DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

Joint HHS OIG/TIGTA Report

Review of the Accounting Structure Used for the Administration of Premium Tax Credits

March 31, 2015

HHS OIG Evaluation Number: OEI-06-14-00590
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REVIEW OF THE ACCOUNTING STRUCTURE USED FOR THE ADMINISTRATION OF PREMIUM TAX CREDITS

Final Report issued on March 31, 2015

Highlights of:

- Evaluation Number OEI-06-14-00590 to the Department of Health and Human Services (HHS) Centers for Medicare & Medicaid Services (CMS) Acting Administrator and the Assistant Secretary for Financial Resources.
- Audit Reference Number 2015-13-029 to the Internal Revenue Service Commissioner.

IMPACT ON TAXPAYERS

The Patient Protection and Affordable Care Act created a refundable tax credit referred to as the Premium Tax Credit (PTC) to assist individuals with the cost of their health insurance premiums. Individuals may elect to have the PTC paid directly to their health insurance issuers as partial payment for their monthly premiums (referred to as the Advance Premium Tax Credit or APTC). With nearly $11 billion disbursed for APTC payments in Fiscal Year 2014, proper accounting is imperative.

WHY THE HHS OIG AND TIGTA DID THE REVIEW

This review was initiated as the result of a congressional request for a joint review of the administration of the PTC. This review was performed as part of a series of coordinated audits and evaluations by the Department of Health and Human Services Office of Inspector General (HHS OIG) and the Treasury Inspector General for Tax Administration (TIGTA).

The objective of this review was to identify the IRS and CMS justification for determining how to establish programmatic control over the PTC.

WHAT THE HHS OIG AND TIGTA FOUND

The IRS and CMS, in coordination with the Department of the Treasury and the HHS, took significant steps in planning the shared roles and responsibilities for APTC payments. These efforts were necessitated by the Affordable Care Act structure of the PTC, which places new responsibilities on both the IRS and CMS.

Planning efforts were initiated in late Calendar Year 2011 to select an appropriate accounting structure to support APTC payments made to health insurance issuers. The IRS and CMS, in an effort to ensure that a sound and lawful accounting structure was selected, identified issues requiring resolution and discussed a variety of accounting approaches. They sought legal opinions from agency counsel and obtained input from the Office of Management and Budget. Ultimately, three accounting approaches were considered. By mutual agreement, the IRS and CMS adopted an allocation account structure. The Office of Management and Budget concurred with the use of the allocation account structure.

The allocation account structure provides a framework allowing the use of a permanent indefinite refund appropriation, administered by the IRS, to fund APTC payments certified and paid by the CMS to health insurance issuers. Effective operation of this approach is dependent upon the CMS's ability to reliably validate invoiced charges submitted by health insurance issuers to the CMS prior to certifying the payments. Also critical to the overall effectiveness of the APTC payment process is the IRS's ability to subsequently identify and address incorrect APTC payments when taxpayers file their tax returns. Continuing work by the HHS OIG and TIGTA will examine these operations.

WHAT THE HHS OIG AND TIGTA RECOMMENDED

The HHS OIG and TIGTA made no recommendations in this report. In their responses, the IRS concurred with the report and the HHS provided technical comments.

DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

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INSPECTOR GENERAL FOR TAX ADMINISTRATION

March 31, 2015

MEMORANDUM FOR CMS ACTING ADMINISTRATOR
IRS COMMISSIONER
HHS ASSISTANT SECRETARY FOR FINANCIAL RESOURCES

FROM: Daniel R. Levinson
Inspector General, Department of Health and Human Services

J. Russell George
Treasury Inspector General for Tax Administration

SUBJECT: Final Report – Review of the Accounting Structure Used for the Administration of Premium Tax Credits (HHS OIG Evaluation Number OEI-06-14-00590) (TIGTA Audit Number 201510012.01)

This report presents the results of our review to identify the Internal Revenue Service's (IRS) and Centers for Medicare & Medicaid Services' (CMS) justification for determining how to establish programmatic control over the Premium Tax Credit (PTC).

This review was initiated in response to a congressional request for the Department of Health and Human Services Office of Inspector General (HHS OIG) and the Treasury Inspector General for Tax Administration (TIGTA) to jointly review the administration of the PTC and its advance payments by the CMS and IRS. Specifically, this review covers the programmatic justification for the CMS's control over PTC obligations. This review is included in both the HHS OIG Fiscal Year 2015 Work Plan and the TIGTA Fiscal Year 2015 Annual Audit Plan.

The TIGTA and the HHS OIG made no recommendations as a result of the work performed during this review. The IRS Management's complete response to the report is included as Appendix V, and the HHS Management's response is included as Appendix VI.

If you have any questions, please contact us or Suzanne Murrin, HHS OIG Deputy Inspector General for Evaluation and Inspections, and Michael E. McKenney, TIGTA Deputy Inspector General for Audit.

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Abbreviations

ACA	Affordable Care Act
APTC	Advance Premium Tax Credit
BFS	Bureau of the Fiscal Service
CMS	Centers for Medicare & Medicaid Services
HHS	U.S. Department of Health and Human Services
HHS OIG	Health and Human Services Office of Inspector General
IPERA	Improper Payments Elimination and Recovery Act
IRS	Internal Revenue Service
OMB	Office of Management and Budget
PTC	Premium Tax Credit
TIGTA	Treasury Inspector General for Tax Administration

Background

Refundable tax credit created by the Affordable Care Act

The Patient Protection and Affordable Care Act (hereafter referred to as the ACA)[1] created a new refundable[2] tax credit, the Premium Tax Credit (PTC), to assist eligible taxpayers with paying their health insurance premiums. Funding for the PTC was appropriated to the Department of the Treasury.[3] The ACA also created Health Insurance Marketplaces. The Marketplaces are where individuals (and their families) find information about health insurance options, purchase qualified health plans, and, if eligible, obtain help paying premiums. According to the U.S. Department of Health and Human Services (HHS), as of March 2014, over 8 million people selected a health insurance plan through a Federal or State Health Insurance Marketplaces. Selections and automatic reenrollments were 11.7 million as of late February 2015.

When enrolling in a qualified health plan[4] through the Marketplace, eligible individuals can choose to have some or all of the PTC paid in advance to their insurance company as payment of their monthly premium (hereafter referred to as the Advance Premium Tax Credit or APTC). Alternatively, individuals can pay the premium and wait to claim all of the PTC on their tax return.

Implementation of the APTC

The Centers for Medicare & Medicaid Services (CMS)[5] oversees implementation of certain ACA provisions related to the Marketplace. The CMS operates the Federally Facilitated Marketplace and works with the States to establish State and State partnership Marketplaces, including overseeing their operations. The Marketplaces have responsibility for determining if an individual is eligible to purchase health insurance through a Marketplace as well as determining the amount of the APTC they are eligible to receive. Total APTC disbursements[6]

[1] Pub. L. No. 111-148, 124 Stat. 119 (2010) (codified as amended in various sections of the U.S. Code), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029.
[2] Refundable tax credits can be used to reduce a taxpayer's tax liability to zero. Any excess of the credit beyond the tax liability can be refunded to the taxpayer.
[3] The Internal Revenue Service (IRS) will implement the PTC program on behalf of the Department of the Treasury.
[4] A qualified health plan is an insurance plan that is certified by the Health Insurance Marketplace and provides essential health benefits, follows established limits on cost-sharing (like deductibles, copayments, and out-of-pocket maximum amounts), and meets other requirements.
[5] The CMS will implement this program on behalf of the HHS.
[6] Disbursements are amounts paid by Federal agencies, by cash or cash equivalent, during the fiscal year to liquidate Government obligations.

for Fiscal Year 2014[7] were nearly $11 billion ($15.5 billion in Calendar Year 2014). These disbursements went to 291 health insurance issuers.

Once a Marketplace determines the amount of the APTC an individual is eligible to receive, the individual then elects the amount to be sent to their health insurance issuer on a monthly basis. The CMS subsequently sends a request to the Department of the Treasury's Bureau of the Fiscal Service (BFS)[8] to issue monthly APTC payments to the individual's health insurance issuer. These payments are certified by the CMS and paid from an allocation account[9] established for the use of the CMS.

Reconciling the PTCs

Ultimately, the IRS is responsible for determining the amount of the PTC a taxpayer receives based on his or her tax return. All individuals who chose to have APTC payments sent to a health insurance issuer are required to file a Federal tax return to reconcile the APTC with the actual PTC they are eligible to receive based on their income and family size reported on their tax return.[10] This reconciliation is necessary because a Marketplace's computation of the APTC is based on estimates of an individual's anticipated income and family size for the upcoming calendar year. The amount of the PTC that taxpayers are entitled to receive is based on their actual income and family size (number of exemptions) as reported on their annual tax return, which may be different from the estimates used by the Marketplace to determine the allowable APTC.

The Marketplaces provide the IRS with information on a monthly basis regarding individuals who are enrolled. In addition, the Marketplaces also provide an annual summary to both the IRS and the individual detailing specific information relating to the individual's enrollment. This summary is referred to as Form 1095-A, *Health Insurance Marketplace Statement*.

[7] For Fiscal Year 2014, APTC disbursements began in January 2014. A fiscal year is any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

[8] A new bureau of the Department of the Treasury, formed from the consolidation of the Financial Management Service and the Bureau of the Public Debt. Its mission is to promote the financial integrity and operational efficiency of the U.S. Government through exceptional accounting, financing, collections, payments, and shared services.

[9] Allocation accounts are authorized and appropriate when a law requires funds that are appropriated to one department to be transferred to pay for activities that are the statutory responsibility of a second department.

[10] Taxpayers who enrolled in a health plan through the Health Insurance Marketplace in Calendar Year 2014 will receive a Form 1095-A, *Health Insurance Marketplace Statement*, from the Marketplace. Information from this form should be used to calculate the amount of the taxpayer's PTC and reconcile APTCs made on the taxpayer's behalf to the health insurance issuer. To do this, the taxpayer will use Form 8962, *Premium Tax Credit*, when filing his or her tax return.

Other payments made from the allocation account associated with the IRS permanent indefinite refund appropriation

The allocation account associated with the Department of the Treasury permanent indefinite refund appropriation, administered by the IRS, (hereafter referred to as the refund appropriation) used to pay the APTC is also used to make other payments by the CMS. These include advance cost-sharing reduction payments (which decrease the deductibles, copayments, coinsurance, and total out-of-pocket spending limits for income-qualified people) and basic health program payments (which subsidize States' costs for providing health benefits coverage to low-income residents through such plans, in lieu of receiving APTC and cost-sharing reduction payments). However, advance cost-sharing reduction and basic health program payments are outside the scope of this review, which is focused on the justification for programmatic control over the PTC. For additional detail on the total outlays[11] from the refund appropriation, including cost-sharing reduction and basic health program payments, see Appendix IV.

The HHS Office of Inspector General (OIG) and the Treasury Inspector General for Tax Administration (TIGTA) joint review

This review was initiated as the result of a congressional request for a joint review of the administration of the PTC by the HHS OIG and TIGTA. This report addresses the IRS's and CMS's justification for establishing programmatic control over the PTC. TIGTA will issue another report that will address the effectiveness of the process for the financial accounting of PTCs. The HHS OIG and TIGTA are also performing multiple engagements related to the other issues included in the congressional request and will be reporting separately on those engagements.

This review was performed at the IRS National Headquarters office of the Chief Financial Officer in Washington, D.C.; the CMS Headquarters office of the Chief Financial Officer in Baltimore, Maryland; and the office of the HHS Assistant Secretary for Financial Resources[12] and Chief Financial Officer in Washington, D.C., during the period October 2014 through February 2015. TIGTA conducted this performance audit in accordance with generally accepted government auditing standards. Those 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 conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. The HHS OIG conducted this study in accordance with the *Quality Standards for Inspection and*

[11] Outlays are the issuance of checks, disbursement of cash, or electronic transfer of funds made to liquidate a Federal obligation and, for PTC outlays, also include adjustments, as needed, based on tax return information.
[12] The Office of the Assistant Secretary for Financial Resources provides advice and guidance to the Secretary of HHS on all aspects of budget and financial management. The office provided expertise and facilitated coordination with the IRS when the agencies jointly worked on the PTC.

Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency. Major contributors to the report are listed in Appendix II.

Results of Review

After significant planning and review, the IRS, Department of the Treasury, HHS, CMS, and Office of Management and Budget (OMB) agreed that creating an allocation account for CMS use in obligating and disbursing funds for the APTC was the most logical and efficient approach to administering the PTC. As part of this approach, the CMS is responsible for certifying the availability of funds (via the allocation account) for APTC payments to health insurance issuers. Assignment of certification responsibility to the CMS is consistent with its programmatic role of administering the APTC payment program, including the calculation of APTC payment amounts made under the ACA. This accounting structure allows the CMS to record APTC transactions in conformance with Federal accounting standards and for the unified reporting of all PTC activity on the audited financial statements of one department or agency. However, maintaining compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA)[13] reporting and remediation requirements under this structure may prove challenging.

Successfully fulfilling the reporting and remediation requirements is contingent upon two basic premises: 1) the CMS's ability to reliably validate invoiced charges submitted by health insurance issuers to the CMS prior to certifying payment and 2) the IRS's ability to subsequently identify and address incorrect APTC payments when taxpayers file their returns.

After reaching an agreement on the APTC accounting processes, the IRS and CMS entered into a memorandum of understanding on January 31, 2013, outlining the agencies' responsibilities for program operations supporting the payment of and accounting for the APTC.

The Accounting Structure Was Selected Based on Agreement That It Was the Most Logical and Efficient Approach

Overall, we found that the IRS and CMS, in coordination with the Department of the Treasury and the HHS, took significant steps in planning for their shared roles and responsibilities for APTC payments. Specifically, the implementation of the APTC provision of the PTC that required the IRS and CMS to jointly identify and define the roles and responsibilities each would assume in the administration of APTC payments was addressed. These efforts were necessitated by the structure of the PTC, which places new responsibilities on both the IRS and CMS under the ACA.

[13] The IPERA, Pub. L. No. 111-204, requires Offices of Inspectors General to review and report on agencies' annual improper payment information included in their Agency Financial Reports to determine compliance with the Improper Payments Information Act of 2002, Pub. L. No. 107-300, as amended by the IPERA as well as the Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248.

Several ACA provisions guided implementation. For example, ACA Section (§) 1412 authorized the HHS, in consultation with the Department of the Treasury, to establish a program for making advance determinations and payments of the PTC. Additionally, ACA § 1401 provided funding for the PTC using a refund appropriation.[14] However, while ACA § 1401 clearly established a refundable PTC, the law was not as specific about the transfer of funding authority from this refund appropriation.

Planning efforts were initiated in late Calendar Year 2011 to identify an appropriate accounting structure to support APTC payments to health insurance issuers. This planning effort included frequent meetings and extensive collaboration between the IRS and CMS.[15] As a result of these meetings, the IRS and CMS identified three critical issues requiring resolution. These issues included: 1) determining which organization had the legal authority to provide funding certification and make payments using the refund appropriation, 2) determining if IRS issuance of an allocation account to the CMS from the refund appropriation was lawful, and 3) determining responsibility for IPERA reporting and remediation actions, if needed, for the APTC and the PTC.

In an effort to ensure that a sound and lawful accounting structure was selected, the CMS and IRS identified issues requiring resolution and discussed a variety of accounting approaches. Legal opinions were sought from each agency's counsel, and input from the OMB was obtained. Ultimately, three accounting options for authorizing payment and recording the APTC were considered by both agencies. These options covered the roles and responsibilities of the Marketplaces, the CMS, the BFS, and the IRS to ensure efficient processing of transactions from the initial eligibility determination of the taxpayer to the payment of the APTCs and the subsequent recording of the outlay adjustment calculated from the tax return.

When considering these options, both agencies reviewed appropriations law, Federal accounting principles, efficiency of the process, and potential information technology requirements that would have to be implemented as a result of the accounting structure selected. The associated responsibilities for each aspect of the APTC accounting process are illustrated by option number in Figure 1.

[14] ACA § 1401 amended the Internal Revenue Code of 1986 (relating to refundable credits) by inserting 26 U.S.C. § 36B, *Refundable Credit for Coverage Under a Qualified Health Plan*.
[15] Staff from the Office of the HHS Assistant Secretary for Financial Resources participated extensively with the CMS and IRS during discussions concerning potential APTC accounting approaches that would permit certification of the APTC payments by CMS funds certification officials, including allocation accounts.

Figure 1: PTC Process and Designated Responsibility Options

Responsibility	Option 1	Option 2	Option 3
Determine APTC Eligibility	Marketplaces		
Determine APTC Amounts	Marketplaces		
Certify APTC Payments to Health Insurance Issuers	**CMS**	**IRS**	**CMS**
Certify Funds Are Available to Make APTC Payments	**CMS – Using the Refund Appropriation Directly**	**IRS – Using the Refund Appropriation**	**CMS – Using an Allocation Account Linked to the Refund Appropriation**
Financial Statement Reporting of APTC Payments	IRS		
PTC Reconciliation	IRS		
Paying Entity – PTC Reconciliation Outlays (as needed)	IRS		
Financial Statement Reporting of PTC Reconciliation Outlays	IRS		

Source: The IRS and CMS jointly developed payment process proposals.

Under the ACA, the CMS has the programmatic responsibility to make APTC eligibility determinations and to establish a program for advanced payments. The IRS has the programmatic responsibility of reconciling the APTC payment with the actual PTC allowed on the tax return. In addition, APTC payments and reconciliation (refund) amounts are funded using the refund appropriation. As Figure 1 indicates, many accounting aspects were considered when assessing the options. Based on our review, the three key differences between the three options were: 1) which entity acts to certify the legality and accuracy of the payment amount, 2) which entity acts to certify funds availability for payments, and 3) how the certifying entity would access and use the refund appropriation.

Option 3 – Selected: the CMS as the certifying official making payments from the IRS permanent appropriation via an allocation account

The IRS and CMS jointly selected Option 3 because the CMS is in the best position to certify the APTC payments due to its direct relationship with Marketplaces and health insurance issuers and due to its programmatic responsibility for determining the legality and amount of monthly and annual APTC payments made under the ACA. Under Option 3, the CMS can also independently certify funds availability based on funds transferred to the CMS via an allocation account from the refund appropriation. Further, this accounting structure allows the CMS to record APTC transactions in conformance with Federal accounting standards and for the unified reporting of all PTC activity on the audited financial statements of one department (or agency).

The CMS is responsible for leading the Federal Marketplace, managing relationships with State Marketplaces, and providing oversight for the agents and brokers who enroll qualified individuals in qualified health plans and assist them in applying for the APTC. In addition, Option 3 allows the CMS to properly record transactions, including transactions related to obligations. APTC payments will be captured in the "child" (allocation) account, and all reconciliation (refund) outlays will be captured in the "parent" account of the refund appropriation. Finally, this approach permits the unified reporting of all PTC appropriation activity on the audited financial statements of one department (or agency) in accordance with OMB Circular A-136.[16]

An allocation account is commonly used when a law requires departments (or agencies) to transfer budget authority to another Federal entity. The HHS has significant experience with the use of allocation accounts and therefore suggested it as a possible option. However, the IRS had no prior experience with allocation accounts in connection with tax refund activity and was concerned initially with the legality of this approach.[17]

After a review of these options, the IRS and HHS agreed that the issuance of an allocation account was legally permissible.[18] Further, the agencies received feedback from the OMB that use of an allocation account was the most logical and efficient approach. As a result, the IRS

[16] OMB, OMB Circular A-136 (Revised), *Financial Reporting Requirements* (Sept. 2014).
[17] From a budgetary perspective, the IRS records the entire APTC (as the aggregated total for each health insurance issuer) as an outlay to the refund appropriation pending subsequent adjustment upon receipt of related tax returns. From a financial reporting perspective, the IRS will record the APTCs as cash disbursements, consistent with Federal accounting standards.
[18] The legal justification for an allocation account that the Department of the Treasury and HHS Assistant Secretary for Financial Resources provided to the OMB explained the basis for the authority to transfer funds from the refund appropriation to a CMS account. The justifications asserted that transfer authority need not be expressly stated, and transfer authority exists as long as the words that are used make it clear that transfer is authorized. Under the authority of ACA § 1411, the IRS requested that the BFS set up an allocation account within the Refundable Premium Assistance Tax Credit account (20-X-0949) for use by the CMS.

and CMS agreed to fund APTC payments through the use of an allocation account from the refund appropriation.[19]

However, maintaining compliance with IPERA reporting and remediation requirements under this structure may prove challenging because responsibilities for the administration of the PTC is shared between the IRS and CMS. The IPERA requires agencies to: 1) periodically review all programs and activities and identify those that may be susceptible to significant improper payments, 2) take multiple actions (including establishing an improper payment estimation methodology) when programs and activities are identified as susceptible to significant improper payments, and 3) annually report information on their improper payments monitoring and minimization efforts for programs and activities that are identified as susceptible to significant improper payments.

At the time of our report issuance, an interagency working group was in the process of developing an improper payment risk assessment that would review APTC and PTC transactions subject to the IPERA and, as needed, identify what agency would be responsible for reporting improper payment estimates and developing remediation plans. TIGTA will continue to monitor this issue and will provide an update in another report that will address the effectiveness of the process for the financial accounting of PTCs. In addition, TIGTA will further review the challenges faced by the IRS in complying with IPERA reporting for the PTC in its Fiscal Year 2015 annual statutory audit of IRS IPERA compliance.

Option 1 – Not Selected: the CMS as the certifying official making payments directly from the refund appropriation

The CMS indicated that Option 1 was not chosen because the CMS accounting systems would have to be modified to allow the CMS to make payments directly from the refund appropriation. In addition, the CMS would be unable to independently determine funding availability in the refund appropriation and to provide appropriate electronic vouchers to the BFS.

Under Option 1, the CMS would have certified funds availability and disbursed payment directly from the refund appropriation. Typically, the CMS handles these types of transactions electronically, but it is unclear how this could have been accomplished using the refund appropriation because these funds were located outside of the CMS accounting system. According to the CMS, this process of certifying funds availability from another entity's account differed significantly from its existing processes. The CMS expressed serious concerns about

[19] Per usual practice in establishing new accounts, relevant OMB staff, including representatives from the Health Division, General Government Programs Division, Office of General Counsel, and Budget Review Division, worked with the Department of the Treasury, including the IRS, and the HHS, including the CMS, to determine how to set up the APTC accounts. The OMB worked with the BFS to establish and reserve the account. As the OMB has done with other refundable credits, it approved the Department of the Treasury's request to exempt this account from apportionment.

certifying funds availability for funds outside the CMS accounting system due to its inability to properly record those obligations. The HHS Departmental Accounting Manual[20] provides that it is mandatory that all obligations of Federal funds be recorded by the awarding organization's servicing finance office on or before the Government is obligated to pay for the future delivery of goods and/or services. Additionally, the *Treasury Financial Manual*[21] requires that all disbursements are to be posted promptly in the accounting records. The Option 1 approach would also have required the IRS to provide weekly fund balance information to the CMS to support fund availability, which was determined to be a time-intensive and inefficient process.

In addition, the CMS did not believe that it had the authority to process payment transactions through the BFS using the IRS's Agency Location Code.[22] APTC payments to health insurance issuers are accomplished through certified vouchers transferred electronically to the BFS. The voucher must be designated, in accordance with provisions of *Treasury Financial Manual 4A-3000*, with the proper Agency Location Code. Finally, certification that the payment is legal and the amounts are correct and certification that funding is available to make the payment are required. No payments will be processed by the BFS without proper designation and certification.

Option 2 – Not Selected: the IRS as the certifying official and paying entity

The IRS indicated that Option 2 was not chosen because this option would require the IRS to certify the legality and accuracy of the APTC payments when the eligibility of the taxpayer and the payment calculation is determined by a Marketplace. As required by law,[23] certifying officers are held accountable for the accuracy of the computations and facts stated in a payment voucher and its supporting records. In addition, the *Treasury Financial Manual* also requires that agencies must support disbursements with sufficient information on the disbursement vouchers to enable the audit of the transactions of certifying officers. The IRS does not have a direct relationship with the Marketplaces and therefore would not be able to determine the legality or accuracy of APTC payment information provided to the CMS without extensive input from the CMS, which for all practical purposes would result in the CMS's de facto certification. In contrast, the CMS is in a better position to certify the APTC calculations because of its direct relationship with the Marketplaces and qualified health plan issuers and its programmatic responsibility for determining the amount of monthly and annual APTC payments.

[20] HHS Transmittal 91 (Jan. 1991).
[21] The *Treasury Financial Manual* is the Department of the Treasury's official publication of policies, procedures, and instructions concerning financial management in the Federal Government. It is intended to promote the Government's financial integrity and operational efficiency.
[22] An Agency Location Code is assigned by the BFS to uniquely identify each agency that reports receipts and disbursements to the BFS. It is used to ensure correct financial reporting.
[23] 31 U.S.C. § 3528, *Responsibilities and Relief From Liability of Certifying Officials*.

A memorandum of understanding was prepared

After reaching an agreement on the APTC accounting processes, the IRS and CMS entered into a memorandum of understanding on January 31, 2013, outlining the agencies' responsibilities for program operations supporting the payment of and accounting for the APTC. The memorandum states that either a State-Based Marketplace or Federally Facilitated Marketplace will accept health insurance applications from individuals and determine whether an individual qualifies to receive the APTC. The CMS is responsible for estimating the monthly and annual APTC payments based on the Marketplaces' enrollment records. At the beginning of each fiscal year, the IRS is responsible for ensuring that there is sufficient budget authority for APTC payments. In addition, the IRS will transfer funds into the allocation account for the CMS to make APTC disbursements to health insurance issuers. The CMS will certify the APTC payments and verify that there are sufficient funds in the allocation account prior to making APTC payments to health insurance issuers. The memorandum of understanding further states that the IRS and CMS are each responsible for conducting and documenting their respective internal control reviews over the APTC accounting process.

Allocation Account Outlays for Advance Premium Tax Credit Payments Were Nearly $11 Billion in Fiscal Year 2014

In Fiscal Year 2014, the IRS allocated $30 billion of its nearly $34 billion received in its refund appropriation for the PTC to the CMS. Total APTC disbursements for Fiscal Year 2014 were nearly $11 billion ($15.5 billion in Calendar Year 2014). The unused portion of the Fiscal Year 2014 allocation was subsequently returned to the IRS by the CMS. The IRS indicated that a single allocation for the amount of $30 billion was made to ensure that the CMS had sufficient readily available funds with which to administer APTC disbursements and because the IRS would not be making PTC disbursements in the form of tax refunds in Fiscal Year 2014. In addition, because this was the first year of the program, there were no historical data with which the IRS could forecast the CMS's funding needs for APTC payments.

In Fiscal Year 2015, the IRS allocated $18.9 billion of the $31.5 billion in annual funding to the CMS. The IRS indicated that it allocated this amount in order to ensure that the CMS had sufficient readily available funds with which to administer APTC disbursements. The IRS informed TIGTA that the allocation amount was calculated based on estimated disbursements for the first six months of Fiscal Year 2015. APTC disbursements from October 2014 through January 2015 totaled $5.8 billion. Based on input from the CMS, the IRS expects the APTC disbursements to increase significantly this fiscal year and, as such, the usefulness of using historical data to reliably calculate funding requirements remains limited.[24] The IRS reported

[24] The CMS provided an estimate of the funding needs for the new year (Calendar Year 2015) to the IRS as $4.2 billion per month.

APTC payments for Fiscal Year 2014 in its Federal Tax Refund and Outlay Activities (Financial Statement Note 14) as part of its annual financial statements, as audited by the Government Accountability Office.[25] More detailed outlay information on APTC outlays can be found in the unaudited section of the Federal Tax Refund and Outlay Activities section of the Government Accountability Office report. A separate review conducted by the HHS OIG to assess the internal controls over the accuracy of payments to health insurance issuers certified by the CMS is ongoing.

Figure 2 provides the details of the APTC outlays during Fiscal Year 2014. All numbers are rounded to millions, and total calculations were performed using the actual numbers rather than the rounded numbers in the table.

Figure 2: APTC Outlays During Fiscal Year 2014 (in Millions)

Month	APTC Outlays
January 2014	$36
February 2014	$609
March 2014	$813
April 2014	$978
May 2014	$1,508
June 2014	$1,864
July 2014	$1,786
August 2014	$1,734
September 2014	$1,629
Total	**$10,957**

Source: Department of the Treasury Central Accounting Reporting System.

[25] Government Accountability Office, GAO-15-173, *Financial Audit: IRS's Fiscal Years 2014 and 2013 Financial Statements* (Nov. 2014).

Figure 3 provides the details of the APTC outlays for October 2014 through January 2015.

Figure 3: APTC Outlays From October 2014 Through January 2015 (in Millions)

Month	APTC Outlays
October 2014	$1,522
November 2014	$1,543
December 2014	$1,438
January 2015	$1,306
Totals	**$5,809**

Source: The Department of the Treasury Central Accounting Reporting System.

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to identify the IRS and CMS justification for determining how to establish programmatic control over the PTC. To accomplish this objective, the HHS OIG and TIGTA:

I. Examined the rationale for determining how to establish programmatic control over the APTC.

   A. Interviewed key IRS, Department of the Treasury, CMS, and OMB management involved in the decision to allocate control over APTC obligations to the CMS.

   B. Reviewed any legal opinions, position papers, and risk assessments developed in connection with the decision to allocate control over APTC obligations to the CMS.

   C. Evaluated what other financial accounting alternatives were considered in addition to the use of an allocation account and assessed the rationale for the selection of the allocation account methodology.

   D. Reviewed any agreements reached regarding responsibility for the reporting of improper payments arising from APTC payments.

II. Analyzed procedures developed by the IRS and CMS regarding recording allocation account financial activity related to the APTC.

   A. Reviewed any accounting, memorandums of understanding, policies, and procedures developed to guide financial accounting of the APTC allocation account activity.

   B. Evaluated the process used by the IRS to determine the amount and timing of funding transfers to the CMS allocation account for APTC payments during Fiscal Year[1] 2014 and Fiscal Year 2015 to date (through January 2015).

   C. Reviewed controls over the return of unused funds at fiscal year-end by the CMS to the IRS.

[1] Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

TIGTA internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the IRS and CMS memorandum of understanding, the IRS's Cycle Memorandum, and the CMS's Cycle Memorandum. We evaluated these controls by interviewing management and reviewing the accounting options developed by the IRS and CMS. This review is one of the two reports that will address our overall objective, which was to evaluate the effectiveness of the process for the financial accounting of the PTCs and review the rationale for determining how to establish programmatic control over the APTC. This report focuses on the IRS and CMS justification to establish programmatic control over the PTC. TIGTA's second report will focus more on the internal controls and will address the effectiveness of the process for the financial accounting of the PTCs.

Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution Lists

TIGTA

Office of the Commissioner – Attn: Chief of Staff C
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Audit Liaisons:
- Director, Audit Management Group, Office of Legislation, Centers for Medicare & Medicaid Services
- Special Assistant to the Assistant Secretary for Financial Resources

Appendix IV

Permanent Indefinite Refund Appropriation Activity During Fiscal Years 2014 and 2015

Figures 1 and 2 provide the details of the APTC, advance cost-sharing reduction, and basic health program outlays from the Department of the Treasury permanent indefinite refund appropriation, administered by the IRS, during Fiscal Years[1] 2014 and 2015.[2] All numbers are rounded to millions, and total calculations were performed using the actual numbers rather than the rounded numbers in the table.

Figure 1: APTC and Advance Cost-Sharing Reduction Outlays January Through September 2014 (in Millions)

Month	APTC Outlay	Advance Cost-Sharing Reduction Outlay	Total Outlays
January 2014	$36	$5	$40
February 2014	$609	$94	$703
March 2014	$813	$137	$950
April 2014	$978	$182	$1,159
May 2014	$1,508	$292	$1,801
June 2014	$1,864	$375	$2,240
July 2014	$1,786	$354	$2,140
August 2014	$1,734	$347	$2,080
September 2014	$1,629	$324	$1,953
Total	**$10,957**	**$2,110**	**$13,068**

Source: The Department of the Treasury Central Accounting Reporting System.

[1] Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
[2] The use of the Department of the Treasury permanent indefinite refund appropriation, administered by the IRS, for the purpose of making advance cost-sharing reduction payments is the subject of an ongoing lawsuit. See Complaint, *U.S House of Representatives v. Burwell, et al.*, No. 1:14-cv-01967 (D.D.C. Nov. 21, 2014).

Figure 2: APTC, Advance Cost-Sharing Reduction, and Basic Health Program Outlays October 2014 Through January 2015 (in Millions)

Month	APTC Outlay	Advance Cost-Sharing Reduction Outlay	Basic Health Program Outlay	Total Outlays
October 2014	$1,522	$302	$0	$1,824
November 2014	$1,543	$303	$0	$1,845
December 2014	$1,438	$282	$60	$1,781
January 2015	$1,306	$273	$0	$1,580
Totals	**$5,809**	**$1,160**	**$60**	**$7,029**

Source: The Department of the Treasury Central Accounting Reporting System.

Appendix V

Internal Revenue Service
Management's Response to the Draft Report

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

March 24, 2015

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Robin L. Canady
Chief Financial Officer

SUBJECT: Review of the Accounting Structure Used for the Administration of Premium Tax Credits
(Audit # 201510312.01)

Thank you for the opportunity to review your draft audit report titled, "Review of the Accounting Structure Used for the Administration of Premium Tax Credits."

I was pleased that the report appropriately acknowledges the significant steps and collaboration between the Internal Revenue Service and Centers for Medicare & Medicaid Services to implement the programmatic controls and accounting approach necessary to timely make advanced premium tax credit (APTC) payments. These efforts also required collaboration with the U.S. Department of the Treasury and the Department of Health and Human Services with support from the Office of Management and Budget. It is notable that TIGTA and HHS OIG made no recommendations as a result of this audit, concluding that the methodology for obligating and dispersing APTC was the most logical and efficient approach.

We value your continued support and the assistance and guidance your team provides. If you have any questions, please contact me at (202) 317-6400.

Appendix VI

Department of Health and Human Services Management's Response to the Draft Report

DEPARTMENT OF HEALTH & HUMAN SERVICES — Office of the Secretary

Washington, D.C. 20201

MAR 25 2015

TO: Suzanne Murrin
Deputy Inspector General for Evaluations and Inspections
Department of Health and Human Services Office of Inspector General

Michael E. McKenney
Deputy Inspector General for Audit
Treasury Inspector General for Tax Administration

FROM: Ellen G. Murray
Assistant Secretary for Financial Resources and Chief Financial Officer
Office of the Assistant Secretary for Financial Resources

Andrew M. Slavitt
Acting Administrator, Centers for Medicare & Medicaid Services

SUBJECT: HHS Comments on OIG Draft Report: *Review of the Accounting Structure Used for the Administration of Premium Tax Credits*, OEI-06-14-00590

The Department of Health and Human Services (HHS) appreciates the opportunity to review the OIG's draft report, *Review of the Accounting Structure Used for the Administration of Premium Tax Credits,* OEI-06-14-00590. HHS has no formal comments on the draft report. Technical comments have been provided separately.