United States Government Accountability Office

Report to the Ranking Member, Subcommittee on Financial Services and General Government, Committee on Appropriations, U.S. Senate

July 2015

PATIENT PROTECTION AND AFFORDABLE CARE ACT

IRS Needs to Strengthen Oversight of Tax Provisions for Individuals

GAO-15-540

GAO Highlights

Highlights of GAO-15-540, a report to the Ranking Member, Subcommittee on Financial Services and General Government, Committee on Appropriations, U.S. Senate.

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Why GAO Did This Study

Tax year 2014 marked the first time individual taxpayers were required by the Patient Protection and Affordable Care Act (PPACA) to report health care coverage information on their tax returns. Taxpayers reported on whether they had health care coverage, had an exemption from the coverage requirement, or owed a tax penalty (the SRP). Most taxpayers who received coverage through a health insurance marketplace were also eligible for an advance PTC to make their coverage more affordable. Marketplace customers can choose to have the PTC paid in advance to their insurance company or may claim all of the credit when they file their tax returns. GAO was asked to review IRS implementation of the individual shared responsibility and PTC tax provisions.

Among other objectives, this report examines (1) IRS's implementation of these PPACA requirements; and (2) IRS efforts to collaborate with key external stakeholders. To address these objectives, GAO reviewed documents from IRS and CMS; analyzed preliminary 2014 tax year data; and interviewed officials from IRS, CMS, marketplaces and other key external stakeholders, such as tax preparers and tax software companies.

What GAO Recommends

GAO recommendations include that IRS (1) assess whether marketplace data delays are an ongoing problem, (2) assess the reliability of the data for IRS matching, (3) work with CMS to get complete data and track the aggregate gap between advance PTC paid and reported, and (4) evaluate its collaboration efforts. IRS generally agreed with GAO's recommendations.

View GAO-15-540. For more information, contact James R. McTigue, Jr., at (202) 512-9110 or McTigueJ@gao.gov.

What GAO Found

In January 2015, the Internal Revenue Service (IRS) began verifying taxpayers' premium tax credit (PTC) claims using marketplace data on enrollments and advance payments of the PTC. IRS is using its standard examination processes to check the coverage, exemption, or shared responsibility payment (SRP) information taxpayers report. IRS's overall goals are to efficiently and effectively enforce compliance with tax laws, reduce taxpayer burden, and encourage voluntary compliance.

Incomplete and delayed marketplace data limited IRS's ability to match taxpayer PTC claims to marketplace data at the time of return filing. Complete marketplace data for the 2014 coverage year were due to IRS in January, but due to marketplace delays in transmitting the data and IRS technical difficulties with processing the data for matching, as of March 21, 2015, IRS had complete data available for verification of taxpayer PTC claims for 4 of the 51 marketplace states (i.e., the 50 states and the District of Columbia). IRS does not know whether these challenges are a single year or an ongoing problem. According to IRS officials, IRS checks the formatting, but not the accuracy of the data. Although IRS implemented contingency plans to compensate for missing and inaccurate data, those processes were more burdensome for taxpayers. Assessing whether the problems with the timeliness and reliability of the marketplace data are expected to be an ongoing challenge, rather than just a first-year problem, would help IRS understand how it can use the data effectively and better target contingency plans.

IRS does not know the total amount of advance PTC payments made to insurers for 2014 marketplace policies because marketplace data are incomplete. Without this information, IRS does not know the aggregate amount of advance PTC that taxpayers should have reported on 2014 tax returns. Thus, IRS does not know the size of the gap between advance PTC paid and reported or the extent of noncompliance with the requirement for recipients of advance PTC payments to accurately report those payments on their tax return, a measure that could help IRS assess the effectiveness of its education, outreach, and compliance efforts.

Successful implementation of the PTC and individual shared responsibility tax provisions requires IRS collaboration with the Centers for Medicare & Medicaid Services (CMS)—which is responsible for overseeing the marketplaces—and the marketplaces, and communication with other stakeholders, such as tax software companies, employers, and health insurers. IRS worked to collaborate and communicate with external stakeholders to implement PPACA requirements for tax year 2014. However, several external stakeholders GAO spoke with reported challenges with IRS collaboration efforts, such as not receiving certain IRS guidance in time for stakeholders to have complete information at the beginning of the filing season. IRS is evaluating opportunities for improving return processing and the taxpayer experience, but is not evaluating its collaboration efforts. Without an assessment of its efforts to collaborate and communicate with key external stakeholders, challenges in implementing the 2014 PPACA requirements that relied on these groups could also affect new requirements taking effect in 2015, including new information reporting requirements for the State-based Marketplaces, issuers of coverage, and applicable large employers.

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Abbreviations

AVS	Affordable Care Act Verification Service
CMS	Centers for Medicare & Medicaid Services
EPD	Exchange Periodic Data
FFM	Federally-facilitated Marketplace
HHS	Department of Health and Human Services
IRC	Internal Revenue Code
IRS	Internal Revenue Service
MEC	minimum essential coverage
PPACA	Patient Protection and Affordable Care Act
PTC	premium tax credit
SBM	State-based Marketplace
SRP	shared responsibility payment
Treasury	Department of the Treasury

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

July 29, 2015

The Honorable Christopher Coons
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate

Dear Senator Coons:

The Patient Protection and Affordable Care Act (PPACA) aimed to expand health insurance coverage and make it more affordable for low-income households.[1] Under PPACA, beginning in 2014, individuals must pay a tax penalty, known as the individual shared responsibility payment (SRP), if they do not maintain certain levels of health care coverage for themselves and their dependents and do not qualify for an exemption.[2] When filing their income tax returns with the Internal Revenue Service (IRS), taxpayers must (1) report that they and their dependents had qualifying health care coverage for the full year, (2) report an exemption from the coverage requirement, or (3) pay the SRP, (or some combination of the above).

PPACA also required the establishment in all states of health insurance exchanges—marketplaces where eligible individuals may compare and select among insurance plans offered by participating private issuers of health coverage.[3] In 2014, the federal government operated the Federally-facilitated Marketplace (FFM) for 34 states and 17 states

[1]Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152,124 Stat.1029 (Mar. 30, 2010). In this report, references to PPACA include all amendments made by the Health Care and Education Reconciliation Act.

[2]Internal Revenue Code (IRC) § 5000A.

[3]Pub. L. No. 111-148, § 1311(b), 124 Stat. at 173. For states that elected not to establish a marketplace, PPACA required the federal government to establish and operate a federal marketplace, referred to as the Federally-facilitated Marketplace (FFM). The Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) is responsible for overseeing the establishment of State-based Marketplaces (SBM) and maintains the FFM. Pub. L. No. 111-148, § 1321(c), 124 Stat. at 186.

operated State-based Marketplaces (SBM).[4] CMS estimated that on December 31, 2014, approximately 6.3 million individuals had health insurance through the marketplaces.[5] According to CMS, most were eligible for an advance payment of the premium tax credit (PTC) to help make their health insurance more affordable.[6] Individuals can choose to have the PTC paid in advance to their insurance company, thus lowering their monthly premium payments, or may claim all of the credit when they file their tax returns. According to CMS data, in 2014 advance PTC payments totaled almost $15.5 billion. Taxpayers who choose to have the credit paid in advance must reconcile the amount of advance PTC they received—which is based on estimates of their household income using information from the most recent taxable year—with the PTC they are eligible for on their income tax returns—which is computed on actual reported income.[7]

Implementing these PPACA provisions is a significant undertaking for IRS. For example, IRS needs to collaborate with the marketplaces to obtain marketplace data on health plan enrollment and the amount of advance PTC paid for individual taxpayers. Further, IRS is responsible for ensuring individuals, employers, and issuers of coverage comply with PPACA health coverage and reporting requirements. In past reviews, we made numerous recommendations to IRS related to the implementation

[4]Some states that elected not to establish an SBM entered into a partnership with CMS in which CMS establishes and operates the marketplace while states assist CMS in carrying out certain functions of the marketplace. Because a partnership marketplace is a variation of an FFM, we include partnership states as FFM states in this report. In addition, in 2014, two states—Idaho and New Mexico—operated their own marketplace, but enrollees signed up for health insurance through the federal website and CMS reported their enrollment information to IRS. The term “state” in this report includes the District of Columbia.

[5]As of early June 2015, CMS did not know the total number of individuals who were enrolled in marketplace policies during 2014. A marketplace policy could cover more than one individual. For example, a policy covering a family of four would provide coverage for four individuals.

[6]The premium tax credit is generally available to help pay the cost of premiums for taxpayers and their dependents with coverage through a marketplace who are not eligible for other health insurance, such as employer-provided coverage, and with household income between 100 percent and 400 percent of the federal poverty level, among other requirements. IRC § 36B.

[7]The amount of PTC also varies with changes in family size and the insurance premiums for the marketplace health plans offered in the area where a taxpayer resides.

of PPACA provisions.[8] These recommendations and their status are discussed later in this report.

You asked us to review IRS implementation of the PTC and individual shared responsibility tax provisions. The objectives of this report are to (1) assess what IRS has done and plans to do to implement the PTC and individual shared responsibility tax provisions; (2) determine the extent to which IRS goals for these tax provisions are linked to performance measures to evaluate program success; (3) assess IRS collaboration with government and private sector entities to implement and enforce these tax provisions; and (4) describe IRS's progress in implementing our past recommendations on PPACA implementation.

To address these objectives, we reviewed IRS plans and processes, including tax forms, instructions, and guidance; the Services and Enforcement Affordable Care Act Office Project Management Plan and Affordable Care Act Strategic Roadmap; and relevant laws and Department of the Treasury (Treasury) regulations. For information on key IRS information technology systems, we drew on information from our recent work on this issue.[9] We also reviewed Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) reports and planning documents on marketplace enrollment and disbursements of advance PTCs. We interviewed officials from IRS, CMS, the Information Reporting Program Advisory Committee—an IRS advisory group made up of tax professionals—and nongeneralizable samples of five State-based Marketplaces and eight stakeholder groups representing taxpayers, tax software companies, tax preparers, and employers. We selected marketplaces and stakeholder groups to get a

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[8]See GAO, *IRS 2014 Budget: Improvements Made to Budget Request and Cost Estimate, but Further Actions Needed*, GAO-13-835 (Washington, D.C.: Sept. 26, 2013), *Patient Protection and Affordable Care Act: IRS Managing Implementation Risks, but Its Approach Could be* Refined, GAO-12-690 (Washington, D.C.: June 13, 2012), *Management Report: Improvements are Needed to Enhance the Internal Revenue Service's Internal Controls and Operating Effectiveness*, GAO-12-683R (Washington, D.C.: June 25, 2012), *IRS 2013 Budget: Continuing to Improve Information on Program Costs and Results Could Aid in Resource Decision Making*, GAO-12-603 (Washington, D.C.: June 8, 2012), and *Patient Protection and Affordable Care Act: IRS Should Expand Its Strategic Approach to Implementation*, GAO-11-719 (Washington, D.C.: June 29, 2011).

[9]GAO, *Information Technology: Management Needs to Address Reporting of Investments' Costs, Schedule, and Scope Information*, GAO-15-297 (Washington, D.C.: Feb. 25, 2015).

variety of perspectives. We analyzed preliminary summary IRS 2015 filing season data related to the premium tax credit and individual shared responsibility provisions. We assessed the reliability of the data by reviewing related documentation, testing the data for errors, and interviewing IRS officials and we determined that they were sufficiently reliable for the purposes of this report. We assessed IRS implementation activities and plans using IRS goals as criteria. We assessed IRS collaboration with partner agencies and key external stakeholder groups using criteria on interagency collaboration reported in our prior work. Lastly, we assessed IRS performance goals and measures for implementing the PPACA individual shared responsibility mandate using criteria on leading practices for performance management.[10]

We conducted this performance audit from July 2014 to July 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For more detailed information on our scope and methodology, see appendix I.

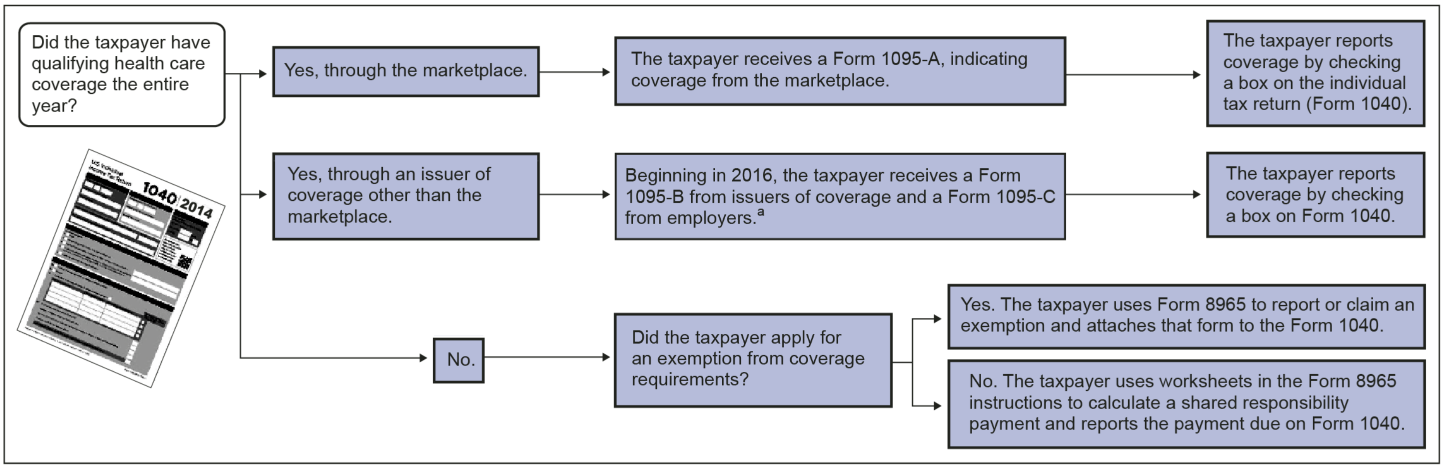
Background

Beginning with tax year 2014, individuals are to report on their health care coverage, report exemptions to the coverage requirement, pay the shared responsibility tax penalty when they file their tax returns, or do some combination of the above.[11] Figure 1 illustrates a simplified version of this reporting process.

[10]GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration Among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005). Our more recent work confirmed these collaborative practices; see GAO, *Managing for Results: Implementation Approaches Used to Enhance Collaboration in Interagency Groups*, GAO-14-220 (Washington, D.C.: Feb. 14, 2014), *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022 (Washington, D.C.: Sept. 27, 2012), and *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sept. 9, 2005).

[11]26 C.F.R. §§ 1.5000A-0—1.5000A-5.

Figure 1: Process for Taxpayers to Report on the Requirement to Have Health Care Coverage



Souce: GAO analysis of IRS information. | GAO 15-540

Notes:

Taxpayers who can be claimed as a dependent by another taxpayer are not required to report on their health care coverage.

[a]Issuers of coverage, including insurers, and applicable large employers will be required to send these forms to employees and IRS starting in early 2016. Issuers will not file Form 1095-B to report coverage under Medicare (including Medicare Advantage), Medicaid, or the Children's Health Insurance Program—which will be reported on Form 1095-B by the government sponsors of those programs starting in 2016—or report marketplace coverage—which is reported by the marketplaces on Form 1095-A. The requirement to file Forms 1095-C will apply only to employers with 50 or more full-time employees.

Coverage and exemptions. Taxpayers who had qualifying health coverage for the full year—through the marketplace, a government insurance program, or their employer, for example—simply check a box on their individual tax return to indicate coverage. Taxpayers who did not have full-year qualifying coverage either claim an exemption from the coverage requirement or pay the SRP.[12] Some exemptions—such as exemptions for members of recognized religious sects and general

[12]Qualifying health care coverage must meet the requirements of minimum essential coverage (MEC) in every month of the year for the taxpayer, spouse, and dependents. Health insurance that meets the MEC standards include certain types of government-sponsored coverage (such as Medicare Part A or Medicaid) as well as most types of private insurance plans (such as employer-sponsored insurance). Health insurance that provides limited benefits, such as dental-only coverage, does not constitute MEC. See 26 C.F.R. § 1.5000A-2. A taxpayer who had partial-year coverage would need to either report an exemption or pay the shared responsibility payment (SRP) for the months in which the taxpayer did not have coverage.

hardship exemptions—must be obtained from the marketplace. Other exemptions—such as for taxpayers with household income below the tax return filing threshold or a gap in coverage of less than 3 consecutive months—can be claimed directly on a tax return.[13]

Calculating the shared responsibility payment. Taxpayers who have neither full-year qualifying coverage nor an exemption use worksheets in the instructions for the Form 8965, *Health Coverage Exemptions* to calculate the SRP.[14] For tax year 2014, a taxpayer's monthly SRP is 1/12th of the greater of (1) 1 percent of household income above the taxpayer's filing threshold or (2) $95 per adult plus $47.50 per child under 18 years of age (limited to a family maximum of $285).[15] A taxpayer's monthly SRP is capped at $204 for each family member—up to a maximum of five members—who had neither coverage nor an exemption.[16] For example, a single taxpayer without coverage or an exemption for all of 2014 would owe an SRP up to $2,448 (capped amount of $204 times 12 months); a family with five or more members would owe up to $12,240. The SRP percentages and flat dollar amounts rise in subsequent years.[17]

Information reporting. Beginning in January 2015, the marketplaces were required to provide a new information return, Form 1095-A, *Health*

[13]Individuals below the applicable filing threshold are not required to file a federal income tax return solely to claim the exemption. Some other exemptions—such as for members of federally recognized Indian tribes and for individuals who were incarcerated—can either be granted by the marketplace or claimed on a tax return.

[14]For each month that an individual does not have minimum essential coverage, the individual must pay the lessor of the sum of the monthly penalty amount or an amount equal to the national average premium for qualified health plans that have the bronze level of coverage. IRC § 5000A(c)(1).

[15]The filing threshold is the amount of gross income that would trigger an individual's requirement to file a federal tax return.

[16]The amount of the cap is based on the cost of the national average premium for a bronze-level health plan available through the marketplace in 2014. Marketplace plans are grouped into five categories—bronze, silver, gold, platinum, and catastrophic—based on the percentage of the costs of an average person's care that the plan will pay.

[17]For tax year 2015, the income percentage increases to 2 percent of household income and the flat dollar amounts increase to $325 per adult and $162.50 per child. For tax year 2016, the income percentage is 2.5 percent and the flat dollar amount is $695 per adult and $347.50 per child. After 2016, the flat dollar amounts increase with inflation.

Insurance Marketplace Statement, to individuals who were enrolled in health insurance through the marketplace in 2014 and to IRS.[18] This form includes information on the covered individuals, the period of coverage, monthly premiums, and the amount of advance PTC paid to the insurer on behalf of the taxpayer. Taxpayers are instructed to use Form 1095-A to prepare Form 8962, *Premium Tax Credit*, for their tax returns.

Treasury regulations also require marketplaces to report detailed information for each qualified health plan to IRS monthly, by the 15th day after each month of health insurance coverage.[19] This monthly transmission—the Exchange Periodic Data (EPD) transmission—contains cumulative coverage information for the year starting in January; thus the EPD transmission due to IRS by January 15 should contain complete marketplace data for the entire previous January to December coverage year. The EPD transmission is also required to include information on any exemptions from the coverage requirement granted by the marketplace.

Beginning with tax year 2015, health coverage issuers and certain large employers will be required to provide new information returns, Form 1095-B, *Health Coverage*, and Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, respectively.[20] The forms will first be due to individuals and IRS in early 2016. Form 1095-B will provide taxpayers and IRS information on the insurance provided during the tax year, which affects whether or not taxpayers must pay the SRP. Form 1095-C will provide taxpayers and IRS information on the insurance offered to taxpayers and, for employers that offer employer-sponsored self-insured coverage, information on the insurance actually provided.

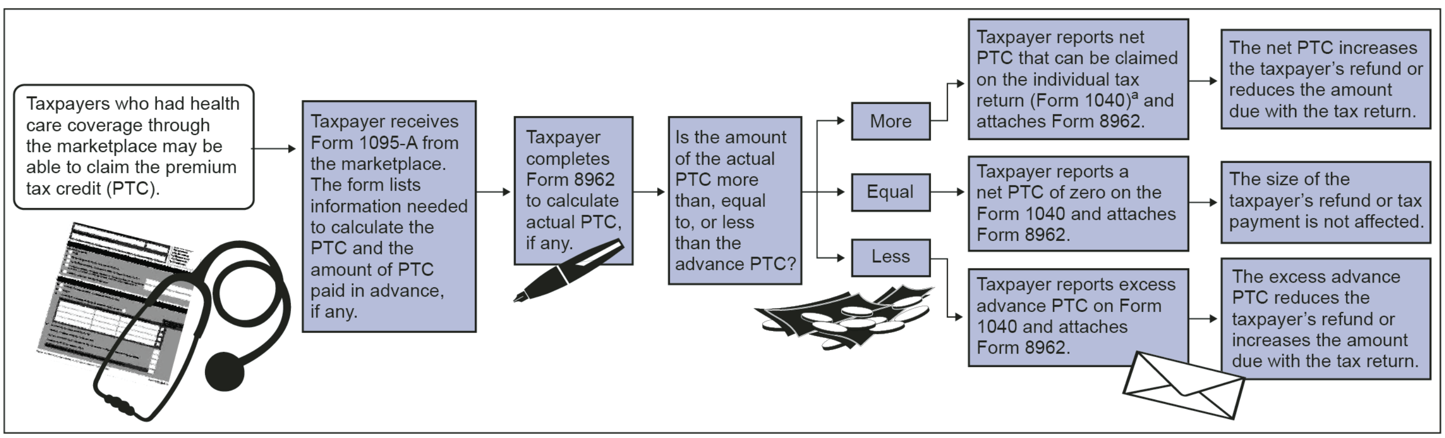
[18]Under IRC § 36B(f)(3), the marketplaces must report certain information to IRS on individuals with marketplace coverage for IRS to reconcile the premium tax credit. Treasury regulations require marketplaces to provide this information on Form 1095-A to both IRS and individuals by January 31 of the year following the calendar year of coverage. 26 C.F.R. § 1.36B-5(d)(1) & (f)(3).

[19]26 C.F.R. § 1.36B-5(d)(2).

[20]PPACA requires health insurance issuers and large employers (i.e., those with 50 or more full-time employees) to submit information returns to IRS and taxpayers beginning after 2013. In July 2013, Treasury announced that it was providing transition relief to affected reporting entities by delaying the effective date of information reporting requirements. Beginning in 2015 (with reports being filed in 2016), health insurers and large employers with 50 or more employees must submit information returns to taxpayers and IRS. 26 C.F.R. §§ 1.6055-1, 301.6056-1.

Premium tax credit. Taxpayers are eligible for the PTC if they meet various criteria: (1) buy qualified health insurance through a marketplace; (2) are ineligible for affordable, minimum-value coverage through an employer or government plan; (3) are within certain income limits (household income between 100 percent to 400 percent of the federal poverty level);[21] (4) do not file a tax return with the status of married filing separately; and (5) cannot be claimed as a dependent by another person.[22] Marketplaces determine the amount of advance PTC for which taxpayers are eligible based on their family size and anticipated household income for the year. The final PTC amount is based on actual income reported when taxpayers file an income tax return (see figure 2).

Figure 2: Process for Taxpayers to Claim the Premium Tax Credit



Souce: GAO analysis of IRS information. | GAO 15-540

Note:

[a]Taxpayers claiming the PTC must file on Form 1040, 1040A, or 1040NR. Taxpayers claiming the PTC may not file using Form 1040EZ.

[21]For 2014, the federal poverty level in the 48 contiguous states and the District of Columbia was $11,670 for an individual and $23,850 for a family of four. Federal poverty level amounts are higher in Alaska and Hawaii.

[22]IRC § 36B(c). Household income is the taxpayer's modified adjusted gross income, plus that of every other individual in a family for whom the taxpayer can properly claim a personal exemption and who is required to file a federal income tax return. Certain victims of domestic abuse and spousal abandonment may claim PTC using the married filing separately filing status. Also eligible for the PTC are certain lawfully present immigrants with household incomes less than 100 percent of the federal poverty level who would be eligible for Medicaid but for their immigration status.

Taxpayers who receive advance PTC must file an income tax return and report the advance payments of the credit on Form 8962, *Premium Tax Credit*.[23] If the amount of the taxpayers' PTC is less than the amount of advance PTC they received, then part or all of the excess payments must be repaid. The amount of excess advance PTC taxpayers are required to repay is subject to statutory, income-based limits (see table 1).

Table 1: Repayment Limits for the Advance Premium Tax Credit

Household income as a percentage of the federal poverty level	Repayment limitation for single taxpayer filing status	Repayment limitation for all other filing statuses
Less than 200	$300	$600
At least 200 but less than 300	$750	$1,500
At least 300 but less than 400	$1,250	$2,500
400 or more	No limitation	No limitation

Source: IRS. | GAO-15-540

Note: The repayment limits apply only to advance PTC for coverage of individuals who are lawfully present in the United States. All advance PTC paid for an individual who had marketplace coverage but who was not lawfully present must be reported on the tax return and repaid.

For the 2015 Filing Season, Delayed Reporting Requirements and Incomplete Marketplace Data Led to Various Challenges

In January 2015, IRS began processing tax year 2014 tax returns, on which taxpayers were first required to report health care coverage information. IRS also started verifying taxpayers' PTC claims using data from the marketplaces. However, IRS had limited information with which to verify the information taxpayers reported because complete marketplace data for most states were not submitted by the due date and the requirement for health issuers and applicable large employers to submit information returns was delayed until tax year 2015.

[23] 26 C.F.R. § 1.6011-8.

IRS Is Using Various Compliance Tools to Verify Taxpayer-Reported Shared Responsibility Information, but Delayed Reporting Requirements Limited IRS Efforts

IRS has limited information with which to verify the 2014 health coverage, exemption, and SRP information taxpayers reported. Therefore, according to IRS officials, IRS is using its standard examination processes to check the information taxpayers report. According to IRS officials, based on available resources, they will balance their compliance efforts related to the health coverage requirements issue with compliance efforts on other issues. For tax year 2015 tax returns, IRS plans to begin implementing additional PPACA provisions that will expand its capability to verify compliance with the health care coverage requirements by using information reported by health issuers and employers. To help prepare for these compliance checks, IRS plans to analyze filing behaviors and patterns for 2014 tax returns, such as the characteristics of taxpayers who reported an SRP.

Health care coverage verification. IRS could verify the coverage information reported by marketplace customers on their 2014 tax returns using the Form 1095-A information provided by the marketplaces. However, IRS could not verify the coverage information reported by other taxpayers for 2014 because IRS did not require issuers of coverage (e.g., health insurers) and certain large employers to file Forms 1095-B and 1095-C until 2016 (for tax year 2015). In future filing seasons, IRS plans to use information reported on these forms during the post-filing compliance process to verify taxpayers' claims of health coverage from sources other than marketplaces, such as an employer, Medicare, or Medicaid.

Verification of exemption information. Verification of whether a taxpayer received approval for a marketplace-granted exemption is dependent on the marketplaces reporting this information to IRS. Marketplaces were required to include 2014 exemption data in their monthly EPDs due January 15, 2015.[24] However, according to IRS officials, as of May 31, 2015, IRS had exemption data available for return processing for 13 of the 51 marketplace states and did not have exemption data for the remaining 38 states. Some marketplaces experienced delays in completing the review and approval process for applicants who applied for an exemption. The delay in marketplace approval process for exemption applications left affected taxpayers

[24]For tax year 2014, the FFM processed exemption applications for the FFM states and all the SBMs, except Connecticut.

without the information they needed to complete Form 8965*, Health Coverage Exemptions*, which taxpayers claiming a marketplace-granted exemption must attach to their tax return. In light of the potential for pending marketplace exemption applications, in the instructions to Form 8965, IRS instructed affected taxpayers to write "pending" on the Form 8965; the instructions did not direct taxpayers to file amended tax returns once the marketplaces processed their exemption applications. In addition to delays in marketplace processing of exemption applications, there were delays in IRS receiving exemption data from the marketplaces. IRS experienced technical problems processing exemption data from the marketplaces. According to IRS officials, IRS systems wrongly returned an error code when the marketplaces transmitted exemption data to IRS. Initially, IRS advised the marketplaces that they could wait to submit the exemption data until IRS addressed this technical problem. In mid-March 2015 IRS advised the marketplaces to submit the data despite the problem.

Verification of the shared responsibility payment. Verification of whether taxpayers owe an SRP, as well as how much they owe, is dependent on IRS having complete data on whether taxpayers had qualifying health care coverage for the full year, and whether they had an exemption for part or all of the year. Without information on health care coverage from issuers and large employers—on Forms 1095-B and 1095-C, respectively—and without information on exemptions granted by the marketplaces, IRS is unable to perform automated post-filing compliance procedures through comparing this third-party information to individual income tax return reporting. For tax year 2014 returns, IRS plans to perform limited post-filing compliance procedures for SRP in specific circumstances. For example, IRS may pursue collection procedures for taxpayers who do not pay the SRP amounts they report on their tax returns.[25] In addition, IRS may review and recalculate self-reported SRP amounts for tax returns selected for examination for reasons other than the SRP.

Silent returns. Some taxpayers filed 2014 tax returns that did not report health coverage information, claim an exemption, or report an SRP. IRS

[25]The methods IRS may use to collect the SRP tax penalty are limited by statute and include offsetting penalty amounts against refunds or credits. An individual who fails to pay the SRP does not face criminal penalties and IRS cannot use liens or levies to collect. IRC § 5000A(g).

refers to these cases as silent returns. According to IRS officials, one reason for silent returns is that some taxpayers could be claimed as a dependent on another return.[26] According to preliminary filing season data, as of May 28, 2015, more than 11 million taxpayers filed silent returns (see table 2).

Table 2: Individual Shared Responsibility Information as Reported by Taxpayers as of May 28, 2015

Description	Number of tax returns	Percentage of total returns
Total individual income tax returns posted	130,646,072	100 %
Claiming full-year health care coverage for tax household	101,505,846	78 %
Reporting an exemption for one or more household members	11,499,782	9 %
Reporting an individual shared responsibility payment[a]	7,286,967	6 %
Not addressing the individual shared responsibility provision (i.e., silent returns)	11,262,198	9 %

Source: IRS. | GAO-15-540

Note: According to IRS, these preliminary data on tax year 2014 Form 1040s and Form 8965s posted through May 28, 2015 are as filed by taxpayers. The sum of the number of tax returns for the four subcategories exceeds the total number of returns filed because taxpayers can report both an exemption and an individual shared responsibility tax penalty. For example, one member of the tax household could have an exemption and another member could have neither coverage nor an exemption and therefore owe the tax penalty. Similarly, the percentages for the four subcategories total to more than 100 percent.

[a]The total amount of shared responsibility payment reported by these taxpayers was approximately $1.5 billion, on average a penalty of about $200.

IRS officials estimated that about 58 percent of the silent returns posted as of the end of May 2015 were from filers who reported that they could be claimed as dependents on another return. One reason a taxpayer might file a silent return could be the first-year challenge of understanding the complex new shared responsibility reporting requirement. IRS goals include encouraging voluntary compliance with tax responsibilities and its mission includes enforcing the law with integrity and fairness to all. IRS has various tools that it can use to enhance taxpayer understanding and encourage compliance with new reporting requirements. According to IRS officials, IRS has solicited feedback from paid preparers and tax software companies and will consider their input to help determine changes to the

[26]If an individual can be claimed as a dependent of another person, that other person is liable for any SRP of that dependent. IRC § 5000A(b)(3)(A). Treasury regulations specify that the taxpayer who can claim the individual as a dependent is liable for the SRP regardless of whether the taxpayer actually claims the individual as a dependent on his or her federal income tax return. 26 C.F.R. § 1.5000A-1(c)(2).

Form 8965, *Health Coverage Exemptions* instructions that could facilitate more accurate reporting. Additional tools are also available. Most tax returns are filed using tax software and IRS provides guidance to tax software companies regarding changes to filing requirements. Officials from a tax software company told us that with clear policy instruction from IRS and sufficient time, they could design their tax software to prevent taxpayers from omitting required health coverage information on their returns. For tax year 2014 the company's tax software guided, but did not require, taxpayers to report health coverage information. IRS can also issue soft notices—IRS letters to taxpayers that are designed to serve as an educational tool and improve voluntary compliance, and generally do not require taxpayers to respond to IRS. In the past, IRS has used soft notices to correct errors and collect funds without initiating an examination.[27]

According to IRS officials, certain tools used to encourage compliance with other requirements are not available to address silent returns. Specifically, IRS has determined that it does not have the authority to reject tax returns at filing because they are silent, although IRS can reject returns that do not include other required information.[28] Similarly, tax preparers do not need to meet due diligence requirements that are specific to the shared responsibility provision.[29] IRS issued a set of best practices for practitioners to gather necessary health coverage information to use in preparing 2014 tax returns for their clients, which stated that tax preparers are expected to exercise the same due diligence for reporting client's health care coverage information as they would for nearly all other entries on a tax return.

[27]For example, see GAO, *Tax Gap: IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements*, GAO-09-238 (Washington, D.C.: Jan. 28, 2009), and *Advance Earned Income Tax Credit: Low Use and Small Dollars Paid Impede IRS's Efforts to Reduce High Noncompliance*, GAO-07-1110 (Washington, D.C.: Aug. 10, 2007).

[28]For example, for paper tax returns, IRS staff review each return to ensure that all forms and data needed to process the return are included, and IRS may correspond with taxpayers to obtain missing information.

[29]IRS has the authority to penalize paid tax preparers for failure to diligently determine eligibility for the earned income tax credit. IRC § 6695(g). The due diligence requirements for this credit, which include completing a checklist, using a computation worksheet, and retaining certain records, are outlined in 26 C.F.R. § 1.6695-2.

IRS estimated that more than 40 percent of the silent returns posted as of the end of May 2015 were from filers who did not report that they could be claimed as dependents on another return. This estimate raises questions about compliance with the shared responsibility reporting requirements. Assessing the costs and benefits of options for addressing taxpayer noncompliance with these requirements would help IRS determine what compliance actions would best support its goals to encourage voluntary compliance while enforcing the law with integrity and fairness to all.

Incomplete and Delayed Marketplace Data Limited IRS's Ability to Implement Planned Pre-refund Premium Tax Credit Compliance Checks during the 2015 Filing Season

Although IRS created a new system to verify PTC claims, incomplete and delayed marketplace data limited IRS's ability to use the system to verify claims at the time of return filing. To verify PTC claims on individual income tax returns, IRS relies on marketplace data to confirm a taxpayer was enrolled in a qualified plan.[30] As illustrated in figure 3, at the time of filing (i.e., before any refund is issued), IRS's new Affordable Care Act Verification Service (AVS) system compares the information taxpayers reported on their tax return to information the marketplaces provided, potentially identifying math errors or discrepancies with the marketplace data.[31] For example, AVS may identify cases where a marketplace reported that a taxpayer received the advanced PTC, but the taxpayer did not report it on his or her tax return. In another example, AVS may detect cases where taxpayers claim the PTC on their tax returns, but are ineligible because they were not enrolled in a marketplace plan. If IRS is unable to resolve such discrepancies through its initial process of corresponding with taxpayers, it may freeze all or part of the PTC-related refund, and refer the cases to examination for further review.

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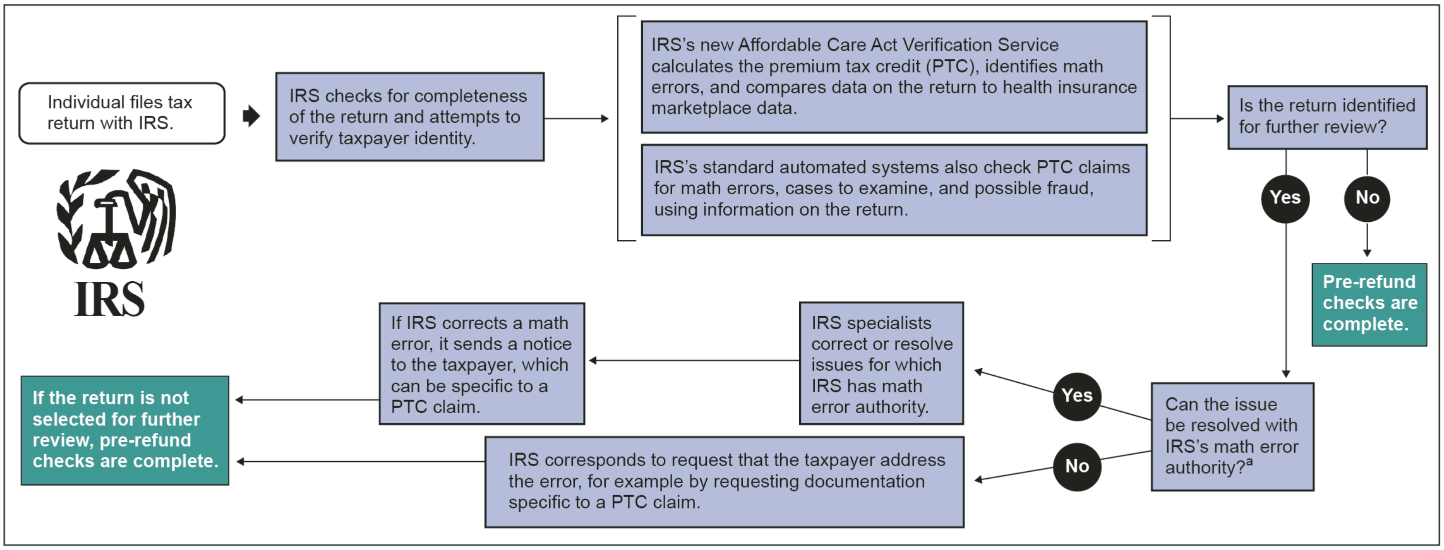
[30]For individuals who get marketplace coverage, CMS and the marketplaces are responsible for (1) determining individuals' eligibility for marketplace coverage and advance payment of PTC, and (2) administering the enrollment of eligible individuals for marketplace coverage and the payment of the advance PTC. IRS supports eligibility determinations by providing CMS and the marketplaces with information to confirm income and family size. IRS does not independently confirm that an individual was eligible for marketplace coverage. For example, IRS does not confirm whether a taxpayer was a U.S. citizen or legally present.

[31]IRS can use math error authority for certain purposes specified in statute, including correcting calculation errors and checking for other obvious noncompliance such as claims above income and credit limits. IRC § 6213(g)(2). For PTC, IRS can use math error authority to resolve issues such as a discrepancy between the family size reported on Form 8962 and the number of exemptions claimed on Form 1040. Compliance conditions that cannot be resolved with math error authority include mismatches with marketplace data, such as with PTC amounts paid in advance. By using marketplace data to verify PTC claims at the time of filing, the AVS matching process introduces a new approach to IRS's long-standing use of third-party information to ensure compliance. As we found in our prior work, IRS has historically used information return data—for example, Form W-2, *Wage and Tax Statement*—to verify the accuracy of tax returns as part of its post-filing compliance checks, well after most tax refunds have been issued. We previously concluded that using third-party information to verify information on income tax returns before refunds are issued has the potential to provide substantial benefits, including reducing taxpayer burden and improving compliance by moving some information matching earlier in the tax season. See GAO, *Identity Theft: Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud*, GAO-14-633 (Washington, D.C.: Aug. 20, 2014), and *Tax Refunds: IRS is Exploring Verification Improvements, but Needs to Better Manage Risks*, GAO-13-515 (Washington, D.C.: June 4, 2013).

Figure 3: IRS's Process for Verifying Premium Tax Credit Claims Prior to Refund



Souce: GAO analysis of IRS information. | GAO 15-540

Note:

[a]IRS can use math error authority for certain purposes specified in statute, including correcting calculation errors and checking for other obvious noncompliance such as claims above income and credit limits. For PTC, IRS can use math error authority to resolve issues such as a discrepancy between the family size reported on the Form 8962 and the number of exemptions claimed on Form 1040. Compliance conditions that cannot be resolved with math error authority include mismatches with marketplace data, such as with PTC amount paid in advance.

The monthly EPD files serve as the principal source of information IRS uses to verify taxpayers' PTC claims with the AVS system. To reconcile PTC information taxpayers report during the filing season, including advance PTC payments that were issued to insurers, IRS is dependent on receiving complete and accurate coverage data from the health insurance marketplaces in a timely manner. However, some health insurance marketplaces did not meet the deadlines for providing IRS with complete tax year 2014 health care coverage information and some of the information submitted was inaccurate.

- **Timeliness of EPD submissions.** Although the EPD submissions with full year 2014 data were due to IRS on January 15, 2015, the FFM and four SBMs did not transmit full year 2014 data until February 2015. By the end of the filing season on April 15, 2015, two SBMs had not transmitted full year 2014 data to IRS.

- **Timeliness of 1095-A information.** Several marketplace states also did not meet the February 2, 2015, deadline for submitting the annual 1095-A data to IRS.[32] As of February 9, 2015, according to IRS data all but seven marketplace states had successfully transmitted 1095-A data to IRS.[33] As of May 11, 2015, four SBMs had not successfully transmitted 1095-A data to IRS. One of these four states successfully transmitted the information during the week of May 12, 2015, almost a full month after the end of the filing season. As of June 8, 2015, the remaining three states had not successfully transmitted 1095-A information to IRS.

- **Accuracy of marketplace data.** Some marketplaces issued incorrect Form 1095-A information to taxpayers. CMS announced it had issued approximately 800,000 Forms 1095-A that included incorrect premium information used to calculate PTC. One SBM reported that it had issued approximately 100,000 Forms 1095-A with inaccuracies, including dates of coverage and number of family members enrolled, which are also used in calculating the amount of PTC. While IRS uses the more comprehensive EPD data transmission as the primary source of marketplace data for pre-refund compliance checks on PTC claims, in the absence of EPD information, according to IRS procedures, IRS may use the 1095-A data transmitted by the marketplaces to verify taxpayer PTC claims. According to IRS officials, IRS checks that the marketplace data meet formatting standards, but it does not check for accuracy of the data.

State marketplace and CMS officials cited multiple factors that contributed to the delayed transmission of complete 2014 marketplace data to IRS. Some state officials acknowledged that as they approached the end of December 2014, they placed a higher priority on processing consumer applications for marketplace coverage for 2015, as opposed to ensuring they were ready to transmit the January EPD or 1095-A files to IRS. State and CMS officials also noted that issuing paper Forms 1095-A to taxpayers by the February 2, 2015, deadline was also a higher priority

[32]Forms 1095-A are due to taxpayers by January 31, except when that date falls on a weekend or a holiday, in which case the deadline is the next business day. Therefore, the 2014 Forms 1095-A were due on February 2, 2015.

[33]Officials from one of the SBMs that had reported 1095-A information to IRS told us that they did not issue Forms 1095-A to a small percentage of their customers on time because they identified an error before the forms were sent out.

than the January data transmissions to IRS. In addition to these issues, some state marketplace officials noted that they were impacted by what they described as IRS's limited windows of availability for testing the data exchange process in advance of the filing season. However, CMS officials responsible for the FFM told us that the availability of IRS systems for testing was not a problem for them. They stated that CMS did not have the resources to send both monthly and annual reporting in January. The CMS officials explained that CMS may experience similar challenges next year. They said that, although the resource constraints were in part related to the first-year development of the information technology systems, the volume of processing needed to transmit both monthly and annual reports in January presents a longer-term challenge.

Delays in IRS processing of marketplace EPD submissions also contributed to IRS having incomplete marketplace information available for AVS matching with tax returns for most of the filing season. According to IRS officials, once IRS receives the marketplace submissions, IRS must process the data to make them available for matching. IRS officials told us that IRS processing of the data submissions it received in February was delayed because IRS needed to implement an internal technical system change during that time. Therefore, complete data from the majority of marketplaces was not available for matching until the last week in March 2015. Specifically, as of March 21, 2015, according to IRS documentation, IRS had processed and made available for verification of taxpayer PTC claims complete coverage data for the entire January 2014 to December 2014 tax year for 4 of the 51 marketplace states. Incomplete data, which did not include data for the month of December 2014, were processed and available for 38 marketplace states. For the remaining 9 marketplace states, no usable 2014 EPD information was processed and available for PTC verification. The marketplace data that were processed and available to IRS for matching as of March 21, 2015, provided PTC information on approximately 3.1 million tax households; IRS expected that about 4.4 million tax households would be represented once the marketplace information was complete. In late March 2015, according to IRS documentation, it had processed additional EPD files to make them available for matching so that, as of March 29, 2015, IRS had complete 2014 EPD data available for 46 of the 51 marketplace states, but it had incomplete data for two states and no EPD data for the other three states. As of July 7, 2015, IRS reported it had complete 2014 data available for 50 marketplace states and incomplete data for one state.

Even though IRS did not have complete tax year 2014 EPD information available for verification of taxpayer PTC claims, it was able to begin enforcing PTC compliance at the start of the 2015 filing season in January 2015. IRS implemented contingency plans—such as using other available data and corresponding with taxpayers—to compensate for missing marketplace data. Although these contingency processes enabled IRS to process tax returns with PTC claims without complete marketplace data, the processes did not fully mitigate the impacts on taxpayers. In the absence of complete EPD from all marketplaces, early in the filing season IRS suspended processing more than 24,000 tax returns for a week or more. In prior work we found that using the correspondence process for resolving discrepancy cases imposes a burden on taxpayers as it requires them to provide documentation in response to IRS's post-filing notices and then wait for IRS to communicate the results of its review.[34] We also previously found that this often results in a lengthy process during which, in a substantial portion of cases, refunds are delayed until the audit issues are resolved.

To help mitigate challenges faced by taxpayers affected by delayed or inaccurate Forms 1095-A, Treasury issued guidance providing various types of penalty relief.[35] In addition, IRS issued guidance to taxpayers affected by delayed and inaccurate Forms 1095-A. For example, taxpayers who filed their returns based on the first Form 1095-A they received (i.e., prior to notification from the marketplace that the form was incorrect) were informed that they were not required to file an amended return once they received the corrected form, unless the updated marketplace information indicated that they were not actually enrolled in a qualified plan or were otherwise ineligible for the PTC. Taxpayers who had received the initial Form 1095-A but not the corrected one they were expecting were advised to file by April 15, 2015, using either the initial

[34]GAO, *IRS Correspondence Audits: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden*, GAO-14-479 (Washington, D.C.: June 5, 2014).

[35]The department issued the following notices: (1) January 26, 2015, providing relief from penalties for failure to pay and underpayment of estimated tax for eligible taxpayers who claimed PTC; (2) February 24, 2015, removal of the requirement to file an amended tax return for the approximately 50,000 taxpayers who had already filed a return using the incorrect Form 1095-A data issued by the FFMs (which also included the decision not to pursue collection of additional taxes from any of these taxpayers related to use of the incorrect data); (3) March 23, 2015, providing relief for the underpayment of estimated taxes for farmers and fishermen who received erroneous 2014 Forms 1095-A; and (4) April 10, 2015, providing relief from penalties for failure to pay and underpayment of estimated tax related to delayed or incorrect Forms 1095-A, for taxpayers who timely file their income tax return.

form or the corrected Form 1095-A, if available. Taxpayers who had not received any Form 1095-A at all were instructed to request an automatic filing extension by April 15, 2015, and to then file their returns as soon as they received the form from the marketplace.

IRS's goals include effectively enforcing compliance with tax laws, reducing taxpayer burden, and encouraging voluntary compliance. As discussed above, it is unclear whether the challenges IRS faced in getting complete and accurate data from the marketplaces in time to conduct pre-refund verification of taxpayer PTC claims were a 1-year problem or if they will be ongoing. Without understanding the challenges that may be ongoing, the effects of the problem and options for correcting it, IRS is missing information that could help it design contingency plans to efficiently and effectively process tax returns with PTC claims while mitigating the burden on taxpayers.

Additional Authority Could Improve Efficiency of Processing Taxpayer PTC Claims, If Marketplace Data Are Complete and Accurate

Even with complete marketplace information, IRS is faced with contacting taxpayers for additional documentation or opening an examination to resolve discrepancies between PTC information on tax returns and the marketplace data.[36] In cases of a discrepancy with the marketplace data, IRS does not have the authority to automatically correct the tax return and simply notify the taxpayer of the change, as it does in other circumstances where math error authority applies.[37] The administration submitted legislative proposals for fiscal years 2015 and 2016 that, among other things, would establish a category of correctable errors. Under the proposals, Treasury would be granted regulatory authority to

[36]To resolve discrepancies between data reported by taxpayers and health insurance marketplaces, IRS must use general deficiency procedures if it believes that additional tax is due. IRS is authorized to make inquiries, determinations, and assessments of all taxes, including interest and penalties, under the Internal Revenue Code. IRC § 6201. Generally, before assessing additional tax due, IRS issues correspondence to request that a taxpayer address the discrepancy by providing documentation or missing information. If IRS and the taxpayer cannot reach agreement or the taxpayer does not respond to the IRS correspondences, the discrepancy case will then be referred to Examination. To pursue assessment and collection of the taxes due, IRS must issue a Statutory Notice of Deficiency—a legal notice that formally notifies a taxpayer of IRS's intention to assess a tax deficiency and gives the taxpayer 90 days to contest the tax deficiency with the Tax Court. IRC §§ 6212(a), 6213(a).

[37]Under IRS's current math error authority, IRS may correct certain mathematical or clerical errors on the return and notify the taxpayer of the proper tax liability based on those corrections. IRC § 6213(b).

permit IRS to correct errors in cases where information provided by a taxpayer does not match corresponding information provided in government databases.[38] Congress has not granted this broad authority. IRS's goals include effectively enforcing compliance with tax laws while reducing taxpayer burden and encouraging voluntary compliance. Correctable error authority could help IRS meet its goals for timely processing of tax returns, reduce the burden on taxpayers of responding to IRS correspondence, and reduce the need for IRS to resolve discrepancies in post-refund compliance, which, as we previously concluded, is less effective and more costly than at-filing compliance.[39]

IRS has not sought correctable error authority specific to correcting errors in cases where information provided by a taxpayer does not match corresponding marketplace information. Correcting tax returns at-filing based on marketplace data would not depend on IRS accelerating deadlines for information returns because—unlike some other information returns, such as the Form W-2—marketplace data are due to IRS early in the filing season. Furthermore, IRS is already using the marketplace information for pre-refund matching. However, given the problems with the completeness and accuracy of the marketplace data IRS had available to verify PTC information on 2014 tax returns, if IRS were granted correctable error authority, it would be important that the third-party data used for matching are complete and accurate.

IRS Does Not Yet Have Complete Information for PTC Oversight

IRS and CMS each have oversight responsibilities for the administration of the advance PTC. IRS is responsible for enforcing tax laws and determines filing requirements. IRS requires recipients of advance PTC payments to file tax returns and to accurately report those payments on their tax return. According to IRS officials, IRS and CMS are part of an interagency working group assessing the risk for improper payments from

[38]Department of the Treasury, *General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals* (February 2015), 245-246; and *General Explanations of the Administration's Fiscal Year 2015 Revenue Proposals* (March 2014), 229-230.

[39]GAO-14-633. We recommended that IRS assess the costs, benefits, and logistical considerations of accelerating Form W-2 deadlines to accommodate pre-refund matching of tax returns with W-2 data. In November 2014 IRS reported that it had convened a working group to identify the costs and benefits of accelerating Form W-2 deadlines, as well as other changes that may be necessary to match Form W-2 data to tax returns prior to issuing refunds.

the PTC account and CMS is responsible for overseeing the marketplaces and for the risk assessment for the advance PTC payments. However, IRS does not have complete information that would help support its oversight responsibilities. Because marketplace data are incomplete, CMS has not provided IRS the total amount of advance PTC payments made for 2014 marketplace policies. Unless CMS shares complete and accurate information on advance PTC payments made to health insurers, IRS will not know the size of the gap between the payments made and payments reported. Without knowing the size of this gap, IRS does not know the extent of noncompliance with the requirement for recipients of advance PTC payments to accurately report those payments on their tax return, a measure that could help IRS assess the effectiveness of its education, outreach, and compliance efforts. Although IRS does not know the size of the gap, it has preliminary information on the total advance PTC payments made and total advance PTC payments reported by taxpayers, as follows.

- **Total advance PTC payments made.** According to CMS data, in 2014, advance PTC payments totaled almost $15.5 billion. Because some advance PTC payments made in 2014 could be for 2015 policies and some payments made in 2015 could be for adjustments to 2014 policies, the amount paid during 2014 does not indicate the precise amount of advance PTC that was paid for 2014 policies and should be reconciled on 2015 tax returns. CMS and the marketplaces are required to provide these data to IRS through EPD and 1095-A data. But, as discussed above, they have not yet provided complete and accurate data to IRS for advance PTC payments made for coverage year 2014. Until it receives complete and accurate marketplace data, IRS does not know the baseline for the total amount of advance PTC that taxpayers should have reported on 2014 tax returns.

- **Total advance PTC payments reported by taxpayers.** IRS expected 4.4 million taxpayers to file PTC claims for the 2014 tax year.[40] As of May 28, 2015, 2.8 million filers had reported advance

[40]The IRS Wage and Investment Division estimated the total number of PTC returns based on analysis of 2012 tax returns. The number of expected PTC returns differs from the number of individuals with marketplace coverage because a tax return can include more than one person with marketplace coverage. Similarly, the number of expected PTC returns differs from the number of marketplace policies because a tax return could include individuals covered under different policies.

PTC payments totaling almost $10.1 billion on their tax returns (see table 3). Approximately 2.6 million filers had calculated and claimed PTC based on their actual income and family size; these PTC claims totaled $8.9 billion. The number of filers claiming PTC was smaller than the number of filers reporting advance PTC because some taxpayers who reported advance PTC payments did not claim PTC. These taxpayers may have been eligible for advance PTC based on their estimated income, but ineligible for PTC based on the actual income reported on their tax return. According to preliminary IRS filing season data, as of May 28, 2015, more than half of taxpayers who received advance PTC had advance PTC greater than the PTC they claimed when they calculated it on their tax returns.

Table 3: Returns with Premium Tax Credit Reporting as of May 28, 2015

Description	Number of tax returns	Total amount
Reporting advance PTC	2,816,682	$10,063,999,225
Claiming the PTC	2,585,877	$8,903,553,448
Reporting excess advance PTC[a]	1,535,470	$1,877,330,515
Reporting a net PTC[b]	1,212,171	$716,507,352

Source: IRS. | GAO-15-540

Note: According to IRS, these preliminary data on tax year 2014 Form 1040s and Form 8962s posted through May 28, 2015, are as filed by taxpayers but include any math error corrections.

[a]For these taxpayers, the PTC paid in advance exceeded the PTC as calculated on their tax returns. The average excess advance PTC reported was $1,223. The returns reporting excess advance PTC include 297,348 taxpayers who reported advance PTC but did not claim PTC. Of these taxpayers, 145,651 had household income that exceeded 400 percent of the federal poverty level for their family size, making them ineligible for PTC. These taxpayers are required to repay the entire advance PTC. Other reasons a taxpayer could report an advance PTC but not claim PTC could include that a covered child was not claimed on the tax return or that the taxpayer was incarcerated. These taxpayers would have to repay the advance PTC, subject to the statutory caps.

[b]For these taxpayers, the PTC as calculated on their tax returns was greater than the amount of PTC paid in advance. The average net PTC reported was $591.

Working with CMS to obtain the total amount of advance PTC paid for tax year 2014 would better position IRS to determine the amount of the gap between advance PTC paid and advance PTC reported. Continuing to obtain this information and tracking such gaps in the future could also better position IRS to evaluate the effectiveness of its PTC education and compliance efforts.

IRS Finalized Most but Not All Forms and Guidance in Time for the Filing Season

IRS issued most, but not all, of the forms and guidance related to the shared responsibility and PTC provisions in time for the filing season. Leading up to the 2015 filing season IRS also issued several other types of guidance and information for taxpayers and tax preparers on the PTC and shared responsibility provision filing and payment requirements. These included publications, brochures, e-mail bulletins, extensive website information, videos, and webcasts. During the filing season IRS also issued multiple updates to guidance for claiming coverage exemptions related to the shared responsibility provision.

Although IRS finalized Form 8965, *Health Coverage Exemptions*, and the Form 8965 instructions by December 2014, IRS subsequently issued additional updates to the instructions, first in late January 2015 and then again in late February 2015. The January update clarified whether certain types of exemptions could be claimed on a tax return or must be granted by the marketplace. The February update clarified the requirements for claiming a coverage exemption for a gap in marketplace coverage during early 2014.

With respect to PTC guidance, IRS did not finalize some key PTC-related instructions in time for tax software developers, taxpayers, and tax preparers to have complete information at the beginning of the 2015 filing season. Specifically, IRS did not release Publication 974, *Premium Tax Credit*, until late February 2015.[41] The publication released in February included several worksheets some taxpayers needed to compute their PTC, but did not cover certain other situations taxpayers may face. To incorporate guidance for those additional scenarios, IRS released an updated version of Publication 974 on March 30, 2015. According to IRS, this publication was delayed due to the high-level coordination with Treasury, Chief Counsel, and business units and IRS's Services and Enforcement Affordable Care Act Office. Stakeholders representing tax software developers and return preparation services told us that the delay was problematic because software developers were unable to finalize programming for the worksheets that taxpayers would need to calculate both the self-employed health insurance deduction and PTC.[42] IRS

[41]IRS released a brief draft excerpt of Publication 974 in early January.

[42]A taxpayer who is eligible for both the self-employed health insurance deduction and PTC may have difficulty determining these amounts, according to IRS, as calculating each is based on incorporating the amount for the other. IRS provides several worksheets in Publication 974 to help taxpayers calculate these related entries on their tax return.

officials told us that developing the guidance as part of the first year of implementing PTC requirements was very complicated and they do not expect subsequent annual updates to take as much time.

IRS Is Tracking Filing Season Statistics for the Shared Responsibility and Premium Tax Credit Provisions and Plans to Evaluate Establishing Performance Goals and Measures in the Future

IRS's preliminary efforts to evaluate performance for the shared responsibility and PTC provisions have involved tracking statistics and developing a high-level strategic roadmap to align strategic goals, objectives, and measures. Consistent with performance management principles related to using actual performance information to establish a performance measurement system, IRS is tracking key statistical measures related to reporting on compliance with health care coverage requirements and processing tax returns claiming PTC. IRS plans to analyze these data and other performance information following the 2015 filing season. Consistent with performance management leading practices, IRS's strategic roadmap aims to ensure alignment of Patient Protection and Affordable Care Act (PPACA) strategic goals, objectives, and measures at the program and agency-wide levels.

Collection and analysis of performance data. IRS considers the 2015 filing season—when taxpayers file their 2014 returns—a baseline in terms of identifying tax return processing issues and taxpayer behaviors associated with the new individual PPACA provisions. According to IRS officials, analyzing statistics for first-year implementation in these areas may help IRS establish the basis for defining specific performance goals and measures for assessing the effectiveness of SRP and PTC implementation, as appropriate, in the future. Some examples of statistics IRS is tracking include the following:

- The volume of returns claiming health care coverage, an exemption from coverage, and silent returns.
- The volume and dollar amounts associated with tax returns claiming PTC, including whether or not the taxpayer reported receiving an advance PTC.
- The extent to which repayments of excess advance PTC are limited by the statutory cap.[43]

[43]IRC § 36B(f)(2).

- The volume of different types of math errors and third-party discrepancies identified through matching of PTC claims to marketplace data.

IRS also identified 32 different research priorities, which may help it develop performance goals and measures for the shared responsibility and PTC provisions in the future, if IRS determines that provision-specific measures are appropriate. These research priorities include examining taxpayers' behavior related to the advanced PTC reconciliation process, as well as characteristics of taxpayers who self-assessed the SRP or filed silent returns. IRS plans to use the results of its evaluations of taxpayer behavior to help inform IRS compliance initiatives such as IRS's taxpayer education efforts.

According to IRS officials, IRS has not typically defined performance goals specific to new legislative requirements such as the shared responsibility and PTC provisions, but instead incorporated monitoring of new requirements into overall performance goals. Agency officials stated that they will evaluate whether this would be appropriate for SRP and PTC once they have analyzed operational baseline data from the first year of implementing these provisions.

IRS's initial efforts to build toward defining specific goals and measures for implementing the SRP and PTC provisions are consistent with performance management principles related to using actual performance information to establish a performance measurement system. We have reported on the importance of agencies using performance information to help identify problems in existing programs, as well as the causes of problems and potential corrective actions.[44] The principles described in our prior work and the Government Performance and Results Act Modernization Act of 2010 (GPRAMA) can serve as a framework of leading practices that may be applied at the PPACA program level, including implementation of the individual shared responsibility and PTC provisions.[45]

[44]GAO, *Managing for Results: Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sept. 9, 2005).

[45]GPRAMA requires agencies to develop annual performance plans that include performance goals for an agency's program activities and accompanying performance measures. 31 U.S.C. § 1115(b).

Alignment of goals, objectives, and measures. IRS articulated the early vision for implementing PPACA requirements through its Strategic Roadmap, issued in January 2012. The Roadmap described a high-level vision for implementation of all PPACA provisions and included broad goals and objectives that were aligned with IRS's strategic goals and objectives. It outlined a phased approach for continued refinement of the core capabilities and specific initiatives that would help IRS achieve its goals, specifically: defining mission, vision, and guiding principles; defining goals, objectives, and capabilities; conducting gap analysis and identifying next steps; developing the roadmap; reviewing and refining capabilities; and prioritizing capabilities.

Following the issuance of its Strategic Roadmap, IRS moved forward in preparation for implementing PPACA by focusing on five core capability areas that would enable it to meet its objectives: governance and planning, pre- and at-filing operations, compliance, customer service, and stakeholder relations. IRS expanded its planning for PPACA implementation in each core area through the development of high-level action plans and cross-cutting collaborative efforts that involved the IRS divisions and units that would be responsible for implementing specific PPACA-related processes. The high-level action plans generally addressed implementation of multiple PPACA provisions, although some portions focused on defining processes related to PTC, such as the annual redetermination of eligibility for the advanced PTC.

More recently, IRS demonstrated its continued recognition of the importance of aligning performance goals and measures for PPACA. While IRS has not yet defined specific performance goals and measures related to the shared responsibility and PTC provisions, in its preliminary 2015 ACA Filing Season Status Reports, IRS identified tentative linkages between agency-wide strategic goals and the preliminary shared responsibility and PTC-related high-level statistics that are being monitored.

In planning for implementation of PPACA requirements, IRS followed performance management leading practices related to aligning agency-wide strategic goals, objectives, and measures with program-level goals and measures. For example, IRS's Strategic Roadmap described the linkages between the strategic goal of supporting voluntary compliance while protecting the tax system from fraud and other noncompliance and objectives including the use of data-driven strategies to continuously enhance prevention, detection and treatment of fraud and abuse. In our prior work, we found that aligning agency-wide goals, objectives, and measures is another leading practice that can enhance or facilitate the use of performance information for management decision making.[46] Such alignment should reflect a cascading or hierarchical linkage moving from top management down to the operational level.

IRS Is Not Evaluating Its Efforts to Coordinate and Communicate with Key Stakeholders, Which May Pose Challenges for Implementing New Requirements for Tax Year 2015

Successful implementation of the PTC and individual shared responsibility tax provisions requires IRS collaboration with CMS and the marketplaces. It also requires communication with other stakeholders, such as tax software companies, employers, and health insurers. IRS worked to collaborate and communicate with external stakeholders to implement PPACA requirements for tax year 2014. For example, IRS and CMS developed written guidance and agreements that describe common goals and lay out standards and timelines for IRS and the marketplaces to provide key information to one another, including the EPD transmissions and Form 1095-A information. Further, SBM officials we talked to reported that, overall, IRS provided excellent technical support. For example, marketplace officials told us that IRS coordinated with them through regular, frequent meetings, webinars, training sessions, and office hours that covered security, technical, and policy issues. IRS also provided the marketplaces with documentation of technical requirements for the submission of EPD and Form 1095-A information and project plans with timelines. Officials from two marketplaces said IRS was flexible and worked with them regarding timelines for testing data transmissions.

Despite these efforts, external stakeholders we spoke with reported some challenges with IRS collaboration and coordination efforts related to implementation of the PPACA provisions for tax year 2014. As previously discussed, IRS experienced challenges in obtaining timely, complete, and accurate information from the marketplaces and in providing timely guidance to taxpayers and tax preparers. Three of the five SBMs we spoke with told us that limited availability of IRS systems for marketplaces to test monthly data transmissions was a challenge. Other stakeholders we spoke with, including associations representing tax preparers and tax software developers, also said that late forms, instructions, and guidance created challenges in helping their clients with the new PPACA requirements.

[46] GAO-05-927.

IRS initially planned to assess the effectiveness of its efforts to collaborate and communicate with key external stakeholders for the implementation of the 2014 PPACA requirements. This assessment was to help inform IRS efforts for the implementation of the 2015 requirements. However, IRS has not made progress on that assessment. Initial IRS performance plans included plans to assess IRS coordination with different types of external stakeholders. Also, IRS officials told us that an important area for post-filing analysis involves reviewing the effectiveness of key external stakeholder relationships, such as coordination with the state health insurance marketplaces. In prior work we identified key practices that can help sustain collaboration among agencies, including developing mechanisms to evaluate the results of collaborative efforts.[47] IRS received feedback on collaboration efforts on an ad hoc basis from at least one external stakeholder group. However, IRS did not solicit such feedback in a comprehensive way and IRS does not have a documented plan, with timelines, for assessing the effectiveness of its efforts to collaborate with key external stakeholders. In March 2015, officials from IRS's Services and Enforcement Affordable Care Act Office told us that they plan to discuss with SBM officials which aspects of the first year implementation of PPACA requirements went well and which processes could be improved. IRS identified this as part of its plan to catalog lessons learned during the first year of implementation of the shared responsibility and PTC provisions to help improve future coordination with the states. However, as of May 1, 2015, IRS had not initiated any analysis in this area and IRS officials did not indicate when they expect to initiate this analysis.

Without an assessment of its efforts to collaborate and communicate with key external stakeholders, challenges in implementing the 2014 PPACA requirements that relied on these groups could also affect new

[47]GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration Among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005).

requirements taking effect in 2015.[48] Although IRS is evaluating opportunities for improving return processing and taxpayer experience related to the shared responsibility and PTC provisions, it is not evaluating its collaboration efforts. The new requirements—listed below—affect a broader group of stakeholders, including health insurers and certain employers, and IRS is developing new systems and guidance to implement the requirements. Some external stakeholders we spoke with raised concerns about the readiness of IRS and stakeholders to implement the new requirements smoothly.

- **New health coverage reporting requirements.** As of April 3, 2015, IRS's ACA Enterprise Risk Register listed delays to the information return program as significant, ongoing risks based on the readiness of reporting entities and delays in the IRS guidance for software developers. According to IRS officials, although larger software developers will be able to accommodate changes on shorter time frames, smaller software developers may have more challenges. Several stakeholders told us that they need finalized forms and guidance at least 12 months in advance to be able to develop the software they will need to track and report information. However, IRS has not yet finalized guidance for Forms 1095-B and 1095-C that insurers and large employers, respectively, will be required to file starting with the 2016 filing season. IRS issued instructions for these new information returns in early February 2015. However, the instructions for these forms are incomplete. The instructions for insurer reporting do not list the due date for insurers to provide the form to covered individuals. Furthermore, the instructions for both the

[48]We previously reported on criteria for practices that can enhance collaboration among federal agencies, including establishing (1) mutually reinforcing or joint strategies, (2) compatible policies and procedures to operate across agency boundaries, and (3) written guidance and agreements. See GAO-06-15. Our more recent work confirmed these collaborative practices; see GAO, *Managing for Results: Implementation Approaches Used to Enhance Collaboration in Interagency Groups*, GAO-14-220 (Washington, D.C.: Feb. 14, 2014), and *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022 (Washington, D.C.: Sept. 27, 2012). Furthermore, according to federal standards for internal control, agency management should ensure adequate means of communicating with and getting information from external stakeholders that may have a significant impact on the agency achieving its goals. The standards for communicating with external stakeholders identified in GAO, *Standards for Internal Control in the Federal Government,* GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999) are consistent with updated guidance that will be effective in 2016 (GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014)).

insurer and employer returns lack information on the process to be used for issuing corrected forms if needed, indicating that this information is “Reserved.” IRS officials told us that they are updating the forms and instructions for tax year 2015 and that the updated instructions will list the due dates. As of June 2015, Publication 5165, *Guide for Electronically Filing Affordable Care Act Information Returns for Software Developers and Transmitters*, was also still under development. This guidance is to provide software developers and electronic transmitters of these returns specific protocols, formats, business rules, and validation procedures. IRS issued a draft version of Publication 5165 on April 25, 2015, and an updated draft on June 9, 2015. The draft version of the publication includes information on issuing corrected forms. As of the end of May, IRS expected to begin testing the electronic submission process for the information returns with external organizations in July 2015.

- **Marketplace exemption reporting.** If the marketplaces are unable to process exemption applications and report exemption information to IRS in a timely way, IRS will not have some of the information it needs to verify taxpayer exemption claims for tax year 2015. Stakeholders told us that the paper-based marketplace exemption process is complex and cumbersome. Furthermore, SBMs that had the FFM process their exemption applications and submit exemption information to IRS for the 2014 coverage year are required to process exemptions and submit the information on their own beginning in 2016.[49] Officials from one of the five SBMs we spoke with said that marketplace would establish a system for processing exemptions once more information was available from CMS. But at the time we spoke with the officials in January 2015, CMS had not provided this guidance. As of late April 2015, IRS was also unable to provide this information. In July 2015, HHS officials told us that HHS plans to release guidance relieving the SBMs of exemption reporting for 2016.

- **Information on advance PTC recipients who fail to file a tax return.** Marketplace officials we interviewed said that IRS needs to clarify how it will provide information to the marketplaces about whether or not an individual who received advance PTC in the past filed a tax return, as required. The marketplaces will need this

[49]Beginning in coverage year 2016 State-based Marketplaces must process their own exemption applications (45 C.F.R. § 155.625) and report exemption information to IRS (26 C.F.R. § 1.36B-5(c)(4)).

information because individuals who receive advance PTC and fail to file a tax return reporting their advance PTC are ineligible for future advance PTC payments.[50] In May 2015, IRS officials told us that they began discussing this issue with CMS officials in early March 2015, and that they also plan to meet with the SBMs. IRS officials said they expect to be able to provide information to the marketplaces to implement this provision by August 31, 2015, in time for the 2016 coverage year marketplace open season.

IRS Implemented 13 of 15 Prior GAO PPACA-Related Recommendations

IRS has implemented 13 recommendations we previously made to IRS related to the implementation of PPACA provisions. Table 4 summarizes the recommendations implemented by IRS.

Table 4: Prior GAO Recommendations Related to IRS Implementation of the Patient Protection and Affordable Care Act (PPACA)

Report	Recommendation	Action taken	Benefit
GAO-13-835	Enhance transparency of PPACA investment data. Publicly report ACA IT investment as a major investment on the OMB IT Dashboard and the fiscal year 2015 budget request, including standard cost, schedule, and performance information.	Implemented: IRS reported the ACA IT investment as a major investment in the fiscal year 2015 budget request and included an Exhibit 300 (a capital asset plan), which is publicly available on the OMB Dashboard.	Publicly reporting on IRS's ACA IT investment enhances transparency.
GAO-12-690	Enhance guidance on evaluating risk mitigation alternatives by clarifying responsibilities and methodologies in the PPACA risk management plan.	Implemented: IRS revised the risk management plan to state which parties are responsible for performing and reviewing analysis of mitigation alternatives. The plan also included guidance on selecting the strategies and documenting the decisions, including the rationale for the decisions.	These steps will help strengthen the PPACA risk management plan.

[50] 26 C.F.R. § 1.6011-8; 45 C.F.R. § 155.305(f)(4).

Report	Recommendation	Action taken	Benefit
GAO-12-690	Strengthen the PPACA risk management plan. Enhance guidance on evaluating risk mitigation alternatives to assure that resources are available for the chosen mitigation strategy.	Implemented: IRS revised the risk management plan to consider whether proper resources are available to commit to the implementation of the chosen mitigation strategy.	IRS is more likely to select risk mitigation strategies for which sufficient resources are available.
GAO-12-690	Strengthen the PPACA risk management plan. Enhance guidance on evaluating risk mitigation alternatives to document the mitigation alternatives considered and rationale(s) for the decisions made.	Implemented: IRS revised the risk management plan to state which parties are responsible for performing and reviewing analysis of mitigation alternatives. The plan also included guidance on selecting the strategies and documenting the decisions, including the rationale for the decisions.	These steps will help ensure that IRS has an institutional record of its analysis of mitigation alternatives.
GAO-12-690	Develop agreements with the Department of Health and Human Services (HHS) and other external parties as needed, on a system to record and track details on decisions made or to be made to ensure that PPACA implementation risks are identified and mitigated.	Implemented: In April 2013, IRS officials said that the body overseeing efforts to coordinate HHS, IRS, the Department of Labor, and other agencies in implementing the sections of PPACA related to health care exchanges determined that each agency should track its own risks and report to the other agencies as necessary. In July 2015, IRS provided evidence that the agencies are tracking and communicating their shared risks.	Improved risk management for cross-agency PPACA implementation initiatives.
GAO-12-690	Ensure more consistent implementation of the risk management plan. Ensure that the PPACA risk management plan is applied to provisions in which the Office of Chief Counsel assumes lead responsibility for implementation.	Implemented: IRS revised the risk management plan to require that the plan be used for provisions of the law that have operational impacts and are assigned to the Office of Chief Counsel.	IRS is more likely to identify, mitigate, and track risks related to the work completed by the Office of Chief Counsel.
GAO-12-683R	Establish a mechanism to monitor compliance with the requirement for employees and timekeepers to charge time spent on PPACA projects to the PPACA accounting code.	Implemented: IRS established procedures to (1) monitor PPACA account postings on a monthly basis to identify PPACA-related expenses, which include labor time charges and (2) coordinate with the business units to ensure that PPACA expenses charged to IRS appropriations are moved to the PPACA account prior to fiscal year-end.	Helped improve the reliability of IRS financial statements by reducing the risk of PPACA expenses being improperly charged to IRS's appropriation.
GAO-12-683R	Design and implement procedures to ensure that PPACA-related expenses are properly identified and charged to the PPACA appropriation where appropriate.	Implemented: IRS established procedures designed to identify and research PPACA transactions in the agency's expense files and to transfer expenses as appropriate to the PPACA appropriation.	Will help reduce the risk that IRS may not be able to accurately report the cost of its PPACA activities.

Report	Recommendation	Action taken	Benefit
GAO-12-603	Update the PPACA cost estimate by September 2012 in accordance with best practices in the GAO Cost Estimating and Assessment Guide.[a]	Implemented: IRS made progress in updating its initial October 2010 PPACA cost estimate in accordance with best practices as identified in the GAO Cost Estimating and Assessment Guide.[b]	Improved information on program cost and results that could aid in resource decision making.
GAO-11-719	Document a schedule for developing performance measures linked to program goals.	Implemented: IRS documented a schedule for developing performance measures that are to link to program goals and developed performance measures linked to the overall program goals listed in IRS's PPACA Governance Plan.	IRS will know what program evaluation data it must collect as IRS develops PPACA information technology systems.
GAO-11-719	Modify and document the risk management approach to assure that all risks, including strategic-level risks for the program, are identified and analyzed and that mitigation options are assessed.	Implemented: IRS revised the risk management plan to clarify which parties are responsible for analyzing and reviewing mitigation alternatives and to clarify how these alternatives are to be selected and decisions about them are to be documented.	Will help ensure that strategic-level PPACA implementation risks are identified and analyzed.
GAO-11-719	Document a more complete cost estimate that is consistent with the GAO Cost Estimating and Assessment Guide.[a]	Implemented: In 2013, we reported that IRS made progress in updating its initial 2010 PPACA cost estimate in accordance with best practices as identified in the GAO Cost Estimating and Assessment Guide.[b]	Reduce the risk that IRS will not know what resources are needed and when they are needed.
GAO-11-719	Define PPACA program goals and develop a project plan in one document that effectively integrates all aspects of the program.	Implemented: IRS defines program goals and objectives in a PPACA Governance Plan issued by the PPACA Executive Steering Committee. The goals link to agency objectives and apply to the entire IRS PPACA effort. In June 2015 IRS officials provided documentation that they electronically integrated the PPACA project plan.	An integrated project plan could help enhance collaboration among IRS units and support IRS efforts to monitor progress.

Source: GAO. | GAO-15-540

Notes:

[a]GAO, *Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, GAO-09-3SP (Washington, D.C.: March 2009).

[b]GAO reported on IRS progress on implementing our prior recommendation on PPACA cost estimates in greater detail in GAO, *IRS 2016 Budget: IRS Is Scaling Back Activities and Using Budget Flexibilities to Absorb Funding Cuts*, GAO-15-624 (Washington, D.C.: June 24, 2015).

Two of our other PPACA-related recommendations to IRS remain open, though IRS has made some progress in implementing them. As shown in table 5, IRS implementation of these recommendations would foster accountability and provide information to help budget decision makers.

Table 5: Recommendations Related to the Patient Protection and Affordable Care Act (PPACA) to IRS that Remain Open

Report	Open recommendations	Expected benefit	Status
GAO-13-835	Further refine updates to the PPACA cost estimate. Improve the accuracy and credibility of future updates to the PPACA cost estimate by taking the following actions to more closely follow best practices outlined in the GAO Cost Estimating and Assessment Guide:[a] • Use earned value management to capture actual costs and use them as a basis for future updates. • Explain why variances occurred between the current estimate and previous estimates. • Document how cost drivers are selected for future sensitivity analyses. • Conduct future risk and uncertainty analyses consistent with best practices, and develop and document plans to address risks. • Validate the original cost estimate by preparing a second, independent cost estimate.	Developing a cost estimate that meets additional best practices will foster accountability, improve insight, and provide objective information.	In February 2015, IRS released version 3 of the PPACA cost estimate which reflects best practices to a greater extent. IRS has taken action on 2 of 5 elements of the recommendation. IRS improved documentation of how cost drivers for its sensitivity analysis were selected and the explanation of variance from the prior estimate. IRS has not improved its practices related to the use of earned value management, risk and uncertainty analysis, or validating the estimate. GAO recently reported in greater detail on IRS progress on implementing recommendations on PPACA cost estimates.[b]

Report	Open recommendations	Expected benefit	Status
GAO-12-603	Ensure that cost-effectiveness analyses are conducted for future significant investments when there are alternative approaches for achieving a given benefit, such as for any new significant PPACA projects.	Without cost-effectiveness analyses, budget decision makers do not have information to compare alternatives and it may be difficult to determine the best use of resources.	As of February 2015, IRS officials reported that for the fiscal year 2017 budget formulation process, they have developed new instructions and procedures for conducting cost-effectiveness analyses, which include considering trade-offs and alternatives of proposed investments. Also, they plan to conduct cost-effectiveness analyses for future significant nonenforcement initiatives when there are alternative approaches to achieving a given benefit and there is sufficient time to conduct the analyses, according to officials. IRS actions are consistent with what we recommended in June 2012; however, documentation for the fiscal year 2017 budget formulation process is considered pre-decisional. When the data is available we will assess it.

Source: GAO. | GAO-15-540

Notes:

[a]GAO, *Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, GAO-09-3SP (Washington, D.C.: March 2009).

[b]GAO reported on IRS progress on implementing our prior recommendation on PPACA cost estimates in greater detail in GAO, *IRS 2016 Budget: IRS Is Scaling Back Activities and Using Budget Flexibilities to Absorb Funding Cuts*, GAO-15-624 (Washington, D.C.: June 24, 2015).

Conclusions

Implementation of the new PPACA tax provisions for tax year 2014 was a broad and complex undertaking. IRS developed new systems, processes, forms, instructions, and educational materials and worked closely with external stakeholders to facilitate implementation of the shared responsibility and PTC provisions. However, IRS experienced various challenges related to the availability of complete and accurate marketplace data and taxpayer compliance with the new requirements. Additional IRS actions could help improve IRS oversight of these tax provisions.

Assessing the costs and benefits of options for addressing taxpayer noncompliance with the requirements of the shared responsibility provision in the 2016 filing season would help IRS determine what compliance actions would best support its goals to encourage voluntary compliance while enforcing the law with integrity and fairness to all.

Determining whether problems with the marketplaces providing—and IRS using—complete, timely, and accurate marketplace data was a first-year challenge that is unlikely to recur or if those problems are a longer-term challenge would help IRS plan for processing tax returns with PTC claims for future tax years. If the problems are expected to be an ongoing challenge, assessing their effects and correction options would help IRS better target contingency plans and assess the trade-offs among any correction options.

Assessing whether or not the data received from the marketplaces are sufficiently complete and reliable would help IRS better understand the potential benefits and risks of using the data to correct tax returns at filing. The administration has requested that Congress give IRS broad authority to correct tax returns based on matching with government databases. However, Congress has not granted that authority. If an IRS assessment of the marketplace data determined that corrections based on matching with those data would be effective, seeking more specific authority to make such corrections at the time of filing for tax returns with PTC claims could reduce the cost and burden of needing to use the correspondence process to resolve discrepancies. It also would be an effective first step in demonstrating the benefits of correctible error authority.

Establishing as a baseline the aggregate amount of the gap between the advance PTC paid and advance PTC reported for the 2014 tax year, and tracking this statistic in future years, would help IRS evaluate the overall effectiveness of the measures it takes to educate taxpayers and tax preparers about the requirements of the PTC tax provision, as well as the effectiveness of its PTC compliance strategy.

Evaluating its efforts to collaborate and communicate with key external stakeholders, such as CMS, the marketplaces, tax software companies, and employers would help IRS assess whether changes to its collaboration and communication practices could help it avoid the kinds of challenges it faced in tax year 2014 as it implements the new PPACA provisions in tax year 2015. Without such an evaluation, IRS increases the risk of problems implementing the 2015 requirements that rely on IRS coordination and communication with key stakeholders.

Recommendations for Executive Action

To strengthen oversight of the individual shared responsibility and premium tax credit provisions, we recommend that the Commissioner of Internal Revenue take the following five actions:

- Assess the costs and benefits of compliance options, such as soft notices, that could be used beginning in the 2016 filing season to address the problem of tax returns that do not include at least one of the following: indication of full-year health care coverage, claim of an exemption from the requirement to have coverage, or report of a shared responsibility payment, as required.

- Assess whether the challenges in getting complete and accurate marketplace data in time to conduct pre-refund verification of taxpayer PTC claims are a single year or an ongoing problem and, if they are an ongoing problem, assess the effects of the problem and options for correcting it.

- Assess whether or not the data received from the health insurance marketplaces are sufficiently complete and accurate to enable effective correction of tax returns at-filing based on matching with the marketplace data and, if the assessment determines that such corrections would be effective, seek legislative authority to correct tax returns at-filing based on the marketplace data.

- Work with CMS to get the total amount of advance PTC paid for the 2014 tax year and establish, as a baseline, the aggregate amount of the gap between advance PTC paid and advance PTC reported for the 2014 tax year, and track this aggregate gap for future tax years to help in evaluating the effectiveness of IRS's PTC education and compliance efforts.

- Evaluate IRS efforts to collaborate and communicate with key external stakeholders to inform efforts related to implementation of the new 2015 PPACA requirements.

Agency Comments and Our Evaluation

We provided a draft of this report to the Commissioner of Internal Revenue and the Secretary of Health and Human Services for comment. IRS provided written comments on a draft of the report, which are reprinted in appendix II. IRS and HHS also provided technical comments, which we incorporated, as appropriate.

IRS generally agreed with our recommendations. IRS agreed with four of our five recommendations and agreed in part with our recommendation to work with CMS to get the total amount of advance PTC paid for the 2014 tax year and establish, as a baseline, the aggregate amount of the gap between advance PTC paid and advance PTC reported for the 2014 tax year, and track this aggregate gap for future tax years. IRS agreed to analyze reporting of advance payments of the PTC by the marketplaces. According to IRS, the results of this analysis and other efforts will help inform the IRS of potential areas for improvement in education, tax filing, and compliance activities. We continue to believe IRS should track the aggregate gap between advance PTC paid and advance PTC reported.

We are sending copies of this report to the appropriate congressional committees, the Commissioner of Internal Revenue, the Secretary of the Treasury, the Secretary of Health and Human Services, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions or wish to discuss the material in this report further, please contact me at (202) 512-9110 or at mctiguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Sincerely yours,

James R. McTigue, Jr.
Director, Tax Issues
Strategic Issues

Appendix I: Objectives, Scope, and Methodology

The objectives of this report are to (1) assess what the Internal Revenue Service (IRS) has done and plans to do to implement the premium tax credit (PTC) and individual shared responsibility tax provisions; (2) determine the extent to which IRS goals for these tax provisions are linked to performance measures to evaluate program success; (3) assess IRS collaboration with government and private sector entities to implement and enforce these tax provisions; and (4) describe IRS's progress in implementing our past recommendations on Patient Protection and Affordable Care Act (PPACA) implementation.

To address these objectives, we reviewed IRS plans and processes, including tax forms, instructions, and guidance; the Services and Enforcement Affordable Care Act Office Project Management Plan and Affordable Care Act Strategic Roadmap; and relevant laws and Department of the Treasury regulations. For information on key IRS information technology systems, we drew on information from our recent work on this issue.[1] We also reviewed Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS) reports and planning documents on marketplace enrollment and disbursements of advance PTCs. We interviewed officials from IRS, CMS, the Information Reporting Program Advisory Committee—an IRS advisory group made up of tax professionals—and nongeneralizable samples of five State-based Marketplaces (SBM) and eight external stakeholder groups. We selected marketplaces and external stakeholder groups to get a variety of perspectives. The SBMs we selected varied by number of enrollees and by the percentage of enrollees with financial assistance. We also selected the only SBM that processed its own 2014 exemption applications, one SBM for which the Federally-facilitated Marketplace (FFM) reported 2014 marketplace enrollment information to IRS, and one SBM that reported its own enrollment information for 2014 but switched to using the FFM for 2015. To get a variety of perspectives from external stakeholders, we selected groups representing tax software companies, tax preparers, employers, and taxpayers—including a group representing taxpayers broadly and a group focused on serving low-income taxpayers. We analyzed preliminary summary IRS 2015 filing season data related to the premium tax credit and individual shared responsibility provisions. We assessed the reliability of the data by reviewing related documentation,

[1]GAO, *Information Technology: Management Needs to Address Reporting of Investments' Costs, Schedule, and Scope Information*, GAO-15-297 (Washington, D.C.: Feb. 25, 2015).

testing the data for errors, and interviewing IRS officials. We determined that the data were sufficiently reliable for the purposes of this report. We assessed IRS implementation activities and plans using IRS goals as criteria. We assessed IRS efforts to collaborate with partner agencies and key external stakeholder groups using criteria from IRS goals and plans as well as criteria on interagency collaboration reported in our prior work. These criteria include establishing (1) mutually reinforcing or joint strategies, (2) compatible policies and procedures to operate across agency boundaries, and (3) written guidance and agreements.[2] We assessed IRS performance goals and measures for implementation of the PPACA individual shared responsibility mandate using criteria on leading practices for performance management described in our prior work and drawing from the broad agency performance requirements under the Government Performance and Results Act Modernization Act of 2010.[3]

We conducted this performance audit from July 2014 to July 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[2]See GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration Among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 21, 2005). Our more recent work confirmed these collaborative practices; see GAO, *Managing for Results: Implementation Approaches Used to Enhance Collaboration in Interagency Groups*, GAO-14-220 (Washington, D.C.: Feb. 14, 2014), and *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022 (Washington, D.C.: Sept. 27, 2012).

[3]See GAO, *Enhancing Agency Use of Performance Information for Management Decision Making*, GAO-05-927 (Washington, D.C.: Sept. 9, 2005) and Pub. L. No. 111-352, § 3, 124 Stat. 3866 (Jan. 4, 2011), codified at 31 U.S.C. § 1115(b).

Appendix II: Comments from the Internal Revenue Service

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

July 16, 2015

Mr. James R. McTigue, Jr.
Director, Tax Policy and Administration
Strategic Issues Team
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. McTigue:

Thank you for the opportunity to review your draft report titled "PATIENT PROTECTION AND AFFORDABLE CARE ACT: IRS Needs to Strengthen Oversight of Tax Provisions for Individuals" (GAO-15-540, Job Code 451106). Your review focused on the IRS' implementation of the individual shared responsibility provision (ISRP) and the premium tax credit (PTC) provision under the Affordable Care Act (ACA) – both of which were implemented for the 2015 filing season.

As noted in your report, the implementation of these ACA provisions was a broad, complex and significant undertaking for IRS. The IRS developed new systems, processes, tax forms, instructions, and educational materials; and we worked closely and had ongoing collaborations with government and private sector stakeholders to facilitate implementation of these provisions.

Indeed, the IRS had extensive outreach and coordination efforts with the Health Insurance Marketplaces (Marketplaces) to provide both broad support and targeted subject-matter expertise to help Marketplaces meet the reporting requirements. Regular interactions included IRS-hosted training sessions, followed by weekly calls for Marketplace officials to request technical assistance and hear directly from IT, business, and legal experts, as well as individual meetings with each Marketplace on state-specific issues. IRS also provided Marketplaces with key business and technical baseline documents governing reporting for submission of Marketplace data and Form 1095-A information, and project plans with timelines. In addition to broad technical support, IRS engaged with Marketplaces and CMS to collaborate on testing activities in order to help Marketplaces prepare for monthly and annual reporting through end-to-end scenario based testing.

We appreciate your report's acknowledgement of IRS' ongoing efforts to ensure successful implementation and oversight of these ACA provisions currently and in the future. The IRS takes very seriously its role to ensure accurate and timely administration of all ACA provisions. At the outset of IRS' preparations for ACA implementation, and

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consistent with performance management leading practices, IRS developed a strategic roadmap for implementing ACA. The roadmap defined strategic goals and objectives that were aligned with agency-wide goals, objectives and measures. The 2015 filing season was IRS' first year of implementing and administering the ISRP and PTC provisions, and the lessons learned from this first-year implementation will inform our future strategic roadmap and be used to further strengthen IRS' oversight in these areas.

As you noted, the IRS did not receive all necessary data submissions from the Marketplaces prior to January 20, 2015, which was the start of the 2015 tax filing season. As a result, the IRS employed certain contingency plans it had developed in the event that partial data was received. These contingency plans included using Form 1095-A data as a secondary source of verification, corresponding with taxpayers when appropriate and using other available data to perform verification checks.

IRS plans to analyze and evaluate filing behaviors from the 2015 filing season to identify trends, patterns and taxpayer behaviors associated with these new ACA provisions. The results of our analysis and evaluations will be used to inform IRS' compliance initiatives and taxpayer education efforts for the 2016 filing season and beyond. We value your input as we continue with our ACA implementation efforts. Attached are our responses to your recommendations. These recommendations will further strengthen IRS' implementation and oversight over these ACA provisions.

Sincerely,

John M Dalrymple

John M. Dalrymple
Deputy Commissioner for Services and Enforcement

Enclosure

Enclosure

GAO Recommendations and IRS Responses to GAO Draft Report
PATIENT PROTECTION AND AFFORDABLE CARE ACT
IRS Needs to Strengthen Oversight of Tax Provisions for Individuals
GAO-15-540

Recommendation:

Assess the costs and benefits of compliance actions, such as soft notices, that could be used beginning in the 2016 filing season to address the problem of tax returns that do not include at least one of the following: indication of full-year health care coverage, claim of an exemption from the requirement to have coverage, or report of a shared responsibility payments, as required.

Comments:

We agree with your recommendation. The IRS is considering what additional post-filing compliance actions it should take, which includes consideration of those tax returns that did not indicate full-year coverage, claim a health care coverage exemption, or report a shared responsibility payment. As one possibility for post-filing compliance actions, the IRS is considering sending soft notices as recommended; however, faced with competing funding priorities in our current fiscal climate, we continue to evaluate the priority of such compliance initiatives relative to our other funding needs.

It is important to note that the majority (over 60%) of the returns that did not indicate full-year coverage, claim a health care coverage exemption, or report a shared responsibility payment, do not require any further action by the IRS because they are returns that were filed by dependents. Dependents filing tax returns are instructed by the IRS to be silent with respect to the individual shared responsibility provision and, therefore, it was expected that the IRS would receive returns reporting in this manner.

Recommendation:

Assess whether the challenges in getting complete and accurate marketplace data in time to conduct pre-refund verification of taxpayer PTC claims are a 1-year or an ongoing problem and, if they are an ongoing problem, assess the effect of the problem and options for correcting it.

Comments:

We agree with your recommendation. The IRS has extensive outreach and coordination efforts with the Health Insurance Marketplaces (Marketplaces) and will continue to collaborate with the Marketplaces to identify areas for improvement with respect to Marketplace reporting.

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Recommendation:

Assess whether or not the data received from the health insurance marketplaces are sufficiently complete and accurate to enable effective correction of tax returns at-filing based on matching with the marketplace data and, if the assessment determines that such corrections would be effective, seek legislative authority to correct tax return at-filing based on the marketplace data.

Comments:

We agree with your recommendation. The IRS will continue to collaborate with Marketplaces to assess the quality of Marketplace data. In addition, the IRS supports the existing legislative proposal that in part would add a new category of "correctable errors." Under this new category, the Department of Treasury would have regulatory authority to permit the IRS to correct errors in cases where the information provided by the taxpayer does not match the information contained in government databases.

Recommendation:

Work with CMS to get the total amount of advance PTC paid for the 2014 tax year and establish, as a baseline, the aggregate amount of the gap between advance PTC paid and advance PTC reported for the 2014 tax year, and track this aggregate gap for future tax years to help in evaluating the effectiveness of IRS's PTC education and compliance efforts.

Comments:

We agree with your recommendation in part. As one of the ongoing efforts by the IRS to evaluate the effectiveness of its implementation of the premium tax credit (PTC) provision for tax year 2014, the IRS will perform an analysis of reporting of advance payments of the PTC by the Marketplaces. The results of this analysis and other efforts will help inform the IRS of potential areas for improvement in education, tax filing and compliance activities.

Recommendation:

Evaluate IRS efforts to collaborate and communicate with external stakeholders to inform efforts related to implementation of the new 2015 PPACA requirements.

Comments:

We agree with your recommendation. Our process in gathering input and identifying opportunities for improvement is by necessity on-going. We began these interactions

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during the planning process for ACA many years ago and continued them throughout the most recent tax filing season, recognizing and realizing opportunities for improvement or lessons learned. Our feedback mechanisms include critical periodic (quarterly, monthly, and often weekly) interactions with internal and external stakeholders. These mechanisms resulted in clarifications and communication updates throughout the tax filing season. We have found historically, that these relationships and feedback opportunities can and do result in process updates and benefits going both ways. For example, the excellent relationship built with the Council for Electronic Revenue Communication Advancement (CERCA)'s Healthcare Working Group has provided specific feedback which we are using to provide key input for our planning process for next year's tax filing season, as well as to inform our lessons learned process for the most recent tax filing season.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact:

James R. McTigue, Jr., (202) 512-9110, mctiguej@gao.gov

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