Thank you for that warm introduction and welcome. It's an honor to join you again along with our friends at the George Washington University Law School.

I am excited about the dialogue that will take place over these two days. I am confident it will enrich our understanding of many of the critical issues confronting us today.

As the pages of the calendar grow thin, it is only fitting to look back at the progress we have made on our international tax agenda these past 12 months.

But first, let me provide some context for our discussion. To meet the broad array of challenges that we face in the international arena, the Administration and the IRS are focused on a multi-year international tax compliance strategy that is tailored for both corporate and individual taxpayers.

For businesses, we must recognize that the tax system has changed as the economy has become global in scope. We want to ensure that taxpayers do not use the international capital markets and tax code complexities to push tax planning beyond acceptable bounds. And for individuals, we want to better ensure that US taxpayers with overseas assets pay what they owe.

As I have made clear throughout my tenure at the IRS, rooting out individuals hiding their money in bank secrecy jurisdictions is very different from the IRS and Treasury creating ground rules for multinational corporations operating in a global environment.

So, let me begin today with some thoughts on international corporate tax administration and bring you up to date on the last 12 months. As I discussed here last December, the IRS has a significant focus on transfer pricing, hybrid structures and withholding taxes.

First, let me discuss transfer pricing. We have been exploring the transfer pricing area for some time and determined we needed to change the way we do business in this area. From a taxpayer's perspective, it seemed that all too often we were taking too long to resolve transfer pricing issues ...that it was difficult for the taxpayer or representative to know who at the Service was responsible for resolving the issue... and that we were not always consistent in our resolution of these issues.

From our perspective – while we have a phenomenal cadre of experts in this area – we need more people with industry specific and transfer pricing expertise to match up with corporate taxpayers and to fully develop the issues, discuss them with taxpayers and their representatives, and ultimately resolve the issues for the large number of taxpayers with transfer pricing issues.

In order to address these issues, and ensure organizational consistency and focus, we are establishing a Transfer Pricing Practice within our Large and Mid-Size Business operating division so we can strategically and systematically administer transfer pricing issues. The idea here is to create a group of experts in the transfer pricing area that we can use to coordinate our handling of the most important issues to taxpayers and to us, identify emerging issues and trends, and provide consistency in outcomes in our transfer pricing cases.

This group will help our examination personnel throughout the organization by providing technical expertise as needed, assist in the development of new risk assessment techniques to better identify the taxpayers and issues with the greatest risk, and develop examination best practices to ensure optimal resource allocation. Our goal with the establishment of the Transfer Pricing Practice is to significantly improve how we address transfer pricing issues in the future.

As I earlier noted, a second important area that I mentioned last year was the use of hybrid instruments, hybrid entities, and hybrid structures in international tax planning.

On the specific topic of foreign tax credit generators, we have seen significant changes in corporate behavior following our publication of temporary regulations focusing on structures designed to create credits for taxes that a US taxpayer does not economically bear. We are continuing to litigate cases that arose prior to those regulations, and we stand ready to litigate future cases which raise similar issues. There are currently five cases docketed in federal district court, two in bankruptcy court, and two in the Tax Court.

My reference to the use of hybrids in the international context is really a reference to tax arbitrage – exploiting different countries' tax rules on the characterization of instruments and entities in order to achieve a lower overall tax burden. I think the key development here – both from the US viewpoint and globally – is the growing acceptance of the notion that all countries with real economies and real tax systems have a shared interest in reducing the kind of arbitrage that makes income disappear from the tax systems where the economic activity is taking place. Our interactions with other countries, the Administration's proposals, and our enforcement and regulatory activity reflect this notion.

The third important area I mentioned was withholding taxes. One year ago, we added withholding to our Tier 1 issue list. We are now reviewing compliance by commercial banks, hedge funds, and other taxpayers. A review of so-called "yield enhancement" techniques utilizing securities lending and swap transactions to avoid dividend withholding tax is also under way. We are in the process of developing tools to help our examiners in the field identify facts to determine when a transaction should be re-characterized as an agency agreement, repurchase agreement, lending transaction, or some other form of transaction in which withholding applies.

Let me turn next to the individual taxpayers who operate in an increasingly international environment. Last year, I discussed our plans to strengthen the Qualified Intermediary

Program, crack down on undeclared bank accounts and ramp up our investigations and prosecution of foreign offshore issues.

Here too, the Administration and the IRS made significant headway, even though we're still in the early stages of our multi-year effort to put a serious dent in offshore tax evasion.

Last spring, as part of a sweeping package of international tax reform proposals, President Obama and Secretary Geithner unveiled a proposal for combating offshore tax evasion by individuals...with a major focus on bolstering and expanding the Qualified Intermediary system.

The overall goal is to make it easy for individuals to comply with US tax law, and make the intermediaries who facilitate the flow of funds across borders our partners in ensuring people pay the right amount of tax. The other part of the proposal is to create disincentives for those US taxpayers who choose to do business with a financial institution that has chosen not to be a QI.

This October, the Foreign Account Tax Compliance Act of 2009 was introduced in Congress. It weaves together most of the President's strong international reporting and disclosure proposals, including strengthening the QI reporting regime, and other legislative elements designed to combat offshore tax evasion. A modified version of FACTA was passed in the House yesterday as part of the Tax Extenders Act of 2009.

Clearly, the Qualified Intermediary system is a critical element of our toolkit to ensure compliance with US withholding and reporting laws applicable to foreign payments made to US taxpayers and others. I am quite hopeful that the legislation will pass quickly.

Now, no discussion of offshore tax evasion by individuals would be complete without at least briefly discussing the UBS agreement and our special offshore voluntary disclosure program for unreported income that ran through October 15th of this year.

That program gave people a special chance to come in and get right with the government. And taxpayers took advantage of it in record numbers; our efforts brought more than 14,700 people back into compliance who hadn't been reporting offshore assets and income.

The unprecedented agreement with the Swiss authorities we reached this past August regarding UBS account holders – and the response to the special offshore voluntary disclosure program – together represent an historic milestone. They proved to the world – especially to account holders, promoters and banks – that we're serious about our international efforts...we're serious about piercing the veil of bank secrecy...and we're serious about carrying forward the momentum to address offshore tax evasion.

We will be mining the 14,700 voluntary disclosures for information to identify financial institutions, advisors, and others who promoted or otherwise facilitated US persons hiding assets and income offshore and attempted to shirk their tax responsibilities at home.

The response to the voluntary disclosure program will have ramifications extending far beyond 2009. It will change the conversations that practitioners and tax return preparers will be having with many of their clients this coming tax filing season. Those taxpayers that sought advice from advisors, but chose not to come forward in the voluntary disclosure

program, will once again have to confront whether they come clean and properly report these accounts.

We know that many preparers will be expanding their due diligence regarding offshore account issues, both regarding FBAR and income tax reporting. With both preparers and the IRS stepping up their efforts in the area, a “hide-in-the-sand” approach to reporting offshore accounts and income has become a much riskier calculus for US taxpayers holding assets anywhere around the world.

Let me now turn to international cooperation which has a prominent place in our global tax compliance efforts. Clearly, the success we seek in the international arena cannot be achieved by the US alone.

When I spoke to you last, I discussed the need to build stronger relationships with our partners. And this past year, we have worked to reaffirm and strengthen those relationships.

We’ve already seen positive steps towards greater cooperation among nations, such as in April, when the G-20 heads of state agreed in a show of unity to act against tax jurisdictions that impede legitimate tax enforcement.

By allowing the exchange of information between the world’s tax authorities, tax treaties are a critical tool in the fight against global tax evasion. The Treasury Department has made information exchange agreements a priority, and since 2007, the Treasury Department has signed, or has in motion new tax treaties or tax information exchange agreements with 10 countries. The US continues to work with countries around the world that want to come into the new paradigm of transparency and information exchange.

The IRS is also elevating the importance of its treaty administration and international cooperation. We want to both expand our treaty staff and explore options for industry specialization. And we want to look toward expanding our tax attaché program.

We are also working on a protocol to conduct joint audits with some of our treaty partners.

Another good example of cooperation and working together towards a common goal is what came out of the OECD’s Forum on Tax Administration ...or FTA...in Paris this May when tax commissioners from 34 OECD and non-OECD countries from around the world agreed on a new cooperative roadmap to combat tax evasion and abusive tax avoidance, with a special focus on banks, wealthy individuals and offshore activities.

I recently became the Chair of the FTA, and I hope to work with my international counterparts to build greater cooperation between tax authorities across the world as we work to improve tax compliance both domestically and internationally.

The commissioners of the FTA can speak with a unified voice on such critical matters as offshore compliance, corporate governance and high net-worth individuals, as well as lay out practical solutions for issues such as an approach to joint audits and early competent authority resolution.

Let me now shift to talk about our recent creation of a special group to focus on high wealth taxpayers.

This fall, the IRS created a Global High Wealth Industry Group to centralize and focus IRS compliance expertise involving high wealth individuals and their related entities – which can often have an international component. Tax agencies around the world, including those in Japan, Germany, the UK, Canada and Australia, have also formed high wealth groups.

Now, high wealth individuals are not your typical Form 1040 filers with a W-2, some 1099 income, and maybe a Schedule C enclosed with their return. Their tax picture is much more complicated and nuanced.

For a variety of reasons – including valid business reasons – many high wealth individuals make use of sophisticated financial, business, and investment arrangements with complicated legal structures and tax consequences. Many of these arrangements are entirely above board. Others mask aggressive tax strategies.

And there are other tax considerations regarding high wealth individuals, including international sourcing of income and tax residency, and offshore structures and bank accounts, to name just a few.

So what's our game plan here? At least initially, we will be looking at individuals with tens of millions of dollars of assets or income. Going forward, we will take a unified look at the entire web of business entities controlled by a high wealth individual, which will enable us to better assess the risk such arrangements pose to tax compliance and the integrity of our tax system.

We want to better understand the entire economic picture of the enterprise controlled by the wealthy individual and to assess the tax compliance of that overall enterprise. We cannot do this by continuing to approach each tax return in the enterprise as a single and separate entity. We must understand and analyze the entire picture.

Over the past few months, we have begun hiring some agents and specialists, such as flow-through specialists and international examiners, to conduct examinations of high wealth individuals and their related enterprises.

In due course, we will grow the new unit by adding examination agents and individuals with specialized skills and expertise, such as economists to identify economic trends, appraisal experts to advise on valuation issues, and technical advisors to provide industry or specialized tax expertise. We will also build new risk assessment techniques to identify high income and high wealth individuals and their related enterprises that should be reviewed holistically.

Let me end by making a few comments about corporate governance, risk and transparency. I believe that at the end of the day, taxpayers and tax authorities pretty much want the same thing – certainty regarding a taxpayer's tax obligations sooner rather than later, consistent treatment across taxpayers, and an efficient use of government and taxpayer resources by focusing on the issues and taxpayers that pose the greatest risk.

In this regard, we are taking a hard look at transparency regarding tax issues in the business context. Accounting for uncertain tax positions is much more articulated now than in the past. Auditing firms are conducting much more extensive reviews of materials used to make decisions on tax reserves. The IRS is exploring ways to improve transparency

regarding material tax issues so that we can achieve the three objectives of certainty, consistency, and efficiency. This will be an important area for us over the coming year.

Corporate governance is also an area of interest to us. Recently, I have been reaching out to corporate board members to discuss the importance of appropriate oversight of tax compliance. My proposition is simple: Tax expenses are like other major expenses. Manage them too loosely and you give up profit. Manage them too aggressively and there are bad consequences. The board must oversee how management manages them. That means some level of understanding, a set of policy principles and then a control system of reporting that assures the board that their policy is being carried out. Many corporate boards do have a regular dialogue regarding tax risk with their CFOs, tax directors and external tax advisors. My goal is to promote good corporate governance on tax issues and engage the corporate community in a dialogue about the appropriate role of the board of directors in tax risk oversight.

In conclusion, I think we've made some good progress this past year. But we have a lot more to do. I believe we have put the right people, structures and resources in place to make even greater progress in the international arena in the coming year. As I said last year, we cannot afford a go-it-alone strategy. All of us who care about a sound and fair tax system have a stake in making this work.

Thank you, I would be happy to take a few questions.