

**PREPARED REMARKS OF  
JOHN A. KOSKINEN  
COMMISSIONER  
INTERNAL REVENUE SERVICE  
BEFORE THE  
U.S. COUNCIL FOR INTERNATIONAL BUSINESS-OECD INTERNATIONAL TAX  
CONFERENCE  
WASHINGTON, D.C.  
JUNE 3, 2014**

Thank you to the U. S. Council for inviting me to be here today. I'm honored to have the opportunity to participate in this important discussion about international tax issues.

Although I have been IRS Commissioner for only a few months, I have quickly come to appreciate the great importance of focusing on the international tax compliance of both business and individual taxpayers. And I've come to understand that it is not possible to overstate the challenge that globalization poses to tax administration for the United States and I'm sure for many other jurisdictions as well. Rapid and extensive globalization of markets, business models, and financial systems has presented taxpayers and tax administrations with challenges and opportunities of all sorts.

As you know, the United States government is attempting to respond to the global challenges -- sometimes aggressively and sometimes cautiously and collaboratively, but hopefully always with thoughtfulness, perspective, and a sense of global responsibility. It seems we are in a critical time in these respects, as all of you know well, and this makes it a very exciting time for global tax administration, a time in which rapid and dramatic changes are afoot. For example, it was only a few years ago that tax administration officials were talking about the need to pierce the veil of bank secrecy, and today it seems that veil is being shredded as we move toward a cooperative environment based on tax transparency.

One of the most exciting aspects of our current times is to see governments working so closely together to ensure that taxpayers comply with the tax obligations of their home jurisdictions. With respect to individual tax compliance, we see this collaboration in the process by which FATCA will soon go into effect, and its younger but already bigger sister, the Common Reporting Standard, or CRS, will soon be adopted globally. The cornerstone of these efforts, of course, is the automatic, multilateral exchange of information, which signals quite clearly that international tax transparency is no longer a distant hope, but rather an immediate reality.

But as far as we have come on this road, there is still a great deal of work to be done. Although the policy issue has been settled and tax transparency is the common goal, tax administrators still must answer the question of how we make automatic information sharing work well as a practical matter. We must devise brand new systems, processes, and protocols that maximize efficiencies, minimize burden on taxpayers and financial intermediaries, and ensure the safety and security of the information being transmitted. But before talking about these, I would like to step back for a moment and look at where the U.S. is today on offshore tax compliance and how we got to this point.

The IRS' serious efforts to combat offshore tax evasion, which had long been a problem, began in 2008 with our efforts to address specific situations brought to our attention in part by whistleblowers. The most notable example of this was the situation with UBS. The IRS realized that the globalization of investment opportunities, and the marketing of those opportunities, could do serious harm to the integrity of the U.S. tax system if complete tax transparency was not part of the equation. This is especially true because our tax system is built on the notion of voluntary compliance. Allowing wealthy individuals to use overseas accounts without paying taxes not only erodes the home jurisdiction's tax base, but it also is an affront to the vast majority of taxpayers who play by the rules and expect their neighbors to be doing likewise. So from the outset, the IRS adopted a clear message: International tax evasion was, and would continue to be, a top priority for the agency, and people hiding assets offshore would find themselves increasingly at risk of enforcement actions.

A turning point in our enforcement efforts came in 2009 with the agreement reached with UBS. This agreement represented a major step toward global tax transparency and helped build a foundation for our future enforcement efforts. Importantly, the agreement sent the message that the IRS would pursue tax evasion around the world, wherever it might be based, and would also focus on those facilitating tax evasion practices. The agreement also showed the IRS' keen interest in working cooperatively with other governments to obtain the information needed to bring evaders to justice.

Since 2009, the IRS has taken a multifaceted approach to the offshore noncompliance problem. This has included working diligently and cooperatively with other governments to obtain information on U.S. owners of offshore accounts, as well as banks and other promoters of tax evasive techniques, and using that information to prosecute those willfully evading the law. We have mined the information we've obtained for future leads, and have shared our findings with other governments to help them enforce their own laws.

While maintaining strong enforcement programs, the IRS has also sought to encourage taxpayers to come into compliance voluntarily. In 2009, the agency first made available a special Offshore Voluntary Disclosure Program, or OVDP. This program has allowed U.S. citizens with undisclosed offshore accounts to voluntarily disclose those accounts, pay a monetary penalty, and avoid criminal prosecution. Because of this program's success, modified voluntary programs were made available in 2011 and again in 2012. Since 2009, these programs have resulted in more than 43,000 voluntary disclosures from individuals who paid more than \$6 billion in back taxes, interest, and penalties, and the numbers continue to rise. In fact, we have noted a significant uptick in participation since the Department of Justice announced its program for Swiss banks last August. So we have clear evidence that our enforcement efforts are working together with our voluntary programs, and we are hopeful that this dynamic will flourish until the offshore problem is stamped out completely.

Now, while the 2012 OVDP and its predecessors have operated successfully, we are currently considering making further program modifications to accomplish even more. We are considering whether our voluntary programs have been too focused on those willfully evading their tax obligations and are not accommodating enough to others who don't necessarily need protection from criminal prosecution because their compliance failures have been of the non-willful variety. For example, we are well aware that there are many U.S. citizens who have resided abroad for many years, perhaps even the vast majority of their lives. We have been considering whether

these individuals should have an opportunity to come into compliance that doesn't involve the type of penalties that are appropriate for U.S.-resident taxpayers who were willfully hiding their investments overseas. We are also aware that there may be U.S.-resident taxpayers with unreported offshore accounts whose prior non-compliance clearly did not constitute willful tax evasion but who, to date, have not had a clear way of coming into compliance that doesn't involve the threat of substantial penalties.

We are close to completing our deliberations on these respects and expect that we will soon put forward modifications to the programs currently in place. Our goal is to ensure we have struck the right balance between emphasis on aggressive enforcement and focus on the law-abiding instincts of most U.S. citizens who, given the proper chance, will voluntarily come into compliance and willingly remedy past mistakes. We believe that re-striking this balance between enforcement and voluntary compliance is particularly important at this point in time, given that we are nearing July 1, the effective date of FATCA. We expect we will have much more to say on these program enhancements in the very near future. So stay tuned.

Now, I've mentioned FATCA a couple of times and let me talk about it more directly. With FATCA, Congress took a significant stride towards global tax transparency by calling for automatic information reporting on financial accounts held by U.S. taxpayers, no matter where those accounts are located. And so, as everyone knows, FATCA's enactment has had a dramatic impact on the global financial system, as financial intermediaries all around the world have had to modify their systems and processes to carry out what FATCA calls for. We know that this implementation has been difficult and costly, to say the least, and I'd like to thank the financial community for working so closely with us to ensure that, in the future, all international investors are also tax-compliant investors. In a truly global economy, this is fundamental, of course, and I believe at some point in the future all of us, in both the private and public sectors, will look back with not only a strong sense of accomplishment, but also with wonder at how it ever could have been otherwise.

I'll also note that the U.S. government's preparations for FATCA have not exactly been easy. Since enactment, the IRS and Treasury have been working extremely hard to solidify the legal framework, global relationships, and infrastructure necessary to convert FATCA from a concept into a practical reality, and this has been no small task. For four years now, FATCA implementation has demanded a tremendous amount of hard work and dedication on the part of a relatively small group of public servants, without whom offshore tax evasion might still be considered a viable practice. These folks have diligently worked on issuing guidance that is clear and eases the FATCA compliance burden as much as possible, and they have made a herculean effort to take into account the extensive stakeholder comments we've received in order to get there. I know there are still a few more things to do, but I should take the time, midstream, to thank the IRS and Treasury FATCA team for the work they have completed so far, because that work has been monumental.

And beyond the legal and regulatory framework that's been created, you'll find a number of other very novel elements of the FATCA implementation effort that are important in their own right.

First, so that we can identify and interact with our stakeholders in the global financial community, we had to create a new Global Intermediary Identification Number, or GIIN, and

develop a unique registration system. This system allows financial intermediaries around the world to establish their FATCA-compliant status and obtain a GIIN to prevent FATCA withholding when receiving payments from U.S. sources. The FATCA registration system opened several months ahead of schedule and has performed flawlessly to date. So far, tens of thousands of financial institutions have established FATCA accounts and received their GIINs. And just yesterday in fact, we successfully made available to all potential withholding agents the so-called “IRS FFI List” of Foreign Financial Institutions, so those agents can download the database of IRS-issued GIINs to their own systems and use that data to determine which of their account holders are FATCA-compliant and thus free from FATCA withholding.

Second, we had to be very mindful that FATCA data will be coming to us from a wide variety of sources and in a variety of ways. So we had to reach intergovernmental consensus, with extensive input from the financial sector, on a common data format, or schema, that will allow us to process and interpret all FATCA data, no matter its source, once we receive it. This hard work was guided by the OECD, and for that effort that I would like to extend my special thanks to the OECD representatives here in the room today, as well as to the individual members of the OECD Secretariat staff and the private sector financial community not with us who diligently worked through a tremendous amount of detail to ensure that FATCA information reports can be used efficiently and effectively, not only by the IRS but by our reciprocal FATCA partners as well.

Third, the automatic exchange of bulk information contemplated by FATCA will require a modern mode of data transmission, one that, frankly, is not available at the moment. This too has presented a challenge for IRS like no other faced in the past. So, working again with our partners in tax administration around the world, we have had to design a new system for electronic data exchange that will allow FATCA data to be transmitted quickly and securely. So far, we are pleased with the resulting design of this new “International Data Exchange System,” which we refer to as IDES. We believe it will accomplish our goals, and anticipate it will be available to users by January of the coming year so that FATCA data can flow on time.

In this regard, I also want to emphasize that we take very seriously the need to ensure that the financial data transmitted through IDES will be transmitted securely, kept confidential, and used only for tax purposes. Protecting this information and assuring its intended use must be our number-one goal. Toward that end, we designed IDES to include state-of-the-art encryption protocols, and we developed a set of safeguard standards addressing the security and use of data once it is received by a government.

Lastly and importantly, during the past several months, we have been conducting bilateral meetings with each one of our reciprocal FATCA partners to ensure that our safeguard needs are understood and that we and our partners achieve a high level of comfort that FATCA data will be kept confidential and used only for tax purposes, as our treaty and information exchange agreements contemplate.

Before I leave the subject of FATCA implementation, I want to mention our resource limitations at the IRS. The agency continues to be in a very difficult budget environment. Since Fiscal Year 2010, IRS funding has been reduced by more than \$850 million, or about 7 percent, and we have 10,000 fewer employees, even as our responsibilities have continued to expand. In the absence of additional resources, our ongoing funding shortfall has major, negative implications for the

agency's ability to continue to adequately fulfill its dual mission of excellent taxpayer service and robust tax compliance programs.

Having said that, it is also important to point out that Congress has mandated that the IRS implement FATCA. Whatever else we are going to do, the IRS must move forward with our non-discretionary legislative mandates, and FATCA is at the top of that list. So I want to assure those of you dealing with FATCA implementation in other ways and in other realms that the IRS will continue to find the necessary resources for FATCA, and implementation will not be disrupted by our budget constraints.

Let me also offer a few words on FATCA enforcement. First, as I have already said, we realize that FATCA implementation is challenging not only for the IRS, but also for the financial institutions that are covered by it. We understand there is a great deal of complexity in FATCA, and that financial institutions must make substantial modifications to their processes and systems to implement it. And we understand that complying with the letter of these requirements, down to the final dotting of "I"s and crossing of "T"s, will take some time. As we announced publicly in an IRS Notice last month, we intend to view 2014 and 2015 as a so-called "transitional" enforcement period during which we will take into account a financial institution's good-faith efforts to comply in our evaluation of what constitutes acceptable FATCA compliance.

Second, we're well aware that our offshore enforcement resources going forward will need to be dedicated not to small-scale issues that those trying to be FATCA compliant may have, but rather to broader-scale problems presented by those who choose to seek new ways to evade their tax obligations. That is, we recognize that compliance with FATCA by those trying to comply, and with the new Common Reporting Standard when it goes into effect, will improve and be fine-tuned over time. Problems in this area will be corrected by the compliance-minded. The IRS and other enforcement agencies around the world will be able to focus on the structures and arrangements that, unfortunately but inevitably, will be devised to stay in the shadows in a new world of tax transparency. And in that new world, governments will need to work closely together to shine light into those shadowy spaces until they no longer exist.

Now, although I'm suggesting here that FATCA will not put a complete end to the offshore problem we face, I am telling a very positive story, not a bleak one. FATCA and CRS clearly will make it much more difficult and costly to hide assets, so that those who still seek to do so will be forced to spend money to devise more complex structures, turn to riskier jurisdictions and riskier forms of investment, and face far greater certainty of prosecution when found. FATCA will also de-stigmatize those holding offshore accounts for legitimate purposes, as those accounts will be both reported and reported upon in the normal course, while tax administrations focus their enforcement efforts against those truly seeking to evade taxation.

Interestingly, we can already begin predicting that governments will be working on these future problems completely in concert. In fact, because our interests are aligned and the new instruments of transparency and enforcement we are developing together will be shared, I believe the melody of our total success will be sweet and come quickly.

Now, before I conclude, I would like to say a few words about the topic that is front and center at this conference – that is, Base Erosion and Profit Shifting, or BEPS.

For some time now, the IRS and the U.S. Treasury have been active participants in the OECD's project to address BEPS on a global scale. We fully support the goal of developing a coordinated and comprehensive action plan to update our international tax rules to reflect modern business practices. Hopefully, this coordinated work will help prevent, rather than exacerbate, the double taxation disputes that could arise if countries unilaterally attempt to address these issues without consensus-based principles. And of course, consensus-based principles are also critically important to ensuring that businesses have the tax certainty they need to operate efficiently around the globe.

That said, I have one point that I believe needs to be considered in the context of these important discussions. I urge that your policy and legal determinations not be made without thoroughly considering the practical implications of these decisions, not only for businesses, but for tax administrations. Let me provide just one example to illustrate what I mean.

I understand that among the reforms being considered is a process known as "country-by-country reporting," under which multinational businesses would be required to provide, to the tax authorities in each country in which they do business, certain financial information, broken down by country (hence the term, "country-by-country reporting"). I also understand that one possibility for disseminating this data is for all the information reports to be provided to the tax administration in the business's headquarters country and then shared by that tax administration with the other jurisdictions through the vehicle of treaty-based information exchange. Lastly, I've heard it is contemplated that these reports would be exchanged for general risk assessment purposes, not for purposes of an existing audit, which is the current, well-established information exchange standard.

So, given all this, let's assume that the IRS receives 2,000 of these reports from U.S.-headquartered businesses (although the number could easily be much higher than that) and let's assume that an average of just five other countries ask for each of these 2,000 reports in any given year. This would mean 10,000 new annual requests for exchange of information coming into our competent authority's office. And this is just the initial requests. If the proposed new risk assessment standard would justify follow-on requests for additional specific or clarifying information to further the risk assessment, the demand could grow even greater on our Exchange of Information program, or EOI, which is the conduit used by foreign governments to request tax information from us.

So, I ask that this type of simple impact be taken into account as you go forward on this issue and the others you are working to address. One possible way to exchange "country-by-country" reports would be to require that they be automatically exchanged electronically, perhaps through the IDES system I mentioned earlier. Automatic exchange would eliminate the need for a person to evaluate whether or not a requesting country really has a legitimate interest in the information for risk assessment purposes. Together with this might be an agreement that there would be no follow-on requests unless an audit is begun. If this type of care were not taken, then tax administrations with a significant number of headquarters companies would have to reallocate our already dwindling resources to our EOI programs so that we can deal with just this one aspect of the BEPS project.

So again, I urge you in your policy discussions to carefully consider the administrative impact of your decisions. In order for your policy goals to be achieved, any new regime needs to be

workable not only from the perspective of taxpayers but also from a tax administration standpoint.

Let me close now by saying that the IRS looks forward to working with our tax administration partners around the world as we move together toward greater tax transparency and greater coordinated efforts to address common compliance challenges. Thank you for letting me spend this time with you today, and I would be happy to take your questions.