



June 10, 2014

**Testimony Before the House Ways and Means Committee
Subcommittees on Health and Oversight**

Mr. Chairman and Members of the Committee, thank you for inviting me to testify today.

My name is Ryan Ellis. I come here today as a small business owner of a tax preparation firm in the Commonwealth of Virginia, and an IRS Enrolled Agent. I am also Tax Policy Director at Americans for Tax Reform, a non-profit here in Washington, D.C.

I am here today to tell you that the upcoming tax filing season has the potential to be one of the most chaotic in years.

One of the key elements of the Affordable Care Act, popularly known as “Obamacare,” is the creation of advanceable tax credits for the purchase of exchange health insurance plans.

Taxpayers applying for credit assistance must be evaluated by government entities ranging from the SSA to CMS to the IRS. The goal is to have an educated estimate, based on the most immediately-available government documents (e.g. prior year tax returns, etc.), of the taxpayer’s probable income for the year-- which in turn determines the size of the tax credit.

In an effort to get this tax benefit out quickly, the estimated credit is advanced to the insurance company by the IRS, which applies it to customer premiums.

This is an important point—the money has left the IRS’ hands up to over a year before the taxpayer actually calculates his final credit amount. The insurance companies have collected it, and they are not required to pay it back.

Press reports this month indicated that the government was having a hard time doing all this, with 1.2 million of the 6 million federal exchange applicants having to be asked for additional income verification information from CMS. That is not surprising. Applicants are asked to complete a detailed, confusing twelve-page application which asks for income, family size, etc. It is rather like trying to fill out a 1040 on the fly. Added to this is the lack of employer reporting requirements and the failure to complete the back-end of the web site.

Inconsistencies--some of which are the result of failures of the healthcare.gov system, some of which are poor records from the government, and some of which are mistakes from the individual--are not surprising. But they are a problem. It is the middle of June, and many people have now been receiving inaccurate

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subsidies for six months. To the public's knowledge, not a single advanced tax credit has been adjusted this year.

So what happens if the flawed, confusing process results in a tax credit larger than what the law calls for?

A hypothetical example might help illustrate: a health exchange customer selects an Obamacare exchange plan. The government estimates that this taxpayer will earn \$30,000 this year, which makes her eligible for a \$2000 tax credit. This \$2000 is paid to the taxpayer's insurance company to help with premiums.

The next spring, our customer/taxpayer is filling out her tax return. Unfortunately, the government estimated the taxpayer earned too little and paid too large a credit. She actually earned \$40,000, and so only had a \$1500 credit coming to her.

Depending on the taxpayer's income level and availability of verified affordable workplace insurance, she will have to pay back much or all of the \$500 overage to the IRS. This means skinnier refunds and maybe even liabilities, and it won't be the taxpayer's fault—it will be the government's fault.

It is also inevitable that many people are receiving tax credits for which they are completely ineligible. The firewall of the offer of employer sponsored insurance is a new concept — tax preparers will have difficulty figuring out how it works in operation. There is virtually no way to catch it on the front end — but come tax filing season, many people will end up owing thousands of dollars, and it will be a complete surprise.

The burden of explaining why the government allowed individuals into accepting too large a subsidy will fall on the tax preparer community.

It's in the interest of the Congress to make sure that the entirety of the Obamacare signup system is fully functional—not just the front-end website, but the really important back end where this complex income verification system must be able to work.

Thank you for allowing me to testify today, and I look forward to your questions.