

**Statement of
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American Coalition for Taxpayer Rights (ACTR)**

Before the

**U.S. Senate Committee on Finance
Subcommittee on Fiscal Responsibility and Economic
Growth**

**Tuesday, March 20, 2012
10:00 a.m.**

Chairman Nelson, Ranking Member Crapo, and other Members of the Subcommittee, thank you for inviting me here today.

My name is Bernie McKay. I am here today as the Chairman of the American Coalition for Taxpayer Rights (ACTR). ACTR is a 10-member coalition of the largest companies in the tax preparation industry serving U.S. taxpayers, and includes tax preparation firms, software developers and financial institutions. The members of ACTR are committed to providing high quality services, transparency in pricing and service terms, and have a long history of assisting many millions of U.S. taxpayers in their annual Voluntary Compliance obligations under our complex Federal income tax system.

It is also this industry that answered the call of Congress in 1998 to convert U.S. income tax compliance to a lower cost, more accurate and faster return submission system where 80% of all individual tax returns would be filed electronically instead of on paper. This industry worked cooperatively and collaboratively with the Federal Government over a period of a little more than a decade to achieve consumer adoption of electronic filing as the preferred method of income tax compliance in this country. The IRS and industry worked *together* to achieve this major objective and today well in excess of 80% of all individual Federal income tax returns are indeed filed electronically.

There are many differences between the U.S. system of income taxation and those of other countries around the world. But it is the U.S. tax system, for all its flaws, that is citizen-centric. It is based entirely on the principle of engaging and empowering citizens directly in their own tax compliance as a central, independent duty of their citizenship. As a result, the United States enjoys one of if not the highest rate of tax compliance of any nation in the world. U.S. taxpayers are served by a combination of private sector and public sector expert resources who are dedicated to supporting the taxpayer in fulfilling their annual Voluntary Compliance obligation accurately, completely and efficiently, year in and year out.

Annually, the nearly 140 million U.S. individual taxpayers who file taxes have a variety of options for their compliance, ranging from old fashioned pen and paper, to Do-It-Yourself (“DIY”) software which they can access online from a home computer or mobile device, to non-profit programs, such as IRS VITA, to no-cost public-private partnerships like IRS Free File, to storefront tax services located in their own city, town or neighborhood, to accountant tax professionals operating small businesses in communities all across the country. On an annual

basis millions of taxpayers move back and forth between these product and service segments based upon their personal circumstances and individual and family tax filing needs.

One of the ACTR association member companies is Intuit, at which I am the Global Chief Public Policy Officer and Vice President of Corporate Affairs. I have been with Intuit for nearly 15 years. Prior to joining Intuit I served in capacities in both the technology industry and in government. My company, Intuit, began in Silicon Valley 28 years ago and offers software and financial products and services that serve small businesses and consumers alike. Our tax software products serve both accounting professionals and Do-it-Yourself taxpayers, and the nature of this highly competitive industry is that each year our customers come from all the aforementioned segments as taxpayers annually choose their method of tax compliance.

The other ACTR association member companies provide tax-related products and services in all of the competitive service segments that comprise this dynamic and innovative industry. The other ACTR member companies include:

- Fort Knox Financial Services Corp., d/b/a Refund Advantage
- H&R Block, Inc.
- Jackson Hewitt Tax Services, Inc.
- JTH Tax, Inc. (Liberty Tax Service)
- Republic Bank & Trust Company
- Santa Barbara Tax Products Group
- 2nd Story Software, Inc.
- TaxSlayer
- Universal Tax Systems, Inc., d/b/a CCH Small Firm Services

Because of who we are in this industry and the type of information our customers entrust with us, all ACTR companies strictly adhere to IRS Code Section 7216 and take the privacy and the security of taxpayer data very seriously. All of our companies have business controls to detect and respond to suspicious activity, and prevent fraud. To combat all types of tax fraud, which spans all of the market segments noted above, the IRS and industry have been working together cooperatively for many years. I will describe how that cooperation has been further enhanced over the past year.

It is also important to note the realities of the modern world in the widespread growth of Identity Theft as a global criminal phenomenon. Identity Theft takes many forms and strikes at every type of commerce, in both bricks and mortar and Web-based environments. In the Web-

based world it most routinely strikes at everyday email, seeking to deceive individuals and businesses to attempt to steal and misuse sensitive information of all kinds. It is increasingly the focus of significant domestic and international efforts to combat it on both a privacy and security level, involving both prevention and law enforcement. Unfortunately, one of the many places where Identity Theft and associated fraud have struck is in tax systems, at home and abroad.

Government Role and Responsibility For Preventing Fraud

ACTR supports and recognizes the central role that the IRS and the U.S. Department of Treasury play, assisted by the U.S. Department of Justice, and on occasion by local law enforcement, as part of their duty to protect the U.S. taxpayers from identity theft and fraudulent tax schemes. The IRS has thousands of auditors and criminal investigators, it has subpoena power, and many other tools to prevent or address fraud, including critical information databases built over decades of experience that only it can access. The IRS, for example, has access to all past and current year tax return information and information reporting.

IRS also has access to a host of federal, state and local databases, including the Social Security Administration database of Social Security numbers, prisoner listings and new hires. Attempts to defraud IRS can and are defeated every day by filters utilizing closely held methods to ensure the tax return is really from a taxpayer who deserves a refund. Criminal conspiracies of varying sophistication can only be investigated and rooted out by government investigation, even when such a case begins with a referral of suspicious activity identified by industry.

Private Sector Companies' Approach To Fraud Reporting

Notwithstanding the key role that IRS plays, industry recognizes it has a "shared responsibility" to detect and report suspicious activity and prevent fraud. In fact, ACTR companies routinely report suspicious activity to the IRS when they see it, although we lack the more complete picture that is obtained by IRS when it analyzes multiple data indices against government databases, known criminal activity, and the like. The companies that make up our industry association have for many years reported information to IRS regarding returns or refunds that are suspicious because of indicia of potential fraud. Across the private sector, privacy and

security protection, together with fraud prevention, are major focuses of continuous investment and dedicated effort.

An example of the type of fraud that private companies are seeing and reporting are instances where identify theft has occurred, and a criminal group relentlessly submits return after return that utilize real taxpayers stolen identities, the correct SSN, date of birth, and a copy of an apparently correct W2. These groups almost always use multiple tax preparation companies to insert numerous returns with the same data. Using information technology to identify such fraudulently filed returns is both lawful and appropriate, and does not implicate any value of trust we in industry have with our customers.

Last year ACTR companies reported that hundreds of thousands of returns should be reviewed due to suspicious activity, and our financial companies stopped payment of hundreds of millions in refunds and saved the U.S. Government millions of dollars in refunds. However, fraud is a constantly evolving criminal activity, domestically and around the world. Given the reports of increasing criminal schemes, the ACTR association began a collaborative effort to improve our help to the government in its ongoing quest to combat tax fraud.

The Anti-Fraud Work Underway Between IRS And Industry

Mr. Chairman, let me turn for a few minutes to the anti-fraud collaboration that is currently ongoing between the IRS and the private-sector tax preparation industry. In October 2011, the 10 members of the American Coalition for Taxpayers Rights proactively reached out to the IRS to determine how we might work together with IRS to assist in combating tax fraud. The response from IRS has been positive and encouraging, and IRS has been appropriately sensitive to the confidentiality and privacy issues that are implicated any time taxpayer information is involved. For example, government cannot tell industry on most occasions how and to what degree the referral information we provided was useful in ferreting out fraud. Likewise, government cannot disclose details of the closely held tools and filters it has at its disposal to identify and capture fraudulent activity.

Last fall, the members of our Coalition met with IRS Deputy Commissioner Steve Miller and many senior IRS staff at IRS headquarters, and mapped out a cooperative agenda for combatting these challenges to the tax system. Our conversation was very positive and

productive. From the perspective of our members, we wanted to know what more we could do to assist IRS in detecting, identifying and combating fraud -- and suspected fraud. Given the ensuing tax filing season, however, I think both sides -- the IRS and ACTR companies -- recognized that much of our collaboration would be undertaken with an eye toward the future. Subsequently, IRS and ACTR representatives met again in Washington for continuing dialogue.

At subsequent meetings, the IRS and ACTR-member companies designated personnel to participate in two fraud task force working groups -- one made up of tax preparation and tax software companies (which I lead for industry), and the other made up of financial institutions, which are typically involved in the receipt and processing of income tax refunds. This collaboration is ongoing and it evolves as the IRS identifies appropriate ways in which we can help.

Conclusion

The reality is that the increase in the incidence of identity theft and associated fraud is likely to continue across all forms and modalities of commerce here in the United States and abroad as criminal groups gain greater technological capability around the world. And unfortunately, the financial attractiveness of tax systems is also likely to continue as a target for such criminal activity. The threat is already complex and will constantly be changing. The increased focus by the IRS on prosecuting tax fraud has led to the discovery of organized criminal rings in places such as Tampa, New York, and Belarus; these crime rings and their use of identity theft to perpetrate tax fraud violate various Title 18 provisions, and are rightly receiving increased attention by federal, state and municipal law enforcement.

ACTR and industry companies are fully cooperating with law enforcement as they seek to break these criminal rings. We recognize there is no silver bullet. Rather, fraud prevention requires a multi-layered defense, and a team effort that includes the IRS, law enforcement, taxpayers and private industry. Mr. Chairman, ACTR wants to continue to be part of the solution, and that is why we will continue to collaborate closely with IRS for the benefit of the U.S. taxpayer to detect and combat tax fraud so that our real customers, the U.S. taxpayer, can continue to prepare and file their returns with ease, peace of mind, and security.