

**Oral Statement of Lonnie Gary, EA, USTCP
Chair, Government Relations Committee
National Association of Enrolled Agents
before the Internal Revenue Service Public Forum
on the Real Time Tax System Initiative
December 8, 2011**

Good morning Commissioner Shulman. I am pleased to be here on behalf of America's tax experts, enrolled agents, and on behalf of NAEA.

First, let me thank you for engaging stakeholder groups early as you consider the Real Time Tax System Initiative or, more simply, "the Initiative." We are pleased to partner with you and stand ready to provide you with the benefit of our extensive frontline experience with taxpayers.

To be clear, the direction you would like to aim the agency is clearly an idea whose time has come. We are supportive of agency efforts to reduce notices and to increase efficiency and the Initiative attempts to accomplish both.

We EAs are a practical group and my comments today reflect that. Given that our goal today is to engage in a high level discussion of real time processing, I am going to focus my remarks on a few of the many questions such a significant change raises for EAs.

Clearly, real time document matching is infeasible today because IRS does not receive all the information return data in time to perform matching during filing season. This leads us to our first question: how will the Service acquire the information return data in a timely fashion? Assuming the Service desires disrupting the filing season as little as possible, the Initiative will require an aggressive due date for the information return data that will be matched.

One possible accommodation would be to start the filing season later, yet end on April 15th. Any significant filing season compression will be tremendously challenging for an industry already operating at full tilt. We could have some flexibility in the January start date as most EAs don't file that early, and a modification of e-file stockpiling rules would also possibly help, but I stress that compression will be a significant pressure point.

Moving on, we'll assume the Service has timely information return data and appropriate programming to perform real time matching. Our next question is what information does IRS plan to share *on a pre-filing basis*? When? How? Focusing on practitioners, will

they have access to the same information IRS is using in its matching program? The most obvious approach is to use e-Services, but sharing this data currently requires an executed power of attorney. Does the Service envision practitioners holding valid powers of attorney for each person whose return he/she prepares? Or does the Service envision a special, limited use "mini" PoA?

Next, we wonder what happens to the returns that do not match. The Initiative document cites reduced taxpayer burden as a key long-term benefit. We wonder whether a more accurate description is that it takes these millions of contacts made months after the filing of the return and instead moves them to the beginning of the filing process. The decisions the agency makes about how to address mismatches are critical to ensure that these filing season contacts are not in fact more burdensome than the CP 2000 notices IRS is trying to replace.

Now let's picture the actual transaction. Assume a taxpayer's e-filed Form 1040 fails to match the information return documents IRS is using. What happens then? Will IRS reject what is otherwise a perfectly valid return? Will IRS "soft reject" the return and give the filer a short window in which to change the return before processing it as filed? In either event, how much detail will IRS provide? Both timing and content are important. Throughout e-file's long history IRS has had notoriously opaque reject codes, so there is some basis for concern even on the fundamental structure of a reject message.

Once the taxpayer and preparer are aware of a problem, then what? A simple transcription error could be cleared up immediately. A missing or inaccurate information return could be more problematic and require a more complex interaction with the agency. In either case, we wonder whether correcting a reject would require the taxpayer to re-sign the return and suggest that re-signing could be a significant burden on practitioner and taxpayer alike.

Real time processing is going to require real time access to IRS data and, particularly if IRS plans to reject non-matching returns, real time solutions. In other words, a real time processing system that is sensitive to the needs of taxpayers and tax professionals requires real time customer service.

The significant challenge is that return volumes are nonlinear, with peaks in early February and mid-April. AUR work is largely performed outside the filing season, allowing at least theoretically for IRS to service the calls and letters that result from CP 2000 notices. If only three percent of returns on IRS' peak filing day fail to match IRP documents, how will IRS manage any significant volume of calls? Using this math, on peak days the Service could easily reject 100,000+ returns merely because of IRP mismatches. Increased call volumes would strain the Service's current capabilities and place an added burden on tax practitioners at a time they are working at full capacity.

Perhaps the Service is considering a phased-in approach. Your slides highlight that four information returns¹ account for some 70 percent of AUR assessments and that 50 percent of all Forms W-2 are issued by 56 payors. This approach may create a universe that is easier to manage. A partial approach does not answer many fundamental questions, including the impact of shepherding taxpayers with rejected returns to the office of a typical tax professional, who largely works CP 2000 notices outside of peak season?

Finally, we raise a fairly obvious point: speedy refunds are critical to many taxpayers who receive them. Refunds are also important to the overall economy. We suggest IRS keep this simple fact in mind when considering how to and whether to roll out the Initiative.

Notwithstanding the laundry list of practical questions, we support without hesitation the Initiative's goals. Ultimately, though, the details of the program matter. The Service must balance the costs of the current admittedly imperfect system against the costs and benefits of a real time processing system.

We suggest that the agency consider three perspectives as it explores options: taxpayers, tax professionals, and tax administration. A change of the magnitude under consideration today will affect all three. We thank you for taking the first step by inviting NAEA and our colleagues to this public forum.

¹ Forms 1099-MISC, 1099-b, 1099-R and W-2