



Highlights of [GAO-10-349](#), a report to congressional addressees

## Why GAO Did This Study

The American Recovery and Reinvestment Act of 2009 (Recovery Act), was enacted to bolster the struggling U.S. economy at an estimated cost of \$787 billion, of which more than a third was in the form of tax relief to the public.

This report (1) describes the status of the Internal Revenue Service's (IRS) implementation of Recovery Act tax provisions; (2) examines whether IRS captured or planned to capture data on the use of the provisions; (3) assesses IRS's efforts to determine potential abuse of the provisions; and (4) discusses possible lessons learned for future tax administration. GAO analyzed IRS's implementation and data-collection plans for each provision; reviewed IRS and Department of the Treasury (Treasury) risk-management documents; interviewed federal and industry officials; and focused on five provisions implemented in 2009: Build America Bonds (BAB), Consolidated Omnibus Budget Reconciliation Act (COBRA), First-Time Homebuyer Credit (FTHBC), Making Work Pay Credit, and Net Operating Loss carrybacks.

## What GAO Recommends

GAO suggests that the Congress consider (1) authorizing IRS to publish more BAB information and (2) granting IRS broader authority to correct errors during tax-return processing. GAO also recommends IRS obtain more information on BABs, enhance compliance with the COBRA provision, and prepare a report on Recovery Act lessons learned.

View [GAO-10-349](#) or [key components](#). For more information, contact Michael Brostek at (202) 512-9110 or [brostekm@gao.gov](mailto:brostekm@gao.gov).

# RECOVERY ACT

## IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed

### What GAO Found

#### IRS Quickly Addressed the Act's Significant Implementation Challenges

The Recovery Act posed significant implementation challenges for IRS because it had more than 50 provisions, many of which were immediately or retroactively available and had to be implemented during the tax filing season—IRS's busiest time. Some provisions affected the 2009 filing season (2008 tax year), while others mainly will affect the 2010 and 2011 filing seasons. IRS responded quickly to its challenges. For instance, within about 6 months of the Recovery Act's enactment, IRS had issued guidance or instructions for more than 80 percent of the provisions.

#### **Categorization of the Tax Provisions That IRS Had a Role in Administering**

Categorization	Number of provisions	Value of provisions (dollars in billions)
Individual credits	12	\$247
Bond incentives	14	27
Consolidated Omnibus Budget Reconciliation Act	1	25
Energy incentives	14	20
Business incentives	11	6
Health coverage improvement	1	0 <sup>a</sup>
Withholding on government contractors	1	0 <sup>a</sup>
<b>Total=54</b>		<b>Total=\$325<sup>b</sup></b>

Source: GAO analysis of IRS and Joint Committee on Taxation data.

<sup>a</sup>The actual value is nonzero but is rounded down to zero.

<sup>b</sup>This dollar total differs from the \$288 billion used by the administration and posted on [recovery.gov](http://recovery.gov); it includes COBRA premium subsidies and economic recovery payments, because IRS is involved in administering them.

However, responding quickly entailed tradeoffs, such as not making some computer changes to collect data, and subsequent improvements were required. For example, because of the compressed time to implement the 2009 FTHBC, IRS did not make computer changes to collect data, including the home purchase date. Without such information, IRS was unable to easily distinguish 2008 and 2009 FTHBCs. Distinguishing between the two credits is critical because they involve different requirements, including whether and how the credit is to be repaid. IRS plans to verify the date of purchase on past claims and make any necessary adjustments when it begins enforcing 2008 FTHBC repayment provisions. IRS also plans to make the computer changes needed to collect all significant data, including the home purchase date, from a revised form for 2009 claims.

#### IRS's Data-Collection Efforts Have Limitations

IRS went beyond its typical data-collection efforts and plans to collect some data to track many Recovery Act provisions. Specifically, IRS currently has detailed data-collection plans for 17 or about 31 percent of the provisions

and 63 percent of the total estimated cost of the tax provisions. Initial collections did not fully or accurately capture the use of some provisions. In addition, very little of the data that IRS has collected on the tax provisions has been released publicly.

As one example of limited data, neither IRS nor any other federal agency is collecting for publication the sort of information on BABs that the Congress required for the act's spending projects. BAB projects can be very similar to those funded by Recovery Act spending projects, but the same transparency and accountability do not apply. If IRS were to collect such information, then it would need the Congress to grant it the authority to publish the information. State and local governments may issue an unlimited number of BABs through December 31, 2010, and all BAB proceeds must be used for qualified capital expenditures. As of January 1, 2010, state and local governments reported 443 BABs, which raised about \$32.4 billion. One hundred and thirty-one BABs were issued for education, which were more issuances than for any other specified type of BAB.

As another example, COBRA data will understate the number of individuals receiving health insurance. For instance, if COBRA premium assistance was paid for a former employee, his or her spouse, and one child, an employer would count that as one person provided assistance. According to IRS officials, the relevant form did not include dependents due to a short implementation time frame, space constraints on the form, and a desire not to overburden employers with additional reporting requirements.

#### Provisions' Economic Stimulus Effect Cannot Be Precisely Isolated

Similar to what GAO has found about the act's spending projects, the tax provisions' economic stimulus effect cannot be precisely isolated. Economists use evidence from macroeconomic forecasting models and models that extrapolate from historical data to assess stimulus effects. These approaches, however, are imprecise because historical experience may not apply well given the magnitude of the Recovery Act. The effect of some provisions on specific aspects of the economy may be described in general terms. For example, the Council of Economic Advisers noted that in addition to other policy actions affecting residential real estate, the FTHBC may have moderated construction-industry job losses.

#### IRS Took Steps to Mitigate Abuse of Provisions, but Some Compliance Challenges Arose and Others Remain

As a result of IRS's FTHBC preresult compliance reviews, as of February 1, 2010, IRS had frozen about 140,000 refunds pending civil or criminal examination, and, as of December 2, 2009, had identified 175 criminal

schemes and had 123 criminal investigations open. Although IRS addressed some challenges with the FTHBC in these ways, it still needs to finalize a way to identify individuals who fail to report home sales and might be required to repay part of the credit because their homes ceased to be their principal places of residence within 3 years of purchase. A form already exists that could be used for this purpose—Form 1099-S, "Proceeds from Real Estate Transactions," but it is not clear IRS could use the form for this purpose under current legislative authority. As GAO's review ended, IRS identified third-party data that it expected to use and then evaluate the results.

Similarly, IRS had not finalized actions to ensure that employers stop claiming the credit for COBRA premium subsidies when former employees are no longer eligible. A cost-effective option to help IRS with unresolved compliance issues exists—expanding a planned project to determine if employers are claiming the subsidies for longer than allowed. If they are, IRS could send all employers letters reminding them of their obligations and urging them to correct any errors they have made.

#### Documenting IRS's Recovery Act Lessons Learned and Expanding Its Authority, with Appropriate Controls, Could Improve Future Tax Administration

Issues IRS encountered in its Recovery Act experience could provide useful guidance for the future. Officials intend to do a lessons-learned study after the 2010 filing season but have yet to develop plans for doing so.

In addition, IRS and taxpayers would have benefited if IRS had more statutory "math error authority" (MEA) to correct errors during tax-return processing when the Recovery Act was first implemented, rather than only after problems were identified. Authorizing such authority on a broader basis rather than case-by-case, with appropriate controls, could have several benefits to IRS and taxpayers; for example, it is an automated and low-cost means to protect revenue and avoid audits that are costly to IRS and burdensome to taxpayers.

#### Agency Comments

The Commissioner of Internal Revenue agreed fully with two recommendations and agreed with the benefit of the third. He noted that the benefit of more BAB information would have to be balanced with the burden on BAB issuers but said IRS stood ready to implement the recommendation if the Congress authorized publication of the data. GAO believes this burden could be tempered by having a minimum reporting threshold or delaying the onset of requirements, as was done when similar reporting for charitable organizations was instituted. He also said that in those cases in which more MEA could be effectively deployed, IRS would welcome it.