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Prepared Remarks of IRS Commissioner Doug Shulman before the 23rd Annual Institute on Current Issues in International Taxation, Washington, DC

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WASHINGTON — Good afternoon. It's a pleasure to be back at the Annual Institute on Current Issues in International Taxation. And in keeping with the season, let me wish all of you the very best for the holidays and the New Year. But before we ring in the New Year, let's spend a few minutes looking back over a very interesting and sometimes tumultuous 2010.

It's been quite a year in the U.S. and I will leave it to the pundits to survey and sort out the new political landscape and what it means to all of us.

However, today, I would like to talk about a different landscape…one which I believe is just as important to you and the IRS... and one which is changing too in profound and meaningful ways.

I am speaking of the international tax landscape where a number of important developments affecting both individuals and some of our largest taxpayers have been playing out.

This landscape has been at times a realm where some wealthy U.S. taxpayers have tried to hide income and assets.

It's also been a confusing and shifting terrain where the IRS and some of America's multinational corporations have been wrestling to make sense out of a complex tax code and sometimes overlapping and conflicting laws. This is difficult ground for everyone – corporations and the IRS alike.

But in recent years…and especially this past year…this landscape has begun to change for both individual and corporate taxpayers.

In the individual arena, we have continued to make a significant dent in offshore tax evasion. Many taxpayers who had unreported assets and income overseas have come back into the fold, and taxpayers understand that the risk of being caught hiding assets offshore has increased significantly.

As I have said before, I draw a sharp distinction between rooting out individuals hiding their money in foreign tax havens and the IRS and Treasury creating ground rules for multinational corporations operating in a global environment.

It's no secret that multinational corporations engage in sophisticated international tax

planning. We recognize that much of this is perfectly legal and many businesses are trying to get it right. Of course, some are pushing the envelope too far and it's here that we have issues. Our goal is to differentiate between the two; to be on top of our game in this analysis; and to ensure corporations are compliant with the tax law and stay compliant.

Over the past year, we have reorganized and refocused our effort to get to and resolve corporate tax issues – many of them international, such as transfer pricing – quicker. In the end, we all benefit from a balanced tax system that provides greater certainty, consistency and an efficient use of government and taxpayer resources.

So, let me take each of these in order – individual offshore compliance and international corporate tax issues – and describe this changing international tax topography and what it means to tax systems and taxpayers across the globe.

Tax evasion and avoidance by wealthy individuals is nothing new. In the ancient world, there were all sorts of dodges they could use to hide assets from the taxman. In ancient Rome, the easiest was to flee your native city or simply bury your treasure.

And according to historians and scholars, the mercantile members of the patrician Equestrian Order who dealt in intangibles, such as mortgages and loans, had a pretty easy time evading their tax responsibilities. In the later empire – around the 4th Century – most bankers and businessmen stopped keeping records altogether to avoid taxation.

All joking aside, the desire to hide income and assets has been a feature of any tax system throughout history, although the techniques have become more sophisticated than digging a hole in the ground.

During my tenure as Commissioner, I have made cracking down on offshore tax abuse a major priority. I believe our approach follows a natural course…cleaning up the abuses of the past and then mining and leveraging the data we receive to mount a greater attack on the abuse. A perfect example is our Voluntary Disclosure Program and our work on UBS.

We had approximately 15,000 voluntary disclosures from individuals who came in before the special VDP program ended last year. And since the special program closed, we have received an additional 3,000 voluntary disclosures from individuals with bank accounts from around the world.

Collecting additional revenue for past misdeeds – as important as that may be – is not the only important consideration here. It is equally important that we are bringing 18,000 U.S. taxpayers, and counting, back into the system…back into compliance… so they properly report and pay their taxes for years to come.

Most of you know that a few weeks ago the IRS withdrew the John Doe Summons in the UBS matter. We did so due to our success in obtaining the account holder information we sought through the summons and obtained under the August 2009 agreement with the Swiss government and UBS. We're closing the chapter on the UBS affair, but as we do so, let's make sure we see it within a larger context.

As I have said from the beginning, this was never about one country or one bank. The John Doe Summons was just one piece of a much larger effort underway here at the IRS on

international tax compliance issues that is producing real results for U.S. taxpayers. I can't say this enough: When people cheat on their taxes, the vast majority of honest U.S. taxpayers suffer the consequences and have to make up the difference.

The VDP and UBS matters are significant, but there is obviously more to come. We have been scouring the vast quantity of data we received from the VDP applicants and from other sources. Although more data mining is still to be done, this information has already proved invaluable in supplementing and corroborating prior leads, as well as developing new leads, involving numerous banks, advisors and promoters from around the world, including Asia and the Middle East.

Given its success, we are seriously considering another special offshore Voluntary Disclosure program. However, there will be some fundamental differences. Taxpayers will not get the same deal as those who came in under the original program. To be fair to those who came in before the deadline, the penalty – and thus the financial cost to participate – will increase. Let me say too that we expect to make the terms of any new program available to those who have already come in after October 2009 when that program expired. Stay tuned for more details as they become available.

One of the most important projects we are working on in the international area right now is the implementation of FATCA – the Foreign Account Tax Compliance Act – which was enacted this year as part of the HIRE Act. This is the most important development in international information reporting in a generation, and it is a big step forward in our efforts to combat tax evasion.

FATCA provides IRS with better transparency and additional tools that we need to crack down on Americans hiding assets overseas. FATCA will increase information reporting by U.S. taxpayers holding financial assets outside the United States and impose stiff penalties for failure to comply. It will also require reporting of U.S. persons who hold accounts in foreign financial institutions or who own large interests in foreign entities that hold such accounts.

I believe the mere enactment of FATCA should prompt preparers and advisors to expand their due diligence regarding the opening of offshore accounts by U.S. persons attempting to evade U.S. tax obligations. In other words, passage of FATCA makes the world a riskier place for U.S. taxpayers still trying to hide their money anywhere around the world.

The IRS has begun the process of implementing FATCA, which as you can imagine, is a substantial undertaking. We have a talented group of people working full time to develop the needed regulatory regime, and they are consulting extensively with representatives of a wide array of stakeholders to implement this important new law.

We have received well over 50 comment letters in response to the notice we issued in August, and we are in the process of carefully considering those comments so that we can continue with the regulatory rulemaking process. It is very important that we have the benefit of views from the outside stakeholders that will be affected by FATCA. In a strong sense, we must partner with the private sector to combat offshore tax evasion. We are very interested in devising a process that will be effective and meet the goals of the legislation, but do so in an efficient manner that recognizes the operational considerations of the financial services industry.

Of course, the United States is not alone in its desire to combat offshore tax evasion. Many other countries are focused on this issue.

Ideally, all countries with developed tax systems would come together to design a unified system for information reporting on their residents investing abroad. Until then, we will press on with our efforts to implement FATCA as required by law, while keeping in mind that we are perhaps paving the way for broader-based efforts and striving to ensure that financial intermediaries do not find themselves overwhelmed with a multiplicity of requirements that deviate widely from their standard business practices.

If you add all of our offshore compliance efforts together, perhaps the most important outcome is the deterrent effect. Today, banks are much less willing to facilitate offshore evasion than they were in the past… advisors are asking more questions of their clients regarding offshore accounts… and taxpayers understand that their chances of getting away with hiding assets overseas have diminished. While very difficult to measure, this deterrent effect has important, lasting, multi-billion dollar consequences for our tax system.

I would like to now turn to large corporate taxpayers operating in a global environment. In our overall program in the corporate area, we are working to redefine the relationship between the IRS and large corporate taxpayers. The key to the new relationship will be the ability to reduce uncertainty and protracted fighting, and instead be able to resolve issues –including international tax issues – more quickly and efficiently.

The impetus for this new approach stems from the simple shared belief that at the end of the day, taxpayers and tax authorities pretty much want the same thing out of a tax system, whether it is the U.S., or a foreign, state, or local system. That is, a balanced tax administration system that provides:

- Certainty regarding a taxpayer's tax obligations sooner rather than later;
- Consistent treatment across taxpayers; and
- An efficient use of government and taxpayer resources by focusing on the issues and taxpayers that pose the greatest risk of tax noncompliance.

This evolving relationship begins at its core with the IRS' mission and our responsibilities with respect to large corporate taxpayers. Our mission is to collect the proper amount of tax and to efficiently use our compliance tools to foster on-going compliance by all taxpayers.

Our responsibility is the same as the responsibility of our taxpayers. Apply the law as it currently exists… not how we would like it to be… and do so with neither a thumb on the scale in favor of the government, nor in favor of the taxpayer. This is the key to balanced and fair tax administration.

With our mission guiding us and our responsibility clear in our minds, our goal is to ensure our large corporate taxpayers are in compliance and to keep them there with strategies that are less time and resource-intensive for the IRS and these taxpayers.

There are several interlocking pieces that will help us advance this transformation. It requires more transparency on both sides; a re-tooling of our audit approach; and a commitment to

enhance our ability to resolve issues quickly and clarify uncertainty in the law. In the end, it's all about working smarter.

Working smarter has been a theme of mine since I became Commissioner. But what does working smarter really mean? In the case of the IRS, it means evolving to keep pace with change, constantly looking ahead, and being innovative and more imaginative with available resources inside and outside the agency.

One area that calls out for continued focus and innovation is transfer pricing. The realignment of our international resources in our Large Business & International operating division in August was a major step toward bringing together our international experts to work more effectively on international issues. Now we are in the process of assembling our most experienced transfer pricing examiners and economists to staff the Transfer Pricing Practice.

This unit will focus on our most challenging transfer pricing cases and the Transfer Pricing Director will be responsible for developing a strategic program to ensure that we have the right people working on the right cases. When faced with difficult issues, we believe bringing the right expertise to bear early in the process will facilitate the development of the issue and allow us to resolve the issue with the taxpayer more quickly and effectively.

During this past year, we gained important experience with this approach in the transfer pricing area. Through a Transfer Pricing Pilot program, we identified a number of cases of potentially broad impact and ensured that the right resources were dedicated to the development of the case right from the start. This approach has given our leadership a line of sight into some important cases and has allowed us to think more strategically about the issues we are pursuing in the area.

The pilot has been received very favorably both by IRS employees and by taxpayers. Clearly, everyone recognizes the benefit of cutting to the core of a transfer pricing issue quickly and working to resolve the issue efficiently with the right expertise. We believe the process we have used in the pilot will serve as the model for the broader Transfer Pricing Practice.

Now all of us at the IRS recognize that our Transfer Pricing Practice will have its challenges. As everyone knows, income shifting, particularly by migrating valuable intangibles through cost sharing arrangements, is a difficult and controversial area. The key is to pick the right issues and taxpayers for examination, and not waste our time on transfer pricing arrangements that are legitimate. And once we pick the right issues and taxpayers, to quickly get to the core of the facts and the law and resolve the issue. Given the importance of this issue to the tax system, we will continue to focus on transfer pricing in the years to come.

In this regard, let me mention our recent decision to not appeal our loss in the Veritas case in the Tax Court. Taxpayers should not read too much into one case that was decided on one set of facts. Every case gets decided on its own facts and this one was no different. And as our Chief Counsel Bill Wilkins is fond of saying, one loss in one courtroom isn't always the last word.

It doesn't signal that we can't go forward with other cases; because we will when it is appropriate to do so. Our attorneys will find the right cases based on the law and the facts, and you should expect to see us in court on these types of issues again when we cannot

resolve the issues with the taxpayer.

Now, let me discuss one innovation that we have been pursuing through the OECD's Forum on Tax Administration – joint audits.

Operating in a global context is a reality today. Companies cross borders on a regular basis to source supplies, find new customers and access the global capital markets. Individuals embrace investment diversification through foreign investment. In short, both individual and business activity increasingly crosses sovereign borders.

This is a challenge for government authorities whose jurisdiction stops at their countries' borders. I saw this in my past role as a securities regulator, and it has been obvious to me since my first day as IRS Commissioner.

My belief is that in a global economy, governments will need to innovate to meet this challenge. Disjointed, multi-government, uncoordinated oversight is not helpful for taxpayers and it is not optimal for government tax authorities. The taxpayer often wastes time and resources navigating between conflicting signals from multiple governments. That is why I am a believer in moving beyond cooperative government relationships, to true coordinated action. The joint audit is an example of this.

As we envision it, the joint audit will be more sensible and efficient for the participating business because the business will not have the burden of two exam teams conducting two audits, and it will make sure both countries receive the same information and presentations from the taxpayer.

If fully realized, the joint audit could have the potential of both boosting international tax compliance and improving service. In theory, if all the parties were in the same room, two or more tax authorities would hear the same facts, agree on the issues more quickly, jointly characterize a transaction, and agree on a treatment. It could reduce taxpayer burden – especially for large multinational corporations that must face audits in multiple jurisdictions on the same set of transactions.

For a big multinational company, juggling multiple audits now comes with the territory. But a joint audit process may provide taxpayers with a timesaving and less resource intensive way to address the tax consequences of a transaction on a bilateral or even multilateral basis.

A joint audit could also provide other tangible benefits to the tax system. Often, it can take years to resolve double-tax cases through the Competent Authority process. However, if a joint audit could allow us to identify the issue and understand the facts quickly and on a bi- or multi-lateral basis, we should be able to adjudicate these disagreements right away and be much more efficient in reaching a resolution.

We are just getting underway with our first joint audits. I don't think we will revolutionize the way that tax authorities coordinate in their oversight of multinational companies in the short run. Rather, we are taking a tangible step in the right direction that over time may be a roadmap for further government-to-government coordinated action in the future.

That concludes my remarks. As you can see, we have a multi-faceted effort underway to up our game and focus on international tax issues. We have made great progress, but there is

still much work to be done. We will look forward to working with taxpayers, intermediaries, and other governments as we move forward with our international agenda. Once again, let me wish everyone a happy and safe holiday season and the very best in 2011. I would be happy to take a few questions.

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