IRS ability to verify ACA tax credit qualifications questioned

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The Internal Revenue Service did not receive much of the information it needed early this tax season from health insurance exchanges to verify taxpayers' qualifications to claim tax credits to subsidize buying health coverage, according to a new report.

The report, from the Treasury Inspector General for Tax Administration, found the IRS did not receive all the required enrollment data from the exchanges prior to the January 20 start of the 2015 filing season. For example, the Centers for Medicare and Medicaid Services indicated that it would not send approximately 1.7 million (40%) of the approximately 4.2 million federal exchange enrollment records to the IRS until mid-February. In addition, six of the 15 state exchanges (including the District of Columbia) had not provided enrollment data to the IRS as of Jan. 20, 2015. The IRS indicated that data from four of the six state exchanges would be provided in mid-February but could not provide a time frame for when the remaining two state exchanges would provide the required enrollment data.

In response to the delays in receiving these required Exchange Periodic Data submissions, the IRS developed contingency plans in an effort to improve its ability to ensure the accuracy of PTC claims. However, without the required enrollment data from the exchanges, the report said the IRS would be unable to ensure that all taxpayers claiming the PTC bought insurance through an exchange as required.

The Patient Protection and Affordable Care Act created a refundable tax credit, referred to as the Premium Tax Credit, or PTC, to assist individuals with the cost of their health insurance premiums. Individuals can elect to receive the PTC in advance as partial payment for their monthly premiums—referred to as the Advance Premium Tax Credit, or APTC—or receive the PTC as a lump sum credit on their annual Federal income tax return.

Beginning in January 2015, individuals are required to reconcile the APTC and can claim additional PTC on their annual tax return beginning with tax year 2014.

TIGTA's review of the Tax Code and Department of Health and Human Services regulations found that the guidance does not fully address repayment of the APTC received during the months in which an enrollment inconsistency is being resolved if the individual is ultimately determined to not qualify for insurance through the exchange. Such individuals are thus not entitled to the PTC. Furthermore, TIGTA noted, procedures have not been established for the exchanges to notify the IRS when an individual is determined to be ineligible subsequent to enrollment.

TIGTA recommended that the IRS revise its computer programming business requirements to use Forms 1095-A, Health Insurance Marketplace Statement, in conjunction with monthly data provided by the Exchanges to verify claims for the PTC. In addition, TIGRA suggested the IRS should work with the exchanges to establish procedures to ensure that the IRS receives notification when an individual is determine to be ineligible subsequent to enrollment.

However, in response to the report, the IRS did not agree to revise computer programming to use Forms 1095 in conjunction with monthly data and partially agreed to work with the Exchanges to identify individuals who are found to be ineligible to use the Exchange.

“Your review of this provision highlighted actions the IRS took to ensure accurate processing of PTC claims for tax year 2014 and acknowledged that we had contingency plans in place if Exchange Periodic Data (EPD) was not available, and we could not determine if a taxpayer had enrolled in a qualified health plan at the exchange,” wrote Johnny Witt, deputy director of the IRS’s Affordable Care Act Office, in response to the report. “The IRS not only has existing data tools and systems to address tax compliance generally, but the data from the Exchange also allows IRS to determine the taxpayer's qualification for the PTC. Prior to the start of the filing season, the IRS developed and implemented contingency plans to ensure all returns were passed through new and existing filters to detect and prevent erroneous refunds from being issued. IRS also took steps to prevent erroneous refunds when there was no evidence that a taxpayer went to the exchange.

An IRS spokesperson emailed a further response to the report on Tuesday. “This tax season, the IRS implemented new provisions related to the Affordable Care Act, including the Premium Tax Credit (PTC),” said the IRS. “As TIGTA acknowledged in this report, the IRS took appropriate actions to ensure the accurate and timely administration of the PTC, including setting up contingency plans to address instances where third-party reporting was not available during the tax filing season. As part of this work, the IRS has developed and implemented plans to detect and prevent potential erroneous refunds. The IRS uses a combination of fraud filters and other measures applied at the time of filing, as well as post-processing compliance activities to review claims. We are also able to withhold refunds and prevent erroneous refunds when the information from the exchange does not match the tax return information, giving us time to substantiate appropriate payments. As such, we disagree with TIGTA’s assertion that we need to revise our computer programming.”

TIGTA said it was concerned with IRS management’s decision to not revise computer programming to use Form 1095-A data when verifying PTC claims. “As of March 5, 2015, the IRS indicated that four of the six states for which the IRS had no EPD as of January 20, 2015, had subsequently submitted EPD and Form 1095-A data,” said the report. “IRS management indicated that the IRS has not been able to load the EPD submitted in January and February into its processing systems for use in verifying PTC claims. As such, the IRS still does not have exchange enrollment data for individuals living in these four states for use in verifying PTC claims before the claims are paid. Unlike the EPD, IRS management indicated that Form 1095-A data have been made available to IRS employees for use in researching discrepancies on PTC claims. Had the IRS completed the computer programming to verify PTC claims using EPD and Form 1095-A data as planned, the IRS would be able to ensure that all individuals claiming the PTC met the primary PTC eligibility requirement to obtain a QHP through an exchange before the claim is paid.”

Also see: IRS clarifies ACA reporting requirements for large employers

Separately, a pair of lawmakers introduced legislation Wednesday aimed at making it easier to verify the tax credit information from the exchanges. Rep. Diane Black, R-Tenn., and Mike Thompson, D-Calif., introduced the Commonsense Reporting and Verification Act of 2015, which would create a front-end voluntary prospective reporting system to improve the accuracy of tax credit eligibility determinations from the exchanges. Under voluntary prospective reporting, data that would have been reported at the end of the year could be reported at the beginning of the eligibility process to help mitigate issues with inaccurate tax credit determinations. The legislation would also protect privacy by not requiring businesses and insurers to collect and report Social Security numbers for spouses and dependents, and authorizes electronic transmission of reporting data.