

June 2011

PATIENT
PROTECTION AND
AFFORDABLE CARE
ACT

IRS Should Expand Its
Strategic Approach to
Implementation



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Abbreviations

AGI	adjusted gross income
CBO	Congressional Budget Office
ESC	Executive Steering Committee
FSA	Flexible Spending Arrangement
FTE	full-time equivalent
HHS	Department of Health and Human Services
HIRIF	Health Insurance Reform Implementation Fund
HRA	Health Reimbursement Arrangement
HSA	Health Savings Account
IRS	Internal Revenue Service
IT	information technology
JCT	Joint Committee on Taxation
LB&I	Large Business & International
MITS	Modernization and Information Technology Services
MSA	Medical Savings Account
NAS	National Academy of Sciences
PMO	Program Management Office
PPACA	Patient Protection and Affordable Care Act
S&E	Services and Enforcement
SB/SE	Small Business/Self-Employed
SSA	Social Security Administration
TE/GE	Tax Exempt/Government Entities
VA	Veterans Affairs
W&I	Wage and Investment

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**United States Government Accountability Office
Washington, DC 20548**

June 29, 2011

The Honorable Richard J. Durbin
Chairman
The Honorable Jerry Moran
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate

This letter formally transmits the briefing we gave on June 8, 2011, as well as subsequent comments from the Internal Revenue Service (IRS). We gave this briefing in response to your request that we assess IRS's planning to implement its responsibilities under the Patient Protection and Affordable Care Act (PPACA).¹

The objectives of the briefing were to (1) describe IRS's PPACA responsibilities and effective dates and (2) assess the extent to which IRS, in planning PPACA implementation, is following leading practices in four areas—developing an overall management structure (including goals and performance measures), estimating and tracking costs, assuring compliance with the new law while minimizing burden, and managing risk. To conduct this work, we reviewed PPACA, including applicable amendments, IRS documents and data, our past reports and GAO's Cost Estimating Guide, and Office of Management and Budget and IRS guidance. We shared the leading practices with IRS management and interviewed knowledgeable IRS officials about IRS's responsibilities and progress in following the leading practices.

We conducted this performance audit from August 2010 through June 2011 in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and

¹Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152). PPACA includes a number of provisions to reform the private insurance market and expand health insurance coverage to the uninsured. It affects all major health care stakeholders, including federal and state governments, insurers, employers, and providers.

conclusions based on our audit objectives. We determined that the IRS data we used were sufficiently reliable for our purposes.

In summary, IRS has responsibilities in the implementation of 47 PPACA provisions with effective dates through 2018.² In planning to implement these provisions, IRS has generally followed leading practices. Top leadership has been involved; cost estimates for information technology projects have specified ground rules and assumptions, data sources, and supporting calculations; work has started on compliance controls; and risks are being identified and analyzed at the individual project level. However, IRS could improve aspects of its planning, particularly at an agencywide or strategic level. IRS defines strategic-level goals and project plans in multiple documents without integrating the goals or plans, IRS has no timeline for developing performance measures and collecting associated data, a cost estimate for all of the PPACA program has not been provided, and the risk management framework does not assure that all risks, especially strategic-level risks, are identified and analyzed. While implementation for some provisions is years away, making improvements to the planning process now would reduce risks and might minimize future problems. Hence, we are recommending that the Commissioner of Internal Revenue take the following four actions: (1) define program goals and develop a project plan in one document that effectively integrates all aspects of the program; (2) document a schedule for developing performance measures that link to program goals; (3) develop a more complete cost estimate that is consistent with the GAO Cost Estimating Guide; and (4) modify and document IRS's risk management approach to have more assurance that all risks, including strategic-level risks for the program, are identified and analyzed, and that mitigation options are assessed. For a further summary of the results of our work, see slides 6 and 7 in appendix I.

Agency Comments and Our Evaluation

In a June 20, 2011, letter responding to a draft of this report (appendix V), the IRS Commissioner provided comments on our findings and recommendations as well as information on additional agency efforts to implement PPACA.

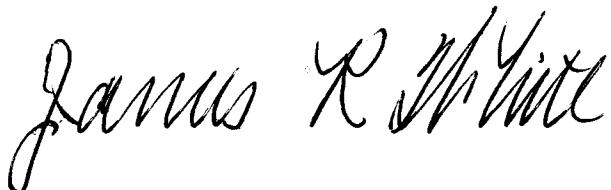
²Provisions of the law affect virtually all types of taxpayers. To implement the provisions, IRS's budget for fiscal year 2012 requested \$473 million and more than 1,200 full-time equivalent (FTE) staff.

Stating that GAO provided valuable input on best practices in planning and organizing an effort of this scale, the Commissioner's comments indicated general agreement with our recommendations. IRS agreed to further define program goals and consider the best way to develop an overarching program plan that integrates its IT and business planning and lays out requirements at a strategic level. With regard to performance measures, IRS said it is taking steps to develop performance metrics and a corresponding timeline for implementation of those metrics, which involves assistance from the agency's Research, Analysis and Statistics Division and the use of existing performance measures for some provisions. IRS agreed to explore further enhancements to its cost estimating process. We note, however, that our recommendation called for developing a more complete cost estimate, rather than only exploring enhancements. With regard to risk management, IRS stated that it is clarifying its risk management process to ensure transparency in how strategic-level risks are raised, assessed, mitigated, and monitored by top IRS executives.

We are sending copies of this report to the Chairmen and Ranking Members of other Senate and House committees and subcommittees that have appropriation and oversight responsibilities for IRS. We also will be sending copies to the Commissioner of Internal Revenue, the Secretary of the Treasury, the Chairman of the IRS Oversight Board, and the Director of the Office of Management and Budget. Copies also are available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have any questions about this report, please contact me at (202) 512-9110 or whitej@gao.gov. Contact points for our offices of

Congressional Relations and Public Affairs are on the last page of this report. GAO staff members who made major contributions to this report are listed in appendix VI.

A handwritten signature in black ink, appearing to read "James R. White".

James R. White
Director, Tax Issues
Strategic Issues

Appendix I: Briefing Slides



Patient Protection and Affordable Care Act: IRS Should Expand Its Strategic Approach to Implementation

**Briefing for Subcommittee Staff
June 8, 2011**

For more information, contact James R. White at (202) 512-9110 or whitej@gao.gov

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IRS Plays a Significant Role in Implementing the Patient Protection and Affordable Care Act (PPACA)

- Implementation of PPACA is a major effort at IRS
- More than 40 provisions of PPACA, as amended by the Health Care and Education Reconciliation Act of 2010, pertain to IRS
- IRS will interact with 3 groups in implementing the law:
 - individuals who have tax reporting responsibilities under the law
 - intermediaries (e.g., employers and insurers who help administer)
 - administrators (e.g., other federal agencies, such as the Department of Health and Human Services (HHS), and states)
- IRS began its initial implementation in 2010
- The fiscal year (FY) 2012 budget request for IRS included \$473 million and more than 1,200 full-time equivalent (FTE) staff for PPACA implementation

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IRS Plays a Significant Role in Implementing PPACA

- Based on prior GAO reports and IRS's internal guidance, including the Internal Revenue Manual, implementation of a program of this size requires:
 - An overall management structure
 - A cost estimation process
 - Plans for assuring compliance with the new law while minimizing the burden on individuals, intermediaries, and administrators
 - A risk management framework
- The Senate Committee on Appropriations, Subcommittee on Financial Services and General Government, asked for an interim report on IRS's actions in these four areas

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Objectives

- 1. Describe IRS's new responsibilities set forth in PPACA, including effective dates**
- 2. Assess the extent to which IRS is following leading practices in planning its implementation of PPACA in the following four areas**
 - a. Overall Management – establishing program goals, aligning resources and workforce, communicating internally, and coordinating with other federal agencies
 - b. Estimating and Tracking Costs – creating procedures for cost estimating and tracking
 - c. Assuring Compliance while Minimizing Burden – balancing service and enforcement, to both assure compliance and minimize the overall burden of compliance on society, such as the beneficiaries and intermediaries
 - d. Risk Management Framework – developing a framework to analyze risks, tradeoffs, and results in making longer term decisions

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Scope and Methodology

- **Objective 1 – IRS Responsibilities**

- Reviewed IRS documentation, legislative language, and analysis by Congressional Budget Office, Joint Committee on Taxation, and Congressional Research Service to summarize IRS's responsibilities
 - Interviewed IRS officials and confirmed our summary of IRS's responsibilities

- **Objective 2 – IRS Implementation**

- Reviewed guidance to identify leading practices and related criteria for planning new programs (see Appendix II for specific sources), using:
 - GAO reports relevant to leading practices for overall management structure, tax compliance, and risk management
 - GAO Cost Estimating Guide
 - Internal Revenue Manual
 - IRS's strategic plan
 - Office of Management and Budget Circular A-123
 - Shared leading practices and criteria with IRS officials
 - Compared IRS's progress to criteria by:
 - Reviewing IRS documentation and data
 - Interviewing IRS officials
 - Identifying gaps between progress so far and the criteria
 - Looking for IRS's plans to close those gaps, where gaps are identified
 - See Appendix III for details on our scope and methodology
-

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Results In Brief

- IRS's Responsibilities: IRS has responsibilities in the implementation of 47 provisions with effective dates through 2018, over half of which were statutorily effective in or prior to 2010
- IRS's Planning to Implement PPACA Provisions:
 - Short term implementation and long term strategic planning had to proceed simultaneously
 - IRS has generally followed leading practices in its planning for PPACA implementation, such as:
 - Top leadership has been actively involved in designing and implementing the management structure, emphasizing communication and coordination across IRS
 - The cost estimate for information technology has specified ground rules and assumptions, data sources, and calculations supporting the cost estimate
 - IRS has been creating upfront compliance assurance controls and filters
 - IRS has established multiple frameworks for identifying and analyzing risks

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Results In Brief (cont'd)

- However, IRS could improve some aspects of its strategic-level planning
 - IRS's strategic-level goals and project plans are defined in multiple documents, which do not effectively integrate all PPACA efforts
 - IRS has not established a timeline for developing performance measures
 - IRS has not provided a comprehensive, well-documented, accurate, or credible cost estimate for all segments of its PPACA efforts
 - IRS's risk management framework does not assure that all risks, especially strategic-level risks, are identified and analyzed, such as those related to determining milestones for its compliance assurance work
- Without more attention to these issues, IRS is more likely to have units working at cross purposes, problems measuring performance, an incomplete picture of resource needs, and risks that are not mitigated



Background

- PPACA was enacted on March 23, 2010, consisting of provisions that would reform the private insurance market and expand health insurance coverage to the uninsured
- It involves all major health care stakeholders, including federal and state governments, employers, insurers, and health care providers
- IRS is one of several agencies with responsibilities to implement the legislation
- We use the term “program” to refer to IRS’s overall implementation effort as the aggregate of the efforts conducted at the “project” level, where teams focus on specific segments of the program
- IRS focused its resources on near-term projects in 2010, and then emphasized long-term planning as implementation of near-term projects progressed by 2011
- IRS’s implementation expenses for 2010 and 2011 were funded by Department of Health and Human Service’s (HHS) Health Insurance Reform Implementation Fund (HIRIF)
 - In the Health Care and Education Reconciliation Act of 2010, Congress appropriated \$1 billion to HIRIF for federal spending to implement PPACA
 - IRS provided quarterly spend plans to HHS to justify receipt of HIRIF funds for implementation
 - IRS officials said they would not use HIRIF funds in 2012 if their budget request were fully funded

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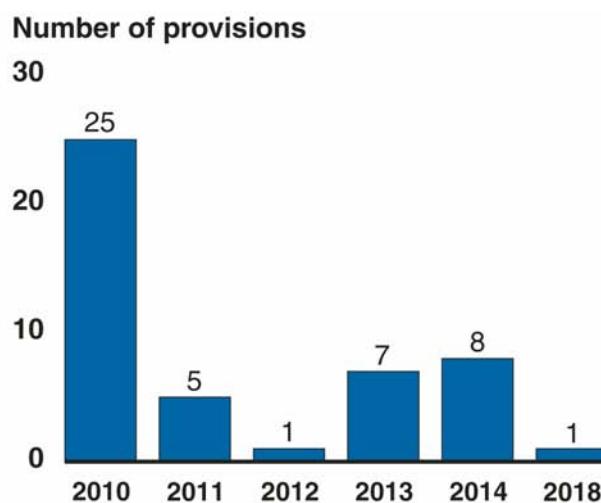
Objective 1: IRS Responsibilities Set Forth in PPACA

- IRS has responsibilities in the implementation of 47 PPACA provisions
- IRS's responsibilities can be divided into health care exchange provisions and non-exchange provisions
 - Health care exchanges, to be established by states by 2014, are marketplaces for individuals and certain types of employers to purchase health insurance
 - Although IRS is not responsible for establishing health care exchanges, IRS officials said the health care exchange provisions may be the most challenging for them to administer because they will require:
 - new definitions (such as household income)
 - new information technology (IT) systems
 - a new scale of interagency coordination, such as with HHS

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Number of Provisions Affecting IRS by Statutorily Effective Date



Source: GAO analysis of IRS documents.

Notes:

1. For 2010, the number of provisions includes 17 effective on enactment, 2 effective later in 2010, and 6 effective retroactively (4 in 2010 before enactment and 2 in early 2009).
2. No provisions affecting IRS are effective in 2015, 2016, or 2017.
3. For some provisions, the statutory effective date may precede implementation.



Selected Provisions Affecting IRS

- To highlight IRS's responsibilities under the legislation, we selected provisions that affected IRS and that increased revenues, increased or reduced revenue losses, or increased spending by at least \$1 billion over 2010-2019¹
- Some provisions affecting IRS are designed to raise revenue and do not otherwise relate to health care (e.g., excluding unprocessed fuels from an existing tax credit on cellulosic biofuel producers)
- A complete list of provisions affecting IRS, with more details, can be found in Appendix IV

¹ As scored by the Congressional Budget Office and the Joint Committee on Taxation. See *CBO Publications Related to Health Care Legislation 2009-2010* (Washington, D.C.: December 2010).



2010: Selected Provisions

- Established tax credits for small business employers providing health insurance
- Extended and increased existing adoption tax credit, also making it refundable
- Authorized tax exemption for start-up nonprofit health insurers providing insurance to individuals or small groups
- Authorized an exclusion from gross income for payments by a temporary government reinsurance program (Early Retiree Reinsurance Program) to health care plans providing retiree health insurance
- Codified requirement that business transactions have economic substance (i.e., benefits other than solely tax benefits), and imposed penalties for underpayments on taxes that would have been owed absent the transaction
- Excluded unprocessed fuels from an existing tax credit for cellulosic biofuel producers
- Established an excise tax on indoor tanning salon services
- Established federal cost-sharing for eligible individuals to reduce annual out-of-pocket deductibles

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2011: Selected Provisions

- Repealed tax exclusion in health flexible spending arrangements in cafeteria plans for over-the-counter medicines
- Increased additional tax on distributions from certain health savings accounts that are not used for qualified medical expenses
- Established annual fee on manufacturers and importers of branded prescription drugs

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2012: Selected Provisions

-
- Established annual fee through 2019 on health insurance plans of \$2 per insured individual to fund research into the comparative effectiveness of health care interventions (Patient-Centered Outcomes Research Trust Fund)

Note: All of the PPACA provisions effective in 2012 met our selection criteria.

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2013: Selected Provisions

- Reduced maximum amount in health flexible spending arrangements in cafeteria plans to \$2,500
- Increased medical expense deduction threshold
- Eliminated employer deduction for retiree drug subsidy
- Established excise tax of 2.3% on medical devices
- Increased Hospital Insurance tax by 0.9% on wages over specified threshold
- Established Medicare contribution of 3.8% on unearned income over specified threshold

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2014: Selected Provisions

- Non-exchange provisions:
 - Established annual fee on health insurers proportional to the insurer's share of total premium revenue
- Exchange provisions:
 - Established refundable premium assistance tax credits for eligible individuals purchasing health insurance coverage on state exchanges
 - Established penalty for individuals without minimum essential health coverage
 - Established penalty on larger employers with at least one employee receiving a premium assistance tax credit or cost-sharing reduction



2018: Selected Provisions

- Established excise tax on high-cost employer-provided health insurance plans

Note: All of the PPACA provisions effective in 2018 met our selection criteria.

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Objective 2: IRS Has Generally Followed Leading Practices in Planning to Implement PPACA

- IRS involved top leadership and established a network of teams to help with implementation, emphasizing coordination and communication among teams on technical, procedural, and policy issues
- Cost estimating techniques for information technology projects included some leading practices, such as specifying ground rules and assumptions influencing the estimate
- IRS has put in place some upfront compliance controls and filters to identify potential fraud for non-exchange provisions
- IRS established multiple frameworks for identifying and analyzing risks at the project level

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IRS Could Improve Some Aspects of Its Strategic-Level Planning

- IRS's strategic-level program goals and project plans are defined in multiple documents, which do not effectively integrate all aspects of the program
- IRS has not established a timeline for developing performance measures that would indicate whether the program is producing desired results
- IRS has not provided comprehensive, well-documented, accurate, and credible cost estimating activities across all segments of the program
- IRS's multiple risk management frameworks do not ensure that all strategic-level risks are identified and analyzed at the program level

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Overall Management Structure—Leading Practices

1. Dedicate an implementation team to manage the process
 2. Define program goals
 3. Align workforce to achieve goals
 4. Establish a performance measurement system
 5. Establish an internal communications strategy
 6. Foster partnerships with other federal agencies
 7. Track and monitor progress of internal and external parties
-

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1. Dedicate an Implementation Team to Manage the Process

- An agency's implementation team formation should include:
 - Transformation driven by top leadership
 - Establishment of networks to support the implementation team
 - Selection of high-performing team members
- IRS has made progress in dedicating an implementation team
 - IRS assigned top leadership, including the Commissioner's Chief of Staff, two Deputy Commissioners, and high level executives from all operating divisions, to oversee implementation through a PPACA Executive Steering Committee (ESC)
 - PPACA ESC oversees two Program Management Offices (PMOs), Services & Enforcement (S&E) and Modernization and Information Technology Services (MITS), that coordinate with Health Care Counsel to lead daily implementation efforts
 - IRS documents emphasize collaboration between S&E and MITS to coordinate technical, procedural, and policy issues among a network of teams having subject matter experts

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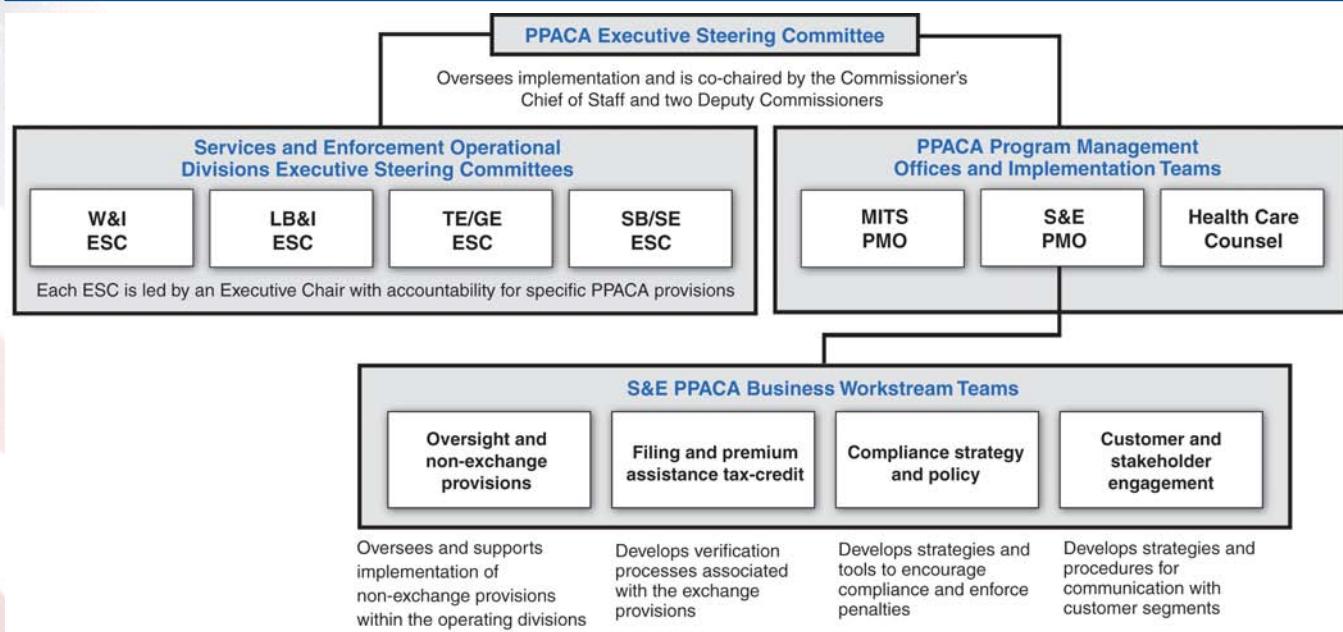
1. Dedicate an Implementation Team to Manage the Process (cont'd)

- IRS has assigned lead responsibility for implementing PPACA provisions throughout the agency with assistance from MITS
 - Services & Enforcement – 40 provisions:
 - Wage & Investment (W&I) Division – 17 provisions
 - Small Business/Self-Employed (SB/SE) Division – 10 provisions
 - Large Business & International (LB&I) Division – 7 provisions
 - Tax Exempt/Government Entities (TE/GE) Division – 6 provisions
 - Chief Counsel – 7 provisions

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1. Dedicate an Implementation Team—IRS PPACA Implementation Leadership Structure



Source: GAO analysis of IRS documentation.

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2. Define Program Goals

- An agency's program goals should:
 - Link to the agency's mission
 - Communicate a clear vision of the outcomes to be achieved
 - Be established by key stakeholders who manage the program
- PPACA ESC has not established overall program goals that apply to S&E, MITS, and Health Care Counsel
- ESC has allowed the PMOs to separately determine program goals, which tend to meet the criteria
 - S&E PMO Goals – documented goals include effective, accurate, and timely implementation in accordance with the IRS mission, along with objectives that link to the agency's mission
 - MITS PMO Goals – documented goal is to develop system solutions to support and execute IRS's responsibilities under PPACA
- Multiple sources of program goals at the project level could cause confusion about the overall program's strategic goals

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3. Align Workforce to Achieve Goals

- An agency's alignment of its workforce should:
 - Involve top management and employees in developing and implementing a workforce plan
 - Analyze gaps between the workforce that exist and that will be needed in the future
 - Use appropriate strategies to fill workforce gaps
 - Monitor results and adjust plans as necessary
- IRS generally has met these criteria in that it
 - Developed working teams of executives and subject matter experts
 - Analyzed workforce gaps
 - Drafted hiring plans to fill needed positions at specific times
 - Monitored hiring results and analyzed variances

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4. Establish a Performance Measurement System

- An agency's performance measures should:
 - Link to program goals, as well as strategic plan and budgets
 - Be established in time to identify and collect performance data needed for evaluating the program
- S&E and MITS PMOs have not followed these practices yet
 - As stated earlier, overall program goals have not been established
 - According to IRS officials, the Research, Analysis and Statistics unit is advising S&E and MITS on existing IRS data that could be used for measuring performance
 - IRS officials said that the project teams are considering data needs and indicators of performance and workload, and that measures would be developed in time to evaluate results but they did not provide documentation on what is being done or a schedule for completion
- IRS's ability to evaluate its performance may be hindered if:
 - Performance measures do not link to program goals
 - Performance measures are not established in time to collect the necessary performance data

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5. Establish an Internal Communications Strategy

- An agency's internal communications strategy should:
 - Communicate program goals and operational changes before and as changes occur
 - Solicit employee feedback and address concerns
 - Communicate a consistent message using a variety of media (e.g., e-mail, web, meetings)
- S&E Project Management Plan has an internal communication strategy
 - Details frequency and methods of communication in a variety of media
 - Lists internal stakeholders and corresponding responsibilities
 - Does not specify how program goals are communicated to the workforce or how feedback is solicited and addressed
- IRS is developing a formal communications plan that is to be completed in Summer 2011

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6. Foster Partnerships with Other Agencies: HHS

- Agencies coordinating with one another should:
 - Establish common program goals
 - Agree on roles and responsibilities and leverage resources to maximize efficiency
 - Establish compatible policies, procedures, and other means to operate across agency boundaries
 - Monitor outcomes using performance measures and adjust as appropriate based on performance data
- IRS has made progress on these criteria in working with HHS--the agency with whom IRS coordinates most often for PPACA implementation--focusing on IT systems
 - PMO executives coordinate in a working group with HHS and other agencies on technology interface and data needs
 - For example, an April 2011 meeting between HHS and IRS documented common goals for IT development, outlined roles and responsibilities, and established a timeline for major milestones
 - IRS has established "Guiding Principles" for coordination of data and systems with HHS

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7. Track and Monitor Progress of Internal and External Parties

- An agency tracking and monitoring its progress should:
 - Develop a project plan that includes milestones for completing key activities
 - Articulate a clear system of coordination among project components
 - Track results
- S&E PMO is developing a project plan that considers the tasks and milestones of both S&E and MITS while MITS PMO established its workstream project plans
- IRS has not yet developed a comprehensive project plan for all segments of IRS's PPACA work that states all assumptions, schedules, and deadlines
 - IRS's efforts to monitor progress may be inhibited absent such a comprehensive plan
 - A comprehensive project plan may enhance collaboration among internal segments of IRS and external partners involved in PPACA implementation

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Cost Estimating and Tracking—Leading Practices

- GAO's Cost Guide states that cost estimates should be:
 1. Comprehensive
 2. Well-documented
 3. Accurate
 4. Credible
- An agency that did not meet these criteria would be at risk of not knowing what resources were needed and when the resources would be needed

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1. Comprehensive Cost Estimates

- Comprehensive cost estimates should:
 - Include all life cycle costs
 - Completely define the program, reflect the current schedule, and capture the complete technical scope of the work to be performed
 - Contain a logical work breakdown structure (documentation detailing the work necessary to accomplish program objectives) that accounts for all performance criteria and requirements
 - Detail all cost-influencing ground rules and assumptions
- According to documentation provided, IRS has partially acted on these practices for developing comprehensive cost estimates for MITS except that they
 - did not include the entire life cycle of the program (estimates include fiscal years 2010-2012)
 - relied on a high level work breakdown structure
 - did not include a dictionary that describes how each of the subprojects relate to one another in the work breakdown structure
- We received some cost estimating documentation for S&E on May 23, 2011, and have not finished reviewing it, but the documentation is missing a work breakdown structure to ensure that all costs are included and nothing is double counted

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2. Well-Documented Cost Estimates

- Well-documented cost estimates should:
 - Identify data sources and reliability of data
 - Describe all estimating methods for all elements of the work breakdown structure
 - Show step by step calculations of cost
 - Provide evidence that the estimate was reviewed and accepted by management
 - Discuss how the technical description of the program is incorporated into the estimate
- According to documentation provided, IRS has partially acted on these practices for developing well-documented cost estimates for MITS except that
 - the cost model documentation does not discuss the reliability of the underlying data and only minimally discusses the technical description
 - the documentation is missing a technical description of what the estimate is based on
 - some cost calculations were not shown
 - expert opinion was used with no historical data to support the numbers
- We received some cost estimating documentation for S&E on May 23, 2011, and have not finished reviewing it, but it is missing a technical description of what the estimate is based on

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3. Accurate Cost Estimates

- Accurate cost estimates should:
 - Be unbiased and based on assessment of most likely costs
 - Be based on historical costs and adjusted properly for inflation
 - Contain, at most, only a few minor mistakes
 - Be updated regularly
 - Analyze variances between planned and actual costs
- According to documentation provided, IRS has partially acted on these practices for developing accurate cost estimates for MITS except that the estimates
 - did not properly adjust for inflation
 - did not clearly track where updates had been made
 - did not discuss variances and any lessons learned
- We received some cost estimating documentation for S&E on May 23, 2011, and have not finished reviewing it

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4. Credible Cost Estimates

- Credible cost estimates should:
 - Include a sensitivity analysis that vary major assumptions and data inputs
 - Conduct a risk and uncertainty analysis
 - Use more than one methodology in calculating major cost elements to determine if the results are similar
 - Compare results to an independent cost estimate
 - According to documentation provided, IRS minimally acted on these practices for developing a credible cost estimate for MITS
 - While the IRS identified low, most likely, and high ranges of costs, it did not examine how changing each variable would affect the overall cost
 - IRS did not perform a risk and uncertainty analysis to determine a level of confidence in the estimate
 - IRS did not provide evidence of cross checking multiple methodologies for major cost elements
 - IRS did not compare its estimate to an independent cost estimate to see if the results were similar
 - We received some cost estimating documentation for S&E on May 23, 2011, and have not finished reviewing it
-

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Assuring Compliance While Minimizing Burden—Leading Practices

1. Foster compliance through taxpayer assistance
2. Detect and prevent noncompliance
3. Identify barriers to compliance

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1. Compliance and Burden—Foster Voluntary Compliance Through Taxpayer Assistance

- An agency's efforts to foster compliance through taxpayer assistance should include:
 - seeking to minimize burden for all taxpayers
 - gathering and analyzing data on likely impacts on taxpayers before making decisions
 - issuing clear, timely guidance and outreach based on feedback from taxpayers and practitioners
 - working with software developers and paid preparers to minimize taxpayer burden
- IRS has taken some action to foster compliance through taxpayer assistance, including:
 - considering burden in risk assessments
 - developing online calculators to assist individuals with the premium assistance tax credit
 - seeking feedback from taxpayers and practitioners through issuance of draft guidance on the 2014 employer penalty provision
 - distributing guidance and initiating outreach for provisions already implemented
 - creating a workstream team to plan customer and stakeholder engagement for exchange-related provisions
 - creating a workstream team to plan compliance strategy and policy for exchange-related provisions

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2. Compliance and Burden—Detect and Prevent Noncompliance

- An agency's efforts to detect and prevent noncompliance should include:
 - Upfront preventive controls to address fraud or abuse as applicable
 - Aggressive investigation and prosecution of those who commit fraud
- IRS's planning has led to some efforts to include upfront controls and actions
 - Implemented filters to identify potential fraud for nonexchange provisions
 - Identified and assessed risks of noncompliance
 - Met with IRS subject matter experts on compliance risks in exchange provisions

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3. Compliance and Burden—Identify Barriers to Compliance

- An agency's efforts to identify barriers to compliance should include:
 - Using research to identify barriers to achieving high rates of voluntary compliance
 - Targeting resources of known or potential noncompliance
- IRS officials said that PPACA working group meetings include IRS research officials

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Risk Management Framework—Leading Practices

1. Comprehensively identify and analyze risks
2. Develop and implement mitigation strategies
3. Build on lessons learned

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1. Risk Management Framework— Comprehensively Identify and Analyze Risks

- An agency's efforts to comprehensively identify and analyze risks should include:
 - Establishing a formal risk management procedure
 - Analyzing the consequences and likelihood of occurrence of identified risks
- Each PMO has established a separate risk management process at the project level
 - Each PMO has a formal risk management plan and office
 - S&E PMO uses a standard set of questions to identify, analyze, and assess risks for each provision; MITS PMO uses a template to identify and track risks and mitigations
 - The two PMOs regularly share information on identified risks and mitigations, including risks that cut across projects
- Each PMO is to elevate risks to the PPACA ESC based on judgment, but no formal agency wide process exists to ensure that all external and internal program-level risks have been identified and analyzed
 - Such a program-level process could, for example, look at risks associated with setting common goals for interagency communication and determining milestones for its compliance assurance work

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2. Risk Management Framework—Develop and Implement Mitigation Strategies

- An agency's efforts to develop and implement mitigation strategies should include:
 - Assessing alternative mitigation options to determine the extent to which risks can be reduced
 - Incorporating risk-based information in the selection process
- Risk logs suggest that mitigation strategies have been adopted to address identified risks, however we have not seen evidence of assessing alternative mitigations or a process for selecting mitigation strategies

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3. Risk Management Framework—Build on Lessons Learned

- An agency's efforts to build on lessons learned should include:
 - Ongoing monitoring by management to ensure that risks and related mitigation strategies are effective
 - Separate evaluations or different mitigations where problems are identified or mitigation strategies do not function properly
- IRS's risk management process at the project level requires that
 - Risks for each provision be assessed before implementation and every 6 months thereafter using a standard set of questions
 - Risks and mitigations at the project level are to be monitored by management through team meetings, review of risk logs, and periodic reassessment

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Conclusions

- PPACA implementation is a massive undertaking for IRS
 - IRS actions will affect individuals with tax reporting responsibilities, intermediaries, and other federal agencies
 - IRS has to manage its usual tax administration responsibilities as well as PPACA
- IRS necessarily focused on implementing provisions effective in 2010 and 2011
 - Short term implementation and long term strategic planning had to proceed simultaneously
- Overall, IRS is following many leading practices for implementing such a large program, particularly at the project level and within the 2 PMOs, such as the risk management plans established by the PMOs for use by project teams
- While effective dates for many provisions are still years away, additional attention now in several areas might prevent future problems
 - Much of this is at the program or strategic level, such as the absence of a formal, agency-wide process for identifying and analyzing strategic-level risks for the program

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Conclusions (cont'd)

- If IRS management at the strategic, or program, level does not clearly communicate a clear vision or goals for the program and also communicate an IRS-wide project plan, IRS may have lower level units working at cross purposes
- Not having performance measures defined in a timely manner risks not being able to collect the data to track performance
- Without cost estimates that are comprehensive, well-documented, accurate, and credible, IRS management and Congress may not have a complete picture of the resources needed for the program
- If risks identified at various levels in the agency and mitigation options are not also systematically assessed at the strategic, program level, key risks could be overlooked and not mitigated
- Dealing with these issues will not guarantee smooth implementation of the program but could make it more likely

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Recommendations

- IRS should define program goals and develop a project plan in one document that effectively integrates all aspects of the program
- IRS should document a schedule for developing performance measures that link to program goals
- IRS should develop a more complete cost estimate that is consistent with the GAO Cost Estimating Guide
- IRS should modify and document its risk management approach in order to have more assurance that all risks, including strategic-level risks for the program, are identified and analyzed and that mitigation options are assessed

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Next Steps

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- Issue interim report by June 29, 2011
 - Continue our assessment of IRS for the work to be done to develop our final report by a date to be negotiated

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Appendix II: Sources Used to Develop Assessment Criteria

Develop an Overall Management Structure

Dedicate an implementation team to manage the process	GAO. <i>Implementation Steps to Assist in Mergers and Organizational Transformations</i> . GAO-03-669 . Washington, D.C.: July 2, 2003.
Define program goals	GAO. <i>Government Reform: Goal Setting and Performance</i> . GAO/AIMD/GG-95-130R . Washington, D.C.: March 27, 1995.
Align workforce to achieve goals	GAO. <i>Tax Administration: Workforce Planning Needs Further Development for IRS's Taxpayer Education and Communication Unit</i> . GAO-03-711 . Washington, D.C.: May 30, 2003.
Establish a performance measurement system	U.S. Department of the Treasury. Internal Revenue Service. <i>Internal Revenue Manual</i> . http://www.irs.gov/irm/ . Accessed June 1, 2011. GAO. <i>Tax Administration: Planning for IRS's Enforcement Process Changes Included Many Key Steps but Can Be Improved</i> . GAO-04-287 . Washington, D.C.: January 20, 2004.
Establish an internal communications strategy	GAO. <i>Internal Control Management and Evaluation Tool</i> . GAO-01-1008G . Washington, D.C.: August 1, 2001. GAO. <i>Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations</i> . GAO-03-669 . Washington, D.C.: July 2, 2003.
Foster partnerships with other federal agencies	GAO. <i>Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies</i> . GAO-06-15 . Washington, D.C.: October 21, 2005.

Track and monitor progress of internal and external parties	GAO. <i>2010 Census: Cost and Design Issues Need to Be Addressed Soon.</i> GAO-04-37 . Washington, D.C.: January 15, 2004.
Estimate and Track Costs	GAO. <i>GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs.</i> GAO-09-3SP . Washington, D.C.: March 2009.
Assure Compliance While Minimizing Taxpayer Burden	<p>U.S. Department of the Treasury. Internal Revenue Service. <i>IRS Strategic Plan 2009-2013.</i> http://www.irs.gov/pub/irs-pdf/p3744.pdf . Accessed June 1, 2011.</p> <p>U.S. Department of the Treasury. Internal Revenue Service. <i>Reducing the Federal Tax Gap: A Report on Improving Voluntary Compliance.</i> Washington, D.C.: August 2007.</p> <p>U.S. Department of the Treasury. Internal Revenue Service. National Taxpayer Advocate. IRS Oversight Board. <i>Taxpayer Assistance Blueprint Phase 2.</i> Washington, D.C.: April 2007.</p> <p>GAO. <i>Internal Control Management and Evaluation Tool.</i> GAO-01-1008G. Washington, D.C.: August 1, 2001.</p> <p>GAO. <i>Standards for Internal Control in the Federal Government.</i> GAO/AIMD-00-21.3.1. Washington, D.C.: November 1, 1999.</p> <p>GAO. <i>Recovery Act: IRS Quickly Implemented Tax Provision, but Reporting and Enforcement Improvements Are Needed.</i> GAO-10-349. Washington, D.C.: February 10, 2010.</p> <p>GAO. <i>Small Businesses: Tax Compliance Benefits and Opportunities to Mitigate Costs on Third Parties of Miscellaneous Income Reporting Requirements.</i> GAO-11-218T. Washington, D.C.: November 18, 2010.</p> <p>GAO. <i>Tax Gap: Actions That Could Improve Rental Real Estate Reporting Compliance.</i> GAO-08-956. Washington, D.C.: August 28, 2008.</p> <p>GAO. <i>Understanding the Tax Reform Debate: Background, Criteria, and Questions.</i> GAO-05-1009SP. Washington, D.C.: September 1, 2005.</p>

Establish a Risk Management Framework

Office of Management and Budget Circular No. A-123. *Management's Responsibility for Internal Control.*

http://www.whitehouse.gov/omb/circulars_a123_rev. Accessed June 1, 2011.

GAO. *Internal Control Management and Evaluation Tool.* [GAO-01-1008G](#). Washington, D.C.: August 1, 2001.

GAO. *Standards for Internal Control in the Federal Government.* [GAO/AIMD-00-21.3.1](#). Washington, D.C.: November 1, 1999.

GAO. *Foreign Assistance: State Department Foreign Aid Information Systems Have Improved Change Management Practices but Do Not Follow Risk Management Best Practices.* [GAO-09-52R](#). Washington, D.C.: November 21, 2008.

GAO. *Individual Disaster Assistance Programs: Framework for Fraud Prevention, Detection, and Prosecution.* [GAO-06-954T](#). Washington, D.C.: July 12, 2006.

GAO. *Information Security Risk Assessment: Practices of Leading Organizations.* [GAO/AIMD-00-33](#). Washington, D.C.: November 1, 1999.

GAO. *Risk Management: Further Refinements Needed to Assess Risks and Prioritize Protective Measures at Ports and Other Critical Infrastructure.* [GAO-06-91](#). Washington , D.C.: December 15, 2005.

Appendix III: Scope and Methodology

To determine the Internal Revenue Service's (IRS) responsibilities as set forth in the Patient Protection and Affordable Care Act (PPACA),¹ as amended by the Health Care and Education Reconciliation Act of 2010,² we asked IRS to provide a list of the provisions for which it had identified responsibilities. IRS provided this list, which indicated the IRS unit(s) with lead responsibility for each PPACA provision. Using this list, we reviewed the statutory language and interpretations of the PPACA provisions by the Joint Committee on Taxation (JCT) to summarize IRS's responsibilities for each provision, as well as the statutorily effective dates. We confirmed the final list and our summary of IRS's responsibilities with IRS officials. To highlight IRS's responsibilities under the legislation, we selected provisions for which JCT or Congressional Budget Office (CBO) scorings indicated revenue or spending effects of at least \$1 billion over the 2010-2019 time frame and asked JCT and CBO to verify our work. Our list of the PPACA provisions for which IRS identified implementation responsibilities, IRS's responsibilities for each provision, and the statutorily effective dates of the provisions can be found in appendix IV.

To establish a set of leading practices for assessing IRS's implementation of PPACA, we reviewed our products on planning and implementing new tax administration and other types of programs as well as on IRS compliance efforts. A listing of these products can be found in appendix II. We identified four areas of leading practices, as described below.

- Developing an Overall Management Structure: dedicating an implementation team, establishing program goals, aligning resources and workforce, establishing performance measures, communicating internally, coordinating with other federal agencies and departments, and tracking and monitoring progress.
- Estimating and Tracking Costs: estimating and tracking costs, including assessing the adequacy of any completed estimates of the life-cycle costs of implementation.
- Assuring Compliance while Minimizing Burden: balancing service and enforcement, to both assure compliance and minimize the overall burden of compliance on society, such as the beneficiaries and intermediaries.

¹Pub. L. No. 111-148.

²Pub. L. No. 111-152.

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- Establishing a Risk Management Framework: developing a framework to analyze risks, trade-offs, and results.

We selected the area of assuring compliance while minimizing burden because IRS will need to enforce several provisions of the law that will affect a broad segment of the public. Our prior work on implementing new programs identified the other three areas. Information technology (IT) plays a significant role in IRS's planning efforts. Our work included IRS's IT efforts within the leading practices mentioned above.

To develop criteria for these four areas, we analyzed our products including reports relevant to leading practices for overall management structure, tax compliance, and risk management; the GAO Cost Estimating and Assessment Guide; Office of Management and Budget Circular A-123; the Internal Revenue Manual; and IRS's strategic plan. We discussed our draft criteria with GAO staff knowledgeable in related areas, IRS officials to obtain input and concurrence, and staff from Massachusetts Department of Revenue who helped implement state-level health care reform legislation that included similarities to aspects of PPACA.

To apply our criteria to IRS's planning for PPACA implementation, we analyzed IRS documentation and data, including planning documents, meeting minutes of implementation teams, risk logs, charters, project plans, IRS's database of implementation actions planned and taken, and presentations given by IRS staff responsible for implementation planning. Our analysis is limited by the extent to which IRS documentation is not yet developed or available, such as a communications plan that will be completed in the summer of 2011. We interviewed IRS officials and staff at IRS's National Office, including those in the Office of the Chief Financial Officer; Office of the Commissioner; the Executive Steering Committee for PPACA; and the Services & Enforcement (S&E) and Modernization and Information Technology Services (MITS) Program Management Offices (PMO) to clarify our understanding of the documentation provided and their views on how their actions taken and planned compared to our criteria. We identified gaps between progress so far and the criteria and looked for IRS's plans to close those gaps.

As agreed with your offices, our assessment focused on IRS's planning for implementing PPACA provisions that were effective after 2011. First, provisions taking effect retroactively, on enactment, or in 2010 after enactment included types of changes in the tax code that were relatively familiar to IRS (such as new or modified tax credits) compared to provisions effective after 2011 such as those involving state exchanges.

Appendix III: Scope and Methodology

Second, we sought to avoid duplicating efforts with the Treasury Inspector General for Tax Administration, which has been evaluating IRS's implementation of several provisions with effective dates in 2010. As agreed, we focused on IRS's ongoing planning and implementation efforts rather than on IRS's implementation of provisions whose effective dates had passed. Similarly, our assessment focused on IRS. As a result, we did not contact other federal agencies—such as the Department of Health and Human Services—the states, or other organizations about coordinating with IRS in implementing PPACA.

This briefing provides a summary of our findings-to-date. We summarized the status of IRS's progress in each of the four areas of leading practices rather than rating progress against a scale. This summary of our work will be updated and included in any associated future reports along with our overall findings, conclusions, and recommendations.

Appendix IV: PPACA Provisions Providing an IRS Role in Implementation

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
1	1001	Prohibits group health plans from discriminating in favor of highly compensated individuals.	Issued notice inviting public comment on application to group health plans.	09/23/10
2	1102	Establishes a temporary reinsurance program to provide reimbursement for a portion of the cost of providing health insurance coverage to early retirees.	Ensure payments received for submission of claims for health coverage to early retirees are not included in the gross income of the employment-based plan.	03/23/10 Until 01/01/14
3	1104	Imposes a penalty on health plans identified in an annual Department of Health and Human Services (HHS) penalty fee report, which is to be collected by the Financial Management Service after notice by the Department of the Treasury (Treasury).	Draft guidance or regulations, according to IRS.	03/23/10
4	1311	Requires state exchanges to send to Treasury a list of the individuals exempt from having minimum essential coverage, those eligible for the premium assistance tax credit, and those who notified the exchange of change in employer or who ceased coverage of a qualified health plan.	Coordinate with HHS on drafting guidance or regulations, according to IRS.	03/23/10
5	1322	Provides tax exemption for nonprofit health insurance companies receiving federal start-up grants or loans to provide insurance to individuals and small groups.	Ensure tax exemption for certain nonprofit health insurers receiving loans or grants under the Consumer Operated and Oriented Plan as established by HHS to provide insurance in the individual and small-group market.	03/23/10
6	1341	Provides tax exemption for entities providing reinsurance for individual policies during first 3 years of state exchanges.	Ensure tax exemption for entities providing reinsurance for individual health insurance policies during the first 3 years of state exchanges.	03/23/10
7	1401	Provides premium assistance refundable tax credits for applicable taxpayers who purchase insurance through a state exchange, paid directly to the insurance plans monthly or to individuals who pay out-of-pocket at the end of the taxable year.	Prescribe regulations governing the reconciliation of advance payment amounts with authorized credits and where taxpayer's filing status differs from what was used to determine credit eligibility.	01/01/14
8	1402	Provides a cost-sharing subsidy for applicable taxpayers to reduce annual out-of-pocket deductibles.	Prescribe regulations with the Secretary of HHS on calculating family size and household income.	03/23/10
9	1411	Outlines the procedures for determining eligibility for exchange participation, premium tax credits and reduced cost-sharing, and individual responsibility exemptions.	Verify household income and family size for purposes of eligibility for the tax credit and cost-sharing reduction.	03/23/10

Appendix IV: PPACA Provisions Providing an IRS Role in Implementation

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
10 1412	36B	Allows advance determinations and payment of premium tax credits and cost-sharing reductions.	Make advance tax credit payments directly to issuer of a qualified plan on a monthly basis. Collect information from exchanges on individuals' participation, including the plan purchased and amounts advanced.	03/23/10
11 1414	6103	Authorizes IRS to disclose certain taxpayer information to HHS for purposes of determining eligibility for premium tax credit, cost-sharing subsidy, or state programs including Medicaid, including (1) taxpayer identity; (2) the filing status of such taxpayer; (3) the modified adjusted gross income of taxpayer, spouse, or dependents; and (4) tax year of information.	Disclose certain taxpayer information to HHS officers, employees, and contractors on any taxpayer whose income is relevant to determining their eligibility for the premium tax credit, cost-sharing subsidy, Medicaid, state Children's Health Insurance Program, or a basic state health program established under PPACA.	03/23/10
12 1421	45R	Provides nonrefundable tax credits for qualified small employers (no more than 25 full-time equivalents (FTE) with annual wages averaging no more than \$50,000) for contributions made on behalf of its employees for premiums for qualified health plans.	Administer tax credit for small employers who contribute to health insurance premiums for their employees.	01/01/10
13 1501	5000A	Requires all U.S. citizens and legal residents and their dependents to maintain minimum essential insurance coverage unless exempted starting in 2014 and imposes a fine on those failing to maintain such coverage.	Collect penalties incurred by individuals who do not have minimum essential health insurance coverage, using limited collection methods including offsetting penalty amounts against refunds or credits.	01/01/14
14 1502	6055, 6724(d)	Requires every person who provides minimum essential coverage to file an information return with the insured individuals and with IRS.	Prescribe the form and manner of the information return required to be filed by January 31 by all insurers, including employers that provided minimum essential health coverage to individuals in the preceding year. Apply penalties where an insurer does not file the information return. Notify individuals filing tax returns who do not have minimum essential health coverage that they can be penalized and provide information on the individual's state exchange.	01/01/14
15 1513	4980H	Imposes a penalty on large employers (50+ FTEs) who (1) do not offer coverage for all of their full-time employees, offer unaffordable minimum essential coverage, or offer plans with high out-of-pocket costs and (2) have at least one full-time employee certified as having purchased health insurance through a state exchange and was eligible for a tax credit or subsidy.	Collect penalties assessed annually, monthly, or periodically and repay any penalty including interest where the premium credit or cost sharing is subsequently disallowed.	01/01/14

**Appendix IV: PPACA Provisions Providing an
IRS Role in Implementation**

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
16 1514	6056, 6724(d)	Requires information reporting of health insurance coverage information by large employers (subject to IRC 4980H) and certain other employers.	Prescribe the form of the information return to be filed by large employers and other employers offering minimum essential health coverage certifying that coverage was offered and providing information on the individuals covered, and impose penalties on those failing to submit returns.	01/01/14
17 1515	125(f)(3)	Offers tax exclusion for reimbursement of premiums for small-group exchange-participating health plans offered by small employers to all full-time employees as part of a cafeteria plan.	Ensure tax exclusion for employers offering exchange-participating health plan in an employee cafeteria plan.	01/01/14
18 1563	9815	Subjects new group health plans to certain Public Health Service Act requirements and imposes the excise tax on plans that fail to meet those requirements. (conforming amendment)	Impose the excise tax for failure to meet Public Health Service Act requirements on new group health plans under PPACA.	03/23/10
19 3308	6103	Authorizes IRS to disclose certain taxpayer information to the Social Security Administration (SSA) regarding reduction in the subsidy for Medicare Part D for high-income beneficiaries. (conforming amendment)	Disclose certain taxpayer return information to SSA under IRC 6103.	03/23/10
20 5605		Requires the independent institute partnering with the National Academy of Sciences (NAS) to implement a key national indicator system to be a nonprofit entity under section 501(c)(3).	Enable the independent private organization partnering with NAS to create the key national indicator system to be a nonprofit entity under IRC 501(c)(3).	03/23/10
21 6301	4375, 4376, 4377, 9511	Imposes a fee through 2019 on specified health insurance policies and applicable self-insured health plans to fund the Patient-Centered Outcomes Research Trust Fund to be used for comparative effectiveness research.	Administer fee on insured and self-insured health plans equal to \$2 per individual insured (\$1 in plan years ending during fiscal year 2013) to be used by Patient-Centered Outcomes Research Trust Fund for comparative effectiveness research.	10/01/12
22 9001	4980I	Imposes a 40 percent excise tax on high cost employer-sponsored health insurance coverage on the aggregate value of certain benefits that exceeds the threshold amount.	Administer excise tax on high-cost employer-sponsored health insurance coverage and impose penalties on employers, or the plan sponsor for multiemployer plans, for failure to properly calculate amount of the excess benefit subject to the tax.	01/01/18
23 9002	6051	Requires employers to disclose the value of the employee's health insurance coverage sponsored by the employer on the annual Form W-2.	Administer change to W-2 reporting to include the value of employer-sponsored health coverage excluding any flexible health spending arrangements.	01/01/11

**Appendix IV: PPACA Provisions Providing an
IRS Role in Implementation**

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
24 9003	105, 106, 220, 223	Repeals the tax exclusion for over-the-counter medicines under a Health Flexible Spending Arrangement (FSA), Health Reimbursement Arrangement (HRA), Health Savings Account (HSA), or Archer Medical Savings Account (MSA), unless the medicine is prescribed by a physician.	Administer change to qualified expenses that can be reimbursed by a health FSA or HSA to include only prescription drugs and insulin.	01/01/11
25 9004	220, 223	Increases tax on distributions from HSAs and Archer MSAs not used for medical expenses.	Administer increase to tax on distributions from HSAs and Archer MSAs that are not used for qualified medical expenditures.	01/01/11
26 9005	125	Limits health FSAs under cafeteria plans to a maximum of \$2,500 adjusted for inflation.	Administer reduction in health FSA amounts to a maximum of \$2,500 adjusted for inflation.	01/01/13
27 9007	501(c)(29), 4959, 6033	Imposes additional reporting requirements for charitable hospitals to qualify as tax-exempt under IRC 501(c)(3) and requires hospitals to conduct a community health needs assessment at least once every 3 years and to adopt a financial assistance policy and policy relating to emergency medical care.	Ensure compliance with additional requirements for charitable hospitals to qualify as 501(c)(3) organization, review community benefit activities at least once every 3 years, impose penalties for failing to conduct community needs assessment, issue guidance on what constitutes reasonable efforts to determine patient eligibility for financial assistance under the hospital's policy, and annually report to Congress on levels of charity care provided and costs of care incurred.	03/23/10 Community assessment: 03/23/13
28 9008		Imposes a fee on each covered entity engaged in the business of manufacturing or importing branded prescription drugs.	Calculate the fee amount and collect fee on manufacturers of branded prescription drugs sold to Medicare Parts B and D; Medicaid; Department of Veterans Affairs (VA); TRICARE; or other Department of Defense or VA programs.	01/01/11
29 9010		Imposes an annual fee on any entity that provides health insurance for any U.S. health risk with net premiums written during the calendar year that exceed \$25 million.	Calculate and collect annual fee on certain health insurance providers and administer penalties for entities who fail to report the amount of their net premiums for the calendar year, or report inaccurately.	01/01/14
30 9012	139A	Allows the deduction for retiree prescription drug expenses only after the deduction amount is reduced by the amount of the excludable subsidy payments received.	Ensure amount of deduction for retiree prescription drug expenses has been reduced by any subsidy payments received.	01/01/13
31 9013	213	Increases the threshold for the itemized deduction for unreimbursed medical expenses from 7.5 percent of Adjusted Gross Income (AGI) to 10 percent of AGI (unless taxpayer turns 65 during 2013-2016 and then threshold remains at 7.5 percent).	Ensure itemized deductions for unreimbursed medical expenses by taxpayers meet the 10 percent AGI threshold.	01/01/13

Appendix IV: PPACA Provisions Providing an IRS Role in Implementation

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
32 9014	162	Denies the business expenses deductions for wage payments made to individuals for services performed for certain health insurance providers if the payment exceeds \$500,000.	Ensure deductions for remuneration exceeding \$500,000 are not allowed for certain insurance providers.	01/01/13: For services performed after 12/31/09
33 9015	1401, 3101, 3102	Imposes an additional Hospital Insurance (Medicare) Tax of 0.9 percent on wages over \$200,000 for individuals and over \$250,000 for couples filing jointly.	Collect additional Hospital Insurance Tax to remit to the hospital insurance trust fund.	01/01/13
34 9016	833	Limits eligibility for deductions under section 833 (treatment of Blue Cross and Blue Shield) unless the organizations meet a medical loss ratio standard of at least 85 percent for the taxable year.	Issue guidance on determining medical loss ratio and ensure that proper deductions are allowed under IRC 833.	01/01/10
35 9021	139D	Allows an exclusion from gross income for the value of specified Indian tribe health care benefits.	Ensure that the value of specified Indian tribe health care benefits is not included in gross income.	03/23/10
36 9022	125	Allows small businesses to offer simple cafeteria plans—plans that increase employees' health benefit options without the nondiscrimination requirements of regular cafeteria plans.	Ensure compliance with requirements of "simple cafeteria plans" for small businesses.	01/01/11
37 9023	48D	Establishes a 50 percent nonrefundable investment tax credit for qualified therapeutic discovery projects.	Award certifications with HHS for qualified investments and distribute the \$1 billion provided for 2009 and 2010 as tax credits or grants.	01/01/09
38 10108	139D	Requires employers to provide free choice vouchers to certain employees who contribute over 8 percent but less than 9.8 percent of their household income to the employer's insurance plan to be used by employees to purchase health insurance through the exchange.	Ensure that taxpayers receiving vouchers do not get the premium assistance tax credit or cost sharing subsidy and do not include the amount of the free choice voucher in calculating gross income, and allow employers to deduct cost of voucher as a business expense.	01/01/14
39 10907	5000B	Imposes a tax on any indoor tanning service equal to 10 percent of amount paid for service.	Ensure tax is collected and remitted to IRS at time and in manner specified.	07/01/10
40 10908	108(f)(4)	Excludes from gross income amounts received by a taxpayer under any state loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas.	Ensure that student loan repayments or forgiveness for certain health care professionals working in certain areas are excluded from gross income.	01/01/09

Appendix IV: PPACA Provisions Providing an IRS Role in Implementation

Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010)

Legislation section	Internal Revenue Code (IRC) section	Provision description	Internal Revenue Service's (IRS) role	Effective date
41 10909	23, 137	Increases the maximum adoption tax credit and the maximum exclusion for employer-provided adoption assistance for 2010 and 2011 to \$13,170 per eligible child.	Facilitate the expansion of the already established adoption credit and exclusion for the adoption assistance program.	01/01/10

Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010)

42 1004	105, 162, 401, 501	Extends the exclusion from gross income for reimbursements for medical expenses under an employer-provided accident or health plan to employees' children under 27 years.	Ensure that taxpayers properly exclude (or deduct, in the case of self-employed taxpayers) amounts paid by employers for health insurance for employees' older children.	03/30/10
43 1402	1411	Imposes an unearned income Medicare contribution tax of 3.8 percent on individuals, estates, and trusts on the lesser of net investment income or the excess of modified adjusted gross income (AGI + foreign earned income) over a threshold of \$200,000 (individual) or \$250,000 (joint).	Ensure collection of unearned income Medicare contribution tax on net investment income or modified adjusted income of certain individuals, trusts, or estates.	01/01/13
44 1405	4191	Imposes a tax of 2.3 percent on the sale price of any taxable medical device on the manufacturer, producer, or importer.	Ensure payment by manufacturers, producers, or importers of a 2.3 percent sales tax on certain medical devices (does not include eyeglasses, contact lenses, hearing aids or other devices excluded by IRS).	01/01/13
45 1408	40	Amends the cellulosic biofuel producer credit (nonrefundable tax credit of about \$1.01 for each gallon of qualified fuel production of the producer) to exclude fuels with significant water, sediment, or ash content (such as black liquor).	Ensure that tax credits for cellulosic biofuel are not allowed for fuels with significant water, sediment, or ash content.	01/01/10
46 1409	6662, 6662A, 6664, 6676, 7701	Clarifies and enhances the applications of the economic substance doctrine and imposes penalties for underpayments attributable to transaction lacking economic substance.	Impose penalties for underpayments, nondisclosed transactions, and erroneous claims for refund or credit relating to non-economic-substance transactions.	03/30/10
47 1410	6655	Increases the required payment of corporate estimated tax due in the third quarter of 2014 by 15.75 percent for corporations with more than \$1 billion in assets, and reduces the next payment due by the same amount.	Ensure payment of estimated taxes by certain corporations is increased for the filing in July, August, or September 2014.	03/30/10

Source: GAO summary of PPACA and Reconciliation Act provisions affecting IRS.

Notes: IRS identified 47 provisions in PPACA and the Reconciliation Act that provide an IRS role in implementation. GAO did not independently determine whether any additional provisions affect IRS.

The chart lists the statutory effective date of the provisions; however, some provisions will not need to be immediately implemented. For example, the federal cost-sharing subsidy provision was effective upon enactment of PPACA, but will not be available to the taxpayer until 2014 as a companion to the premium assistance tax credit.

**Appendix IV: PPACA Provisions Providing an
IRS Role in Implementation**

The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Pub. L. No. 112-9, signed by the President on April 14, 2011, repealed the requirements of section 9006 of PPACA that expanded information reporting to payments made to corporations and to payments for property and other gross proceeds. Section 9006 is not included in GAO's summary.

Appendix V: Comments from the Internal Revenue Service



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

June 20, 2011

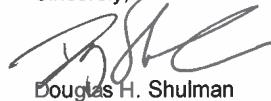
Mr. James R. White
Director, Tax Issues
Strategic Issues Team
U.S. Government Accountability Office
441 G Street, NW – Room 2440C
Washington, D.C. 20548

Dear Mr. White:

We appreciate GAO's assessment of our ongoing efforts to implement the tax law changes included in the Affordable Care Act (ACA). Both short-term implementation and long-term planning began immediately upon passage of the legislation. Our efforts focused on ensuring tax law changes which were retroactive or immediately effective were implemented in a timely fashion and a structure and process was in place to begin planning for provisions with effective dates in future years.

Your team provided valuable input on best practices in planning and organizing an effort of this scale, which we will consider as we move forward in the implementation process. Our comments to your specific recommendations are outlined in the enclosure. Our efforts, including those we have taken or are planning to take in response to your recommendations, will position us well for successful implementation of the tax law provisions of the ACA.

Sincerely,



Douglas H. Shulman

Enclosure

Enclosure

GAO Recommendations and IRS Responses to GAO Draft Report
PATIENT PROTECTION AND AFFORDABLE CARE ACT
IRS Should Expand Its Strategic Approach to Implementation
GAO-11-719

Recommendation:

IRS should define program goals and develop a project plan in one document that effectively integrates all aspects of the program.

Comments:

We agree, and will consider the best way to capture an overarching program plan that integrates our IT and business planning to date and lays out the needs and requirements for implementing tax law provisions of ACA from a corporate and strategic level. Further definition around our overall program goals will be provided.

Recommendation:

IRS should document a schedule for developing performance measures that link to program goals.

Comments:

Development of performance metrics, including an appropriate timeline, will be a mandatory element of the implementation plan for each provision. We are already working with our Research, Analysis and Statistics Division to obtain and develop comprehensive metrics for exchange and non-exchange provisions. In addition, existing program performance measures, such as telephone level of service, will be useful for some provisions.

Recommendation:

IRS should develop a more complete cost estimate that is consistent with the GAO Cost Estimating Guide.

Comments:

We appreciate GAO's thorough review of the cost estimates, and while we believe that they are sound and supported by substantial data and analysis, we agree with your recommendation to further explore enhancements, particularly those that extend beyond FY 2012.

Recommendation:

IRS should modify and document its risk management approach in order to have more assurance that all risks, including strategic-level risks for the program, are identified and analyzed and that mitigation options are assessed.

Comments:

We are clarifying our risk management process to ensure transparency in our process of having strategic-level corporate risks raised and assessed by top IRS executives and the development and monitoring of appropriate mitigation strategies.

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the individual named above, Thomas Short, Assistant Director; Linda Baker; Amy Bowser; Dean Campbell; Jennifer Echard; Meredith Graves; Sairah Ijaz; Paul Middleton; Donna Miller; Edward Nannenhorn; Melanie Papasian; Sabine Paul; Marylynn Sergent; and Cynthia Saunders made key contributions to this report.

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