



## Prepared Remarks of Commissioner of Internal Revenue Douglas H. Shulman before the OECD/BIAC

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Thank you for that warm welcome and it's a great honor to be back addressing the OECD and leaders in the international tax and business community.

This is the perfect venue to reflect on some of the important developments of the past year...a year which had some watershed events from an international tax perspective and saw the continued increased cooperation and coordination among countries on tax issues.

This is also an excellent opportunity to look forward to what I see as the next rung in the evolutionary ladder of international tax administration: the progression from cooperation to coordinated action on global tax issues. This is a gradual process that will not take place in a day and a night. It will take time and deliberate and focused action. As Justice Brandeis once observed, "There are no shortcuts in evolution."

The past 20 to 30 years have been a period of extraordinary change and upheaval that fundamentally changed our lives and the way business and the business of tax administration were conducted.

It wasn't one defining moment or a single transformational invention – like the steam engine or the microchip – but rather a confluence of events and trends, such as investors flocking to global capital markets, massive cross-border flows of funds, light-speed technology, and off-shoring. It wasn't just the U.S. caught up in this tide of events; it was the entire world.

You may have heard the story of the ancient English King who placed his throne by the seashore and commanded the incoming tide to roll back. Like him we cannot turn back these global forces. However, the lessons we have learned are not all that different than the King discovered about the laws of nature and physics.

In my last job, as Vice Chairman of the Financial Industry Regulatory Authority, we had many conversations about how to do our job effectively as a U.S. regulator overseeing businesses that were not bound by sovereign borders. And now, as IRS Commissioner, I face similar issues – running the U.S. tax authority and interacting with taxpayers whose activities are often global in scope. Globalization is a force that has to be reckoned with... And governments must continue to adapt.

To borrow an expression whose roots date back to the Middle Ages, "Time and tide wait for no man." We have all learned quickly to operate in a world less defined by geographic borders. We needed to lead and engage on global issues and to do so, we first needed cooperation, eventually building up to coordinated action.

This is certainly part of the vision for the future of international tax administration. However, I am first to admit that this is a tough nut to crack. But I believe that we are making progress ...taking steps that will lead us to some important coordinated action on global tax administration issues.

The starting point is looking for the right launch pad. I believe international bodies such as the OECD and its Forum on Tax Administration are a good start.

As Chair of the FTA, I am working with my international counterparts to build greater cooperation between tax authorities across the world as we strive to improve tax administration, both domestically and internationally.

The commissioners of the FTA can also speak with a unified voice on such critical matters as offshore compliance, corporate governance and high net-worth individuals, as well as lay out practical solutions for issues, such as a coordinated approach to joint audits and early competent authority resolution. Let me walk you through this.

Last year, when I had the opportunity to address this gathering, I told you that we planned to try to take international cooperation to the next level and that I thought this should include joint examinations. A year later, we are now working on developing a protocol for joint audits with other countries. And before I go any further, let me be clear on a critical distinction. A joint audit is not a simultaneous exam. Rather, it is a process where two or more countries join together to carry out a single audit of a company with cross-border business activities.

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.

So, in a very real way, coordinated action among countries could improve both compliance and the quality of service we deliver to taxpayers. And that's very important to the IRS where we have a dual mission of taxpayer service and enforcement.

Joint audit could also provide tangible benefits to tax authorities. 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 reach a resolution through a much more efficient and effective process.

So as you can see, we're moving from just cooperation and sharing of information to the very early stages of planning actual coordinated efforts among countries.

Of course, we're still feeling our way through the process and a lot more work remains. And to assist countries wishing

to pursue a joint audit, the FTA is developing a guide... a how-to, practical approach that highlights pitfalls to avoid, and possible best practices to employ.

It will be based on a wealth of country experience in the predecessors to the joint audit: simultaneous exams, bilateral advanced pricing agreements, and mutual assistance agreements, to name some of the more prominent. We hope that it will improve international tax compliance while providing taxpayers with more efficient and timely resolution of tax disputes – a potential win-win for all.

I also want to provide you with an update of our enforcement measures as related to offshore activities. As you know, we had a landmark agreement with the Swiss government regarding releasing information on U.S. account holders at UBS. A related effort – our special Voluntary Disclosure Program, which ended last October – was also an enormous success. Approximately 15,000 individual applicants made timely disclosures and over 97 percent of timely-filed applicants were accepted into the program. The information we receive from the voluntary disclosures will form the basis of ongoing investigations into promoters and institutions that facilitate evasion.

Offshore tax compliance is also a Priority Project for the FTA.

I believe there's general agreement that the unbridled age of bank secrecy is coming to a close. More and more former bank secrecy jurisdictions have agreed to adopt the international tax standards on information exchanges developed by the OECD.

In the U.S. and other nations, we view offshore tax evasion as an issue of fundamental fairness. Wealthy people who unlawfully hide their money offshore aren't paying the taxes they owe, while schoolteachers, firefighters and other ordinary citizens who play by the rules are forced to pick up the slack.

With more pressure on bank secrecy and uncooperative jurisdictions, the OECD and the FTA see a new window of opportunity for tax bodies to achieve significant long-term compliance gains in the campaign against individuals parking assets and income in offshore banks.

To this end, the FTA is now in the process of cataloguing and sharing experiences of both unilateral and multilateral initiatives designed to detect offshore non-compliance using offshore arrangements.

One of the workhorses in the battle against offshore non-compliance is the Joint International Tax Shelter Information Centre, or JITSIC. Founded in 2004, JITSIC's initial focus was two-fold:

- One, curbing abusive tax avoidance transactions, arrangements, and tax schemes; and
- Two, enhancing activities against cross-border transactions involving tax compliance risk.

The success of JITSIC in pursuing coordinated action is leading us to cast a much wider net today. JITSIC has rebalanced its portfolio to include four "Focus Areas" that closely track IRS' international priority areas. They are:

- Tax administration issues arising from the global economic environment and financial crisis;
- Use of offshore arrangements to avoid tax;
- Arrangements used by high wealth/income taxpayers to minimize their tax liabilities; and
- Tax administration approaches and activities to improve transfer pricing compliance.

Although the goal is to keep JITSIC small and collaborative, JITSIC has been increasing the number of participating countries to increase the flow of information.

All of this points to a strengthened JITSIC, poised to increase cooperation and instances of coordinated action.

Information exchange is at the heart of the organizations and offshore tax compliance efforts I have discussed today. Robust and meaningful information exchange underpins and animates all such activities.

Information exchange comes in many forms. The U.S. currently has over 60 international Double Taxation Agreements and more than 25 Tax Information Exchange Agreements – or TIEAs – to authorize the exchange of tax information. Tax treaties play an important role in combating tax evasion...so much so that the U.S. has a policy to not enter into a new tax treaty relationship with a country that has bank secrecy rules that would prevent or inhibit the appropriate exchange of information under a tax treaty.

This is not to say that treaties and TIEAs are some sort of silver bullet; they have their shortcomings. It often takes a long time to get the requested information from partners; and the information may also be incomplete. There are also very strict rules and you may have to jump through a lot of hoops to get the information you need.

The Global Forum on Transparency and Exchange of Information is starting to carry out in-depth peer reviews of the implementation of the standards of transparency and exchange of information for tax purposes.

Transparency has also been enhanced through the U.S. Qualified Intermediary – or "QI" Program. Since 2001, the QI system has provided the United States a way to work with foreign financial institutions to ensure that investors in offshore accounts are indeed eligible for the relief from our source-based withholding taxes that they claim, and the system has worked effectively. However, the system is not without its limitations. The QI information-gathering rules are focused mainly on ensuring that withholding tax relief is appropriate, and almost no detailed information flows from the QIs to the IRS about the identity, income or overall tax position of any accountholder. Moreover, not all foreign financial institutions choose to be a QI.

Enter center stage the Foreign Accounts Tax Compliance Act – or FATCA – which was enacted this year as part of the HIRE Act. This is the most important development in international information reporting in a generation. It is a big step forward in our efforts to reduce tax evasion by creating transparency and accountability in the offshore financial markets.

FATCA provides IRS with the tools we need to crack down on Americans hiding assets overseas. Let me speak to some of the Act's broad policy provisions and what they mean to taxpayers and foreign financial institutions. At its core, FATCA makes it much more difficult for US individuals to hide assets in offshore accounts. First, it increases information reporting by U.S. taxpayers holding financial assets outside the United States and imposes stiff penalties for failure to comply. It expands due diligence standards, so that we have a better line of sight to U.S. beneficial owners of accounts. It also ramps up the stakes for foreign financial institutions that will have to agree to disclose U.S. investors to the IRS or feel the pain of a substantial new withholding tax on U.S. income and gains.

I also believe that the mere enactment of FATCA should prompt preparers and advisors to expand their due diligence regarding offshore account issues, including, but not limited to income tax reporting. Overall, FATCA makes the world a much riskier place for US taxpayers still trying to hide their money anywhere around the world.

The IRS has begun the long process of implementing FATCA, which as you can imagine, is quite the complex challenge. 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. As I've already mentioned, the United States is not alone in its desire to combat offshore tax evasion, and we think FATCA

provides a framework for information reporting around which other like-minded tax administrations could rally. We hope that all countries with developed tax systems will soon begin coming together to work on a unified information reporting system on a multi-lateral basis. Indeed, we've already seen the beginnings of such an effort in connection with the OECD's TRACE project.

In conclusion, you can see that we have a lot underway in the international tax arena. And our efforts to combat offshore tax evasion and abusive international tax transactions lie not in just cooperation and information exchanges, but in coordinated action taken on multilateral level to improve both compliance and service to taxpayers in tangible and meaningful ways. This is where the course of evolution is taking us. This is where the tide of globalization is carrying us. And this is where the future of international tax administration lies. I am happy to answer a few questions.

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