TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

American Rescue Plan Act: Implementation of Premium Tax Credit Provisions

May 2, 2022

Report Number: 2022-47-034

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Final Audit Report issued on May 2, 2022 **Report Number 2022-47-034**

Why TIGTA Did This Audit

This audit was initiated to evaluate the IRS's implementation strategy of the expanded premium tax credit eligibility rules and ensure the accuracy of Tax Year 2020 recovery adjustments.

This is part of a series of audits that TIGTA is conducting to monitor the IRS's continued response to the pandemic. This work is to help ensure that eligible individuals are receiving relief as intended.

Impact on Tax Administration

The American Rescue Plan Act (ARPA) of 2021 includes several provisions that temporarily enhance benefits and expand the eligibility for the premium tax credit. For Tax Year 2020, under Section 9662, taxpayers were not required to repay any excess advanced premium tax credits (APTC). For Tax Years 2021 and 2022, under Section 9661, taxpayers have increased premium tax credits for all income brackets and reduced premiums that they will be required to pay. Additionally, under Section 9663, taxpayers who received or were approved to receive unemployment compensation in Calendar Year 2021 are considered to have met the household income requirements for premium tax credit eligibility and will not pay premiums if they are enrolled in a benchmark plan or a less expensive plan.

What TIGTA Found

The IRS took immediate steps to remove excess APTC repayment from Tax Year 2020 returns in accordance with Section 9662 of the ARPA. As of August 12, 2021, the IRS provided relief for nearly 1 million taxpayers by removing $942 million in APTC repayments from their returns, which resulted in $845 million in tax reductions to these taxpayers' accounts as part of the ARPA recovery efforts. Although the IRS took timely actions to implement the applicable Tax Year 2020 provisions of the ARPA, TIGTA identified 30,231 taxpayers who may now qualify for Additional Child Tax Credits totaling $16.4 million. These taxpayers, however, must take additional actions to receive these additional benefits.

In addition, the IRS did not develop processes and procedures to verify the accuracy of premium tax credit claims based on unemployment compensation. Specifically, the IRS is not requiring documentation to support a taxpayer's claim that they received or, more importantly, were approved to receive unemployment compensation when it is the sole basis for their premium tax credit claim. IRS management stated that they are not requiring taxpayers to provide documentation but stated that a check box was added on the Form 8962, *Premium Tax Credit (PTC)*. This checkbox will serve as both attestation and documentation of the taxpayer's receipt or approval of unemployment compensation. The IRS indicated that it plans to conduct a limited number of attestation verifications as part of their post-processing compliance efforts.

Finally, the IRS has an opportunity to help educate taxpayers and inform them of their options if they are victims of domestic violence. TIGTA issued three alerts to IRS management during its review. IRS management took action or plans to take action to address each of these alerts.

What TIGTA Recommended

TIGTA made four recommendations to the IRS. These include notifying eligible taxpayers that they may qualify for additional recovery monies due to the removal of excess APTC repayments, updating taxpayer outreach on its public-facing website, and updating Form 8962 instructions to inform taxpayers of their options to report to the IRS that they are a victim of domestic violence.

The IRS agreed with all four of TIGTA's recommendations.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

May 2, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – American Rescue Plan Act: Implementation of Premium Tax Credit Provisions (Audit # 202140726)

This report presents the results of our review to evaluate the Internal Revenue Service's implementation strategy of the expanded premium tax credit eligibility rules and ensure the accuracy of Tax Year 2020 recovery adjustments. This review is part of our Fiscal Year 2022 Annual Audit Plan and addresses the major management and performance challenge of *Administration of Tax Law Changes and Pandemic Relief Benefits.*

Management's complete response to the draft report is included as Appendix III.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services).

Table of Contents

Appendices

Background

The American Rescue Plan Act of 2021 (ARPA) was signed into law on March 11, 2021,[1] and includes several provisions that temporarily enhance benefits and expand the eligibility for the premium tax credit (PTC).[2] Specifically, Section 9662 of the ARPA eliminates the requirement to repay any excess advanced premium tax credit (APTC) for Tax Year (TY) 2020.[3] If a taxpayer's APTC exceeds the actual PTC, no additional tax is imposed, regardless of household income.

In addition, ARPA Section 9661 increases the PTC for all income brackets for coverage years beginning in 2021 and 2022. For 2021 and 2022, the ARPA applies a new premium percentage owed by households at all income levels. Households may be eligible for a temporary increase in PTCs, with no one paying more than 8.5 percent of their household income towards the cost of the benchmark plan or a less expensive plan. Prior to the ARPA, households eligible for a PTC had to contribute up to 9.86 percent of their household income towards the cost of the benchmark plan or a less expensive plan. Additionally, prior to the ARPA, households with incomes greater than 400 percent of the Federal Poverty Level were not eligible for the PTC. Under the ARPA, taxpayers with household income over 400 percent of the Federal Poverty Level may be eligible for a PTC.

Finally, under ARPA Section 9663, a taxpayer who receives or is approved to receive unemployment compensation for as little as one week during Calendar Year 2021 qualifies for special PTC rules for the entire year. Under these rules:

- Taxpayers are treated as an "applicable taxpayer" who qualifies for the PTC.
- The taxpayer's household income in excess of 133 percent of the Federal Poverty Level for a family of the size involved is not taken into account in calculating the PTC.

As a result of the second rule, if household income for Calendar Year 2021 exceeds 133 percent of the Federal Poverty Level, the PTC will be calculated as if the income was 133 percent of the Federal Poverty Level. This will generally increase a taxpayer's PTC because a taxpayer with a household income at 133 percent of the Federal Poverty Level does not pay premiums if enrolled in the benchmark plan or one of the other less expensive options.

Premium tax credit

Under the Affordable Care Act,[4] individuals who enroll in qualified health plans may be eligible for PTCs. The PTC reduces the cost of the qualified health plan's premium and is claimed at the time the individual files their tax return. Eligible individuals may also have advance payments of

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[1] Pub. L. No. 117-2 135 Stat. 4.

[2] The PTC is a refundable credit that helps eligible individuals and families cover the premiums for their health insurance purchased through the Health Insurance Marketplace.

[3] In previous tax years and for tax years that begin after 2020, individuals whose APTC is more than the PTC they are allowed (called excess APTC) must repay some or all of the excess APTC when they file their Federal tax return for that year.

[4] The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029, is known as the Affordable Care Act.

the PTC (referred to as APTC) made on their behalf to lower the cost of their premiums. The amount of the APTC is determined when individuals sign up for health insurance coverage through the HealthCare.gov Marketplace and is based on the estimated household income for the year of coverage as well as other qualifying factors.

Taxpayers to whom the APTC was paid are required to file a Federal tax return to reconcile the amount of the APTC paid on their behalf with the amount of the PTC they are allowed, based on their actual household income and other factors, for the year. This reconciliation is completed on Form 8962, *Premium Tax Credit (PTC).* If the APTC is more than the PTC, the taxpayer has excess APTC and must repay the excess, subject to certain limitations. If the APTC is less than the PTC, the taxpayer can get a credit for the difference, which reduces their tax payment or increases their refund.

As of August 17, 2021, for TY 2020, 6.2 million tax returns were filed with $27.6 billion in APTC received by taxpayers; however, these taxpayers were eligible for only approximately $26.8 billion in PTC. When taxpayers reconciled at the time they filed their returns, there was $2.4 billion in excess APTC, of which over $1.5 billion was required to be repaid.[5]

Results of Review

The Internal Revenue Service (IRS) took immediate steps to remove excess APTC repayments from TY 2020 returns in accordance with Section 9662 of the ARPA. As of August 12, 2021, the IRS provided relief for 955,604 taxpayers by removing $941.6 million in APTC repayments from their returns, which resulted in $845.5 million in tax reductions to these taxpayers' accounts as part of the ARPA recovery efforts.[6] Although the IRS took timely action to implement the applicable TY 2020 provisions of the ARPA, we identified 30,231 taxpayers who may now qualify for Additional Child Tax Credits totaling $16.4 million. These taxpayers, however, must take additional actions to receive these additional benefits. Our review also focused on the implementation strategy for ARPA Section 9663, which applies to TY 2021 returns, and found that the IRS did not develop adequate processes and procedures to identify potential abuse and improper payments.

We issued three alerts to IRS management during the period June to October 2021 that detailed deficiencies identified during our review. The IRS has taken actions or plans to take actions to address each of our alerts.

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[5] For TY 2020, taxpayers received a total of $27.6 billion in APTC, $2.4 billion of which was in excess of allowable PTC (over $1.5 billion had to be repaid and approximately $814 million did not). Additionally, almost $1.6 billion in PTC was allowable in excess of the APTC. Therefore, the total allowable PTC for TY 2020 equals $26.8 billion.

[6] During Processing Year 2021, as of August 12, 2021, we identified approximately 1.5 million taxpayers who had filed their TY 2020 tax returns claiming over $1.5 billion in APTC repayments that should be removed. The ARPA excluded from taxable income up to $10,200 in unemployment compensation income received by a taxpayer in 2020, and the IRS is adjusting those separately. We have a separate review evaluating the IRS's efforts to adjust returns with unemployment compensation income, including those with APTC repayments.

The IRS Successfully Issued Advanced Premium Tax Credit Repayment Adjustments on the Majority of Tax Returns

Our review of returns filed as of August 12, 2021, for Processing Year 2021 identified 995,178 TY 2020 tax returns reporting over $997.7 million in APTC repayments that under the ARPA were not required to be repaid. On April 9, 2021, shortly after the passage of the ARPA, the IRS issued guidance instructing taxpayers that, if they had not already filed their TY 2020 returns, they should exclude any APTC repayment. This guidance was issued in an effort to help reduce the number of taxpayer accounts that the IRS would have to adjust. Subsequently on April 25, 2021, the IRS began systemically adjusting tax returns to remove the APTC repayment amount. As of August 12, 2021, the IRS sent for processing 955,604 (96 percent) of the 995,178 tax returns that needed to be adjusted; 944,894 of which the IRS accurately adjusted by removing APTC repayments totaling $941.6 million and providing $845.1 million in net tax reductions to these taxpayers.

The IRS has continued to systemically adjust the remaining tax returns with APTC repayments as well as identify any additional returns that may have been filed or processed after August 12, 2021. The IRS anticipates that the APTC recovery adjustments will be completed around February 2022. However, some of these returns cannot be systemically adjusted because there are certain conditions present on taxpayers' tax accounts (*e.g.*, freeze code) that prevent the systemic adjustment from occurring. To address these types of return filings, the IRS assigned a group of employees within the Accounts Management function to manually adjust the tax returns. As of August 19, 2021, the IRS sent 8,820 accounts to the Accounts Management function for manual adjustment. As of September 22, 2021, the Accounts Management function has adjusted 5,578 (63 percent) of these accounts.[7]

The IRS made a clerical error in APTC recovery and erroneously removed $12 million from tax returns

On November 5, 2021, the IRS provided account details for 3,681 taxpayers who were issued erroneous adjustments in September 2021. These taxpayers should have had over $6.4 million in APTCs removed from their tax returns; however, the IRS removed $18.5 million dollars from their tax returns, leaving $12.1 million in erroneous adjustments. Upon discovering the clerical error, the IRS immediately began trying to recover and reverse the erroneous refunds. As of November 18, 2021, we identified that 3,358 taxpayers[8] had over $15.9 million in refunds issued relating to the APTC recovery, and refunds were reversed for only 1,947 taxpayers with over $10.4 million in erroneous refunds. We confirmed that the IRS issued reversal transactions on all but two accounts to correct the error. Any refunds not immediately recovered will go through the IRS's normal collection procedures.[9] As of December 3, 2021, the IRS recovered $9.1 million (76 percent) of the erroneous refunds issued.

[7] During reporting, the IRS stated that these accounts have all been manually adjusted. However, they are continuing to identify and process additional manual cases as needed.

[8] For 323 taxpayers (3,681 less 3,358), we were unable to confirm if any refunds on the taxpayer accounts were associated with an erroneous APTC removal.

[9] The IRS collections process can consist of the issuance of notices (bills) to taxpayers, application of subsequent refunds to existing balances, liens, levies, and contact from field collections officers.

Notices Are Being Sent to Taxpayers Regarding Their Eligibility to Claim Additional Child Tax Credits

Our review of TY 2020 tax returns, as of August 12, 2021, identified 30,231 taxpayers who, based on the IRS adjusting their APTC repayments, are now eligible to claim $16.4 million in Additional Child Tax Credits. The following is a hypothetical example of how a taxpayer would become eligible to receive the Additional Child Tax Credit when their APTC repayment is adjusted:

> *Taxpayer X had an excess APTC repayment of $2,600 on their 2020 tax return and had one eligible child for whom they claimed the full Child Tax Credit of $2,000. Taxpayer X did not claim the Additional Child Tax Credit when they originally filed their return. When the excess APTC repayment was removed, the reduction in tax resulted in Taxpayer X not being able to claim any of the Child Tax Credit, and therefore, the taxpayer could now claim the Additional Child Tax Credit to receive up to $1,400 for their eligible child.*

We notified management of the fact that they were not instructing taxpayers whose excess APTC repayment amounts were adjusted that, if they became newly eligible for a tax credit, they would need to submit an amended return. Conversely, the IRS did provide this type of information to taxpayers with an unemployment compensation adjustment.

Recommendation 1 (e-mail alert): On June 25, 2021, we notified the Director, Customer Account Services, and Director, Customer Assistance, Relationships, and Education, of our concerns with their inconsistent messaging related to the ARPA unemployment compensation and APTC adjustments. We recommended that the IRS update its public-facing website to present consistent messaging to affected taxpayers.

> **Management's Response:** The IRS agreed with this recommendation and has updated its public-facing website to present consistent messaging related to the ARPA unemployment compensation and APTC adjustments.

We also asked the IRS to provide its strategy to notify taxpayers that they may need to file an amended return to receive their full recovery monies. IRS management stated that they would send a Computer Paragraph (CP) 08, *You May Qualify for a Refund from the Additional Child Tax Credit*, notice to taxpayers.

Recommendation 2 (e-mail alert): On September 17, 2021, we notified the Commissioner, Wage and Investment Division, and Chief Information Officer of our concerns that the IRS's plans for issuing these notices had not been finalized. We recommended that the IRS ensure the systemic issuance of CP 08 notices to affected taxpayers.

> **Management's Response:** The IRS agreed with this recommendation and generated over 95,000 CP 08 notices and over 165,000 CP 09, *Earned Income Credit – You May Be Entitled to EIC*, notices on December 29, 2021. They were sent to taxpayers who did not file an original tax return with Form 1040, *U.S. Individual Income Tax Return*, Schedule 8812, *Credits for Qualifying Children and Other Dependents*, or Form 1040 Schedule EIC, *Earned Income Credit Qualifying Child Information*, and may be eligible for the credits after the completion of the recovery adjustments. This did not apply to those to whom a CP 08 or CP 09 notice had already been issued when their original return was

processed. In February 2022, the IRS identified an additional 14,000 and 3,000 taxpayers to whom a CP 08 or CP 09 notice, respectively, will be issued.

Recommendation 3 (e-mail alert): On October 21, 2021, we notified the Director, Customer Accounts Services, of our concerns with taxpayer outreach and communications as it relates to the IRS's plan to issue CP 08 notices. We recommended that the IRS update its public-facing communications informing taxpayers that, if eligible, they will be receiving notices from the IRS with additional instructions on how to receive their full recovery monies.

Management's Response: The IRS agreed with this recommendation and has updated its messaging to taxpayers on IRS.gov for both the unemployment compensation and the APTC adjustments. IRS management also issued a press release on November 1, 2021, to indicate planned actions to make corrections for the Earned Income Tax Credit, Additional Child Tax Credit, American Opportunity Credit, Premium Tax Credit, and Recovery Rebate Credit amounts affected by the exclusion.

We provided the IRS the list of the 30,231 affected taxpayers identified by our review. Although the IRS agreed to the majority (27,461) of our affected taxpayer population, it disagreed with 2,770 of our identified accounts primarily because the taxpayer did not claim the full Child Tax Credit at the time of their original return filing, and it would have been determined at processing whether the taxpayer should have been issued a CP 08 notice. Therefore, 27,461 taxpayers should receive CP 08 notices allowing them to determine their eligibility for the Additional Child Tax Credit and claim the nearly $14.8 million in potential recovery monies. Once taxpayers receive their notice, it will be incumbent upon them to provide the IRS with the additional requested documentation to claim their additional monies, at which time the IRS will then place these correspondences into its regular processing queue.

Processes and Procedures Have Not Been Developed to Verify the Accuracy of Premium Tax Credit Claims When Unemployment Compensation Is Reported

Applicable only for TY 2021, a taxpayer who receives or is approved to receive unemployment compensation for as little as one week during Calendar Year 2021 will not be responsible for any premiums associated with their healthcare coverage. In our discussions with IRS management, they stated that they are not developing processes and procedures to verify at the time tax returns are processed the accuracy of taxpayers' claims that they received or were approved to receive unemployment compensation claims. The IRS stated that it has added a check box on Form 8962, which will serve as both attestation and documentation of the taxpayer's receipt or approval of unemployment compensation (see checkbox A in Figure 1).

Figure 1: Form 8962, Premium Tax Credit (PTC) – Tax Year 2021

Form **8962**
Department of the Treasury
Internal Revenue Service

Premium Tax Credit (PTC)
► Attach to Form 1040, 1040-SR, or 1040-NR.
► Go to *www.irs.gov/Form8962* for instructions and the latest information.

OMB No. 1545-0074
2021
Attachment Sequence No. **73**

Name shown on your return | Your social security number

A. If you, or your spouse (if filing a joint return), received, or were approved to receive, unemployment compensation for any week beginning during 2021, check the box. See instructions . . . ► ☐

B. You cannot take the PTC if your filing status is married filing separately unless you qualify for an exception. See instructions. If you qualify, check the box ► ☐

Part I **Annual and Monthly Contribution Amount**

1 Tax family size. Enter your tax family size. See instructions . . . 1

Source: Excerpt of TY 2021 Form 8962.

Actions should be taken to address the potential risk for improper payments resulting from ARPA Section 9663

On September 29, 2021, we notified IRS management of our concerns with the potential reporting of improper unemployment claims to receive the PTC. Specifically, we told them of our concern that the IRS is not requiring documentation to support a taxpayer's claim that they received or, more importantly, were approved to receive unemployment compensation when it is the sole basis for their PTC claim. We recommended that the IRS:

- Require documentation at the time of filing.
- Update the instructions to Form 8962 and associated Publication 974, *Premium Tax Credit (PTC)*, to notify taxpayers that, by checking the box on Line A, they are confirming they either received or were eligible to receive unemployment compensation during 2021 and should retain any documentation noting such with their tax records.
- Conduct outreach campaigns to taxpayers regarding maintaining documentation related to unemployment compensation.
- Implement systemic programming that will identify returns with potentially questionable claims for the PTC. For example, systemic processes could be developed to identify returns for which unemployment income is reported elsewhere on the return to validate those claims and allow them to continue in processing while causing any claims with no such indication of unemployment compensation to be held from processing until further information can be obtained from the taxpayer to validate the claim.

The IRS disagreed or partially disagreed with most of our recommendations. The IRS stated that requiring documentation typically not required at the time of filing would cause undue burden on taxpayers and noted the unavailability of Forms 1099-G, *Certain Government Payments*, information returns at the time of processing. The IRS indicated that it plans to verify the attestation as part of its post-processing compliance efforts. As of November 19, 2021, the IRS has not yet finalized the post-processing compliance plan for these case selections. However, the IRS noted that these cases will be a small subset of its refundable credit compliance program.

Management also stated that any TY 2021 programming is not likely possible due to timing and resource availability. However, management partially agreed to update Form 8962 instructions and agreed to conduct taxpayer outreach through planned communication actions through options such as IRS.gov, news releases, social media platforms, *etc*.

Opportunities Exist to Help Victims of Domestic Violence

The IRS has an opportunity to help educate taxpayers and inform them of their options if they are victims of domestic violence. The header section of Form 8962 includes a checkbox for taxpayers to identify themselves as victims of domestic abuse or spousal abandonment[10] for the purposes of qualifying for the PTC if they are married filing separately (see Figures 2 and 3).

Figure 2: Form 8962, Premium Tax Credit (PTC) – Tax Year 2020

Form **8962**

Department of the Treasury
Internal Revenue Service

Premium Tax Credit (PTC)

▶ Attach to Form 1040, 1040-SR, or 1040-NR.
▶ Go to *www.irs.gov/Form8962* for instructions and the latest information.

OMB No. 1545-0074
2020
Attachment
Sequence No. 73

Name shown on your return | Your social security number

You cannot take the PTC if your filing status is married filing separately unless you qualify for an exception. See instructions. If you qualify, check the box . . . ▶ ☐

Source: Excerpt of TY 2020 Form 8962.

Figure 3: Excerpt of Form 8962 Instructions

Exception 2—Victim of domestic abuse or spousal abandonment. If you are a victim of domestic abuse or spousal abandonment, you can file a return as married filing separately and take the PTC for 2020 if all of the following apply to you.

- You are living apart from your spouse at the time you file your 2020 tax return.
- You are unable to file a joint return because you are a victim of domestic abuse (described next) or spousal abandonment (described below).
- You check the box on your Form 8962 to certify that you are a victim of domestic abuse or spousal abandonment.

Source: Excerpt of TY 2020 Form 8962 Instructions.

Our analysis of TY 2019 Forms 8962 found that 14,273 taxpayers had checked the box for victims of domestic abuse or spousal abandonment. The IRS developed a specific indicator that it places on the tax accounts denoting a taxpayer could be a victim of domestic violence (VODV). The VODV indicator is presently set on tax accounts when a victim contacts the IRS and indicates they have been a VODV and requests the indicator be placed on their account or completes Part V of Form 8857, *Request for Innocent Spouse Relief*. This indicator is set to alert IRS employees of a taxpayer's situation when they contact the IRS. As of May 27, 2021, 34,759 taxpayers had a VODV indicator on their tax account.

On November 18, 2021, we notified IRS management of our concern that, of the 14,273 tax accounts associated with individuals checking the box on Forms 8962, only 13 tax accounts had a VODV indicator present. We recommended that the IRS consider the checkbox on Form 8962 as an additional means by which a taxpayer is reporting abuse and systemically place a VODV indicator on their account. IRS responded noting that permanently setting an indicator based on the Form 8962 without a direct request from the taxpayer may negatively impact the

[10] A taxpayer is a victim of spousal abandonment for a tax year if, taking into account all facts and circumstances, the taxpayer is unable to locate their spouse after reasonable diligence.

taxpayer. The IRS provided insight that some taxpayers do not want an indicator on their account and noted that the Form 8857 was revised to allow taxpayers to directly communicate their desire to have the indicator set on (or removed from) their tax account.

Although we agree, we believe that the IRS has an additional opportunity to educate taxpayers of their options to notify the IRS they are a VODV by updating the Form 8962 instructions.

Recommendation 4: The Commissioner, Wage and Investment Division, should update the Form 8962 instructions to inform taxpayers of the methods for reporting they are a VODV.

> **Management's Response:** The IRS agreed with this recommendation and plans to include VODV in the next revision of the instructions for Form 8962.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of our review was to evaluate the IRS's implementation strategy of the expanded PTC eligibility rules and ensure the accuracy of TY 2020 recovery adjustments. To accomplish our objective, we:

- Determined the implementation strategy the IRS intends to execute to address the new changes to PTCs under the ARPA. We interviewed applicable IRS personnel regarding the management and implementation of the new ARPA requirements; monitored the public-facing website of the IRS to determine what communication and messages the IRS was presenting to affected taxpayers; and reviewed and documented applicable IRS guidance, alerts, forms, and other associated documents related to the changes to the PTC under the ARPA.
- Determined whether recovery adjustments made by the IRS through August 2021 accurately removed and refunded excess APTC repayments on taxpayer TY 2020 returns that were filed. We identified and quantified the impacted population of taxpayers who had excess APTC repayments on their TY 2020 returns and compared these returns to the IRS recovery adjustments made through August 12, 2021. We also identified the IRS procedures and actions taken for accounts that could not be systemically adjusted.
- Determined and quantified the population of affected taxpayers as of August 12, 2021, who would not automatically receive the full recovery and identified the IRS's plan to communicate with these taxpayers.

Performance of This Review

This review was performed with information obtained from IRS Wage and Investment Division, Customer Accounts Services, during the period April through December 2021. We 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services); Diana M. Tengesdal, Director; Nina A. Hill, Audit Manager; Taylor C. McDonald, Lead Auditor; Jon-Michael G. Socaris, Senior Auditor; Zachary R. Caraccilo, Auditor; and Laura P. Haws, Information Technology Specialist (Data Analytics).

Validity and Reliability of Data From Computer-Based Systems

We performed tests to assess the reliability of data from the Treasury Inspector General for Tax Administration Data Center Warehouse, results from the Treasury Inspector General for Tax Administration Tax Simulator Tool, and electronic information obtained from IRS sources. We evaluated the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that all data used were sufficiently reliable for purposes of this report.

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 implementation strategy to address the new tax law changes affecting PTCs under the ARPA and IRS controls to accurately adjust taxpayer accounts for TY 2020 return filings to remove the requirement to reconcile excess APTC on taxpayer returns. We evaluated these controls by verifying the accuracy of adjustments made to remove excess APTC repayments from applicable TY 2020 returns.

Appendix II

Outcome Measure

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. This benefit will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 27,461 taxpayers who, after the IRS's removal of excess APTC, may be eligible for an additional $14,762,645 in recovery monies by claiming the Additional Child Tax Credit (see Recommendations 1, 2, and 3).

Methodology Used to Measure the Reported Benefit:

As of August 12, 2021, we identified 30,231 taxpayers whose APTC recovery was limited because the taxpayer did not have a Schedule 8812, *Additional Child Tax Credit*, attached to their original return. The removal of the excess APTC repayments from their tax returns, under ARPA Section 9662, may now make them eligible to claim the Additional Child Tax Credit. These taxpayers may receive $16,370,514 in additional recovery monies if they file an amended return or otherwise provide to the IRS the necessary information to claim the Additional Child Tax Credit. The IRS agreed to the majority (27,461) of our affected taxpayer population; however, it disagreed with 2,770 of our identified accounts primarily because the taxpayer did not claim the full Child Tax Credit at the time of their original return filing, and it would have been determined at processing whether the taxpayer should have been issued a CP 08 notice. Therefore, 27,461 taxpayers should receive CP 08 notices allowing them to determine their eligibility for the Additional Child Tax Credit and claim the potential $14,762,645 in recovery monies.

Appendix III

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

COMMISSIONER
WAGE AND INVESTMENT DIVISION

April 8, 2022

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Kenneth C. Corbin Digitally signed by Kenneth C. Corbin Date: 2022.04.08 13:35:21 -04'00'
Commissioner, Wage and Investment Division

SUBJECT: Draft Audit Report – American Rescue Plan Act: Implementation of Premium Tax Credit Provisions (Audit # 202140726)

Thank you for the opportunity to review and provide comments on the subject draft report. The American Rescue Plan Act of 2021 (ARPA)[1] was signed into law on March 11, 2021. Section 9662 of the ARPA removed the requirement for individuals to repay any excess advanced premium tax credit (APTC) received for tax year 2020. We took immediate steps to update programming and return processing procedures to administer the change. Guidance was issued to inform affected individuals they were no longer required to repay excess APTC and to provide updated filing instructions. To address tax returns that had been received since the February 12, 2021 opening of the filing season and reported repayments of excess APTC, we proactively corrected them to remove the repayment. This eliminated the need for those affected individuals to file amended returns.

As of August 2021, we adjusted over 955,000 returns that had reported $941.6 million in APTC repayments. Removing the reported repayments resulted in a tax reduction of approximately $845.5 million for these individuals. The correction process was automated for a substantial number of affected returns; however, for a small number, account conditions were present that required manual review to ensure the adjustments were made correctly. Some returns that had excess APTC repayments removed were also affected by a related section of the ARPA, which provided an exclusion of up to $10,200, subject to limitations, for eligible individuals who had received unemployment compensation in 2020. That adjustment was also made with the removal of the APTC repayment. In cases where the reduction of unemployment compensation caused other tax benefits, such as deductions and/or refundable credits to change, those items were adjusted as well. After adjustment, some returns appeared to qualify for the Additional

[1] Pub. L. No.117-2 135 Stat. 4.

Child Tax Credit, but more information was needed to make that determination. We notified taxpayers of possible eligibility by sending Computer Paragraph (CP) 08, *You May Qualify for Child Tax Credit (CTC).* The CP 08 informs taxpayers they may be eligible for an additional refund and lists the information needed for us to determine eligibility without them needing to file an amended return. If the Child Tax Credit or other tax benefit was not claimed on the original return, then an amended return will need to be filed.

Our communication and outreach activities in preparation for and during the 2022 filing season included information on changes to the Premium Tax Credit affecting tax year 2021. The fall 2021 Get Ready Campaign featured messaging that encouraged taxpayers to take steps to get ready to file 2021 federal tax returns. Products included news releases, tax tips, and facts sheets. These were shared externally through traditional news and social media platforms as well as with our partners and stakeholders. Additionally, changes to Form 8962, *Premium Tax Credit (PTC)*, which included the addition of a checkbox to indicate unemployment compensation being received in 2021 was included in the IRS's Nationwide Tax Forum seminar, "Tax Changes from a Forms Perspective Tax Year 2021." Additional communications included: updating the IRS.gov Premium Tax Credit web content and frequently asked questions and providing links to updated forms and related instructions and publications, including Publication 974, *Premium Tax Credit (PTC).* The messaging included information on the new unemployment checkbox and the need to maintain the unemployment documentation with other tax records. We also coordinated web content updates with the Centers for Medicare and Medicaid Services to add tax year 2021 information on Form 8962, Form 1095-A, *Health Insurance Marketplace Statement*, and links to PTC information and key messaging on IRS.gov to the "Health Care & Taxes" section on its HealthCare.gov website.

Our responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact Dietra D. Grant, Director, Customer Account Services, at 470-639-3504.

Attachment

Attachment

Recommendations

RECOMMENDATION 1 (E-MAIL ALERT)
On June 25, 2021, we notified the Director, Customer Account Services, and Director, Customer Assistance, Relationship and Education, of our concerns with their inconsistent messaging related to the ARPA unemployment compensation and APTC adjustments. We recommended that the IRS update its public facing website to present consistent messaging to affected taxpayers.

CORRECTIVE ACTION
The IRS updated the following messaging for the unemployment compensation exclusion implemented by the American Rescue Plan Act of 2021 (ARPA):

- On April 29, 2021, the IRS created Topic D: Amended Return (Form 1040-X) of the 2020 Unemployment Compensation Exclusion frequently asked questions (FAQs) to provide clarification about this process. The last update to the FAQs listed under this topic was done on November 12, 2021, which was to add the listed exceptions to Question 2.

- On November 1, 2021, the IRS issued News Release IR-2021-212 to indicate that we are making corrections for the Earned Income Tax Credit, Additional Child Tax Credit, American Opportunity Credit, Premium Tax Credit and Recovery Rebate Credit amounts affected by the exclusion.

The IRS updated the following messaging for advanced premium tax credit (APTC) adjustments:

- The Premium Tax Credit - The Basics – updated February 2, 2022

- Eligibility for the Premium Tax Credit – updated February 2, 2022

- Affordable Care Act - What to expect when filing your tax return – updated February 2, 2022

- Gathering Your Health Coverage Documentation – updated February 2, 2022

- Claiming the Credit and Reconciling Advance Credit Payments – updated February 2, 2022

- Questions and Answers on the Premium Tax Credit – updated February 24, 2022

IMPLEMENTATION DATE
Implemented

2

RESPONSIBLE OFFICIAL
Director, Communications and Liaison, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
N/A

RECOMMENDATION 2 (E-MAIL ALERT)
On September 17, 2021, we notified the Commissioner, Wage and Investment Division, and Chief Information Officer of our concerns that the IRS's plans for issuing these notices had not been finalized. We recommended that the IRS ensure the systemic issuance of CP 08 notices to affected taxpayers.

CORRECTIVE ACTION
On December 29, 2021, the IRS generated over 95,000 Computer Paragraph (CP) 08, *You May Qualify for Child Tax Credit (CTC)*, and over 165,000 CP 09, *Earned Income Credit - You May Be Entitled to EIC* notices. The notices were sent to taxpayers who did not file an original tax return with Form 1040 Schedule 8812, *Credits for Qualifying Children and Other Dependents* or Form 1040 Schedule EIC, *Earned Income Credit Qualifying Child Information*, and may be eligible for the credits after the completion of the recovery adjustments. This did not apply to those to whom a CP 08 or CP 09 notice had already been issued when their original return was processed. In February 2022, the IRS identified an additional 14,000taxpayers to whom a CP 08 notice and about 3,000 to whom a CP 09 notice will be issued. We continue to review 2020 returns as they are processed and will continue adjusting returns for unemployment compensation exclusion and issuing notices accordingly.

IMPLEMENTATION DATE
October 15, 2022

RESPONSIBLE OFFICIAL
Director, Accounts Management, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3 (E-MAIL ALERT)
On October 21, 2021, we notified the Director, Customer Accounts Services, of our concerns with taxpayer outreach and communications as it relates to the IRS's plan to issue CP 08 notices. We recommended that the IRS update its public facing communications informing taxpayers that if eligible, they will be receiving notices from the IRS with additional instructions on how to receive their full recovery monies.

3

CORRECTIVE ACTION
On February 2, 2022, we updated the "Premium Tax Credit: Claiming the Credit and Reconciling Advance Credit Payments" page on IRS.gov[1] with the following message:

> **"2020 Unemployment Compensation":**
>
> Under ARPA, eligible taxpayers are allowed to exclude up to $10,200 of unemployment compensation received in 2020 on their 2020 Form 1040, 1040-SR, or 1040-NR.
>
> Beginning in July 2021, the IRS reviewed tax returns filed prior to the enactment of ARPA to identify tax returns on which both excludible unemployment compensation and excess APTC repayments were reported by the taxpayer. Taxpayers received letters from the IRS, generally within 30 days of the adjustment, informing them of what kind of adjustment was made (such as a refund, payment of IRS debt payment or payment offset for other authorized debts) and the amount of the adjustment. For taxpayers who reported both excludible unemployment income and APTC, the adjustment should have covered both items even though the IRS's communication to the taxpayer may have mentioned only unemployment compensation.
>
> However, if, because of the excluded unemployment compensation, taxpayers are now eligible for deductions or credits not claimed on the original return, they should file a Form 1040-X, Amended U.S. Individual Income Tax Return for tax year 2020. Please reference the 2020 Unemployment Compensation Exclusion FAQs — Topic D: Amended Return (Form 1040-X) for more information."

We also updated the Unemployment Compensation Exclusion FAQs on IRS.gov[2] with the following information explaining receipt of a CP 08 notice.

> **"2020 Unemployment Compensation Exclusion FAQs — Topic G: Receiving a Refund, Letter, or Notice"**
>
> Q8. Why did I receive an IRS CP 08 notice saying I may be eligible for the Additional Child Tax Credit? (added November 12, 2021)
>
> A8. Because we made changes to your 2020 tax account to exclude unemployment compensation, you may be eligible for the Additional Child Tax Credit. In November and December 2021, the IRS is sending the CP 08 notice to individuals who did not claim the credit on their return but may now be eligible for it. This notice is not confirmation that you are eligible. You are not required to file

[1] https://www.irs.gov/affordable-care-act/individuals-and-families/premium-tax-credit-claiming-the-credit-and-reconciling-advance-credit-payments
[2] https://www.irs.gov/newsroom/2020-unemployment-compensation-exclusion-faqs-topic-g-receiving-a-refund-letter-or-notice

4

an amended return to claim the Additional Child Tax Credit if you reply to the CP 08 notice. "See Understanding Your CP 08 Notice for more information."

IMPLEMENTATION DATE
Implemented

RESPONSIBLE OFFICIAL
Director, Communications and Liaison, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
N/A

Recommendation

The Commissioner, Wage and Investment Division, should:

RECOMMENDATION 4
The Commissioner, Wage and Investment Division, should update the Form 8962 instructions to inform taxpayers of the methods for reporting they are a VODV.

CORRECTIVE ACTION
The next revision of the instructions for Form 8962, *Premium Tax Credit (PTC)* will be updated to include victim of domestic violence information (VODV).

IMPLEMENTATION DATE
January 15, 2023

RESPONSIBLE OFFICIAL
Director, Media and Publications, Customer Assistance, Relationships and Education, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN
We will monitor this corrective action as part of our internal management control system.

Appendix IV

Abbreviations

APTC	Advanced Premium Tax Credit
ARPA	American Rescue Plan Act of 2021
CP	Computer Paragraph
IRS	Internal Revenue Service
PTC	Premium Tax Credit
TY	Tax Year
VODV	Victim of Domestic Violence

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Ben Franklin Station

Washington, D.C. 20044-0589

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