

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
STATEMENT PRESENTED TO
THE INTERNAL REVENUE SERVICE ON
THE REAL TIME TAX SYSTEM
December 8, 2011

The American Institute of Certified Public Accountants (AICPA) appreciates the opportunity to appear today to provide comments regarding the proposal to develop a Real Time Tax System (RTTS). I am Patricia Thompson, Chair of the AICPA's Tax Executive Committee, and I am a practicing CPA in Providence, Rhode Island.

The AICPA is the national professional association of certified public accountants comprised of approximately 377,000 members. Our members advise clients on federal, state, and international tax matters and prepare income and other tax returns for millions of Americans. We provide services to individuals, and small and medium-sized businesses, as well as America's largest businesses.

I am pleased to participate today on the panel comprised of representatives of the tax return preparer community and to present AICPA's views regarding the RTTS proposal. Our comments on RTTS address: (1) the best opportunities for evolving the tax system to be more real time; (2) suggestions on operating an up-front matching process; (3) making the process work between the IRS, taxpayers, and practitioners to resolve issues up-front; and (4) the interaction of the timing of tax return filings and information returns.

Background

We support the overall objective of RTTS which is to create a tax system that resolves reporting discrepancies up-front, eliminating the need for millions of IRS contacts with taxpayers. We commend Commissioner Shulman for seeking input from stakeholders on a proposed tax system that has goals of enabling taxpayers to: (1) verify many elements or issues at the time the tax return is filed; (2) correct potential discrepancies before the tax return is processed; and (3) respond earlier to mismatches in information return and tax return data that would be apparent sooner based on the embedment of tax return data in pre-screening filters. The RTTS may have additional benefits including reduction of identity theft and curbing noncompliance with respect to certain credits, such as the earned income tax credit (EIC).

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

The AICPA believes the best opportunity for evolving the tax system to be more real time is to work closely with key stakeholders in the development and phase-in of the initiative in several stages. We recommend that the first stage focus on the simplest tax returns initially; specifically Forms 1040A and 1040EZ, as well as those returns involving EIC claims. Forms 1040A and 1040EZ will readily cover the population of U.S. taxpayers who receive at least one of the following information returns: Forms W-2, 1099-G, and/or 1098. It is likely that these taxpayers are among the twenty-one percent of all taxpayers who receive only these types of information returns and would seem most suitable for short-term opportunities involving RTTS.

Federal tax administration currently relies on the Service's Automated Underreporter (AUR) program, which is generally a post-filing process, as its primary means for identifying mismatches between tax returns and corresponding information returns. Under RTTS, the Service envisions that up-front matching of information returns could eliminate significant burdens on taxpayers by identifying mismatches prior to the filing of the taxpayer's return. Before the IRS can realistically achieve such a laudatory goal, the Service will need to consider the technology, resource and training constraints that weigh on the current AUR program. A 2008 Treasury Inspector General Report states that, based on a random sample of AUR program notices to taxpayers, approximately 5.1 percent of taxpayers were sent inaccurate information on CP 2000 notices.¹ The TIGTA report suggests that IRS employee mistakes were one cause for the mismatch problems, and that the complexity of the AUR notices was potentially another contributing factor. To minimize taxpayer burden, these types of issues need to be addressed before implementation of a proposal like RTTS. We also understand there are substantial concerns with respect to identity theft leading to AUR issues.

A review of the AUR program results might be helpful in determining which information returns should be the subject of pre-filing matching. Also, the explanations as to why the income reported does not match the information returns would be helpful when developing a proposal such as RTTS. Even certain of the simplest information forms could present challenges to the IRS in the context of RTTS. For example, Form 1099-INT may cause issues where married taxpayers own the account jointly but file separate returns and the information return is only reported under one of the spouse's social security numbers.

On the other hand, Forms 1099-MISC, 1099-B, and 1099-R (i.e., returns reporting non-employee types of income, broker and barter transactions, and distributions from pensions, IRAs and

¹ Treasury Inspector General for Tax Administration Report on Most Automated Underreporter Program Notices Are Correct; However, Additional Oversight Is Needed, Reference Number 2008-40-180.

annuities) are information returns that arguably report tax-related data involving more complex financial transactions. There is a potential for a mismatch on Form 1098 information returns because some of the interest may be deductible on Form 1040, Schedules C and E as well as Schedule A. These types of information returns should be further considered before being used in the RTTS.

A major problem for tax administration, one which could prove a challenge with respect to a proposal such as RTTS, is Congress' perennial enactment of year-end tax legislation. Unfortunately, this situation creates havoc for the IRS when trying to administer the tax filing season, particularly during the early weeks of the filing season. These perennial tax law changes would need to be factored into any deliberations over a move to RTTS.

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

The AICPA appreciates the IRS goals of an up-front matching process under a program like RTTS, in particular where the program identifies mismatches between information available to the IRS and information known by the taxpayer prior to a taxpayer's return being processed by the Service. In the current system, taxpayers often face the problem of validating the tax-related data or information that has been provided by a payor to the IRS. A program such as RTTS would provide a mechanism for such a validation. However, IRS will need to provide taxpayers with a reasonable, relatively non-burdensome process for explaining any discrepancies involving a mismatch between the sets of data. This may entail the IRS setting up a unit to assist in this process with payors if it is to be resolved quickly. Our experience is that resolution of payor reporting can take a long time in many circumstances where the taxpayer is trying to resolve inaccuracies of reported information on their own.

While an IRS stated objective is to resolve discrepancies before the tax return is processed by the IRS, we have concerns regarding any plan to reject filed returns based on such discrepancies. Historically, the IRS has not rejected a taxpayer's filed return when there are discrepancies between the taxpayer's reporting and information in the possession of the IRS. Rejection of the taxpayer's tax return should not be a mandated result to the extent the taxpayer and the IRS cannot reach agreement up-front regarding a mismatch between information reported on the taxpayer's return and information furnished to the IRS by a third party through information reporting.

As part of a proposal like RTTS, the IRS needs to consider how to quickly resolve discrepancies in the sets of data held by the IRS and the taxpayer. In particular, if the IRS requires resolution

of discrepancies prior to acceptance of a return, then this would introduce issues surrounding the taxpayer's obligation to provide a "timely-filed" return to the IRS and potential penalties. Similarly, the IRS will need to consider how to handle mismatching disputes arising from community property states, "married filing separately" filings, and discrepancies relating to "nominee" filings under a RTTS.

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

In order to ensure the success of RTTS, the IRS needs to work closely with stakeholders and taxpayers. This dialogue needs to include comprehensive discussions with a range of constituencies beyond tax return preparer and taxpayer-related groups, such as software providers, the payroll industry, financial institutions, employers, and state and local governments. We believe successful implementation of RTTS will only result from a clear and open dialogue about the details and goals of the program.

Moreover, while the Service has done a very impressive job of increasing the rate of tax returns filed electronically, a significant number of U.S. taxpayers will continue to self-prepare and file paper tax returns. These taxpayers will need to understand how a change to RTTS will impact them both from a filing and compliance perspective. For example, they will need to understand how tax information is able to be retrieved from the IRS, creating a need for the Service to address any authorization issues surrounding the security and privacy of a taxpayer's tax information data.

Additional information is needed on how RTTS will be designed so that the stakeholders can provide information on the impact the program will have on the tax practitioner's processes and the taxpayer's ability to use the system. For example, if the design is for the taxpayer to be able to download information from the IRS before his/her return is filed, the tax practitioner will need to know whether the taxpayer is exclusively allowed to access the information, or whether the practitioner will need to obtain authorization from each client before the return is started. Not all taxpayers have access to computers. However, if the design is that the matching will take place when the practitioner/taxpayer e-files the return, the practitioner's process will need to be modified to adjust for returns with information that does not match IRS records. Consideration will need to be given on whether the issues on the return will need to be resolved before the return is accepted by e-file or if a paper return will be required due to the possible time limitations for resolving the issues.

Before the IRS considers accelerating the use of any particular tax returns or information returns under RTTS, the IRS will need to engage the state and local governments, particularly with respect to its impact on electronic filing and tax return due dates.

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

We believe that any RTTS program implemented by the IRS should continue to rely on the current annual filing process for tax returns and information returns. An important issue is whether these due dates would be impacted should a program like RTTS be adopted. In particular, with respect to information returns, the IRS would need to consider how quickly such information would be processed by IRS computer systems such that the information would be available on a system such as RTTS.

For tax return preparers and individual taxpayers, there is the question as to whether a program such as RTTS would impact the April 15 individual tax return due date and thus, result in an extension of the filing season. As a general rule, any changes in the due dates for filing returns will require the passage of legislation by Congress.

Another impact to consider before implementation of a program such as RTTS is the fact that many low and some moderate income taxpayers file tax returns in the early January to mid-February time-frame with the objective of receiving their tax refund quickly. To the extent a taxpayer must work out mismatch issues with the IRS under RTTS before the government will even contemplate processing the taxpayer's return, it is conceivable that a taxpayer's expectation of receipt of that refund could be delayed for quite some time.