American Bankers Association

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IRS Real Time Tax System Initiative – ABA Statement for 1/25/12 Public Meeting

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Introduction

Good Morning Ladies and Gentlemen, my name is Lisa Chavez and I appreciate the opportunity to represent the banking industry on behalf of the American Bankers Association (ABA) at this meeting. *The ABA represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees.*

Executive Summary

In April of last year, Commissioner Shulman introduced the IRS's vision of a Real Time Tax System Initiative (the "Initiative") that would allow matching of data on tax returns with data on information returns at the time the tax return is submitted for filing. Under the Initiative, filers would be required to provide information returns to the IRS earlier, possibly as early as the first date that taxpayers are permitted to commence filing their personal tax returns, generally January 15. It is envisioned that the "Real Time" system would reduce the number of "erroneous" refunds paid to taxpayers because it would allow the IRS to substantiate claims or entries made by the taxpayer on the tax return before it is filed.

The primary goal of the Initiative "is to migrate away from the "after-the-fact" business model that has defined the IRS (and most major tax agencies globally) approach to compliance for decades." The overarching result would be that for individual tax returns (1040s), the Initiative would be useful to the IRS in order to (i) verify many elements of data before the tax return is filed; (ii) allow payers and taxpayers to correct potential discrepancies before the IRS processes the return; and (iii) enhance tax processing systems to embed information return data in pre-screening filters, to compare information returns and tax returns earlier and alert taxpayers to mismatches.

The IRS is considering a phased in approach – i.e., there would be an initial concentration on a small number of information returns (such as the W-2, 1099-MISC, 1099-R and 1099-B), which, according to the IRS, currently present the largest amount of compliance issues.

ABA Concerns and Recommendations

- As part of its phased-in approach, the Initiative should begin by matching certain information returns (W-2s) to Forms 1040-EZ; with the matching of additional types of information returns and Forms 1040-A and Forms 1040 matching phased-in in later years.

- The 1099-MISC, 1099-R and 1099-B may be difficult to match to tax returns; the Form 1040 series of income tax returns, with related schedules and attachments may need to be revised to accommodate real-time matching.

- The Initiative should not apply to Form 1099-MISC until the IRS can reliably match nonemployee compensation and other Form 1099-MISC income to taxpayers' federal income tax returns, (e.g., the way they currently match interest and dividends listed on Schedule B to Forms 1099-INT and 1099-DIV).

- Banks typically run a "year-end" process which posts all prior year transactions to IRS information return reporting fields; after which quality assurance reconciliation is done to match off the reporting fields to transactional fields. This process requires days to weeks of work. Hence, many financial institutions take advantage of the fully extended due dates (through the end of March), to ensure that quality assurance is attained. This creates a very significant challenge to providing information returns earlier than currently required.

- Payers should not be required to post information to the IRS Initiative until after the statements have been furnished to payees, and a reasonable time has passed for payees to receive and review their statements, notify the payer of any errors, and receive corrected statements from the payer. The IRS has indicated that corrections filed for information returns are at less than one percent. We presume that this statistic refers to corrections to files submitted to the IRS; and we believe that this is likely the case today because payers have up to two months between the time recipients are provided information returns and the time the information returns are filed with the IRS to correct any errors. For the most part, filers start to hear from 1099 recipients after they receive their 1099s at the end of January. Banks post corrections up until the deadlines for filing information return files with the IRS. This "grace period" likely minimizes the volume of successive "correction" submissions to the IRS and maximizes the accuracy of their first electronic submission to the IRS. If this "grace period" is shortened, there is no doubt that accuracy will be compromised or lost.

- **As noted above, the 1099-B and 1099-R are forms that would be very difficult to include in any real time initiative that would require submission from filers any earlier than March 15. It is impossible for filers to submit these forms to the IRS as early as January because they do not have all the information required for reporting and especially for the B, are unable to obtain such information before the end of January. In many cases, filers are receiving information required for the R until the last week of the**

calendar year and will then have to process all such information during the month of January. It would be virtually impossible to expect accurate information on the B or R if such forms are required to be filed any earlier than the current due dates (including extensions)

- Many financial institutions provide consolidated information returns to their clients, which include 1099-INT, 1099-DIV, 1099-OID, and 1099-B information. While it may be possible to accelerate the filing deadlines for certain types of payments (i.e. 1099-INT for bank deposit interest), this may be a challenge in the consolidated information return environment. In addition, as noted above, banks use the full time between January 31 and data filing deadlines to perform data quality checks that increase accuracy of data submitted to the IRS.

Response to IRS Questions

IRS' General Questions

- *What are the best opportunities to evolve the tax system to be more real time in the short, medium, and long-term? How can we most effectively structure our collective efforts to eliminate hassle for taxpayers, and reduce burden?*

It is important to continue working with key stakeholders during all the stages of the Initiative, including tax return preparers and the issuers of information returns. We also suggest that the phase-in approach start with the simplest tax returns– Forms 1040EZ – and the most common information returns – Forms W-2. It should also be noted that preparation of other information returns may vary in complexity, depending on the type of income. For example, reporting of bank deposit interest on Form 1099-INT is less complex than reporting other types of interest on Forms 1099-INT.

- *What suggestions would participants offer on how to operate an up-front matching process? What should be the role of the taxpayer, the tax practitioner, and the software industry in resolving issues that arise? What tools could the IRS provide to support up-front issue resolution?*

The IRS should consider working with the tax preparation community. Many tax preparation software programs are designed to be able to obtain taxpayer information/statements from a bank or other financial institution on a real time basis. However, we are not aware of any program that is able to obtain such information by January 15 with respect to all types of information returns.

We understand the importance of achieving an up-front matching process under the Initiative which would allow the IRS and notify the taxpayer of any mismatches between information available to the IRS and information provided by the taxpayer during the processing of the taxpayer's return. The IRS should provide a simple and efficient method for resolving these mismatches, which may require "real time" assistance to taxpayers. In order to make the entire process meaningful for taxpayers, the time involved in resolving mismatches should be reasonably short. Hence, the process should incorporate the information return filers (payors) who will be able to validate or resolve any discrepancies based on information that they have provided to the IRS.

IRS's Specific Questions / Scenarios for Feedback and Recommendations

- *In a scenario where the IRS moved substantially toward upfront matching, how would panelists envision the process working between the IRS, taxpayers, and practitioners to resolve issues up front, rather than months and years after the fact? What issues and concerns would panelists suggest that the IRS should consider?*

The IRS should be willing and ready to accept information returns that contain some incorrect or incomplete information without imposing any penalties on the taxpayer or the filer. While such returns might not provide the assurance that the IRS is seeking under the Initiative, they could provide a means by which the IRS can contact the information return filer immediately rather than several years later.

The IRS should consider up front ways to address mismatches based on the fact that filers would be providing returns that may not contain accurate information because filers do not have all the information required in order to file the forms. In effect, in choosing speed over accuracy, the IRS would have to expect to still engage in "after the fact" resolution of taxpayer claims

- *Several commenters have raised questions about the interaction of the timing of tax return filings, and information return filings. To the extent that there are gaps, how would panelists suggest that these gaps could be narrowed over time?*

The IRS should consider moving the starting date for tax return filings from January 15 to a later date such as March 15, and moving the current April 15 deadline to June 15.

Conclusion

We are committed to working with the IRS on this issue. However, we feel very strongly that achieving the stated goals would be extremely difficult if the IRS anticipates including all information return forms in the Initiative –regardless of whether the IRS uses a phase-in approach. In addition, there must be a process for resolving mis-matches that is not limited to either (1) the taxpayer changing their tax return or (2) the payer "correcting" the information return. There may be legitimate situations where tax information does not match, and taxpayers should be able to file returns with explanations of their positions.

As suggested, we believe a reasonable approach would include changing the earliest date taxpayers can begin to file their tax returns to March 15 and extending the tax return filing deadline out 2 months. While we believe that this suggestion will not resonate with taxpayers in general (especially taxpayers that rely on receiving their refunds early in the year), we believe this approach is worthy of consideration.