

**Testimony of
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&
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**Before the
IRS Oversight Board
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Mr. Chairman and members of the Board, CERCA appreciates once again having the opportunity to testify before the IRS Oversight Board, and it is my pleasure to once again represent the CERCA membership here today as CERCA Board Chairman.

We support the IRS Oversight Board proposal to update the 1998 IRS Restructuring and Reform Act with regard to the nation's electronic filing objective, moving the target year for achieving the goal back four years. The 80% goal has played a major role in the success to date. Certainly the landmark accomplishment of achieving a majority of taxpayer returns via electronic filing this past year is a notable national achievement.

The agency has seen the 80% goal as a public policy directive from the Congress, which, of course, it is. The IRS has done a great deal to cut through red-tape and move forward innovative programs that have encouraged e-filing. Mr. Chairman, our industry has been very much "in the trenches" during these years as partners with the IRS. We can assure you that on countless occasions, as the Service debated whether to take bold actions for progress, visionary IRS executives were able to say that they needed to move aggressively because that is what the Congress had directed them to do.

But an additional four years is not, of itself, the answer. It will be important to recognize that difficult public policy questions, including practitioner mandates, comparable to what is already occurring in the states, will need to be addressed in a serious way. The record of achievement so far makes it clear that serious goals do produce results, and the public-private partnership between the IRS and the tax industry is working successfully.

Indeed, our success to date stands in sharp contrast to the results achieved in the United Kingdom, where the Inland Revenue decided a year ago to restate their national e-filing objective, by reducing their goal from 50% down to only 25%. This was done because their government-only strategy has failed to produce public adoption of the new technology and resulting change in consumer behavior patterns. In contrast, the strategy here in the United States is one of public-private partnership, and it is succeeding. We support the Oversight Board's recommendation to provide a little more time to finish the job on which so much progress has already been made.

There is another update to the '98 Act which we also recommend for your support. In Title II, Section 2004, of the Act, there is a provision that asks for annual feasibility studies about a possible Return-Free Tax System. For seven years, the Congress has been receiving government reports about the infeasibility of this proposal. Likewise, the President's recent Advisory Panel on Tax Reform considered and rejected the Return-Free concept.

In addition, three years ago the Government signed a negotiated public rulemaking and policy agreement with the private sector in which the government committed not to pursue that kind of tax strategy. That agreement has just been renewed for another four years. Nevertheless, the

issue of Return-Free has surfaced repeatedly over these last seven years, causing a distraction of energy and effort, generating unnecessary controversy and debate.

The Taxpayer Advocate and the National Urban Institute have urged that active citizen participation in Voluntary Compliance be preserved as a valuable financial management exercise for American families, and that Return Free would undermine that singular annual ritual where families now take stock of their finances. We agree, and urge that Section 2004 be repealed as an anachronism that continues to produce unnecessary confusion in policy. Much like the age-old "Blue Laws" that we from New England are well familiar with, it is occasionally legislatively necessary to clean up statutes or provisions that no longer make any sense. We believe that Section 2004 of the '98 Act is such a "Blue Law," and we urge you to recommend its repeal.

In another electronic tax issue, IRS has proposed becoming a central data warehouse for the W-2, 1099, and 1098 information returns. While the concept might superficially seem to make sense from a data management perspective, it is a far more significant and complex matter which should be approached with great caution. The complexity alone should give pause. For example, the IRS could easily overlook key aspects of developing and maintaining such a data base, creating unnecessary and unanticipated problems. This is true because often missing from any IRS analysis is the full impact a significant change may have on the taxpayers as well as its true downstream costs.

If the concept were focused only on where employers and payers would submit the data, the impact could be minimal. We should be wary, though, of any "unintended consequences." For example, any proposal that accelerates the due date for submitting the data and also includes format changes that would be costly to implement should be viewed very carefully.

In addition, the objective of the data warehouse is unclear. Is it to ease the reporting burden on employers and payers? Is it to reduce government costs regarding the processing and maintenance of the data? Or is it meant to make it easier to access the data? And, if so, by whom? This last point is of particular concern. How will the IRS be able to effectively ensure access is limited only to authorized users? Is acting as a national hub for personal financial information an appropriate new role for the government revenue collection agency?

But most troubling of all is whether this initiative is merely the first step toward creating the foundation and the momentum for instituting a government prepared return, based on the vast storehouse of personal financial information in the warehouse? As we have already indicated, it is time to move on from that issue, rather than churning it further into the future.

Beyond these issues, we certainly would like to cite the success of e-Services and progress with other aspects of Modernization as banner achievements of the Service. To be sure, there have been disappointing delays in some aspects of this monumental project, as the Oversight Board has chronicled in detail, but tangible results are evident. And now, e-Services should be expanded. They have become invaluable to practitioners in not only getting ready for filing season, but also in solving problems once the season has begun. Integrating e-Services into tax preparation software for practitioners also should be a priority.

We agree that measuring performance is important in any industry, and measuring IRS performance makes sense. We can report that this year's e-filing performance to date, although there were familiar problems in the first week, has been quite good. Forms have been delayed, and that has certainly been a problem, but the IRS understandably needed to wait on Congressional action and make complex decisions relating to the hurricane disasters.

Unfortunately, we must note that one recent IRS so-called measurement initiative has failed and we would urge the Oversight Board to investigate this genuine mess. In this year's 1040 Instructions, the IRS includes ostensible "taxpayer burden" statistics...measurements of the kind that the Oversight Board is suggesting to assist policy makers and taxpayers.

The problem is that this new IRS report, based on outdated survey work done some time ago, fails to provide an accurate picture of choices that taxpayers have today. It prominently tells taxpayers, in print and on the IRS Web site, that it will take more hours of work ("taxpayer burden") for a taxpayer to complete their tax return using tax preparation software than by filling out a return on paper and mailing it to the IRS.

If this were true, then, of course, taxpayers should know about it. In fact, IRS research managers readily admit that this information does not compare "apples to apples." For example, they informed us that the burden estimates for software included the time a person might spend utilizing the personal financial and tax planning tools that many products include in the software package. In contrast, no personal financial or tax planning time was included for the burden estimates calculated for taxpayers preparing their return by paper. As such, there is no validity to the comparisons suggested by the table that's been published in both the 1040 booklet and on the agency Web site. We have further been informed that the estimates published in this table are actually "extrapolations" from research conducted five years ago, and the raw data from that original research has been destroyed.

By any standard, this is invalid research and an unusable and meaningless statistical analysis. And, while the IRS has now placed some minor caveats on these conclusions, they have not removed this so-called "measurement" from the IRS Web site. This situation does cast something of a pall over the concept of providing measures to taxpayers in our opinion. We also believe the distorted picture that this work paints runs directly counter to two statutory mandates from Congress -- first, the "practical utility" standard of the Paperwork Reduction Act, and second, the national policy established in the '98 IRS Act that setting a statutory preference for electronic filing, and directing that it be promoted and advanced by the Service. Everyone must recognize that electronic filing is virtually impossible without tax preparation software. We renew our recommendation that this fatally flawed work be withdrawn.

Mr. Chairman, policymaking requires accurate information, and perhaps some aspects of the tax preparation industry are not receiving the serious analysis they deserve.

Tax-related bank products are often the subject of charges and countercharges, and that environment doesn't make for good public policy. Statistical data recently developed by Georgetown University on this subject, for example, might be valuable in contributing to informed dialogue about these issues. The discussions about bank products need to be fact-based and accurate, and through such a discipline lead to thoughtful public discourse and policy. By way of example, the IRS had annually allowed certain bank product statistics to be published despite the fact that they were in error. Those numbers were used by others to then advocate their perspective or point of view. However, such debates can't really be fairly waged nor settled without accurate information.

In this regard, just as the Debt Indicator (DI) represents a taxpayer's right to know whether the government has any liens on them, it should also be a taxpayer's right to know that the government is scrutinizing their tax return as questionable and, as a result, their expected refund will be delayed. In her most recent report to Congress, the Taxpayer Advocate has cited the undisclosed delay of refunds to the poor as a hardship and a very top priority issue for the IRS to resolve. A revenue protection indicator would help address this problem. In addition, a revenue protection indicator would be a valuable communication tool to assist taxpayers, and eliminate some support costs.

Other measurements that would likely be of clear value include Disaster Area indicators for returns processing following hurricanes and natural disasters, and CADE indicators highlighting those returns and refunds being processed through CADE vs. current processing.

In other electronic tax administration developments, we would note that the Free File agreement has been extended for four years following a renegotiation between the IRS and industry. This represents a major statement by government that it does not seek to enter the tax preparation business, which is good public policy, and a commitment by the software industry to a program involving the long-term donation of electronic tax services and e-filing to those who need it most, at no cost to the public treasury or the end-using consumer. The new agreement is also a commitment to a more disciplined program going forward, focused very clearly on assisting lower-income, disadvantaged and underserved taxpayers. In this regard, the Free File program now takes its place alongside the IRS Walk In Centers and the VITA Volunteer Program in providing both electronic and in-person modes of help to those who need it most.

CERCA again commends the outreach that ETA, IRS's Electronic Tax Administration office, headed by Bert DuMars, makes to industry. We appreciate the view that the IRS and industry are partners in serving taxpayers. We also commend Bert's predecessor, Terry Lutes, who recently retired as IRS Associate CIO following a truly distinguished career as a government executive.