

UNITED STATES INTERNAL REVENUE SERVICE

REAL TIME TAX SYSTEM INITIATIVE

PUBLIC MEETING II

IRS Auditorium

7th Floor

1111 Constitution Avenue, N.W.

Washington, D.C.

Wednesday, January 25, 2012

9:00 a.m.

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ATTENDEES

Doug Shulman
Beth Tucker
Steve Miller
Lori Brown
Pete Isberg
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Lisa Chavez
Nicole Tanguy
Karen Botvin
Dave Olsen
John Sapp
Bernie McKay
Patrick Carter
Linda Tanton
Craig Burns

P R O C E E D I N G S

1 (Time noted: 9:25 a.m.)

2 (In Progress)

3 American Payroll Association

4 MS. BROWN: -- its W-2 files to the
5 IRS. This transfer is made several months
6 after the SSA receives the W-2 information --

7 COMMISSIONER SHULMAN: Ms. Brown,
8 could I ask -- and I apologize for not -- if
9 you could sort of wind up. We have a long
10 day. If the panelists could try to hold
11 themselves to five minutes, obviously, that's
12 a rough sort of rule, but if you could sort of
13 wind up in the next minute or so, I would very
14 much appreciate it.

15 And we have, by the way, and will make
16 available, the written comments so everybody
17 will be able to see what APA and others have
18 raised. Thank you.

19 MS. BROWN: Absolutely.

20 Issues concerning the accelerating of
21 filing deadlines. When can final information
22 be obtained to produce an accurate Form W-2 or
23 1099 for an employee, former party or

1 nonemployee provider of service?

2 Issues such as third-party sick pay
3 which is not is a concern. Information often
4 comes from payroll from other departments and
5 third party vendors after year-end procedures
6 have been closed and that would also be an
7 issue. That would include items such as non-
8 qualified moving expenses, prizes, awards,
9 non-cash benefits and stock transactions.

10 Another concern is how long will it
11 take to reconcile any discrepancies uncovered
12 by the employer and/or its service providers
13 so that fewer corrected returns will be
14 necessary.

15 Will employers have to send separate
16 form W-2 and W-3 files to the SSA and IRS, in
17 addition to the states where they have
18 employees, so that the IRS gets the W-2 data
19 more quickly, or will the current system of
20 sending data to the SSA first be maintained?

21 Finally, in 2012, employers that filed
22 at least 250 Form W-2s last year will also
23 have to include the cost of employer-sponsored
24 health care coverage on each employee's Form

1 W-2. This is the first year of doing so and
2 this could also present more challenges as
3 this will be the first time payroll
4 professionals are addressing this.

5 COMMISSIONER SHULMAN: Thanks so much.
6 Mr. Isberg.

7 National Payroll Reporting Consortium

8 MR. ISBERG: Thank you, good morning.
9 We appreciate this opportunity to discuss this
10 very important issue with the panel.
11 Commissioner Shulman, Deputy Commissioners,
12 and members of IRPAC and IRSAC. I'm Pete
13 Isberg, I serve as President to the National
14 Payroll Reporting Consortium, which is a non-
15 profit trade association of the largest
16 payroll service providers. We represent about
17 one and a half million employers nationwide,
18 which represents about one-third of the
19 private sector workforce for employment tax
20 reporting.

21 NPRC is strictly policy neutral. We
22 don't oppose or promote any particular
23 proposal affecting employment taxes and
24 employee reporting obligations. But we do

1 historically -- consistent with our history of
2 providing impartial analyses -- the
3 feasibility of proposals affecting employment
4 taxes and such reporting -- we try to explain
5 in our written report today why employers need
6 a certain amount of time to report Forms W-2
7 and some alternatives that could be explored
8 to hasten the availability of such information
9 to the IRS.

10 Obviously a real-time tax system would
11 be a major, major improvement for both
12 taxpayers and the IRS in terms of the
13 efficiency, accuracy, and reduced burden.
14 It's very worthwhile and it seems important to
15 correct returns when records are available and
16 memories are fresh.

17 So this initiative is also needed to
18 combat refund fraud. The IRS needs to be able
19 to optimally validate both wages and
20 withholding before releasing refunds which
21 really is not possible with today's system.

22 So, you know, we commissioned -- in
23 preparation for this -- we commissioned a
24 study that was completed last summer. We've

1 got a couple copies up here. It's available
2 on our web site, basically concerning the
3 feasibility of accelerating Form W-2
4 reporting, you know, what employers have to do
5 to prepare those W-2s and what's possible in
6 terms of acceleration. It summarizes the
7 processes employers follow, the challenges
8 they face, and the impact of accelerating the
9 current filing deadlines.

10 I should mention that Form W-2 has
11 become the primary tax statement for most U.S.
12 taxpayers. It's also the most complex. It
13 has ten fields for indicative data, three
14 check boxes, 15 monetary fields, and it's got
15 two variable use fields. Box 12 has 26-
16 defined monetary amounts to report; box 14 has
17 another dozen or so that are mostly state- and
18 local-defined deductions to report. But, you
19 know, as you'll see in the report, the
20 nutshell issue and the key issue for us today
21 is that, in addition to cash wages, employers
22 have to gather and report up to 50 types of
23 compensation such as health and welfare
24 benefits, equity compensation and many non-

1 cash fringe benefits, some of which are
2 administered by third parties. And often this
3 information isn't even provided to the
4 employers until about January 15th. So it's
5 tough to do the reporting prior to that.

6 Basically we identified six
7 alternatives that should be explored in the
8 context of this study. The first is earlier
9 annual reporting deadlines, fairly obvious.
10 There's also a concept of preliminary and
11 final/corrected submissions which would be
12 more in line of addressing tax refund fraud
13 and anything else, expansion of the special
14 rule for recognition of non-cash fringe
15 benefits, quarterly W-2 reporting has been
16 considered for years, reporting to the IRS
17 directly, as Lori mentioned, and expanded
18 electronic filing.

19 I have just a few comments on each.
20 First on earlier annual reporting deadlines,
21 you know, there are some obvious, you know,
22 facts, and that is that employers have to
23 furnish Forms W-2 to employees by January 31st,
24 so they're done by that date. Six states and

1 the District of Columbia require employers to
2 report those Forms W-2 by January 31st.

3 In addition, California and New York
4 require reporting of that information in a
5 different format, in a quarterly format by
6 January 31st. So on the other hand, an earlier
7 deadline might involve a trade-off between
8 timeliness and accuracy. They mentioned a 1
9 percent amendment rate. We did some
10 preliminary analysis that suggests that if you
11 move the deadline much earlier into January
12 it's going to, you know, quickly ramp up to 6
13 or 8 percent at a minimum based on what data
14 is flowing into employers and times and so
15 forth. So there's a lot of study that should
16 be done in that area. What exactly is that
17 tradeoff? What's the right balance? What's
18 the right date? And we've offered to help
19 with statistical studies, so we're happy to do
20 that.

21 I would say that the March 31st
22 deadline for electronic reporting really isn't
23 necessary and doesn't really benefit folks
24 much. It was put in place, you know, as an

1 incentive for electronic reporting.

2 Again, the time has probably passed.
3 February 28th deadline does permit time for
4 review and adjustment, reconciliation,
5 formatting, generation and transmission and
6 delivery of Forms W-2, so that seems
7 important. Further study is necessary.

8 The second is preliminary and
9 corrected submissions. And, again, this would
10 address refund fraud. The fact is, employers
11 really know their cash wages that were paid as
12 of 12/31. So that information could be
13 reported much earlier, possibly as early as
14 January 15th. Possibly followed by a revised
15 report with the 50 other elements of taxable,
16 reportable compensation and our report
17 suggests how that could be streamlined quite a
18 bit.

19 Very briefly, quarterly W-2 reporting
20 has been an administrative budget proposal for
21 several years. And the IRS used to receive
22 quarterly wage reports until about 1976. So
23 we suggest that the IRS study the experience
24 of some states. A lot of states have shifted

1 from annual W-2 reporting to quarterly
2 reporting of earnings for income tax purposes;
3 New York and Massachusetts are good examples.

4 The fifth item, reporting to the IRS
5 directly, we're not sure if that is going to
6 yield much. I think the SSA has a fairly good
7 flow, so we would want to look at really the
8 infrastructure the IRS uses when they get the
9 data from SSA and how long that takes. But,
10 you know, so the larger employers are asked on
11 a voluntary basis to provide W-2 information
12 on an ad hoc basis. It's tough to respond to,
13 but it is valuable, again, to eliminate tax
14 refund fraud. So that's another source of
15 information that should be explored.

16 Lastly, you know, expanding
17 information, electronic filing of information
18 reporting. You know, NPRC is all about
19 promoting electronic filing for efficiency.
20 And the -- search providers have long been
21 effectively 100 percent electronic in its
22 interactions with the IRS and the states.
23 States as a group enjoy a very high volume of
24 electronic filing rates and one administrator

1 recently said that switching from paper to
2 electronic had a far greater impact than just
3 shifting actual deadlines. So it's very much
4 worth doing.

5 The requirement to file Forms W-2
6 electronically was established back in 1982
7 when you essentially needed a mainframe to do
8 it. Right. So that is no longer the case.
9 That was before PCs. The Internet today, you
10 know, there's really not much of an argument
11 that it's not too difficult to do. It's very
12 easy. Software is available. The systems are
13 fairly cost efficient. So that really should
14 be addressed.

15 Lastly, you know, small employers are
16 able to create -- simultaneously create and
17 file -- electronically file Forms W-2 through
18 the innovative SSA Employer Services website.
19 You should take a look at that, that is
20 really, you know, very easy to work with and
21 so forth. So I'll just say, you know, we very
22 much appreciate this opportunity to be of
23 service in reassessing the information
24 reporting systems. We would be happy to work

1 with the Service and other stakeholders for
2 this further.

3 I think the greatest risk, in closing,
4 is not doing enough and being timid and trying
5 to do minor incremental adjustments to a
6 system that was basically designed in the 60s,
7 though we really need a fairly thorough
8 rethinking of it all. Thank you.

9 COMMISSIONER SHULMAN: Thank you very
10 much. Mr. Satagaj.

11 Small Business Legislative Council

12 MR. SATAGAJ: Thank you. I'm John
13 Satagaj. My group is the Small Business
14 Legislative Council, which is a 35-year old
15 coalition of trade associations. For example,
16 the Pet Industry Distributors Association or
17 the Promotional Products Industry would be
18 members of ours.

19 I actually wear two hats here in a way
20 that are a little bit different than my
21 colleagues here. We're going to be the issuers
22 of W-2s and probably some 1099s, but we're
23 also the recipient of a lot of information
24 returns, those being primarily in the 1099

1 category. So my comments today reflect both
2 from a standpoint of an issuer community as
3 well as a recipient community of some of
4 these. And I think as an issue for small
5 business, certainly everything my colleagues
6 have said here is probably double for small
7 business. Because they don't have the
8 resources that many of these organizations
9 have to do that. And of course it is noted,
10 many of them are not currently electronically
11 filing. Increasingly, more of them are
12 dependent on them for payroll, for example,
13 but we're still not at that point. So the
14 challenges as an issuer are going to be what
15 is the increased burden; because that's what
16 they're going to look at first.

17 So I think we have to clearly identify
18 on the issuer side for small business what's
19 going to be the game? Okay. We're going to
20 ask you probably to go electronic. We're
21 probably going to ask you to speed up the
22 process. What are you going to get out of it
23 as an issuer that is going to be a clear
24 burden?

1 I mean, we all know here in Washington
2 it's easy to say we're here to help small
3 business. But let's make it measurable. What
4 is it we're going to gain? And, you know,
5 let's meet that and hold ourselves accountable
6 to what it is. So it's an issuer, where is it
7 defined and narrowly? And as indicated also
8 the types of things we're talking about in
9 collecting data, you know, we have this new
10 requirement that is informational only on the
11 health care benefits. You know, it's going to
12 take a while to get your handle around that
13 and it's going to be a long time before a
14 small business is going to know everything
15 that isn't a benefit in the programs and it's
16 going to be much more difficult for them.

17 So as issuers, they've got to clearly
18 see the gain. And the good news is, it's
19 amazing that we're able to talk about real
20 time today. It's so terrific. You know, I
21 saw one of the early computers. I think it's
22 called the Tingle Table, isn't that the phrase
23 for it? If you have never seen a Tingle
24 Table, it was 6,000 pigeon holes that you put

1 it in. That was the first IRS computer.

2 And the truth is, in the 80's, late
3 80's, there was a wave of small business
4 audits, and the question I always got from the
5 small businesses is the IRS has just asked me
6 to give a copy of the tax return. And they
7 said, don't they have it? And, of course, the
8 answer, you all know, it was on reel 2067 in
9 Martinsburg and it was going to be ten days
10 before they were going to run that reel. So
11 you didn't get a tax return.

12 So the good news is, getting to real
13 time is a good thing now. And so I think the
14 fact that we can say that, that after all
15 these years of investment that we're talking
16 about it that we can talk in real time is a
17 good thing.

18 Flip side, the recipient, the small
19 business recipient on the issue of primarily
20 1099s, obviously, is the question of first
21 liability, if I'm the recipient and I've
22 gotten this notice, what's my liability if I'm
23 now talking to the IRS in midstream? You
24 know, if I open up something new that I wasn't

1 before, whatever.

2 Related to that is something that

3 probably an individual is not going to worry

4 about. We're predisposed in the small

5 business community. I get something from the

6 IRS, I'm likely to talk to my tax

7 professional. I mean, an individual is not

8 likely to do that. Small business is. So now

9 we get this. Is the small business going to

10 now talk to the professional earlier than they

11 would have say 18 months down the road if they

12 got a notice? Is it going to happen more

13 often? So that they're actually going to be

14 talking to a tax professional ten times on the

15 front end versus once later on down the road?

16 Can they be persuaded, what's the assurance,

17 and it's going to be related to a liability

18 issue that it's okay to talk to the IRS

19 without talking to the tax professional and

20 just resolve the informational factual

21 question. If you can say to them, yeah, we're

22 not going to increase the number of times you

23 got to talk to your tax professional. In

24 fact, we might save you talking to them. And

1 being a tax lawyer I'm getting rid of my own
2 business. The answer is, you know, actually it
3 would be a good thing, but you've got to
4 convince them. And that's related to the
5 reliability issue. There's no increased
6 liability and I don't have to talk to a tax
7 professional, or I'm not going to end up
8 talking to them 20 times as opposed to once.
9 So that's going to be a big issue.

10 Timing changes is a big thing and this
11 is a classic example of unintended
12 consequences. You remember a few years ago we
13 had a little problem with the start of filing
14 season and, you know, I found out there is a
15 whole retail service provider community that
16 builds their marketing campaigns around when
17 people get their refunds. So if we slide that
18 -- once you slide it and everybody knows, it's
19 okay. But it's these little kind of
20 unintended kind of consequences you don't
21 think of that we need to watch out for. Who
22 else is going to be affected by this in a way?
23 And that filing season, I know there were
24 folks that spent a lot of money on their

1 local, you know, newspaper campaign, TV
2 campaign who found out that it was wasted
3 because the checks weren't coming exactly when
4 they thought they were.

5 Related also to the timing changes is
6 the struggle, particularly in the tax
7 professional community. When you change
8 something for somebody inside the tax
9 compliance community it affects somebody else.
10 And we saw that with the partnership returns
11 just a couple of years ago. You know, there
12 was one side to say, you know, we need to get
13 those returns out quicker so those who are
14 participating in the partnership could do
15 their returns. And we had the pushback from
16 those that were preparing those partnership
17 returns saying, well, we can't -- you know, we
18 can't get them out that quickly. You're going
19 to have the same dynamic here. You know, if
20 you slide it one way, you push it one way, who
21 is it going to change the burden for somewhere
22 else, the folks preparing on the front end all
23 this information? You know, it's going to not
24 be a net gain unless we take care of those

1 folks who are going to be -- they're changing
2 their lifestyle.

3 So those are all the things we see
4 that are important in this. I do think the
5 important thing is, we're moving to real time.
6 And I think that's good for taxpayers. It's
7 good for the nation. It's good for the IRS.
8 But we've just got to catch these little
9 things here and there before we actually push
10 the button and say go.

11 Thank you very much for the time.

12 COMMISSIONER SHULMAN: Thank you. So,
13 a few things. One is I'm heartened to hear
14 while there's multiple issues that each of you
15 brought out, that each of you stated it would
16 be good for efficiency for the system, be a
17 major improvement, glad you're getting to real
18 time. Because I think that's, us trying to
19 figure out how to move the Agency and the tax
20 system forward is what we're all about. And
21 we're also all about making sure all the
22 concerns that are raised, we figure out ways
23 to address them so we move it forward in a
24 responsible way.

1 I had a specific question. There is
2 this obvious that some of you brought up,
3 employees get their W-2s January 31st, we get
4 them later. Now, some of the issue -- there's
5 a lot of talk about moving your filing up. I
6 will tell you, we've done a bunch of internal
7 work, and when I talked about our maturing of
8 our technology organization, some of it is we
9 get stuff and because we're going hard through
10 filing season, we wait several months before
11 we load it because the whole system was built
12 that we wouldn't run our compliance systems
13 until a few months later. And so, you know,
14 we're looking hard at what could we do just to
15 leave everything exactly the same and just
16 figure out how we could frontload our systems.
17 And so that's one piece.

18 But the question I have for you is,
19 we've heard from multiple employers that, the
20 deadline is the 31st for employees, most of
21 them get it out quicker. To give you an
22 example, the federal government, I got my W-2
23 a week ago. And everyone likes to talk about
24 the federal government and efficiency. And

1 so, could you feasibly just think about
2 reporting at the same time and do you really
3 need that time lag between getting it out to
4 employees and then doing the information
5 reporting, be it to a state, Social Security,
6 us, et cetera?

7 MR. ISBERG: Let me just say that the
8 answer in a nutshell is yes, that it's already
9 done, it's already reported done, January 31st
10 to a number of states. The tradeoff that I
11 mentioned is accuracy and you've got a certain
12 amount of employees that are coming back in
13 the first week of February saying, can you
14 make an adjustment.

15 COMMISSIONER SHULMAN: Right.

16 MR. ISBERG: A little bit of that.
17 You know, that's the tradeoff, but obviously
18 it can be done.

19 MS. BROWN: Another idea or thought is
20 to possibly push that January 31st to maybe
21 possibly the middle of February and that way
22 the employer would have the opportunity to
23 process that late information or that first
24 week of February corrections and that way the

1 employer could provide the copies to the
2 employee and to the IRS at the same time. I
3 think that would be something else to
4 consider.

5 COMMISSIONER SHULMAN: Yeah.

6 MR. SATAGAJ: My guess is most small
7 businesses aren't holding it for the extra
8 couple of weeks to get the corrections from
9 the W-2. Their focus is, if I'm going to send
10 these things, I want to get that transmittal
11 thing off to the IRS. That's probably more of
12 a concern to me than actually getting them to
13 the employees as I'm doing my W-3, I guess it
14 is, and sending that in. So my gut tells me
15 that it wouldn't be that much of an issue and
16 I suspect, unfortunately what it will
17 generate, and maybe it won't be more than you
18 have now is errors -- amended W-2s. Because
19 my guess is currently now from small
20 businesses you get more amended W-2s than you
21 do because they're just sending them on.
22 They're not waiting for somebody to come back
23 and say, listen, I think there was a mistake
24 in mine. So that probably is a wash because

1 you're going to get that too. So on balance,
2 the short answer is it probably doesn't make
3 that much difference to move it up.

4 COMMISSIONER SHULMAN: Uh-huh. Okay.
5 That's all I had.

6 MS. TUCKER: Okay. Thanks to our
7 first panel. And if we can, let's go ahead
8 and have our second panel of folks on the
9 stage. These will be folks representing the
10 1099 Issuers Community.

11 (Pause.)

12 COMMISSIONER SHULMAN: Okay. We have
13 our second panel up and let me just gently
14 remind our panelists that we are looking for
15 brief opening statements to allow more time
16 for dialogue and exchange. So, we do have --
17 let me make sure everyone sees, we have our
18 official timekeeper. And being as John was
19 making a point, a former revenue agent, I will
20 enforce the time.

21 (Laughter.)

22 MS. TUCKER: And John, you gave me a
23 flashback of the embarrassment of having to
24 ask a taxpayer I was auditing for the tax

1 returns. So thanks for that blissful memory.

2 (Laughter.)

3 MS. TUCKER: So let me quickly
4 introduce our three representatives, Nicole
5 Tanguy from the Securities Industry and
6 Financial Markets Association; Lisa Chavez
7 from the American Bankers Association; and
8 Karen Botvin from Vanguard. So, to kick us
9 off, why don't we start with Nicole.

10 MS. TANGUY: Okay.

11 MS. TUCKER: See, I mixed it up a
12 little bit on you, so that way I'll be able to
13 run over there and stop you after five
14 minutes, Nicole.

15 (Laughter.)

16 MS. TUCKER: So you want to kick us
17 off?

18 Form 1099 Issuers
19 Securities Industry and Financial Markets
20 Association

21 MS. TANGUY: Sure, I'd be glad to.
22 And thank you, first, Commissioner and Deputy
23 Commissioners, for the opportunity for us to
24 appear today to discuss your very important

1 initiative.

2 I am tax director -- a director in tax
3 counsel at CitiGroup. I've been a long-time
4 member of the tax compliance committee, the
5 Securities Industry and Financial Markets
6 Association, and we concentrate primarily on
7 issues arising with the filing of information
8 returns on behalf of securities firms,
9 including, primarily, the brokerage firms. So
10 we are looking at investor concerns here.

11 Our members are among the largest
12 generators of information or trends, we
13 believe in the country and so we're proud of
14 our contribution to the smooth functioning of
15 the nation's tax system.

16 We represent not only brokerage firms
17 but banks and some asset managers. We file
18 collectively tens of millions of information
19 returns per year and send millions of pay
20 statements to clients. Doing that most first
21 send tax packages rather than sending
22 individual information returns. As they can
23 be finalized we typically create a
24 consolidated tax package which is normally

1 referred to as a consolidated pay statement so
2 that taxpayers get one place to look with all
3 their collected different types of 1099s that
4 might be applicable to their investment
5 products.

6 In preparation for this meeting, we
7 did an informal survey of our members which
8 you might find of some interest regarding for
9 the 2010 information returns, we're willing to
10 share the results of our volumes and the
11 degree to which we worked with taxpayers and
12 enrolled agents to perfect the consolidated
13 pay statements to improve their accuracy
14 before they're actually filed with the
15 Internal Revenue Service. And we think that
16 these numbers will show you how much
17 significant work is actually put in, in
18 preparing for these accurate returns.

19 Most commonly corrections occur to the
20 consolidated pay statements because we
21 received new information of the tax treatment
22 of distributions from mutual funds, or real
23 estate investment trusts, but it can also
24 occur with respect to some nonstandard

1 securities where we receive information after
2 the overall due date for a consolidated pay
3 statement of February 15.

4 Of the members that responded to our
5 survey, there were reported that there were
6 10.4 million consolidated pay statements.
7 Now, remember this is not -- this more a
8 number of taxpayers rather than number of
9 individual information returns, because one
10 consolidated return can include multiple types
11 of 1099s be it a 1099-ENT, a 1099-DIV, a 1099-
12 OID, a 1099-B showing sale transactions or
13 even a 1099-MIS for income related to
14 securities.

15 During the four months following the
16 initial -- following the year end, our members
17 sent out 1.3 million corrected pay statements.
18 In other words, 12.7 percent of the statements
19 we mailed in January and February were
20 subsequently updated with new information that
21 we had received or from third parties or
22 errors that we had found.

23 Of these corrected information pay
24 statements, 29 percent were delivered in the

1 second half of February; 61 percent in March;
2 2.6 percent in April; and 7 percent in May.
3 The crescendo of corrected pay statements or
4 new pay statements furnished in March reflects
5 the addition forms 1099 and supplemental
6 information that we filed on regular interest
7 in real estate, mortgage investment conduits
8 or BEMEX and widely held fixed income trusts.
9 They have a later March 15th payee statement
10 due date because of their tax complexity.

11 And you may not be able to see, I've
12 written -- we have a nice pretty chart to show
13 this to you.

14 MS. TUCKER: Okay. Nicole, I think
15 we've got your submission. So we'll share
16 that and then we'll -- let's move on to Lisa
17 and then we'll have some time for questions.
18 Thank you.

19 American Bankers Association

20 MS. CHAVEZ: Thank you. I am pleased
21 to be here today on behalf of the member banks
22 of the American Bankers Association and want
23 to begin by thanking the IRS for engaging
24 stakeholder groups in this discussion of your

1 real time tax system initiative.

2 The ABA believes strongly that it's
3 critical for IRS to continue working with
4 these key stakeholders during all stages of
5 developing the initiative and it's clear from
6 the participants here today and your meeting
7 in December that you're committed to doing so.

8 The American Bankers Association
9 represents a significant number of information
10 return filers and we are pleased to have this
11 opportunity to share our perspective with you.
12 Given that our goal today is to have a high-
13 level discussion and that I can see the clock
14 ticking over here, I am going to focus
15 primarily on four of the key comments that
16 were included in our written statement.

17 First, we believe that a phased-in
18 approach to launching this initiative may have
19 many benefits and you might consider beginning
20 with matching Forms W-2 to Forms 1040-EZ with
21 additional returns and information returns
22 brought into the initiative at later stages.
23 Even then we think it's important to note that
24 it may not be possible to match each and every

1 type of information returns to tax returns in
2 real time.

3 Second, if the timeline for providing
4 information returns to payees and for filing
5 information return data with the IRS are
6 adjusted utilizing a phased-in approach, it's
7 important to consider, as Nicole stated, that
8 many financial institutions produce what are
9 called "consolidated payee statements" or tax
10 packages, so that it may be difficult to split
11 up the different types of information returns.
12 If you desire to accelerate the filing of one
13 type of return, that may be difficult to do in
14 the consolidated pay statement environment.
15 And Nicole touched more on those challenges.
16 So I won't go into that any further.

17 Third, compression of the time between
18 the deadline for providing information returns
19 to recipients and the deadlines for which
20 information return files must be given to the
21 IRS, may increase matching errors and be
22 counterproductive to the goals of the
23 initiative. Payers should not be required to
24 post information to the IRS until after the

1 statements have been furnished to payees and a
2 reasonable time has passed for those payees to
3 receive and review their statements, notify
4 the payor of any errors or disagreements and
5 receive at least explanations or perhaps
6 corrected statements from the payor.

7 The IRS had indicated in some of the
8 presentations that there's about a 1 percent
9 correction rate. We presume that this
10 statistic refers to correction to data files
11 submitted to the IRS and we believe this is
12 likely the case today because payors are able
13 to make corrections between the time
14 recipients are provided information returns
15 and the time the information returns are filed
16 with the IRS. Nicole touched on this as well,
17 and the ABA members certainly have the same
18 experience that for the most part filers start
19 to hear from 1099 recipients in January when
20 they receive their returns. There is a back
21 and forth period many times and this grace
22 period likely minimizes the volume of
23 successive corrections and increases the
24 accuracy of the returns at the time they're

1 filed with the IRS. So we want to be cautious
2 of any discussions of compressing that
3 timeframe.

4 And, finally, the greatest concern
5 that ABA members have revolves around what
6 happens when mismatches are identified by a
7 taxpayer while filing or preparing to file
8 their returns. A simple and efficient method
9 of resolving these mismatches, of course, is
10 essential. And it should not always be
11 presumed that the taxpayers' information is
12 incorrect. And there needs to be a process
13 where taxpayers and their return preparers can
14 clearly identify the mismatches between their
15 records and the information returns on file
16 with the IRS under their tax ID and, of
17 course, this should be done before the return
18 is filed. So I was very pleased to hear,
19 Commissioner, that you're not intending to
20 outright reject returns, and I think that's
21 very helpful. Because our members believe it
22 would be a disaster to do that.

23 Our taxpayers will need a mismatch
24 information sort of notification message that

1 provides complete information about the nature
2 of the mismatch. For example, it could be
3 merely a situation where the taxpayer has
4 moved, didn't receive their 1099 in the mail,
5 but they've never informed their financial
6 institution of a change in address, so it may
7 just be an omission that's easy to correct,
8 but they need to know really what's missing
9 from the file in order for them to determine
10 how to correct it.

11 We also, as I emphasized before,
12 taxpayers and their return preparers need to
13 have an opportunity to reach out to the
14 information return filers to make any
15 corrections.

16 Finally, we believe that a reasonable
17 approach would include changing the earliest
18 date taxpayers can begin to file their tax
19 returns to a later date, perhaps March 15th and
20 then extending the tax filing deadline. We
21 understand that this suggestion is not going
22 to resonate with taxpayers, it's going to be
23 unpopular and especially for those that rely
24 on refunds. But we do believe that this

1 suggestion is worthy of consideration and
2 other groups have made it as well.

3 MS. TUCKER: All right. Thank you,
4 Lisa. And last, but not least, Karen.

5 The Vanguard Group, Inc.

6 MS. BOTVIN: Thank you. My name is
7 Karen Botvin and I am here today representing
8 Vanguard. I appreciate the opportunity to
9 participate in this panel and to provide
10 comments on the real time tax system.

11 My professional career is actually
12 centered around providing taxpayers with
13 timely, accurate information that they need to
14 file their tax returns. I think you've heard
15 a lot of things already from both my panelists
16 here and the previous panelists. But I think
17 since one of your goals is actually to reduce
18 administrative burden, we want to be careful
19 not to increase it by putting the IRS
20 essentially in the middle of us correcting our
21 data.

22 And what I mean by that is Vanguard
23 actually issues about six million tax forms
24 overall. And I was asked to actually focus on

1 the 1099-R. Of that we issue about two
2 million 1099-Rs and we only have less than a
3 thousand actually amended forms that we file
4 to the IRS. That means that that gap period
5 that everyone has been talking about, from the
6 time that we actually issue the forms to the
7 taxpayer until the time that we file our
8 electronic file with the IRS, we're busy
9 correcting anything that the taxpayer may have
10 brought to our attention, or that maybe the
11 plan sponsor thought of or corrected after the
12 fact. So to put the IRS in the middle of that
13 process, I think would only increase burden on
14 the whole entire process.

15 I think it's also important to
16 remember that especially with qualified
17 retirement plans and IRAs, there are some
18 things that we just won't have at year end.
19 Deemed loans, for instance, is one. Receiving
20 third-party information from insurance
21 companies for the tax that's due on the
22 employee's share of insurance premiums is
23 another thing. Excess deferrals is a perfect
24 example. Under Section 402(g) people have the

1 option right now to identify that they put too
2 much money into their retirement vehicle up
3 until April 15th. And that particular
4 transaction will generate two different tax
5 forms. One will be for the excess deferral
6 removal, one will be for the accrued interest.
7 But both will be a mismatch of data within
8 those two tax years.

9 So it's important to keep in mind
10 there are nuances that actually happen in the
11 course of business that would make for a
12 mismatch.

13 Others have talked about the whole
14 timing over accuracy or accuracy over timing.
15 And I think, you know, we've recommended that
16 we look at the tax season. Today it's
17 simultaneously. Everyone is doing the same
18 thing at one time. You know, the taxpayers
19 are trying to file their returns. We're
20 trying to give them their tax forms, you guys
21 want to load the data so that you can match it
22 at the same time.

23 I think a better approach might be to
24 look at it on a consecutive process going

1 forward. Yes, it probably won't be happy
2 initially, but people will get used to the
3 change of the season essentially. I mean,
4 that's kind of what it will come down to.

5 Probably the last thing that I would
6 like for you to consider is as we go through
7 this, there are certain other things that
8 we're already making changes for. Cost basis
9 is a perfect example. I mean, we've been at
10 that for years and that's still in a phased-in
11 approach. 2012 is the first year that brokers
12 are required to provide tax reporting on
13 stocks. 2013 we need to do it for mutual
14 funds and dividend reinvestment plans. 2014
15 will be bonds and derivatives. And let's not
16 forget FATCA. We all need to make changes to
17 incorporate that part of it as well. So,
18 phased-in approach, the timing, accuracy, over
19 timing, essentially, and possibly consecutive
20 rather than simultaneous reporting periods are
21 my main thoughts.

22 MS. TUCKER: Okay. Thank you very
23 much.

24 MS. BOTVIN: Sure.

1 MS. TUCKER: Commissioner.

2 COMMISSIONER SHULMAN: Thanks. Now
3 you know what my life is like with Beth. You
4 know, keeping everyone to the time. So thanks
5 for moving along. We'll have some time.

6 I guess I'd just make two comments.
7 One is this concept of phased launch, I think
8 makes a lot of sense. And the idea that I
9 think we've thought about a variety of
10 combinations of how would we move into this
11 without making major changes to external
12 systems. And the idea of 1040-EZ with W-2,
13 those are the kinds of ideas that we need.
14 The other is to look at which -- which of the
15 information returns has the highest volume,
16 earliest return, least errors. Because, as
17 Nicole notes, once you get into structured
18 products and real estate trusts, you have a
19 different set of complexity and there's a lag
20 time when you're talking about just pure
21 stocks, bonds, straightforward stock mutual
22 funds, those could be easier to address and
23 you have to balance that against who -- making
24 sure that there's a compliance burden. That

1 we're not adding burden to the people with the
2 simplest returns.

3 The second is, and what we'd love to
4 really engage that broader community with over
5 time is this whole issue resolution. Just to
6 be very clear, we don't imagine having our
7 current resource allocation of the IRS budget
8 if we made a major shift in this direction.
9 And so you could imagine taking 10 percent, 25
10 percent of the people and the money that we
11 spend on backend and loading it into frontend
12 call centers, resolution, real time online
13 tools to move these things. So we recognize
14 that over time this is a very different
15 paradigm and we appreciate this notion that
16 how we did that will be the key, frankly, of
17 the success.

18 And then finally, it's very helpful
19 for our thinking just thank all three of you,
20 the laying out for us in your written
21 testimony what you talked about today, the --
22 the fact that you use the early sending of the
23 1099 in most of these cases out to your
24 investors or your clients, your customers, as

1 a way to -- and you use that gap period
2 between when we file as a way for resolution,
3 and making sure that we keep those kinds of
4 processes and enhance on them. So there is
5 some resolution makes sense. So I think all
6 of those are really worthwhile points.

7 MS. TUCKER: Alright. Okay. Thanks,
8 everybody, we really appreciate it. And,
9 Steve, I think we're going to continue on to
10 the next panel.

11 Mr. Miller: Yeah, let's do that if we
12 could. So if we could have the third panel
13 come up, that would be great. That's the
14 software developers.

15 All right. We have our third panel
16 representing the software providers and here
17 we have Bernie McKay from Intuit, Dave Olsen
18 from CCH, and John Sapp from Drake Software
19 and let's continue to shake it up just a tad.
20 And I will warn you guys the five minute rule
21 will be enforced by Ms. Tucker.

22 (Laughter.)

23 Mr. Miller: So if you could watch the
24 clock, that would be wonderful. But let's

1 start, Bernie, with you and we'll work
2 through.

3 Software Providers

4 Intuit

5 MR. McKAY: Thank you, Mr.
6 Commissioner, Deputy Commissioners, thank you,
7 for the opportunity to participate in your
8 dialogue on this. My name is Bernie McKay,
9 I'm chief public policy officer of Intuit.

10 As you know Intuit is a leading
11 provider of tax and financial management and
12 on-line banking solutions for consumers, for
13 small and mid-sized businesses, accountants,
14 and financial institutions.

15 I submitted, earlier, a written
16 statement which we would appreciate you
17 including in the record. But let me try to
18 just hit a few salient points for ease of
19 dialogue and discussion this morning.

20 We would agree increasing return,
21 completeness, and accuracy is an important
22 objective. And we agree in principle with the
23 benefit of verifying information in real time.
24 At the same time government does not have

1 unlimited resources to implement systems, nor
2 do the small businesses of this country who
3 must report financial information that's
4 integral to tax preparation.

5 As it has been proposed and refined
6 over the last year, there are some distinct
7 advantages of a system that would do real time
8 verification of data. Many of these benefits
9 have been well defined and identified in
10 previous testimony in the series of hearings
11 you're conducting, including here this
12 morning. Rather than rehashing all of those
13 benefits, let me try to see if we can add some
14 additional thoughts in some additional areas.
15 All of those are important and clearly through
16 catching and the process that you're proposing
17 to try to validate returns before an
18 inaccurate refund check is actually issued and
19 catching them in such a way that you could
20 really have an evolution in tax administration
21 would improve the functioning of the tax
22 system in a fundamental way. Notwithstanding
23 the advantages of the concept, there could be
24 practical implications that could impact the

1 potential for success depending on
2 implementation strategy. As is so often the
3 case in complex undertakings, the devil will
4 be in the details. And to borrow from author
5 Steven Covey, the IRS implementation strategy
6 needs to begin with the end in mind.

7 Let's consider for a moment outcomes
8 and the importance of trying to avoid
9 unintended or unanticipated consequences.
10 There's a potential for impact for both
11 individual taxpayers and small businesses
12 depending on the implementation strategy
13 employed to realize the vision. For example,
14 changes to reporting requirements as has been
15 discussed this morning that have to be perhaps
16 a part of the implementation has to be
17 approached with assumptions that take great
18 care about how this would be done.

19 Let's look at a recent experience that
20 I think everyone in this town had and that's
21 the recent case of changes to 1099 reporting
22 under the Affordable Care Act of 2009 and the
23 impacts on small business that became a major
24 controversy. The impacts were extensively

1 documented by groups such as the NFIB, the
2 Chamber, and others. In the end the calls for
3 repeal included the president and the SBA and
4 that 1099 reporting series of changes was in
5 fact repealed by Congress just a year after
6 enactment. That experience in public policy
7 should be instructive in thinking through
8 implementation strategies as IRS evaluates not
9 the what, but the how, of its real time
10 vision.

11 In an era of budget limits, the
12 technology strategy selected for the real time
13 solution needs to be innovative and cost
14 effective.

15 One of the unique lessons learned from
16 the IRS's highly creative and successful
17 electronic filing strategy over the last
18 decade was raised just this morning by the
19 Commissioner. The notion -- to use an old-
20 fashioned expression -- of trying to leverage
21 and use other people's money to help drive
22 outcomes is something that an era of limited
23 government and limited budgets is well worth
24 applying to analysis of this objective. IRS

1 has done it in several ways. The e-filing
2 challenge of going from 20 to 90 percent on
3 individual returns is an extraordinary success
4 story. What lessons can be learned from the
5 strategy that was used there?

6 The IRS strategy with the free-file
7 program is another success story where what
8 the Service essentially did was leverage
9 private sector investment, innovation and
10 invention and then apply it to public purpose,
11 rather than expending public funds to reinvent
12 the wheel.

13 In today's context there may be
14 creative strategies that would continue to
15 leverage rather than duplicate private sector
16 innovation.

17 Some years ago the private sector
18 developed an open standard called "OFX" for
19 secure electronic transfer of financial data.
20 In turn software applications were developed
21 that enabled consumers to access and utilize
22 their own data directly from their own --

23 COMMISSIONER SHULMAN: If I could ask
24 you to wind up, I'd appreciate it.

1 MR. McKAY: Sure. -- directly from
2 original sources, that's happening today in
3 commercial pre-population of tax returns
4 before they're sent to the IRS.

5 Rather than duplicate or reinvent
6 perhaps a working project group between IRS
7 and the private sector looking to public
8 private partnership could be a way to approach
9 the objective and the strategy of the IRS to
10 develop an implementation model that could
11 avoid unintended consequences and leverage
12 private sector invention and innovation to
13 public purpose.

14 Let me stop there and wrap up.

15 Mr. Miller: Thanks. Mr. Sapp.

16 Drake Software

17 MR. SAPP: I'm John Sapp from Drake
18 Software. We have roughly around 37,000 tax offices
19 in the United States, professional tax preparers that
20 utilize our software and our electronic filing
21 processes to produce tax returns for taxpayers. And
22 we've been doing that for a little over 30 years.

23 As a result of that, we always take IRS
24 initiatives with a little bit of a grain of salt, and

1 you'll have to excuse us for that because, as Bernie
2 mentioned, and I think even this morning as I was
3 listening to the W-2 panel, which you'll notice in one
4 of our recommendations is to start with W-2 and try to
5 limit the population and limit the scope of unintended
6 consequences.

7 I'm reminded of the story Ronald Reagan
8 used to tell about the chicken farmer that he went to
9 visit that had increased his chicken production by 50
10 percent and he had done that by creating a three-
11 legged chicken. And when Ronald Reagan asked him how
12 the chicken tastes, the farmer said, "we don't know
13 yet, we haven't been able to catch one." So we're
14 very cognizant of those unintended consequences. And
15 we think about things like changing the filing season.
16 I think there were a lot of people in the audience who
17 may have gasped when we heard that recommendation. Or
18 because we deal with taxpayers on a day-to-day basis,
19 we know what their expectations are and trying to
20 steer that ship in a different direction would be very
21 difficult.

22 But with that in mind, taking things we're
23 already doing and improving them such as the e-filing
24 process, maybe leveraging the imperfect return is a

1 way to go ahead and get the acceptance of the actual
2 file date of a tax return to stop the clock on the due
3 date and then allowing a process -- and I think this
4 is key, another panelist had pointed out -- if there
5 is a process that is a clear path to resolution,
6 whatever that path is, if it's clear and there are
7 resources available at the Internal Revenue Service,
8 which once again an unintended consequence of trying
9 to actually save money might be, as Commissioner
10 pointed out earlier, to actually cost the IRS money on
11 the frontend, to actually have to add resources to
12 deal with people on a real time basis face-to-face.

13 COMMISSIONER SHULMAN: Let me just be
14 clear, I didn't make that comment. I was talking
15 about shifting and allocating resources strategically.

16 MR. SAPP: Oh, sorry, my bad.

17 (Laughter.)

18 COMMISSIONER SHULMAN: Just so we're
19 clear.

20 (Laughter.)

21 MR. SAPP: Great point.

22 So computers, while they may be great
23 tools to leverage technology are not necessarily great
24 customer service representatives. So I agree with you

1 that shifting resources to do that, in our opinion, it
2 would take some increase in resources in order to do
3 this knowing that the IRS is already strapped in the
4 resources that they have in their budgetary process.

5 And the other thing that we would highly
6 recommend is just to consider fraud. We've all seen
7 matching documents as a possible way. I mean, the
8 obvious way to look at that would be if you can match
9 documents you're going to decrease fraud. Well, it's
10 our experience that fraud requires three elements.
11 And this is, once again, in our comments. So I
12 apologize for rehashing what's already written down.
13 But it requires speed, anonymity of the person
14 perpetrating the fraud, and a quick way to get out of
15 town, a get-away car. And we see that today a lot in
16 the e-filing process where a lot of the fraud early in
17 the season is because folks can do it anonymously and
18 they can actually get away quickly.

19 So one of the advantages of the way we're
20 doing it today is we have a line between the
21 resolution season which is after April 15th. Whenever
22 the IRS identifies a problem it's resolved after the
23 tax season which actually slows down the process.
24 There's not necessarily totally negative consequences,

1 but one of the positive consequences is a CP2000 has
2 to be mailed to a physical address. Which most folks
3 perpetrating a fraud do not want anything associated
4 with a physical address that they're going to be
5 located at. Their refunds are slowed down for those
6 CP2000 notices.

7 So one of the unintended consequences is
8 we could actually speed up folks that may be able to
9 ping a system over and over and over until they get
10 the correct answer to get a fraudulent return through
11 the system. So just one thing to consider.

12 Finally, we believe that leveraging the
13 preparers is extremely important. And to respect that
14 decision that a taxpayer has made to go to a tax
15 preparer and have that tax preparer represent them.
16 So any communication that is done, for example, with
17 the imperfect return, should go the same as an IRS
18 reject and EF reject would go to the preparer first so
19 the preparer can be the liaison with the taxpayer. So
20 another way to leverage your customer service because
21 your tax preparer, for at least 62 percent of the
22 people in the United States who have chosen one, is
23 your first layer of customer service. And they can
24 solve many of those problems in the tax office as

1 opposed to the phone ringing in at the Internal
2 Revenue Service.

3 So, thank you for your time.

4 Mr. Miller: Thank you. Mr. Olsen.

5 Wolters Kluwer Tax and Accounting

6 MR. OLSEN: Appreciate the opportunity to
7 share some industry view points around leveraging
8 technology and data availability for the benefit of
9 taxpayers and government. And on its face it would
10 seem like real time data availability and validation
11 has potential to lift some burdens on all involved.
12 So we'll turn right to some of the challenges because
13 that's what we're trying to solve. And from my
14 perspective, they fall in three areas; timing,
15 stakeholder identification and impact analysis, and
16 the creating of tools and processes.

17 Under timing challenges, there's actually
18 several. One we have talked a little bit this morning
19 about the filing deadlines. And as we also serve many
20 thousands of taxpayers around the country, the amount
21 of work that has to get done between the receipt of
22 information returns and the 1040 deadlines just makes
23 it apparent that some shifting of deadlines is
24 necessary to make anything of this nature possible.

1 But as we've referred to time shifting in a couple of
2 these exchanges, there is the other side of that coin.
3 That also impacts the practitioner. And what is now
4 for most practitioners post-season work, you know,
5 dealing with notices and resolutions would be
6 compressed into an already compressed filing season.

7 And in the process of preparing for the
8 testimony, we talked to some of our customers. And
9 that's exactly one of the points, and I included the
10 quote in my comments, one said, "we already juggle the
11 intensity of multiple filing deadlines during the
12 months of January and April 15th in order to keep our
13 clients compliant, to shift post-filing activities to
14 occur in these three and a half months would be
15 impossible for us to pull off without one of the
16 contributing factors changing to facilitate the
17 availability of time."

18 So the IRS may have resources you can
19 shift from other activities, but for the practitioner
20 it is an additional activity during a compressed time
21 period.

22 So then also we want to note the timing
23 factor related to refund delivery. And I know you
24 have a sensitivity to this, but I did include a chart

1 in my comments just to highlight the fact that there
2 are that group that I would refer to as vulnerable
3 taxpayers who are basically waiting for when e-filing
4 opens to get their returns in so that they can get
5 their refund. And often that includes refundable
6 credits as part of the refund. And so those people
7 would be significantly impacted and must be considered
8 in what any time deadline shiftings took place because
9 it has real life financial impact on them.

10 Then also there's the -- in the
11 relationship between the practitioners and the small
12 businesses, I noted in the chart in your presentation
13 that was focusing on the significant percentage of
14 information returns that comes from a small percentage
15 of remitters. However, there's the other part of that
16 chart that the other 40 percent plus come from over
17 nine million remitters. And many of these are the
18 small businesses that are serviced by these
19 practitioners. And so we have to think about how they
20 deal with deadlines as somewhat of a separate category
21 from how large organizations deal with them.

22 In thinking about the process, one of the
23 recommendations would be to focus on pre-submission
24 validation. As we think about the objective of an

1 accurate return, then there's the process, well, how
2 does that get achieved. It's through gathering the
3 correct information. And so as today where there is
4 criteria that's communicated to the software
5 development community and the opportunity to
6 incorporate into the process business rules, expected
7 reject conditions, and so on, extending that thought
8 process, leveraging the e-file communication channel
9 is an operation to make that objective better, get it
10 right before it gets there is really, in our view, a
11 better objective than checking it and fixing it after
12 it gets there.

13 So, as we wrap this up, some of the top
14 issues and concerns we would communicate for the IRS
15 is that all of this process is going to rely to a very
16 high degree on accuracy of master file data. And
17 that's just fundamental. That is inherent if you're
18 going to have completeness and accuracy. And then a
19 couple had mentioned taxpayer education. And that
20 extends throughout all the stakeholders involved, the
21 practitioners, the software companies, the taxpayers
22 themselves that setting the expectations,
23 communicating how this is going to work is going to be
24 necessary.

1 And then lastly I would mention late
2 legislation. We've come to almost expect it over the
3 past few years. Not that any of us want to expect it,
4 but it's not hard to visualize situations where late
5 legislation could impact reporting items. If it does,
6 we have to think about how does the system react to
7 that.

8 So, thank you.

9 MR. MILLER: Thank you. Commissioner,
10 questions?

11 COMMISSIONER SHULMAN: No. I mean, I will
12 tell you as I read your testimony yesterday that it
13 was incredibly thoughtful. You know, it's not lost on
14 us. And I say it with, respect for what your company
15 has done, that you've all built very successful
16 business models and profitable business models based
17 on a current system or based on the status quo. And
18 if you want to move the status quo, we need to
19 recognize the impact on business models and all the
20 flow-through through that. And I think the balance
21 we're trying to get, and that's why the details in
22 your testimony are incredibly helpful and we'll look
23 forward to continuing to engage this community. As
24 Bernie said, I mean, I think it will be important that

1 we have not just a couple of public hearings, but that
2 we really keep the engagement up as we think about how
3 to move forward.

4 You know, our challenge is what I said at
5 the beginning which is how do we try to improve the
6 tax system? Shift the status quo in a way that's
7 positive for the majority of Americans, at the same
8 time respecting that, as I said, we're at the center
9 of the tax system, but there's lots of players in the
10 tax system. And I think a lot of the details you
11 brought out brought that to light. So I thank you for
12 it.

13 MS. TUCKER: And, you know, John, I guess
14 the one point that you made that I think we would have
15 to have some additional dialogue on in your analogy
16 about, you know, the potential for people maybe taking
17 advantage of a real time. I think we are actually
18 seeing that a little bit differently in our current
19 system because of the lack of information up front.
20 Unfortunately if someone is looking to perpetrate
21 refund fraud, the current system of us not having
22 information causes a problem. Because you talked
23 about, you know, someone needing the get-away vehicle.
24 In large part people can have that now if they create

1 a false information document. And because of, you
2 know, the current refund process -- so, you know, I
3 think that's one that our inclination is that having
4 the documentation up front actually would help stem
5 some of the abuse we're seeing in the current system.
6 So I think that's an issue that we would want to have
7 addition dialogue and get your perspective on.

8 MR. MILLER: And as we look at your chart
9 on vulnerable taxpayers, absolutely true. It's also
10 exactly the time when we're blind as refunds come in.
11 And so it's a very difficult time for everybody.

12 MR. OLSEN: It is. And if I could add to
13 that, the obvious challenge that presents as we've
14 talked about accelerated dates for submission of
15 information returns, it seems to be extremely
16 difficult to visualize any date that would be early
17 enough to accommodate receiving processing and being
18 able to match at the opening of the current date of e-
19 filing season. So that's somewhat of a confounding
20 problem.

21 MS. TUCKER: Yeah, and I think even some
22 of the dialogue that we heard from the earlier panels
23 and I know our state tax commissioners can put some
24 texture on this too. I mean, even looking at it

1 differently as some of the states have done with the
2 quarterly reporting and shoring up.

3 So, I think as with the other panels, you
4 guys have raised some interesting thought-provoking
5 issues that we're going to have to continue to dig
6 into.

7 MR. MCKAY: And just a thought on that.
8 If you think about the e-file journey that we've had,
9 most of the American people don't really hear anything
10 else from the IRS unless there's an audit down the end
11 of the trail, except when they get their refund. The
12 upfront change in that experience of perfecting a
13 return while the refund presumably would be held as
14 part of the fraud-avoidance problem, is going to
15 create a very, very different experience for
16 taxpayers. It's going to require some, frankly,
17 likely greater taxpayer education than the e-file
18 conversion objective did. Because that was just a
19 modality of how you submit. This would be a more
20 fundamentally different experience. So there would be
21 an education challenge which would be extremely
22 important. And the other is that you ought not to
23 underestimate the customer service change that would
24 be required of -- if you think interaction of where's

1 my refund now can be challenging at times, oh, boy, if
2 people are having a fundamentally different tax
3 compliance experience as they're dealing with
4 perfecting, there is logically going to be challenges
5 and that needs to be well understood ahead of time.

6 MS. TUCKER: All right. Thanks
7 everybody.

8 COMMISSIONER SHULMAN: Thanks a lot.

9 MS. TUCKER: If we can have our next panel
10 from the state tax agency's approach.

11 First let me say, I think everyone knows
12 this is kind of a busy time at IRS with filing season.
13 And the point is not lost on us that our final group
14 of panelists are in their busy season as well. So we
15 really appreciate them taking time to come and speak
16 with us. So it's our pleasure to have Pat Carter who
17 is the director of the Delaware Division of Revenue,
18 also Linda Tanton, the Deputy Comptroller from
19 Maryland, and Craig Burns, the Tax Commissioner from
20 Virginia. So thank you guys so much.

21 And Craig, let's get started with you.

22 MR. BURNS: Oh, boy.

23 State Revenue Commissioners
24 Virginia Tax Commissioner

1 MR. BURNS: Thank you for asking me to be
2 on the panel. I think this was a great initiative and
3 we commend -- at least Virginia commends you for
4 taking this up and beginning the process.

5 I think a lot of what's been said already
6 would apply to Virginia. I know some of the issues
7 that you laid out after your December meeting have
8 been discussed as well. But I'd make three or four
9 points quickly. If a taxpayer feels they cannot use
10 e-file without resolving the discrepancy first, they
11 don't know how to resolve the discrepancy, we're very
12 concerned that many could simply be in the posture of
13 just printing the tax return from your software and
14 mailing it in. We've made great strides, as has the
15 IRS, in pushing electronic filing. I think at least
16 from our perspective, the state benefits from that and
17 the taxpayer benefits from that and we really want to
18 make sure that we're careful to protect what we've
19 accomplished and been able to do on that frontier as
20 we move forward.

21 It's obvious the states have been
22 dependent on the current federal/state e-file program
23 for the majority of their individual tax returns. And
24 any solution that does not integrate with or build

1 upon the current modernized program could adversely
2 affect all states. And any solution that attempts to
3 provide a federal e-solution is going to have to be --
4 and I think you're trying to avoid that, but you're
5 going to have to be aware, I think, going forward that
6 anything that would look like that could be difficult
7 and problematic for states.

8 I think from our compliance and customer
9 service folks, their concern was how were taxpayers
10 going to be able to -- if this comes to fruition --
11 deal with problems as they arise? You're seeing more
12 and more, especially of the next generation of
13 taxpayers, like my kids, calling a customer service
14 center isn't an option. They want to do it online,
15 they want to do it in real time. You know, my
16 daughter would stroke out if she had to call a
17 customer service rep and ask a question.

18 (Laughter.)

19 MR. BURNS: But I think if you're going to
20 get into real time issues where you identify problems
21 real time, you're going to have -- I think we'll have
22 to provide, follow the states, but I think you should
23 be aware as well, how are we going to be able to

1 provide people an avenue to get real time electronic
2 transactions resolved or problems pinpointed that way.

3 And I think the last issue, so I don't
4 really build upon or follow or be redundant with
5 what's been said before, but we would ask that as you
6 go through this process are there ways or other
7 informal sources of information that you can use to
8 bulk up what you would do in real time? We laid out
9 some of these like state DMV records, unemployment
10 insurance files, their filing history as people go
11 through, people with good filing histories who file
12 electronically, they get their refunds quickly every
13 year, they expect that, can we continue that?

14 And as I said, in conclusion, I think the
15 things that we're looking at, we -- as Virginia in the
16 last ten years or so we put a lot of resources into
17 modernizing our system as with the IRS now it's back
18 loaded. We can file, review, assess, and go forward.
19 But I think taxpayers are really, really looking
20 forward to having a lot of that done sooner. I think
21 it would be good for states to get all that resolved
22 sooner. But it's going to -- we were going to require
23 a business shift on our model to deal with that and I
24 think you will make us be partners -- let us be

1 partners as we go through that so we can manage the
2 impact on our business.

3 I would also ask that -- we're one of the
4 few states in Virginia that has a filing -- tax filing
5 deadline different than the April 15th. As you go
6 forward think of those few states that have a
7 different one, how that -- how this change could
8 impact us, what you would do in your processes to
9 recognize that.

10 MS. TUCKER: Thank you very much, Craig.

11 Linda?

12 Deputy Comptroller - Maryland

13 MS. TANTON: Good morning. Thank you for
14 the opportunity to be here. In Maryland, as the
15 Commissioner described earlier this morning, we have
16 historically concentrated on the back end and used, to
17 a large extent, the IRS extract to help us with
18 identifying those areas. But we realized in recent
19 years that we needed to begin focusing and identifying
20 taxpayers who were filing erroneous or outright
21 fraudulent returns and to begin to identify them
22 upfront. Because, as you've said, again, it's much
23 easier to stop a refund from being issued than it is

1 to collect a liability, you know, two months, two
2 years down the road.

3 And so we have begun doing several things
4 in Maryland and we're doing them in baby steps,
5 incrementally. One thing that we started a couple of
6 years ago was in matching through your auspices Social
7 Security numbers and last names to identify taxpayers
8 filing using fraudulent W-2s -- fraudulent Social
9 Security numbers.

10 We thought we had worked all that out
11 internally, how we were going to handle that, and what
12 we discovered is that there were some unintended
13 consequences of turning it on the first year. And so
14 what I would say to you is, anything you decide to do,
15 you need to be nimble enough to recognize when the
16 phone calls start coming in, and the issues start
17 popping up that you had not anticipated, that you be
18 able to turn an on/off switch or modify the program
19 substantially to eliminate those kinds of problems.
20 And we were able to do that the first year with the
21 Social Security numbers and so it benefitted us. I
22 think we have the same pressures that you do on a
23 smaller scale. I work for an elected official. He's
24 always concerned about his taxpayer base. We're

1 always concerned about what the general assembly is
2 going to do with us if they're unhappy with programs
3 that we've initiated; they could cut our budget. They
4 could mandate that we can't do certain things. And so
5 we're very careful about the kinds of reactions that
6 we get from our taxpayer base.

7 This year we have begun to do the same
8 thing with dependent Social Security numbers. We're
9 validating them with your help and we're being very
10 careful about how we handle those that come back as
11 invalid this year. We're trying to give taxpayers an
12 opportunity to correct any errors that may be on the
13 file.

14 We are beginning next year to load our W-2
15 information in to our data warehouse so that we can do
16 some matching, as you're talking about doing, to
17 validate W-2s and the withholding that the taxpayers
18 are claiming. And so we're looking forward to
19 beginning that process. Right now it's a very manual
20 process where if they don't attach their W-2 to their
21 paper return, we mail back the return and tell them to
22 attach it or we just outright deny the withholding.

23 We've got a couple of models that have
24 gone into our data warehouse this year to help us

1 identify filters that will help us identify some
2 fraudulent returns. So we're looking forward to using
3 that.

4 The benefits that we're achieving are the
5 same ones that you talked about earlier and so I won't
6 go into those. But I would say that some of the
7 issues going forward that we'd like you to think about
8 is that with many of the states, our tax returns begin
9 with your federal information. And so anything that
10 you do to a taxpayer's return to adjust it in your
11 upfront processing has a potential flow-through to the
12 states. And if we don't know about it until we get
13 your extract, then the taxpayer may be well served by
14 the IRS, but it's not going to be well served then by
15 the states. And we're going to have the same
16 complaints from taxpayers that we get now which is,
17 why did it take you two years to get to us? In
18 Maryland the interest rate is 13 percent. All of our
19 taxpayers believe it's onerous and complain about it
20 vociferously. And so I would urge you to make us your
21 partners in going forward because it would be very
22 helpful for us if you're going to have this
23 information to use in your upfront processing that the

1 states also have this information available to them as
2 they do their upfront processing.

3 MS. TUCKER: All right. Thank you, Linda.
4 And as I mentioned, this is a busy time for our
5 partners at the states, but I think Pat Carter is
6 particularly busy not only as I mentioned is he the
7 Director of the Delaware Department of Revenue,
8 congratulations are in order, Patrick is also the
9 president of the Federation of Tax Administrators, the
10 body that represents the 50 states and a couple of
11 cities. So official congratulations to you, Pat.

12 Director Delaware Division of Revenue

13 MR. CARTER: Thank you, Beth.

14 Good morning, I've actually -- Delaware,
15 we've been doing, actually upfront processing in
16 excess of 15 years. So we've kind of been suffering
17 through the people who call us up and say I've gotten
18 my refund -- my federal refund -- four weeks ago, how
19 come I haven't gotten my state refund? But I think
20 that I gave you some stats in my presentation here,
21 but I think that has really well served us for a
22 number of reasons.

23 Beth, you jokingly said that when a
24 taxpayer receives notice from the IRS they're planning

1 for their Disney World vacation. We've decided to do
2 the processing on the front end and adjust the refund
3 if it needs to be adjusted because we found out or we
4 believe if we hadn't done that, they would have spent
5 that refund on that Disney World vacation and they
6 wouldn't have the money to pay us back when we found
7 out that they had made a miscalculation.

8 What we've done is we have a number of
9 exceptions, we call it exception processing, filters,
10 whatever you want to call it, that we put in place.
11 We look at those exceptions, and what's interesting
12 with the stats that I brought in here that in the last
13 few years, approximately 60 percent of the all the
14 refunds -- or refund returns go through the system
15 without any change. Quickly process, we do our
16 matching, we see no problems, they're out the door.
17 And the average time for those refunds to get out the
18 door in the last three years was somewhere around
19 eight days. So if there's no exceptions, 6 percent of
20 all the returns come in, the refund is actually being
21 printed and being mailed out.

22 It's the ones where we do have an
23 exception of some time, an exception could be math
24 error, it could be we look at the itemized deductions,

1 Schedule C, Schedule Es and we think that there's
2 something going on there. We don't know what it is,
3 but we think that there's something going on there.
4 We'll have a group of people who will review those
5 returns. They're trained, some of them with
6 specialties, so they can -- they train for the more
7 difficult returns. And then we'll send out a tax
8 advisory. They can make changes on the fly, so if
9 they see something and they're looking at itemized
10 deductions, but over a period of years that same
11 taxpayer has always had a high itemized deductions and
12 we've reviewed it in the past and we've cleared them,
13 they'll clear that return without any communication to
14 the taxpayer. It still becomes an exception that we
15 look at it, but nothing's changed.

16 If we do have an issue, we will send out a
17 paper communication, what we call a tax advisory
18 notice to the taxpayer asking them to give us
19 feedback. And we think that works very well because
20 if they've used a tax preparer and someone mentioned
21 60 percent of all tax filers use a preparer, the
22 preparer has the information, they probably just filed
23 it with us and can quickly gather information, send it
24 back to us if they need to, to correct the data, or

1 educate us onto why something happened or provide
2 supporting documentation for that. And we have a very
3 good working relationship with our local tax preparer
4 community. So for us it has helped to expedite that.
5 Although the average time to get a -- with an
6 exception -- a refund out the door, it ranges between
7 30 to 40 days which we've been willing to deal with.
8 The average time for a refund, for all refunds is
9 somewhere between 17 and 20 days. So our target is to
10 try to keep it under 21 days. We actually have a
11 performance target. But the key is having public
12 service people who can get the feedback and having the
13 educated staff who can review the return.

14 Is there a benefit to doing that? For
15 Delaware there's been a big benefit. We're a small
16 state, but in the last three years we've actually
17 adjusted returns and have not issued refunds to the
18 benefit of over \$8 million. Our tax rate is a fifth
19 of the federal tax rate. We receive 500,000 returns,
20 I think, 140 million returns is what the IRS -- so we
21 have different issues. But if you want to do a
22 multiplier on that, it's a big number that we save on
23 the front end where we're not sending out bills to the
24 taxpayers with penalty and interest. We just adjust

1 the refund on the front end and tell them that for
2 these reasons they're getting less money and if they
3 want to file an amended return or subsequently give us
4 the information we'll make corrections. But it does
5 work. It is a lot of work and it is an education for
6 the taxpayers and preparers. But I think I would be
7 very happy to see the IRS start this initiative
8 because it helps us when we stop something. And the
9 comment is, well the IRS hasn't -- has not notified us
10 or looked at this. I know it may be 18 months down
11 the road, I'm not going to tell the taxpayer that.
12 But it tends to be difficult for us.

13 I do want to reiterate what Craig and
14 Linda said, that it is a partnership between the
15 states and the IRS and I think we can work well
16 together on a collaborative basis helping to process
17 these and find the exceptions. The real issue is
18 finding the problem returns and getting them taken
19 care of before they get out the door. Because once
20 they're out the door it's very difficult to recoup
21 that money. Thank you.

22 MS. TUCKER: All right. Thank you.

23 Thanks to our panel.

24 Commissioner?

1 COMMISSIONER SHULMAN: I mean, very
2 helpful. Obviously you're important partners with us
3 as we try to make the nation's broad tax system work
4 under the federal/state systems and it's helpful to
5 think through the experiences and obviously as we move
6 forward we need to make sure we stay in tight
7 coordination.

8 MS. TUCKER: I think the other thing that
9 you guys have been very helpful with are the concerns
10 that we all have about refund fraud and in particular
11 identity theft. And I know that that scenario that
12 we're all talking about the benefits of upfront
13 information reporting to help us all deal with that
14 growing problem. So I think that's another benefit
15 that we're all looking forward to.

16

17 MS. TUCKER: All right. Thank you very
18 much, our final panel.

19 COMMISSIONER SHULMAN: Thank you.

20 MS. TUCKER: So, Commissioner, I'll turn
21 it back over to you.

22 COMMISSIONER SHULMAN: So let me wrap this
23 up. I'd like to tell a story of my first day on this
24 job where I came in, I was sworn into office, I went

1 out and met with our senior team, started to get some
2 things in order. You know, I had a long day and
3 starting to learn about the agency, went home. My
4 mail was there and I'm flipping through it, there's a
5 return address from the IRS and I had been through
6 months of FBI background checks and all the tax stuff
7 and everyone had looked at my returns for ten years
8 back. You know, I'm clean as a whistle, got
9 confirmed, and it was just showing up. But my heart
10 stopped, I said, oh, no, this is all I need.

11 (Laughter.)

12 COMMISSIONER SHULMAN: And I opened it up
13 and it was from personnel processing, like some
14 information they needed. But the average American
15 doesn't want to get a letter with a return address
16 from the IRS and I often tell people we're a
17 misunderstood agency because most people's experience
18 with us is they e-file their return, they get an
19 electronic -- 80 percent are getting a refund with an
20 average of \$3,000 and it's a very quick, good process.
21 But there's also the other experience people have when
22 they get caught up in the compliance net. So when you
23 talk about the benefits of this, one we like to talk
24 about is just reducing anxiety. People are going to

1 get a lot less of those letters and they're going to
2 get a lot more when they're having their interaction
3 engaging it.

4 I think this dialogue today really did put
5 a spotlight on how we do those issue resolutions
6 really determines the success of the program. Second
7 is we've talked about when it happens a couple years
8 later, if you do owe us money, there's interest,
9 there's penalties, there's money spent. It can be
10 expensive. And then probably the biggest expense is
11 time. The time saving if you do it twice versus doing
12 it once really could reduce burden for taxpayers.

13 Then there was a discussion also about in
14 the time of constrained federal budgets, we need to be
15 careful about what we invest in. And I'm quite proud
16 our team over the last several years has moved forward
17 major initiatives, moved forward technology by finding
18 savings elsewhere, but not having major net additions
19 and so we're continually looking for investment.

20 I think the other side of the ledger is we
21 bring in the revenue. And as the Commissioner of --
22 or the Director or the Delaware Division of Revenue
23 talked about, to the extent this could significantly
24 reduce fraud we're talking about multiple billions of

1 dollars of additions to the top line. And so it's
2 important for the agency. But with that said, I also
3 really sincerely believe that the way to do something
4 that has this much benefits and move the status quo in
5 a significant way for the benefit of the country is to
6 do it in partnership with all of the constituents.
7 And that -- hearing from the various players in the
8 system last meeting and that is meeting really
9 enriches our sense of the details of this and we're
10 going to take very seriously the feedback we got.
11 We're now going to move into a phase where we've done
12 a lot of internal work, we've gotten a lot of external
13 feedback and start trying to put together a blueprint
14 about how you could start phasing things forward
15 which, again, we'll have a full public discussion
16 about. So thanks everyone for coming and we look
17 forward to continuing this dialogue.

18 (Whereupon, at 10:45 a.m., the meeting was
19 adjourned.)

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings
before:

INTERNAL REVENUE SERVICE

In the Matter of:

REAL TIME TAX SYSTEM INITIATIVE**PUBLIC MEETING II**

Were held as herein appears and that this is the
original transcript thereof for the file of the
Department, Commission, Board, Administrative Law Judge
or the Agency.

Further, I am neither counsel for or related to
any party to the above proceedings.

Wendy Greene
Official Reporter

Dated: January 6, 2012