

Marshall Hunt, Accounting Aid Society

Wednesday, September 30, 2009

Good afternoon. I'm Marshall Hunt, Director, Tax Assistance Program for the Accounting Aid Society in Detroit, Michigan. I appreciate the opportunity to appear today.

I'm a Certified Public Accountant with 34 years of experience in tax administration at the IRS and 20 years as a volunteer tax site coordinator prior to joining the staff of the Accounting Aid Society in 2001. The Accounting Aid Society provides free tax assistance and promotes the economic self-sufficiency of low and moderate income families, seniors and others in need by providing electronic filing of tax returns and linking taxpayers to asset-building and other services. In 2009 we served over 13,500 low and moderate income families and returned \$14.8 million in refunds to the economy of southeast Michigan. We are proud to partner with the IRS as a Volunteer Income Tax Assistance (VITA) Program and as a Low Income Tax Clinic.

I recognize that there are large dollar and complex issues such as Alternative Minimum Tax for you to consider; however, my comments regarding specific issues are directed to my observations in assisting low income taxpayers for almost 30 years. My opinions are my own and do not necessarily reflect those of the Accounting Aid Society.

In considering any legislation affecting low income taxpayers I urge you to extend the tax benefits provided by American Recovery and Reinvestment Act of 2009 (ARRA) as well as supporting the IRS in providing filing assistance to low income taxpayers through VITA and Tax Counseling for the Elderly, as well as supporting the Free File

initiative. For those with tax controversies or English Second Language taxpayers needing information, the Low Income Tax Clinics funded by the IRS are also extremely important.

We need tax provisions that will be in effect for more than one or two years at a time. I remember a time when major tax legislative changes were not as frequent as in recent years. Much of the complexity arises from frequent changes. Recognizing that the economy, budgetary restrictions, and prevention of abuse are drivers behind frequent changes, the overall burden to taxpayers needs to be given priority. For example, the change in the definition of Qualifying Child provided by the Fostering Connections to Success and Increasing Adoptions Act of 2008 requires someone other than the parent to have an Adjusted Gross Income higher than each of the parents in order to claim a Qualifying Child. I believe this provision was well-intended, but it requires taxpayers to obtain information such as AGI that they might not understand or have ready access to. Explaining to the grandmother who properly claimed a grandchild in 2008 that they can't do so in 2009 even though the facts are the same will not be an easy task.

The new and increased refundable credits created by ARRA provide new incentives for obtaining earned income and undertaking education. However, most are in effect only for the years 2009 and 2010. For example, the American Opportunity Credit now covers four years of higher level education; however, it is only in effect for two years. I am looking forward to this tax season when I can tell a low income taxpayer with no tax otherwise due that they can get a tax benefit from education or that they can now get an Additional Child Tax Credit, or an increased Earned Income Tax Credit. However,

I would like to give them some assurance that the additional tax benefits will be ongoing. Tax planning is not restricted to higher income taxpayers.

Some might argue that there are too many tax benefit options for education expenses and a computer is needed to determine the best approach. I don't disagree, but I'm not going to propose a limit on options today as the need for education might well warrant several options. No matter how many options are available, the underlying expenses should be the same for each option. For example, books, a high cost for most students, are allowable for the American Opportunity Credit but not generally allowable for the Lifetime Learning Credit or the Tuition and Fees Deduction. A Uniform Definition of Education Expense similar to the Uniform Definition of Qualifying Child would simplify the choice of options.

Some simplification in individual deductions would go a long way towards eliminating the mystery of the tax law for individuals. For example, there is one business mileage amount but separate mileage amounts for medical expenses, charitable mileage, and moving expenses. It would be so much simpler to have a business mileage amount and one standard mileage amount for individual nonbusiness itemized deductions, both indexed to the same inflation factor.

A review of family situations and age requirements in the tax law would simplify the law and increase fairness. We have an upper age limitation for the Earned Income Tax Credit for those without a qualifying child and an age requirement for beginning Required Minimum Distributions, but many are now working longer. The age limit for purposes of the Child and Dependent Care Credit should be looked at as parents may want closer after-school supervision for children above the age of 12. We have a Uniform

Definition of Qualifying Child but different age requirements when applying that definition to specific provisions. A number of credits and deductions are lost totally when married taxpayers file separately, yet others are split between the spouses. Only three percent of the taxpayers served by Accounting Aid Society are married filing separately; however, the negative impact of that filing status has a significant effect on those in that status. It is not really a choice for many of the taxpayers that I deal with. Unable to file jointly and unable to obtain a divorce for economic or other reasons, they face harsh tax consequences. One that especially concerns me is the zero base amount for taxability of social security benefits for taxpayers who are married filing separately but living together. A base amount of one half of the standard amount for those who live with their spouse would seem more equitable. As an aside, all the base amounts should be looked as they have been in place for some time.

Due to the current economic conditions and high unemployment in certain areas, many taxpayers are turning to microenterprise. I encourage a new look at provisions that provide negative incentives to start-up businesses. One issue that has arisen with the increase in start-up businesses is the earned income requirement for the Child and Dependent Care Credit. The allowable expenses are limited to the lesser of the two spouses' earned income on a joint return. However, if one spouse is self-employed and incurring a business loss (not unusual for a start-up) they will not be able to claim a credit even though the other spouse is employed and earning a good salary. A minimum deemed income for a self-employed spouse similar to that for spouses with disabilities or who are full-time students could resolve this issue.

It's not a large dollar issue individually; however, the introduction to microenterprise for some is to pay self-employment tax at net income of \$400 yet not earn credit for social security until they have earned \$1.090. I suggest that a coordination of these amounts should be considered. The Treasury Inspector General for Tax Administration (TIGTA) discussed this several years ago in a 2003 Audit Report, Reference Number 2003-30-097, that found that over 258,000 taxpayers were affected by this issue in the 2000 tax year when the social security limit was only \$780.

My last issue deals with the "nanny tax". A difficult issue for many highly educated taxpayers, it is especially difficult for those with limited knowledge of tax law. My experience is in Michigan; however, I believe the issue is still present in many states. Home-based service workers such as home help and day care providers receive payments through a state agency or Intermediate Service Organization to provide services to low income service recipients. The worker is treated as either an independent contractor if the work such as day care for children is provided in the worker's home or as an employee of the low income service recipient if the day care or home help is provided in the home of the service recipient. The typical service parent is a low income individual with no or limited experience in filing federal income tax returns, let alone issuing W2's and accounting for employment taxes. Non-filing and collection problems have resulted.

This issue was identified as a legislative recommendation in the National Taxpayer Advocate's FY 2001 Annual Report to Congress. The recommendations were to change the status of home-based service workers to that of employees and to deem that the state, state agency, or Intermediate Service Organization responsible for administering the payments to be the employer for employment tax purposes.

The number of individuals involved is large. The Taxpayer Advocate reported that for 1998, approximately \$277 million in Social Service Block Grant funds was expended to provide home-based services to 243,738 recipients in 36 states.

The State of Michigan Department of Human Services (DHS) established an agency agreement for payment of employment taxes on behalf of service recipients for their home help workers in 1994. However, Day-care aides also providing services in the home of the service recipients have no such agreement and are considered by DHS to be employees of the low income parent recipients. There were 26,900 Day-care aides as of September 30, 2006 in Michigan according to a performance audit by the Michigan Auditor General. Total payments to day care aides were \$280.4 million during the period October 5, 2003 to March 4, 2006.

I suggest that the recommendations of the National Taxpayer Advocate or legislation to mandate agency agreements for home-based service workers similar to those that have worked well, such as the Michigan agency agreement for home help providers, would increase dollars to the Treasury and allow home-based service workers to readily receive the benefits of the Earned Income Tax Credit and substantially reduce burden for service recipients.

Thank you for your time this afternoon.