Description of document:	Written responses or letters from the Internal Revenue Service (IRS) to a Congressional Committee, 2012-2013
Requested date:	18-April-2013
Released date:	20-November-2013
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Posted date:	30-December-2013
Update posted:	17-November-2014
Note:	Material released 17-November-2014 starts on PDF page 297
Source of document:	IRS FOIA Request HQ FOIA Stop 211 2980 Brandywine Road Chamblee, GA 30341

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

November 20, 2013

This is an interim response to your Freedom of Information Act (FOIA) request, dated April 18, 2013, that we received on April 29, 2013.

You asked for a copy of each written response or letter from the Internal Revenue Service to a Congressional Committee for 2012 and 2013. I am enclosing a copy of a portion of the requested records consisting of 191 pages. The enclosed records are being provided in full.

The remaining responsive records will be provided as soon as they are available.

The password for the enclosed CD is FOIAisF13120-0002

If you have any questions, please call Senior Disclosure Specialist Vivian A. King, ID # 1000207866, at 651-312-7813 or write to: Internal Revenue Service, HQ Disclosure, 2980 Brandywine Road, Stop 211, Chamblee, GA 30341. Please refer to case number F13120-0002.

Sincerely,

Bertrand Tzeng

Bertrand Tzeng
Disclosure Manager
Headquarters (HQ) Disclosure Office

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 9, 2012

The Honorable Thad Cochran
Vice Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Vice Chairman Cochran:

In accordance with House Report 112-136, we are providing you an update on our policies on historic conservation easements, and in particular, our response to the six recommendations from the IRS Advisory Council (IRSAC) Report.

The Committee noted that it has heard complaints about the administration of historic easement donations. We recognize that donations of conservation easements play an important role in preserving historic property. When taxpayers meet statutory requirements and properly value the donation, they can claim a deduction for the charitable contribution on their tax returns.

In 2009, the IRSAC made six recommendations on the administration of the charitable contribution deduction for the donation of historic preservation easements. At that time, an IRS team specializing in easements evaluated the recommendations. This team included senior management and subject matter experts from the Office of Chief Counsel and from the Large Business and International (LB&I), Small Business/Self-Employed (SB/SE) and Tax-Exempt/Government Entities (TE/GE) Divisions. The team concluded that some recommendations were contrary to law and others were unnecessary as we had already achieved the objectives. Since that time, and more recently in response to your request, the team has convened to discuss whether legal or other changes since 2009 warrant a change in our response to the IRSAC recommendations. After careful consideration, the team did not find any new circumstances that would warrant a change in response.

I hope the information in the enclosure is useful to the committee. If you have any questions, please contact me or a member of your staff can contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 9, 2012

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

In accordance with House Report 112-136, we are providing you an update on our policies on historic conservation easements, and in particular, our response to the six recommendations from the IRS Advisory Council (IRSAC) Report.

The Committee noted that it has heard complaints about the administration of historic easement donations. We recognize that donations of conservation easements play an important role in preserving historic property. When taxpayers meet statutory requirements and properly value the donation, they can claim a deduction for the charitable contribution on their tax returns.

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I hope the information in the enclosure is useful to the committee. If you have any questions, please contact me or a member of your staff can contact Cathy Barre at (202) 622-3720.

Sincerely,

Douglas H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 9, 2012

The Honorable Norm Dicks
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Dicks:

In accordance with House Report 112-136, we are providing you an update on our policies on historic conservation easements, and in particular, our response to the six recommendations from the IRS Advisory Council (IRSAC) Report.

The Committee noted that it has heard complaints about the administration of historic easement donations. We recognize that donations of conservation easements play an important role in preserving historic property. When taxpayers meet statutory requirements and properly value the donation, they can claim a deduction for the charitable contribution on their tax returns.

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I hope the information in the enclosure is useful to the committee. If you have any questions, please contact me or a member of your staff can contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 9, 2012

The Honorable Daniel K. Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with House Report 112-136, we are providing you an update on our policies on historic conservation easements, and in particular, our response to the six recommendations from the IRS Advisory Council (IRSAC) Report.

The Committee noted that it has heard complaints about the administration of historic easement donations. We recognize that donations of conservation easements play an important role in preserving historic property. When taxpayers meet statutory requirements and properly value the donation, they can claim a deduction for the charitable contribution on their tax returns.

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Sincerely,

Douglas H. Shulman

Enclosure

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

February 9, 2012

The Honorable Sam Graves
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Graves:

Thank you for your letter regarding the IRS's implementation of the statutory provisions requiring information reporting on merchant card payments.

Having read your letter, I understand that you are waiting for information from the IRS, and I have asked our staff to immediately schedule the appropriate follow-up discussion.

I also wanted to let you know that, while the initial draft IRS forms suggested that we would require businesses to reconcile gross receipts with merchant card payments, we have withdrawn that proposal and are no longer considering it.[1] On January 31, senior IRS officials informed groups representing a broad range of business groups (including multiple small business representatives) of this update, and held a meeting with these groups on February 6 to solicit additional feedback. I understand that the discussion was productive, and we will continue to solicit feedback on our approach as we move forward.

As I mentioned, IRS staff will be in touch to schedule appropriate next steps. Thank you for taking the time to write on this important issue.

Sincerely,

Douglas H. Shulman

[1] More specifically, IRS had proposed on business income tax forms (e.g., Form 1120) a new set of lines which contemplated a separate line item showing gross receipts from merchant card transactions. The IRS is no longer considering this approach and is not considering any changes to the business income tax forms as a result of this new information reporting provision.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

April 3, 2012

The Honorable Pat Roberts
Ranking Member, Committee on
Agriculture, Nutrition and Forestry
United States Senate
Washington, DC 20510

Dear Senator Roberts:

Thank you for the letter of February 27, 2012, from you and Senator Debbie Stabenow. You asked that we provide guidance to former customers of MF Global, Inc., so they can comply with their federal tax filing obligations.

Your letter indicated that many of the former customers had not yet received Forms 1099 indicating the activity within their accounts for the year. We understand that the trustees subsequently issued these forms and that the former customers should have received them by March 23, 2012. The Forms 1099 the former customers received generally should give them the information they need to file their returns by the April 17 due date for calendar-year taxpayers.

Based on your correspondence, many of your constituents are apparently farmers or fisherman for tax purposes. The tax law provides that farmers and fisherman can avoid a penalty for failure to pay the proper amount of estimated tax during the year by filing their return by March 1, along with one estimated tax payment. Recognizing that many taxpayers received their 1099s after March 1, 2012, we recently announced that farmers and fishermen whom the MF Global bankruptcy affected can ask to have estimated tax penalties waived. We also provided instructions on how to request this waiver. I am enclosing a copy of this guidance.

You also asked about the rules under the tax law that would allow MF Global customers to claim a loss for the unrecovered funds in their accounts. In general, a taxpayer can take a deduction for any loss sustained during the taxable year that is not compensated for by insurance or other means. A taxpayer can claim a loss when and to the extent that no reasonable prospect of recovery exists as of the end of the tax year (section 165 of the Internal Revenue Code). In the event of a reasonable prospect of recovery, the loss is suspended until the amount of the loss becomes reasonably certain. To the extent that a former customer could still receive recoveries from the efforts underway at the end of the year, the law would not allow a loss deduction for 2011. Depending on how the facts develop, the former customer could be eligible to claim losses in future tax years.

We are closely following the developments in this matter, including the liquidation proceedings the trustee is conducting. As further information develops, we will consider providing additional guidance to assist MF Global customers.

I hope this information is helpful. I am also writing to Senator Stabenow. If you have questions, please contact me or have your staff contact Floyd Williams, Director, Legislative Affairs, at (202) 622-4725.

Sincerely,

Douglas H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

April 3, 2012

The Honorable Debbie Stabenow
Chair, Committee on Agriculture,
Nutrition and Forestry
United States Senate
Washington, DC 20510

Dear Madam Chair:

Thank you for the letter of February 27, 2012, from you and Senator Pat Roberts. You asked that we provide guidance to former customers of MF Global, Inc., so they can comply with their federal tax filing obligations.

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Sincerely,

Douglas H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 24, 2012

The Honorable David Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter dated April 10, 2012, in which you asked about the Internal Revenue Service's funding needs to implement the Affordable Care Act (ACA). As we reported to you last spring, the Department of Health and Human Services Health Insurance Reform Implementation Fund (HIRIF) has generally been funding our ACA implementation costs in the absence of direct appropriations.

As an update of my letter last year, enclosed is an explanation of the HIRIF funds that the IRS spent in Fiscal Year (FY) 2011, the current estimate through the remainder of FY 2012, and the budget request for FY 2013. If you have any questions, please contact me or a member of your staff can contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Doug s . Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 24, 2012

The Honorable Charles Boustany
Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter dated April 10, 2012, in which you asked about the Internal Revenue Service's funding needs to implement the Affordable Care Act (ACA). As we reported to you last spring, the Department of Health and Human Services Health Insurance Reform Implementation Fund (HIRIF) has generally been funding our ACA implementation costs in the absence of direct appropriations.

As an update of my letter last year, enclosed is an explanation of the HIRIF funds that the IRS spent in Fiscal Year (FY) 2011, the current estimate through the remainder of FY 2012, and the budget request for FY 2013. If you have any questions, please contact me or a member of your staff can contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

Enclosure

Enclosure

IRS Implementation of Tax Law Changes in the ACA

Requests for HIRIF Funds

In FY 2011, IRS was apportioned $215 million to support the IRS's ongoing planning and implementation efforts as requested in the FY 2011 enclosed spend plan. Of the apportioned $215 million, $46.84 million remained unobligated at year end and was reapportioned in FY 2012.

Enclosed is a copy of the request for second quarter apportionment provided to HHS and OMB in January of this year. Through the end of the second quarter, IRS has been apportioned $138.4 million. Also included with this letter are the projected FY 2012 ACA requirements, for the remainder of the year. Funding decisions for quarters three and four have not been finalized at this time.

Funding

Although the FY 2012 President's Budget included a request of $473 million (1,187 FTE) for the IRS to continue implementing tax law changes included in the ACA, Congress did not fund the request. Without appropriated funding, the IRS refined its ACA cost estimates, focusing on the most critical implementation work. We are continuously monitoring our expenses as our planning progresses and working with HHS and OMB to ensure that we are using resources as efficiently as possible while positioning ourselves for ongoing requirements in FY 2013.

The FY 2013 President's Budget requests $360 million primarily to continue critical implementation efforts, with almost 85 percent of the funding in IT costs. As is customary practice, agency budget needs are provided as part of the annual budget process, and agency-wide multi-year projections of costs and staffing related to tax law provisions have not been developed.

Staffing

With the ACA, as with all changes to the tax law, the IRS must develop guidance and communications materials for taxpayers, update systems required to process the changes, and, after the effective date of a provision, ensure that appropriate service and compliance activities are undertaken. In the ACA implementation, some activities were incremental to existing programs and teams, and we account for the time employees spend on these provisions, even though they are not dedicated full time to the tax law provisions of the ACA.

In other programs and functions, the IRS hired employees specifically to work full time on the ACA tax law provisions. The majority of these hires are in IT, primarily to support the administration of the premium tax credit.

In FY 2011 the IRS required 576 FTE for the tax law changes included in the ACA. More than half were staff fully dedicated to implementing the ACA tax law provisions (mostly in IT and program management), and the other FTE represented the aggregation of staff that work part time on IT ACA tax law provisions, and perform other unrelated work as well.

For FY 2012 the IRS estimates 803 FTE, with almost 70 percent of those staff dedicated to the implementation of the IT requirements and program management of the ACA tax law provisions, however as noted above we are monitoring our expenses to ensure that we are using resources as efficiently as possible. About 70 percent of the FY 2013 request of 859 FTE is dedicated to IT implementation and program management. It should also be noted that the FY 2013 Budget requests funding to continue the implementation work already underway, and does not support significant additional hiring.

Future use of HIRIF Funds

Provided that Congress fully funds the $360 million included in the FY 2013 President's Budget, there will be no need to request additional allocations from HIRIF next year.

Attachments (3)

Affordable Care Act

A. Resource Summary *(dollars in millions)* *(January 12, 2012)*

doll rs in millions	Quarte Actuals[1]	2[n] Quarte Estimate	FY 20 Tota
1) Administer New Fees on Drug Manufacturers and Health Insurers	$0.0	$0.3	$0.3
2)Implement New Health Coverage Information Reporting and Data Sharin	$0.0	$0.8	$0.8
3)Strengthen Oversight of Exempt Hospitals	$0.7	$1.4	$2.1
4) Customer Service Support (Outreach, Phones & Other Su ort)	$1.1	$1.6	$2.7
5) Support of Implementation & Taxpayer Issues (Counsel, Taxpayer Advocate & A peals)	$0.9	$2.0	$2.9
6) Applications Development/Systems Software/Contracts/Systems Testing & Delivery	$18.6	$101.5	$120.1
7) Pro ram Mana ement Costs	$0.0	$9.5	$9.5
O A	$21.3	$1 7.1	$138.4
		stimate	324

1/ Does not include expenses not yet transferred from the direct appropriations.
2/ Submission is through March 31, 2012. Discussions with OMB regarding 3 & 4 quarter funding are ongoing.

This spend plan covers expected ACA related obligations through March 31, 2012. Our projections through March 31 are lower than originally estimated due to the uncertain funding situation. The IRS is currently in discussions with OMB regarding funding for the full year. We will prepare and submit a full year ACA spend plan once the level of full year funding is determined.

B. Authorizing Legislation

1) Sec. 9008 of P.L. 111-148, the Patient Protection and Affordable Care Act (ACA), imposes an annual fee on branded pharmaceutical manufacturers and importers. Sec. 9010 imposes an annual fee on health insurance providers.
2) Sec. 9006 of P.L. 111-148 (ACA) Expansion of Information Reporting Requirements
3) Sec. 9007 of P.L. 111-148 (ACA) imposes additional requirements for charitable hospitals.
4-8) P.L. 111-148 (ACA) multiple provisions applying to the IRS

C. Appropriating Legislation

Sec. 1005 of P.L. 111-152, the Health Care and Education Reconciliation Act of 2010, provides the implementation funding.

D. Use of Funding

1) To administer the fee on branded pharmaceutical manufacturers and importers the IRS must collect data, compute and bill each entity's fee amount, and administer payments and disputes. This also applies to administering fees on health insurance policies and self-insured health plans. These resources will fund 2 FTEs and $0.2M of labor costs and $0.1M of training, travel and other support costs.

2) The ACA establishes new requirements for the IRS to share significant amounts of federal tax information (FTI) with HHS and state health insurance exchanges. These funds provide staff to expand IRS safeguards and data protection for this information. These resources will fund 3 FTEs and $0.4M of labor costs and $0.4M of training, travel and other support costs.

3) The IRS must review the community benefit activities of tax-exempt hospital organizations and process the new reporting requirements. The IRS, together with HHS, must develop and deliver a new annual report to Congress on levels of charity care in the hospital sector. These resources will fund 18 FTEs and $1.9M of labor costs and $0.2M of training and other support costs.

4) The IRS must assist taxpayers and stakeholders (e-file industry, third party administrators, etc.) in understanding the new tax law provisions of the ACA. These activities include proactive outreach, toll-free telephone service, education and new publications. These resources will fund 19 FTE and $1.5M of labor costs, $0.7M of printing and postage costs and $0.5M of training, travel and other support costs.

5) The ACA created new tax provisions, multi-agency provisions, and types of programs. These resources will support publishing regulations and other guidance, creating multi-agency legal products, advising IRS and other agencies, and the handling of existing and future taxpayer disputes. These resources will fund 24 FTEs and $2.8M of labor costs and $0.1M of training, travel and other support costs.

6) Information Technology costs for all ACA provisions. This includes systems development, testing and delivery as well as software. These resources fund 235 FTEs and $32.0M of labor costs, $3.8M of equipment, software and other support costs, and $84.3M of contract costs (see attached spreadsheet for a list of contracts.)

7) This is the overall program management and administration of ACA tax law changes. These resources will fund 23 FTE and $2.5M of labor costs, $6.0M for a contract for consulting services/strategic support to the business (non-IT) side of ACA implementation and $1.0M for travel, training and other support costs.

ACA - FY 2012 Projected Needs

(Dollars in thousands)

Description		1st Quarter*	2nd Quarter	3rd Quarter	4th Quarter	Total
Administer New Fees on Drug Manufacturers and Health Insurers						
Salaries & Benefits (OC 11 & 12)		68	1,178	250	344	1,840
Travel (OC 21)		24	33	17	16	89
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)						0
Supplies and Materials (OC 26)						0
Equipment (OC 31)						0
	Subtotal	92	1,211	267	359	1,929
Strengthen Oversight of Exempt Hospitals						
Salaries & Benefits (OC 11 & 12)		736	2,483	678	896	4,793
Travel (OC 21)		9	51	13	16	88
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)						0
Supplies and Materials (OC 26)						0
Equipment (OC 31)						0
	Subtotal	744	2,533	690	912	4,881
Promoting Compliance with Other New Provisions						
Salaries & Benefits (OC 11 & 12)		813	3,899	1,682	2,111	8 505
Travel (OC 21)		55	221	66	82	425
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)						0
Supplies and Materials (OC 26)						0
Equipment (OC 31)						0
	Subtotal	869	4,120	1,748	2,193	8,929
Program Management						
Salaries & Benefits (OC 11 & 12)		1,232	7,232	1,829	2,657	12,951
Travel (OC 21)		120	690	131	169	1,111
Printing and Reproduction (OC 24)			5			5
Other Contractual Services (OC 25)			4,861	2,970	1,562	9,393
Supplies and Materials (OC 26)		1	10			11
Equipment (OC 31)						0
	Subtotal	1,353	12,799	4,930	4,388	23,471
Support of Implementation & Taxpayer Issues (e.g. Counsel, Appeals)						
Salaries & Benefits (OC 11 & 12)		725	3,732	1,075	1,309	6,840
Travel (OC 21)			3			3
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)				10		10
Supplies and Materials (OC 26)						0
Equipment (OC 31)						0
	Subtotal	725	3,734	1,085	1,309	6,853
Customer Service Support (Outreach, Phones & Other Support)						
Salaries & Benefits (OC 11 & 12)		950	3,308	1,296	1,313	6,867
Travel (OC 21)		24	71	46	88	229
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)					223	223
Supplies and Materials (OC 26)						0
Equipment (OC 31)						0
	Subtotal	974	3,379	1,342	1,624	7,318
Information Technology, Operations & Support & Infrastructure / Deliver New Tax Credits & Individual Coverage Requirement						
Salaries & Benefits (OC 11 & 12)		11,459	37,105	13,253	20,184	82,001
Travel (OC 21)		105	607	192	245	1,149
Printing and Reproduction (OC 24)						0
Other Contractual Services (OC 25)		4,978	49,092	99,060	25,424	178,553
Supplies and Materials (OC 26)		2	38	43	41	124
Equipment (OC 31)			2,483	12,067	2,432	16,982
	Subtotal	16,543	89,324	124,615	48,326	278,808
IRS Total						
Salaries & Benefits (OC 11 & 12)		15,983	58,936	20,062	28,814	123,796
Travel (OC 21)		336	1,675	465	616	3,093
Printing and Reproduction (OC 24)			5			5
Other Contractual Services (OC 25)		4,978	53,953	102 040	27,209	188,179
Supplies and Materials (OC 26)		3	48	43	41	135
Equipment (OC 31)			2,483	12 067	2,432	16,982
IRS Total		1'300			$59,1	190

* 1st quarter reflects Actual Obligations

4/20/12

IRS FY 2011 Updated Health Care Spend Plan by Quarter

Business Unit and Functional Area	Total	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
[illegible]gy	$144,763,709	$8,700,841	$28,643,726	$68,79 330	$38,627,812
Salaries & Benefits (OC 11 & 12)	38,861,236	985,368	11,874,726	12,901,330	13,099,812
Travel (OC 21)	631,901	14,901	175,000	227 000	215,000
Rent, Communications, & Utilities (OC 23)					
Printing and Reproduction (OC 24)					
Other Contractual Services (OC 25)	76,182,622	7,690,622	13,822,000	49,610,000	5,060,000
Supplies and Materials (OC 26)	187,950	9,950	72,000	53,000	53,000
Equipment (OC 31)	28,900,000		2,700,000	6 000,000	20,200,000
unts Management	**$11,524,213**	**$360,431**	**$4,781,869**	**$3,460,348**	**$2,981,565**
Salaries & Benefits (OC 11 & 12)	9,861,698	200,021	4,123,834	3,058,313	2,579,530
Travel (OC 21)	257,610	43,080	71,510	71 510	71,510
Rent, Communications, & Utilities (OC 23)	220,561	1,450	73,037	73 037	73,037
Printing and Reproduction (OC 24)	216,220	31,050	125,190	29 990	29,990
Other Contractual Services (OC 25)	533,942	14,060	214,884	152,494	152,494
Supplies and Materials (OC 26)	91,906	5,170	28,912	28,912	28,912
Equipment (OC 31)	242,276	5,600	144,492	46,092	46,092
bmission Processing	**$2,234,799**	**$280,155**	**$341,498**	**$806,253**	**$706,884**
Salaries & Benefits (OC 11 & 12)	1,854,017	75,044	282,944	847,699	648,330
Travel (OC 21)	6,460	1,615	1,615	1,615	1,615
Rent, Communications, & Utilities (OC 23)	49,152	12,288	12,288	12,288	12,288
Printing and Reproduction (OC 24)	23,100	23,100			
Other Contractual Services (OC 25)	203,549	116,255	29,098	29,098	29,098
Supplies and Materials (OC 26)	22,612	5,653	5,653	5,653	5,653
Equipment (OC 31)	75,900	46,200	9,900	9,900	9,900
Media & Publications	**$1,893,050**	**$181,078**	**$1,461,232**	**$186,171**	**$164,571**
Salaries & Benefits (OC 11 & 12)	519,748	41 038	168,144	173,083	137,483
Travel (OC 21)	15,300	3,150	4,050	4,050	4,050
Rent, Communications, & Utilities (OC 23)	709,252	53,813	651,613	1,813	1,813
Printing and Reproduction (OC 24)	701,600	37 600	650,000		14,000
Other Contractual Services (OC 25)	32,050	17,575	4,825	4,825	4,825
Supplies and Materials (OC 26)	3,600	900	900	900	900
Equipment (OC 31)	11,500	7,000	1,500	1,500	1,500
ax Administration/Compl nce	**$43,990,536**	**$9,598,208**	**$9,899,244**	**$12,609,031**	**$11,883,153**
Salaries & Benefits (OC 11 & 12)	34,570,052	6,311,672	8,402,077	10,449 288	9,407,015
Travel (OC 21)	4,474,519	1,818,067	665,144	980,601	1,030,707
Rent, Communications, & Utilities (OC 23)	544,229	99,025	130,208	145 801	169,195
Printing and Reproduction (OC 24)	357,731	195,012	70,483	43,858	48,378
Other Contractual Services (OC 25)	3,040,539	783,818	410,232	817,453	1,029,036
Supplies and Materials (OC 26)	240 766	60,939	56,225	60,705	62,897
Equipment (OC 31)	762,700	329 675	164,875	132,225	135,925
Program Management	**$10,364,858**	**$947,081**	**014,979**	**$1,203,383**	**$1,199,415**
Salaries & Benefits (OC 11 & 12)	960,300	755,050	831,550	985,450	988,250
Travel (OC 21)	554,759	111,756	137,055	146,758	159,190
Rent, Communications, & Utilities (OC 23)	27,450	4,875	5,791	8,392	8,392
Printing and Reproduction (OC 24)	19,500	9,100	3,400	4,900	2,100
Other Contractual Services (OC 25)	145,499	45,825	6,027,158	42,258	30,258
Supplies and Materials (OC 26)	13,650	2,275	3,125	4,125	4 125
Equipment (OC 31)	43,700	18,200	6,900	11,500	7,100
RS Total	**$214,871,156**	**$19,987,792**	**$53,1**	[illegible]	

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

NATIONAL DIRECTOR
FOR LEGISLATIVE
AFFAIRS

April 20, 2012

The Honorable Jeff Miller
Chairman, Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Attention: Eric Hannel

Dear Mr. Chairman:

I am responding to your letter dated April 18, 2012. You asked that we detail an IRS employee to assist the House Committee on Veterans' Affairs with the allocation of taxpayer dollars.

We typically provide detailees through one of the legislative fellows programs. Unfortunately, we have already placed our detailees for 2012. We will be happy to encourage one of our detailees in the 2013 legislative fellows program to work for your committee.

I am sorry I cannot be more helpful. If you have any questions, please contact me at (202) 622-4725.

Sincerely,

Floyd L. Williams

Staff Summary Sheet

Request for Signature of: *Director, Office of Legislative Affairs* Date: April 20, 2012

Reviewing Office	Secretary Initial/Date	Concur Initial/ Date	Comment	Reviewing Office	Secretary Initial/Date	Concur Initial/ Date	Comment
CC:LA		4/20/12					
Floyd Williams Director, Leg. Affairs		4/20					

Document Subject: Commendation letter of two Baltimore TAS employees

Document Summary/Note to Reviewer:

Prepared By:	Phone:	Office Symbols:	Room #:
Cúmbuka Ortez	202-622-1313	CL:LA	3244
Filename:	Due Date:	I-trak Control #: 2012-30462	Document Signed Date:

Note: This sheet serves as documentation of the correspondence review process and must be attached to the official file copy of correspondence.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 17, 2012

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Cummings:

Enclosed please find my response to Chairman Issa's April 20, 2012, letter regarding IRS expenses related to overnight meetings.

If you have additional questions, please contact me or have your staff contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Doug as H. Shulman

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 17, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am following up on my initial response to your letter of April 20, in which you asked about IRS expenses related to overnight meetings. As IRS staff continue to compile information to respond to your request for data from 2005 to present, I have enclosed the information that responds to your specific questions about a continuing professional education meeting held in Anaheim, CA in August 2010.

Let me update you on the analysis that IRS staff have undertaken to respond to your request regarding this meeting. IRS staff have conducted an initial review and found that this continuing professional education meeting was conducted for managers from 350 different offices of the division of approximately 26,000 employees that houses the bulk of IRS compliance personnel. This initial review shows that approximately 2,620 employees attended the meeting and the total cost of the meeting was approximately $4.13 million, or just under $1,600 per attendee for a three-day, four-night meeting. This includes all government expenses relating to the meeting, including travel and meals (which were paid through per diems).

The purpose of the meeting was to ensure that managers had proper training to lead their employees and adapt to significant changes that were occurring at the time. The training took place at a time when the IRS had recently implemented several new programs, including some that gave employees new flexibility to work with taxpayers during difficult economic times. In addition, this division faced unique challenges in 2010, including significant turnover in the management ranks and a substantial increase in threats against IRS employees subsequent to the attack on an IRS facility in Austin earlier that year. In addition to a variety of other subjects, there were special presentations at this meeting on employee safety and security made by security personnel from the IRS and the Treasury Inspector General for Tax Administration.

Anaheim was selected after a review of 23 cities for cost and logistical reasons. The meeting started at 8 a.m. every day and ran through the end of the day every day. The agenda included no activity at Disneyland, and provided no free time for such activities.

Our initial review shows that proper procedures were followed. However, out of an abundance of caution, and recognizing current public concerns relating to out-of-town meetings involving government employees, I proactively requested that our Inspector General conduct an independent review to ensure that all government and IRS procedures were followed. That review is underway, and, if issues are raised, I will not hesitate to promptly take appropriate actions.

Continuing professional education is essential to ensuring that IRS runs its programs on a consistent nationwide basis in a way that respects taxpayer rights and ensures that managers are equipped to lead their employees effectively. The IRS has a complex mission, and employs nearly 100,000 people to serve approximately 200 million individuals, businesses, and tax-exempt organizations.

Until 2011, it had been the agency practice for many years to periodically conduct continuing professional education meetings of a national scale. For example, in each year from 2005 to 2010, the IRS Taxpayer Advocate Service conducted an annual training meeting for its employees. While IRS staff have not yet performed a detailed review of the costs of these meetings, we believe that – due to the substantial number of attendees – the cost of each of these meetings was in the range of $1.7 million to $2.9 million.

Notwithstanding the importance and value of in-person training, the costs of nationwide large scale training meetings such as these are substantial. In light of the current fiscal situation, we recognize the importance of conserving limited government resources. I want to let you know that we have dramatically cut the number of meetings involving travel since 2010, and we have not held any large scale nationwide meetings like these in 2011 or 2012, nor do we have any plans to do so. Instead, we have explored alternatives that utilize technology where possible.

Over the past several years we have been very focused on cost cutting at the IRS. From FY 2009 through the FY 2013 proposed budget, the IRS will have achieved nearly $1 billion in budget savings and efficiencies.

The IRS recognizes and takes seriously our obligation to be good stewards of taxpayer dollars. We will continue to look for ways to train our people so that we meet our responsibilities in the most cost effective manner.

If you have additional questions, please contact me or have your staff contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

Enclosure

ENCLOSURE

The date, venue, and number of attendees for the Anaheim conference
August 24 – 26, 2010

Continuing Professional Education Meeting was held at the Hilton and Marriott hotels in Anaheim. Some attendees also stayed at the Sheraton hotel.

There were approximately 2,620 attendees (principally the managers of this division of approximately 26,000 employees).

The total cost of the conference and the funding source
Estimated total cost based on staff analysis was $4.13 million, or $1,576 per attendee, funded from annual appropriations.

The names of all managers within the Small Business/Self-Employed Division who attended the conference
See separate attachment

The names of all individuals who approved funding for the conference
Per procedures in place at that time, the IRS Deputy Commissioner for Operations Support had final approval authority for larger meetings and approved the meeting.

The following list contains the names of the participants in the Small Business/Self-Employed Division (and SB/SE Counsel) who attended the 2010 All Managers Continuing Professional Education meeting in Anaheim, CA. This list is based on the participant list on file at the time of the meeting.

Abbott Jr, George
Abner Jr, Castell
Abraham, Ana
Abrams, Faren
Aceto, Joseph
Acevedo, Louis
Acone, Mary Ann
Acosta, Gloria
Adames, Katherine
Adamonis, Paul
Adams, Shalon
Adeniji, Ade
Aguilar, Victor
Aguilera, Francesca
Ah Yat, Patricia
Ahern-Emil, Jennifer
Ajel, Evelyn
Akins, Ron
Akins, Tommica
Albanese, George
Albert, Jr., Earl
Albritton, Robert
Alexander, Joyce
Alexander, Lionell
Ali, Mohamed
Allan, Richard
Allen, Charles
Allen, Jane
Allen, Kelby
Allen, Robert
Allen-Reed, Viveca
Allevato, Tony
Allgaier, Ingrid
Allred, Brent
Almuete, Clarita
Alschuler, Milt
Alvara, Lorenzo
Alvarado, Leo
Alvarado, Michelle
Alvarado, Paul
Amarante, Jennifer
Amburgy, Pam
Amene, Geraldine
Ames-Grant, Willette
Amos, Calvin
AmRhein, Dawn
Amster, Rich
Anderson, Gary
Anderson , Sam
Andrews, Colin
Andrews, Desalyn
Andrews, Shirley
Andrini-Nwufoh, Cecilia
Andrusyszyn, Robert
Angieri, Jasen
Anthony, John
Anthony, Pamellia
Antonio, Myrna
Archbold, Judy
Archer, Peggy
Archie, Janice
Arena, Margaret
Arjun, Rohan
Armijo, Rochelle
Armstrong, Barbara
Armstrong, Theodore
Arneson , Barbara
Aronin, Marc
Aronson, David
Arrigo, Diane
Arthur, William
Asbury, Brenda
Ashman, Clair
Asis, Florante
Assalone , Patricia
Athey, Judith
Atkinson , Brian
Austen Turner, Connie
Austin, Jeffrey
Averill, Roseann
Avigliano, Paula
Axelrod, Karen
Baalman, Kenneth
Babar, Shahid
Babb, Anita
Badalucco, JoAnn
Bader, Roseanne
Badzo, Kelly
Baessler, James
Bahr, Larry
Bailey, Kristen
Bailey, Ramona
Baker, Bev
Baker, Curtis
Baker, Monica
Baker, Patricia
Baker, Ruth
Baldwin, Denise
Baldwin, Robin
Baldwin, Stephanie
Ballard, Jeffery
Ballard, Maria
Banks, Mary Ann
Banks, Jr. , Fred
Banowsky, Bill
Barber, Dominic
Bard, Nicole
Barden , Donald
Barham, Dretha
Bariana, Ava
Barkley, Blaine
Barnes, Gwendolyn
Barnes, Mary
Barocio, Diana
Barr, Winford
Barrientos, Sandra
Barrier, Robert
Barry, John
Barthel, Linda
Basalla, Jeff
Basara, Lorraine
Basciano, Tony
Bascunan, Kathy
Bates, Kristen
Bates, Pamela
Bates, Paul
Bayless, Bryan
Baze, Kathy
Beasley, Loretta
Beck, Linda
Becker, Blake
Becker, Maryann
Bedlivy, Hank
Beeman, Donna
Behrle, Jr., Anthony
Bell, Delores
Bell, Homer
Bell, Karen
Bell, Yvette
Bell , Mary
Bellamy, Leo
Bellamy, Lisa
Bellamy, Teresa
Bellcock, Nancy
Bellomo, Kelly
Belton, Patsy
Bembry , Marsha
Bendfeldt, Susan
Benedetti, Patricia
Benene, Judith

Benford, Gary
Benham III, Brad
Benner, Lauren
Bennett, Alonzo
Bennett, Barbara
Bennett, Edie
Bennett, Jeff
Bennie, John
Bennit, Lorna
Benoit, Preston
Benson, Michelle
Berg , Gaylon
Bergmans, Rick
Bergschneider , Craig
Bergsrud, Denise
Berkowitz, Joel
Bermudez, Nelia
Bernatawicz, James
Bernis, Debra
Bernstein, Michael
Berte, Karen
Bessert, Phyllis
Best, Brian
Betz, Eric
Bever, Mark
Bilotta, Timothy
Bisel, Karyn
Bissell, Allen
Bitting, Lyn
Bittle, Marie
Blagg, Diane
Blaha , Kevin
Blaine, Gwendolyn
Blakey, Grace
Blanford, Connie
Blankenship, Paula
Bliss, Margaret
Blizzard, Patricia
Blount, Rashinda
Blowers, Becky
Boatman, Dorothy
Bobo, Carolyn
Bocchetti , Stephen
Bocchino, Kathleen
Boespflug, Brian
Bogan, Cassandra
Bogolub, Debra
Bogulawski, Walter
Boles, Patti
Bologna, Lucy
Bolton, Laverne
Bonds, Steven
Bonilla, Simon
Bonn, Kristin
Bonner, Meg
Bonnett, Gary
Boos, Victoria
Boothe, Charles
Boraas, Ted
Borbon, Kim
Borg, Peter
Borgo, Thomas
Borop, Stephanie
Borro, Christine
Bouldin , Cindy
Bousnakis, Peter
Bove, Gary
Bowen, Bo
Bowers, Christine
Bowlen, Daniel
Bowling, Barbara
Bowman, Scott
Boyce, Robert
Boyd, Barbara
Boyd, Charles
Boyer, Brenda
Boyle, Catherine
Bracken, Theresa
Bradford, Carla
Bradley, John
Bradley, William
Brady, Dorothy
Brady, John
Brady, Karen
Braegger, Glenda
Branch, James
Branche, Vincent
Brandon, David
Branning, Kurt
Bratcher, Angela
Bratsch, Joan
Braunz, Susan
Braverman, Mitchell
Breese, Pat
Brellenthin, Cheryl
Brennan, Barbara
Brennan, Christine
Brennan, Lynn
Brenneman, Denise
Brescia, Adam
Brewer, Robert
Brewer, Terry
Brewerton, Kathryn
Bricker, Thomas
Brickhouse, Costella
Bridgeman, Fred
Briggs, Sandra
Brigle, Debra
Briscoe, Jeanette
Britton, Margaret
Broadnax, Felecia
Broleben, Flo
Brooks, Jacqueline
Brooks , Michael
Broughton, Rebecca
Brouse, Tiffany
Brousseau, Rae
Brown, Dennis
Brown, Barlo
Brown, Beverly
Brown, Carolyn
Brown, Dean
Brown, Eric
Brown, Jamie
Brown, John
Brown, Marc
Brown, Marilyn
Brown, Moe
Brown, Monique
Brown, Nat
Brown, Pamela
Brown, Patricia
Brown, Stephanie
Brown, Tracy
Brown , Anne
Brown , Dametria
Browne, Stephanie
Broyles, Anne
Bruckner, Alan
Brumley, Gladys
Bruner , Iva
Brunson, Cynthia
Brusseau, Paul
Bryant, Al
Bryant, Debra
Bryant, Vickie
Bryant -Kennybrew, Laureen
Bryson, Debra
Buchwald, Carol
Buchwald, Robert
Buck, Susan
Buckingham, Tina
Buckley, Lynn
Budd, Joseph
Budde, Robert
Budny, Richard
Buffamonti, Monika
Buller , William
Burg, Jeffrey
Burge, Mark
Burger, Michelle
Burgess, Sharon
Burgman, Alysia
Burk, Chuck
Burnett, Michael
Burnstedt, Gary
Burrell, Ken
Burton, Patricia

Burwell, Mary
Busby, Kathleen
Bush, Scarlett
Butcher, Jennifer
Butera, Mark
Butera, Virginia
Butler, Carl
Byers, Vicki
Byington, Elaine
Byrd, Gloria
Byrd, Helen
Byrd, Karen
Caggiano, John
Cahill, Colleen
Cain, Joshua
Calamas, William
Caldwell, B J
Calhoun, Tyrone
Caliri, Domenic
Calk, Rosemarie
Callaway, Cheryl
Callender, Carnetta
Camejo, Donna
Camp, Karen
Campbell, Denise
Campbell, Kory
Campbell, Lelia
Campisano, Patricia
Canada, Wanda
Canales, Rosita
Cannon, Denise
Cannon, James
Cano, Stephanie
Cantrell, Susan
Capon, Lela
Caporaletti, Donna
Capps, David
Caraway, Caren
Cardell, Edie
Cardenas, Jane
Carey, Bob
Carley, Michael
Carlin, Greg
Carlson, Deborah
Carlson, Joseph
Carlson, Peggy
Carmen, Jason
Carmichael, Lori
Caron, Susan
Carpenter, John
Carr, Elizabeth
Carr, Susan
Carrie, Jo Anna
Carrillo, Felix
Carroll, Frances
Carroll, Rex
Carson, Thomas
Carter, Angie
Carter, Merlinda
Carter, Patricia
Carter, Veronica
Carter, Yolanda
Carter , Glenn
Carter-Lewis, Berlinda
Carter-Louis, Gwenda
Cartin, Edward
Caruso, Mary Lou
Carver, Layne
Cary, Rozette
Casano-Blaustein, Anita
Casey, Leola
Cash, Darlene
Castracane, Deborah
Caudell, Charlene
Caudill, Velma
Cavanaugh, Kimberly
Cavazos, Rosendo
Cave, Dorothy
Centeri, Doreen
Cerchero, Marie
Cervelli, Lisa
Cessman, Carol
Chacon, Lori
Chadwell, Gary
Chaffin, John
Chagami, Cathy
Chan, Francis
Chan, Lisa
Chandler , Keith
Chapman, David
Chatham, Diana
Chavez, Christy
Chavez, Lito
Cheatham, Teresa
Chen, Pauline
Chenoweth, Frances
Chetuck, Joanne
Chezum, Rick
Childers, Gregg
Christian, Timothy
Christian , Richard
Christon, Diane
Ciaccia, Sharon
Cialfi, James
Clair, Timothy
Clappsy, Ruthanne
Clark, Dawna
Clark, Marilyn
Clark, Pertina
Clark, Robin
Clary, Luther
Clay, Jerry
Claybern, Barb
Claybrook, Gwannette
Clotman, Leon
Clower, Deborah
Cobb, Gayle
Codding, Julienne
Coe, Sara
Cohen, Ciril
Cohen, Lidia
Cole, Amanda
Cole, Geraldine
Cole, Maureen
Coleman, Angela
Coleman, DeWayne
Coleman, Mary
Collie, Mary
Collins, Jane
Collins, Raynetta
Collins, Suzanne
Collins , Jacqueline
Colon, David
Colson, Jeffrey
Colvell, Brad
Conerly, David
Conner, John
Connor, Kathleen
Consoli, John
Constantino, Grace
Cook, Richard
Cook, Vicky
Cooke, Paul
Coons, Beth
Coons, Charles
Cooper, Garine
Cooper, Glenwood
Cooper, Kenneth
Cooper, Margaret
Cooper, Tonia
Copenhagen, John
Coppola, Sal
Cordero, Cheryl
Cornish, Maria
Coronado, Caterino
Cortes, Ada
Cortez, Debbie
Cortez, Izabella
Coskrey-Young, Verdis
Coss, Vicki
Costello, Diane
Cotton, Kathy
Couch, Debra
Counts, Michael
Covarrubias , Diana
Coventry, Karen
Cowell, Lisa
Cox, Charles

Cox, Glenda
Cox, Kathleen
Cox, Michael
Cozine, Susan
Craig, Ira
Craig, Kristy
Craig, Steven
Crain, Rosalind
Cramer, Carol
Crawford, Annette
Crawford, John
Creeger, Tammy
Crews, Craig
Crooker, Donald
Crosby, James
Crosby, Nancy
Cross, Ronald
Crotta, Linda
Crumblin, Ashley
Cullen, Vicki
Culver, Joyce
Cummings, Bob
Cunningham, Janet
Cuny, James
Cuomo, Donna
Cupp, George
Curren, Paula
Curry, Sabena
Curtis-Brown, Helen
Cylar, Benny
D Agostino, Bob
Dailing , Carol
Dairy, Edith
D'Alba, Diana
D'Aleo, James
Dallman, Albert
Damasiewicz, Michael
Dang, Angie
D'Angelo, Luigia
Daniel, Jeffrey
Daniels, Damone
Daniels, Jennfier
Dannoff, Antonina
Danowitz, Carl
Dare, Kenneth
Dario, Ann
Daub, Debbie
Dauernheim, Denise
Daugherty, Tara
Daut, Lana
Davis, Cassius
Davis, Debra
Davis, Jackie
Davis, James
Davis, John
Davis, Jonathan
Davis, Karen
Davis, Michael
Davis, Michelle
Davis, Robert
Davis, Ruth
Davis, Sherri
Davis, Terry
Davis , Gerri
Davis , James
Dawson, Betty
De La Rocha, Lorena
DeBerg, Bradley
DeBoisbriand, Norman
Decaria, Jill
Deckert, Reeves
Deering, Leland
Defiel, Marcy
DeFor, Mark
Degroot-Russell, Holly
Deidrich, Sue
Deis, Thomas
Deitrich, Lois
Del Casillo, Susan
Del Valle, Daniel
Delaney, Margie
Delemos, Kim
Deleva, Paul
Deloriea, Glenn
DeLuca, Michele
DeLucia, Victoria
DelVecchio, Victoria
Demaio, Patricia
DeMarco, Barbara
DeMasters, Carl
Demetra, Cathy
DeMinck, Susan
Dennis, Sharon
Dennis, Shaun
Derosa, Toni Ann
DeShields, Glendora
D'Esposito, Cynthia
DesRosiers, Mike
Devance, Cynthia
DeVito, Eva
Dhatt, Jarnail
Diacovo, Denise
Diamond, Lynda
Diaz, Armando
Dibben, Michael
DiBiasi, Catherine
Dickerson, Donnell
Dickerson, Vincent
Dickinson, Bruce
Dienes, John
Dietz, Kathy
Dietzel, James
DiFabio, Kim
Diloreto, Donna
Dinh, Tanya
Dion, Jennie
Dippel, Roxanne
Dirks, Norvin
Disher, Mary Ellen
Dishmon, Carolyn
DiToto, Perry
Dixon, Kim
Dixon, Linda
Dixon, Linda
Dixon , Vance
Dixon-Martin, Naomi
Doan, Brigitte
Dobyns, Becki
Dodgen, Joyce
Doherty, David
Doherty, Stephen
Dolan, Richard
Dolby, Ellen
Dolchan, Jr., Michael
Domkowski, James
Donahoo, Babbie
Donnelly, Kimberly
Donovan, Carol
Doolan, Melvin
Doolittle, Karl
Doranski, John
Doris, Joan
Dortch, Susie
Douglass , Danielle
Dowling, Debbie
Dowling, Gregory
Downes, Larry
Doyle, Debbie
Drefs, Cynthia
Dressler, Stacey
Drummond, Antoine
Drury, Monika
Dubois, Alain
Dudley, Robert
Dugger , Catrina
Duke , Heather
Dunagan, Kirk
Dunham, Beth
Dunn, Leticia
Duquette, Lucy
Duty-Wise, Nancy
Dyer, Angela
Dyer-Freeman, Dana
Dykes, Joe
Dyson, Keith
Dyson-Lee, Evelyn
Eadie, Maurice
Eady, Marlene

Earley, Stephen
Ecklar, Debbie
Eckles, Megahan
Edelstein, Michael
Edingborough, Norma
Edmeads, Michelle
Edwards, Diana
Edwards, Phillip
Edwards, Sharon
Ehl, Nereida
Eickenhorst, Lisa
Eisenbart, Kathleen
Elder, Cherry
Eldridge, Darwin
Elissawy, Sue
Elliott, Joe
Ellis, Patience
Ellis , Frank
Elliston, Barbara
Elsayed, Denise
Emerson, Frances
Emilien, Desmond
Enciso, Maryann
Enciso, Tony
England , William
English, Carla
Enterlin, Richard
Enz, Michael
Epperson, Charisse
Eppich, Terri
Ernst, Kelly
Esco, Sandralyne
Escobar, Dawn
Espinoza, Ruben
Esposito, Guy
Esposito, Karen
Estep, Cora
Estep, Dennis
Etherington, Norma Jean
Evans, David
Evans, Kikus
Evans, Tiffany
Evans, Yvonne
Everett, Vivian
Everly, Sharon
Everson, Larry
Ewell, Lisa
Fair, Alexa
Falcone, Raymond
Falvo, Frank
Fandre, Janet
Fangman, Shelley
Farrell, Nancy
Farrell, Rachel
Fay, Frances
Fazzino, Renate
Feaster, Shirley
Feby, Dorothy
Feldman, Patricia
Felicciardi, Marjorie
Feltner, Beverly
Fenlason, Karen
Ferguson, Donna
Ferguson, Shane
Ferraro, Joan
Ferreira, Lisa
Fessahaye, Haile
Fiebich, Barbara
Fiedler, Mariellen
Fields, Minnie
Fields, Patricia
Fields, Ronald
Fine, Josh
Finger, Marguerite
Fink, Faris
Finkel, Leon
Finley , Jacqueline
Finn, Brian
Finnigan, Jane
Fisher, Michelle
Fitzgerald, Keir
Fitzgerald, Mark
Fitzpatrick, Deborah
Fitzpatrick, Jacqueline
Flack, Rosemary
Fleming, Thomas
Flemons, Mary
Flores, Debra
Flores, Valerie
Flowers, Grace
Fluharty, Daniel
Flynn, Patricia
Foerster, Julie
Fonder, Steve
Foote, Joseph
Ford, Yolanda
Forest, Laura
Forrester, Scott
Foschini, Errol
Foschini, Leanne
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Nash, Christine
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Sarber, Jane
Sarzynski, Ken
Savala, Rosanna
Savard, Susan
Savastio, Gina
Sawyer, Ron
Say, Jonathan
Scafide, Joan
Scarborough, Julie
Scarpati, Rae
Schacht, Pamela
Schaefer, Leslie
Schaeffer, Susan
Schakow, Tim
Schampers, Richard
Scheller, Jeanette
Scherer, John
Scheriff, Dorothy
Schiavo, Diana
Schiavo, Patricia
Schiller, Karen
Schindler, Fred
Schlitt, Carolyn
Schlosser, Becky
Schmidt, Debbie
Schmierer, Richard
Schneidau, Wallace
Schneider, Carl
Schneider, Debbie
Schneider, Ingrid
Schneider, Robert
Schnubel, Wendy
Schofield, Christina
Schuler, Aaron
Schum , Catherine
Schuppert, Keith
Schwemer, Lee
Scott, Dennis
Scott, Jieana
Scott, Kimyachta
Scott, Monti
Scott, Shannon
Scott, Vergie
Scye, Velda
Seagroves, Linda
Seaman, Stacy
Seda, Robert
Sedlacek, Tina
Seiling, Thomas

Sellars , Neal
Sennott, John
Serna, Michelle
Severin, Helga
Sexton, Kathy
Sexton, Rebecca
Sexton, Stephen
Sgouros, Yannis
Shaber, Margarita
Shaffner, Pat
Shanahan, Kaaren
Sharp, Yulonda
Shaw, Kenneth
Sheffield , Steven
Sheinberg, Richard
Sheldon, Geoffrey
Shelly , Anthony
Shelton, Bret
Sherrill, Tim
Sherwood, Cheryl
Shields, Jenny
Shields , Craig
Shields , Ethel
Shields , Karen
Shirey, Paul
Shirley, Amanda
Shoemaker, Linda
Short, Bobbie
Shulz, Michael
Sifford, Annie
Silva, Julie
Silva, Matthew
Simmons, Christopher
Simmons, Rashaunda
Simmons, Veda
Simmons , Michael
Simmons , Thomas
Simpson, Elizabeth
Sims, Anthony
Sims, Laura
Sippio, Debra
Sitzes, Mary Ann
Sizer, William
Skeen, Rena
Skerritt, Corinne
Slaughter, Henry
Slavkovsky, Kenneth
Slayback, Eric
Sliwowski, Chester
Small, Sandra
Smalley-Banfield, Tess
Smith, Andrea
Smith, Carla
Smith, Carolyn
Smith, Cynthia
Smith, David
Smith, Dennis
Smith, Dennis
Smith, Dorothy
Smith, Earnestine
Smith, Edwin
Smith, Eloise
Smith, Jackie
Smith, Johnny
Smith, Lorraine
Smith, Machelle
Smith, Marcia
Smith, Mary Ann
Smith, Michael
Smith, Mikeal
Smith, Molly
Smith, Nancy
Smith, Patricia
Smith, Paula
Smith, Paula
Smith, Reginald
Smith, Robin
Smith, Sharonne
Smith, Tina
Smith, Tommy
Smith , Eric
Smith , Gary
Smith , Tracy
Smith III, Elmer
Smyth, Kimberly
Snarski, Arthur
Sneed, James
Snow, Jon
Sobczak, John
Solano, Rebecca
Solis, Anne
Solomon, Michael
Solomon, Theresa
Solomon, Tracey
Somers, Maryanne
Soreth, Jane
Sorrell, Lori
Sorrell, Patrice
Sosa, Kurt
Sostock, Daniel
Soul, Michelle
Sovereign, Jeanne
Spadea, Francesco
Spellman, Betty
Spence, Joyce
Spence, Stephanie
Spencer, Ruby
Spencer, Theodore
Spicer, Jannell
Spinale, James
Spingler, James
Spinner, Kathleen
Spivey, Rene
Splinter, Martin
Spratt, Patricia
Spross, Margaret
Spruill, Keisha
St Laurent, Kathryn
Stahl, Paul
Staley, Lauren
Stander, Theresa
Stanish, Paul
Staudacher, Derek
Stecker, Barbara
Steco, Rocco
Steele, Patricia
Steinbeck, Mary
Stelmach, Douglas
Stephens, Kimberly
Stephens, Veronica
Stephenson, Rick
Stevens, Pam
Stevenson, Jeff
Stewart, Jena
Stewart, Joan
Stewart, Julie
Stewart, Toby
Stiles, Joan
Stoddard, Lanna
Stoehr, Sharon
Stokes, Jacqueline
Stolt, Sandra
Stone, Jamie
Stone, Pearlie
Stone, R Scott
Stone , Mark
Stones, Gertrude
Stonier, Susan
Stook, Heather
Stose, Cathy
Strahan, Dorothy
Strapko, Michael
Street, Deborah
Strickland, Gwen
Strickland, Phillip
Strickland, Rodney
Strom, Kathleen
Styfianou, Terry
Stypul, Ron
Subhani, Pasha
Sullivan, Carol
Sullivan , Eileen
Sumler, Karen
Summerton, Lynette , M.
Super, Ron
Supola, Clarke
Surla, Orville
Sutch, Janice

Swain, Annette
Swan, Leina
Swann , Sherrill
Swanson, Martin
Swarts, Howard
Sweeney, Robert
Sweeney, Roger
Sweeney, Rosemary
Sword, Sharon
Szabo, Debra
Szombathy Jr., John
Szyszlo, Tammy
Taborn, Kym
Tackovich, Elizabeth
Taira, Terry
Takakjy, Ronald
Taku, Atehawung
Tam, Cynthia
Tang, Benny
Tate, Earnest
Taylor, Denise
Taylor, James
Taylor, Joan
Taylor, Karen
Taylor, Keith
Taylor, Lisa
Taylor, Nona
Taylor , Raun
Taylor-Teamer, Anita
Teardo, Thomas
Tejeda, Luis
Terry, Earnestine
Teti, Joseph
Thacker, Kathleen
Thelen, Jon
Thode , Greta
Thomas, Angela
Thomas, Bennie
Thomas, Duane
Thomas, Georgia
Thomas, Gusteria
Thomas, Jean
Thomas, Jeannie
Thomas, Patricia
Thomas, Sarah
Thomas, Shirl
Thomas, Tom
Thomas, Vanessa
Thomas , Christine
Thompson, Cynthia
Thompson, Dan
Thompson, Debra
Thompson, Evelyn
Thompson, Jim
Thompson, Karen
Thompson, Kristina
Thompson, Pamela
Thompson, Spencer
Thompson, Todd
Thompson, Warren
Thor, Margaret
Thornton, Gail
Thrift, Stephanie
Thurber, David
Thurston, John
Tiberio, Joe
Tierney, Richard
Tillman, Rob
Tinsely, Veronica
Tippets, Kerri
Tippitt , Deborah
Tipton, Felisha
Tobin, Janice Saujunloo
Todd, Carol
Toland, Pamela
Toledo, Suzanne
Toliver, Brenda
Tollar, Ann
Tomlin, Charisse
Tomlin , Regina
Tomlinson, Linda
Tompkins, Pamela
Toncheff, Gordon
Toney, Marilyn
Tong, Jannie
Torres, Frank
Torres, Grace
Torres, Miguel
Torres-Santana, Fausto
Torri, Timothy
Tortorici, Michael
Towler, Lisa
Townes, Calvin
Townsend, Martin
Tracht, Mark
Traft, Glenda
Trainor, Art
Traore, Sharon
Travers, Terry
Trejo, Carlos
Trevillion , Felicia
Trinacria , Michelle
Truitt, Tara
Tsougranis, Gregory
Tubbs, Leon
Tucker, Carolyn
Tucker, Delus
Tucker, Francine
Tucker, Sandra
Tuler, Jeff
Tumm, Herman
Turk, Alex
Turner, Karan
Turner, Steve
Turnipseed, Jon
Tuzynski, Laurie
Tuzynski, John
Twarog, Marie
Twisdale, Jim
Twitchell, Deven
Tyler, Lottie
Tyson, Melba
Ugor, Patricia
Ulmer, Douglas
Underland, Ann
Urbaez, Evaristo
Urrutia, Mary Ann
Valdespino, Alfredo
Valerio, Carol
Valerio, Maria
Valicenti, William
Van Deventer, Bruce
Van Dyke, Margaret
Van Howe, Deborah
Van Howe, Timothy
Van Rossum, Donna
VanGils, Debora
Vanover, Gertrude
Vasquez, Victor
Vasquez, Ronald
Vasser, Clarise
Veal, Jeanine
Veasley, John
Veatch, Thomas
Vecchione, Donna
Vega, Ivette
Velardi, Carol
Velasquez, Art
Venero, Victoria
Ventura, Andrea
Vickers, Christopher
Vickers, Mary Kay
Vidal, Laura
Vieira, Patricia
Villalpando, Briseyda
Villanueva, Patria
Virgil, Jennifer
Viruet, Aileen
Vito, Karan
Voss , Stacy
Vozne, Jennifer
Vranas, Linda
Vu, Kim
Vuono, Frank
Wackerly, Kevin
Waddell, Allen
Wade, C.W.
Wagner, Chris

Wagner, Donald
Wagner, Ralph
Wagner, Ricky
Wajda, John
Waldrop, Charles
Walker, Brendan
Walker, G Kenny
Walker, Jeff
Walker , John
Walker Happich, Dorothy
Wall, Robert
Wallace, Warren
Wallis, Leo
Waln, Patricia
Walsh, Mike
Walton, George
Wamser, Sharon
Wan, Deborah
Ward, Angela
Ward, Rennae
Wardell, Gloria
Warr, Frank
Warren, Alicia
Warren, Debbie
Warren, Denise
Warren, Ed
Washington, Gloria
Washington, Jacqueline
Wast, Lynn
Watkins, Claude
Watson, Carla
Watson, Connie
Watson, Maelene
Watson, Martha
Watson, Pamela
Watts, Mariana
Watts, Nancy
Way, Glenn
Weaver, Deborah
Webb, Marty
Webster, Beth
Wehmeyer, Laura
Weiland, Kenneth
Welch, Eileen
Wellesley, Katherine
Wells, Michael
Wensing, Diann
Wergin, Ronald
Werkmann, Gerald
West, Clinton
West, Cassandra
Wexler, Rhonda
Whalen, Edward
Wheeler, Marcelle
Whitaker, Debra
Whitaker, Justin
White, Lydia
White, Valerie
White, Vicki
Whitehall, Michael
Whitehead, Maryclare
White-Rainer, Ulanda
Whitfield, Beverly
Whitford, Michael
Whiting, Kevin
Whitlow, Mae
Whitmore, Debbie
Whitmore , Cora
Whorley , Muriel
Wiebers, Linda
Wiegert, Marianne
Wildfong, Douglas
Wilhelm, James
Wilken, Paula
Wilkerson, Cheryl
Wilkerson, Robert
Wilkes, Stanley
Willet, Jeanette
Williams, Annie
Williams, Bob
Williams, Debra
Williams, Jean
Williams, Maha
Williams, Sharon
Williams, Steven
Williams, Susan
Williams, Tamara
Williams, Valerie
Williams, Veronica
Williams , Douglas
Williams , Pamela
Williamson, Elizabeth
Williamson, John
Williamson , David
Willingham, Tangerine Renee
Willis, Deborah Ann
Wilson, Bruce
Wilson, Joe
Wilson, Verne
Windom-Davis, Cheryl
Winkle, Thomas
Winter, Susan
Witherspoon, Gloria
Witmer, Ann Marie
Witt, Isabell
Wittman, Diane
Wohlrabe, Ethel
Wolff, Andria
Wong, Charles
Wong, Kathy
Woodfield, Sue
Woodruff, Jeri
Woodward, Delia
Woolsey, Michele
Woolsey, Robyn
Wooten, Janice
Works, Pam
Wright, Kimberly
Wright, Pamela
Wright, Randy
Wright, Richard
Wright, Ronnie
Wright, Salinda
Wright, Sara
Wright , David
Wu, Chi
Wuebbels, Melissa
Wuertz, Dorothy
Wulf, Barbara
Wyatt, Kenny
Wynaught, Deborah
Wynn, LaJeunia
Wynne, Joe
Yager, Shelley
Yarbrough, Mary
Yates, Christie
Yates, Sandy
Yau, Daisy
Yee, King
Yee, Shirley
Yeskoo, David
Yocum, Heather
Yost, Bob
Young, Kim
Young, Robin
Young, Stephanie
Ytuarte, Karen
Yu, John
Zamora, Anne
Zarra, Rosemarie
Zarzycki, Robin
Zelasko , John
Zenon, Alphonse
Zepeda, Keith
Zepeda, Manny
Zielinski, Ronald
Zins, April
Zipkin, Jennifer
Zorn, Michael
Zukle, Dennis
Zulager, Retha
Zwalinski, Kathy
Zwolinski, Betty

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 17, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am following up on my initial response to your letter of April 20, in which you asked about IRS expenses related to overnight meetings. As IRS staff continue to compile information to respond to your request for data from 2005 to present, I have enclosed the information that responds to your specific questions about a continuing professional education meeting held in Anaheim, CA in August 2010.

Let me update you on the analysis that IRS staff have undertaken to respond to your request regarding this meeting. IRS staff have conducted an initial review and found that this continuing professional education meeting was conducted for managers from 350 different offices of the division of approximately 26,000 employees that houses the bulk of IRS compliance personnel. This initial review shows that approximately 2,620 employees attended the meeting and the total cost of the meeting was approximately $4.13 million, or just under $1,600 per attendee for a three-day, four-night meeting. This includes all government expenses relating to the meeting, including travel and meals (which were paid through per diems).

The purpose of the meeting was to ensure that managers had proper training to lead their employees and adapt to significant changes that were occurring at the time. The training took place at a time when the IRS had recently implemented several new programs, including some that gave employees new flexibility to work with taxpayers during difficult economic times. In addition, this division faced unique challenges in 2010, including significant turnover in the management ranks and a substantial increase in threats against IRS employees subsequent to the attack on an IRS facility in Austin earlier that year. In addition to a variety of other subjects, there were special presentations at this meeting on employee safety and security made by security personnel from the IRS and the Treasury Inspector General for Tax Administration.

Anaheim was selected after a review of 23 cities for cost and logistical reasons. The meeting started at 8 a.m. every day and ran through the end of the day every day. The agenda included no activity at Disneyland, and provided no free time for such activities.

Our initial review shows that proper procedures were followed. However, out of an abundance of caution, and recognizing current public concerns relating to out-of-town meetings involving government employees, I proactively requested that our Inspector General conduct an independent review to ensure that all government and IRS procedures were followed. That review is underway, and, if issues are raised, I will not hesitate to promptly take appropriate actions.

Continuing professional education is essential to ensuring that IRS runs its programs on a consistent nationwide basis in a way that respects taxpayer rights and ensures that managers are equipped to lead their employees effectively. The IRS has a complex mission, and employs nearly 100,000 people to serve approximately 200 million individuals, businesses, and tax-exempt organizations.

Until 2011, it had been the agency practice for many years to periodically conduct continuing professional education meetings of a national scale. For example, in each year from 2005 to 2010, the IRS Taxpayer Advocate Service conducted an annual training meeting for its employees. While IRS staff have not yet performed a detailed review of the costs of these meetings, we believe that – due to the substantial number of attendees – the cost of each of these meetings was in the range of $1.7 million to $2.9 million.

Notwithstanding the importance and value of in-person training, the costs of nationwide large scale training meetings such as these are substantial. In light of the current fiscal situation, we recognize the importance of conserving limited government resources. I want to let you know that we have dramatically cut the number of meetings involving travel since 2010, and we have not held any large scale nationwide meetings like these in 2011 or 2012, nor do we have any plans to do so. Instead, we have explored alternatives that utilize technology where possible.

Over the past several years we have been very focused on cost cutting at the IRS. From FY 2009 through the FY 2013 proposed budget, the IRS will have achieved nearly $1 billion in budget savings and efficiencies.

The IRS recognizes and takes seriously our obligation to be good stewards of taxpayer dollars. We will continue to look for ways to train our people so that we meet our responsibilities in the most cost effective manner.

If you have additional questions, please contact me or have your staff contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Douglas H. Shulman

Enclosure

ENCLOSURE

The date, venue, and number of attendees for the Anaheim conference
August 24 – 26, 2010

Continuing Professional Education Meeting was held at the Hilton and Marriott hotels in Anaheim. Some attendees also stayed at the Sheraton hotel.

There were approximately 2,620 attendees (principally the managers of this division of approximately 26,000 employees).

The total cost of the conference and the funding source
Estimated total cost based on staff analysis was $4.13 million, or $1,576 per attendee, funded from annual appropriations.

The names of all managers within the Small Business/Self-Employed Division who attended the conference
See separate attachment

The names of all individuals who approved funding for the conference
Per procedures in place at that time, the IRS Deputy Commissioner for Operations Support had final approval authority for larger meetings and approved the meeting.

The following list contains the names of the participants in the Small Business/Self-Employed Division (and SB/SE Counsel) who attended the 2010 All Managers Continuing Professional Education meeting in Anaheim, CA. This list is based on the participant list on file at the time of the meeting.

Abbott Jr, George
Abner Jr, Castell
Abraham, Ana
Abrams, Faren
Aceto, Joseph
Acevedo, Louis
Acone, Mary Ann
Acosta, Gloria
Adames, Katherine
Adamonis, Paul
Adams, Shalon
Adeniji, Ade
Aguilar, Victor
Aguilera, Francesca
Ah Yat, Patricia
Ahern-Emil, Jennifer
Ajel, Evelyn
Akins, Ron
Akins, Tommica
Albanese, George
Albert, Jr., Earl
Albritton, Robert
Alexander, Joyce
Alexander, Lionell
Ali, Mohamed
Allan, Richard
Allen, Charles
Allen, Jane
Allen, Kelby
Allen, Robert
Allen-Reed, Viveca
Allevato, Tony
Allgaier, Ingrid
Allred, Brent
Almuete, Clarita
Alschuler, Milt
Alvara, Lorenzo
Alvarado, Leo
Alvarado, Michelle
Alvarado, Paul
Amarante, Jennifer
Amburgy, Pam
Amene, Geraldine
Ames-Grant, Willette
Amos, Calvin
AmRhein, Dawn
Amster, Rich
Anderson, Gary
Anderson , Sam
Andrews, Colin
Andrews, Desalyn
Andrews, Shirley
Andrini-Nwufoh, Cecilia
Andrusyszyn, Robert
Angieri, Jasen
Anthony, John
Anthony, Pamellia
Antonio, Myrna
Archbold, Judy
Archer, Peggy
Archie, Janice
Arena, Margaret
Arjun, Rohan
Armijo, Rochelle
Armstrong, Barbara
Armstrong, Theodore
Arneson , Barbara
Aronin, Marc
Aronson, David
Arrigo, Diane
Arthur, William
Asbury, Brenda
Ashman, Clair
Asis, Florante
Assalone , Patricia
Athey, Judith
Atkinson , Brian
Austen Turner, Connie
Austin, Jeffrey
Averill, Roseann
Avigliano, Paula
Axelrod, Karen
Baalman, Kenneth
Babar, Shahid
Babb, Anita
Badalucco, JoAnn
Bader, Roseanne
Badzo, Kelly
Baessler, James
Bahr, Larry
Bailey, Kristen
Bailey, Ramona
Baker, Bev
Baker, Curtis
Baker, Monica
Baker, Patricia
Baker, Ruth
Baldwin, Denise
Baldwin, Robin
Baldwin, Stephanie
Ballard, Jeffery
Ballard, Maria
Banks, Mary Ann
Banks, Jr. , Fred
Banowsky, Bill
Barber, Dominic
Bard, Nicole
Barden , Donald
Barham, Dretha
Bariana, Ava
Barkley, Blaine
Barnes, Gwendolyn
Barnes, Mary
Barocio, Diana
Barr, Winford
Barrientos, Sandra
Barrier, Robert
Barry, John
Barthel, Linda
Basalla, Jeff
Basara, Lorraine
Basciano, Tony
Bascunan, Kathy
Bates, Kristen
Bates, Pamela
Bates, Paul
Bayless, Bryan
Baze, Kathy
Beasley, Loretta
Beck, Linda
Becker, Blake
Becker, Maryann
Bedlivy, Hank
Beeman, Donna
Behrle, Jr., Anthony
Bell, Delores
Bell, Homer
Bell, Karen
Bell, Yvette
Bell , Mary
Bellamy, Leo
Bellamy, Lisa
Bellamy, Teresa
Bellcock, Nancy
Bellomo, Kelly
Belton, Patsy
Bembry , Marsha
Bendfeldt, Susan
Benedetti, Patricia
Benene, Judith

Benford, Gary
Benham III, Brad
Benner, Lauren
Bennett, Alonzo
Bennett, Barbara
Bennett, Edie
Bennett, Jeff
Bennie, John
Bennit, Lorna
Benoit, Preston
Benson, Michelle
Berg , Gaylon
Bergmans, Rick
Bergschneider , Craig
Bergsrud, Denise
Berkowitz, Joel
Bermudez, Nelia
Bernatawicz, James
Bernis, Debra
Bernstein, Michael
Berte, Karen
Bessert, Phyllis
Best, Brian
Betz, Eric
Bever, Mark
Bilotta, Timothy
Bisel, Karyn
Bissell, Allen
Bitting, Lyn
Bittle, Marie
Blagg, Diane
Blaha , Kevin
Blaine, Gwendolyn
Blakey, Grace
Blanford, Connie
Blankenship, Paula
Bliss, Margaret
Blizzard, Patricia
Blount, Rashinda
Blowers, Becky
Boatman, Dorothy
Bobo, Carolyn
Bocchetti , Stephen
Bocchino, Kathleen
Boespflug, Brian
Bogan, Cassandra
Bogolub, Debra
Bogulawski, Walter
Boles, Patti
Bologna, Lucy
Bolton, Laverne
Bonds, Steven
Bonilla, Simon
Bonn, Kristin
Bonner, Meg
Bonnett, Gary
Boos, Victoria
Boothe, Charles
Boraas, Ted
Borbon, Kim
Borg, Peter
Borgo, Thomas
Borop, Stephanie
Borro, Christine
Bouldin , Cindy
Bousnakis, Peter
Bove, Gary
Bowen, Bo
Bowers, Christine
Bowlen, Daniel
Bowling, Barbara
Bowman, Scott
Boyce, Robert
Boyd, Barbara
Boyd, Charles
Boyer, Brenda
Boyle, Catherine
Bracken, Theresa
Bradford, Carla
Bradley, John
Bradley, William
Brady, Dorothy
Brady, John
Brady, Karen
Braegger, Glenda
Branch, James
Branche, Vincent
Brandon, David
Branning, Kurt
Bratcher, Angela
Bratsch, Joan
Braunz, Susan
Braverman, Mitchell
Breese, Pat
Brellenthin, Cheryl
Brennan, Barbara
Brennan, Christine
Brennan, Lynn
Brenneman, Denise
Brescia, Adam
Brewer, Robert
Brewer, Terry
Brewerton, Kathryn
Bricker, Thomas
Brickhouse, Costella
Bridgeman, Fred
Briggs, Sandra
Brigle, Debra
Briscoe, Jeanette
Britton, Margaret
Broadnax, Felecia
Broleben, Flo
Brooks, Jacqueline
Brooks , Michael
Broughton, Rebecca
Brouse, Tiffany
Brousseau, Rae
Brown, Dennis
Brown, Barlo
Brown, Beverly
Brown, Carolyn
Brown, Dean
Brown, Eric
Brown, Jamie
Brown, John
Brown, Marc
Brown, Marilyn
Brown, Moe
Brown, Monique
Brown, Nat
Brown, Pamela
Brown, Patricia
Brown, Stephanie
Brown, Tracy
Brown , Anne
Brown , Dametria
Browne, Stephanie
Broyles, Anne
Bruckner, Alan
Brumley, Gladys
Bruner , Iva
Brunson, Cynthia
Brusseau, Paul
Bryant, Al
Bryant, Debra
Bryant, Vickie
Bryant -Kennybrew, Laureen
Bryson, Debra
Buchwald, Carol
Buchwald, Robert
Buck, Susan
Buckingham, Tina
Buckley, Lynn
Budd, Joseph
Budde, Robert
Budny, Richard
Buffamonti, Monika
Buller , William
Burg, Jeffrey
Burge, Mark
Burger, Michelle
Burgess, Sharon
Burgman, Alysia
Burk, Chuck
Burnett, Michael
Burnstedt, Gary
Burrell, Ken
Burton, Patricia

Burwell, Mary
Busby, Kathleen
Bush, Scarlett
Butcher, Jennifer
Butera, Mark
Butera, Virginia
Butler, Carl
Byers, Vicki
Byington, Elaine
Byrd, Gloria
Byrd, Helen
Byrd, Karen
Caggiano, John
Cahill, Colleen
Cain, Joshua
Calamas, William
Caldwell, B J
Calhoun, Tyrone
Calin, Domenic
Calk, Rosemarie
Callaway, Cheryl
Callender, Carnetta
Camejo, Donna
Camp, Karen
Campbell, Denise
Campbell, Kory
Campbell, Lelia
Campisano, Patricia
Canada, Wanda
Canales, Rosita
Cannon, Denise
Cannon, James
Cano, Stephanie
Cantrell, Susan
Capon, Lela
Caporaletti, Donna
Capps, David
Caraway, Caren
Cardell, Edie
Cardenas, Jane
Carey, Bob
Carley, Michael
Carlin, Greg
Carlson, Deborah
Carlson, Joseph
Carlson, Peggy
Carmen, Jason
Carmichael, Lori
Caron, Susan
Carpenter, John
Carr, Elizabeth
Carr, Susan
Carrie, Jo Anna
Carrillo, Felix
Carroll, Frances
Carroll, Rex
Carson, Thomas
Carter, Angie
Carter, Merlinda
Carter, Patricia
Carter, Veronica
Carter, Yolanda
Carter , Glenn
Carter-Lewis, Berlinda
Carter-Louis, Gwenda
Cartin, Edward
Caruso, Mary Lou
Carver, Layne
Cary, Rozette
Casano-Blaustein, Anita
Casey, Leola
Cash, Darlene
Castracane, Deborah
Caudell, Charlene
Caudill, Velma
Cavanaugh, Kimberly
Cavazos, Rosendo
Cave, Dorothy
Centeri, Doreen
Cerchero, Marie
Cervelli, Lisa
Cessman, Carol
Chacon, Lori
Chadwell, Gary
Chaffin, John
Chagami, Cathy
Chan, Francis
Chan, Lisa
Chandler , Keith
Chapman, David
Chatham, Diana
Chavez, Christy
Chavez, Lito
Cheatham, Teresa
Chen, Pauline
Chenoweth, Frances
Chetuck, Joanne
Chezum, Rick
Childers, Gregg
Christian, Timothy
Christian , Richard
Christon, Diane
Ciaccia, Sharon
Ciaffi, James
Clair, Timothy
Clappsy, Ruthanne
Clark, Dawna
Clark, Marilyn
Clark, Pertina
Clark, Robin
Clary, Luther
Clay, Jerry
Claybern, Barb
Claybrook, Gwannette
Clotman, Leon
Clower, Deborah
Cobb, Gayle
Codding, Julienne
Coe, Sara
Cohen, Ciril
Cohen, Lidia
Cole, Amanda
Cole, Geraldine
Cole, Maureen
Coleman, Angela
Coleman, DeWayne
Coleman, Mary
Collie, Mary
Collins, Jane
Collins, Raynetta
Collins, Suzanne
Collins , Jacqueline
Colon, David
Colson, Jeffrey
Colvell, Brad
Conerly, David
Conner, John
Connor, Kathleen
Consoli, John
Constantino, Grace
Cook, Richard
Cook, Vicky
Cooke, Paul
Coons, Beth
Coons, Charles
Cooper, Garine
Cooper, Glenwood
Cooper, Kenneth
Cooper, Margaret
Cooper, Tonia
Copenhagen, John
Coppola, Sal
Cordero, Cheryl
Cornish, Maria
Coronado, Caterino
Cortes, Ada
Cortez, Debbie
Cortez, Izabella
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Paredes, Michelle
Parish, John
Parker, Anne
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Parker, Theba
Parks, Douglas
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Parr, Andrew
Partner, Melaney
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Patrick, Brent
Patterson, Gayle
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Pattison, Ed
Paulhill, Terri
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Pawlowski, Gregg
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Peneau, Joyce
Pennington, Cindy
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Pittman, Michael
Pittner, Mary Kay
Pledger, Carolyn
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Pleskin, Kathryn
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Plott, Judith
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Pollard, Debby
Pollock, Carl
Pope, Abigail
Pope , Jacqueline
Poppe, Wayne
Porcelan, Rhoda
Porter, Larry
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Post, Vincent
Pottorf, Marianne
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Powell, Eric
Prasch, Dave
Prather, Nancy
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Prince, Walter
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Pritchard, Donald
Prophet, Clinnette
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Prutsman, Gary
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Pryde, Robert
Pugh, Elizabeth
Puhl, Mary
Pulick, Debbie
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Pullman, Tony
Purpura, Heather
Puskas, Bradley
Quinn, Thomas
Quintana, Rocky
Quintiliani, John
Quisenberry, Tanya
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Ramsey, Evalina
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Randall, Carol
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Rea, Oscar
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Reed, Angelia
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Reinhart, Deandra
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Reiter, John
Reitmeyer, Andrew
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Renard, Ed
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Rew, Allen
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Roman-Torres, Maria
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Romero, Shelby
Romine, Judith
Ronquillo, David
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Rosario, Dana
Rose, Veronica
Rosenberg, Georgiana
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Ross, Nancy
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Rossmiller, John
Rothweiler, Christopher
Rowe, Steven
Royal, Shereta
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Sample, Orlanda
Samuels, Sheila
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Super, Ron
Supola, Clarke
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Swann , Sherrill
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Traore, Sharon
Travers, Terry
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Twitchell, Deven
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Tyson, Melba
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Ulmer, Douglas
Underland, Ann
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Urrutia, Mary Ann
Valdespino, Alfredo
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Valerio, Maria
Valicenti, William
Van Deventer, Bruce
Van Dyke, Margaret
Van Howe, Deborah
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Van Rossum, Donna
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Venero, Victoria
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Vickers, Christopher
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Villalpando, Briseyda
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Viruet, Aileen
Vito, Karen
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Walker, Brendan
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Walton, George
Wamser, Sharon
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Wehmeyer, Laura
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Wexler, Rhonda
Whalen, Edward
Wheeler, Marcelle
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Whitehall, Michael
Whitehead, Maryclare
White-Rainer, Ulanda
Whitfield, Beverly
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Whitmore, Debbie
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Wilson, Bruce
Wilson, Joe
Wilson, Verne
Windom-Davis, Cheryl
Winkle, Thomas
Winter, Susan
Witherspoon, Gloria
Witmer, Ann Marie
Witt, Isabell
Wittman, Diane
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Woodfield, Sue
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Woodward, Delia
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Wright, Sara
Wright , David
Wu, Chi
Wuebbels, Melissa
Wuertz, Dorothy
Wulf, Barbara
Wyatt, Kenny
Wynaught, Deborah
Wynn, LaJeunia
Wynne, Joe
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Yarbrough, Mary
Yates, Christle
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Yau, Daisy
Yee, King
Yee, Shirley
Yeskoo, David
Yocum, Heather
Yost, Bob
Young, Kim
Young, Robin
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Ytuarte, Karen
Yu, John
Zamora, Anne
Zarra, Rosemarie
Zarzycki, Robin
Zelasko , John
Zenon, Alphonse
Zepeda, Keith
Zepeda, Manny
Zielinski, Ronald
Zins, April
Zipkin, Jennifer
Zorn, Michael
Zukle, Dennis
Zulager, Retha
Zwalinski, Kathy
Zwolinski, Betty

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

May 14, 2012

The Honorable Carl Levin
Chairman, Permanent Subcommittee
on Investigations
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am responding to your letter dated April 27, 2012, to Commissioner Shulman on proposed regulations REG-120282-10, Dividend Equivalents from Sources within the United States. Thank you for your support of the proposed regulations. We appreciate your continued interested in this area.

I have included your letter and the attached report from the Permanent Subcommittee's hearing on *Dividend Tax Abuse: How Offshore Entities Dodge Taxes on U.S. Stock Dividends* in our administrative record. Also, we duly noted your letter at the public hearing held on April 27, 2012.

If you want to schedule a meeting, please contact Catherine Barrè, Acting Director, Office of Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

Green LaToya

2013-31707

From: Merkel D. Peter
Sent: Monday, May 14, 2012 12:48 PM
To: Green LaToya
Cc: Erwin Mark E
Subject: CONEX-118353-12

Attachments: _0514110925_001.pdf

La Toya:

Attached please find the letter to Senator Levin from Bill Wilkins, which will be mailed today.

Peter Merkel
CC:INTL:B5
202-622-3812

_0514110925_001.
pdf (236 KB)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

June 19, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
United States Senate
Washington, DC 20510

Dear Chairman Levin:

I am responding to your letter, dated April 26, 2012, asking us to provide certain aggregate information regarding U.S. multinational companies that have transferred substantial intellectual property to related foreign affiliates. You asked for this information so that the Subcommittee can better understand the relationship between the projected value of intellectual property at the time of such a transfer and the profits ultimately realized by foreign affiliates to which such property is transferred.

Unfortunately, the type of data you specifically requested is something we do not currently have on hand. However, we have collected information pertaining to selected cost sharing arrangements entered into by U.S. multinational companies between 2001 and 2009. We can make this information available to you, but we must point out that we do not believe this information is of sufficient quality to inform the Subcommittee's work on this issue, as the information was originally assembled in 2010 by analysts in the IRS division that handles these matters without significant oversight or any quality review. The information is based on aggregate data within the limits of section 6103 of the Internal Revenue Code (IRC).

With this in mind, we would be happy to meet with your staff to go over the information we have and to explore the feasibility of initiating a more formal analysis conducted according to appropriate research methodologies and quality review. I hope this is helpful.

I am sending a similar response to Ranking Member Coburn. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Office of Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

June 19, 2012

The Honorable Tom Coburn, MD
Ranking Minority Member
Permanent Subcommittee on Investigations
United States Senate
Washington, DC 20510

Dear Senator Coburn:

I am responding to your letter, dated April 26, 2012, asking us to provide certain aggregate information regarding U.S. multinational companies that have transferred substantial intellectual property to related foreign affiliates. You asked for this information so that the Subcommittee can better understand the relationship between the projected value of intellectual property at the time of such a transfer and the profits ultimately realized by foreign affiliates to which such property is transferred.

Unfortunately, the type of data you specifically requested is something we do not currently have on hand. However, we have collected information pertaining to selected cost sharing arrangements entered into by U.S. multinational companies between 2001 and 2009. We can make this information available to you, but we must point out that we do not believe this information is of sufficient quality to inform the Subcommittee's work on this issue, as the information was originally assembled in 2010 by analysts in the IRS division that handles these matters without significant oversight or any quality review. The information is based on aggregate data within the limits of section 6103 of the Internal Revenue Code (IRC).

With this in mind, we would be happy to meet with your staff to go over the information we have and to explore the feasibility of initiating a more formal analysis conducted according to appropriate research methodologies and quality review. I hope this is helpful.

I am sending a similar response to Chairman Levin. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Office of Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

July 23, 2012

The Honorable Charles W. Boustany
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

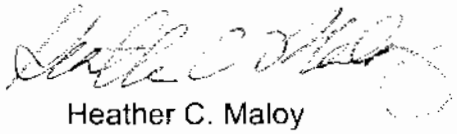
Thank you for your letter dated June 6, 2012, regarding tax compliance among the foreign entities chartering vessels for operations and services in the Gulf of Mexico. Earlier this spring, you wrote on our efforts to ensure that U.S. and foreign entities engaged in U.S. income-producing activities on the U.S. Outer Continental Shelf comply with their U.S. tax obligations. At your request, IRS staff met on April 23, 2012, with members of your staff to provide an overview of the IRS's efforts in this area.

Your letter referenced a letter dated May 2, 2012, from the Offshore Marine Service Association (OMSA) applauding the significant progress the IRS has achieved in collecting taxes on U.S. source income generated from activities on the Outer Continental Shelf. The OMSA also requested that we issue a third Industry Director Directive (LB&I Directive). The LB&I Directive would focus on withholding obligations under sections 1441 and 1442 of the Internal Revenue Code (the Code); the tax obligations on U.S. source income under sections 861, 881, and 882 of the Code; and the absence of a treaty exempting compliance with these obligations.

The purpose of an LB&I Directive is to provide guidelines and instructions to examiners on procedures and administrative aspects of compliance activities to ensure consistent treatment of taxpayers. The LB&I Directives are not official pronouncements of the law or the IRS's position. We will review the OMSA's request to determine if an LB&I Directive is a suitable tool to address its concern.

Thank you for your continued interest in this issue. If you have any questions, please contact me or have your staff contact Cathy Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Heather C. Maloy
Commissioner,
Large Business & International Division

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

July 13, 2012

The Honorable David Camp
Chairman, Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 27, 2012, regarding the IRS's efforts to implement the tax law provisions of the Affordable Care Act. I appreciate the opportunity to respond to your questions and clear up what appear to be misunderstandings on these matters.

The GAO report from which you quote in your letter to me raises a number of technical issues with the allocation of IRS labor and contract expenses against funding sources. Your letter suggests that this report "uncovered $3.2 million in expenses that were not properly charged to the health care law." In fact, the GAO report states that, "[GAO] identified over $3.2 million in expenses coded to PPACA internal order numbers but not charged to the PPACA appropriation."[1] In other words, the IRS properly coded these expenses as being related to the Affordable Care Act implementation.

Because the IRS had responsibilities to implement both short and long-term tax law changes immediately after enactment of the ACA, some implementation expenses were incurred very soon after the enactment of the law. The IRS very quickly developed time and expense tracking to ensure that data was captured appropriately. In the initial months after ACA enactment, those expenses were funded by existing IRS appropriations accounts as procedures were developed governing the HHS implementation fund. Over the course of 2010, the IRS developed standard operating procedures for re-allocating those expenses to the HHS-administered implementation fund. As part of GAO's financial statement audit, $5.2 million in FY 2010 expenses were identified that were properly coded as ACA expenses, but initially allocated to the IRS Operations Support account, and had not been moved to the HHS-administered fund under IRS procedures.

The GAO noted in their report that the IRS took actions to address their recommendations in October 2011, and further stated that, "IRS's actions, if successfully carried out, should address the intent of our recommendations." Since the beginning of FY 2011, all expenses coded to ACA internal codes have been funded by the HHS-administered implementation fund. Note that in Fiscal Year 2012 there may be very small amounts of

[1] http://www.gao.gov/assets/600/591834.pdf

ACA expenses that are not funded through the HHS-administered fund for a variety of technical accounting reasons (for example, in FY 2011 this amounted to $2,000). However, regardless of the source of funding, the IRS is properly identifying and accounting for all ACA expenses and activities.

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Finally, I would respectfully submit that the IRS has been, and continues to be, transparent with respect to the costs of ACA implementation. Our annual budget submissions to Congress have detailed these expenses down to the level of specific labor categories and initiatives. I have also written specifically to the Committee on Ways & Means to respond to similar requests on May 11, 2011, and May 24, 2012, and provided detailed expenditure plans. This, of course, is in addition to answering questions about our expenses to implement these provisions in numerous congressional hearings.

I appreciate and respect the Committee's role in conducting oversight. I am also writing to your colleagues. If you have any additional questions, please contact me or a member of your staff can contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

[2] http://www.treasury.gov/tigta/auditreports/2012reports/201243064_oa_highlights.pdf

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

July 13, 2012

The Honorable Wally Herger
Chairman, Subcommittee on Health
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 27, 2012, regarding the IRS's efforts to implement the tax law provisions of the Affordable Care Act. I appreciate the opportunity to respond to your questions and clear up what appear to be misunderstandings on these matters.

The GAO report from which you quote in your letter to me raises a number of technical issues with the allocation of IRS labor and contract expenses against funding sources. Your letter suggests that this report "uncovered $3.2 million in expenses that were not properly charged to the health care law." In fact, the GAO report states that, "[GAO] identified over $3.2 million in expenses coded to PPACA internal order numbers but not charged to the PPACA appropriation."[1] In other words, the IRS properly coded these expenses as being related to the Affordable Care Act implementation.

Because the IRS had responsibilities to implement both short and long-term tax law changes immediately after enactment of the ACA, some implementation expenses were incurred very soon after the enactment of the law. The IRS very quickly developed time and expense tracking to ensure that data was captured appropriately. In the initial months after ACA enactment, those expenses were funded by existing IRS appropriations accounts as procedures were developed governing the HHS implementation fund. Over the course of 2010, the IRS developed standard operating procedures for re-allocating those expenses to the HHS-administered implementation fund. As part of GAO's financial statement audit, $5.2 million in FY 2010 expenses were identified that were properly coded as ACA expenses, but initially allocated to the IRS Operations Support account, and had not been moved to the HHS-administered fund under IRS procedures.

The GAO noted in their report that the IRS took actions to address their recommendations in October 2011, and further stated that, "IRS's actions, if successfully carried out, should address the intent of our recommendations." Since the beginning of FY 2011, all expenses coded to ACA internal codes have been funded by the HHS-administered

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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

July 13, 2012

The Honorable Patrick Tiberi
Chairman, Subcommittee on Select Revenue Measures
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 27, 2012, regarding the IRS's efforts to implement the tax law provisions of the Affordable Care Act. I appreciate the opportunity to respond to your questions and clear up what appear to be misunderstandings on these matters.

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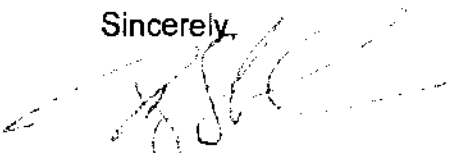

Douglas H. Shulman

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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

July 13, 2012

The Honorable Charles Boustany
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of June 27, 2012, regarding the IRS's efforts to implement the tax law provisions of the Affordable Care Act. I appreciate the opportunity to respond to your questions and clear up what appear to be misunderstandings on these matters.

The GAO report from which you quote in your letter to me raises a number of technical issues with the allocation of IRS labor and contract expenses against funding sources. Your letter suggests that this report "uncovered $3.2 million in expenses that were not properly charged to the health care law." In fact, the GAO report states that, "[GAO] identified over $3.2 million in expenses coded to PPACA internal order numbers but not charged to the PPACA appropriation."[1] In other words, the IRS properly coded these expenses as being related to the Affordable Care Act implementation.

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I appreciate and respect the Committee's role in conducting oversight. I am also writing to your colleagues. If you have any additional questions, please contact me or a member of your staff can contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Douglas H. Shulman

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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

August 3, 2012

The Honorable Rick Larsen
Ranking Member
Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Larsen:

Thank you for your letter to Commissioner Shulman dated June 26, 2012, regarding the tax effects of certain proposed changes to the Capital Construction Fund (CCF) program that the Maritime Administration administers (Title 46 of the United States Code chapter 535).

The CCF program assists owners of U.S.-flag vessels in accumulating capital to construct, reconstruct, or acquire vessels. You said that competent individuals suggested that the Maritime Administration could enhance the CCF program's effectiveness if it were to authorize using CCF funds to lease a vessel when the lease is the functional equivalent of a purchase. You also asked about the federal income tax consequences, including the effect on federal tax revenues that would result from this policy change.

On July 10, 2012, we discussed this matter with Mr. Dave Jansen, Democratic Staff Director, Subcommittee on Coast Guard and Maritime Transportation. As we understand it, your primary concerns are whether:

- A taxpayer can make qualified withdrawals from a capital construction fund for long-term lease payments
- A long-term lease is treated as a sale for federal income tax purposes.

Section 7518(e)(1) of the Internal Revenue Code (the Code) provides that a qualified withdrawal from a capital construction fund is one made under the terms of the agreement with the Maritime Administrator of the Department of Transportation, but only if it is for:

- The acquisition, construction, or reconstruction of a qualified vessel
- The acquisition, construction, or reconstruction of barges and containers that are part of the complement of a qualified vessel
- The payment of the principal on indebtedness incurred with the acquisition,

construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

Section 7518 does not address whether a long-term lease is treated as an "acquisition" in determining whether an amount withdrawn from a capital construction fund is a qualified withdrawal.

Our understanding is that the Department of Transportation's regulations provide that withdrawals from a capital construction fund used to make operating lease payments cannot be qualified withdrawals because taxpayers must only use qualified withdrawals for costs that are capitalized for federal income tax purposes. See Title 46 of the Code of Federal Regulations sections 390.9(b)(1) and (c)(1). Generally, for a taxpayer to have capitalized costs in a leased vessel for federal income tax purposes, the lease must be treated as a sale.

Whether a lease is treated as a sale for federal income tax purposes is a highly factual inquiry, and a transaction can possibly be a lease for state law purposes and a sale for tax purposes, or vice-versa. The test for determining whether a transaction is a sale or lease is whether the benefits and burdens of ownership pass to the lessee. Numerous factors determine if the benefits and burdens of ownership pass to the lessee, including whether the lessee:

- Has acquired an equity interest in the property
- Bears the risk of economic loss or physical damage to the property
- Receives the profit from the operation, retention, and sale of the property
- Has an option to purchase the property for a nominal price. See *Grodt & McKay Realty, Inc. v. Commissioner*, 77 T.C. 1221, 1237-38 (1981); Revenue Ruling 55-540, 1955-2 C.B. 39.

The transfer or retention of title to the underlying property is not determinative.

Because of the factual nature of the inquiry, the issue of whether a long-term lease is treated as a sale for federal income tax purposes has resulted in substantial controversy between taxpayers and the Internal Revenue Service. For the same reason, the Internal Revenue Service has a policy of not providing private letter rulings to taxpayers who ask whether a particular lease constitutes a sale for tax purposes. See Revenue Procedure 2012-3, 2012-1 C.B. 113. Accordingly, we think a policy that permits the use of CCF funds for "*leases that are treated as sales for federal tax purposes*" or for "*leases that are the functional equivalent of a purchase*" has the potential to create significant uncertainty and controversy for taxpayers. Ideally, any legislative change to the CCF program to extend it to leases would include a clear statement of whether a withdrawal from a CCF to make a payment on a lease is a qualified withdrawal for purposes of section 7518 of the Code.

Finally, as we explained to Mr. Jansen, the Internal Revenue Service does not calculate the revenue effects of proposed legislation. Therefore, we are unable to respond to your question about the effect on federal tax revenues of extending the use of CCF funds to leases.

I hope this information is helpful. If you have further questions, please call me at (202) 622-4800 or Frank Dunham at (202) 622-4960.

Sincerely,

Andrew J. Keyso
Associate Chief Counsel
(Income Tax & Accounting)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

September 13, 2012

The Honorable Charles W. Boustany, Jr., MD
Chairman, Subcommittee on Oversight,
Ways and Means Committee
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of July 16, 2012, related to the expenses incurred and procedures in place for governing decisions relating to the Information Technology and Modernization budget.

Enclosed are detailed answers to each of your questions and supporting documentation that provides additional information. In addition to the responses and materials provided herein, please be aware the IRS's Information Technology team hosts quarterly meetings with oversight bodies, including Appropriations, Ways and Means and Senate Finance Committee staffers, to walk through the funding provided in the Omnibus Appropriations law (PL 112-74) and to respond to the directives within the accompanying Statement of Managers. That directive requires the IRS:

> To submit quarterly reports to the Committees on Appropriations and the Government Accountability Office (GAO), with the first such report due no later than two weeks after March 31, 2012. The conferees expect the reports to include a detailed, plain English explanation of the cost and schedule for the previous three months and a description of the expected cost and schedule for the upcoming three months for the following major information technology project activities: IRS.gov; Returns Remittance Processing; EDAS/IPM; Information Returns and Document Matching; E-services; and other projects associated with significant changes in law. The Conferees further direct GAO to review and provide an annual report to the Committees on the cost and schedule of activities of all major IRS information technology projects for the year, with particular focus on the projects about which the IRS is providing quarterly reports to the Committees.

> The conferees direct the IRS to submit quarterly reports to the Committees on Appropriations and the Government Accountability Office (GAO), with the first such report due no later than two weeks after March 31, 2012. The conferees expect the reports to include a detailed, plain English explanation of the cost and schedule of CADE2 and MeF activities for the previous three months and a description of the expected cost and schedule for the upcoming three months. The conferees further direct GAO to review and provide an annual report to the Committees on the cost and schedule of CADE2 and MeF activities for the year.

I am sending a similar response to your colleague, Ranking Member John Lewis. If I can be of further assistance, please contact me, or a member of your staff may contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

Enclosures (8)

Background

Before answering each of the specific questions, it may be helpful to have an overview of the IRS's overall approach to information technology (IT) portfolio management. As with any large organization, the IRS must constantly balance among investing in new systems, maintaining existing systems, and operating a large technology infrastructure. The IRS pays much attention to the technology that underpins the individual income tax filing season because of its importance to making taxpayers' interaction with the IRS as seamless as possible.

The technology portfolio maintained by the IRS extends to every aspect of the tax system the IRS is asked to administer. For example, the IRS devotes substantial IT and engineering resources to running one of the largest and most sophisticated phone centers in the world. The IRS also maintains systems to support our compliance interactions with taxpayers – issuing notices, tracking responses, making account adjustments, and updating financial accounting systems related to hundreds of millions of taxpayer accounts. These types of activities are distributed across all taxpayer segments – individuals, corporations, partnerships and tax-exempt organizations. Because of the complexity of this environment, the IRS maintains hundreds of systems to support taxpayer interactions as well as internal workflows.

Within this context, it is clear the IRS has intense demands for IT resources. To meet these demands, the IRS has been very focused on driving efficiencies to create capacity in the IT organization to meet service demands. Year in and year out, the IRS has kept up with critical needs in its IT environment through disciplined cost containment and process improvement. Since FY 2010, we have identified over $150 million in savings in areas such as IT infrastructure and contractual support.

In a few areas, the IRS's investment needs are substantial enough that a different funding model is needed – this is the Business Systems Modernization (BSM) appropriations account. The initiatives funded through BSM are of a significant enough scale that dedicated, multi-year capital funding must be available to support successful delivery. Without this kind of sustained financial commitment, there is substantial risk of stop/start funding which can threaten successful delivery of major IT initiatives.

Efficiencies and Process Improvement

As noted above, the IRS has a number of initiatives underway to improve the efficiency and effectiveness of IT resources. For example, in our applications development organization we committed to applying leading industry practices to ensure we are efficient in our development efforts. The Capability Maturity Model Integration (CMMI), developed by the Software Engineering Institute at Carnegie Mellon University, is a respected process improvement approach with graduated levels of maturity used by many leading technology-intensive organizations to continuously improve development and delivery performance of application systems. In 2010, independent appraisers verified the IRS reached CMMI Level 2 (out of 5 levels), and we are now working

toward reaching CMMI Level 3. Achieving a higher level in CMMI indicates more efficient and effective use of resources, which in turn increases organizational capacity to do more with available resources. The IRS is applying a similar set of disciplines to its operational and infrastructure organizations through a process improvement program called the Information Technology Infrastructure Library (ITIL). ITIL uses a metrics-driven approach to address operations performance. The IRS is also on track to achieve a Level 3 certification for ITIL, with similar efficiency gains in that environment. Expected results from this approach include a more stable IT operational environment, with less errors, less need for re-work, more proactive problem identification and resolution, and ultimately less outages and increased availability of IT systems – enhancing production of business units and level of service the IRS can offer to taxpayers.

Finally, we have established disciplines around integrated release planning which allow us to make sure that with so many initiatives under way at once, we are able to spot potential conflicts between projects that compete for priorities, budgets, release schedules, people resources, and skills.

Technology Workforce

The IRS depends on a workforce of over 6,000 highly skilled IT professionals to conduct its mission. Through a number of strategic initiatives, the IRS ensures its IT workforce is well positioned to address today's challenges, as well as those of the future.

For example, to gain maximum leverage from both new hires and our existing IT workforce, we have made an enterprise-wide decision to focus on the IT industry standard Java as the software language of choice for new application development. This decision has enabled us to develop focused initiatives to update the skill sets of the existing applications development workforce, as well as ensure that the IRS can deploy new hires against a wide variety of projects.

Governance

Recently the IRS made a strategic decision to manage its own major technology projects. Vendors and other delivery partners play a critical role in technology development, but are generally performing specific tasks and deliverables at the direction of an IRS program/project management office.

It is critical to the success of all of these initiatives that the IRS has effective IT governance structures in place. The IRS has formal, documented governance procedures that have served us well for many years. At the top levels of governance, the most senior IRS executives in charge of business operating units, as well as IT, work together to establish organizational priorities. At this level, executives also look to strike the right balance between new technology development, maintaining existing systems, and maintaining infrastructure.

From there, more specific governance bodies, organized around specific business functions, look holistically across the IT portfolio to ensure investments support the overall direction of the organization. The IRS governance structures have had the benefit of many years of feedback from both GAO and TIGTA, and continue to evolve to support the organizational needs.

Specific answers to your questions are addressed below.

1. Describe the IRS's IT systems budget process.

a. What channels of approval are required for the various elements of the IRS's IT infrastructure spending?

b. Please provide a flow chart and timeline that traces the budget process identifying offices, titles and locations of the associated decision makers.

Every year, the IRS conducts a thorough analytical process to develop its IT budget request. That process prioritizes new IT demands, assessing progress against long-term efficiency initiatives, ultimately determining how much new demand the IRS can absorb through ongoing efficiencies, versus through requests for new budget resources. The IRS runs each element of the IT budget through a series of governance processes based on the size and scope of the effort. The goal of these governance processes is to align overall organizational strategy and priorities with IT investments and is consistent with the GAO IT Investment Management Framework (GAO-04-394G) that supports governance process maturity as key in aligning strategy with investments in federal agencies. Since GAO issued the guidance in 2004, the IRS has used the model to guide the various enhancements to its IT systems. The process also provides a forum for managing operational and infrastructure risks which can also create IT demands.

Ultimately, executives from the operating units, IT, and the Chief Financial Officer organization work with Treasury Department leadership and OMB to balance all of these competing demands to come up with an annual budget request to Congress.

See the overview of the IRS IT budget cycle attached as Exhibit 1.

2. How are IT resources spread across development, maintenance and operations functions? Given that these functions are managed differently, please describe the metrics used to judge their respective performance. Please provide a representative sample of management reports reporting on these functions.

Although the question is framed around resources, it should he clarified that management and measurement of IT performance is only in part a function of budgets. For example, in our operations functions, our adoption of the Information Technology Infrastructure Library (ITIL) framework includes a focused discipline that promotes process

improvement. Ultimately this shows up in our budget as an efficiency saving, but it starts with management focus on improving our processes and performance.

Generally speaking, IRS's measures of operational success tend to focus on performance, such as reliability, serviceability, and maintainability of the IRS IT infrastructure. We strive to meet internal and external service level commitments, and where we are not meeting our commitments we have a remediation plan in place.

The IRS generally manages application development projects based on performance in meeting planned cost, schedule and scope. These performance measures are tracked at a number of levels in the organization, and reported for larger-scale projects in the quarterly IT investment report. Attached as Exhibit 2 are the last two Quarterly IT Investment Reports.

3. How does the IRS determine which IT systems to pursue every year?

The IRS investment management process begins with direction from the IRS leadership on major, multi-year capital IT projects as part of the formulation of the overall IRS budget request. Typically the focus is on the portfolio of projects included in the BSM program, although the IRS also considers other core projects, including critical systems changes resulting from changes in the tax laws that affect the upcoming filing season.

From there, the IRS conducts a two-phase process to work through other investment requests initiated from within the operating units of the IRS.

The first phase takes a longer list of operating divisions' requests for investment and culls that list for consideration to those that are more fully developed. The IRS only selects investment requests that best support the IRS strategic priorities to proceed in the consideration process.

The second phase is the process by which the IRS considers proposals approved during the first phase for funding. The business owner further develops the business case, including additional information such as technical alternatives, risk analysis, performance measures, and return on investment, both from a business and technology perspective. The business owner also develops a solution concept and cost estimate document that further refines and strengthens the investment proposal. The IRS then uses the investment summary to determine which investments to consider for inclusion in the IRS's portfolio. An executive review team selects investments based on their strategic value assessment, benefits, economic/risk assessments, standards, recent performance measures in delivering within planned costs and schedule, and major project milestones and deliverables. The executive review team then works with IRS leadership to reach consensus on the proposals to include in the IRS's proposed portfolio.

4. Does the IRS reexamine its IT base budget on a yearly basis?

a. If so, please provide the budgetary justification, broken down by system for the last ten years. Include a narrative description of the project, the functionality that

was planned, the functionality delivered, the projected and actual delivery dates, and total spending.

b. Please provide the information noted in subsection (a) with respect to ongoing systems for the last ten years, including a narrative description of each system and its purpose, along with the budget justifications for the continued investment in each system. Include forecasted and actual maintenance cost for such systems, broken down by year, system, and function.

Yes, the IRS annually reexamines its base IT budget. The format for that review varies depending on the type of activity. For example, in the area of computer networks, which are a basic building block of IT infrastructure, the IRS has been focused on migrating to a single secure, converged network which is more efficient and takes advantage of newer technologies.

In the area of large-scale applications development projects, the IRS updates its plans and needs at least annually. For these types of projects the IRS prepares an Exhibit 300, which is updated annually.

Exhibit 300A is used for detailed justifications of major IT investments; whereas, the Exhibit 300B is used for the management of the execution of those investments through their project life cycle and into their useful life in production. By integrating the disciplines of architecture, investment management, and project implementation, these programs provide the foundation for sound IT management practices, end-to-end governance of IT capital assets, and the alignment of IT investments with an agency's strategic goals.[1]

Due to the volume of data, attached as Exhibit 3 of this letter are the E300s for budget year 2012 only. These exhibits are the result of internal, IRS prioritization and decision-making processes based on a wide variety of inputs, including: strategic direction, legislative mandates, performance measures, and cost/schedule considerations, to name a few. The attached E300s reflect the timely growth of advanced and highly productive automated technologies associated with legacy filing season capabilities. Each E300 addresses project descriptions coupled with projected deliverables. The IRS provides monthly updates to Treasury and OMB for each of the E300 major investments and selected non-major investments. Additionally, the IRS conducts post-implementation reviews on newly released systems coupled with annual operational analysis of ongoing systems.

5. Does the IRS analyze how IT infrastructure spending correlates to improved taxpayer services? Please provide a detailed breakdown of the last ten years of IT spending that directly improved taxpayer services.

Improved taxpayer service is a top priority for the IRS, and technology is critical to our continued progress in this area. In 2011, driven in part by the ease and convenience of

[1] OMB Circular A-11, Section 300.1

electronic filing, the IRS achieved its highest score ever in the American Customer Satisfaction Index measure of all individual tax filers.

The IRS also delivers a variety of services to help taxpayers understand their tax obligations, correctly file their returns and pay taxes due in a timely manner. Assisting taxpayers with their questions before they file their returns prevents inadvertent noncompliance and reduces burdensome post-filing notices and other correspondence from the IRS.

IRS.gov

Technology enhancements to IRS.gov will allow more taxpayers to reach the IRS through its website. In 2011, there were more than 319 million visits to IRS.gov. More than 77.9 million taxpayers used "Where's My Refund?" to check their refund status through the IRS website in English or in Spanish. Taxpayers also can use automated features available through our toll-free telephone line.

In FY 2011, people viewed IRS.gov web pages to:

- Get forms and publications: People downloaded more than 229 million tax products, an increase of 7.5 percent from 2010;
- Link to the Electronic Federal Tax Payment System (EFTPS): EFTPS processed more than 129.8 million electronic tax payments totaling over $2 trillion; and
- Get answers: More than 241,962 taxpayers accessed the Interactive Tax Assistant in order to receive answers to tax law questions.

Electronic Filing

In FY 2011, the IRS processed more than 111 million individual tax returns electronically through its legacy and Modernized e-File (MeF) systems, setting a new record. Individual returns electronically filed increased to 76.9 percent, up 7.6 percentage points from 2010. Business filed returns electronically at a rate of 31.8 percent, which is up from 25.5 percent in 2010.

Social Media

The IRS is increasing communications with taxpayers who may not get their information from traditional sources, such as newspapers and broadcast and cable news. By employing social and new media, such as YouTube, Twitter and iTunes, the IRS can reach these taxpayers and provide important service and compliance messages. In January 2011, the IRS also unveiled IRS2Go, its first smart phone application that lets taxpayers check the status of their tax refund and obtain helpful tax information. During the 2011 filing season, IRS2Go averaged 4 out of 5 stars in hundreds of reviews and had more than 360,000 downloads. This new application reflects IRS's commitment to modernizing the agency and engaging taxpayers where and when they want.

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Modernized IT Systems

IRS modernization efforts focus on building and deploying advanced IT systems, processes and tools to improve efficiency and productivity and to enhance service to taxpayers. Taxpayers have benefitted from the 2012 deliveries in CADE 2:

- The IRS successfully deployed CADE 2 daily processing in January 2012, and is in the process of moving to a single authoritative database for all individual taxpayer records, moving the IRS away from its legacy flat-file data storage model in Filing Season (FS) 2012. Benefits of CADE2 include:
    - Millions of taxpayers receiving refunds faster;
    - Generation of notices based on more up-to-date taxpayer account information;
    - Faster processing of taxpayer payments;
    - Faster availability of taxpayer account information to IRS customer service representatives; and
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- Modernized e-File (MeF) now provides the ability to electronically file over 150 individual forms and schedules (Form 1040) and over 600 forms and schedules for large corporations and small businesses (Form 1120 family), tax-exempt organizations (Form 990 family), partnerships (Form 1065 family), and associated extension forms (e.g. Form 7004). Benefits of MeF include:
    - Improved up-front data integrity checks, to better identify errors and allow faster correction of taxpayer data issues;
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    - More secure taxpayer data transmission;
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6. Describe how the IRS reexamines its IT needs on a yearly basis. Does the IRS develop a strategic IT plan that includes a top to bottom reexamination of its

systems infrastructure? For instance, does the IRS evaluate its "processing, assistance, and management" IT budget with an aim to improve and advance these functions? If so, please provide a narrative description of this process, along with the data used and gathered to analyze the last ten years of IT spending and identify key decisions made on the basis of this analysis.

As outlined in the introduction, and in responses to previous questions, the annual reexamination occurs at both the program level – which focuses on alignment with priorities and at the process and technology level – which focuses on whether we can do the same things more efficiently. Using this combined approach allows the IRS to continuously improve its IT delivery capabilities.

Successful management of this type of process requires a more detailed understanding of the underlying drivers of IT expense. For example, re-examining infrastructure tends to focus on identifying new technologies and/or lower cost options to deliver the same services. Re-examining large-scale applications development projects tend to be joint business/technology efforts to ensure release schedules and content continue to meet the internal and external needs of the business owner and the IRS. They further examine whether ongoing development is consistent with the overall enterprise architecture.

7. As with most agencies, the IRS orients its budget planning and execution to the fiscal year. How do you manage and control the scope of multi-year IT projects? Provide a list of major IT projects, including the original estimated cost, the baseline budget, noting changes over time, and final cost.

The Business Systems Modernization (BSM) appropriation funds the acquisition of major information technology systems. Each year's BSM appropriation remains available for obligation for three years.

The IRS breaks down the development of major IT projects into useable segments (or milestones), each of which is funded separately. Each release follows a standardized milestone plan, with each milestone defining specific success and completion criteria. There is a formal process for milestone exit, which ensures a clear understanding of where in the process each project stands. Early milestones tend to focus on business requirements and physical/logical design, while later milestones focus on testing and security reviews.

The attached E300s provide the multi-year costs for each of the major IT projects.

8. Please describe IRS's process to ensure that IT systems support business needs (include a discussion of how business representatives are involved in the decision making process.)

As previously addressed in our responses to questions 3 and 6 above, business needs and strategic priorities, taken in the context of the overall technology enterprise architecture and integrated release planning process, drive the IRS's IT investment process.

To further enable decision makers to review, approve and manage IT investments, the IRS maintains a formal IT governance process that includes investment initiation, oversight of the development of the investment (including risk identification and resolution), and ongoing management of the IT investment portfolio.

The IRS manages the process through a multi-tiered governance framework, attached as Exhibit 4, that includes IT and business representation. Each governance board is assigned a portfolio of related IT investments and is comprised of voting members representing the areas responsible for and impacted by those investments. Each governance board reports to an Executive Steering Committee, which is generally co-chaired by an IT and a business executive.

The tiered governance structure enables the IRS to provide direct oversight for IT projects at all levels of scope and scale, and includes escalation criteria to ensure all parties know and understand the material risks and how to effectively address them.

The IRS augments this tiered enterprise governance structure, in some cases, by program-level governance. Business engagement in program-level governance (in larger programs like CADE 2 for example) includes direct participation and accountability in the specific projects that comprise each of these key programs, as well as in the oversight of individual projects and the overarching programs.

The governance process provides capabilities to identify and manage IT investments through routine review of project cost, schedule and scope; and is integrated with the IRS and Treasury Capital Planning and Investment Control process.

9. It is our understanding that IRS is currently working on completing the initial phase of the CADE 2 database, which will function as the foundation for tax systems modernization.

a. Please describe the work that remains to be completed for the initial phase, the planned budget for the remaining work, and the anticipated timeline for completion.

The functionality delivered as part of the initial phase (Transition State 1 – TS1) of CADE 2 includes the following, grouped by the timing of the delivery:

- Delivered in 2012
    - On January 17, the IRS delivered the capability for the daily cycle for tax processing and posting of individual taxpayer accounts and for feeding downstream systems. This milestone ended more than 50 years of weekly posting of tax returns, payments and other types of transactions. Benefits include faster refunds for millions of taxpayers and enhanced customer service as taxpayer accounts are updated and viewable by IRS customer

service representatives within 48 hours, as opposed to the nine day average in Filing Season 2011.

- The new CADE 2 relational database, delivered on March 22, is loaded with account data for over 270 million taxpayers and over a billion taxpayer filings, and balances to the penny with our legacy Master File. The CADE 2 database centralizes individual taxpayer account information and retains a history of financial information for each taxpayer account in a format, where it can be easily recalled and analyzed to understand patterns and trends Once the database is fully implemented by daily updates and feeds to downstream systems, it will enable faster, more efficient account analysis, and will serve as a single source of authoritative individual taxpayer data. It will also provide more meaningful business intelligence to be used for decision making.
- Daily updates from core tax processing applications to the new CADE 2 Database, functionality delivered on August 29, transforms taxpayer data from antiquated programming language into a format that the new, state-of-the-art CADE 2 Database can understand. It then loads the taxpayer data into the new Database, which is already loaded with prior year tax data for over 270 million taxpayers.

- To be delivered in fall 2012
  - CADE 2 database feeds to downstream systems. For delivery in September, the CADE 2 database will feed one of the core tax processing key downstream systems (Individual Master Files On-Line/Corporate Files On-Line) so IRS customer service representatives will have online viewing of the taxpayer account data stored in the new CADE 2 database. This delivery will prove the feasibility that our customer service and other downstream systems can feed off of a modern relational database, and lays the foundation for other key applications to receive data from the CADE 2 database, which is necessary to support the migration to the CADE 2 target state.
  - Planned for full delivery in September, the Integrated Production Model (IPM) data-stores and the CADE 2 database are now being accessed for analytical reporting, using standard reporting tools. This functionality will allow the IRS to begin replacing some of the outdated data extracts with direct access to the CADE 2 database and IPM for source data which will be used to help identify trends, gaps, issues and areas of non-compliance in administering the tax system.

- To be delivered in 2013
  - The CADE 2 database feed to the key Integrated Data Retrieval Systems (IDRS) tool is planned for May/June 2013. Data feeds from our CADE 2 database to downstream IDRS will allow online updates to taxpayer account data by customer service representatives, more current and timely account balance information and improved opportunities for compliance.

The IRS is delivering the CADE 2 milestone activities and planned deliverables outlined above within enacted budget amounts for TS1 (see 2009 to 2012 below). The IRS does not expect cost overruns at the program level for remaining deliverables planned in 2012. In FY 2013, the IRS will spend an additional $8 million to deliver the planned IDRS deliverable.

($ in thousands)

Fiscal Year	FY 2009	FY 2010	FY 2011	FY 2012 Forecast	Total
Obligations	$25,500	$70,912	$189,879	$155,008	$441,299

b. Provide a historical overview of all CADE 2 spending and provide a narrative of the functionality expected and delivered to date, broken down by year.

The above narrative addresses the TS1 functionality already delivered and remaining to be delivered, and the above chart addresses funding for CADE 2 TS1 work. The IRS is also obligating $15 million in FY 2012 for Transition State 2 (TS2) planning work, to include a defined scope for TS2 and a high-level implementation strategy and timeline.

c. Describe what the IRS expected to deliver in the next phase of CADE 2 and what has been done to date, to this end.

The CADE 2 Program Charter, which the IRS developed in January 2010, defines at a high level the planned scope for the next phase of CADE 2, lays out additional transition states, and outlines the CADE 2 target end state.

TS2 builds upon the foundation established in TS1. Core applications will directly access and update the CADE 2 database implemented in TS1. TS2 will focus on the hardest and more critical financial management applications and address financial material weaknesses. Key scope elements include:

- Replacing portions of current CADE 2 applications with state-of-the-art, modular applications using a modern programming language (e.g. Java) and tools;
- Addressing Federal Financial Management System Requirements compliance for most individual taxpayer accounts;
- Implementing applications for calculating penalty and interest, with documented rules that can be used by all systems;
- Establishing a uniform environment for development, integration, testing and production;
- Implementing changes to downstream systems required to support TS2; and
- Establishing disaster recovery capabilities for CADE 2.

The IRS launched an intensive TS2 planning effort (Milestone 0) in May 2012 to further define the scope and implementation for TS2. The six workstreams established as part of this TS2 intensive planning effort are making significant headway in developing some of the early milestone artifacts (Milestones 0, 1 and 2), which includes a high-level program schedule for TS2 planned for completion in Septemer/October 2012.

10. Please describe IRS's overall IT Modernization Plan. How do you/will you judge the effectiveness of the modernization program? At what point will the IRS's modernization effort conclude? What is the IRS doing to ensure that the systems improved or replaced by the modernization effort are not outdated by the time of completion? Include a breakdown of each element of the plan, projected time frames for completion, and a narrative of the expected functionality at each juncture.

The IRS has a complex mission and is responsible for an enormous number of transactions and revenues, and will always need to invest in its information technology capabilities. Through our combination of strategic planning, business/technology collaboration, and focus on effective people, process, and technology strategies, we believe that the IRS is well-equipped to manage these investments over time.

Through our in-house planning and management disciplines, we aim to have thorough long-term plans to ensure we know what it will take to make large initiatives succeed. At the same time, we regularly re-assess our plans to ensure that we accommodate the effect of new technology or other developments on our initiatives as we proceed with implementation. Like many other best practices, the IRS now embraces a more iterative, cyclic delivery model for many of its projects. This model enables the IRS to prioritize scope elements of a project and deliver them iteratively, with early and continuous deliveries throughout the project lifecycle. Progressively integrating and testing new iterations (or releases) of software as they are delivered allows success to be measured incrementally as well.

The effectiveness of IRS IT investments can also be measured concretely at the program level, as a function of cost, scope, and timeliness of delivery.

Overall, the IRS aims to deploy new technology to increase our capacity to serve taxpayers with new and innovative services, as well as continuously improve our ability to detect and address non-compliance and fraud.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

September 13, 2012

The Honorable John Lewis
Ranking Member, Subcommittee on
Oversight, Ways and Means Committee
United States House of Representatives
Washington, DC 20515

Dear Mr. Lewis:

Thank you for your letter of July 16, 2012, related to the expenses incurred and procedures in place for governing decisions relating to the Information Technology and Modernization budget.

Enclosed are detailed answers to each of your questions and supporting documentation that provides additional information. In addition to the responses and materials provided herein, please be aware the IRS's Information Technology team hosts quarterly meetings with oversight bodies, including Appropriations, Ways and Means and Senate Finance Committee staffers, to walk through the funding provided in the Omnibus Appropriations law (PL 112-74) and to respond to the directives within the accompanying Statement of Managers. That directive requires the IRS:

> To submit quarterly reports to the Committees on Appropriations and the Government Accountability Office (GAO), with the first such report due no later than two weeks after March 31, 2012. The conferees expect the reports to include a detailed, plain English explanation of the cost and schedule for the previous three months and a description of the expected cost and schedule for the upcoming three months for the following major information technology project activities: IRS.gov; Returns Remittance Processing; EDAS/IPM; Information Returns and Document Matching; E-services; and other projects associated with significant changes in law. The Conferees further direct GAO to review and provide an annual report to the Committees on the cost and schedule of activities of all major IRS information technology projects for the year, with particular focus on the projects about which the IRS is providing quarterly reports to the Committees.

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I am sending a similar response to your colleague, Chairman Charles Boustany. If I can be of further assistance, please contact me, or a member of your staff may contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

Enclosures (8)

Background

Before answering each of the specific questions, it may be helpful to have an overview of the IRS's overall approach to information technology (IT) portfolio management. As with any large organization, the IRS must constantly balance among investing in new systems, maintaining existing systems, and operating a large technology infrastructure. The IRS pays much attention to the technology that underpins the individual income tax filing season because of its importance to making taxpayers' interaction with the IRS as seamless as possible.

The technology portfolio maintained by the IRS extends to every aspect of the tax system the IRS is asked to administer. For example, the IRS devotes substantial IT and engineering resources to running one of the largest and most sophisticated phone centers in the world. The IRS also maintains systems to support our compliance interactions with taxpayers – issuing notices, tracking responses, making account adjustments, and updating financial accounting systems related to hundreds of millions of taxpayer accounts. These types of activities are distributed across all taxpayer segments – individuals, corporations, partnerships and tax-exempt organizations. Because of the complexity of this environment, the IRS maintains hundreds of systems to support taxpayer interactions as well as internal workflows.

Within this context, it is clear the IRS has intense demands for IT resources. To meet these demands, the IRS has been very focused on driving efficiencies to create capacity in the IT organization to meet service demands. Year in and year out, the IRS has kept up with critical needs in its IT environment through disciplined cost containment and process improvement. Since FY 2010, we have identified over $150 million in savings in areas such as IT infrastructure and contractual support.

In a few areas, the IRS's investment needs are substantial enough that a different funding model is needed – this is the Business Systems Modernization (BSM) appropriations account. The initiatives funded through BSM are of a significant enough scale that dedicated, multi-year capital funding must be available to support successful delivery. Without this kind of sustained financial commitment, there is substantial risk of stop/start funding which can threaten successful delivery of major IT initiatives.

Efficiencies and Process Improvement

As noted above, the IRS has a number of initiatives underway to improve the efficiency and effectiveness of IT resources. For example, in our applications development organization we committed to applying leading industry practices to ensure we are efficient in our development efforts. The Capability Maturity Model Integration (CMMI), developed by the Software Engineering Institute at Carnegie Mellon University, is a respected process improvement approach with graduated levels of maturity used by many leading technology-intensive organizations to continuously improve development and delivery performance of application systems. In 2010, independent appraisers verified the IRS reached CMMI Level 2 (out of 5 levels), and we are now working

toward reaching CMMI Level 3. Achieving a higher level in CMMI indicates more efficient and effective use of resources, which in turn increases organizational capacity to do more with available resources. The IRS is applying a similar set of disciplines to its operational and infrastructure organizations through a process improvement program called the Information Technology Infrastructure Library (ITIL). ITIL uses a metrics-driven approach to address operations performance. The IRS is also on track to achieve a Level 3 certification for ITIL, with similar efficiency gains in that environment. Expected results from this approach include a more stable IT operational environment, with less errors, less need for re-work, more proactive problem identification and resolution, and ultimately less outages and increased availability of IT systems – enhancing production of business units and level of service the IRS can offer to taxpayers.

Finally, we have established disciplines around integrated release planning which allow us to make sure that with so many initiatives under way at once, we are able to spot potential conflicts between projects that compete for priorities, budgets, release schedules, people resources, and skills.

Technology Workforce

The IRS depends on a workforce of over 6,000 highly skilled IT professionals to conduct its mission. Through a number of strategic initiatives, the IRS ensures its IT workforce is well positioned to address today's challenges, as well as those of the future.

For example, to gain maximum leverage from both new hires and our existing IT workforce, we have made an enterprise-wide decision to focus on the IT industry standard Java as the software language of choice for new application development. This decision has enabled us to develop focused initiatives to update the skill sets of the existing applications development workforce, as well as ensure that the IRS can deploy new hires against a wide variety of projects.

Governance

Recently the IRS made a strategic decision to manage its own major technology projects. Vendors and other delivery partners play a critical role in technology development, but are generally performing specific tasks and deliverables at the direction of an IRS program/project management office.

It is critical to the success of all of these initiatives that the IRS has effective IT governance structures in place. The IRS has formal, documented governance procedures that have served us well for many years. At the top levels of governance, the most senior IRS executives in charge of business operating units, as well as IT, work together to establish organizational priorities. At this level, executives also look to strike the right balance between new technology development, maintaining existing systems, and maintaining infrastructure.

From there, more specific governance bodies, organized around specific business functions, look holistically across the IT portfolio to ensure investments support the overall direction of the organization. The IRS governance structures have had the benefit of many years of feedback from both GAO and TIGTA, and continue to evolve to support the organizational needs.

Specific answers to your questions are addressed below.

1. Describe the IRS's IT systems budget process.

a. What channels of approval are required for the various elements of the IRS's IT infrastructure spending?

b. Please provide a flow chart and timeline that traces the budget process identifying offices, titles and locations of the associated decision makers.

Every year, the IRS conducts a thorough analytical process to develop its IT budget request. That process prioritizes new IT demands, assessing progress against long-term efficiency initiatives, ultimately determining how much new demand the IRS can absorb through ongoing efficiencies, versus through requests for new budget resources. The IRS runs each element of the IT budget through a series of governance processes based on the size and scope of the effort. The goal of these governance processes is to align overall organizational strategy and priorities with IT investments and is consistent with the GAO IT Investment Management Framework (GAO-04-394G) that supports governance process maturity as key in aligning strategy with investments in federal agencies. Since GAO issued the guidance in 2004, the IRS has used the model to guide the various enhancements to its IT systems. The process also provides a forum for managing operational and infrastructure risks which can also create IT demands.

Ultimately, executives from the operating units, IT, and the Chief Financial Officer organization work with Treasury Department leadership and OMB to balance all of these competing demands to come up with an annual budget request to Congress.

See the overview of the IRS IT budget cycle attached as Exhibit 1.

2. How are IT resources spread across development, maintenance and operations functions? Given that these functions are managed differently, please describe the metrics used to judge their respective performance. Please provide a representative sample of management reports reporting on these functions.

Although the question is framed around resources, it should be clarified that management and measurement of IT performance is only in part a function of budgets. For example, in our operations functions, our adoption of the Information Technology Infrastructure Library (ITIL) framework includes a focused discipline that promotes process

improvement. Ultimately this shows up in our budget as an efficiency saving, but it starts with management focus on improving our processes and performance.

Generally speaking, IRS's measures of operational success tend to focus on performance, such as reliability, serviceability, and maintainability of the IRS IT infrastructure. We strive to meet internal and external service level commitments, and where we are not meeting our commitments we have a remediation plan in place.

The IRS generally manages application development projects based on performance in meeting planned cost, schedule and scope. These performance measures are tracked at a number of levels in the organization, and reported for larger-scale projects in the quarterly IT investment report. Attached as Exhibit 2 are the last two Quarterly IT Investment Reports.

3. How does the IRS determine which IT systems to pursue every year?

The IRS investment management process begins with direction from the IRS leadership on major, multi-year capital IT projects as part of the formulation of the overall IRS budget request. Typically the focus is on the portfolio of projects included in the BSM program, although the IRS also considers other core projects, including critical systems changes resulting from changes in the tax laws that affect the upcoming filing season.

From there, the IRS conducts a two-phase process to work through other investment requests initiated from within the operating units of the IRS.

The first phase takes a longer list of operating divisions' requests for investment and culls that list for consideration to those that are more fully developed. The IRS only selects investment requests that best support the IRS strategic priorities to proceed in the consideration process.

The second phase is the process by which the IRS considers proposals approved during the first phase for funding. The business owner further develops the business case, including additional information such as technical alternatives, risk analysis, performance measures, and return on investment, both from a business and technology perspective. The business owner also develops a solution concept and cost estimate document that further refines and strengthens the investment proposal. The IRS then uses the investment summary to determine which investments to consider for inclusion in the IRS's portfolio. An executive review team selects investments based on their strategic value assessment, benefits, economic/risk assessments, standards, recent performance measures in delivering within planned costs and schedule, and major project milestones and deliverables. The executive review team then works with IRS leadership to reach consensus on the proposals to include in the IRS's proposed portfolio.

4. Does the IRS reexamine its IT base budget on a yearly basis?

a. If so, please provide the budgetary justification, broken down by system for the last ten years. Include a narrative description of the project, the functionality that

was planned, the functionality delivered, the projected and actual delivery dates, and total spending.

b. Please provide the information noted in subsection (a) with respect to ongoing systems for the last ten years, including a narrative description of each system and its purpose, along with the budget justifications for the continued investment in each system. Include forecasted and actual maintenance cost for such systems, broken down by year, system, and function.

Yes, the IRS annually reexamines its base IT budget. The format for that review varies depending on the type of activity. For example, in the area of computer networks, which are a basic building block of IT infrastructure, the IRS has been focused on migrating to a single secure, converged network which is more efficient and takes advantage of newer technologies.

In the area of large-scale applications development projects, the IRS updates its plans and needs at least annually. For these types of projects the IRS prepares an Exhibit 300, which is updated annually.

Exhibit 300A is used for detailed justifications of major IT investments; whereas, the Exhibit 300B is used for the management of the execution of those investments through their project life cycle and into their useful life in production. By integrating the disciplines of architecture, investment management, and project implementation, these programs provide the foundation for sound IT management practices, end-to-end governance of IT capital assets, and the alignment of IT investments with an agency's strategic goals.[1]

Due to the volume of data, attached as Exhibit 3 of this letter are the E300s for budget year 2012 only. These exhibits are the result of internal, IRS prioritization and decision-making processes based on a wide variety of inputs, including: strategic direction, legislative mandates, performance measures, and cost/schedule considerations, to name a few. The attached E300s reflect the timely growth of advanced and highly productive automated technologies associated with legacy filing season capabilities. Each E300 addresses project descriptions coupled with projected deliverables. The IRS provides monthly updates to Treasury and OMB for each of the E300 major investments and selected non-major investments. Additionally, the IRS conducts post-implementation reviews on newly released systems coupled with annual operational analysis of ongoing systems.

5. Does the IRS analyze how IT infrastructure spending correlates to improved taxpayer services? Please provide a detailed breakdown of the last ten years of IT spending that directly improved taxpayer services.

Improved taxpayer service is a top priority for the IRS, and technology is critical to our continued progress in this area. In 2011, driven in part by the ease and convenience of

[1] OMB Circular A-11, Section 300.1

electronic filing, the IRS achieved its highest score ever in the American Customer Satisfaction Index measure of all individual tax filers.

The IRS also delivers a variety of services to help taxpayers understand their tax obligations, correctly file their returns and pay taxes due in a timely manner. Assisting taxpayers with their questions before they file their returns prevents inadvertent noncompliance and reduces burdensome post-filing notices and other correspondence from the IRS.

IRS.gov

Technology enhancements to IRS.gov will allow more taxpayers to reach the IRS through its website. In 2011, there were more than 319 million visits to IRS.gov. More than 77.9 million taxpayers used "Where's My Refund?" to check their refund status through the IRS website in English or in Spanish. Taxpayers also can use automated features available through our toll-free telephone line.

In FY 2011, people viewed IRS.gov web pages to:

- Get forms and publications: People downloaded more than 229 million tax products, an increase of 7.5 percent from 2010;
- Link to the Electronic Federal Tax Payment System (EFTPS): EFTPS processed more than 129.8 million electronic tax payments totaling over $2 trillion; and
- Get answers: More than 241,962 taxpayers accessed the Interactive Tax Assistant in order to receive answers to tax law questions.

Electronic Filing

In FY 2011, the IRS processed more than 111 million individual tax returns electronically through its legacy and Modernized e-File (MeF) systems, setting a new record. Individual returns electronically filed increased to 76.9 percent, up 7.6 percentage points from 2010. Business filed returns electronically at a rate of 31.8 percent, which is up from 25.5 percent in 2010.

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The Business Systems Modernization (BSM) appropriation funds the acquisition of major information technology systems. Each year's BSM appropriation remains available for obligation for three years.

The IRS breaks down the development of major IT projects into useable segments (or milestones), each of which is funded separately. Each release follows a standardized milestone plan, with each milestone defining specific success and completion criteria. There is a formal process for milestone exit, which ensures a clear understanding of where in the process each project stands. Early milestones tend to focus on business requirements and physical/logical design, while later milestones focus on testing and security reviews.

The attached E300s provide the multi-year costs for each of the major IT projects.

8. Please describe IRS's process to ensure that IT systems support business needs (include a discussion of how business representatives are involved in the decision making process.)

As previously addressed in our responses to questions 3 and 6 above, business needs and strategic priorities, taken in the context of the overall technology enterprise architecture and integrated release planning process, drive the IRS's IT investment process.

To further enable decision makers to review, approve and manage IT investments, the IRS maintains a formal IT governance process that includes investment initiation, oversight of the development of the investment (including risk identification and resolution), and ongoing management of the IT investment portfolio.

The IRS manages the process through a multi-tiered governance framework, attached as Exhibit 4, that includes IT and business representation. Each governance board is assigned a portfolio of related IT investments and is comprised of voting members representing the areas responsible for and impacted by those investments. Each governance board reports to an Executive Steering Committee, which is generally co-chaired by an IT and a business executive.

The tiered governance structure enables the IRS to provide direct oversight for IT projects at all levels of scope and scale, and includes escalation criteria to ensure all parties know and understand the material risks and how to effectively address them.

The IRS augments this tiered enterprise governance structure, in some cases, by program-level governance. Business engagement in program-level governance (in larger programs like CADE 2 for example) includes direct participation and accountability in the specific projects that comprise each of these key programs, as well as in the oversight of individual projects and the overarching programs.

The governance process provides capabilities to identify and manage IT investments through routine review of project cost, schedule and scope; and is integrated with the IRS and Treasury Capital Planning and Investment Control process.

9. It is our understanding that IRS is currently working on completing the initial phase of the CADE 2 database, which will function as the foundation for tax systems modernization.

a. Please describe the work that remains to be completed for the initial phase, the planned budget for the remaining work, and the anticipated timeline for completion.

The functionality delivered as part of the initial phase (Transition State 1 – TS1) of CADE 2 includes the following, grouped by the timing of the delivery:

- Delivered in 2012
    - On January 17, the IRS delivered the capability for the daily cycle for tax processing and posting of individual taxpayer accounts and for feeding downstream systems. This milestone ended more than 50 years of weekly posting of tax returns, payments and other types of transactions. Benefits include faster refunds for millions of taxpayers and enhanced customer service as taxpayer accounts are updated and viewable by IRS customer

service representatives within 48 hours, as opposed to the nine day average in Filing Season 2011.

- The new CADE 2 relational database, delivered on March 22, is loaded with account data for over 270 million taxpayers and over a billion taxpayer filings, and balances to the penny with our legacy Master File. The CADE 2 database centralizes individual taxpayer account information and retains a history of financial information for each taxpayer account in a format, where it can be easily recalled and analyzed to understand patterns and trends Once the database is fully implemented by daily updates and feeds to downstream systems, it will enable faster, more efficient account analysis, and will serve as a single source of authoritative individual taxpayer data. It will also provide more meaningful business intelligence to be used for decision making.
- Daily updates from core tax processing applications to the new CADE 2 Database, functionality delivered on August 29, transforms taxpayer data from antiquated programming language into a format that the new, state-of-the-art CADE 2 Database can understand. It then loads the taxpayer data into the new Database, which is already loaded with prior year tax data for over 270 million taxpayers.

- To be delivered in fall 2012
  - CADE 2 database feeds to downstream systems. For delivery in September, the CADE 2 database will feed one of the core tax processing key downstream systems (Individual Master Files On-Line/Corporate Files On-Line) so IRS customer service representatives will have online viewing of the taxpayer account data stored in the new CADE 2 database. This delivery will prove the feasibility that our customer service and other downstream systems can feed off of a modern relational database, and lays the foundation for other key applications to receive data from the CADE 2 database, which is necessary to support the migration to the CADE 2 target state.
  - Planned for full delivery in September, the Integrated Production Model (IPM) data-stores and the CADE 2 database are now being accessed for analytical reporting, using standard reporting tools. This functionality will allow the IRS to begin replacing some of the outdated data extracts with direct access to the CADE 2 database and IPM for source data which will be used to help identify trends, gaps, issues and areas of non-compliance in administering the tax system.

- To be delivered in 2013
  - The CADE 2 database feed to the key Integrated Data Retrieval Systems (IDRS) tool is planned for May/June 2013. Data feeds from our CADE 2 database to downstream IDRS will allow online updates to taxpayer account data by customer service representatives, more current and timely account balance information and improved opportunities for compliance.

The IRS is delivering the CADE 2 milestone activities and planned deliverables outlined above within enacted budget amounts for TS1 (see 2009 to 2012 below). The IRS does not expect cost overruns at the program level for remaining deliverables planned in 2012. In FY 2013, the IRS will spend an additional $8 million to deliver the planned IDRS deliverable.

($ in thousands)

Fiscal Year	FY 2009	FY 2010	FY 2011	FY 2012 Forecast	Total
Obligations	$25,500	$70,912	$189,879	$155,008	$441,299

b. Provide a historical overview of all CADE 2 spending and provide a narrative of the functionality expected and delivered to date, broken down by year.

The above narrative addresses the TS1 functionality already delivered and remaining to be delivered, and the above chart addresses funding for CADE 2 TS1 work. The IRS is also obligating $15 million in FY 2012 for Transition State 2 (TS2) planning work, to include a defined scope for TS2 and a high-level implementation strategy and timeline.

c. Describe what the IRS expected to deliver in the next phase of CADE 2 and what has been done to date, to this end.

The CADE 2 Program Charter, which the IRS developed in January 2010, defines at a high level the planned scope for the next phase of CADE 2, lays out additional transition states, and outlines the CADE 2 target end state.

TS2 builds upon the foundation established in TS1. Core applications will directly access and update the CADE 2 database implemented in TS1. TS2 will focus on the hardest and more critical financial management applications and address financial material weaknesses. Key scope elements include:

- Replacing portions of current CADE 2 applications with state-of-the-art, modular applications using a modern programming language (e.g. Java) and tools;
- Addressing Federal Financial Management System Requirements compliance for most individual taxpayer accounts;
- Implementing applications for calculating penalty and interest, with documented rules that can be used by all systems;
- Establishing a uniform environment for development, integration, testing and production;
- Implementing changes to downstream systems required to support TS2; and
- Establishing disaster recovery capabilities for CADE 2.

The IRS launched an intensive TS2 planning effort (Milestone 0) in May 2012 to further define the scope and implementation for TS2. The six workstreams established as part of this TS2 intensive planning effort are making significant headway in developing some of the early milestone artifacts (Milestones 0, 1 and 2), which includes a high-level program schedule for TS2 planned for completion in Septemer/October 2012.

10. Please describe IRS's overall IT Modernization Plan. How do you/will you judge the effectiveness of the modernization program? At what point will the IRS's modernization effort conclude? What is the IRS doing to ensure that the systems improved or replaced by the modernization effort are not outdated by the time of completion? Include a breakdown of each element of the plan, projected time frames for completion, and a narrative of the expected functionality at each juncture.

The IRS has a complex mission and is responsible for an enormous number of transactions and revenues, and will always need to invest in its information technology capabilities. Through our combination of strategic planning, business/technology collaboration, and focus on effective people, process, and technology strategies, we believe that the IRS is well-equipped to manage these investments over time.

Through our in-house planning and management disciplines, we aim to have thorough long-term plans to ensure we know what it will take to make large initiatives succeed. At the same time, we regularly re-assess our plans to ensure that we accommodate the effect of new technology or other developments on our initiatives as we proceed with implementation. Like many other best practices, the IRS now embraces a more iterative, cyclic delivery model for many of its projects. This model enables the IRS to prioritize scope elements of a project and deliver them iteratively, with early and continuous deliveries throughout the project lifecycle. Progressively integrating and testing new iterations (or releases) of software as they are delivered allows success to be measured incrementally as well.

The effectiveness of IRS IT investments can also be measured concretely at the program level, as a function of cost, scope, and timeliness of delivery.

Overall, the IRS aims to deploy new technology to increase our capacity to serve taxpayers with new and innovative services, as well as continuously improve our ability to detect and address non-compliance and fraud.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

September 10, 2012

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator Grassley:

I am responding to your letter of July 19, 2012, to Commissioner Shulman. You asked whether sensitive IRS data may have been available on the servers of Quality Associates, Incorporated (QAI), a government contractor that archives and stores documents for various government agencies. Your letter indicated IRS files appeared to be on the QAI server and asked what contracts QAI has with the IRS. You also asked what other internal documents were available for public download. We contacted QAI on July 19, 2012, and they assured us that at no time was any IRS data available on a public forum. Instead, QAI explained that commercial software upgrade files or patches related to commercial software maintained by QAI for the IRS were accessible publicly in the time frame that you mentioned. These files related to a software maintenance contract. In other words, there was nothing specific to IRS data or systems accessible to the public.

The IRS currently has the following contracts with QAI.

Contract Number	Total Contract Value	Description of Supplies/Services
TIRSE11T00003	$244,723.91	Software: Kofax Capture Software Maintenance Renewal
TIRNO08T00021	$1,410,018.94	Services: Process personnel packages into electronic format.
Total:	$1,654,742.85	

As explained above, your inquiry relates to the software maintenance contract. Under the other current services contract with QAI, files containing IRS employee personnel packages are transmitted between QAI and IRS using a secure protocol line.

For all of these reasons, to the best of our knowledge, we are not aware that any sensitive data or information from the IRS was ever available on the servers of QAI, and there have not been any known QAI privacy breaches with respect to IRS documents in the past.

You also inquired about IRS information security requirements for its contractors. The IRS has a host of policies and procedures in place that are designed to ensure that contractors who may require access to Sensitive but Unclassified information properly secure the information and that their access to sensitive information is limited to a "need to know" basis. We routinely monitor contractor personnel performing under a contract by:

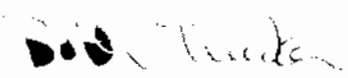
- determining eligibility to perform under the contract;
- initiating background investigations;
- identifying individuals who will need access to IRS-controlled facilities or sensitive information to perform their duties;
- assigning position sensitivity and risk designation;
- ensuring contractors complete annual Information Protection briefings;
- requiring contractor personnel complete Non-Disclosure Agreements, as necessary; and
- ensuring full and timely revocation of access to facilities when required.

Contracting Officer's Representatives serve as liaisons between IRS Contracting Officers and contractors, and are responsible for monitoring contract performance, including adherence to the security policies and requirements in a contract. The IRS Office of Procurement also partners with a variety of organizations within the IRS to ensure adherence with the above-referenced regulations, policies, and procedures. Additionally, in 2010, the IRS established the Contractor Security Management Office, which is responsible for facilitating and tracking contractor on-boarding, security awareness, and separation activities, as well as working with contractor security stakeholders to mitigate security risks and ensure that key data is available for sound business decisions.

Finally, we do not monitor any employee email accounts with software that captures keystrokes and screen shots. None of the services or software we have purchased from QAI provides any "spyware" capabilities.

I hope this information is helpful. If you have any questions, please contact me, or a member of your staff may contact Catherine Barre, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



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/ Commissioner for Operations Support

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

September 17, 2012

The Honorable Charles W. Boustany
Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Boustany:

I am writing in response to your letter dated August 2, 2012, regarding the issues raised in TIGTA's report issued July 19, 2012, on identity theft. As we have discussed, the issue of identity theft and the harm that it causes in the tax system is a major focus of the IRS. Over the past few years, we have seen a significant increase in attempted refund fraud in general and schemes involving identity theft in particular. The IRS has made significant improvements in both identity theft fraud prevention and victim assistance.

Before responding to your specific questions, we would like to address the TIGTA report in general. The findings of the TIGTA report are not reflective of the IRS' current capabilities in identity theft fraud detection. As general background, the TIGTA report analyzes the results of 2010 tax returns filed in the 2011 filing season, and in some cases TIGTA used data not available to the IRS at the time that tax returns were processed. Because TIGTA's recent report focused on the 2011 filing season, it did not take into account the fraud detection enhancements that were put into effect this past filing season. While we are not done with our work in this area, the IRS had already taken action with respect to most of the issues raised in the report prior to its issuance.

As we will outline below, for the 2012 filing season, the IRS put in place several measures to improve detection of potential fraud. TIGTA's estimate of undetected fraudulent refunds in the report was based on four potentially fraudulent criteria reflected on 2010 tax returns. The IRS put new filters in place during the 2012 filing season, which among other things, address each of the potentially fraudulent scenarios identified in the report. In addition, the IRS dramatically accelerated the speed at which we make information returns available to our processing functions which allows more timely matching of income. The IRS also has implemented procedures to analyze case inventory to identify certain returns with potentially fraudulent refundable credits.

Given our recent actions and improvements made each year, we believe that TIGTA's projection of undetected fraudulent refunds over the next five years is significantly overstated. The IRS has significantly increased revenue protected from questionable refunds every year for the past few years and continues to make improvements in its ability to detect and prevent the issuance of fraudulent refunds. This year, we have already exceeded the $14 billion in fraudulent refunds (much of this is from identity theft) we prevented from going out in the 2011 filing season, and that amount continues to grow.

With respect to the issue of identity theft in general, the IRS has also taken a number of actions in additional areas not addressed in the report. On a broader basis, we have enhanced our return processing filters to improve our ability to identify false returns and stop the associated refunds from being issued. Our improved filters flag returns for additional review if certain changes in taxpayer circumstances are detected. The IRS is continuously working to strengthen and refine filters. This year, we also tripled the number of IRS staff working these issues.

In addition to processing and detection improvements, IRS Criminal Investigations has significantly increased its activities related to identity theft. Earlier this filing season, IRS and the Justice Department conducted a coordinated enforcement sweep announcing 69 indictments, which included 939 criminal charges related to 105 people in 23 states. The IRS increased visits to check cashing and money service businesses to ensure they are not facilitating refund fraud and identity theft. This year, IRS Criminal Investigations also established a specialized unit to work identity theft leads. Additional efforts in the identity theft area continue.

Turning to your specific questions, you inquired about several issues raised in the report. You inquired why IRS systems are not able to catch fraud identified by TIGTA (Question 1). As mentioned above, the TIGTA report analyzes 2010 tax returns processed in the 2011 filing season and uses data that were not available to the IRS at the time returns were processed. Current IRS processes would detect significantly more fraud as compared with the period that was reviewed and we are making additional improvements for the 2013 filing season.

We continually develop new initiatives and treatments to address the constantly evolving and increasingly complex challenges presented by emerging identity theft schemes. Technology and process changes have enabled the IRS to better detect suspicious returns, match claims more expeditiously against information returns and resolve duplicate filings. IRS is continually developing and implementing additional rules and filters to detect potential identity theft and other types of non-compliance. We are also working to enhance the performance of existing rules and filters through the use of predictive analytics, historical data, and reliable third-party data. Filing season to date, we have stopped more than three million returns for review. Of those worked so far, 90 percent have been determined to be bad. To date, we have verified as fraudulent

over 2.3 million returns preventing payment of $15 billion in refunds this year, compared to 1.4 million returns and $11 billion for the same period last year.

As mentioned, the IRS made a number of improvements for Filing Season 2012, including the following:

- Accelerated availability of information returns: This year the IRS accelerated the speed at which information returns were made available to our processing functions. This allowed timelier matching of income resulting in better assessment of the risk of fraud and identification of patterns of abuse. This further informs our filters and treatment streams and management of the resulting workload.
- Continuous refinement of pre-refund filters: To address the constantly changing nature of ID fraud, IRS regularly improves our filters. For 2012 filing season, we implemented 13 new filters that evaluate returns prior to refund release to prevent erroneous refunds on potential identity theft returns. These filters allowed the IRS to proactively detect potential identity theft based on a single tax return. Filters were designed based on modeling of previously identified ID theft cases and on existing schemes identified by IRS. The results of the filters were constantly monitored, evaluated, and modified based on taxpayer responses. This allowed us to detect more fraudulent returns while decreasing the number of legitimate refund claims subjected to scrutiny. To date, these new filters have identified over $2 billion in refund claims as possible ID Theft.
- Expanded IP PIN Pilot Program: The Identity Protection Personal Identification Numbers (IP PIN) is a unique identifier that establishes that a particular taxpayer is the rightful filer of the tax return. Taxpayers include this IP PIN on their electronic or paper return to verify to the IRS that their return is legitimate. The IRS expanded the pilot program to issue IP PINs to 250,000 legitimate taxpayers previously victimized by identity theft. Use of the IP PIN ensures that legitimate taxpayers' returns are not delayed in processing by the identity theft filters and also assists in quickly identifying fraudulent returns submitted by an identify thief. Over 200,000 returns have been rejected due to missing or improper IP PINs.
- Account Lock: For the 2012 filing season, we developed a marker that prevents the misuse of a Social Security Number (SSN) by locking accounts of taxpayers who do not have a current filing requirement. We are currently evaluating expansion of account locking to other populations of individuals who do not have a current filing requirement and are at elevated risk of identity theft, such as senior citizens.

You also asked whether the IRS has a process in place to detect multiple tax refunds going to an individual mailing address or bank account (Question 2). We have made vast improvements in this area since the period that TIGTA reviewed. In the past, while returns in this category may have been flagged as having other indicators of fraud, the IRS was not able to systematically isolate this issue. In 2012, we improved the existing process by increasing the staff dedicated to analyzing return information to identify returns with similar attributes or characteristics, such as an IP address or bank account

information. In the coming filing season, the IRS will have additional capabilities to identify suspect returns based on this information.

You inquired about whether the IRS is considering changing its rules regarding multiple refunds to single entities in light of the TIGTA report (Question 3). We are in the process of making changes in this area. We are developing new filters for the 2013 filing season in this area to detect identity theft returns while allowing valid returns from compliant taxpayers who live at the same address (e.g., those living on Indian Reservations) to be processed in a timely manner. We are also initiating discussions with the Treasury Financial Management Service (FMS) on this issue to reevaluate the feasibility of imposing restrictions.

You asked whether the IRS is working with the banking community to establish better safeguards and require proof of identity for account holders (Question 4). The IRS has been in active dialogue with the banking community on these issues.

Relevant Treasury regulations regarding electronic fund transfers (31 CFR Part 210) require that tax refunds and other Treasury deposits be made to an account in the name of the taxpayer (or other payment recipient) or, more recently for debit cards, a pooled account in which the deposited funds are insured for the benefit of the taxpayer (or payment recipient). When FMS sends an Automated Clearing House (ACH) file, it includes the name and social security number of the primary taxpayer on the tax return. However, financial institutions are not required to match the name of the taxpayer with the name of the account holder. This year we have strengthened relationships with financial institutions in promoting anti-fraud efforts. This filing season some banks began voluntarily rejecting ACH files if the name and social security number on the ACH did not match their customer's identity. IRS, FMS, NACHA and these financial institutions are poised to start a pilot January 2013 to identify these name-matching rejects. We expect that completion of a successful pilot, combined with a solid outreach to other financial stakeholders, will encourage more banks to begin to name match.

With respect to questions 5 through 9, you asked about specific refund scenarios. While we cannot speak to specific cases, we can say that the IRS is in the process of analyzing the returns identified by TIGTA as well as other returns with similar characteristics and determining appropriate follow-up action, including criminal investigation. While there are non-fraudulent uses of the same address and bank account, the IRS is taking actions in these areas to further refine filters as well as ensure that taxpayers and practitioners are aware of the restrictions that apply regarding the use of addresses and bank accounts.

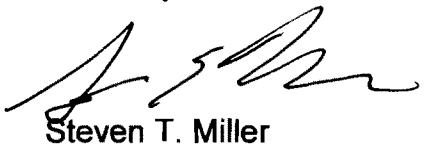
Finally, you inquired how the IRS can better utilize information from confirmed cases of identity theft to better detect and prevent tax refund fraud (question 10). The IRS continues to expand its risk modeling to better detect and segment identity theft, fraud, and other forms of non-compliance. By redesigning processes to route suspected

identity theft to new identity verification treatments and away from traditional income and expense verification treatments, we can apply the most effective and efficient type of scrutiny.

The IRS is developing ways to detect networks of identity theft, fraud, and non-compliance through the enhanced use of data analytics. In the past year, the IRS has implemented enhanced capabilities for detecting identity theft up-front and also has developed procedures to authenticate identity in suspected cases. We are working to identify data that could be used in aid of greater detection and with fellow agencies to expedite the receipt of information so that it could expand real-time matching. These courses of action will result in ever greater protection for taxpayers and for revenue, and will reduce impact on citizens who become victims of identity theft.

We are committed to using all appropriate means to combat identity theft and erroneous or fraudulent refunds. I hope this information is helpful. We are available to meet with your staff to discuss additional details on our efforts and enforcement that we are unable to include in a written response. If you have any questions, please contact me, or a member of your staff can contact Catherine Barre, Director, Legislative Affairs, at 202-622-3720.

Sincerely,



Steven T. Miller
Deputy Commissioner for
Services and Enforcement

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

November 9, 2012

The Honorable Charles W. Boustany, Jr., MD
Chairman, Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter dated August 8, 2012. You requested information related to the audit report of the Treasury Inspector General for Tax Administration (TIGTA) issued on Individual Taxpayer Identification Numbers (Reference # 2012-42-081).

We began issuing Individual Taxpayer Identification Numbers (ITINs) in 1996 as a mechanism for individuals who have a need under the law to file and pay taxes. Specifically, we created ITINs to provide a permanent tax identification number for a resident or nonresident alien who has a tax filing requirement but is ineligible for a social security number. ITINs play a critical role in the tax administration process and assist with the collection of taxes from foreign nationals, non-resident aliens, and others who have filing or payment obligations under U.S. law. The issuance of ITINs allows taxpayers to comply with their tax obligations.

Early this year, when issues were raised on the ITIN process, we took immediate steps to make program improvements. We immediately initiated a comprehensive review of the ITIN program and implemented interim changes to tighten procedures for issuing ITINs until we completed the review (see IRS News Release, IR-2012-62, June 22, 2012). During this interim period, for virtually all taxpayers, we will only issue ITINs when applications include original documentation, such as passports, birth certificates, or certified copies of these documents from the issuing agency. We also implemented a Quality Review (QR) function to supervise and oversee the processing of all questionable and suspended ITIN applications and tightened the review criteria that all Tax Examiners use. We have already implemented a number of other procedural changes to strengthen controls on the program, with more changes under consideration as the review process proceeds. We have engaged a variety of stakeholders on these issues and will announce permanent procedures before the start of the 2013 filing season.

As part of our work to tighten requirements and better equip our employees, over the summer, we worked with colleagues at the Department of Homeland Security (DHS) to obtain and implement forensic document aids and training materials for the validation of identity documents. We have purchased new equipment and trained our employees in new, advanced methods of identifying potentially fraudulent documents.

We are also revising the Form 1040 for next filing season to require taxpayers to provide resident status for each child claimed with an ITIN, *i.e.,* to inform whether a child has lived for sufficient time in the United States to satisfy the substantial presence test. This step should reduce potential taxpayer confusion and allow us to better determine eligibility for the child tax credit (CTC) during processing of the tax return. We are also improving our up-front screening to better identify and stop fraudulent and inaccurate CTC claims as part of our continued focus on refund fraud.

In addition to this overall update, we have provided detailed responses to your questions below.

1. **When did the IRS change its policy regarding the consideration of error significance in the ITIN application review process?**

We have modified our policy in this area over the last few years and have made recent changes to further strengthen the review process.

In January 2007, as part of the IRS Submission Processing consolidation, we moved ITIN processing from the Philadelphia Submission Processing Center (PSPC) to the Austin Submission Processing Center (AUSPC) for the 2007 filing season. In October of that year, we noticed an increasing number of questionable identification documents with Form W-7, Application for IRS Individual Taxpayer Identification Number. To address this, we modified the review process to include a Questionable Identification Document (QID) team approach. The QID "team" consisted of one to three ITIN Tax Examiners who we assigned on a rotating basis to review questionable identification document referrals.

We updated our Internal Revenue Manual (IRM) in October 2008 to formalize the process that we used for the prior year. See IRM 3.21.263.5.10.7, *Questionable Identification Documents Procedures*. Under this process, if a Tax Examiner found questionable documents, he or she would enter the ITIN application into our system and refer it to the QID team for review. At that point, we would assign a different ITIN Tax Examiner (called a "caseworker") to review the ITIN package. If the caseworker agreed with the first Tax Examiner's assessment, the caseworker would (1) generate a letter to the applicant notifying them that their supporting documents did not meet the established guidelines, (2) record the case information in a spreadsheet, and (3) refer the entire package to Austin Criminal Investigation (CI). An ITIN headquarters analyst typically reviewed the spreadsheet on a weekly basis to analyze and identify trends and issue alerts to all Austin ITIN personnel for case referrals.

In February 2010, we re-evaluated this approach and decided to discontinue using a QID team review. In April 2010, we amended the IRM to reflect this decision. See IRM 3.21.263.5.10.7, *Questionable Identification Documents Procedures*. Under the revised procedure, we would suspend ITIN applications until we received additional substantiating correspondence from the taxpayer. If the taxpayer failed to respond within a certain number of days, we would close the case and not issue an ITIN. If the taxpayer responded with additional documentation, the Tax Examiner would rework the case. If the newly-received documents were also questionable, the Tax Examiner would then reject the ITIN application. As with the earlier process, the Tax Examiner could refer the entire package (including tax return) to CI. At this time, we discontinued using the spreadsheet and amended the criteria to define questionable identification documents.

Recognizing the need to tighten the review process, we again updated processes in October 2011 to allow ITIN Tax Examiners to suspend questionable identification documents under tighter thresholds. See IRM 3.21.263.5.3.4.4, *Reviewing Questionable Documents*. We did not modify the secondary review process at this time.

In March 2012, we again modified the process to add a specifically designated Quality Review (QR) Tax Examiner to review all of the responses to suspended ITIN applications and to any request for additional information. The QR Tax Examiner began reviewing all components of an ITIN application, and logged and categorized questionable characteristics from those ITIN applications into a spreadsheet. The QR Tax Examiners review spreadsheet information regularly to identify patterns and schemes and issue alerts to ITIN Tax Examiners. The Tax Examiners use these alerts to look for similar attributes on other ITIN applications and to take necessary action.

In June 2012, as part of other changes, we again updated the IRM to further tighten the review thresholds. This change allows an ITIN Tax Examiner to suspend the ITIN package for any discrepancy associated with identity documents. See IRM 3.21.263.5.3.4.4, *Reviewing Questionable Documents*. We also issued interim procedures to otherwise strengthen the ITIN application process. The interim procedures are effective until we implement permanent changes.

2. Why did the IRS disband the Questionable Identification Detection Team?

We disbanded the QID team process in early 2010. We believed that processes remained in place to allow Tax Examiners to suspend questionable ITIN applications pending further correspondence and that the ITIN process would not suffer from this action. Ultimately, we determined otherwise and found that the core of the QID process was valuable. Therefore, in March 2012, we reinstated many of its substantive elements such as secondary review, data capture and analysis, and referrals on findings. The ITIN QR Tax Examiners now perform (1) a secondary review of suspended ITIN applications, (2) categorization and logging of characteristics of suspended ITIN applications into a spreadsheet, and (3) regular reviews to identify patterns with

issuance of alerts to ITIN Tax Examiners of potential schemes. This process is under review to determine whether improvements are warranted.

3. The IRS has claimed that the disbanding was justified because fraudulent ITIN returns would be caught later in the filing process. How would tax return processors identify ITINs that were first issued based on fraudulent applications?

The processing of the ITIN application and the tax return are two separate processes requiring different, specially trained and skilled employees. This separate skill set enables employees to concentrate on the work processes in their respective areas to deliver the work accurately and timely. Nevertheless, we have been working to better coordinate these functions as we believe that while the ITIN process and the tax return fraud review process are distinct, each can benefit from information gathered in the other process.

The ITIN Tax Examiners primarily review ITIN applications and verify that the documentation meets the IRS requirements, including that (1) the Form W-7 is complete and correct, (2) the required documentation is attached, and (3) the documents are valid. While we primarily train the ITIN Tax Examiners to look for questionable identification documents, they can also draw from their experience to identify and refer questionable tax returns (associated with the Form W-7) to our criminal investigators (CI). The new procedures, issued January 18, 2011, provided better criteria for the ITIN Tax Examiners to use to identify questionable documents and questionable tax returns to be set aside for CI to review. On a weekly basis, CI reviews the items the ITIN Tax Examiners set aside. Since January 2009, we have also been referring these types of cases to other offices for examinations of the associated tax returns.

Once we assign an ITIN, we process the associated tax return and subject it to the same procedures, business rules, and compliance filters as all other individual tax returns to identify errors, questionable items or refunds on the tax returns, and missing information.

The process for identifying potentially fraudulent tax returns during processing is multi-faceted. In the tax return fraud review process, indicators will pick up bad wages, fake dependents, and other indications of fraud (e.g., filings by prisoners) regardless of whether taxpayers use one or more ITINs in filing the form and regardless of whether the ITINs are fraudulently procured. We are also making improvements to better leverage the information in the ITIN process to assist in our pre-refund work on the child tax credit. For example, we have developed treatment streams for questionable tax returns associated with ITIN applications which will be implemented in January 2013. This procedure will flag questionable tax returns for review before the issuance of a refund.

4. Under the QIDT process, questionable applications were logged and tracked. IRS management ended this process, and now merely requires that an orange sticker be placed on the case file. Why did IRS management decide to weaken the questionable application tracking process?

Beginning in April 2010, we asked Tax Examiners to suspend ITIN applications with questionable documentation until we receive additional substantiating correspondence from the taxpayer. We denote these ITIN applications with orange flags while holding them in suspense. We also track this status on our system as we suspend the case. If a taxpayer fails to respond within a certain number of days, we close the case and do not issue an ITIN. If the taxpayer responds with additional documentation, the Tax Examiner reworks the case. If the newly received documents are also questionable, the Tax Examiner rejects the application for the issuance of an ITIN. See the answer to Question 2 for more on this history. We do not believe this process has been weakened.

As noted previously, the ITIN QR Tax Examiner now performs the essential functions the QID team previously undertook, including the logging and tracking of questionable ITIN applications. Beginning in March 2012, QR Tax Examiners also perform a secondary review of responses to suspended ITIN applications. Under current procedures, QR Tax Examiners characterize and log suspended ITIN applications into a spreadsheet similar to the one used by the QID team. The QR Tax Examiners review the information regularly to identify patterns and send alerts to all ITIN Tax Examiners of potential schemes (previously handled in the QID process by an ITIN headquarters analyst).

In addition, CI has always and continues to track all questionable cases that we refer to it. Under both the old QID team process and the new procedures adopted in April 2010, Tax Examiners could refer questionable ITIN applications and tax returns to CI. From that point forward, under both the old and new system, CI reviews and tracks the status and progress of their scheme investigations on the Criminal Investigation Management Information System (CIMIS).

5. Under QIDT process, invalid identification cases were sent to the Austin Fraud Detection Center. What happened to invalid identification cases after the QIDT disbandment?

The Austin Fraud Detection Center is part of CI. Referrals to CI continued after we discontinued the QID team. For the period March 3, 2011, through February 23, 2012, CI reviewed 3,334 tax returns and ITIN applications that ITIN Tax Examiners referred to it for an approximate monthly average of 278.

6. On June 22, 2012, the IRS made interim changes to its ITIN application review process. Are these changes the only modifications the IRS plans to make to its ITIN application review process? Will IRS be reinstating the QIDT process?

Since June 22, 2012, we have undertaken a comprehensive review of the program including all TIGTA recommendations and a review and assessment of the previous QID process. We have met with numerous stakeholders over the last several months to gain a better understanding of the improvements our interim processes made and the challenges they created. On October 2, 2012, we announced several new procedures designed to address issues raised in this dialogue, including interim procedures for foreign exchange students and for 2011 extended tax returns. We will issue permanent changes resulting from our ongoing review before the 2013 filing season. Until we announce those changes, the interim procedures will remain in effect.

ITIN QR Tax Examiners now perform the essential functions previously undertaken by the QID team, including secondary review of suspended ITIN applications, logging and tracking of the characteristics of suspended ITIN applications, and a regular review to identify patterns and send alerts to ITIN Tax Examiners of potential schemes. As indicated, further changes to this process are under discussion as part of the overall review.

7. Will the IRS continue to allow third parties (Certifying Acceptance Agents) to review and verify the identity and foreign status of individuals applying for ITINs?

As part of the comprehensive review of this program, we are reviewing the Acceptance Agent (AA)/Certified Acceptance Agent (CAA) program. During the interim review period, we require these individuals to submit original documents or documents that the issuing agency certified. As part of the review, we are soliciting stakeholder feedback, including comments from the AA/CAA community. We will issue permanent changes resulting from that review before the 2013 filing season. Until we announce those changes, the interim procedures will remain in effect.

8. What are the new processing time periods for tax examiners reviewing ITIN applications?

We use a process called Total Employee Performance System (TEPS) throughout the Submission Processing organization to evaluate our employees. This system uses actual historical rates ITIN Tax Examiners achieved in the prior four calendar quarters in determining the rates. We use this to evaluate ITIN Tax Examiners performance on two of their five critical job elements.

The interim procedural changes announced on June 22, 2012, are significant enough that the historical TEPS rates are no longer valid to use in evaluating ITIN Tax Examiners. Until we can finalize the changes in the processing of the ITIN applications, we have not established any formal or informal processing time periods or rates for ITIN Tax Examiners reviewing the ITIN applications. Any new procedures will be sensitive to the concern that time requirements were perceived as inhibiting a complete review of the ITIN application.

9. In tax examiner training, how much time, both in terms of length and percentage of overall training, will be dedicated to identifying questionable applications?

Immediately following implementation of the interim procedures, we provided all ITIN Tax Examiners with additional hours of specially-developed training on the interim procedures and the ITIN application of these new evaluation aids and techniques to identify potentially questionable documents.

In addition, we have obtained additional training and detection aids from the Department of Homeland Security (DHS), which we delivered to the current ITIN Tax Examiners in August 2012. We recently enhanced the training for ITIN Tax Examiners to include more instruction and practice time on identifying questionable documentation. We based the new training on DHS forensic document training. It provides 16 hours of additional instruction on detection of questionable documents. For newly hired ITIN Tax Examiners, this will represent 17 percent of the total training time (16 of 96 hours). For continuing employees, refresher training will represent 40 percent of all training time (16 of 40 hours).

I hope that this information is helpful, and we would be happy to discuss any questions that remain. In particular, you asked for information regarding management decisions related to this program. Because of the number of different changes that were made over a number of years, more discussion would be required to determine which specific changes are of interest. As a general matter, most decisions were made at a program level by individuals involved with the ITIN program. The ITIN Unit is part of Submission Processing within the Wage and Investment Division of IRS. Once issues were brought to my attention earlier this year, I asked for the comprehensive program review and approved the interim changes that went into effect this summer.

We are committed to administering the law in a fair and consistent manner and to using all appropriate means to combat erroneous or fraudulent refunds. My staff is also available to work with your staff in identifying any additional information and materials needed to address your inquiry. If you have any questions, please contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller,
Deputy Commissioner for
Services and Enforcement

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

1789

ASSISTANT SECRETARY

OCT 12 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Issa:

I am writing in response to your recent letter to Commissioner Shulman regarding section 36B of the Internal Revenue Code (Code). I am responding on his behalf because your letter raises important issues regarding tax policy, the standard process by which Treasury regulations are developed collaboratively between the Department of the Treasury's Office of Tax Policy (OTP) and the IRS, and communications between the IRS and OTP regarding the proposed and final section 36B regulations promulgated by Treasury.

More specifically, your letter raises questions about whether taxpayers who purchase health insurance through exchanges operated by the federal government (federally-facilitated exchanges) are eligible for the premium tax credit under section 36B of the Code. Let me assure you that we take seriously our responsibility to implement the tax laws passed by Congress. We do so in a careful and thoughtful way, with the goal of implementing the law consistent with congressional intent and resolving any statutory ambiguities in a reasonable manner that gives effect to the purpose of the statute.

As you know, Section 36B(b)(2)(A) provides that the amount of the premium tax credit is based on the premiums for one or more qualified health plans in which a taxpayer enrolls through an "Exchange established by the State under section 1311" of the Affordable Care Act (ACA). ACA section 1311(d)(1) provides that "[a]n Exchange shall be a governmental agency or a nonprofit entity that is established by a State." Under ACA section 1321(c), if a state chooses not to establish an exchange or will not have an exchange in operation by January 1, 2014, the Secretary of Health and Human Services (HHS) "shall . . . establish and operate such Exchange within the State" to serve the residents of that state.

Treasury regulations implementing section 36B provide that individuals who enroll in coverage through a federally-facilitated exchange are eligible for premium tax credits. Treasury and the IRS developed these regulations in accordance with our standard process for drafting, approving, and publishing tax regulations. The process begins with the IRS Office of Chief Counsel. IRS lawyers review the particular statute to identify any issues that regulations should address and to develop preliminary resolutions of those issues. The IRS lawyers apply well-established principles of statutory construction and draw on their long experience implementing the Code. The analysis is then shared with OTP tax lawyers, and the two groups confer about the proper

interpretation of the statute, discuss any differences of opinion, and develop a consensus approach.

Under this standard procedure, OTP and IRS lawyers work together to draft a Notice of Proposed Rulemaking, which is published in the Federal Register. Treasury solicits public comments on the proposed regulations during an official comment period; and, in many cases, the IRS also holds a public hearing to allow stakeholders to provide feedback in person. IRS and OTP lawyers review any comments they receive and consider whether any of the suggested changes should be adopted. Last, IRS and OTP lawyers draft a final regulation, which includes responses to any comments and makes modifications to the proposed regulations as necessary. All final tax regulations are signed by both the IRS Deputy Commissioner for Services and Enforcement and the Treasury Assistant Secretary for Tax Policy.

The IRS and OTP followed this standard procedure in developing the proposed and final regulations under section 36B. In particular, first the IRS, and then the OTP lawyers considered the express language of section 36B, as well as other relevant provisions of the ACA. They separately and together concluded that the ACA should be interpreted to provide tax credits to individuals enrolling through all exchanges, whether directly operated by a state government or federally-facilitated. This approach was reflected in proposed regulations issued in August 2011. We received numerous written and oral comments in response to the proposed regulations – some of which were supportive; others argued for a different interpretation. The IRS and OTP reviewed the issue again, taking into account the numerous comments, and concluded the statute should be interpreted as in the proposed regulations. Treasury published final regulations in May 2012 that adopted this view.

Your letter inquires about the legal basis for Treasury's position. We interpreted the statutory language in context and consistent with the purpose and structure of the statute as a whole, pursuant to longstanding and well-established principles of statutory construction. For example, ACA section 1311 refers to an exchange being "established by a State." Congress provided in section 1321, however, that where a state was not proceeding with an exchange, HHS would establish and operate "*such* Exchange within the State," making a federally-facilitated exchange the equivalent of a state exchange in all functional respects. Moreover, throughout the ACA, Congress refers to the exchanges as "exchanges," "exchanges established by a state," and "exchanges established under the ACA." There is no discernible pattern that suggests Congress intended the particular language in section 36B(b)(2)(A) to limit the availability of the tax credit.

In addition, the information reporting requirements of section 36B(f)(3) apply to exchanges under both ACA sections 1311 and 1321. This requirement relates to administration of the premium tax credit. The placement of this provision in section 36B and the information required to be reported – including information related to eligibility for the credit and receipt of advance payments – strongly suggests that all taxpayers who enroll in qualified health plans, either through the federally-facilitated exchange or a state exchange, should qualify for the premium tax credit. Our interpretation is consistent with the explanation of the ACA released by the non-partisan Congressional Joint Committee on Taxation and with the assumptions made by the Congressional Budget Office in estimating the effects of the ACA.

Finally, we have enclosed documents responsive to your requests. Please let us know if you need additional information. We hope this is helpful and we look forward to working with you in the future.

Sincerely,

Mark J. Mazur
Assistant Secretary (Tax Policy)

Enclosures

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

ASSISTANT SECRETARY

October 25, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Issa:

I am writing in response to your recent letter to Secretary Geithner and Commissioner Shulman regarding section 36B of the Internal Revenue Code (Code). We appreciate your continued interest in this issue and, in particular, the proposed and final regulations promulgated by the Department of the Treasury (Treasury) implementing section 36B.

Your letter questions whether taxpayers who purchase health insurance through exchanges operated by the federal government (known as federally-facilitated exchanges) are eligible for the premium tax credit under section 36B of the Code. Section 36B provides that the amount of the premium tax credit is based on the premiums for one or more qualified health plans in which a taxpayer enrolls through an exchange "established by the State" under section 1311 of the Affordable Care Act (ACA). Section 1311, in turn, provides that an exchange "shall be a governmental agency or a nonprofit entity that is established by a State." If a state, however, chooses not to establish an exchange—or will not have an exchange in operation by January 1, 2014—section 1321 of the ACA directs the Secretary of Health and Human Services to "establish and operate such Exchange within the State" to serve the residents of that state.

Treasury regulations implementing section 36B provide that individuals who enroll in coverage through either a state-run or a federally-facilitated exchange are eligible for premium tax credits. As Assistant Secretary for Tax Policy Mark Mazur stated in his recent letter to you, Treasury implements the tax laws passed by Congress in a careful and thoughtful manner, with the goal of effectuating congressional intent. In this case, Treasury's Office of Tax Policy (OTP) and the Internal Revenue Service (IRS) Office of Chief Counsel interpreted the statutory language in context and consistent with the purpose and structure of the ACA as a whole, pursuant to longstanding and well-established principles of statutory construction. Specifically, as Mr. Mazur noted in his letter, throughout the ACA, Congress refers to the exchanges as "exchanges," "exchanges established by a state," and "exchanges established under the ACA." There is no discernible pattern that suggests that Congress intended the particular language in Section 36B(b)(2)(A) to limit the availability of the tax credit.

In developing the section 36B regulations, we followed our standard process for drafting, approving, and publishing tax regulations. Treasury published a proposed regulation in August 2011, and the public submitted numerous written and oral comments in response. The OTP and the IRS reviewed each comment carefully and concluded that, regarding this issue, the statute should be interpreted as in the proposed regulations. Treasury published final regulations in May 2012 reflecting this view. Assistant Secretary Mazur enclosed with his recent letter certain OTP and IRS documents responsive to your requests regarding Treasury's rulemaking process.

Your most recent letter requests additional documents related to the legal interpretation and analysis of section 36B by Treasury and IRS counsel. In particular, you seek internal legal analysis and any other related documents that predate the proposed rule. These materials implicate longstanding Executive Branch confidentiality interests. It is well-established that agency staff and counsel must have the ability to engage in free, full, and unfettered discussions and debate about important policy and legal matters. Accordingly, as the Executive Branch has long maintained, public disclosure of such material could have a significant chilling effect on agency staff and could inhibit their ability to fulfill their statutory responsibilities. As such, we have concerns about the scope of your request.

Moreover, this issue—the proper legal interpretation of section 36B—is subject to ongoing litigation in federal court. On September 19, 2012, the Oklahoma Attorney General amended an existing civil lawsuit in the Eastern District of Oklahoma to include claims challenging Treasury regulations promulgated under section 36B. We disagree strongly with these claims, and we intend to defend the lawsuit vigorously. Ultimately, however, it will be up to the courts to determine the proper interpretation of section 36B, and we believe that any questions about the permissibility of Treasury's statutory interpretation should be resolved through the judicial process.

Nonetheless, we recognize the important oversight role of Congress, and we are committed to working with the Committee to provide the information you need to fulfill that role. Accordingly, we are prepared to meet with your staff to discuss your particular oversight interests in this matter and to explore ways that we can accommodate those interests, while still protecting the important institutional interests described above.

Thank you for your letter. We look forward to continuing to work with you and your staff on these important matters.

Sincerely,

Alastair Fitzpayne

Alastair M. Fitzpayne
Assistant Secretary for Legislative Affairs

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

February 14, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of January 24, 2012 relating to how the IRS will implement the changes to the tax law that were included in the Affordable Care Act.

As you know, while the Department of Health and Human Services (HHS) is responsible for implementing the core health policies included in the Affordable Care Act, the law also includes a number of tax law changes that the Treasury Department (including IRS) will be responsible for implementing.

Responses to your questions are included in the attachment below.

Sincerely,

Douglas H Shulman

Douglas H. Shulman

Enclosure

1. What is IRS's plan for mitigating the significant confusion that will likely result in 2014 when the individual mandate the employer mandate and the premium tax credits take effect?

The IRS plans to provide significant informational tools to make individuals aware of their benefits and responsibilities under the tax provisions of the ACA. Wherever possible, the IRS will partner with tax practitioners and the software industry to ensure that individuals and businesses get the information that they need about provisions coming into effect in 2014 and beyond. This is the approach that IRS follows for all significant changes to the tax law.

The IRS will also collaborate with HHS and the state Exchanges so that when they communicate with the public about the changes in store for 2014 and beyond, they are equipped with companion information about the relevant tax law changes.

The IRS will also conduct focused outreach and education for the employer community. A key part of that outreach will be to explain to the applicable large employers (defined in the statute as those with more than 50 full-time employees) how these provisions work, what tools and resources are available to them, and what their responsibilities will be.

2. What will individuals have to report to IRS about their health insurance? How will they report this information?

The statute includes an individual coverage requirement, which generally requires taxpayers to obtain health insurance or make a payment with their tax returns. The statute provides a number of exemptions, including for situations where coverage is not affordable and other cases of hardship.

While the IRS has not yet published the detailed specifications for this provision, we anticipate that taxpayers will be required to report the fact of coverage on their tax return, with an indication of which months the coverage was in effect. Taxpayers would first report this information on their Tax Year 2014 tax returns, which would be filed early in 2015.

The taxpayer would also likely be asked to provide information on the return that will facilitate streamlined verification with separate information returns filed by insurance providers (much like the current wage / W-2 reporting system). The reporting provided to the IRS would only include high-level information related to the coverage itself, and the IRS would not receive any personal medical or health information about the taxpayer.

3. Since PPACA's individual mandate tax penalty will, in part, be a function of household income, is it true that individuals will not know whether they were subject to the tax penalties for the individual mandate until the following calendar year when they file their taxes?

With respect to the individual coverage requirement, if individuals who are not otherwise exempt go without health coverage for more than three months, they may need to self-assess the individual responsibility payment on their tax return. The statute provides an exemption from the individual coverage requirement if the cost of minimum essential coverage is unaffordable according to a formula outlined in the statute. The formula provided by the statute compares the individual's share of cost of coverage to the household income, which is defined as the modified adjusted gross income (MAGI) of the taxpayer, plus the MAGI of any dependents who have a tax filing requirement. This formula indicates that the taxpayer, at the time of filing, would need to take into account the dependents' income in determining whether the coverage is unaffordable, if that dependent has a tax filing requirement.

4. In order to enforce the health care law's individual mandate, does IRS have any enforcement tools other than garnishing tax refund checks? How will IRS enforce the individual mandate for individuals who are not entitled to a refund at the end of the year or who are entitled to a refund that is less than the amount of the mandate tax penalty?

Most taxpayers are highly compliant and when they have tax liability they make a payment with their return. For those who do not remit payment related to the individual coverage requirement, the IRS will communicate with the taxpayer and attempt to resolve the outstanding liability. A substantial majority of IRS collection revenue comes during the notice process.

If the liability is past due at the time that a tax refund is being issued, that refund may be offset by the amount due. The statute prohibits other IRS enforcement actions, such as filing notices of federal tax liens and levies.

5. Can an individual mandate tax penalty in 2014 be applied to an individual's tax refund in subsequent years?

Yes, if an individual has a balance due, it may offset future refunds. This is the normal treatment that applies for any outstanding tax balance due to the federal government.

6. How will IRS know if individuals have an offer of employer-sponsored health insurance? How will IRS know the worker share of the premium (which is crucial for determining appropriate penalties)?

The ACA included two new information reporting requirements that relate to these questions.

First, every insurer (or self-insured employer) will be required to file an annual information return with the IRS after the close of the calendar year reporting fact of coverage for all of the individuals for whom coverage was provided and specifying whether the coverage was employer sponsored insurance or purchased at the Exchange. If the coverage was employer sponsored, the employer's name and employer identification number will be provided along with the employee portion of the premium.

Second, applicable large employers (defined in the statute as those with more than 50 full-time employees) will file an annual information return after the close of the calendar year with the IRS detailing whether they offered full-time employees the opportunity to enroll in coverage and reporting additional information related to that coverage including the amount of the employee portion of the premium.

7. How is IRS planning to enforce the employer mandate tax penalty?

The IRS is in the process of considering the best way to implement the statutory provisions related to the employer responsibility payments. Treasury and the IRS have issued two Notices requesting comment on this provision, including specific proposals for how to minimize the employer burden. These Notices provide details on how the IRS proposes to address some of the most frequently asked questions that we have received from the employer community – including, among other things how to implement the definitions of full-time and part-time employees in the statute. With respect to other administrative details, including how employers will file and pay any amounts due, we continue to work with the employer community to discuss ideas and seek solutions that implement these provisions with as little employer burden as possible.

8. What is the appeal process available for an employer who is found in violation of PPACA's employer mandate premium? Will the employer know enough information to appeal the penalty at the same time IRS protects taxpayer information? Will the employer be entitled to all sources of household income?

The statute requires that an Exchange notify an employer if an employee is determined eligible for the advance payment of premium tax credits

because employer coverage is unavailable, unaffordable, or lacks minimum value. The employer will have an opportunity to provide information to challenge that determination at the Exchange level. The specific procedures for these appeals fall within the jurisdiction of HHS in implementing the Exchanges. The statute further specifies that this process is in addition to the rights of appeal that the employer may have under subtitle F of the Internal Revenue Code (which is administered by the IRS).

With respect to household income, Treasury/IRS have previously indicated our intent to provide a safe-harbor to applicable large employers that would allow them to determine affordability based solely on the wages paid to the employee by the employer. This would obviate the need for information that is not already in the possession of the employer.

9. What specific information will IRS be sending to the state health insurance exchanges? How will this information be provided? How will IRS ensure that this information, much of which is sensitive, is protected?

The IRS takes protection of taxpayer information very seriously. Section 6103 of the Code provides that no tax information may be furnished by the IRS to another agency unless the other agency establishes physical, administrative, and technical safeguards for protecting the return information it receives. Thus, disclosure of tax information to other agencies is conditioned on the recipient agency maintaining a secure place for storing the information, restricting access to the information to people to whom disclosure can be made under the law, providing other safeguards necessary to keep the information confidential, and returning or destroying the information when the agency is finished with it. The IRS reviews safeguards established by other agencies.

The IRS Office of Safeguards will work with HHS and states on implementing the safeguard requirements which are detailed in Publication 1075, *Tax Information Security guidelines for Federal, State and Local Agencies*. HHS is also incorporating safeguards requirements into rules for Exchanges.

10. How will IRS define "household income"? How will households be determined? If this decision has not yet been determined, please explain the principles that will guide IRS's approach to defining household income.

The definition of "household income" is outlined in the statute itself. Household income is defined by section 36B(d)(2) of the Code as the modified adjusted gross income of all individuals included in the taxpayer's "family size" who are required to file an income tax return. A taxpayer's

"family size" consists of the individuals for whom the taxpayer claims a personal exemption deduction for the taxable year. Modified adjusted gross income means adjusted gross income increased by amounts excluded from gross income under section 911 of the Code, tax-exempt interest a taxpayer receives or accrues during the taxable year, and an amount equal to the portion of the taxpayer's social security benefits not included in gross income for the taxable year.

11. Will two cohabiting but unmarried people who share the same residence count as a household? If not, doesn't IRS's definition of a household lead to yet another marriage tax penalty?

According to the statutory definition of household income, two cohabiting but unmarried people would not generally count as a "household" for tax purposes, unless one is eligible to claim the other as a dependent. If those people were to become married, the household income would include both individuals' income, and the family size and income thresholds for the premium credit would also increase. As with other provisions of the Code, marriage could either increase or decrease tax liability depending on the taxpayers' specific circumstances.

12. PPACA requires that individuals purchase health insurance, subsidizes individuals who purchase health insurance, and sends the subsidy directly to the health insurance company. CBO's most recent estimates show that between 2014 and 2021, the federal government will spend $821.2 billion on the PPACA's premium tax credits. According to the PPACA, IRS is responsible for sending the premium tax credits directly to insurance companies. Will health insurance companies bill IRS? Please explain in detail how the payments will flow from the Treasury to the health insurance companies.

13. For individuals who qualify for an advanceable tax credit, does IRS plan on making these payments to the company on a monthly, quarterly, semi-annual. or annual basis? For example, when in the year would payments to the insurance company be made on behalf of a household that qualifies for an annual premium tax credit equal to $5,000?

This answer responds to both questions 12 and 13, which are related.

Advance payments of the premium credit, as determined by the Exchanges, are jointly administered by HHS and Treasury. The statute requires HHS to identify the amount of the payment and provides for Treasury to make the payment on a monthly basis, or on a different periodic basis as HHS may direct. While HHS will define the program rules and processes, the ultimate payment will be issued from Treasury

(Financial Management Service) to the appropriate insurance companies based on the actual enrollment of eligible individuals for Exchange coverage.

14. During the reconciliation process, if it is determined that an individual who received an advanceable tax credit was actually entitled to a smaller tax credit during the year or was not supposed to qualify for a tax credit at all, how will IRS recoup the overpayments? Will IRS recoup the overpayments from the insurance company or from the taxpayer? If this decision has not yet been determined, please explain the principles that will guide IRS's approach to recouping overpayments.

At reconciliation it may be determined that an individual who received advance payments of the premium tax credit was entitled to a larger credit, a smaller credit, or none at all. In the case where the ultimate credit is smaller than the amount advanced, taxpayers will owe additional income tax, which will be limited by a graduated set of caps for those with household income of less than 400% of the Federal Poverty Level (FPL). Historical research would suggest that the vast majority of taxpayers with a balance due will remit the proper amount of tax due, if any, when they file their tax return. In the case where taxpayers do not report and/or pay the amounts due, the IRS will follow its normal procedures for communicating with the taxpayer and resolving the outstanding liability. The statute provides that the reconciliation process is a function of the individual taxpayer, not the insurance company.

15. According to the Taxpayer Advocate, "Taxpayers who did not update their household information during the year may find that they owe a significant amount of money at the end of the year - money they likely do not have. The need for reconciliation arises because eligibility for the credit is based on tax return data that is two years old. In the interim, many taxpayers will have experienced at least some change in circumstances." How concerned is IRS that taxpayers will fail to update household information during the year and may find out that they owe significantly more money to the Treasury than they budgeted for when they file their taxes?

When an individual applies for an advance payment of the premium tax credit at the Exchange, the Exchange will verify the individual's household income along with other eligibility requirements. Part of the eligibility process involves determining the applicant's household income and whether any changes in circumstances have occurred or are reasonably expected to occur during the course of the year that could affect the amount of the premium tax credit the taxpayer will actually be entitled to for the year. If an applicant's household income is not reasonably compatible with the most recent tax return information, the Exchange will

use more recent information to calculate household income. In addition, the HHS proposed regulations on eligibility and enrollment provide that those who are determined eligible for advance payments of the premium tax credit may accept less than the expected annual amount of the advance payments authorized. This provision is designed to allow individuals to reduce the potential for repayment at reconciliation.

In addition, HHS proposed regulations that would require an individual enrolled in a qualified health plan to report, within 30 days of occurrence, any changes in circumstances that would affect eligibility. These changes could include an increase or decrease in household income or family size, an offer of employer sponsored coverage, or changes in residency. When changes in circumstances are reported, the proposed regulations provide for a redetermination of eligibility which may result in a change in the amount of the advance payments of the premium tax credit. We understand that HHS received many comments on these provisions that raise issues similar to those raised in your question.

This is an area in which HHS and the IRS are both focused on ensuring that taxpayers receive consistent and useful information well before open enrollment at the Exchanges in fall 2013, so that the advance payments can match the ultimate tax credit eligibility as closely as possible.

16. For individuals who are entitled to an advanceable health insurance tax credit, please explain what IRS will do about individuals who fail to pay their share of the premium? Will insurance companies be required to notify the exchanges and/or IRS when this occurs? Will insurance companies be required to return these advanceable credits? How many months or quarters can an individual fail to pay their share of the premium before IRS stops sending Treasury's share of the premium to the insurance company?

Section 1412(c)(2)(B)(iv) of the ACA requires issuers to provide enrollees receiving advance payments of the premium tax credit with a 3-month grace period for non-payment of premium before terminating coverage. The government will coordinate termination of advance payments with termination of coverage. The application of the grace period and its coordination with advance payments of the premium credit fall under regulations proposed by HHS. Those proposed regulations address the grace period and specify as a general principle that it will be afforded to those individuals who have paid at least one month's worth of premium to establish coverage. We understand that HHS received many comments related to effectuation of the grace period. Final HHS regulations and other guidance will provide further information on the 3-month grace period and its effect on advance payments of the premium tax credit.

17. Please explain the procedure for what happens if an individual, who has received an advanceable health insurance tax credit, gets a job with a corresponding offer of employer-sponsored insurance during the year. For example, how will IRS know to stop making the advanceable payments to the insurance company?

Receipt of an offer of employer sponsored coverage by an individual for whom advanced payments of the premium tax credit are being made to an insurance company is a change in circumstances that should be reported to the Exchange as discussed in Response 15. If appropriate, the Exchange would in turn take the actions required to stop the advance payments to the insurance company.

18. If an individual owes back taxes, will he or she still qualify for a premium tax credit? If so, will he or she also qualify for the advanceable payment?

With respect to the advance payments of the credit, this specific scenario is not addressed in either the HHS, or Treasury/IRS proposed regulations. HHS and Treasury/IRS are analyzing this issue more closely and considering options to address the policy and administrative concerns that are raised in this scenario.

With respect to eligibility for the credit itself (as claimed on the tax return), under the tax law outstanding tax liabilities do not make taxpayers ineligible for any tax credits (including the premium credit). However, any refund amount due to the taxpayer would be offset by any outstanding balance due.

19. IRS had tremendous difficulties making the earned income tax credit (EITC) advanceable. What lessons did IRS learn from the EITC that will guide IRS's approach to the implementation of the advanceable health insurance tax credits in PPACA? Does IRS have any additional concerns about PPACA's advanceable credit?

While we appreciate that both the Advance EITC and the advance premium tax credit may appear to have similar features, they are so structurally different that the comparisons and lessons learned may be limited. Most significantly, the advance payments of the premium tax credit are paid directly to the insurance company, and may not be accessed by the taxpayer. Additionally, the advance premium credit will be delivered as part of a specific transaction to extend health coverage, whereas the advance EITC was a purely financial transaction which allowed advance payments of a year-end tax credit.

20. According to the Taxpayer Advocate, "The IRS has set up a health care program office to lead the implementation efforts, and through the program office,

it has established four teams that are working on specific issues. The National Taxpayer Advocate has repeatedly asked that Taxpayer Advocate Service (TAS) be included in these teams and has offered her senior advisors to serve on them. The National Taxpayer Advocate is concerned the IRS declined to include TAS members on the teams, increasing the risk that the IRS will make operational decisions that are best for itself without adequate consideration of taxpayer impact. Please address this concern of the National Taxpayer Advocate. What has IRS done to address this concern?

> Our goal is to ensure that all of the operating units of the IRS, including the Taxpayer Advocate Service, are actively engaged in this process. This reference is from a report that is over a year old, and since then the leadership of the implementation effort and the Taxpayer Advocate Service are meeting on a regular basis to discuss implementation issues and concerns.
>
> We would also point out that taxpayer service is a core component of the IRS and is on par with enforcement as part of the IRS's mission. Because taxpayer service is vital to voluntary compliance in this country, a substantial number of IRS employees are devoted to providing taxpayer service. These employees provide a variety of services that help taxpayers navigate a complex tax code. We always consider taxpayer impact as we design programs, and reject the notion that what is best for taxpayers is in conflict with what is best for IRS implementation.

21. Please explain any other significant concerns you have about IRS's role in the implementation of PPACA.

> Through the answers above, we have articulated the important areas of focus for the IRS, which are grounded in maintaining the careful balance between providing taxpayer service, education, and tools to help explain and understand the tax law, and developing appropriate programs to ensure compliance with the tax law.

CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

February 22, 2013

The Honorable Charles W. Boustany
Chairman
Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

Attention: Chris Armstrong

Dear Mr. Chairman:

I am replying to your letter dated October 4, 2012, to Commissioner Shulman on the use of debit cards to provide transportation benefits to federal employees. Your letter specifically refers to the Department of Health and Human Services' (HHS) "GoICard" and the Department of Transportation's (DOT) "TRANServe Debit Card" programs for the Washington, DC, metropolitan area (National Capital Region (NCR)).

The HHS and DOT provide separate transit benefit card programs in the NCR. Because each agency is also a federal employer, and thus a taxpayer, the laws on disclosure of taxpayer information apply. As taxpayers, each agency is entitled to the confidentiality of its return information. [Section 6103(a) of the Internal Revenue Code]. We can only disclose return information if the taxpayer consents to the disclosure. [Section 6103(c) of the Code]. Accordingly, we are addressing each transit benefit card program in separate letters. This letter addresses the DOT TRANServe Debit Card. The DOT has provided consent to disclose information related to the TRANServe Debit Card.

The current guidance relevant to your questions is in the regulations under Section 132(f) of the Code and in Revenue Ruling 2006-57. Generally, gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items. [Section 61(a)(1) of the Code]. However, taxpayers exclude any fringe benefit that is a qualified transportation fringe from gross income. [Section 132(a)(5) of the Code]. A "qualified transportation fringe" is:

- Transportation in a commuter highway vehicle between home and work
- Any transit pass
- Qualified parking [Section 132(f)(1) of the Code]

A transit pass is any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) on mass transit facilities or in a commuter highway vehicle operated by a person that provides transportation for compensation or hire. [Section 132(f)(5)(A) of the Code]. A qualified transportation fringe includes a cash reimbursement by an employer to an employee for transit benefits. However, a qualified transportation fringe includes a cash reimbursement by

an employer to an employee for a transit pass only if a voucher or similar item that can be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee. [Section 132(f)(3) of the Code].

A voucher or similar item is readily available for direct distribution by an employer to employees if, and only if, the employer can obtain it from a voucher provider that does not impose fare media charges greater than one percent of the average annual value of the voucher for a transit system. The voucher provider also cannot impose other restrictions causing the voucher not to be considered readily available. [Section 1.132-9(b), Q/A-16(b)(5) and (b)(6) of the Income Tax Regulations].

Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, and Federal income tax withholding are imposed on "wages." [Sections 3101, 3111, 3121(a), 3301, 3306(b), 3402, and 3401(a) of the Code]. However, "wages" do not include any benefit provided to or on behalf of an employee if, at the time the employer provides such benefit, the employer can reasonably believe that the employee will be able to exclude such benefit from gross income under section 132. [Sections 3121(a)(20), 3306(b)(16) and 3401(a)(19) of the Code].

Revenue Ruling 2006-57 provides guidance to employers on the use of smartcards, debit or credit cards, or other electronic media to provide qualified transportation fringes under sections 132(a)(5) and (f) of the Code. The ruling states that employers can use electronic media as a means of providing transportation benefits, including benefits under bona fide reimbursement arrangements. The ruling provides the following four examples of using electronic media:

> **Situation 1** – An employer distributes "smartcards" to its employees. Employees use fare media that their employer stores on these cards for the local transit system. The fare media value stored on the cards is useable only as fare media for the local transit system. The revenue ruling concludes that smartcards qualify as "transit system vouchers" under section 1.132-9(b) of the Regulations.
>
> **Situation 2** – An employer provides transportation benefits to employees via debit cards that they can only use at merchant terminals at points of sale at which only fare media are sold. The employer makes monthly payments to the debit card provider on behalf of its employees, which the provider electronically allocates to each employee's terminal-restricted debit card. The revenue ruling concludes that the terminal-restricted debit card qualifies as a "transit pass" under section 1.132-9(b), Q/A-16(b)(2) of the Regulations because the employee can only use it at merchant terminals at points of sale at which only fare media for the transit system is sold.
>
> **Situation 3** – An employer provides transportation benefits to its employees through a merchant category code (MCC) restricted debit card. For the first

month an employee participates in the transportation benefit program, the employee pays for fare media with after-tax amounts. The employee then substantiates to the employer the amount of fare media expenses incurred during the month using reasonable substantiation procedures the employer implemented as described in section 1.132-9(b), Q/A-16(c) of the Regulations. The employer then remits to the debit card provider an amount equal to the amount of substantiated fare media expenses for the prior month, which the debit card provider then electronically allocates to the debit card assigned to the employee. For subsequent months, the employer reimburses the employee for substantiated fare media expenses by providing funds to the debit card provider that are allocated to the employee's debit card equal to the amount of the substantiated expenses. The substantiation procedures in Situation 3 include obtaining an initial and subsequent annual employee certifications and reviewing periodic statements from the debit card provider with details on the use of the debit card.

The revenue ruling concludes that the employer in Situation 3 has implemented reasonable substantiation procedures as described in section 1.132-9(b), Q/A-16(c) of the Regulations. Accordingly, the employer has established a bona fide reimbursement arrangement for transit passes, and the employer excludes the value of the fare media provided to its employees through the use of the MCC-restricted debit cards from its employees' gross income as a qualified transportation fringe benefit.

Situation 4 -The facts in this situation are the same as those in the third situation, except that the employer provides employees with the MCC-restricted debit cards before they begin work. Before using the MCC-restricted debit cards, employees must certify that they will only use the card to purchase transit passes. Further, written on each card is a statement that the employee can only use the card for transit passes, and, by using the card, the employees certify that they are using the card only to purchase transit passes. The revenue ruling concludes that the arrangement in the fourth situation does not meet the requirements of a bona fide cash reimbursement arrangement because it provides for advances rather than reimbursements and because it relies solely on employee certifications provided before he or she incurs expenses. Those certifications, standing alone, do not provide the substantiation of expenses incurred necessary for a bona fide reimbursement arrangement.

The Treasury Department and the IRS originally scheduled Revenue Ruling 2006-57 to become effective January 1, 2008. However, they delayed the effective date of the ruling four times to give transit systems additional time to modify their technology to comply with the requirements in Revenue Ruling 2006-57, which became effective on January 1, 2012. [Notice 2010-94, 2010-52 Internal Revenue Bulletin 927].

You indicated that you are concerned about the possible misuse of debit cards, including DOT's "TRANServe Debit Card" as used in the NCR, to provide transportation benefits to federal employees. The DOT announced that it would require customers of its TRANServe transit benefit administration program that use commuter buses in the NCR to use the TRANServe debit card. Our responses to your specific questions on the TRANServe Debit Card are below. While your questions generally relate to the NCR, the DOT is introducing the TRANServe Debit card to all its service areas. Before the DOT adopts the TRANServe Debit card in a service area, it requests our assistance to ensure the program complies with the requirements of section 132(f) of the Code.

1. You requested a detailed explanation for the basis upon which IRS has determined transit vouchers are "not readily available" to federal employees in the NCR.

We base our determinations of whether transit passes or vouchers are readily available on the relevant facts and circumstances of each transit system. In the NCR, the primary transit system provider is the Washington Metropolitan Area Transit Authority (WMATA). However, the WMATA is not the sole transit system provider. We must determine whether transit passes or vouchers are readily available for each transit system. [Section 1.132-9(b), Q/A-16(b)(5) of the Regulations].

The WMATA SmarTrip card is a permanent, rechargeable farecard that is embedded with a computer chip that keeps track of the value of the card. It is used for both transit and parking on the WMATA system. The WMATA changed its transit benefit system to ensure the SmarTrip card complies with Rev. Rul. 2006-57 to be a transit pass or voucher with regard to employer provided benefits. The changes affected whether transit passes or vouchers for WMATA transit systems are readily available and, thus, whether employers may provide nontaxable transit benefits through cash reimbursements. Specifically, WMATA implemented a "purse" system beginning on December 1, 2011 under which the SmarTrip card has three sections, or purses. The first purse holds benefits for transit fares only. The second purse holds benefits for Metro parking only. The third (or personal stored value) purse holds whatever amount the commuter adds to cover either transit or parking. WMATA will use amounts in the personal purse once the employer funded transit or parking purse is depleted.

Under the purse system, the following conditions apply:

- Commuters cannot transfer funds from one purse to another.
- Commuters can use funds in the transit benefit purse only to purchase fare media.
- Only employers can add value to parking or transit benefits purse
- Federal government employers only fund a commuter's transit benefit purse.

- The WMATA credits unused monthly benefits back to the Federal employer's account at the end of each month.

The SmarTrip card qualifies as a transit pass for employer funds confined to the transit benefit purse because employees can only use the funds to purchase fare media.

However, the WMATA places into the personal purse any amounts that individual employees load themselves onto the SmarTrip card—by cash, debit card, or credit card. Commuters can use funds in the personal purse for either parking or transit. Thus, individual employees using credit or debit cards, including the TRANServe debit card, to load benefits onto their SmarTrip cards would be able to use the benefits on their cards for either parking or fare media. In these circumstances, the SmarTrip card does not qualify as a "transit pass" because commuters can use it to purchase both parking and fare media. Accordingly, employers must distribute transit benefits via the SmarTrip card transit benefit purse to those employees in the NCR who commute using transit systems that accept the SmarTrip card, unless another transit system voucher is readily available in the NCR, to satisfy the legal requirements for the benefits to be nontaxable. In response to its questions, we informed the DOT about this requirement. Because at least one transit system voucher (i.e., the SmarTrip card transit benefit purse) is readily available for providing transit benefits on systems using the SmarTrip card, cash reimbursement for providing such benefits, including through use of the TRANServe debit card, is not an option under the Code and regulations.

As a result of the changes it made to the SmarTrip card, WMATA notified transit providers and transit authorities in the NCR, including Virginia Railway Express (VRE), Maryland Area Rail Commuter (MARC), and Maryland Transit Authority (MTA), that it would no longer accept paper vouchers after November 2011. If another transit voucher is readily available for use on such systems, employers must use the voucher. If no other voucher is readily available for use on such systems, employers may provide transit benefits for such systems through a bona fide cash reimbursement arrangement. [Section 132(f)(3) of the Code].

In determining whether another voucher is available to federal government employers for transit on these systems, the DOT and other federal agency employers must consider restrictions placed on the use of federal funds under section 3302 of Title 31 of the United States Code. We have learned that 3302 of the U.S.C. prohibits federal agencies from holding public money outside of Treasury, meaning that agencies may not have a private entity or financial institution hold such money. The only entities that can hold public money are depositaries and financial and fiscal agents of the United States, which the Secretary of the Treasury designates, and they must collateralize any public money they hold. [Sections 90, 265, 332, 1767, and 391 of Title 12 of the U.S.C.]. Agency funds deposited in an account to provide or reimburse for transit benefits are public money. Thus, a federal agency cannot use a private contractor to hold and distribute transit benefit funds.

Further, we understand that Executive Order 13150, issued in 2000, instructed federal agencies in the NCR to provide transit benefits for commuting to the extent possible, as permitted under section 132(f) of the Code. The DOT interprets the order as limiting monthly transit benefits to the amounts used for commuting and requiring the transit company to return any unused benefits remaining at the end of the month to the agency to the extent possible.

In light of the restrictions placed on the use of federal funds under section 3302, and because other methods of providing transit benefits for the VRE, MARC, and MTA systems did not satisfy the requirement to return unused amounts in a way that would not violate the requirements on handling federal funds under Executive Order 13150, the DOT determined in its role as federal transit benefit administrator that no transit vouchers were readily available for providing transit benefits to federal government employees for use on systems in the NCR that did not accept the SmarTrip card. As a consequence, the DOT informed its federal agency customers that employees in the NCR who commute using transit systems that do not accept the SmarTrip card need to receive their monthly transit benefits via the TRANServe debit card beginning in December of 2011. The DOT's delivery of transit benefits via its debit card involves depositing transit benefit funds to an account with a designated fiscal agent who holds them on behalf of the agency until the cardholder uses them, thus meeting the restrictions of section 3302.

Accordingly, we concluded that because transit passes are not readily available for federal government participants who use transit systems that do not accept the SmarTrip card, the use of TRANServe debit cards is permitted as a means of providing transit benefits on such systems through a bona fide cash reimbursement arrangement. The information the DOT provided showed that:

- The amounts credited to the TRANServe debit card were equal to the employees' mass transit commuting expenses.
- The debit card statements are subject to monthly review by federal agency employers to ensure that the cards are used only to purchase fare media.
- Excess amounts are returned to the employer at the end of the month if the employee did not use them to purchase transit benefits.

Under these facts and circumstances, the TRANServe debit card is a bona fide cash reimbursement arrangement for providing nontaxable transit benefits.

2. You requested that we provide copies of any written agreements among the Department of Transportation, Department of Health and Human Services, Department of the Treasury, and IRS concerning the issuance of transit benefits via debit card.

The DOT administers the IRS's transit benefit program. While a Memorandum of Understanding exists between the DOT and the IRS on the terms of this service agreement, including the amount and schedule of payments, it does not address debit cards or the mechanics of the debit cards, including the TRANServe debit card.

3. You requested that we provide all comments, guidance, and other documents the IRS has provided to any agency regarding the issuance of transit benefits via debit card.

As mentioned above, the DOT provides transit benefits to its employees as an employer and, in that capacity, is entitled to the confidentiality of its return information. On November 8, 2012, the DOT consented in writing to disclose return information on the TRANServe's debit card. I have enclosed copies of advice our office provided to the DOT on issuing transit benefits via debit card in various service areas. I have also provided attachments with redacted employee names and emails in addition to unredacted copies for your use. Should the committee further distribute the attachments, for the privacy of the employees, I ask that you share only the redacted versions. Enclosed you will find:

- Enclosure 1 – June 9, 2011, letter from Janine Cook (IRS Office of Chief Counsel representative to a DOT representative) on the distribution of transit benefits to federal employees in the New York Metropolitan area

- Enclosure 2 – November 1, 2011, e-mail from Janine Cook to a DOT representative on the distribution of transit benefits to Service Area 1 (i.e., Maryland, the District of Columbia, and Virginia)

- Enclosure 3 – January 24, 2012, e-mail from Janine Cook to DOT representatives on the distribution of transit benefits to Service Area 2 (i.e., the Southeastern United States including North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, and Tennessee)

- Enclosure 4 – August 17, 2012, e-mail from Lynne Camillo (IRS Office of Chief Counsel representative) to DOT representatives on the distribution of transit benefits to parts of Service Area 6 excluding Sacramento (i.e., Los Angeles/El Segundo, San Jose, San Diego, and San Francisco/Oakland)

- Enclosure 5 – December 7, 2012, e-mail from Lynne Camillo to DOT representatives on the distribution of transit benefits to parts of Service Areas 5 and 7, specifically Newark, Boston, Salt Lake City/Ogden, Albuquerque, Denver, and Phoenix

- Enclosure 6 – December 18, 2012, e-mail from Lynne Camillo to DOT

representatives on the distribution of transit benefits to parts of Service Areas 5 and 7, Pittsburgh, Buffalo and van pools and bus service in Honolulu)

4. You requested a detailed explanation of Rev. Rul. 2006-57's applicability to these debit cards, whether they can be used to purchase non-transit benefits, and what technology is in place to prevent their use in non-travel purchases.

As explained above, Rev. Rul. 2006-57 provides guidance on the use of smartcards, debit or credit cards, or other electronic media to provide qualified transportation fringes.

It includes guidance on when a debit or credit card can qualify as a voucher, and when an employer can use a debit or credit card to administer a bona fide cash reimbursement system. Rev. Rul. 2006-57 applies the requirements of Code section 132(f) and section 1.132-9(b) of the Regulations to four factual scenarios. It does not purport to include all acceptable fact patterns, particularly in light of developing technologies since 2006. If we did not specifically address a factual scenario in Rev. Rul. 2006-57, an employer needs to apply the rules and principles in the Code, the regulations, and Rev. Rul. 2006-57 to determine if its transit benefit meets those requirements.

To qualify as transit system vouchers, debit cards must be subject to restrictions that prevent their use to purchase items other than fare media for mass transit systems. [See 1.132-9(b), Q/A-16(b)(2), Rev. Rul. 2006-57]. While merchant category codes restrict the DOT TRANServe debit card as described in Situation 3 of Rev. Rul. 2006-57, the DOT has also worked with its debit card provider to implement additional safeguards that further limit use of the card at vendors with the permitted MCC. Specifically, in each service area where DOT has introduced the TRANServe Debit card, the DOT has ensured that the MCC-restriction limits the use of the card to vendors with acceptable MCCs for transit providers, and the card provider has used Merchant Identification (MID) to block non-permitted transactions. TRANServe tested the debit cards in each service area to ensure that unacceptable purchases were blocked from being authorized uses of the card.[1]

5. You state that an IRS response to a recent Senate Finance Committee Question for the Record included the text of a November 1, 2011, IRS e-mail to the Department of Transportation. That e-mail mentioned that the debit cards distributed to the Norfolk, VA and Baltimore, MD metropolitan regions include restrictions that "effectively permit employees to use them only to purchase fare media on mass transit systems." You ask us to explain why the IRS considers such a permission-based restriction as meeting the IRC 132(f) and Ruling 2006-57

[1] Limited instances occurred where a vendor inappropriately "forced" use of the debit card to make an unauthorized purchase. While DOT is working with its card provider to follow up with those vendors, we determined that such unauthorized uses were not a product of the card's restrictions and did not prevent the card from qualifying as a transit voucher.

capability-based standard that restricts vouchers to products that can only purchase fare media or can be used as fare media.

The November 1, 2011, e-mail did not mean to suggest that the card used "permission-based restrictions." Rather, as explained above, the information the DOT provided indicated that the restrictions on the TRANServe debit card effectively prohibit an individual from using the card to purchase anything other than fare media on mass transit systems.

6. You ask that we detail whether the cards in question are used to reimburse employees or pay for future transit costs.

In certain areas of the country, the TRANServe debit card qualifies as a transit pass. See Enclosures 1 through 6. In these areas, we require no substantiation. [Section 1.132-9(b)-18 of Rev. Rul. 2006-57]. In areas where the TRANServe debit card does not qualify as a transit pass, it does qualify as a bona fide cash reimbursement program. See Enclosures 1 and 2. We based this on information the DOT provided showing that:

- The amounts credited to the TRANServe debit card were equal to the employees' certified monthly mass transit commuting expenses.
- The debit card statements are subject to monthly review by federal agency employers to ensure that employees only use the cards to purchase fare media, and excess amounts not used to purchase fare media are returned to the employer at the end of the month.

In areas where the TRANServe debit card does not qualify as a transit pass, employers use the card to reimburse employees for their incurred transit costs.

7. You point out that a recent IRS Notice [Notice 2012-38] states that, "the IRS ha[s] become aware of technological advances that may enable providers of MCC-restricted debit cards to limit the use of these cards to such an extent that it is almost, if not entirely, impossible to use the cards to purchase any items other than fare media." You ask that we describe the technological advances the Notice refers to, detail how these advances make purchase of non-fare media "almost...impossible," detail the extent to which the technology is used in the TRANServe debit card and explain why the IRS considers "almost, if not entirely impossible to use the cards to purchase any items other than fare media" as meeting the IRC 132(f) and Ruling 2006-57 standard that restricts vouchers to *only* purchase fare media or can be used as fare media.

As described in the enclosures to this letter and as outlined above, the TRANServe debit card uses both MCC and other terminal-based restrictions to ensure, as demonstrated by regional testing in the relevant service areas, the card prevents employees from using it to purchase anything other than fare media. More specifically, the TRANServe debit card can be used at point-of sale (POS) merchants where the

Visa logo is accepted and the applicable Merchant Category Code (MCC) is validated. Transit authority terminals are POS locations that use a valid MCC. Some vendors, such as grocery stores or drug stores may also be authorized by the specific transit authority to sell its fare media. The TRANServe debit card cannot be used at these locations to purchase fare media, unless there is a dedicated transit authority terminal, i.e., similar to the lottery terminals within retail locations.

There is also a secondary "mechanical" method of limiting purchases through a Merchant Identification (MID) block. The MID is a number assigned to the business, through a financial institution, enabling the business to effectuate credit card transaction activity, i.e., payments, rejections, adjustments, etc. TRANServe, in association with the debit card issuer, has adopted the MID block to mechanically prevent future non-acceptable transaction activity in the limited instances where the block is needed. When DOT learns through pre-roll out testing or in post-roll out data mining that a merchant with the valid MCC also sells non-fare media, a MID block is assigned to that merchant and disallows transaction activity with that merchant on the TRANServe debit card.

The situations in Revenue Ruling 2006-57 involved cards using only MCC-restrictions or only terminal-identification restrictions. In the course of discussions with DOT and other taxpayers, we learned that card and system technology—like the procedures discussed above—permit combinations of restrictions and monitoring, both before and after use of the card, that accomplish the objective of ensuring the benefits provided through the card are used solely to purchase fare media. Accordingly, we have requested comments on current electronic media formats to decide whether to provide additional guidance on using electronic media that satisfies the Code and regulatory requirements.

I hope this information is helpful. If you have any questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

Enclosures (6)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

January 2, 2013

The Honorable Sam Graves
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Graves:

I am responding to your letter dated October 15, 2012, about the notice of proposed rulemaking on taxable medical devices published on February 7, 2012 (REG-113770-10, 77 FR 6028). As you may be aware, the final regulations on taxable medical devices were published shortly after your letter on December 7, 2012 (REG-113770-10, 77 FR 72924). The final regulations address the excise tax imposed on the sale of certain medical devices under section 4191 of the Internal Revenue Code (the "Code") enacted by section 1405 of the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)), in conjunction with the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)) (jointly, the ACA).

Your letter concerned the application of the section 4191 to medical mobile applications ("mobile apps") generally. As described below, under the final regulations whether a mobile app is a taxable medical device is dependent on whether the Food and Drug Administration (FDA) requires listing of that particular mobile app and whether, considering all relevant facts and circumstances, the mobile app is of a type that is generally purchased by the general public at retail for individual use.

As noted in your letter, Section 4191 of the Code imposes an excise tax on the sale of certain medical devices by the manufacturer, producer, or importer of the device in an amount equal to 2.3 percent of the sale price. Section 4191 applies to sales of taxable medical devices after December 31, 2012.

Section 4191(b)(1) of the Code provides that, in general, a "taxable medical device" is any device, as defined in section 201(h) of the Federal Food, Drug & Cosmetic Act (FFDCA) that is intended for humans. Section 4191(b)(2) exempts eyeglasses, contact lenses, and hearing aids (the "specific exemptions") from the tax. Section 4191(b)(2) also exempts medical devices determined by the

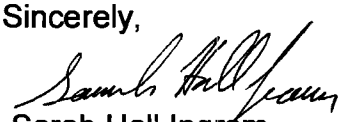
Secretary of the Treasury to be of a type that is generally purchased by the general public at retail for individual use (the "retail exemption").

The final regulations provide that a device defined in section 201(h) of the FFDCA that is intended for humans means a device that is listed as a device with the FDA under section 510(j) of the FFDCA and 21 CFR part 807, pursuant to FDA requirements. Therefore, under the final regulations, a taxable medical device is one that is listed with the FDA unless it falls within a specific exemption or the retail exemption.

The final regulations provide a facts and circumstances approach to evaluating whether a medical device falls within the retail exemption. The final regulations also provide a non-exclusive list of factors to be considered in determining whether a device is regularly available for purchase and use by individual consumers who are not medical professionals. Finally, the final regulations include a safe harbor provision that identifies certain categories of taxable medical devices that the IRS and the Treasury Department have determined fall within the retail exemption.

I hope this information is helpful. Additional information is also available on the Medical Device Excise Tax page and Medical Device Excise Tax FAQs on IRS.gov. If you have any questions, please contact Stephanie Bland at (202) 622-3130 or Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Sarah Hall Ingram
Director, Affordable Care Act

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

March 1, 2013

The Honorable Carl Levin
Chairman, Permanent
Subcommittee on Investigations
United States Senate
Washington, DC 20510

Attention: Mr. Robert Roach

Dear Chairman Levin:

I am responding to a letter dated January 29, 2013, from you and Senator Tom Coburn about abusive short-term loan programs used to repatriate offshore profits.

We agree that the use of "staggered loans" to the United States in an attempt to circumvent section 956 of the Internal Revenue Code warrants IRS focus. We are developing a comprehensive training module on the use of short-term debt in the context of section 956 of the Code. It will include specific training on the potential for abuse through techniques like those addressed in the Subcommittee's hearing on September 20, 2012. We expect to complete the development of this training and deliver it to all IRS international examiners by April 30 of this year.

I hope this information is helpful. If you have any questions, please contact me, or a member of your staff can contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Heather C. Maloy

COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

March 1, 2013

The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Attention: Mr. Andrew Dockham

Dear Senator Coburn:

I am responding to a letter dated January 29, 2013, from you and Senator Carl Levin about abusive short-term loan programs used to repatriate offshore profits.

We agree that the use of "staggered loans" to the United States in an attempt to circumvent section 956 of the Internal Revenue Code warrants IRS focus. We are developing a comprehensive training module on the use of short-term debt in the context of section 956 of the Code. It will include specific training on the potential for abuse through techniques like those addressed in the Subcommittee's hearing on September 20, 2012. We expect to complete the development of this training and deliver it to all IRS international examiners by April 30 of this year.

I hope this information is helpful. If you have any questions, please contact me, or a member of your staff can contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Heather C. Maloy

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

February 26, 2013

The Honorable Charles Boustany Jr., M.D.
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Attention: Mark Epley

Dear Mr. Chairman:

I am responding to your letter dated January 31, 2013. You wrote about information on our website regarding the effect of recent litigation on our return preparer program.

As your letter indicates, approximately 60 percent of the nation's taxpayers use a paid tax return preparer to prepare their federal return. This percentage has increased as the Internal Revenue Code has grown more complex. Despite the complexity of the tax code and the potential harm to taxpayers, until we proposed regulation, no standards or requirements existed for individuals to become a federal tax return preparer. Anyone could prepare individual federal tax returns regardless of qualifications, knowledge, or skills. In 2010, we announced a phased initiative that we plan to implement fully after December 31, 2013 (subject to the resolution of the litigation referenced in your letter). The initiative requires all paid federal tax return preparers to register with the IRS and obtain or renew Preparer Tax Identification Numbers (PTINs). It also requires certain preparers who lacked recognized professional credentials to pass a minimum competency test by December 31, 2013, and complete 15 hours of continuing education annually. Preparers who meet these new testing and education requirements would have received a new title: registered tax return preparers (RTRPs).

Under the initiative, starting January 1, 2014, only RTRPs, enrolled agents, certified public accountants, and attorneys would have authority to prepare and sign federal income tax returns for individuals for compensation. (Enrolled Agents, CPAs, and attorneys already demonstrate competency through testing, continuing education, and licensing by either the IRS, state boards, or state bars.) We also plan to create a tax return preparer directory that we would post on IRS.gov. It would provide taxpayers with a searchable database of all preparers with valid PTINs who met IRS requirements.

The objective of this initiative is to improve service to taxpayers, to assure them that the preparer they choose meets minimum standards of competency, as well as to help us combat tax fraud, identity theft, and refund theft.

On January 18, the United States District Court for the District of Columbia enjoined the IRS from enforcing the regulatory requirements for RTRPs. The IRS, through the Department of Justice, requested a stay of the order until we could file an appeal. On February 1, the court rejected the stay but modified its order to clarify that the order does not affect the requirement for all paid tax return preparers to obtain a PTIN. The court indicated that we could only implement testing and continuing education on a voluntary basis. Prior to the injunction, over 638,000 preparers had already obtained or renewed their PTIN for filing season 2013. Approximately half of those preparers fell under RTRP requirements. The Department of Justice has recently filed a Notice of Appeal of the court's decision.

You also asked several questions about our plans for addressing the U.S. District Court's decision. These are answered below.

1. Following the U.S. District Court's decision, has the IRS conducted any outreach to taxpayers and others affected regarding the return preparer requirements?

We have conducted extensive and timely outreach. We received notification of the injunction late in the day on Friday, January 18. As a result of work done over the long weekend, by the following business day, we had taken numerous steps to meet the requirements of the initial court order. We closed the PTIN registration system, its associated call site, and the competency test-scheduling center. We posted an official statement regarding the litigation on our websites, IRS.gov, www.irs.gov/ptin and www.irs.gov/taxpros, before noon on Tuesday, January 22. We also linked to the official statement from www.irs.gov/taxpros/tests and www.irs.gov/taxpros/ce and social media outlets. We e-mailed the statement to tax professional organizations, tax software companies, and the top employers of PTIN holders. We also held a conference call with these stakeholder groups on January 22.

In addition, we have been notifying all preparers who were already scheduled to take the Registered Tax Return Preparer test on a rolling basis via email and telephone that we have cancelled their test due to the litigation. We also provided proper guidance to call center employees answering questions about the test.

We received the modified court order late in the day on Friday, February 1, allowing us to re-open the online PTIN system later that evening. We e-mailed this information to tax professional organizations, top employers, and our field employees that same night. On Sunday, February 3, we updated the official statements on IRS.gov to include information about the modified order. We provided guidance to the telephone center over the weekend, and on February 4, we re-opened our Tax Professional PTIN Information Line for telephone inquiries.

Additionally, on February 4, we issued a special edition of e-news for Tax Professionals informing subscribers that the injunction did not affect the PTIN requirements and that we had re-opened the online PTIN system.

2. Does the IRS plan to make changes to its website that reflect the change in requirements and explain to taxpayers and preparers the proper protocol for this filing season?

We have made substantial changes reflecting the current guidance for preparers to our website as described above. Other outreach is also planned.

3. Does the IRS anticipate that the suspension of the program will impact tax administration during this filing season? If so, in what manner?

Initially, preparers were confused about whether the injunction affected PTIN requirements, as well as how the injunction affected the examination and continuing education requirements. The modified order issued on February 1, resolved the PTIN issue and allowed us to re-open the PTIN system. However, enjoining the IRS from otherwise regulating return preparers is a disruption to effective tax administration. Ensuring paid tax return preparers have a minimum level of competency is an important component of our strategic approach to combating tax fraud, identity theft, and refund crimes.

4. Has the IRS made any adjustments to its 2013 tax filing season plans to accommodate more taxpayer inquiries on this topic? If not, has the IRS provided taxpayers with self-help options on its website that answer taxpayer inquiries?

We had not scheduled significant outreach to taxpayers about the new regulations for return preparers until prior to the 2014 filing season. We have received inquiries about the injunction primarily from tax professionals. We have ensured that all public-facing employees have accurate and up-to-date information on the effect of the litigation on the tax return preparer requirements, and we have updated the website as described above. Additionally, on February 5, we issued our annual reminder of tips for "Choosing a Tax Return Preparer" as part of our filing season kick-off communications plan.

5. Can all paid tax preparers, registered and unregistered, properly sign and file returns? If so, must a paid return preparer include a PTIN on prepared returns?

As modified, the injunction does not affect PTIN requirements. Anyone who is paid to prepare, or assist in preparing, all or substantially all of any federal tax return or claim for refund must have a PTIN. Paid preparers must generally sign and enter their PTIN on all returns they prepare. Since the PTIN system re-opened, the total number of tax professionals who have a valid PTIN for 2013 has grown to 645,000.

6. Has the IRS suspended the issuance of preparer identification numbers (PTIN)? If so, will the IRS website be updated to reflect the new requirements?

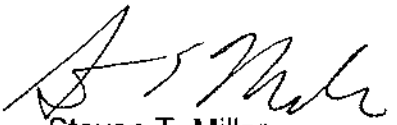
We suspended issuing PTINs between January 20 and February 1. After the court modified its original order on February 1, we immediately re-opened PTIN processing. We have regularly updated information about the status of PTIN processing on our website.

7. Are paid return preparers that met the competency and filing requirements prior to the U.S. District Court's decision date permitted to continue using the Registered Tax Return Preparer credential?

As of late January, more than 50,000 tax return preparers had received the new title. The future of the registered tax return preparer credential is dependent upon whether the injunction order is affirmed or reversed on appeal. Based upon the district court's injunctive order, registered tax return preparers are currently not required to pass a competency test and obtain annual continuing education. Thus, the RTRP credential as we established it currently does not exist.

I hope this information is helpful. If you need further assistance, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

March 4, 2013

The Honorable Charles Boustany Jr., M.D.
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I write in response to your letter of February 11, 2013, regarding the Internal Revenue Service's (IRS) use of a production studio in New Carrollton, Maryland. We share the Committee's interest in the efficient use of government resources to protect taxpayer dollars. In fact, from fiscal year 2009 through fiscal year 2013, the IRS will have achieved nearly $1 billion in budget savings and efficiencies.

Part of the IRS's mission is to make voluntary compliance with the country's tax laws as easy as possible. To achieve this goal, the IRS provides various education and training programs, both for taxpayers and for IRS employees. Use of the production studio referenced in your letter is one way the IRS accomplishes its mission while conserving taxpayer funds. Utilizing the production studio allows the IRS to provide education and training to large audiences, both within the IRS and to the public, often while reducing travel and other costs associated with such programs. For example, during the last year, we used the studio to conduct a virtual townhall available to more than 4,000 IRS managers across the country at a fraction of the cost of an in-person conference. The townhall covered budget issues and IRS priorities, among other topics. We also regularly use the studio to provide important information to taxpayers and practitioners. Our instructional YouTube videos, which focus on matters such as the timing of refunds, do-it-yourself tax preparation, and how to obtain tax forms, have been viewed by taxpayers more than 4 million times.

Your letter refers to two specific video segments. The first segment opened a training and leadership conference in 2010 that trained IRS employees on a wide variety of topics, including tax law updates, strategic issues, and employee management and safety issues. We believe the second segment you referenced is the introductory portion of a 2011 video training series that discussed, among other topics, IRS tools to deliver quality taxpayer service. The 2011 series was used to train taxpayer assistance employees in approximately 400 locations across the United States, saving an

estimated $1.5 million as compared to the potential costs to train these employees in person. We believe the combined production costs, including participant staff hour costs, for the 2010 video segment and the introductory segment of the 2011 training series were approximately $60,000.

We are happy to make both videos available for viewing. Please have your staff contact Director of Legislative Affairs, Catherine Barrè, at (202) 622-3720 to arrange a mutually agreeable time for that review. As always, please let us know if there are other ways we can be of assistance.

Sincerely,

Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

March 8, 2013

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cummings:

Enclosed please find my second response to Chairman Issa's February 20, 2013, letter regarding the award of certain contracts by the IRS.

If you have additional questions, please contact me, or have a member of your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

March 8, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter to Acting Secretary Wolin, dated February 20, 2013, regarding the award of certain contracts by the IRS. Your letter raises allegations that the IRS takes very seriously.

As I previously informed you, pursuant to our normal procedures, we have referred this matter to the Treasury Inspector General for Tax Administration (TIGTA) so that they may conduct an independent review to ensure that all Federal Government and IRS procedures were followed. The IRS will continue full cooperation with TIGTA's investigation, and I look forward to learning the results.

While we continue to gather information requested in your letter and to assist TIGTA's investigation, I am providing you with documents responsive to your request. Additional materials will be provided as available.

Ensuring the public's trust in the IRS and its employees is critical to the IRS's ability to fulfill its mission, and we take the integrity of our employees very seriously. You requested materials related to ethics. The IRS managers are required to conduct annual discussions with their employees to discuss the Office of Government Ethics rules and regulations, as well as any other applicable rules and regulations relating to ethics, and certify that the discussions have taken place. The talking points provided to managers for use in these discussions are included at Tab 1 of the enclosure. Additionally, all GS-15 and higher employees must complete annually an Office of Government Ethics (OGE) ethics and standards of conduct training through our Enterprise Learning Management System, and all IRS employees receive a copy of the *Plain Talk About Ethics and Conduct* booklet, which outlines the Principles of Ethical Conduct and serves as a conduct guide for our workforce. Copies of this booklet and of the 2012 OGE ethics training are included in Tab 1 of the enclosure.

All IRS Contracting Officers (COs) are certified as Federal Acquisition Certification-Contracting Levels I, II or III. Levels are based on education, training and experience. All COs are required to maintain a minimum of 80 hours of specialized training every 2 years. The training provides a comprehensive understanding of the environment in

which COs serve and includes instruction on developing professional skills for making business decisions and for advising other acquisition team members. The focus of the training is on civilian agency procurement and on complying with all Federal Acquisition Regulations (FAR), including ethical standards and conduct in procurement.

All IRS Contracting Officer's Representatives (CORs) are certified as Federal Acquisition Certification-COR Levels I, II or III. Levels are based on training and experience. Level I CORs are required to maintain a minimum of 8 hours of specialized training every 2 years; Level II and III CORs must maintain a minimum of 40 hours of specialized training every 2 years. The training provides an in-depth understanding of COR roles and responsibilities, as well as fundamental contract rules and regulations, including ethical standards and conduct.

We would like to clarify that responsibility determinations for Blanket Purchase Agreements (BPAs) established under General Services Administration (GSA) Federal Supply Schedules (FSS) contracts are not made by the IRS. In accordance with the FAR, the GSA makes responsibility determinations for FSS contracts, and additional determinations are not required for such BPAs. Documents addressing past performance are contained at Tab 2 of the enclosure.

Please note the IRS plays no role in the determination of service-disabled veteran (SDV) status. The Department of Veterans Affairs oversees the process for verifying the SDV status of applicants. Responsive documents are contained at Tab 3 of the enclosure.

The IRS also plays no role in the determination of HUBZone eligibility. The U.S. Small Business Administration is responsible for determining the eligibility of a business for the HUBZone program. Responsive documents are contained at Tab 4 of the enclosure.

It is very important to the IRS that all of our contracting is performed in a transparent manner consistent with the law, and the IRS has a rigorous process for ensuring compliance with the FAR and all other applicable laws and regulations. We continue to collect documentation in response to your request.

If you have any questions, please contact me, or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for Operations Support

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

March 20, 2013

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cummings:

Enclosed please find my follow up response to my February 21, and March 8, 2013, responses to Chairman Issa's letter to Acting Secretary Wolin, dated February 20, 2013. He wrote about the award of certain contracts by the IRS.

If you have additional questions, please contact me, or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for Operations Support

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

March 20, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter is a follow up to my February 21, and March 8, 2013, responses to your letter to Acting Secretary Wolin, dated February 20, 2013, regarding the award of certain contracts by the IRS. As discussed in my prior response, we are in the process of compiling the responsive documents requested in your letter and have made some progress, which is outlined below.

In your letter you specifically mentioned two contracts that Signet Computers received in December 2012. Both of the contracts referenced in your letter are now available for in camera review at your convenience.

You also asked about information relating to contracts awarded by the IRS in 2012 for which the individual named in your letter was a contracting officer or a source selection official. There are no 2012 contracts responsive to this request as the individual named has not been a contracting officer or a source selection official since January 2009.

We continue to collect documents responsive to your request, and additional material will be provided as available. If you have any questions, please contact me, or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for Operations Support

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

April 8, 2013

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cummings:

Enclosed please find my response to Chairman Issa's letter to Secretary Lew dated April 4, 2013. The Chairman inquired about certain contracts awarded by the IRS.

If you have additional questions, please contact me, or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for Operations Support

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

April 8, 2013

The Honorable Darrell Issa
Cha rman
Committee on Oversight and
G overnment Reform
U.S House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I write in response to your letter to Secretary Lew, dated April 4, 2013, regarding the award of certain contracts by the IRS. I want to emphasize that we respect the Committee's role in this review and in other oversight matters.

As I have previously discussed, upon receiving your original letter on this issue to then-Acting Secretary Wolin, dated February 20, 2013, we immediately referred the matter to the Treasury Inspector General for Tax Administration (TIGTA), in accordance with normal procedures, for an independent review to ensure that all Federal Government and IRS contracting procedures were followed. We responded to your letter on February 21, 2013, informing you of our referral of the matter to TIGTA.

Since that time, our staff has been working diligently to gather the documentation you requested, which includes collecting numerous emails and other communications related to the contracts about which you have inquired. In the interim, we provided information in response to your inquiries in two follow-up responses, dated March 8 and March 20, 2013, and gave your staff access to requested documents as they were available. On April 4, 2013, we also sent to your staff unredacted copies of the contracts you requested. Additionally, several IRS executives and I met with your staff in person on two separate occasions to answer their questions and discuss the matter in more detail.

We have gathered additional documentation that you have requested, and we are providing your staff the available documents today, with additional documentation to be delivered later in the week. We will continue to provide documents as they are available. The materials include both sensitive proprietary information as well as individual IRS employee names. We take seriously the privacy and safety of our employees and respectfully request that you be mindful of these issues with any public dissemination of the documents we produce. Should you decide to make any of these documents public, we can provide you with versions of the documents that redact the proprietary information and employee names. Additionally, Catherine Barré, Director of

Legislative Affairs, will reach out to your staff to arrange another follow-up meeting to discuss your inquiries and any open questions your staff might have on this matter.

In the meantime, if you have any questions, please contact me, or a member of your staff may contact Catherine Barré at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for Operations Support

Enclosures

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

Majority (202) 225-5074
Facsimile (202) 225-3974
Minority (202) 225-5051

http://oversight.house.gov

April 4, 2013

The Honorable Jacob J. Lew
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20221

Dear Mr. Secretary:

On February 20, 2013, I wrote to then-Acting Secretary Neil Wolin to request documents and information related to allegations about a series of contracts, potentially worth more than half a billion dollars, that the Internal Revenue Service awarded to Signet Computers, Inc.[1] On March 26, 2013, I wrote to update you with new information the Committee obtained through witness interviews and its review of thousands of documents. As this new information raised additional questions about the Signet contracts, I also requested that the Department produce without further delay the documents that the Committee identified almost six weeks ago. If the Department was unable to produce those documents by April 1, 2013, I requested that it provide the Committee with a reasonable schedule for the production of each of the ten categories of documents I requested on February 20, 2013. To date, the Department has produced neither documents nor a schedule.

The IRS has demonstrated that it is unwilling to cooperate with the Committee's investigation. It has withheld documents and information and limited access to key IRS officials. To date, the IRS has produced documents in only four of ten categories listed in my February 20, 2013, letter. On March 21, 2013, IRS officials abruptly ended a briefing despite the fact that staff investigators had numerous outstanding questions. In a subsequent briefing, the same IRS officials were unable or unwilling to answer basic questions about the Signet contracts, despite a specific request to be prepared to do just that. Among other things, the IRS officials would not identify the officials who decided to award more than $500 million worth of contracts to Signet.

Instead of producing relevant documents to the Committee, the IRS required Committee staff to review them *in camera* at IRS headquarters. The documents—nothing more than copies of contracts awarded to Signet Computers—were neither sensitive nor classified, and a GAO decision regarding a bid protest implicating just one of the four documents had already been made. Therefore, it appeared the Department required staff investigators to review documents *in camera* to impede or delay the Committee's investigation.

[1] Signet Computers, Inc. recently changed its name to Strong Castle, Inc. It is affiliated with Strong Castle Technologies, LLC, formerly known as Strong Castle, LLC. As all of the contracts awarded by the IRS were to Signet Computers, Inc, this letter will refer only to Signet Computers, Inc. ("Signet Computers" or "Signet").

The IRS further refused to provide the Committee with copies of files related to bid protests in which Signet contracts were in question. As I understand it, this production would, in the normal course, have been substantially compiled and assembled for GAO's use in the bid protest(s). Therefore, to the extent these materials are already in digital form for production to GAO, the IRS could comply with my request by simply forwarding the same material to the Committee. The IRS has failed to do even that.

The posture of the IRS with respect to the Committee's investigation of the Signet contracts creates the appearance that there is something to hide. If the Department fails to produce the withheld documents by April 10, 2013, the Committee will be left with no alternative but to use compulsory process to obtain them. These documents will likely shed light on the possible misconduct of IRS officials and potential shortcomings in the IRS contracting process.

IRS officials with knowledge of the Signet contracts are in the best position to answer questions raised by documents and information the Committee has obtained. So that the Committee can obtain all the relevant facts in this matter, please make the following individuals available for transcribed interviews:

1. Stephanie Bracey Smith, Contracting Officer
2. Brian M. Carper, Contracting Officer
3. Paula Cheatham, Chief, Tier 2 3 Section
4. Karen Parrish, Chief, TCV Acquisition and Services Section
5. Patrick Bergin, Chief, Tax Processing & Support Section
6. Gregory Roseman, Deputy Director, IT Procurement

Please contact Carlton Davis or Jennifer Barblan of the Committee staff at (202) 225-5074 as soon as possible, but by no later than April 8, 2013, to make arrangements for these transcribed interviews. Thank you for your prompt attention to this important matter.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

February 21, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter to Acting Secretary Wolin, dated February 20, 2013, regarding the award of certain contracts by the IRS. Your letter raises allegations that the IRS takes very seriously.

Pursuant to our normal procedures, we have discussed with the Treasury Inspector General for Tax Administration (TIGTA) the need to conduct an independent review to ensure that all Federal Government and IRS procedures were followed. The IRS will continue to fully cooperate with the TIGTA investigation and looks forward to learning the results.

It is very important to the IRS that all of our contracting is done in a transparent manner consistent with the law. The IRS has a rigorous process for ensuring compliance with the Federal Acquisition Regulation and all other applicable laws and regulations. On large, complex procurements, there are multiple parties that have oversight of the process including the Contracting Officer's management chain, the Office of Procurement Policy and Counsel.

If you need further assistance with this matter, please contact me, or a member of your staff may contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

February 21, 2013

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cummings:

Enclosed please find my response to Chairman Issa's February 20, 2013, letter regarding the award of certain contracts by the IRS.

If you have additional questions, please contact me, or have a member of your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

February 21, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter to Acting Secretary Wolin, dated February 20, 2013, regarding the award of certain contracts by the IRS. Your letter raises allegations that the IRS takes very seriously.

Pursuant to our normal procedures, we have discussed with the Treasury Inspector General for Tax Administration (TIGTA) the need to conduct an independent review to ensure that all Federal Government and IRS procedures were followed. The IRS will continue to fully cooperate with the TIGTA investigation and looks forward to learning the results.

It is very important to the IRS that all of our contracting is done in a transparent manner consistent with the law. The IRS has a rigorous process for ensuring compliance with the Federal Acquisition Regulation and all other applicable laws and regulations. On large, complex procurements, there are multiple parties that have oversight of the process including the Contracting Officer's management chain, the Office of Procurement Policy and Counsel.

If you need further assistance with this matter, please contact me, or a member of your staff may contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Beth Tucker

Beth Tucker
Deputy Commissioner for
Operations Support

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

APR 23 2013

The Honorable Charles W. Boustany
Chairman
Committee on Ways and Means
Subcommittee on Oversight
U.S. House of Representatives
Washington, DC 20515

Attention: Chris Armstrong

Dear Mr. Chairman:

I am replying to your letter dated October 4, 2012, to Commissioner Shulman on the use of debit cards to provide transportation benefits to federal employees. Your letter specifically refers to the Department of Health and Human Services' (HHS) "GoICard" and the Department of Transportation's (DOT) "TRANServe Debit Card" programs for the Washington, DC, metropolitan area (National Capital Region (NCR)).

HHS and the DOT provide separate transit benefit card programs in the NCR. Because each agency is also a federal employer, and thus a taxpayer, the laws on disclosure of taxpayer information apply. As taxpayers, each agency is entitled to the confidentiality of its return information. [Section 6103(a) of the Internal Revenue Code]. We can only disclose return information if the taxpayer consents to the disclosure. [Section 6103(c) of the Code]. Accordingly, we are addressing each transit benefit card program in separate letters. This letter addresses the HHS GoICard. HHS has provided consent to disclose information related to the HHS GoICard.

The current guidance relevant to your questions is in the regulations under Section 132(f) of the Code and in Revenue Ruling 2006-57. Generally, gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items. [Section 61(a)(1) of the Code]. However, taxpayers exclude any fringe benefit that is a qualified transportation fringe from gross income. [Section 132(a)(5) of the Code]. A "qualified transportation fringe" is:

- Transportation in a commuter highway vehicle between home and work
- Any transit pass
- Qualified parking [Section 132(f)(1) of the Code]

A transit pass is any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) on mass transit facilities or in a commuter highway vehicle operated by a person that provides transportation for compensation or hire. [Section 132(f)(5)(A) of the Code]. A qualified transportation fringe includes a cash reimbursement by an employer to an employee for transit benefits. However, a qualified transportation fringe includes a cash reimbursement by

an employer to an employee for a transit pass only if a voucher or similar item that can be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee. [Section 132(f)(3) of the Code].

A voucher or similar item is readily available for direct distribution by an employer to employees if, and only if, the employer can obtain it from a voucher provider that does not impose fare media charges greater than one percent of the average annual value of the voucher for a transit system. The voucher provider also cannot impose other restrictions causing the voucher not to be considered readily available. [Section 1.132-9(b), Q/A-16(b)(5) and (b)(6) of the Income Tax Regulations].

Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, and federal income tax withholding are imposed on "wages." [Sections 3101, 3111, 3121(a), 3301, 3306(b), 3402, and 3401(a) of the Code]. However, "wages" do not include any benefit provided to or on behalf of an employee if, at the time the employer provides such benefit, the employer can reasonably believe that the employee will be able to exclude such benefit from gross income under section 132. [Sections 3121(a)(20), 3306(b)(16) and 3401(a)(19) of the Code].

Revenue Ruling 2006-57 provides guidance to employers on the use of smartcards, debit or credit cards, or other electronic media to provide qualified transportation fringes under sections 132(a)(5) and (f) of the Code. The ruling states that employers can use electronic media as a means of providing transportation benefits, including benefits under bona fide reimbursement arrangements. The ruling provides the following four examples of using electronic media:

Situation 1 – An employer distributes "smartcards" to its employees. Employees use fare media that their employer stores on these cards for the local transit system. The fare media value stored on the cards is useable only as fare media for the local transit system. The revenue ruling concludes that smartcards qualify as "transit system vouchers" under section 1.132-9(b) of the Regulations.

Situation 2 – An employer provides transportation benefits to employees via debit cards that they can only use at merchant terminals at points of sale at which only fare media are sold. The employer makes monthly payments to the debit card provider on behalf of its employees, which the provider electronically allocates to each employee's terminal-restricted debit card. The revenue ruling concludes that the terminal-restricted debit card qualifies as a "transit pass" under section 1.132-9(b), Q/A-16(b)(2) of the Regulations because the employee can only use it at merchant terminals at points of sale at which only fare media for the transit system is sold.

Situation 3 – An employer provides transportation benefits to its employees through a merchant category code (MCC) restricted debit card. For the first

month an employee participates in the transportation benefit program, the employee pays for fare media with after-tax amounts. The employee then substantiates to the employer the amount of fare media expenses incurred during the month using reasonable substantiation procedures the employer implemented as described in section 1.132-9(b), Q/A-16(c) of the Regulations. The employer then remits to the debit card provider an amount equal to the amount of substantiated fare media expenses for the prior month, which the debit card provider then electronically allocates to the debit card assigned to the employee. For subsequent months, the employer reimburses the employee for substantiated fare media expenses by providing funds to the debit card provider that are allocated to the employee's debit card equal to the amount of the substantiated expenses. The substantiation procedures in Situation 3 include obtaining an initial and subsequent annual employee certifications and reviewing periodic statements from the debit card provider with details on the use of the debit card.

The revenue ruling concludes that the employer in Situation 3 has implemented reasonable substantiation procedures as described in section 1.132-9(b), Q/A-16(c) of the Regulations. Accordingly, the employer has established a bona fide reimbursement arrangement for transit passes, and the employer excludes the value of the fare media provided to its employees through the use of the MCC-restricted debit cards from its employees' gross income as a qualified transportation fringe benefit.

Situation 4 -The facts in this situation are the same as those in the third situation, except that the employer provides employees with the MCC-restricted debit cards before they begin work. Before using the MCC-restricted debit cards, employees must certify that they will only use the card to purchase transit passes. Further, written on each card is a statement that the employee can only use the card for transit passes, and, by using the card, the employees certify that they are using the card only to purchase transit passes. The revenue ruling concludes that the arrangement in the fourth situation does not meet the requirements of a bona fide cash reimbursement arrangement because it provides for advances rather than reimbursements and because it relies solely on employee certifications provided before he or she incurs expenses. Those certifications, standing alone, do not provide the substantiation of expenses incurred necessary for a bona fide reimbursement arrangement.

The Treasury Department and the IRS originally scheduled Revenue Ruling 2006-57 to become effective January 1, 2008. However, they delayed the effective date of the ruling four times to give transit systems additional time to modify their technology to comply with the requirements in Revenue Ruling 2006-57, which became effective on January 1, 2012. [Notice 2010-94, 2010-52 Internal Revenue Bulletin 927].

You indicated that you are concerned about the possible misuse of debit cards, including the HHS Go!Card as used in the NCR, to provide transportation benefits to federal employees. Our responses to your specific questions on the HHS Go!Card are below. As described below, my office has had some general conversations with HHS on the requirements a transit program would have to meet in order to comply with the requirements of section 132(f) of the Code. HHS, which uses a credit card rather than a debit card in its program, has not asked us to opine on whether their Go!Card complies with the requirements of section 132(f), and we do not have sufficient information to do so.

1. You requested a detailed explanation for the basis upon which IRS has determined transit vouchers are "not readily available" to federal employees in the NCR.

We base our determinations of whether transit passes or vouchers are readily available on the relevant facts and circumstances of each transit system. In the NCR, the primary transit system provider is the Washington Metropolitan Area Transit Authority (WMATA). However, the WMATA is not the sole transit system provider. We must determine whether transit passes or vouchers are readily available for each transit system. [Section 1.132-9(b), Q/A-16(b)(5) of the Regulations].

The WMATA SmarTrip card is a permanent, rechargeable farecard that is embedded with a computer chip that keeps track of the value of the card. It is used for both transit and parking on the WMATA system. The WMATA changed its transit benefit system to ensure the SmarTrip card complies with Rev. Rul. 2006-57 to be a transit pass or voucher with regard to employer provided benefits. The changes affected whether transit passes or vouchers for WMATA transit systems are readily available and, thus, whether employers may provide nontaxable transit benefits through cash reimbursements. Specifically, WMATA implemented a "purse" system beginning on December 1, 2011, under which the SmarTrip card has three sections, or purses. The first purse holds benefits for transit fares only. The second purse holds benefits for Metro parking only. The third (or personal stored value) purse holds whatever amount the commuter adds to cover either transit or parking. WMATA will use amounts in the personal purse once the employer funded transit or parking purse is depleted.

Under the purse system, the following conditions apply:

- Commuters cannot transfer funds from one purse to another.
- Commuters can use funds in the transit benefit purse only to purchase fare media.
- Only employers can add value to parking or transit benefits purse
- Federal government employers only fund a commuter's transit benefit purse.

- The WMATA credits unused monthly benefits back to the federal employer's account at the end of each month.

The SmarTrip card qualifies as a transit pass for employer funds confined to the transit benefit purse because employees can only use the funds to purchase fare media.

However, the WMATA places into the personal purse any amounts that individual employees load themselves onto the SmarTrip card—by cash, debit card, or credit card. Commuters can use funds in the personal purse for either parking or transit. Thus, individual employees using credit or debit cards, to load benefits onto their SmarTrip cards would be able to use the benefits on their cards for either parking or fare media. In these circumstances, the SmarTrip card does not qualify as a "transit pass" because commuters can use it to purchase both parking and fare media. Accordingly, employers must distribute transit benefits via the SmarTrip card transit benefit purse to those employees in the NCR who commute using transit systems that accept the SmarTrip card, unless another transit system voucher is readily available in the NCR, to satisfy the legal requirements for the benefits to be nontaxable. For transit systems in the NCR that do not accept the SmarTrip card, the employer must determine whether any transit system voucher is readily available for use on such system.

In determining whether a voucher is available to federal government employers for transit on systems in the NCR, we understand that federal agency employers must consider restrictions placed on the use of federal funds under section 3302 of Title 31 of the United States Code. We have learned that section 3302 of the U.S.C. prohibits federal agencies from holding public money outside of Treasury, meaning that agencies may not have a private entity or financial institution hold such money. The only entities that can hold public money are depositaries and financial and fiscal agents of the United States, which the Secretary of the Treasury designates, and they must collateralize any public money they hold. [Sections 90, 265, 332, 1767, and 391 of Title 12 of the U.S.C.]. Further, we understand that Executive Order 13150, issued in 2000, instructed federal agencies in the NCR to provide transit benefits for commuting to the extent possible, as permitted under section 132(f) of the Code.

2. You requested that we provide copies of any written agreements among the Department of Transportation, Department of Health and Human Services, Department of the Treasury, and IRS concerning the issuance of transit benefits via debit card.

We are not aware of any written agreements among HHS, the Department of the Treasury, and the IRS concerning the issuance of transit benefits via debit card.

3. You requested that we provide all comments, guidance, and other documents the IRS has provided to any agency regarding the issuance of transit benefits via debit card.

As mentioned above, HHS provides transit benefits to its employees as an employer and, in that capacity, is entitled to the confidentiality of its return information. On March 25, 2013, HHS consented in writing to disclose return information on the HHS GoICard, a credit card. While our office has not opined on the HHS GoICard, I have enclosed copies of e-mails between our office and the HHS on the issues to be considered when issuing transit benefits via debit or credit card. I have also provided enclosures with redacted employee names and emails in addition to unredacted copies for your use. Should the committee further distribute the enclosures, for the privacy of the employees, I ask that you share only the redacted versions. Enclosed you will find:

- Enclosure 1 - November 28, 2011, e-mail chain between an IRS Office of Chief Counsel representative and an HHS representative asking questions about the GoICard.

- Enclosure 2 - December 16, 2011, e-mail between an IRS Office of Chief Counsel representative and an HHS representative describing issues involved in using debit/credit cards.

- Enclosure 3 - January 10, 2012, e-mail between an IRS Office of Chief Counsel representative and an HHS representative describing section 1.132-9 of the Regulations.

4. You requested a detailed explanation of Rev. Rul. 2006-57's applicability to these debit cards, whether they can be used to purchase non-transit benefits, and what technology is in place to prevent their use in non-travel purchases.

As explained above, Rev. Rul. 2006-57 provides guidance on the use of smartcards, debit or credit cards, or other electronic media to provide qualified transportation fringes.

It includes guidance on when a debit or credit card can qualify as a voucher, and when an employer can use a debit or credit card to administer a bona fide cash reimbursement system. Rev. Rul. 2006-57 applies the requirements of Code section 132(f) and section 1.132-9(b) of the Regulations to four factual scenarios. It does not purport to include all acceptable fact patterns, particularly in light of developing technologies since 2006. If we did not specifically address a factual scenario in Rev. Rul. 2006-57, an employer needs to apply the rules and principles in the Code, the regulations, and Rev. Rul. 2006-57 to determine if its transit benefit meets those requirements.

To qualify as transit system vouchers, debit cards must be subject to restrictions that prevent their use to purchase items other than fare media for mass transit systems. [See 1.132-9(b), Q/A-16(b)(2), Rev. Rul. 2006-57]. We have not reviewed or provided an opinion on the restrictions that prevent the Go!Card, a credit card, from being used to purchase items other than fare media for mass transit.

5. You state that an IRS response to a recent Senate Finance Committee Question for the Record included the text of a November 1, 2011, IRS e-mail to the Department of Transportation. That e-mail mentioned that the debit cards distributed to the Norfolk, VA and Baltimore, MD metropolitan regions include restrictions that "effectively permit employees to use them only to purchase fare media on mass transit systems." You ask us to explain why the IRS considers such a permission-based restriction as meeting the IRC 132(f) and Ruling 2006-57 capability-based standard that restricts vouchers to products that can only purchase fare media or can be used as fare media.

The November 1, 2011, e-mail does not relate to the Go!Card.

6. You ask that we detail whether the cards in question are used to reimburse employees or pay for future transit costs.

If the Go!Card qualifies as a transit pass, the card is not viewed as reimbursing employees and we require no substantiation. [Section 1.132-9(b)-18 of Rev. Rul. 2006-57]. If the Go!Card does not qualify as a transit pass, the facts and circumstances would determine whether its use qualified as a bona fide cash reimbursement program, for reimbursing employees for their incurred transit costs. We have not provided any opinion on whether the Go!Card qualifies as a transit pass or as a bona fide cash reimbursement program.

7. You point out that a recent IRS Notice [Notice 2012-38] states that, "the IRS ha[s] become aware of technological advances that may enable providers of MCC-restricted debit cards to limit the use of these cards to such an extent that it is almost, if not entirely, impossible to use the cards to purchase any items other than fare media." You ask that we describe the technological advances the Notice refers to, detail how these advances make purchase of non-fare media "almost...impossible," detail the extent to which the technology is used in the TRANServe debit card and explain why the IRS considers "almost, if not entirely impossible to use the cards to purchase any items other than fare media" as meeting the IRC 132(f) and Ruling 2006-57 standard that restricts vouchers to *only* purchase fare media or can be used as fare media.

The situations in Revenue Ruling 2006-57 involved cards using only MCC-restrictions or only terminal-identification restrictions. In the course of discussions with taxpayers, we learned that card and system technology can possibly permit combinations of

restrictions and monitoring, both before and after use of the card, that accomplish the objective of ensuring the benefits provided through the card are used solely to purchase fare media. Accordingly, we have requested comments on current electronic media formats to decide whether to provide additional guidance on using electronic media that satisfies the Code and regulatory requirements.

I hope this information is helpful. If you have any questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

Enclosures (3)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 9, 2013

The Honorable Charles Boustany, Jr., M.D.
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your letter dated March 20, 2013, regarding the specific IRS video you mentioned and the IRS video production studio. This response supplements my responses to you dated March 4, 2013 and March 22, 2013.

The IRS studio referenced in your letter is located in the basement of the New Carrollton Federal Building and has been in use for more than 15 years. As I mentioned in our conversation, the studio helps the IRS to fulfill its mission to taxpayers in two important ways.

First, the studio allows us to develop educational videos and hold videoconferences in a cost-effective way to train employees around the country. For example, during the last year, I used the studio to conduct a virtual town hall available to more than 4,000 IRS managers across the country at the fraction of the cost of an in-person conference. In addition, the studio plays a key role in reducing the IRS's training costs. Our costs for training-related travel decreased 51 percent between 2010 and 2011 and an additional 35 percent between 2010 and 2011. To date, our travel and training expenses are down more than 80 percent since 2010. This reduction was achieved in large part through our use of videos and similar tools for employee training. In fact, for 2012, more than 90 percent of our training courses were delivered virtually. Compared with 2010, the percentage of training hours delivered online has nearly doubled and our cost per hour of training has been reduced by 46 percent. Thus, our ability to utilize the studio dramatically reduces travel and other costs associated with employee training, and represents an efficient use of taxpayer dollars.

Second, the studio allows us to produce videos to inform millions of taxpayers and partners of key IRS messages. Our instructional YouTube videos, which focus on matters such as timing of refunds, tax preparation, and how to obtain tax forms have

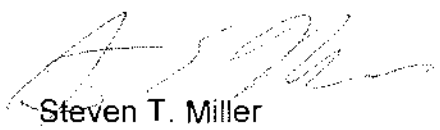
been viewed more than 5 million times. Our YouTube video on "When Will I Get My Refund?" has been viewed more than 1 million times this filing season.

You inquired about costs of the studio. Fixed staff and studio costs are approximately $2 million per year, which is primarily attributed to the costs of salary for staff and equipment required to produce over 500 projects annually. Additional costs, which vary depending on the specific training and communication projects for which the studio is used, are estimated to be $2 - $3 million annually. Notwithstanding our view that the studio is an efficient and effective use of IRS resources, we are looking at whether we can be even more efficient and are open to modifying our operation into the future.

The video you reference opened a training and leadership conference in 2010 that trained IRS employees in the Small Business Self-Employed Division (SB/SE) on a wide variety of topics, including tax law updates, strategic issues, and employee management and safety issues. The estimated production cost of the video segment is approximately $15,500. This includes studio costs of approximately $13,100 and pre-production costs of approximately $2,400. Estimated staff-hour costs for the participants and business unit production employees are approximately $29,400. Regarding video-related communications, I have been informed that the SB/SE Leadership Planning Committee developed the concept of the video to open the 2010 leadership conference, and that there is no approval documentation for the video as the concept was presented verbally to the then-SB/SE Commissioner, who gave his verbal approval. I note that since the video's production three years ago, the IRS has made numerous changes in this area by putting in place additional financial and other controls on a wide variety of expenditures, including training. These procedures required heightened approval for all videos to ensure that cost and content are appropriate. I can assure you that a video of the type referenced in your letter would not be made today.

Thank you for your letter. If you have any questions, please contact me or a member of your staff can contact Catherine M. Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

April 9, 2013

The Honorable Max Baucus
Chairman, Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated March 27, 2013, to Secretary Lew and me. I assure you that the Secretary and I share your interest in the efficient use of government resources to protect taxpayer dollars.

The video you mentioned opened a training and leadership conference in 2010 that trained IRS employees in the Small Business Self-Employed Division (SB/SE) on a wide variety of topics, including tax law updates, strategic issues, and employee management and safety issues. Since the video's production three years ago, the IRS has made numerous changes in this area, including heightened approval for all videos to ensure that cost and content are appropriate. I can assure you that a video of the type you referenced in your letter would not be made today.

You also raised questions with respect to the IRS studio. The studio referenced in your letter is located in the basement of the New Carrollton Federal Building and has been in use for more than 15 years. The studio helps the IRS to fulfill its mission to taxpayers in two important ways.

First, the studio allows us to develop educational videos and hold videoconferences in a cost-effective way to train employees around the country. For example, during the last year, I used the studio to conduct a virtual town hall available to more than 4,000 IRS managers across the country at the fraction of the cost of an in-person conference. In addition, the studio plays a key role in reducing the IRS's training costs. Our costs for training-related travel decreased 51 percent between 2010 and 2011 and an additional 35 percent between 2010 and 2011. To date, our travel and training expenses are down more than 80 percent since 2010. This reduction was achieved in no small part through our use of videos and similar tools for employee training. In fact, for 2012, more than 90 percent of our training courses were delivered virtually. Compared with 2010, the percentage of training hours delivered online has nearly doubled and our cost per hour of training has been reduced by 46 percent. Thus, our ability to utilize the

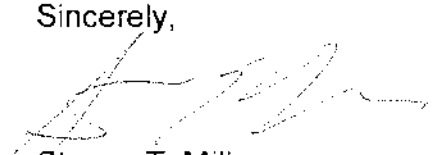
studio dramatically reduces travel and other costs associated with employee training, and represents an efficient use of taxpayer dollars.

Second, the studio allows us to produce videos to inform millions of taxpayers and partners of key IRS messages. Our instructional YouTube videos, which focus on matters such as timing of refunds, tax preparation, and how to obtain tax forms have been viewed more than 5 million times. Our YouTube video on "When Will I Get My Refund?" has been viewed more than 1 million times this filing season.

You inquired about costs of the studio. Fixed staff and studio costs are approximately $2 million per year, which is primarily attributed to the costs of salary for staff and equipment required to produce over 500 projects annually. Additional costs, which vary depending on the specific training and communication projects for which the studio is used, are estimated to be $2 - $3 million annually. Notwithstanding our view that the studio is an efficient and effective use of IRS resources, we are looking at whether we can be even more efficient and are open to modifying our operation into the future.

Thank you for your letter. If you have any questions, please contact me, or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 6, 2013

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Cummings:

I am responding to your letter of April 4, 2013, in which you wrote about the approval of H.R. 249, Federal Employee Tax Accountability Act of 2013, and asked about our procedures for dealing with federal and IRS employees with delinquent tax liabilities. We currently administer the Employee Tax Compliance (ETC) Program to help our employees comply with their tax obligations. We also have a specific program that focuses on the tax compliance of other federal employees. The Federal Employee/ Retiree Delinquency Initiative (FERDI) program was developed in 1993 to promote federal tax compliance among current and retired federal employees. I have responded to your specific questions below.

1. Once a federal employee has been identified under current IRS rules and procedures as having a tax delinquency, what procedures are available to allow the individual to resolve the delinquency before punitive action is taken?

We are committed to working with all federal employees to help resolve their tax liabilities. When a federal employee incurs delinquent taxes, we afford them the same options available to all taxpayers, and we work with them on an individual basis. For federal employees, and all other taxpayers, who are unable to pay their tax liabilities in full, we can make payment arrangements based on the facts and circumstances of each case. Publication 594, *The IRS Collection Process*, describes the options all taxpayers have for paying their tax liabilities (copy enclosed).

2. What options are uniquely available for federal employees who cannot pay their taxes on time?

We do not have any unique options for federal employees to resolve and pay their delinquent taxes. We handle the resolution of their tax issues the same as with other taxpayers. We offer a variety of payment options to all taxpayers, including federal employees. These include installment agreements, offers in compromise, payroll

deduction, credit card payment and others. See Publication 594, which includes details on options for taxpayers who cannot fully pay their liabilities.

3. When does the IRS take enforced collection action against a federal employee taxpayer?

As with all taxpayers, if a federal employee does not pay on time, the IRS sends a series of notices requesting payment of the delinquent tax. Under the Internal Revenue Code (IRC) and federal regulations, we may take enforced collection action against the taxpayer 30 days after the taxpayer receives a Final Notice of Intent to Levy and Notice of Your Right to a Hearing.

We assign federal employee delinquent accounts that remain unpaid after issuing the final notice to our Automated Collection System (ACS). After assigning them to the ACS, federal employee accounts are immediately subject to the Federal Payment Levy Program (FPLP). The FPLP, as prescribed by The Taxpayer Relief Act of 1997 (Public Law 105-34), allows the IRS to collect overdue federal tax debts of individuals who receive federal payments (including salaries, travel payments, and retirement annuities) by levying up to 15 percent of each payment until the individual pays the debt (section 6331(h) of the IRC).

The FPLP is an automated process of serving levies through the U.S. Department of the Treasury's Financial Management Service (FMS). The FPLP is limited to payments disbursed by the FMS through the Treasury Offset Program (TOP). At this time, only federal employee salaries paid through the U.S. Department of Agriculture, the National Finance Center, the U.S. Department of Interior, the National Business Center, the General Services Administration, the National Payroll Branch, the Defense Finance and Accounting Service, and the U.S. Postal Service are part of TOP and thus subject to FPLP. The FPLP excludes the salaries of employees of other agencies, including the U.S. Senate and the U.S. House of Representatives. However, these employees are subject to manual levies.

4. How does the IRS assist federal employees in establishing a payment schedule to enable them to meet their tax responsibilities?

Federal employees who cannot pay their tax liabilities in full can apply for an installment agreement by using one of the following options:

- Online at http://www.irs.gov/Individuals/Online-Payment-Agreement-Application
- By phone at 1-800-829-1040
- By mail with Form 9465, Installment Agreement Request, or Form 2159, Payroll Deduction Agreement
- In person at a local IRS office

As mentioned above, the enclosed Publication 594 provides more details on these options.

5. How would the provisions in this bill enhance the IRS's enforcement actions against federal employees compared to current law?

The proposed legislation does not appear to change the Internal Revenue Code tax collection provisions. We note that H.R. 249 does not address federal employee tax delinquency resulting from failure to file required income tax returns.

6. Would H.R. 249 place a higher burden on federal employees than on the public as a whole with respect to a levy?

If the intent of the language is to exclude debts for which levies have been issued from the definition of "seriously delinquent tax liability," there is no higher burden. The language should be clarified, however, as the concept that "the applicant agrees" does not exist under present law as taxpayers do not explicitly agree to a levy. The law allows the IRS the authority to levy certain assets.

7. Would H.R. 249 place higher burden on federal employees than on IRS employees as a whole with respect to a levy?

Federal employees would not experience a greater burden than that of IRS employees with respect to a levy due to H.R. 249. We levy the wages of IRS employees to collect delinquent taxes from them in the same manner as all federal employees. The only difference is that we hold IRS employees to a higher conduct standard, as we impose strict penalties for employee tax infractions.

8. What is required of IRS employees with respect to their federal tax responsibilities?

When IRS employees accept a position with our bureau, they agree to safeguard the public's trust and administer the federal tax laws fairly and with integrity. We expect employees to set the example of full tax compliance. Any failure, either real or perceived, by an IRS employee to comply fully with the federal tax laws undermines public confidence in our commitment to administer the nation's tax system fairly, ethically and equitably. Full tax compliance means timely and accurately filed returns and the timely payment of taxes without penalties or interest. Employees of the IRS have a dual responsibility. As taxpayers, they have the legal obligation to comply with the nation's tax laws, and as IRS employees, they must maintain full tax compliance as a condition of employment.

9. What steps does the IRS take to hold its workforce accountable for paying their federal taxes?

The Employee Conduct and Compliance Office (ECCO) administers the Employee Tax Compliance (ETC) Program to help our employees comply with their tax obligations. The ETC provides education and outreach messages to reiterate employees' tax filing, reporting and payment obligations, and the consequences of failing to meet these

obligations. It develops communication strategies to increase our employees' awareness of common tax mistakes and significant life events that might alter their tax obligations. This program also provides tools to our managers to enable them to discuss tax compliance requirements with their workgroups.

The ECCO also has an Employee Tax Compliance Branch that systemically identifies potential IRS employee tax non-compliance; researches and resolves IRS employee tax issues within given thresholds; and refers complex and egregious employee non-compliance matters to IRS management for further adjudication. The ECCO also flags the delinquent accounts of IRS employees in our tax database for expeditious handling.

10. Can an IRS employee be terminated for untimely filing of federal income taxes?

Employees of the IRS can be terminated from employment for untimely filing a federal income tax return. We hold IRS employees to higher standards of tax compliance to uphold the public trust and ensure the integrity of our voluntary tax system. On July 22, 1998, Congress passed the IRS Restructuring and Reform Act of 1998 (RRA '98). Section 1203(b) of the RRA '98 identified 10 acts of misconduct that, if willfully committed, require mandatory removal from employment. Two of the acts are tax compliance provisions:

- Failure to timely file (section 1203(b)(8))
- Understatement of a tax liability (section 1203(b)(9))

Section 1203 of RRA '98 did not define new acts of misconduct. We have always considered these infractions as serious misconduct. However, this section made the penalty of removal mandatory for these violations, unless the IRS Commissioner mitigates the removal to a lesser penalty. Under federal statute and regulations, we provide IRS employees with all legal due process rights when we propose removal.

Thank you for your interest in our employee tax compliance process. I hope this information is helpful.

If you have any questions, please contact me or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller
Acting Commissioner

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 6, 2013

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Attention: Jennifer Hemingway

Dear Mr. Chairman:

I am responding to your letter of April 4, 2013, in which you wrote about the approval of H.R. 249, Federal Employee Tax Accountability Act of 2013, and asked about our procedures for dealing with federal and IRS employees with delinquent tax liabilities. We currently administer the Employee Tax Compliance (ETC) Program to help our employees comply with their tax obligations. We also have a specific program that focuses on the tax compliance of other federal employees. The Federal Employee/ Retiree Delinquency Initiative (FERDI) program was developed in 1993 to promote federal tax compliance among current and retired federal employees. I have responded to your specific questions below.

1. Once a federal employee has been identified under current IRS rules and procedures as having a tax delinquency, what procedures are available to allow the individual to resolve the delinquency before punitive action is taken?

We are committed to working with all federal employees to help resolve their tax liabilities. When a federal employee incurs delinquent taxes, we afford them the same options available to all taxpayers, and we work with them on an individual basis. For federal employees and all other taxpayers who are unable to pay their tax liabilities in full, we can make payment arrangements based on the facts and circumstances of each case. Publication 594, *The IRS Collection Process*, describes the options all taxpayers have for paying their tax liabilities (copy enclosed).

2. What options are uniquely available for federal employees who cannot pay their taxes on time?

We do not have any unique options for federal employees to resolve and pay their delinquent taxes. We handle the resolution of their tax issues the same as with other taxpayers. We offer a variety of payment options to all taxpayers, including federal employees. These include installment agreements, offers in compromise, payroll

deduction, credit card payment and others. See Publication 594, which includes details on options for taxpayers who cannot fully pay their liabilities.

3. When does the IRS take enforced collection action against a federal employee taxpayer?

As with all taxpayers, if a federal employee does not pay on time, the IRS sends a series of notices requesting payment of the delinquent tax. Under the Internal Revenue Code (IRC) and federal regulations, we may take enforced collection action against the taxpayer 30 days after the taxpayer receives a Final Notice of Intent to Levy and Notice of Your Right to a Hearing.

We assign federal employee delinquent accounts that remain unpaid after issuing the final notice to our Automated Collection System (ACS). After assigning them to the ACS, federal employee accounts are immediately subject to the Federal Payment Levy Program (FPLP). The FPLP, as prescribed by The Taxpayer Relief Act of 1997 (Public Law 105-34), allows the IRS to collect overdue federal tax debts of individuals who receive federal payments (including salaries, travel payments, and retirement annuities) by levying up to 15 percent of each payment until the individual pays the debt (section 6331(h) of the IRC).

The FPLP is an automated process of serving levies through the U.S. Department of the Treasury's Financial Management Service (FMS). The FPLP is limited to payments disbursed by the FMS through the Treasury Offset Program (TOP). At this time, only federal employee salaries paid through the U.S. Department of Agriculture, the National Finance Center, the U.S. Department of Interior, the National Business Center, the General Services Administration, the National Payroll Branch, the Defense Finance and Accounting Service, and the U.S. Postal Service are part of TOP and thus subject to FPLP. The FPLP excludes the salaries of employees of other agencies, including the U.S. Senate and the U.S. House of Representatives. However, these employees are subject to manual levies.

4. How does the IRS assist federal employees in establishing a payment schedule to enable them to meet their tax responsibilities?

Federal employees who cannot pay their tax liabilities in full can apply for an installment agreement by using one of the following options:

- Online at http://www.irs.gov/Individuals/Online-Payment-Agreement-Application
- By phone at 1-800-829-1040
- By mail with Form 9465, Installment Agreement Request, or Form 2159, Payroll Deduction Agreement
- In person at a local IRS office

As mentioned above, the enclosed Publication 594 provides more details on these options.

5. How would the provisions in this bill enhance the IRS's enforcement actions against federal employees compared to current law?

The proposed legislation does not appear to change the Internal Revenue Code tax collection provisions. We note that H.R. 249 does not address federal employee tax delinquency resulting from failure to file required income tax returns.

6. Would H.R. 249 place a higher burden on federal employees than on the public as a whole with respect to a levy?

If the intent of the language is to exclude debts for which levies have been issued from the definition of "seriously delinquent tax liability," there is no higher burden. The language should be clarified, however, as the concept that "the applicant agrees" does not exist under present law as taxpayers do not explicitly agree to a levy. The law allows the IRS the authority to levy certain assets.

7. Would H.R. 249 place higher burden on federal employees than on IRS employees as a whole with respect to a levy?

Federal employees would not experience a greater burden than that of IRS employees with respect to a levy due to H.R. 249. We levy the wages of IRS employees to collect delinquent taxes from them in the same manner as all federal employees. The only difference is that we hold IRS employees to a higher conduct standard, as we impose strict penalties for employee tax infractions.

8. What is required of IRS employees with respect to their federal tax responsibilities?

When IRS employees accept a position with our bureau, they agree to safeguard the public's trust and administer the federal tax laws fairly and with integrity. We expect employees to set the example of full tax compliance. Any failure, either real or perceived, by an IRS employee to comply fully with the federal tax laws undermines public confidence in our commitment to administer the nation's tax system fairly, ethically and equitably. Full tax compliance means timely and accurately filed returns and the timely payment of taxes without penalties or interest. Employees of the IRS have a dual responsibility. As taxpayers, they have the legal obligation to comply with the nation's tax laws, and as IRS employees, they must maintain full tax compliance as a condition of employment.

9. What steps does the IRS take to hold its workforce accountable for paying their federal taxes?

The Employee Conduct and Compliance Office (ECCO) administers the Employee Tax Compliance (ETC) Program to help our employees comply with their tax obligations. The ETC provides education and outreach messages to reiterate employees' tax filing, reporting and payment obligations, and the consequences of failing to meet these

obligations. It develops communication strategies to increase our employees' awareness of common tax mistakes and significant life events that might alter their tax obligations. This program also provides tools to our managers to enable them to discuss tax compliance requirements with their workgroups.

The ECCO also has an Employee Tax Compliance Branch that systemically identifies potential IRS employee tax non-compliance; researches and resolves IRS employee tax issues within given thresholds; and refers complex and egregious employee non-compliance matters to IRS management for further adjudication. The ECCO also flags the delinquent accounts of IRS employees in our tax database for expeditious handling.

10. Can an IRS employee be terminated for untimely filing of federal income taxes?

Employees of the IRS can be terminated from employment for untimely filing a federal income tax return. We hold IRS employees to higher standards of tax compliance to uphold the public trust and ensure the integrity of our voluntary tax system. On July 22, 1998, Congress passed the IRS Restructuring and Reform Act of 1998 (RRA '98). Section 1203(b) of the RRA '98 identified 10 acts of misconduct that, if willfully committed, require mandatory removal from employment. Two of the acts are tax compliance provisions:

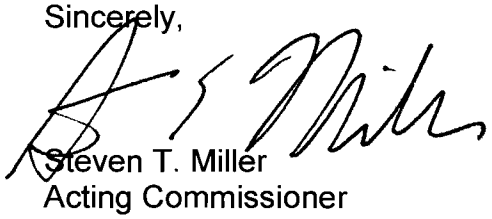
- Failure to timely file (section 1203(b)(8))
- Understatement of a tax liability (section 1203(b)(9))

Section 1203 of RRA '98 did not define new acts of misconduct. We have always considered these infractions as serious misconduct. However, this section made the penalty of removal mandatory for these violations, unless the IRS Commissioner mitigates the removal to a lesser penalty. Under federal statute and regulations, we provide IRS employees with all legal due process rights when we propose removal.

Thank you for your interest in our employee tax compliance process. I hope this information is helpful.

If you have any questions, please contact me or a member of your staff may contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

April 23, 2013

The Honorable Charles Boustany
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Boustany:

I am writing in response to your recent letter regarding the policy and procedures of the Internal Revenue Service on seeking and reviewing certain electronic communications of private citizens. I appreciate your interest in this important issue, and I share your strong commitment to protecting taxpayer privacy and the constitutional rights of all Americans.

Recent press reports have suggested that the IRS randomly searches taxpayer emails to identify tax fraud or other misconduct. These reports are incorrect. In certain limited circumstances, the IRS will seek to obtain the content of email communications from Internet Service Providers (ISPs) during the course of active criminal investigations. In such cases, the IRS will obtain search warrants with the assistance of the Department of Justice, consistent with all applicable federal laws and regulations. The current policy of the IRS is not to seek the content of email communications from ISPs in civil matters.[1]

Rather than seeking emails from ISPs, the IRS may request that taxpayers disclose their email communications. For example, in individual examinations, the IRS may request that taxpayers under examination provide supporting information, which may include electronic records such as emails. In addition, IRS examinations sometimes lead to civil litigation. In those circumstances, the Federal Rules of Civil Procedure expressly provide that parties may seek electronic records. In both situations, the taxpayer is aware of the information request, has all the rights and protections afforded under the law, and may challenge any such request in court.

With respect to social media, the IRS does not select taxpayers for examination based on searches of social media sites. Taxpayers are selected for examination based on the information contained on the individuals' tax returns and, in some instances, through information we receive from third parties. The IRS is considering what limitations, if any, should be placed on the use of publicly available social media information in an ongoing examination or collection action. If we adopt new internal procedures, we would make them public. The IRS is not considering the use of non-public information (such as private online social media profiles) in these actions.

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[1] I recently became aware of a few instances in which the IRS had sought to obtain emails from ISPs by issuing civil summonses. We have withdrawn those summonses, and we are working to clarify our internal procedures and guidance on such matters.

Thank you for your letter. Again, we share your strong interest in respecting taxpayer rights and personal privacy. The IRS is responsible for administering the nation's tax laws, and we are committed to doing so in a manner that follows the law and treats taxpayers with respect. If you have any questions, please contact me or a member of your staff may contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller
Acting Commissioner

Action Routing Sheet

Request for Signature of	e-trak Control Number	Due date
Steve Miller	2013-41603	April 26, 2013

Subject

What is the IRS's policy on searching taxpayer e-mails without a search warrant.

Reviewing Office	Support Staff Initial / Date	Reviewer Initial / Date	Comment
Carolyn Abbott		4-22-13	
Cathy Barre			
Nikole Flax		4-22-13	
Jennifer Vozne			
Deputy Commissioner, Operations & Services			
Acting Commissioner			

Summary

Chairman Boustany wrote ensure the IRS respects the Constitutional rights of all Americans while enforcing the nation's tax laws. He forwards five questions to be responded to by April 26, 2013.

Prepared By	Phone number	Office Location / Building	Return to
Linda McCarty	2-5177	Room 3236, 1111 Constitution	Linda McCarty

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

May 9, 2013

The Honorable Charles Boustany Jr., M.D.
Chairman, Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter dated April 18, 2013, regarding spring training conferences held by the National Treasury Employees Union (NTEU).

With sequestration and other budget reductions, the IRS budget has been reduced by nearly $1 billion over the past two years. We have significantly cut expenses in a number of areas, including training and travel, to manage these reductions. Travel and training expenses have decreased by more than 80 percent since Fiscal Year 2010.

We carefully scrutinize all expenditures to ensure that they are necessary and appropriate. While we are working on responding to the specific requests in your letter, I wanted to inform you that we are contractually obligated under the National Agreement II between the IRS and the NTEU (Article 9, Section 6) to pay for the travel and per diem of one union steward per chapter per calendar year to attend the NTEU National Office training. We have taken steps to reduce the expenses related to this training, but I was informed that we are legally obligated to comply with the contract terms. Managing sequestration in the context of certain contractually mandated expenses has presented challenges. Please be aware that as we open negotiations later this year on a new agreement, we will continue to pursue efficiencies on this provision and others related to union official time.

If you have any questions, please contact me or a member of your staff can contact Catherine M. Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

May 13, 2013

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing in response to your letter dated May 1, 2013, regarding S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013. I am responding to the questions in your letter regarding administration of the proposal. My colleagues in the Treasury Office of Tax Policy are available to respond to the policy questions raised.

You asked about tax requirements for undocumented immigrants. The general requirements under the Internal Revenue Code regarding the payment of taxes apply to all individuals regardless of immigration status. Thus, undocumented immigrants working in the United States are required to pay federal taxes. Individuals not eligible for social security numbers (SSNs) can obtain an Individual Tax Identification Number (ITIN) to satisfy tax filing requirements. ITINs are available to all individuals not eligible for SSNs (for example, certain immigrants as well as nonresidents). We do not obtain data as to whether an individual is an undocumented worker, only whether an individual has an SSN or an ITIN. There are approximately 3-4 million federal income tax returns filed each year for which the primary or secondary taxpayer has an ITIN.

You also asked about assessed liabilities and penalties and fees that could be imposed on delinquent taxes. Assessed liabilities include amounts shown as tax on a return, amounts assessed pursuant to a deficiency notice, and other taxes, penalties, and interest for which an assessment has been made. Pursuant to section 6203 of the Internal Revenue Code, an assessment is made by recording the taxpayer's liability in the IRS's records. IRS transcripts of a taxpayer's account will show all unpaid assessments for every tax period for which there is a delinquency and in some cases can go back ten years. The assessments may include interest and penalties accruing on the delinquent tax liabilities. We provide taxpayers a transcript of their tax accounts upon request.

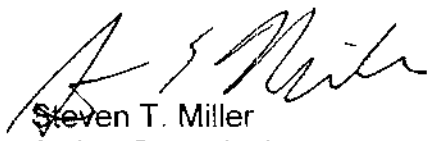
The penalties most likely to apply in the case of delinquent prior year taxes include the failure to file or timely file penalty (section 6651(a)(1) of the Code – 5 percent per month up to a maximum of 5 months) and the failure to pay or timely pay penalty (section 6651(a)(2) of the Code – 5 percent per month for each month up to a maximum of 25 percent of the tax due).

There are a number of other penalty provisions that might apply depending on the taxpayer's specific circumstances. Estimated tax penalties under section 6654 could apply if quarterly payments of estimated tax were not made appropriately and tax withholding was in an insufficient amount to avoid the penalty. If a return is filed that does not report all the taxes owed, there are also potential penalties for the inaccurate reporting. See Chapter 68, subchapter A, Part II of the Code. Generally, these penalties are 20 percent of the amount of tax not reported, but there is an exception for taxpayers who acted with reasonable cause and good faith with respect to any underpayment resulting from their inaccurate reporting. Interest accrues on all amounts not timely paid.

You mentioned an alternative proposal in which tax returns would be provided to the Department of Homeland Security. While absent all of the details of the proposal it is difficult to respond with certainty, please note that the process for taxpayers to obtain an actual copy of their tax return is resource intensive to both the taxpayer and the IRS and could take significant time. In many cases, this is a manual process involving paper returns housed at the Federal Records Center. Using transcripts to show assessed liability might be more workable as the transcript is a record of information stored electronically. It is also important to recognize that, unlike a transcript, a tax return would not include all unpaid assessed amounts.

I hope this information is helpful. My staff is available to discuss these issues with your staff. If you have any questions, please contact me or a member of your staff can contact Catherine M. Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

October 7, 2014

This is our final response to your Freedom of Information Act (FOIA) request dated April 18, 2013, that we received on April 29, 2013

You asked for a copy of each written response or letter from the Internal Revenue Service to a Congressional Committee for 2012 and 2013.

A total of 375 pages were located in response to your request. In our previous response dated November 20, 2013, we provided 191 pages and we our enclosing a copy of the final 184 pages of documents responsive to your request on the enclosed CD. This is a full grant of your request.

This completes all actions required on your request.

If you have any questions please call Tax Law Specialist Denise Higley, ID #0142331 at 801-620-7638 or write to: Internal Revenue Service, HQ Disclosure, PO Box 621506, Atlanta, GA 30362-3006. Please refer to case number F13120-0002.

Sincerely,

John H. Davis, Jr.
Deputy Associate Director
Disclosure HQ

Enclosure
CD

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

March 12, 2012

The Honorable Charles Boustany, Jr., M.D.
Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This response relates to your letter to Commissioner Shulman dated October 6, 2011 requesting information about the tax-exempt sector. This response supplements my November 18, 2011 response and addresses the additional issues raised by your staff in discussions with my staff on December 16, 2011. We believe the in-person meeting with your staff was a helpful exchange that enabled us to provide additional pertinent information. This letter contains responses to questions raised by your staff.

Overview of the Exempt Organizations Office

Your staff requested additional information on the general activities of the Exempt Organizations office within the Tax-Exempt and Government Entities Division and on the Form 990 redesign. The Exempt Organizations office of the IRS is responsible for the compliance of approximately 1.8 million groups with diverse goals and purposes. In order to encourage the highest degree of compliance with tax law, EO conducts both an active dialogue and an ambitious communications and outreach program with exempt organizations and professional practitioners in the sector. The result is that when we initiate major undertakings – such as legislatively mandated automatic revocation or the comprehensive redesign of Form 990 – we seek and receive extensive input on development and implementation from the sector and the public. The redesign of Form 990 is a case in point.

Because the Form 990 is a publicly disclosable document, the information reported is not used by the IRS alone. Many states require nonprofit corporations operating within their borders to file Form 990 to satisfy state reporting requirements. Many foundations and other donors use Form 990 to identify and choose responsible charities to which to send their charitable contributions. The press, researchers, and watchdog groups also review and analyze information from Form 990.

The IRS began redesigning Form 990 in 2004. The basic format and content of the form had remained essentially the same since 1979, while the community of tax-exempt organizations had grown dramatically in size, variety, and complexity. Tax-exempt organizations had come under increasing scrutiny by Congress and in the news media over practices such as participating in prohibited tax shelter transactions, paying excessive compensation, accommodating donors claiming inflated or other inappropriate deductions, and operating business franchises or engaging in business ventures with for-profit enterprises.

The prior Form 990, with its emphasis only on revenues and expenses, assets and liabilities, had become outdated. It was primarily a series of yes/no checkboxes and numbers, but did not provide an accurate portrait of what an exempt organization was actually doing or reflect the full scope, activities, and dynamics of the modern, sometimes multi-leveled tax-exempt organization. The form needed to be updated to meet the needs of the IRS and the public to understand the activities of tax-exempt organizations, and to confirm that these organizations were continuing to operate consistently with their tax-exempt purposes.

In redesigning the Form, the IRS followed three guiding principles:

- Promote compliance with the tax law
- Promote transparency and
- Minimize burden (where consistent with the first two principles)

The redesign was a collaborative effort in which the IRS sought and received extensive input from the public sector. We met with nonprofit associations, state charity regulators, public interest groups, policymakers, and various representatives of the tax-exempt community. We redesigned the Form 990 based on input from both our own internal stakeholders (e.g., our Examinations and Submission Processing functions) and these external groups.

Once we developed a draft redesigned form, we released it for public comment and encouraged the public and exempt sector to provide us feedback. For a year and a half, we held seminars and provided speakers for interested parties such as trade association-type groups, particular sub-sectors that had an interest in the questions, and the sector in general. We explained the new format (core form and schedules), what we were asking for and why, and we solicited comments. We wanted to know from affected organizations and practitioners whether the draft form's questions were relevant, reasonable, and feasible to complete.

We received more than 5,000 pages of comments, which we are providing to your staff in disk form at their request (the format of the disk is discussed later in this response). We met with various stakeholders, who had provided comments to make sure we understood them, and we had conversations about what we – and they – were trying to accomplish. Where recommended revisions furthered our goals of transparency, compliance, and/or minimizing taxpayer burden, we revised the form. We then released the revised version for public comment. We also released the Form 990 instructions for similar comment. We considered all comments and made many further changes based on those comments. The final Form 990 took effect in 2008. The feedback we have received from the sector is that most agree that the process was fair and that the form as a whole is a good one. The redesign is evolving and we continue to receive comments from the sector and refine the form.

We recognized that the transition from the old to the new redesigned Form 990 would change the way some organizations capture and track data needed to complete the

form. To give small and mid-sized organizations with fewer legal, accounting, and administrative resources more time to adapt to the redesigned form, we provided transition relief. We implemented a three-year phase-in period, raising the asset and gross receipts thresholds for Form 990 filing by ten-fold (from $100,000 in gross receipts and $250,000 in assets to $1 million and $2.5 million, respectively) for tax year 2008, by five-fold for tax year 2009 ($500,000 and $1.25 million), and ending at $200,000 and $500,000 for tax years 2010 and later. The transition allowed hundreds of thousands of smaller and mid-sized organizations that would have been required to file the Form 990 for tax years 2008 and 2009 to file the shorter Form 990-EZ for one or both of those years. This transition period also gave organizations time to progressively enable their internal systems to respond to the new requirements.

Form 990 was redesigned to make it more user-friendly, streamlined, and better organized. We eliminated unstructured attachments, replacing them with structured schedules to promote uniformity and reduce ambiguity over how to report supplemental information. We also added many tools to the instructions, including a glossary, appendices, examples and illustrations, and a sequencing list, to help filers complete the form more easily.

The Form's significant changes in how to report compensation and activities involving related organizations now give the IRS the information needed to identify complicated compensation and financial arrangements that may be indications of private inurement, excess benefit, and/or private benefit. The "checklist of required schedules" shows at a glance whether the organization has engaged in activities that may involve noncompliant or potentially noncompliant activity, such as excessive lobbying or political campaigning, excess benefit transactions, transactions with an interested person, or a major disposition of assets. New schedules for reporting on foreign activities, hospitals, and tax-exempt bonds shed greater light on, and show whether such activities are being conducted consistently with tax-exempt purposes. By calling attention to practices and activities that could provide occasion for waste or abuse, the form is designed to encourage organizations to examine and exercise care in their operations.

The redesigned 990 provides us with a wealth of information about exempt organizations and has become an important tool in EO's strategic planning. To best focus our resources, a Strategic Planning Working Group (the SPWG), which includes representatives from all EO functions – Rulings and Agreements, Guidance, Determinations, Examinations, as well as related Communications and Outreach, Research, and Counsel – reviews information from numerous sources, including trending data from the Form 990, applications for exemption, PIC codes, the news media and external and internal referrals. The process highlights areas of concern and areas where we know we need to learn more to strengthen compliance and improve tax administration. We then develop projects to focus on those areas.

One frequently used compliance tool is the compliance check questionnaire. These do not require the same level of resources by the government or the taxpayer as an examination, but they do provide us with a wealth of information about issues that affect the sector as a whole or about segments of the sector. For example, we recently looked closely at tax exempt hospitals. Hospitals are one of the largest parts of the exempt sector by revenues, but exams of hospitals are resource-intensive, so we cannot do more than a few of them a year. We developed a compliance check questionnaire that asked about demographic information, about the hospitals' basis for exemption, whether they were providing enough community benefit, and about their executive compensation-setting practices. We sent the questionnaire to 500 hospitals, small, medium, and large; ones that were in the cities, in the country, and across different demographics. In advance of sending out the questionnaire we posted it on our website and explained publicly what we intended to do in the project. We have found that this transparency encourages organizations to respond to this and other questionnaires. We generally have a greater than 90 percent response rate. After analyzing the questionnaire responses, we issued a public report providing the results of our analysis (not organization-specific). We have found such reports to be useful tools and helpful to the exempt organizations' sector as most organizations are looking to be compliant, and the information we provide helps them do so.

We also conduct a limited number of follow-up examinations based on questionnaire responses and Form 990 information. In the case of hospitals, for example, we focused on very highly compensated executives to determine whether that compensation was reasonable. At the end of the exam portion of the project we issued a final report to the public regarding compensation issues and the use of the rebuttable presumption of reasonableness.

To the extent possible, we also use a project's results to issue formal or informal guidance to exempt organizations. In the case of hospitals, we learned that there was inconsistency in how the hospitals were thinking about their community benefit activities, the basis for a hospital's tax exemption, and how they were reporting them. The interim report recommended development of a standardized Schedule H as part of the redesign of the Form 990 so that all hospitals would be reporting the same kind of information on community benefit, which would allow for better comparison and transparency. We released a draft Schedule H for public comment, met with and received input from representatives of the hospital community, made some adjustments, and issued the new Schedule H for tax year 2008.

As part of our compliance efforts, we also have a Review of Operations (ROO) office. It has three main functions. First, if we have examined an organization and found that the organization is off track, but not so far off track that it should lose its exemption, we require in a closing agreement that it make changes to come into full compliance. We then can refer the organization to ROO, which will take a look at the organization in the future to make sure it is maintaining compliance. The ROO review is not an examination. Rather, the ROO looks at Forms 990 and other publicly-available information; it looks on the web to see how the organizations are conducting their business and whether they are still compliant. If not, the ROO will refer the organization for examination.

The ROO also reviews a random sample of approved applications for recognition of exemption and looks at them a year or two after approval. Many organizations that

apply are not fully operational at the time of application, so their exemption determinations are made based more on their aspirations than their actual activities to date. The ROO reviews public information to ensure that the organizations continue to be organized and operated for tax-exempt purposes. If not, they are referred for examination. Finally, the ROO also conducts the statutorily mandated community benefit reviews of tax-exempt hospitals.

Information gained from the projects, the application process, and the examination process is fed back into our strategic planning, and the planning cycle begins again. All of this becomes transparent to the public through our Implementing Guidelines. The Guidelines are comprised of the annual report and an outline of the planned work for the year ahead. This is another way for us to communicate with the sector, let the sector know where our compliance concerns lie, provide guidance, and be transparent about our office and our processes.

Question 1(b). Your staff asked for additional information on Exempt Organizations' appropriations data.

In Exhibit 1(b)-1 of our November 18, 2011 response, we provided a breakdown of Tax Exempt/Government Entities (TE/GE) appropriations data for FY 2008 – FY 2011. Per your staff's request, below is a description of the categories that reflect the Exempt Organizations' funding streams for the staffing, training, and direct support for the management of various operational programs. The categories have been sorted according to the functional areas in the previously provided exhibit.

Exempt Organizations financial structure contains two primary appropriations: Taxpayer Services and Enforcement. The labor and support funding is distributed to the following functional areas: 1C Taxpayer Communication and Education, 7A Compliance Services Management, 7G Tax Reporting Compliance – Field Exam, 8C Tax Law Interpretation & Published Guidance and 8E Rulings and Agreements. Functional Area 1 falls under Taxpayer Services, Functional Areas 7 and 8 fall under Enforcement.

- Taxpayer Comm & Education or Taxpayer Communication and Education (Functional Area 1C):
  - Encompasses Customer Education and Outreach (CE&O) staffing, which offers specialized education and outreach programs to help exempt organizations understand their tax responsibilities. CE&O oversees the Charities and Nonprofits pages of IRS.gov, develops publications and web-based materials, manages the Academic Institution Initiative, and offers face-to-face workshops and seminars on EO tax laws. In addition to CE&O core staff, subject-area experts from Examinations and Rulings and Agreements (R&A) support EO outreach efforts and augment CE&O's mission.
- Compliance Services Mgmt or Compliance Services Management (Functional Area 7A):
  - Encompasses EO Director's direct support staff, as well as the program staff.
- Tax Report Compliance – Fld or Tax Reporting Compliance - Field Exam (Functional Area 7G):
  - Includes resources to support services provided to taxpayer after a return is filed (post-filing stage), particularly for enforcement activities, including both compliance checks and audits of exempt organizations.
  - EO Examinations is made up of field exam groups; the Exempt Organization Compliance Unit (EOCU), which conducts compliance checks; Review of Operations (ROO), which does follow-up reviews of organizations; and Compliance Strategies Critical Initiative (CSCI), which coordinates EO's strategic planning, monitors progress of critical initiatives, and analyzes the results of these projects.
- International Exams (Functional Area 7Q):
  - Separate funding stream tracked due to IRS-wide initiative with other divisions, including LB&I.
  - Supports the international exam programs involving U.S. citizens residing abroad, non-resident aliens, expatriates, as well as examinations involving

other international issues, including legal support (e.g., Foreign Tax Credit, Foreign Earned Income Exclusion, Corporations, Non-Profits, Pension Plans, etc.).

- ▶ Tax Law Interpretation and/or Tax Law Interpretation and Published Guidance (Functional Area 8C):
  - Includes Guidance staff in Washington D.C., who provides direct support for interpretations of the tax law through published guidance, technical advice and other technical legal services.
- ▶ Rulings & Agreements (Functional Area 8E):
  - Includes Determinations staff in Cincinnati and Technical staff in Washington D.C., who are responsible for reviewing applications for exemption, issuing private letter rulings, providing technical advice, and collaborating with Chief Counsel's office and the Department of the Treasury to deliver formal guidance.

Question 1(c). Your staff requested additional information regarding the average length of a tax-exempt audit since 2008.

The average length of time for completing examination returns that were closed in FY 2011 is 210 days. The following are the average number of days for completing examination returns that were closed during FY 2008 – FY 2010:

- FY 2010: 225 days
- FY 2009: 267 days
- FY 2008: 264 days

Your staff also requested additional information regarding the use of Principal Issue Codes (PIC codes) in identifying issues for audit.

PIC codes are one of the indicators or ways to identify issues and trends. These codes are selected to capture the issues on which an agent spent time during the examination or that resulted in a change. The determination of which PIC codes are applicable to a particular case is a judgment made by the agent. The list of PIC codes we provided you

with my November 18, 2011 response is the same list our agents use. (The list is re-enclosed under Enclosure A for your convenience.) As part of their training, our agents are prepared to recognize legal issues that may arise during their examination of a tax return, and understand the relationship of the PIC codes to the issues.

We are providing IRM section 4.75.16.9 as Enclosure B. As discussed in my November 18, 2011 response, IRM section 4.75.16.9 provides guidance on the use of PIC codes, including which codes should be used in closing EO Examination cases. The IRM provides several specific examples on the correct use of these PIC codes, as well as addresses the use of PIC code 34 – "Other". We review the PIC codes as the sector changes and new areas develop to ensure our agents have the tools to accurately and consistently capture these new issues or trends.

Question 2(a). Your staff asked for more concrete examples regarding usage of data from Form 990 on the effect of enforcement and compliance.

As noted above, the Form 990 is a significant tool in our strategic planning as well as in examining tax-exempt organizations and in identifying tax-exempt organizations for exam. As discussed, the redesigned Form 990 includes information that was not included in the prior Form 990, including two key areas that we review frequently in examinations: governance and executive compensation. The IRS uses Form 990 information in all compliance projects, including the following:

► College and university project. The IRS sent 400 questionnaires to public and private four-year colleges and universities asking about their executive compensation practices, endowments, and unrelated business income, including how they allocate gains and losses among their taxable and non-taxable activities. As part of this project, the IRS is conducting examinations of approximately 34 colleges and universities, focusing on their organizational structures, exempt and unrelated business activities, endowments, executive compensation, and governance practices based, in part, on data from the questionnaires and Forms 990.

► Form 990-N mis-filer project. The Pension Protection Act of 2006 (PPA) added the Form 990-N (e-Postcard) filing requirement to ensure that the IRS and potential donors have current information about smaller tax-exempt organizations. Organizations with average annual gross receipts of $50,000 or less may elect to file the e-Postcard rather than the Form 990 or Form 990-EZ. A tax-exempt organization's filing obligations may change annually, depending on its levels of gross receipts and total assets. Based on information provided in Form 990-series returns regarding an organization's gross receipts, the IRS has identified organizations that filed the Form 990-N (e-Postcard) when they apparently should have filed Form 990 or 990-EZ for a particular year. The IRS is contacting these organizations to learn more about their current filing obligations before taking appropriate action.

► Community benefit reviews. The IRS is statutorily required to review the community benefit activities of hospital organizations at least once every three years. The IRS is reviewing Forms 990 in conducting these reviews. The IRS will continue to use the information gathered from the reviews for research, reporting, and compliance purposes, as well as to identify areas where additional guidance, education, and Form 990 changes may be needed.

► Section 501(c)(4), (5) and (6) organizations. Unlike section 501(c)(3) public charities that generally must apply to the IRS for recognition of tax exemption under section 508, section 501(c)(4), (5), and (6) organizations (social welfare organizations; labor, agricultural and horticultural groups; and business leagues such as a chamber of commerce) are not covered by Section 508, and may self-declare as tax-exempt organizations. The Form 990 has provided the IRS with additional information on all categories of tax-exempt organizations, including section 501(c)(4), (5) and (6) organizations. With the increased information available on the redesigned Form 990, we are looking at issues including political activity, inurement and the extent of compliance with the requirements for tax exemption by organizations that self-identified themselves as a section 501(c)(4), (5) or (6) organization.

► Charitable spending initiative. This project is designed to learn more about how charities raise and spend their funds. The IRS has selected certain organizations for examination under the first phase of the project using data from Form 990, including high levels of fundraising expenses coupled with relatively low levels of program service expenditures, high ratios of officer compensation in comparison to the organization's program service expenditures, and low levels of program service expenditures in comparison to the organization's total revenue.

► "Mutual" Organizations- The IRC §501(c)(12) Project. Organizations exempt under section 501(c)(12) include benevolent life insurance associations, mutual ditch or irrigation companies, and cooperative telephone companies. These organizations must collect at least 85 percent of their income from members for the sole purpose of meeting losses and expenses. The results of the member-income "test" determine the organization's yearly filing requirement. An organization should file Form 990 for the years in which it meets the 85 percent member-income test, and it should file Form 1120 for the years in which it fails to meet the test. The Forms 990 filed by some section 501(c)(12) organizations indicate that these organizations are not meeting the 85 percent member-income test every year. To address this issue, the IRS mailed questionnaires to affected organizations in early FY 2010, and 40 percent of the questionnaire respondents were selected for examination. We began conducting these examinations in FY 2011, and the examinations are still in process.

Question 2(c). Your staff requested additional information regarding IRS actions in response to taxpayer concerns on redesigned Form 990.

As discussed above, the Form 990 redesign was a collaborative effort in which the IRS sought and received extensive input from the public sector. The IRS met with nonprofit associations, state charity regulators, public interest groups, policymakers, and various representatives of the tax-exempt community. We redesigned the Form 990 based on input from both our own internal stakeholders (e.g., our Examinations and Submission Processing functions) and these external groups. Changes were made throughout the redesign process to address comments from stakeholders.

As discussed, we requested public comment on the draft redesigned Form in 2007, and on the draft instructions in 2008. In response, we received over 800 formal public comments. We have provided these comments in the two enclosed CD-ROMs: one contains pdf files of 2007 comments on the redesigned Form 990 (Enclosure C) and the second contains .pst files on draft instructions comments from 2008 as well as comments to the recent Announcement 2011-36 (Enclosure D). Based on feedback from these public comments, we made extensive revisions to the Form 990, schedules, and instructions to increase clarity and minimize burden. We are including copies of the background papers that detail some of these revisions as Enclosure E.

To help all filers become familiar with the Form and complete it more accurately, we developed multiple on-line educational resources (at IRS.gov/eo) describing how the Form had changed and tips for completing it. We have since added audio and video programs to further assist filers in understanding and completing the Form.

Although the major redesign of the Form 990 is complete, the IRS has continued to receive informal public comments on the form, schedules, and instructions, and to refine the Form, schedules, and instructions based on those comments. We have made clarifications, corrected errors, and added examples to make the Form easier to understand and complete. For instance, since the Form 990 was redesigned we have made further significant changes to the Form, schedules, and instructions in response to public comment that include:

► Eliminating supplemental Form 990 schedules that confused taxpayers (e.g., Schedule J-2) and instead asking taxpayers to provide supplemental information in new narrative sections to schedules and/or duplicate copies of schedules;

► Allowing a filer to answer "Yes" to Form 990, Part VI (Governance) questions on whether its governing boards adopted certain governance policies if such policies were

adopted by either the board or a committee of the board with authority to adopt the policies;

► Stating that the compensation columns in Form 990, Part VII (Compensation) should be left blank for short year returns in which there is no calendar year that ends within the short year, to reduce the compensation reporting burden for short year filers;

► Adding a new appendix containing activity codes for Form 990, Part VIII (Statement of Revenue) so that filers do not have to review Form 990-T instructions for these codes;

► Revising Form 990, Part XII (Financial Statements and Reporting) to allow Form 990 filers to report that they were included in consolidated financial statements that were compiled, reviewed, or audited by an independent accountant;

► Changing the definition of "interested person" for Form 990, Schedule L, Part IV business transaction reporting to exclude section 501(c)(3) organizations, which reduces the reporting burden of exempt organizations that have overlapping boards;

► Revising the definition of 'significant disposition of net assets' to exclude grants or assistance made in the ordinary course of the organization's exempt activities, thereby reducing the reporting required in Form 990, Schedule N (Dissolution or Significant Disposition of Assets); and

► Revising the definition of "related organization" so that a trust typically does not need to report on Form 990, Schedule R (Related Organizations) its trustee, if that trustee is a financial institution that is trustee of more than one trust.

Some taxpayers expressed concern that disclosure of certain types of information (e.g. compensation, related organizations, foreign activities) on Form 990 would violate expectations of privacy. In response to public comments, the IRS does not require

disclosure of any personal addresses, email addresses, phone numbers, or Social Security numbers on the redesigned Form 990. Also in response to public comment, Schedule F (Statement of Activities Outside the United States) does not require reporting of the names of the 990 filers' foreign grant recipients or the countries in which the filers conduct activities. In addition, based on responses to Announcement 2011-36, effective tax year 2011 we no longer require reporting of the names, employer identification numbers, or addresses of related charitable remainder trusts and other split-interest trusts in Schedule R (Related Organizations). We are currently considering other exceptions based on comments issued in response to Announcement 2011-36 (see below).

As described in our previous response, the IRS added a new Part V, Section B to the 2010 Form 990, Schedule H (Hospitals) to gather information related to new requirements for tax-exempt hospital facilities, and to related policies and practices. In response to comments from the public that more time was needed for the hospital community to familiarize itself with the new questions and gather the information needed to report, the IRS made the entire Schedule H, Part V, Section B optional for the 2010 tax year.

On June 2, 2011, the IRS requested public comment on 11 transitional issues and frequently asked questions involving the redesigned Form 990 in Announcement 2011-36. We have received just over 100 comments in response to Announcement 2011-36, and are now in the process of analyzing these comments. We have included these comments in the enclosed CD-ROM. Any changes in response to the comments will be made as appropriate on an ongoing basis to minimize potential burden while promoting compliance and transparency. We will continue to receive and review input on the Form 990, schedules, and instructions at Form990Revision@irs.gov.

Questions 2(g)(ii) and (iii). Your staff requested additional information relating to the auto-revocation list.

No auto-revoked taxpayer seeking reinstatement of tax-exempt status has been denied exemption to date. Of the larger organizations that requested retroactive reinstatement, as of March 1, 2012, approximately 21 had been retroactively reinstated. The remaining larger organizations were reinstated as of the postmark date of their reinstatement application.

Question 5(b)(iv). Your staff requested examination results information on the listed transaction disclosures discussed in my November 18, 2011 response. We expect to have this information shortly and will provide it in a supplemental response.

Question 5(c)(ii). Your staff requested additional information on how IRS is preparing for the report required under section 9007(e).

The IRS and the Department of Health and Human Services (HHS) have been collecting data to produce the reports to Congress required under Affordable Care Act section 9007(e). Affordable Care Act section 9007(e) requires the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, to submit to the Congress an annual report on levels of charity care provided by hospitals. The IRS and HHS are working together to prepare a report that includes information with respect to private tax-exempt, taxable, and government-owned hospitals regarding the levels of charity care, bad debt expenses, and un-reimbursed Medicare and Medicaid services. The staffs of IRS and HHS have discussed the sources of government data that may be available and presently plan to present data in the report from a combination of IRS and Centers for Medicare and Medicaid Services (CMS) data. When this data is available, we will begin the process of preparing the report.

As discussed above, effective for tax years starting in 2009, hospital organizations exempt from tax and described under Internal Revenue Code (IRC) section 501(c)(3) were required to file Form 990 Schedule H unless they were exempt from filing as a government unit. Such hospitals report costs of providing financial assistance and other

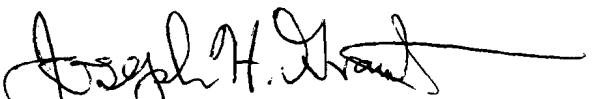
community benefits on Form 990 Schedule H. Depending on the start of a hospital organization's fiscal year and grants of extensions of time to file, due dates for timely filing 2009 Forms 990 could be as early as May 15, 2010, or in the case of an organization with a fiscal year that starts in December and has been granted two three-month extensions of time to file, as late as October 15, 2011.

Data from the Form 990 Schedule H is being prepared for statistical analysis by the IRS Statistics of Income division. It is expected that IRS data presented in the report will be extracted from the Tax Year 2009 Statistics of Income Exempt Organizations sample. We expect the data will be available in July 2012, at which time the IRS will begin to assemble the data for purposes of meeting the objectives of the report to transmit to Congress.

Critical access hospitals and short-term acute care hospitals are required to report to CMS charge and cost data associated with providing inpatient and outpatient hospital services for which the hospitals are not compensated by filing with CMS. We expect such data also to become available in 2012.

If you have any questions, please contact me or have your staff contact Floyd L. Williams at (202) 622-4725.

Sincerely,



Joseph H. Grant
Acting Commissioner

Enclosures

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 22 2012

The Honorable Bill Nelson
United States Senate
Washington, DC 20510

Dear Senator Nelson:

This letter responds to the inquiry we received from you and your colleagues dated May 30, 2012, to Secretary Timothy Geithner on the Veterans Support Organization. You wrote about alleged improper activities and questioned the organization's tax-exempt status.

The Internal Revenue Code contains taxpayer privacy provisions the Congress enacted to protect the privacy of tax returns and tax return information of all taxpayers. Therefore, I cannot comment on what action, if any, we may take based on the information you provided.

However, I can tell you that we maintain an ongoing examination program to ensure exempt organizations continue to meet the requirements for tax-exempt status. When we receive information about an organization that raises questions about its continued exempt status or compliance with the tax laws, we forward the information to our Dallas office to determine if it warrants an examination or other action. If you have additional information about an exempt organization you want to submit for our consideration, please send it to:

IRS – EO Classification
1100 Commerce Street
MC 4910 DAL
Dallas, TX 75242

I am sorry I cannot be more responsive, but I hope this information is helpful. I am also writing to your colleagues. If you have any questions, please contact me at (202) 283-2700 or Cathy Barre at (202) 622-3720.

Sincerely,

Joseph H. Grant

Joseph H. Grant
Acting Commissioner
Tax Exempt and Government Entities

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 22 2012

The Honorable Richard Blumenthal
United States Senate
Washington, DC 20510

Dear Senator Blumenthal:

This letter responds to the inquiry we received from you and your colleagues dated May 30, 2012, to Secretary Timothy Geithner on the Veterans Support Organization. You wrote about alleged improper activities and questioned the organization's tax-exempt status.

The Internal Revenue Code includes taxpayer privacy provisions the Congress enacted to protect the privacy of tax returns and tax return information of all taxpayers. Therefore, I cannot comment on what action, if any, we may take based on the information you provided.

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Tax Exempt and Government Entities

COMMISSIONER
TAX EXEMPT AND
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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 22 2012

The Honorable Patty Murray
Chairman
Committee on Veterans' Affairs
Washington, DC 20510

Dear Madame Chair:

This letter responds to the inquiry we received from you and your colleagues dated May 30, 2012, to Secretary Timothy Geithner on the Veterans Support Organization. You wrote about alleged improper activities and questioned the organization's tax-exempt status.

The Internal Revenue Code includes taxpayer privacy provisions the Congress enacted to protect the privacy of tax returns and tax return information of all taxpayers. Therefore, I cannot comment on what action, if any, we may take based on the information you provided.

However, I can tell you that we maintain an ongoing examination program to ensure exempt organizations continue to meet the requirements for tax-exempt status. When we receive information about an organization that raises questions about its continued exempt status or compliance with the tax laws, we forward the information to our Dallas office to determine if it warrants an examination or other action. If you have additional information about an exempt organization you want to submit for our consideration, please send it to:

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Sincerely,

Joseph H. Grant
Acting Commissioner
Tax Exempt and Government Entities

Internal Revenue Service

memorandum

date: JUN 22 2012

to: Manager, EO Examination Classification SE:T:EO:E:PR:C

from: Manager, EO Guidance SE:T:EO:RA:G

ALF Mgr Tax for David L. Fish

subject: Referral – Veterans Support Organization

We are forwarding the attached information item for any action you deem necessary.

Attachments

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

August 24, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated July 27, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012 and July 13, 2012, and addresses the additional questions raised in your recent letter.

Question 1. How can the IRS interpret the explicit language in 26 U.S.C. §501(c)(4), which provides that 510(c)(4) entities must operate "exclusively" for the promotion of social welfare, to allow <u>any</u> tax exempt partisan political activity by 501(c)(4) organizations?

We note that the current regulation has been in place for over 50 years. Moreover, unlike Internal Revenue Code section 501(c)(3), which specifically provides that organizations may "not participate in, or intervene in . . . any political campaign on behalf of (or in opposition to) any candidate for public office."), section 501(c)(4) does not contain a specific rule or limitation on political campaign intervention by social welfare organizations.

Question 2. Since partisan political activity does not meet the IRS definition of "promoting social welfare," how can an organization that participates in any partisan political activity be "organized exclusively to promote social welfare?"

As stated above, long standing Treasury Regulations have interpreted "exclusively" as used in section 501(c)(4) to mean primarily. Treasury Regulation § 1.501(c)(4)-1(a)(2)(i), promulgated in 1959, provides: "An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting the common good and general welfare of the people of the community." Applying this Treasury Regulation, Revenue Ruling 81-95, 1981-1 C.B. 332, concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

Question 3. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states: "As in any election year, EO will continue its work to enforce the rules relating to political campaigns and campaign expenditures. In FY 2012, EO will combine what it has learned from past projects on political activities with new information gleaned from the redesigned Form 990 to focus its examination resources on serious allegations of impermissible political intervention."

a. Typically, how long after a complaint to the IRS does a compliance review begin?

b. What approximate time does it take to review the complaint?

The IRS routinely receives examination referrals from a variety of sources including the public, media, Members of Congress or their staff, and has a long standing process for handling referrals so that they receive an impartial, independent review from career employees. When the IRS receives a referral about a particular organization, it is promptly forwarded to the Classification unit of the Exempt Organizations (EO) Examination office in Dallas, Texas. Pursuant to IRM 4.75.5.4(1), within 30 days of receiving the referral, the Classification staff begins evaluating whether the referral has examination potential, should be considered in a future year, needs additional information to make a decision, or falls within the categories of matters that are referred for EO Referral Committee review.[1] Although IRM 4.75.5.4(1) sets a goal of 90 days to complete reviews of referrals, the time it takes to fully review a particular referral varies, depending on such factors as the issues involved and the availability of relevant information (i.e. organization's Forms 990, external sources such as media reports, internet searches, etc.).

In those cases in which the IRS needs additional information about the subject of a referral that is not readily available, such as its Form 990 that has not been filed yet for the tax year at issue, Classification may suspend classifying the referral and places it in the follow-up category until the additional information is available. Once the additional information is received, reviewed, and supports the referral being classified as having examination potential, the referral is sent to unassigned inventory, until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to conduct an examination.

Once in inventory, there are numerous factors that can affect how long it takes to complete the examination process. While it is difficult to predict how long any single examination will take, for cases closed in FY 2011, the average time it took to close a case was 210 days.

c. How many persons are involved in the enforcement of the 501(c)(4) rules?

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[1] Pursuant IRM 4.75.5(4), cases forwarded for Committee review include those: containing evidence or allegations of political or lobbying activities; involving sensitive information submitted by an elected official or a Member of Congress (or Congressional staff); or involving other factors indicating that review by the EO Referral Committee would be desirable for reasons of fairness or integrity.

The Exempt Organizations (EO) function is responsible for the enforcement of section 501(c)(4) statutory rules and regulations as well as those applicable to all other types of tax-exempt organizations.

For FY 2011, the total number of EO staff was 889. Other than the 14 employees in the Director's office, the three EO offices are staffed as follows:

- Rulings and Agreements (R &A), which includes EO Determinations and EO Technical, ensures organizations meet legal requirements during the application or private letter ruling process, and through guidance. In FY 2011, R&A had 332 employees.

- EO Examinations (Exam) is comprised of various units, including the Classification unit, the EO Compliance Unit, and the Review of Operations unit. Exam develops processes to identify areas of noncompliance, develops corrective strategies, and coordinates with other EO functions to ensure compliance, so that organizations maintain their exempt status. In FY 2011, Exam had 531 employees.

- EO Customer Education and Outreach (CE&O) coordinates, assists and supports the development of educational materials and outreach efforts for organizations to understand their responsibilities under the tax law. In FY 2011, CE&O had a staff of 12 employees.

The employees in these functions are responsible for the regulation of all types of tax-exempt organizations, including section 501(c)(4) organizations.

Question 4. The Exempt Organizations 2011 Annual Report and 2012 Work Plan states that 501(c)(4) organizations "can declare themselves tax-exempt without seeking a determination from the IRS. EO will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules."

a. Why does the IRS allow 501(c)(4) organizations to self-declare?

The Internal Revenue Code expressly provides that certain tax-exempt organizations must give notice to the IRS, by filing an application for exemption, in order to claim tax-exempt status. The Internal Revenue Code does not require an organization to provide notice to the IRS to be treated as described in section 501(c)(4). By contrast, for example, Section 508 generally requires an organization to provide notice to the IRS before it will be treated as described in section 501(c)(3).

b. When an organization "self declares" as a 501(c)(4) organization, how does the IRS get notice and how long does it take the IRS to conduct the review to ensure that the organization has classified itself correctly?

As with other tax exempt organizations, organizations claiming to be tax-exempt

under section 501(c)(4) generally are required to file a Form 990[2] on an annual basis.[3]

The Exempt Organizations office of the IRS is responsible for the compliance of over one million organizations with diverse goals and purposes. In order to ensure the highest degree of compliance with tax law while working with limited resources, EO maintains a robust and multi-faceted post-filing compliance program that conducts reviews of exempt organizations in various ways, such as:

- Review of Operations (ROO) reviews: Because a ROO review is not an audit, the ROO carries out its post-filing compliance work without contacting taxpayers. Instead, the ROO looks at an organization's Form 990, website, and other publicly available information to see what it is doing and whether it continues to be organized and operated for tax-exempt purposes. If it appears from a ROO review that an organization may not be compliant, the organization is referred for examination.

- Compliance checks: In a compliance check, IRS contacts taxpayers by letter when we discover an apparent error on a taxpayer's return or wish to obtain further information or clarification. A compliance check is an efficient and effective way to maintain a compliance presence without an examination. We also use compliance check questionnaires to study specific parts of the tax-exempt community or specific cross-sector practices.

- Examinations: Examinations, also known as audits, are authorized under Section 7602 of the Code. For exempt organizations, an examination determines an organization's continued qualification for tax-exempt status. We conduct two different types of examinations: correspondence and field.

Because the IRS cannot review every existing organization in every tax year, we use the review techniques described above to maximize our coverage of the tax exempt sector in both our general program work and our project work. The project work, which results from our strategic planning process, is designed to focus on specific areas affecting the EO sector and to direct more effective use of our resources in the effort to strengthen compliance and improve tax administration. Described in the EO 2012 Work Plan, the sections 501(c)(4), (5) and (6) Self-Declarers is one such project. This project focuses on organizations that hold themselves out as being tax-exempt rather than seeking IRS recognition of their exempt status.

Question 5. The IRS Compliance Guide for Tax-Exempt Organizations states:

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[2] Reference to the Form 990 includes the entire applicable Form 990-series annual information returns, such as Forms 990, 990-EZ, 990-PF, and 990-N e-postcard.

[3] Treas. Reg. § 1.6033-1(a)(1).

"When a 501(c)(4), (5) or (6) organization's communication explicitly advocates the election or defeat of an individual to public office, the communication is considered political campaign activity. A tax-exempt organization that makes expenditures for political campaign activities shall be subject to tax in an amount equal to its net investment income for the year or the aggregate amount expended on political campaign activities during the year, whichever is less."

a. How does the IRS keep track of these explicit communications and ensure that the organization pays this tax?

Tax-exempt organizations filing Forms 990 or 990-EZ are required to report political activities. Organizations that engage in direct or indirect political campaign activities are also required to complete Schedule C of Form 990 or 990-EZ. Organizations subject to tax under section 527(f) are required to comply with the statutory reporting and payment rules. The IRS also receives referrals regarding such activities from a variety of sources that are handled through an impartial, independent review. See the response to question 3 for the description on the IRS referral process.

b. What is the reason for the requirement that the tax will be based on "whichever is less" between its net investment income for the year or the aggregate amount expended on political campaign activities?

The statute under section 527(f) explicitly states that a 501(c) organization is subject to its tax based on "an amount equal to the lesser of – (A) the net investment income of such organization for the taxable year, or (B) the aggregate amount expended during the taxable year for such an exempt function."

c. What tax would an organization have to pay if it spends *all* its income on political advertising (therefore it has NO net investment income)?

Under the statute cited above, an organization that otherwise meets the requirements of section 501(c)(4) social welfare tax-exempt status, which spends all its income on political advertising and has no net investment income would not owe any tax under section 527(f). It may however, through such spending (and depending on the otherwise applicable facts of the case), no longer qualify as an organization that is tax-exempt under section 501(c)(4) .

Question 6. Ms. Lerner's letter quotes the IRS webpage on Social Welfare Organizations:

"The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity. However, any expenditure it makes for political activities may be subject to tax under section 527(f). [*Emphasis added.***]**

a. What is the statutory basis of the language that allows 501(c)(4) organizations to engage in *some* political activities?

Please see responses to questions 1 and 2, above.

b. How does the IRS keep track of these political activities and ensure that the organization pays the tax under section 527(f)?

Section 501(c)(4) organizations filing Forms 990 or 990-EZ are required to report political activities. Organizations that engage in direct or indirect political campaign activities are also required to complete Schedule C of Form 990 or 990-EZ. Organizations subject to tax under section 527(f) are required to comply with the statutory reporting and payment rules. The IRS also receives referrals regarding such activities from a variety of sources that are handled through an impartial, independent review. See the response to question 3 for the description on the IRS referral process.

Question 7. In her July 13 letter, Ms. Lerner states that the IRS also addresses the issue of political activities in the Forms 990 and 990-EZ.

Are Forms 990 and 990-EZ made public? If so, where can they be accessed?

Yes, Forms 990 and 990-EZ are made public. Tax-exempt organizations are required to make their returns widely available for public inspection.[4] Organizations are required to allow the public to inspect the Forms 990, 990-EZ, 990-N, and 990-PF they have filed with the IRS for their three most recent tax years.[5] Exempt organizations also are required to provide copies of these information returns when requested, or make them available on the Internet.[6] The annual information returns also are available from the IRS,[7] as well as from third-party sources that post them on their websites.

Question 8. Internal Revenue Services Publication 557 states that, if a 501(c)(4) entity can "submit proof that [the] organization is organized exclusively to promote social welfare, it can obtain an exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office."

Have the following 501(c)(4) organizations a) applied for; and if so, b) received the described exemption for political activity from the IRS?

a. Crossroads Grassroots Policy Strategies
b. Priorities U.S.A.

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[4] IRC § 6104(d); Treas. Reg. §§ 301.6104(d)-1 and -2.
[5] IRC § 6104(d)(2); Treas. Reg. § 301.6104(d)-1(a).
[6] IRC § 6104(d)(1); Treas. Reg. § 301.6104(d)-2.
[7] IRC § 6104(b); Treas. Reg. § 301.6104(b)-1. Due to disclosure laws, an organization must submit Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*, to the IRS office indicated on the form or accompanying instructions.

c. **Americans Elect**
d. **American Action Network**
e. **Americans for Prosperity**
f. **American Future Fund**
g. **Americans for Tax Reform**
h. **60 Plus Association**
i. **Patriot Majority USA**
j. **Club for Growth**
k. **Citizens for a Working America Inc.**
l. **Susan B. Anthony List**

Initially, to clarify, section 501(c)(4) organizations do not receive "exemption for political activity." Rather, organizations are recognized under section 501(c)(4) as tax-exempt when they demonstrate that they plan to be primarily engaged in activities that promote social welfare. If they meet that standard, the fact that they engage in other activities that do not promote social welfare, such as political campaign intervention, will not preclude recognition of their tax-exempt status. Whether an organization meets the statutory and regulatory requirements of section 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative.

As discussed in our response to you dated June 4, 2012, section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in the Internal Revenue Code. The IRS cannot legally disclose whether the organizations on your list have applied for tax exemption (unless and until such application is approved). Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status only after the organization has been recognized as exempt.

Searching the names exactly as provided, our records show that the following organizations have been recognized by the IRS as tax exempt under section 501(c)(4).

Americans For Prosperity
American Future Fund
60 Plus Association
Patriot Majority USA
Citizens for a Working America Inc.

With respect to the other organizations for which you inquired, we will be able to determine if they have been recognized by the IRS as tax-exempt with additional information, such as an address or EIN, that specifically identifies the organization. Organizations often have similar names or maintain multiple chapters with variations of the same name. With respect to many of the other organizations you identified, numerous organizations in our records have very similar names. IRS staff can work with your staff in identifying the specific

organizations for which you are interested. IRS staff is also available to assist your staff to navigate searchable databases on the IRS public website. As previously discussed, information on organizations with applications currently pending legally cannot be provided unless and until the application is approved. Please note that organizations that hold themselves out as tax-exempt without IRS recognition and organizations that have pending applications for recognition are required to file annual returns/notices.

Question 9. Have you reminded 501(c)(4)s which publicly seem to be operating in the partisan political arena as to the factors you will consider in determining whether they are engaging in partisan political activity? If not, why not?

As described in the July 13, 2012 response, the IRS takes several steps to continually educate organizations of the requirements under the tax law and inform them of their responsibilities to avoid jeopardizing their tax-exempt status. We believe these steps ensure the IRS administers the nation's tax laws in a fair and impartial manner.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,

Steven T. Miller
Deputy Commissioner
for Services and Enforcement

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SEP 19 2012

The Honorable Orrin G. Hatch
Ranking Member
Senate Committee on Finance
U.S. Senate
Washington, D.C. 20515

Dear Senator Hatch:

This letter responds to your letter to Commissioner Shulman dated August 2, 2012, requesting copies of Forms 1023, Forms 990, and Forms 990-T filed by twenty-eight specified organizations. Two of the organizations on your list, Liberty Bowl Festival Association, and Mobile Alabama Bowl, are recognized as section 501(c)(4) organizations, rather than section 501(c)(3) organizations. We note that while Forms 990-T of 501(c)(3) organizations are publically disclosable, we are not legally allowed to provide Forms 990-T of non-501(c)(3) organizations.

Prior to 1995, when the application process was centralized in Cincinnati, application files were kept in various key district offices. Between 1996 and 2000, records were sent to Cincinnati from the key district offices. The original paper files were converted to microfiche before they were sent, and more recently have been converted to DVD format. Because of the many changes in location and format, we may not be able to locate some records in existence prior to the centralization. A search of our electronic records and copies of application files maintained on DVDs resulted in the following documents, which we have enclosed:

1) copies of the Forms 1023 and supporting documents of twenty-three organizations,

2) copy of Form 1024 and supporting documents of one organization,

3) copies of all Forms 990 filed in the last three years by all twenty-eight organizations, and

4) copies of all Forms 990T filed in the last three years by five section 501(c)(3) organizations that filed Forms 990T.

I hope this information is helpful. If you have questions, please contact me at (202) 283-0289 or Andrew Megosh (Identification Number 1000221546) at (202) 283-8942.

Sincerely,

for Lois G. Lerner
Director, Exempt Organization

Attachments

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Orrin G. Hatch
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Senator Hatch:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

October 2, 2012

The Honorable Charles Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Pat Roberts
United States Senate
Washington, DC 20510

Dear Senator Roberts:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

October 2, 2012

The Honorable Michael B. Enzi
United States Senate
Washington, DC 20510

Dear Senator Enzi:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable John Cornyn
United States Senate
Washington, DC 20510

Dear Senator Cornyn:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable John Thune
United States Senate
Washington, DC 20510

Dear Senator Thune:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Mitch McConnell
United States Senate
Washington, DC 20510

Dear Senator McConnell:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Lamar Alexander
United States Senate
Washington, DC 20510

Dear Senator Alexander:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Kay Bailey Hutchison
United States Senate
Washington, DC 20510

Dear Senator Hutchison:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CHIEF COUNSEL

October 2, 2012

The Honorable Jon Kyl
United States Senate
Washington, DC 20510

Dear Senator Kyl:

This letter responds to your August 6, 2012 letter to Commissioner Shulman regarding regulations under Internal Revenue Code section 501(c)(4).

Treasury regulations are promulgated pursuant to a long-standing process that invites public participation and affords all interested parties the opportunity to provide input. Pursuant to this process, any new regulations or changes to existing regulations are first issued in proposed form which requests public comments on the proposed regulation. Public input is then considered during the development of the final regulation. During this process, the IRS and Treasury Department follow procedures to ensure that applicable requirements under the Administrative Procedure Act, Regulatory Flexibility Act, Congressional Review Act, Paperwork Reduction Act, and other administrative law provisions are satisfied.

I hope this information is helpful. I am also writing to your colleagues. If you have questions, please contact me or have your staff contact Catherine Barrè, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

William J. Wilkins
Chief Counsel

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

September 14, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, D.C. 20515

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated August 31, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012 and August 24, 2012, and addresses the additional questions raised in your recent letter.

Question 1. If the IRS determines that an organization that has been given 501(c)(4) status has not engaged primarily in social welfare activities, but instead was primarily engaged in activity within the scope of section 527, what are the consequences for the organization? What are the consequences for such an organization having not filed timely Forms 8871 and 8872? Must they file such forms after the fact? What taxes will be due? Will contributions that already have been made to that organization be taxable to that organization?

If an IRS audit or examination concludes that a section 501(c)(4) organization does not engage primarily in social welfare activities, the IRS may revoke the tax-exempt status of that organization. If the tax-exempt status is revoked, the organization is a taxable entity effective, in general, as of the first day of the tax year under examination. The organization is required to file Federal income tax returns, generally a Form 1120, U.S. Corporation Income Tax. The tax treatment of the organization's contributions and other income is determined under normal rules of Subtitle A.

Whether an organization no longer qualifies to be tax-exempt under section 501(c)(4) does not determine whether it is a political organization under section 527. Section 527(e)(1) defines a political organization as a party, committee, or other organization that is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an exempt function (as defined in § 527(e)(2)). If an organization meets this definition, then its tax status is determined under section 527.

Subject to certain exceptions, to be tax-exempt under section 527,[1] a political organization is required to give notice electronically to the Service.[2] The required notice form is Form 8871, *Political Organization Notice of Section 527 Status*. To be tax-exempt, the political organization must file Form 8871 within 24 hours after the date on which it was established. If the organization has a material change in any of the information reported on Form 8871, it must file an amended Form 8871 within 30 days of the material change to maintain its tax-exempt status. When the organization terminates its existence, it must file a final Form 8871 within 30 days of termination.[3]

An organization that is required to file Form 8871, but fails to file on a timely basis, will not be treated as a tax-exempt political organization for any period before the date Form 8871 is filed.[4] The taxable income of the organization for any period in which it failed to file Form 8871 (or, in the case of a material change, the period beginning with the date of the material change and ending on the date it satisfies the notice requirement) is subject to tax and must be reported on the annual income tax return Form 1120–POL.[5] The tax is computed by multiplying the organization's taxable income by the highest federal corporate tax rate,[6] currently 35 percent. For purposes of computing its taxable income for any period, the organization includes its exempt function income (including contributions received, membership dues, and political fundraising receipts), minus any deductions directly connected with the production of that income,[7] but may not deduct its exempt function expenditures for the period.[8]

Generally, tax-exempt political organizations that have, or expect to have, contributions or expenditures exceeding $25,000 during a calendar year are required to file Form 8872, *Political Organization Report of Contributions and Expenditures*, beginning with the first month or quarter during the calendar year in which they accept contributions or make expenditures.[9] A tax-exempt political organization subject to the periodic reporting requirement may choose to file Form 8872 on a monthly basis or on a quarterly/semiannual basis, but it must file on the same basis for the entire calendar year. In addition, tax-exempt political organizations that make

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[1] Tax-exempt political organizations generally are subject to tax on the excess of their gross income (excluding any exempt function income) over allowable deductions that are directly connected with the production of the gross income (excluding exempt function income). IRC § 527(c).

[2] IRC § 527(i)(1)(A), (i)(5), (i)(6); Rev. Rul. 2003-49, 2003-1 C. B. 903.

[3] IRC § 527(i)(2).

[4] IRC § 527(i)(1)(B).

[5] IRC § 527(i)(4). A political organization, whether or not tax-exempt, that has taxable income in excess of the $100 specific deduction allowed under § 527 is required to file an annual income tax return on Form 1120– POL, *U.S. Income Tax Return for Certain Political Organizations*. IRC § 6012(a)(6); Rev. Rul. 2003-49.

[6] IRC § 527(b); Rev. Rul. 2003-49.

[7] IRC § 527(i)(4); Rev. Rul. 2003-49.

[8] IRC § 162(e) denies a deduction for political campaign expenditures.

[9] IRC § 527(j); Rev. Rul. 2003-49. All tax-exempt political organizations are subject to the reporting requirements of IRC § 527(j), except for those political organizations described in § 527(j)(5).

contributions or expenditures with respect to an election for federal office (as defined in § 527(j)(6)) may be required to file pre-election reports for that election.[10]

A tax-exempt political organization that does not timely file the required Form 8872, or that fails to include the information required on the Form 8872, must pay an amount calculated by multiplying the amount of contributions and expenditures that are not disclosed by the highest federal corporate tax rate,[11] currently 35 percent.

Question 2. How many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRS within the last 6 months that they may be in violation of the law?

When the IRS examines a section 501(c)(4) organization, the objective of the audit is to determine whether that organization qualifies for tax-exempt status as a social welfare organization. As discussed in our June 4, 2012 response to your March 30, 2012 letter, that determination looks to whether the organization is primarily engaged in activities that promote social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual. The examination looks at the activities engaged in during the complete taxable year at issue. Although the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office, a section 501(c)(4) social welfare organization can engage in political activities as long as it is primarily engaged in activities that promote social welfare.

If the IRS believes that an organization does not meet the requirements under section 501(c)(4), the IRS notifies the organization of its intention to revoke the organization's exempt status, explaining the law and reasons for the proposed revocation. The organization has 30 days from the date of that letter to protest or appeal the determination before a final revocation letter is issued to the organization.

During the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations. Note that the IRS currently has more than 70 ongoing examinations of section 501(c)(4) organizations (this includes examinations for a variety of issues, some of which include whether the organization is primarily engaged in activities that promote social welfare). It is also important to note that the Service also maintains a determination process to review the operations of an organization to determine whether it should be recognized as tax exempt. In this area, we also review compliance with the legal requirements, including whether an organization is primary engaged in activities that promote social welfare. There are currently more than 1,600 organizations in the determination process seeking recognition as a section 501(c)(4) organization. The level of political activity is an issue in a number of these determination cases.

[10] IRC § 527(j)(2)(A)(i)(II); Rev. Rul. 2003-49.
[11] IRC § 527(j)(1).

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,

Steven T. Miller
Deputy Commissioner
for Services and Enforcement

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

October 17, 2012

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am responding to your letter to Commissioner Shulman dated September 27, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, and September 14, 2012, and addresses the additional questions raised in your recent letter.

Question 1. Question #15 on the IRS Application for Recognition of Exemption Under Section 501(a) states:

"Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election or appointment of any person to any Federal, state, or local public office to an office in a political organization? If "Yes," explain in detail and list the amounts spent or to be spent in each case."

a. **For the following organizations please forward copies of the responses to Question #15:**

    1) **Crossroads Grassroots Policy Strategies**
    2) **Priorities U.S.A**
    3) **Americans for Prosperity**
    4) **Patriot Majority USA**

b. **Please provide with each answer the explanatory "detail" and the lists of the "amounts spent or to be spent in each case" referred to in Question #15.**

As discussed in our previous responses dated June 4, 2012, and August 24, 2012, the IRS cannot legally disclose whether the organizations on your list have applied for tax exemption unless and until such application is approved. Section 6104(a) of the Internal Revenue Code permits public disclosure of an application for recognition of tax exempt status only after the organization has been recognized as exempt.

Enclosed are the publicly available portions of the application file for Patriot Majority USA [EIN 45-0710294].

Our records indicate a favorable determination letter was also issued to Americans for Prosperity [EIN 75-3148958] in October 2004. However, due to issues related to an electronic conversion process undertaken a number of years ago, we have not yet been able to locate our copy of the application file.[1]

Question 2. In the IRS response of August 24, 2012, Mr. Miller stated that an address would be needed in order for the IRS to tell us whether or not an organization has been recognized by the IRS as tax-exempt. I have provided address information on several organizations below, as well as verbatim statements from these organizations' websites regarding their 501(c)(4) status.

For each organization, please let me know if the IRS has recognized it as tax-exempt.

Organization Name:	Organization Address:	Organization Website Address:	Organization's statement on 501(c)(4) status:
Crossroads Grassroots Policy Strategies	P.O. Box 34413 Washington, DC 20043	http://www.crossroadsgps.org/	"Crossroads GPS is organized as a nonprofit organization under section 501(c)(4) of the Internal Revenue Code."
Priorities U.S.A.	1718 M Street NW #264 Washington, DC 20036-4504	http://www.prioritiesusa.org/	"Priorities USA is a 501(c)(4) organization dedicated to mobilizing Americans to preserve, protect and promote the middle class, and to ensure opportunity and freedom for the next generation."
Americans for Prosperity	2111 Wilson Blvd. Suite 350 Arlington, VA 22202	http://americansforprosperity.org/	"Americans for Prosperity is a 501 (c) (4) entity under the IRS code. Contributions or gifts to Americans for Prosperity are not tax deductible."
Patriot Majority USA	1717 Rhode Island Avenue, NW Washington, DC 20036	http://patriotmajority.org/	"Patriot Majority USA is a 501(c)(4) with the primary purpose of encouraging a discussion of economic issues in the United States."

As stated in our previous response to you dated August 24, 2012, our records show that Americans for Prosperity and Patriot Majority USA have been recognized by the IRS as tax exempt under section 501(c)(4). With respect to Crossroads Grassroots Policy Strategies and Priorities U.S.A., we have no record of an approved application for these organizations.

[1] In addition to public availability from the IRS, section 6104(d) of the Internal Revenue Code requires that the organization make its application for tax exemption available for public inspection.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barre at (202) 622-3720.

Sincerely,

Steven T. Miller
Deputy Commissioner
for Services and Enforcement

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

November 23, 2012

The Honorable Carl Levin
Chairman, Permanent Subcommittee on Investigations
Senate Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your letter to Commissioner Shulman dated October 23, 2012, requesting additional information about section 501(c)(4) organizations. This response supplements our previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, September 14, 2012, and October 17, 2012, and addresses the additional questions raised in your recent letter.

Question 1. The October 17, 2012, letter from the IRS indicates that it is unable to locate the application submitted by Americans for Prosperity (EIN 75-3148958) for tax exempt status under section 501(c)(4). Has the IRS asked Americans for Prosperity for a copy of its application? If so, please provide a copy of the response from Americans for Prosperity.

We have not asked Americans for Prosperity for a copy of its application. As indicated in our responses dated June 4, 2012, and October 17, 2012, section 6104(d) of the Internal Revenue Code (the Code) requires tax exempt organizations to make certain documents, including applications for exemptions, available for public inspection. Any individual may request copies of applications for exemption and determination letters directly from the organizations. Under the Code, if an organization has filed an application for tax-exemption and we have approved the application, the exempt status application materials shall be made available by such organization for inspection upon request of any individual.[1]

[1] Section 6104(d) of the Code.

Question 2. Has the IRS examined whether or not the following 501(c)(4) organizations are engaged primarily in the promotion of social welfare? Please indicate yes or no, and, if yes, whether the examination is still pending.

a. **Crossroads Grassroots Policy Strategies**
b. **Priorities U.S.A**
c. **Americans for Prosperity**
d. **Patriot Majority USA**

As previously stated in our response dated June 4, 2012, section 6103 of the Code prohibits the disclosure of information about specific taxpayers, including whether they are under investigation or examination, unless the disclosure is authorized by some provision of the Code.[2] Thus, we are legally prohibited from disclosing information related to examination activity.

Question 3. In my letter of March 30, 2012, I asked the IRS to indicate how many letter rulings have been issued by the IRS since January 1, 2007, to deny or revoke the tax-exempt status of an organization under section 501(c)(4) due to involvement with political activity. I further requested that, if the IRS had issued 10 or less such letter rulings, the IRS provide copies of all such letters. Mr. Miller responded that, "The application process for tax-exempt status does not involve the revocation of tax exemption; rather, it only concerns the denial of applications." He did not provide copies of the denials of applications he referred to.

Please provide the documentation requested in my March 30, 2012, letter.

As previously stated, section 6103 of the Code prohibits the disclosure of information about specific taxpayers unless some provision of the Code authorizes the disclosure. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax-exempt status and supporting materials only after the organization has been recognized as exempt. Under section 6110 of the Code, if we ultimately deny the application for recognition of tax-exempt status, the denial letter and background information is subject to public inspection, with identifying and other information redacted, to help the public understand our reasoning while also protecting the identity of the organization.

[2] Section 6103(f) of the Code sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under sections 6104 and 6110). We are available to discuss these rules in more detail with your staff.

Since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants. We concluded that the organizations did not primarily operate for the promotion of social welfare. Generally, they were primarily engaged in activities that benefited private individuals and interests, and/or constituted direct and indirect political campaign intervention on behalf of, or in opposition to, candidates for public office. I am enclosing redacted determination letters denying section 501(c)(4) tax exempt status to the ten organizations. Note, however, that the number of adverse determinations does not represent the number of organizations that applied, but were not granted tax-exempt status under section 501(c)(4). Some organizations withdraw their application for exemption when they learn that a denial is forthcoming. Others do not formally withdraw, but do not respond to requests for information necessary to develop their applications. After additional failed attempts to get the information from the applicant, we close those applications as "failure to establish."

Question 4. In August 2012, I asked the IRS to indicate "how many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRS within the last 6 months that they may be in violation of the law." Mr. Miller responded that, "During the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations."

a. How many notices of proposed or final revocation have been issued since January 1, 2007? If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters.

We have issued 42 revocation notices to section 501(c)(4) organizations since January 1, 2007. These organizations were revoked for failing to meet the requirements under section 501(c)(4). In addition to the 42 revocations, we issued 18 organizations written advisories noting irregularities, which if left unchanged, posed a risk to the organizations of possible loss of their tax-exempt status under section 501(c)(4).

b. Since January 1, 2007, how many 501(c)(4) organizations have been examined by the IRS to determine if they are engaged in political activity in amounts which exceed IRS guidelines?

As discussed in prior responses, when we examine a section 501(c)(4) organization, the objective of the audit is to determine whether that organization qualifies for tax-exempt status as a social welfare organization. As discussed in our June 4, 2012, response, we have taken no position on a fixed percentage or any one factor in precedential guidance. To determine whether an organization operates primarily for the promotion of social welfare, the courts and the IRS consider all the facts and circumstances, including, but not limited to, the organization's stated purposes, expenditures, principal source of revenue, number of employees and volunteers, and time and effort.[3]

[3] Treasury Regulation section 1.501(c)(4)-1(a)(2) (No percentage test established). Rev. Rul. 68-45,1968-1
C.B. 259 (Principal source of income does not determine an organization's primary activity under section 501(c)(4); all the facts and circumstances are considered). *See, generally Haswell v. United States,* 500

From January 1, 2007, through September 2012, we have examined 643 section 501(c)(4) organizations to determine whether they are primarily engaged in social welfare activities. We analyzed a variety of issues during these examinations, including, where relevant, the level of political activity.

Of the 643 organizations examined, the Principal Issue Codes (PIC codes) in our system indicate political activity was one of the issues explored in the examination of 22 section 501(c)(4) organizations. We use PIC codes to capture the issues on which an IRS agent spent time during an examination or that resulted in a change, and we enter them as part of the closing process of a case. Although currently 96 PIC codes exist, agents may only report the top four PIC codes. The determination of which PIC codes are applicable to a particular case is a judgment the agent makes. Please note that although PIC codes are a tool to identify issues and trends, PIC codes do not cover all issues in a case. Therefore, without a manual review of the case files, we cannot definitively conclude whether we examined an organization to determine the level of political activity.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller
Deputy Commissioner
for Services and Enforcement

Enclosures (10)

F.2d 1133, 1142, 1147 (Cl. Ct. 1974) ("A percentage test ... is not appropriate. Such a test obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."). *See, Contracting Plumbers v. United States,* 488 F.2d 684, 686 (2d Cir. 1973) (multiple factors relevant in applying this standard, including formative history, stated purposes, and actual operations). *See generally Seasongood V. Commissioner,* 227 F.2d 907, 909, 912 (6th Cir. 1955) (expenditures, employees, and organization's time and effort considered).

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

March 15, 2013

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Government Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am responding to your letter dated January 4, 2013, requesting additional information about § 501(c)(4) organizations. This response supplements the previous responses dated June 4, 2012, July 13, 2012, August 24, 2012, September 14, 2012, October 17, 2012, and November 23, 2012, and addresses the additional questions raised in your recent letter.

Question 1. In the IRS response of September 14, 2012, you write that "during the past six months, no notices of proposed or final revocation were issued to section 501(c)(4) organizations." In the November 23, 2012 IRS response, you write that "we have issued 42 revocation notices to section 501(c)(4) organizations since January of 2007." Also in the November 23, 2012, response you write "since January 1, 2007, we have issued ten adverse determinations to section 501(c)(4) applicants." Please respond to the following:

a. Please explain the difference between a "revocation notice" and an "adverse determination."

An adverse determination is a written ruling denying tax-exempt status to an organization that has applied for tax exemption, but has failed to meet the applicable requirements. A revocation notice is a written notice that tax exempt status is being revoked, as the result of an examination.[1]

[1] Revocation notices also may be issued to organizations that are automatically revoked for failing to file a Form 990 series return for three consecutive years. The revocation notices noted in Question1 above resulted from examinations.

b. Please explain whether or not a total of 52 organizations have now been deemed by the IRS as having not met their obligations as a § 501(c)(4) social welfare organization, and if so, please describe the consequences for those organizations in terms of whether or not they were subject to tax or penalties under § 527(i) and (j) for failure to make proper disclosure, whether they were then required by the IRS to pay other taxes, including back taxes, and whether or not they did so.

See Question 1bi below for information regarding the number of organizations that have not met the requirements for 501(c)(4) social welfare status.

As discussed in the June 4, 2012 and September 14, 2012 responses, failure to qualify under § 501(c)(4) is not determinative of whether an organization qualifies as tax-exempt under § 527. Sections 501(c)(4) and 527 both provide avenues for tax exemption under the Code, but for different types and levels of activity. To be tax-exempt under § 527, an organization must be operated primarily for the purpose of accepting contributions or making expenditures for an exempt function (i.e., influencing or attempting to influence the selection, nomination, election, or appointment of any federal, state, or local public office or office in a political organization). To be tax-exempt under § 501(c)(4) an organization must be primarily engaged in social welfare activity, but may conduct some amount of non-social welfare activity. If a § 501(c)(4) organization is determined not to be primarily engaged in social welfare by virtue of conducting high levels of non-social welfare activity, which could include political campaign intervention activity, that does not automatically mean the organization qualifies to be a § 527 political organization. To be tax-exempt under § 527, an organization must meet the requirements for that section, including taking action to be so treated by filing Form 8871, unless it meets one of the statutory exceptions. If it fails to timely file Form 8871, the organization will not be treated as a tax-exempt political organization for any period before the date the Form is filed, and its income will be subject to tax.

i. If you have not already done so, please provide the notices or letters that the IRS sent to the groups which the IRS determined did not meet their obligations as § 501(c)(4) charitable organizations.

Under the disclosure restrictions of §§ 6103 and 6110, we can only provide adverse determination letters and revocation notices in which taxpayer identifying and certain other information have been redacted.

Once we redact identifying information from an adverse determination letter or a revocation notice, copies of the original and redacted versions are sent to the organization, along with Notice 437, *Notice of Intention to Disclose.* Notice 437 provides the organization with an opportunity to request additional deletions or a delay in public disclosure. If the organization does not take any further action within a specified period, generally 60 days

after the mailing date of the notice, the redacted documents can then be made public. If, however, the organization disagrees with the redactions or requests a delay in publication, the process can take longer.

With regard to your request, we provided the ten redacted adverse determination letters with the November 23, 2012 response to your October 23, 2012 letter. The 42 instances of revocation notices identified in our earlier response resulted from queries to our automated systems, which have some limitations. In searching for the revocation notices, we noted some discrepancies between system-generated information and the actual revocation notices. To ensure that we provide responsive information to your request, we are manually reviewing case files for some of these matters. We will provide an update as we complete our review. We have enclosed nine revocation notices that have completed the redaction and taxpayer review process. Others are at various stages in that process and we will provide them as the process is completed.

Question 2. In the IRS response of November 23, 2012, you write that from January 1, 2007 to September 2012, the IRS has examined 643 § 501(c)(4) organizations to determine whether or not they were primarily engaged in social welfare activities but that the IRS "cannot definitively conclude whether we examined an organization to determine the level of political activity" without conducting a manual review of these cases. Please respond to the following:

a. **Please conduct this manual review and provide the number of these 643 examinations which involved political activity;**
b. **Please provide the number and names of the organizations that were determined to not be valid § 501(c)(4) organizations from this review.**

As stated in the November 23, 2012, response, our system reflects that 22 of the 643 examined § 501(c)(4) organizations had political campaign activity as one of the issues explored during examination. We derived this information from the selected Principal Issue Codes (PIC codes), which identify issues during an examination. Although there are some limitations to PIC codes, we do not believe a manual review of the files would significantly change the number of examinations in which political campaign activity was an issue considered. We would like to discuss with your staff any remaining concerns with this methodology.

Please note that the law would not allow us to provide the names of the organizations. As previously noted, § 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers, including whether they are under investigation or examination, unless the disclosure is authorized by some provision of the Internal Revenue Code.[2]

[2] IRC § 6103(f) of the Code sets forth the means by which congressional committees may obtain access to return and return information (that is not otherwise made publicly available under

c. Please provide an explanation as to how the IRS determined whether or not the § 501(c)(4) organization was primarily engaged in political activity including any guidance, memorandum, criteria used by the IRS to determine whether or not a § 501(c)(4) organization was primarily engaged in political activity during these examinations.

To maintain tax exemption as described in § 501(c)(4), the organization must meet the statutory requirements in the Internal Revenue Code and accompanying regulations. Whether an organization maintains the statutory and regulatory requirements of § 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative. Thus, in making a determination, we must take into account all facts and circumstances in evaluating whether legal requirements are satisfied. A variety of legal and procedural guidance is relevant in making such determination.

Legal guidance used to determine whether a § 501(c)(4) organization primarily engages in exempt activities include the following:

- IRC § 501(c)(4)
- Treas. Reg. § 1.501(a)-1[3]
- Treas. Reg. § 1.501(c)(4)-1; i.e., Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)[4]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

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§§ 6104 and 6110). We are available to discuss these rules in more detail with your staff.

[3] Treas. Reg. § 1.501(a)-1(a)(3). In general; proof of exemption. An organization claiming exemption under § 501(a) and described in any paragraph of § 501(c) (other than § 501(c)(1)) shall file the form of application prescribed by the IRS and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in § 401(a), see the regulations under § 401. Treas. Reg. § 1.501(a)-1(b)(2). In addition to the information specifically called for by this section, the IRS may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under § 501(a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the IRS may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

[4] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Reg. § 1.501(c)(3)–1 and is not an action organization as set forth in paragraph (c)(3) of Reg. § 1.501(c)(3)–1. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 81-95, 1981-1 C.B. 332[5]
- Rev. Rul. 67-368, 1967-2 C.B. 194[6]
- Rev. Rul. 60-193, 1960-1 C.B. 195[7]

A revenue agent working a case uses sound reasoning based on tax law training and his or her experience in examining an organization. Because of the facts and circumstances nature and the need for professional judgment on the part of the revenue agent doing the review, procedural guidance is necessary to minimize variances in how cases are developed. As such, the IRS utilizes procedural guidance to promote quality and consistency in similar cases, such as the following:

- Rev. Proc. 2013-9[8]
- Form 1024[9]
- IRM 4.75[10]
- IRM 4.76.13[11]

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[5] Rev. Rul. 81-95 provides that "an organization may carry on lawful political activities and remain exempt under § 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

[6] In Rev. Rul. 67-368, an organization formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under § 501(c)(4) because such activity was not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, constitutes participation or intervention in a political campaign on behalf of candidates favorably rated and in opposition to those less favorably rated.

[7] Rev. Rul. 60-193 concludes that an organization whose purpose was to encourage greater participation in governmental and political affairs promoted social welfare and therefore qualified for recognition of exemption under § 501(c)(4). Activities of the organization included conducting nonpartisan seminars and workshops relating to the American political system. All lecturers were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent the program from becoming partisan in character.

[8] Rev. Proc. 2013-9 sets forth IRS procedures for issuing, as well as for revoking and modifying, determination letters and rulings on the exempt status of organizations under § 501 of the Internal Revenue Code.

[9] IRS application form for organizations seeking IRS recognition of exemption under § 501, including § 501(c)(4).

[10] IRM 4.75 provides general examination procedures.

[11] IRM 4.76.13 provides examination guidelines on social welfare organizations.

Question 3. In the IRS response of November 23, 2012, you write "Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt." On December 14, 2012, Propublica released the 1024 application for tax exempt status filed by Crossroads Grassroots Policy Strategies with the IRS. Please respond to the following:

a. **Did the IRS release the 1024 application filed by Crossroads Grassroots Policy Strategies to Propublica or any other entity?**
b. **If the IRS released the 1024 application filed by Crossroads Grassroots Policy Strategies, why did it do so since the IRS has yet to approve Crossroads' application?**

Section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized. The protection and confidentiality of tax information is one of our top priorities. When questions arise about the release of tax information, our normal procedure is to refer the matter to the Treasury Inspector General for Tax Administration. We are unable to comment further.

c. **Please also provide an update as to the status of the application for tax exempt status filed by Crossroads Grassroots Policy Strategies.**

Section 6104(a) of the Code does permit public disclosure of an application for recognition of tax-exempt status and supporting materials only after the application has been approved for the organization to be recognized as exempt. The IRS has no record of an approved application for Crossroads GPS.

Question 4. With regard to your June 4, 2012 response:

a. **When describing the § 501(c)(4) application process, you write that "...in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency." Please explain the term "advocacy organization" and provide any guidelines, memorandum, or procedures used by the IRS to evaluate § 501(c)(4) advocacy organizations including whether or not the IRS considers an "advocacy organization" to be an organization that is engaged in political activity.**

As the chart below illustrates, the Code distinguishes between advocacy activities that influence legislation, those that influence candidate elections, and those that do neither. Depending on the subsection under which an organization is exempt, there are differing rules regarding the nature and amount of advocacy an organization can conduct and still retain its exemption. As used in the prior response, "advocacy organizations" was a short hand way of describing cases that raise questions whether the type and amount of advocacy an organization undertakes is consistent with the code section under which it seeks exemption.

	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
Receive tax-deductible charitable contributions	YES	NO	NO	NO	NO
Receive contributions or fees deductible as a business expense	YES	YES	YES	YES	NO
Substantially related income exempt from federal income tax	YES	YES	YES	YES	YES
Investment income exempt from federal income tax	LTD*	YES	YES	YES	NO
Engage in legislative advocacy	LTD	YES	YES	YES	LTD
Engage in candidate election advocacy	NO	LTD	LTD	LTD	YES
Engage in public advocacy not related to legislation or election of candidates	YES	YES	YES	YES	LTD

*Private foundations are subject to tax on their net investment income.

See also response to question 2(c) above for guidance and procedures used to determine whether a § 501(c)(4) organization primarily engages in exempt activities.

b. Please provide the "draft educational guide sheet on the issue of political activity for section 501(c)(4) applications that was shared for comment with some employees in EO Determinations" that you reference on page 13 of the letter.

We would like to provide some additional details regarding this document. The guide sheet draft referenced in this question was an initial staff draft, which was never approved nor finalized. It was distributed for comment only. We are able to discuss with your staff in more detail.

Question 5. Please explain the difference between Rev. Ruling 2007-41, 2007-1 C.B. 1421, which is generally used by the IRS to determine whether issue advocacy crosses the line into campaign intervention and Rev. Ruling 2004-6, 2004-1 C.B. 328, which generally addresses whether an expenditure for an issue advocacy expenditure is subject to the § 527(f) tax. Please also explain which of these is used by the IRS to determine whether a § 501(c)(4) organization is primarily engaged in political activity.

As you note in your question, Rev. Rul. 2004-6 and Rev. Rul. 2007-41 provide guidance under two different statutory provisions. Rev. Rul. 2004-6 provides guidance on the circumstances in which a public policy advocacy communication may constitute an exempt function within the meaning of § 527(e)(2), which would be subject to tax under § 527(f).[12] The ruling describes six factual situations involving organizations that are exempt from federal income tax under § 501(a) as organizations described in § 501(c)(4), § 501(c)(5) or § 501(c)(6). Each of the situations assumes that the organization would continue to be exempt under § 501(a), even if the described activity is not a § 501(c) exempt activity. The ruling provides nonexclusive lists of factors that tend to show that an advocacy communication on a public policy issue is (or is not) for an exempt function under § 527(e)(2), but also states that all facts and circumstances must be considered.

Rev. Rul. 2007-41 provides guidance on when an organization exempt from federal income tax under § 501(a) as an organization described in § 501(c)(3) has participated or intervened in a political campaign on behalf of (or in opposition to) any candidate for public office in violation of § 501(c)(3).[13] The ruling describes 21 factual situations. In each factual situation, all the facts and circumstances are considered in determining whether the organization's activities result in political campaign intervention for purposes of § 501(c)(3).

Neither Rev. Rul. 2004-6 nor Rev. Rul. 2007-41 specifically addresses whether a § 501(c)(4) organization is engaged in political campaign activity within the meaning of Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).[14] Nevertheless, consistent with both of these revenue rulings, the Service analyzes all the facts and circumstances to determine whether a § 501(c)(4) organization participated or intervened in a political campaign.

Question 6. It has been reported in the press that some § 501(c)(4) organizations report to the IRS that they do not engage in political activity but then report either they do engage in political activity to the Federal Election Commission (FEC) or report widely varying amounts of political activity to the FEC and the IRS. Please respond to the following:

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[12] Section 527(e)(2) provides: "The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

[13] To qualify under § 501(c)(3) an organization must "not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

[14] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) provides: "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."

a. Does the IRS track a § 501(c)(4) organization's filings with the FEC?
b. What actions does the IRS take when there are differences in what a § 501(c)(4) organization reports to the IRS versus what it reports to the FEC?
c. How does the IRS coordinate with the FEC with regard to § 501(c)(4) organizations?

We use all publicly-available information, including FEC filings, when considering an application or conducting an examination. However, we do not have a system that formally tracks FEC filings of § 501(c)(4) organizations. We also do not formally coordinate with the FEC on matters related to § 501(c)(4) organizations as § 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision of the Internal Revenue Code. Therefore, exchange of confidential taxpayer information with the FEC generally is barred.

Further, differences in reporting requirements such as the following make coordination between the agencies difficult. These include, for example, differences in who is responsible for filing the reports, what constitutes reportable political campaign activity, and the timing of reports.

The party responsible for filing with the FEC depends upon the nature of the political campaign expenditure. So, for example, if a § 501(c)(4) organization makes any contributions, including in-kind contributions and coordinated expenditures, to an FEC political organization (campaign committee, party committee or PAC), it is our understanding that the § 501(c)(4) organization is not required to file anything with the FEC. Instead, it is our understanding that the recipient political organization is required to include the contribution on its report to the FEC. On the other hand, if a § 501(c)(4) organization makes independent expenditures or electioneering communications, it is required to file a report with the FEC.

The definition of what constitutes reportable political campaign expenditures under the two filing regimes also differs. Although most political campaign expenditures required to be reported to the FEC may constitute political campaign intervention under the Internal Revenue Code, some might not.

In addition, we are not limited by the express advocacy standard or FEC case law in determining whether an activity is political campaign intervention for § 501(c)(4) purposes. The regulations under § 501(c)(4) provide that directly or indirectly participating or intervening in a political campaign on behalf of or in opposition to a candidate for public office is not in furtherance of § 501(c)(4) exempt purposes. This determination is based upon all of the facts and circumstances.

Another factor that can lead to differences in reporting is timing of the reports. Organizations report to the FEC based upon the election cycle; while organizations report to the IRS based upon their fiscal tax year, which differs among organizations. Forms 990

filed with the IRS are due 5 months and 15 days after the end of the organization's fiscal tax year. So, for example, an organization with a June fiscal tax year might make independent expenditures in October that are reported to the FEC prior to the November election. However, because the Form 990 is not due until the 15th day of the fifth month after the end of the fiscal tax year, those same expenses would be reported on the Form 990 that is due on November 15th of the following year (and, because of extensions, may not actually be filed for another six months after that).

All of these factors can contribute to perceived inconsistencies between FEC and IRS records of political campaign activity by § 501(c)(4) organizations.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Steven T. Miller
Deputy Commissioner for
Services and Enforcement

Enclosures (9)

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

March 23, 2012

The Honorable Charles Boustany, Jr., M.D.
Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter to Commissioner Shulman dated March 1, 2012, requesting additional information about the tax-exempt sector. This response supplements my previous responses dated November 18, 2011, and March 12, 2012, and addresses the additional questions raised in your recent letter.

Question 1. How many new tax-exempt organizations has the IRS recognized each year since 2008?

The following table provides the total number of determination approvals[1] for FY 2008 – 2011:

FY	Number of Determination Approvals
2008	69,957
2009	62,459
2010	53,693
2011	54,713

[1] SOI data from IRS Data Book, Table 24, Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (and subsequent fiscal years 2009-2011) at http://www.irs.gov/taxstats/index.html. This data reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

Question 2. How many new applications for 501(c)(3) and (c)(4) tax-exempt status have been received by the IRS since 2008? Provide a breakdown by year and type of organization.

The following table provides the number of new applications for tax-exempt status under sections 501(c)(3) and (c)(4) of the Code that were received for FY 2008 – 2011:

FY	501(c)(3)	501(c)(4)
2008	51,073	1,410
2009	52,303	1,571
2010	50,266	1,591
2011	55,962	2,242

Question 3. What is the IRS process for reviewing each tax-exempt status application? Is this process the same for entities applying for section 501(c)(3) and (c)(4) tax-exempt status? Please describe the process for both section 501(c)(3) and (c)(4) applications in detail.

The EO Submission Processing Center in Cincinnati, Ohio receives all applications for tax-exempt status. The Submission Processing Center inputs the applications into the EP/EO Determination System and processes the attached user fees. The application is then sent for initial technical screening.

This technical screening is conducted by EO Determinations' most experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;
- Applications that do not contain the information needed to be considered substantially complete; and
- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax-exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory. They are held in unassigned inventory until a revenue agent with the appropriate level of experience for the issues involved has an opening in his or her caseload, which permits the assignment of a new case.[2]

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances of the application, the agent requests additional relevant information and documentation to complete the application record and make a determination. Where an application for exemption presents issues that require further development to complete the application record, the IRS engages in a back and forth dialogue with the organization in order to obtain the needed information. This back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and it helps the IRS obtain all the information relevant to the determination.

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, EO Technical works with Chief Counsel to develop educational materials to assist the employees in issue spotting and crafting questions to develop cases consistently.

A complete application record is important. If the application is approved, not only is the application record made publicly available, but organizations that act as described in the application record have reliance on the IRS determination. If the application is denied, the organization may seek review from the Appeals Office, which reviews the complete application record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. If the Appeals Office decides the organization meets the requirements for tax-exempt status, the application will be approved. If the Appeals Office agrees that the application should be denied, there are two avenues that the applicant may take for seeking relief. All denied applicants may pay the tax owed as a taxable entity and seek a refund in federal court. Additionally, applicants requesting recognition under section 501(c)(3) may seek immediate declaratory judgment relief pursuant to section 7428 of the Code.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations refers the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

[2] Enclosure A describes the criteria used to determine the appropriate level of experience.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. If upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a conference of right where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the application record is made publicly available, and if the organization acts as described in the application record, it has reliance on the IRS determination. If the application is denied, there are two avenues that the applicant may take for seeking relief. All denied applicants may pay the tax owed as a taxable entity and seek a refund in federal court. Additionally, applicants requesting recognition under section 501(c)(3) may seek immediate declaratory judgment relief pursuant to section 7428 of the Code.

The above described process for EO Determinations and EO Technical is identical for organizations applying for tax-exempt status under both section 501(c)(3) and under section 501(c)(4), with a few minor differences. First, organizations seeking 501(c)(3) tax-exempt status use Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Organizations seeking 501(c)(4) tax-exempt status use Form 1024, Application for Recognition Under Section 501(a). Second, organizations recognized under section 501(c)(3) must also be classified as a public charity or a private foundation, a classification that does not apply for 501(c)(4) organizations. Third, as noted above, a 501(c)(3) applicant may seek immediate declaratory judgment relief under section 7428 of the Code if the application for tax-exempt status is denied.

Question 4. Your preliminary response to my October 6, 2011 letter stated that "if the application is substantially complete, the IRS may retain the application and request additional information as needed." How does the IRS determine that an application for tax-exempt status is "substantially complete?" Please provide guidelines or any other materials used in this process.

Preliminarily, when EO Determinations revenue agents initiate the technical screening process, they look to see whether the application is substantially complete. If it is, the agent then reviews the information in the application to determine whether the application can be approved immediately based on the information contained in the application or whether more development is needed. If the application is not substantially complete, the application is sent back to the organization with a letter explaining why it is being returned.

Revenue Procedure 2012-9, 2012-2 I.R.B 261 (updated annually) provides minimal requirements of what constitutes a substantially complete application. Enclosure B is a copy of this revenue procedure for your review. Revenue Procedure 2012-9 provides that an application is substantially complete when it contains the following information:

- It is signed by an authorized individual;
- It includes an Employee Identification Number (EIN);

- It includes, for organizations other than those described in section 501(c)(3), a statement of receipts and expenditures and a balance sheet for the current year and the three preceding years (or the years the organization was in existence, if less than four years), and if the organization has not yet commenced operations or has not completed one accounting period, a proposed budget for two full accounting periods and a current statement of assets and liabilities (for organizations described in section 501(c)(3), see Form 1023 and Notice 1382)

- It includes a detailed narrative statement of proposed activities, including each of the fundraising activities of a section 501(c)(3) organization, and a narrative description of anticipated receipts and contemplated expenditures;

- It includes a copy of the organizing or enabling document that is signed by a principal officer or is accompanied by a written declaration signed by an authorized individual certifying that the document is a complete and accurate copy of the original or otherwise meets the requirements of a "conformed copy" as outlined in Rev. Proc. 68-14.

- If the organizing or enabling document is in the form of articles of incorporation, it includes evidence that the articles were filed with and approved by an appropriate state official (e.g., stamped "Filed" and dated by the Secretary of State); alternatively, a copy of the articles of incorporation may be submitted if accompanied by a written declaration signed by an authorized individual that the copy is a complete and accurate copy of the original copy that was filed and approved by the state; if a copy is submitted, the written declaration must include the date the articles were filed with the state;

- If the organization has adopted by-laws, it includes a current copy; the by-laws need not be signed if submitted as an attachment to the application for recognition of exemption; otherwise the by-laws must be verified as current by an authorized individual; and

- It is accompanied by the correct user fee and Form 8718, when applicable.

Question 5. Does the IRS have standard procedures or forms it uses to "request additional information as needed" from applicants seeking tax-exempt status? Please provide any forms and related materials used.

Yes, the general procedures for requesting additional information to develop an application are included in section 7.20.2 of the Internal Revenue Manual.[3] Although there is a template letter that describes the general information on the case development process, the letter does not specify the information to be requested from any particular organization. Enclosure C is a copy of the template letter.

The amount and type of development necessary to process an application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the particular subsection under which the applicant seeks tax-exempt status, the comprehensiveness of the information provided in the application, and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for

[3] IRM 7.20.2 is available at http://www.irs.gov/irm/part7/irm_07-020-002.html.

documents relevant to the application, which are attached to the above described general template letter. As noted in the response to question 3, with certain types of applications where the issues are similar or more complex, EO Technical, in coordination with Chief Counsel, develops educational materials to assist the revenue agents in issue spotting and crafting questions to develop those cases consistently.

Question 6. Does the IRS select applicants for "follow-up" on an automated basis or is there an office or individual responsible for selecting incomplete applications? Please explain and provide details on any automated system used for these purposes. If decisions are made on an individual basis, please provide the guidelines and any related materials used.

With regard to whether the decision to send an application for further development is an automated process, the answer is no. The range of organizations eligible for tax-exempt status under section 501(c), the requirements they must meet under the various subsections, and the diversity of the facts and circumstances presented by the applications, require individualized consideration. To ensure quality and consistency, only the most experienced EO Determinations revenue agents are assigned to technically screen applications. These agents use sound reasoning based on training and experience to determine whether the information in the application is sufficient to meet the organizational, operational, and other technical requirements of the Code and regulations for tax-exempt status, or whether the application needs further development.

Question 7. How many tax-exempt applications since 2008 have been selected for "follow-up"? How many entities selected for follow-up were granted tax-exempt status?

Preliminarily, please note that, with the exception of the number of applications received per year, all IRS statistics relating to applications for exempt status are based only on the application cases closed in any particular year. Additionally, applications are not always closed in the same year that they are received for a variety of reasons, including when during the year the applications were filed, whether a case can close through technical screening or requires full development, the back and forth dialogue between the revenue agent and the applicant to fully develop the application, and whether a case is transferred to EO Technical. Consequently, there often is no match between the year an application was filed and the year the application case is closed.

The below chart provides the total number of applications closed for FY 2008-2011, along with the percentage of applications closed each year through the technical screening process (i.e., cases in which further development was not required).

	Fiscal Year			
	2008	2009	2010	2011
Total number of applications closed[4]	84,220	77,305	65,590	61,004
Percentage of applications closed through technical screening	59%	57%	56%	60%

The below chart provides complete information regarding the nature of closures for all fully developed determination applications closed during FY 2008 – 2011.

EDS Closed Case Status Codes	Fiscal Year			
	2008	2009	2010	2011
Status 01 - Approved	20,252	18,778	17,237	17,850
Status 02 - Disapproved	1,242	480	517	217
Status 03 - Returned Incomplete	68	2,307	1,763	1,132
Status 04 - Withdrawn by Taxpayer	1,051	1,451	1,315	1,499
Status 08 - Refusal to Rule	*	0	0	5
Status 11 - Failure to Establish	7,572	7,877	6,402	2,554
Status 12 - Other	3,189	1,948	1,369	610
Status 30 - Correction Disposal	1,139	782	545	275
Total	34,51X	33,623	29,148	24,142

* 3 or fewer

Lastly, during the December 16, 2011 meeting with your staff, they requested examination results information on the listed transaction disclosures discussed in my November 18, 2011 response (under Question 5(b)(iv)). We are providing the results in this supplemental response.

Pursuant to Treasury Regulations section 1.6011-4, a party that has participated in a listed or other reportable transaction must file a Form 8886 to meet its disclosure requirements. Failure to make such disclosure is subject to the penalty for failure to include reportable transaction information under section 6707A. Also, pursuant to Treas. Reg. section 1.6033-5, certain tax-exempt entities that are subject to section 4965 taxes are required to file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction, to disclose information with respect to each prohibited tax shelter transaction to which the entity is a party.

[4] SOI data from IRS Data Book, Table 24, Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (and subsequent fiscal years 2009-2011) at http://www.irs.gov/taxstats/index.html. This data reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status

We previously provided you with the number of filed Forms 8886 and Forms 8886-T related to TEGE. Your staff requested examination results information on the listed transaction disclosures. The chart below provides collective examination results for the 110 Forms 8886 and Forms 8886-T Disclosures on listed transactions from 2006 – 2010.

When reviewing the chart, please note the following. First, taxpayers filing the disclosure forms often are uncertain whether they are subject to the disclosure filing requirements and, as a result, sometimes file protective disclosures to avoid potential penalties or to protect potential refund claims in the future. Therefore, some of these disclosed transactions may not warrant examination, as reflected by the 32 filed forms that resulted in no audit/ examination potential.

Second, Form 8886 and Form 8886-T disclosures are coded in the IRS data system based on the IRS Counsel office that has jurisdiction to address legal issues of the specific shelter type, not by which IRS office has compliance or examination jurisdiction over the taxpayer involved in the shelter. In other words, the IRS system codes the disclosures based on who has ownership over the legal issues, rather than who has jurisdiction over the taxpayer. So, even if the disclosure relates to a type of tax shelter transaction that falls under the legal oversight of TE/GE Counsel, the taxpayer who filed the disclosure may not be tax-exempt, but rather a for-profit, and therefore does not fall under TE/GE compliance jurisdiction, as shown by the 45 filed forms in the chart.

Third, in the 8 cases examined and closed as reflected in the chart, approximately $234,000 in §6707A penalties were assessed for failure to timely disclose reportable, including listed, transactions. During examinations of TE/GE taxpayers engaged in certain listed transactions, the IRS discovered that non-TE/GE taxpayers had not timely filed Forms 8886 to disclose their participation in the same transactions. Although the taxpayers eventually filed the Forms 8886 that were shown in the IRS database, the lateness of those filings resulted in the assessment of the $234,000 in section 6707A penalties.

Currently reviewing for examination potential	25
No audit/ examination potential found	32
Not under TE/GE compliance jurisdiction	45
Examined and closed with Closing Agreement *	8
Total	110

* When an examination concludes with a closing agreement, the agreement generally sets forth all adjustments, including penalties, to which the taxpayer has agreed.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Floyd L. Williams at (202) 622-4725.

Sincerely,

Joseph H. Grant
Acting Commissioner

Enclosures

EXEMPT ORGANIZATION DETERMINATIONS CASE ASSIGNMENT GUIDE
CASE GRADING CRITERIA

CASE COMPLEXITY FACTORS	GRADE LEVEL DISTINCTIONS		
	GS-11	**GS-12**	**GS-13**
Analysis of Application	Application is basic; facts regarding nature and purpose are easily discernible. Private benefit/inurement issues unlikely but possible.	Application is complex and facts must be determined through analysis and questioning of applicant. Private benefit/inurement issues possible.	Application is extremely complex (e.g., involves inurement, private benefit, related entities) and significant additional documentation is required of applicant.
Factual Complexity of Issues	Issues are of average complexity and sensitivity. Established case development methods and procedures are usually adequate.	Issues may be sensitive or involve controversy. Case development methods and procedures must be adapted to case.	Case development methods and procedures must be adapted to unique situations. Issues are novel and unusual and involve the largest and most complex EO's.
Application of Tax Law	Tax laws are in most cases applicable but occasionally involve unusual interpretation and application.	Tax laws are not always directly applicable. Research and analysis are required to establish proper interpretation and use of precedents.	Tax laws or other legal issues involve points of law without precedent or with conflicting precedents. Research and analysis are necessary to establish significant similarities with related issues.
Interpersonal Skills	Contacts are with representatives of applicants, organization members and contributors. Tact and diplomacy are required to resolve and elicit information and resolve questions and problems.	Contacts are with a variety of EO representatives and officers of considerable prominence in the community including accountants and legal representatives. Considerable tact and skillful negotiations are necessary since issues discussed are sometimes controversial and sensitive.	Contacts are with officials of very large or prominent organizations and persons with national reputations in business, legal and accounting circles and others of outstanding political, social or economic influence. Considerable tact and discretion are required for resolution of issues.
Impact of Work	Determination decision may impact other organizations; applicant's sole source of income may be from donations; and, the likelihood of media attention is limited.	Determination decision may affect larger organizations of regional or national stature; applicant's income is from a variety of sources; and media attention is likely.	Determination decision may impact other organizations nationwide; applicant has significant resources and determination decision may have significant social and economic implications with recurring effects in prior or subsequent tax years; and, widespread media attention is probable.

Revised November 25, 2002

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

April 26, 2012

The Honorable Charles Boustany, Jr., M.D.
Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This information supplements my March 23, 2012, response to your March 1, 2012, letter to Commissioner Schulman.

Your letter asked how many new tax-exempt organizations the IRS has recognized each year since 2008. The chart below adds preliminary information on approved cases for FY 2012, from October 1, 2011 through April 11, 2012.

FY	Number of Determination Approvals[1]
2008	69,957
2009	62,459
2010	53,693
2011	54,713
2012[2]	29,958

[1] FY 2008 -2011 data - SOI data from IRS Data Book, Table 24, Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (and subsequent fiscal years 2009-2011) at http://www.irs.gov/taxstats/index.html. This data reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[2] The data for FY 2012 in the supplemental charts reflects the preliminary information available. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

The second question in your letter asked how many new applications for 501(c)(3) and (c)(4) tax-exempt status the IRS has received since 2008. The below chart adds preliminary information on cases received for FY 2012, from October 1, 2011 through April 1, 2012.

FY	**501(c)(3)**	**501(c)(4)**
2008	51,073	1,410
2009	52,303	1,571
2010	50,266	1,591
2011	55,962	2,242
2012	33,307	1,715

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Joseph H. Grant
Acting Commissioner

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

April 26, 2012

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter dated March 27, 2012, requesting information about the tax-exempt sector. We appreciate your interest and support of the IRS efforts in the administration of the tax law as it applies to tax-exempt organizations.

The conference call with your staff on April 4, 2012 was a helpful exchange that better enabled us to provide pertinent information in this response. We clarified that no questionnaires connected to the project mentioned in the EO 2012 Work Plan have been sent to any organization. That project is still in process and we have not yet completed development of the questionnaire. The Section 501(c)(4), (5) and (6) Project described in the EO 2012 Work Plan relates to organizations that self-declare and hold themselves out as being tax-exempt rather than seeking IRS recognition of their exempt status. The law allows these organizations to self-declare and hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. An organization determined by the IRS to be tax-exempt can rely on that determination if their exempt status is ever questioned, so long as the organization has not deviated from the organizational structure and operational activities set forth in its application.

Based on that clarification, and per our discussion with your staff, we understand that references in your letter to "questionnaires" are not intended to relate to the EO 2012 Work Plan project. Rather, those references relate to development letters the IRS sends to organizations in the ordinary course of the application process to obtain the information as the IRS deems necessary to make a determination whether the organization meets the legal requirements for tax-exempt status.

Pursuant to the direction of your staff, we are responding to your questions as modified per our discussion of April 4.

Overview of the application process for section 501(c)(4),(5), and (6) organizations (requested in lieu of questions 1 and 2).

All applications for tax-exempt status, including applications for status under section 501(c)(4), are filed with a centralized IRS Submission Processing Center, which enters the applications into the EP/EO Determination System and processes the attached user fees. The application is then sent to the Exempt Organizations ("EO") Determinations office in Cincinnati, Ohio for initial technical screening.

This technical screening is conducted by EO Determinations' most experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;
- Applications that do not contain the information needed to be considered substantially complete; and
- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax-exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case.[1]

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances set forth in the application, the revenue agent requests additional information and documentation to complete the file pertaining to the exempt status application materials[2] (the so-called "administrative record") and makes a determination. Where an application for exemption presents issues that require further development to complete the administrative record, the revenue agent engages in a back and forth dialogue with the organization in order to obtain the needed information. This back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and it helps the IRS obtain all the information relevant to the determination.

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[1] Enclosure A describes the criteria used to determine the appropriate level of experience.

[2] This includes the application for recognition of tax exempt status, any papers submitted in support of the application, and any letter or other document issued by the IRS with respect to the application. See IRC § 6104(a), (d)(5); Tax Court Rule 210(b)(12).

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, in these cases, EO Technical (an office of specialists in Exempt Organizations) works with the IRS Office of Chief Counsel to develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. If the application is approved, not only is the administrative record made publicly available (with certain limited exceptions outlined below), but organizations that act as described in the administrative record have reliance on the IRS determination. If the application is denied, the organization may seek review from the Office of Appeals. That Office, which is independent of Exempt Organizations, reviews the complete administrative record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. It is to the organization's benefit to have all of its materials in the file in the event EO Determinations denies exemption and the organization seeks Appeals review. If, based on the information in the administrative record, the Appeals Office decides the organization meets the requirements for tax-exempt status, the application will be approved. If the Appeals Office agrees that the application should be denied, the applicant may seek relief by paying the tax owed as a taxable entity and seek a refund in federal court.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations refers the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. EO Technical staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record. If, upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a "conference of right" where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the administrative record is made publicly available, and if the organization acts as described in the application filed, it has reliance on the IRS determination. If the application is denied, the applicant may seek relief by paying the tax owed as a taxable entity and seek a refund in federal court.

The average case processing time for determination cases closed in FY 2011 was 104 days. However, it is difficult to predict how long it will take to fully process any specific application. Case processing time can vary greatly depending on a number of factors, including whether a case can close through technical screening or requires full development, the availability of an agent with the appropriate experience level to fully develop the application, the particular issues and individualized facts and circumstances presented in the application, the back and forth dialogue between the agent and the applicant to fully develop the application, and whether a case is transferred to EO Technical.

Question 3. A chart showing the number of applications for tax exempt status for all 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) applications, filed by organizations since January 1, 2009. This chart should include the number of applications that have been approved, the number that have been denied, and the number that are still pending for each application type.

Reports of the IRS data requested are created and published in the IRS Data Book by the IRS Statistics of Income (SOI) Division. The Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). We have attached as Enclosures B-1 through B-3, Table 24: Closures of Applications for Tax-Exempt Status by Organization Type and Internal Revenue Code Section, data book information for fiscal years 2009 through 2011.[3]

In addition, we have provided the following supplementary charts.[4]

[3] Reports of the IRS data requested are created and published by Statistics of Income (SOI) Division. The IRS Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). Data Book information is updated annually, and is available to the public at http://www.irs.gov/taxstats/index.html. Data on Table 24 reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[4] The data for FY 2012 in the supplemental charts reflects the preliminary information available. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

The chart immediately below supplements the enclosed SOI Table 24 data to show the number of cases closed that have resulted in approved or disapproved applications. The chart reflects the available preliminary information on case closures for FY 2012, from October 1, 2011 through April 11, 2012.

FY 2012	Closed Applications for Tax-Exempt Status			
Subsection	Approved	Disapproved	Other[6]	Total
501(c)(3)	22,897	81	2,872	**25,850**
501(c)(4)	1,069	6	172	**1,247**
501(c)(5)	234	0	31	**265**
501(c)(6)	853	8	82	**943**

As of April 2, 2012, the IRS has the following number of pending applications:

	Case Type		Total Pending
Subsection	New (Initial) Applications	Other[7]	
501(c)(3)	26,467	414	**26,881**
501(c)(4)	1,472	9	**1,481**
501(c)(5)	492	0	**492**
501(c)(6)	807	*	**80X**

* 3 or less

[5] These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[6] These include applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC office; IRS correction disposals; and others.

[7] These include applications for determinations other than initial applications for tax-exempt status, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

The following two charts reflect the number of applications filed or received for FY 2009 -2011 and the available information for FY 2012, from October 1, 2011 through April 1, 2012 for sections 501(c)(3) through 501(c)(6).

Determination Case Receipts by Type and Subsection for Fiscal Year 2009-2011

	Application Receipts	New (Initial) Applications	Other [8]
Form Number	Subsection		
1023	501(c)(3)	158,531	24,905
1024	501(c)(4)	5,404	347
1024	501(c)(5)	1,188	54
1024	501(c)(6)	5,064	237
Total Receipts by Type		170,187	25,543
Total of All Specified Receipts		195,730	

Determination Case Receipts for Fiscal Year 2012 October 1, 2011 through April 1, 2012

	Application Receipts	New Applications	Other[9]
Form Number	Subsection		
1023	501(c)(3)	33,307	529
1024	501(c)(4)	1,715	8
1024	501(c)(5)	563	0
1024	501(c)(6)	1,240	*
Total Receipts by Type		36,825	53X
Total of All Specified Receipts		37,364	

* 3 or less

[8] Id.
[9] Id.

Question 4. A list of all the organizations that the IRS sent these types of questionnaires to this year, the date the questionnaire was sent by the IRS, the date the IRS asked for a response, and the date the organizations sent their initial application for tax exempt status (per discussion with staff, response to address development letters).

Section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in the Internal Revenue Code. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt. Consequently, we cannot provide a list of organizations that have received development letters from the IRS, until those applications have been approved.[10]

The chart below provides the number of application closures for sections 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) approved between January 1, 2012 through April 18, 2012 that required full development and, therefore, received development letters during the processing of the application.

Although we are able to produce the number of cases approved during this time period that received development letters, manual review of each file would be necessary to determine the particular organization and the development letters sent. We are available to work with your staff to identify the information that we are able to legally provide that would be relevant to your request.

Fully-Developed Determination Applications that Closed Approved January 1, 2012 through April 18, 2012

Subsection	Approved Fully-Developed Closures
501(c)(3)	2,819
501(c)(4)	141
501(c)(5)	7
501(c)(6)	52

Question 5. A list of the objective criteria the IRS used for determining which groups would be sent these types of questionnaires (per discussion with staff, response to address development letters).

As discussed above, the IRS contacts the organization and solicits additional information when the organization does not provide sufficient information in response to the questions on the Form 1024 or if issues are raised by the application. When an application needs further development, the case is assigned to a revenue agent with the appropriate level of experience for the issues involved in the application.

[10] See disclosure discussion in response to Request # 6, infra.

The general procedures for requesting additional information to develop an application are included in section 7.20.2 of the Internal Revenue Manual. Although there is a template letter that describes the general information on the case development process, the letter does not, and could not, specify the information to be requested from any particular organization because of the broad range of possible facts. Enclosure C is a copy of the template letter.

The amount and nature of development necessary to process an application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the comprehensiveness of the information provided in the application and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for documents relevant to the application, which are attached to the above described general template letter. With certain types of applications where the issues are similar or more complex, EO Technical, in coordination with Chief Counsel, develops educational materials to assist the revenue agents in issue spotting and crafting questions to develop those cases consistently.

The revenue agent uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination of the organization's exempt status. The revenue agent prepares individualized questions and requests for documents based on the facts and circumstances set forth in the particular application.

Once responses are received, the entire application file is evaluated based upon the requirements in the Code and regulations.[11]

Question 6. IRS Form 1040 does not require organizations applying for tax exempt status to provide specific donor information for donors giving less than $5,000 a year. In addition, the names and addresses of donors giving the organization at least $5,000 were not made public by the IRS. However, many of the IRS questionnaires sent to organizations seeking 501(c)(4) status specifically ask for all the organization's donors and the amounts of each of the donations.

The IRS has informed the organizations that it plans to make this donor information public. Provide all documents and communications referring or relating to the decision to ask for this type of donor information and to make this information public.

Based on our discussion with your staff on April 4, 2012, we understand this request is intended to refer to IRS Form 990 rather than Form 1040 as noted in the request. The Form 990, *Return of Organization Exempt from Income Tax*, is the annual information return filed by tax exempt organizations.

[11] IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.

As explained above, when a Form 1024 application needs further development, the IRS contacts the organization and solicits additional information in order to have a complete administrative record on which the IRS can make a determination as to whether the requirements of the Code and regulations are met. There are instances where donor information may be needed for the IRS to make a proper determination of an organization's exempt status, such as when the application presents possible issues of inurement or private benefit. Nevertheless, the IRS takes privacy very seriously, and makes an effort to work with the organization to obtain the needed information so that the confidentiality of any potentially sensitive or privileged information is taken into account. We have advised applicant organizations that if they believe that the requested information required to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. As discussed above, we will consider whether compliance with the legal requirements can be satisfied in the alternative manner proposed. We have also provided additional time to respond.

IRS policy or practice does not govern whether or not donor information is made public. This matter is governed by statute. Public disclosure regarding tax exempt organization filings is principally governed by sections 6104 and 6110 of the Internal Revenue Code.

Section 6104 of the Code requires the IRS to make certain materials available for public inspection, including an organization's application for recognition of tax exemption and Form 990 annual information returns.[12] If the IRS approves an organization's application for tax-exempt status, section 6104(a) requires that the application and supporting materials be made available for public inspection. The only exception to that requirement is found in section 6104(a)(1)(D), which exempts from disclosure information that the IRS determines relates to any "trade secret, patent, process, style of work, or apparatus of the organization" that would adversely affect the organization or information that could adversely affect national defense.

The long-standing statutory requirements regarding exemption applications, including Form 1024, are separate from those requiring public availability of Form 990 annual information returns, which are contained in section 6104(b). Under section 6104(b), Form 990 annual information returns are also subject to public inspection, with the sole exception of donor information contained in Schedule B of the Form 990. The withholding of names and addresses of donors from public disclosure applies only to Form 990; this exception does not extend to information obtained from Form 1024 and supporting materials.[13]

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[12] The disclosure rules have been in place since 1958, and the legislative history provided the following rationale for public disclosure of exemption applications: "[the] committee believes that making these applications available to the public will provide substantial additional aid to the Internal Revenue Service in determining whether organizations are actually operating in the manner in which they have stated in their applications for exemption." H.R. Rep. No. 85-262, at 41-42 (1957). In 1987, Congress added what is now section 6104(d) to the Code, that requires organizations to make their returns available to the public, and in 1996 extended this rule to application materials.

[13] The withholding exception does not apply to donor information for organizations that file Form 990-PF or to those section 527 organizations that are required to file Form 990 or 990-EZ.

In light of the statutory requirement to make approved applications public, organizations are notified that information they provide will be available for public inspection on page 2 of the Form 1024 instructions. This notice is reiterated in any development letters sent to the organizations. Although the statute requires the administrative record, including the application, supporting documents and correspondence between the applicant and the IRS, be made available for public inspection, the IRS does not affirmatively publish this information. It is available only upon request.

Additionally, under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter and background information will be subject to public inspection, with certain identifying and other information redacted, to assist the public to understand the IRS reasoning while also protecting the identity of the organization and any person identified in the file (including individual donors).

Question 7. Each of the requests for information, listed below that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.

We are working on a detailed response to the question and will provide it in a supplemental response.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

April 26, 2012

The Honorable Jim Jordan
Chairman
Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter dated March 27, 2012, requesting information about the tax-exempt sector. We appreciate your interest and support of the IRS efforts in the administration of the tax law as it applies to tax-exempt organizations.

The conference call with your staff on April 4, 2012 was a helpful exchange that better enabled us to provide pertinent information in this response. We clarified that no questionnaires connected to the project mentioned in the EO 2012 Work Plan have been sent to any organization. That project is still in process and we have not yet completed development of the questionnaire. The Section 501(c)(4), (5) and (6) Project described in the EO 2012 Work Plan relates to organizations that self-declare and hold themselves out as being tax-exempt rather than seeking IRS recognition of their exempt status. The law allows these organizations to self-declare and hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. An organization determined by the IRS to be tax-exempt can rely on that determination if their exempt status is ever questioned, so long as the organization has not deviated from the organizational structure and operational activities set forth in its application.

Based on that clarification, and per our discussion with your staff, we understand that references in your letter to "questionnaires" are not intended to relate to the EO 2012 Work Plan project. Rather, those references relate to development letters the IRS sends to organizations in the ordinary course of the application process to obtain the information as the IRS deems necessary to make a determination whether the organization meets the legal requirements for tax-exempt status.

Pursuant to the direction of your staff, we are responding to your questions as modified per our discussion of April 4.

Overview of the application process for section 501(c)(4),(5), and (6) organizations (requested in lieu of questions 1 and 2).

All applications for tax-exempt status, including applications for status under section 501(c)(4), are filed with a centralized IRS Submission Processing Center, which enters the applications into the EP/EO Determination System and processes the attached user fees. The application is then sent to the Exempt Organizations ("EO") Determinations office in Cincinnati, Ohio for initial technical screening.

This technical screening is conducted by EO Determinations' most experienced revenue agents who review the applications and, based on that review, separate the applications into the following four categories:

- Applications that can be approved immediately based on the completeness of the application and the information submitted;
- Applications that need only minor additional required information in the file in order to approve the application;
- Applications that do not contain the information needed to be considered substantially complete; and
- Applications that require further development by an agent in order to determine whether the application meets the requirements for tax-exempt status.

Organizations whose applications fall into the fourth category are sent letters informing them that more development of their application is needed, and that they will be contacted once their application has been assigned to a revenue agent. The applications are sent to unassigned inventory, where they are held until a revenue agent with the appropriate level of experience for the issues involved in the matter is available to further develop the case.[1]

Once the case is assigned, the revenue agent notifies the organization and reviews the application. Based upon established precedent and the facts and circumstances set forth in the application, the revenue agent requests additional information and documentation to complete the file pertaining to the exempt status application materials[2] (the so-called "administrative record") and makes a determination. Where an application for exemption presents issues that require further development to complete the administrative record, the revenue agent engages in a back and forth dialogue with the organization in order to obtain the needed information. This back and forth dialogue helps applicants better understand the requirements for exemption and what is needed to meet them, and it helps the IRS obtain all the information relevant to the determination.

[1] Enclosure A describes the criteria used to determine the appropriate level of experience.

[2] This includes the application for recognition of tax exempt status, any papers submitted in support of the application, and any letter or other document issued by the IRS with respect to the application. See IRC § 6104(a), (d)(5); Tax Court Rule 210(b)(12).

Tools are available to promote consistent handling of full development cases. For example, in situations where there are a number of cases involving similar issues (such as credit counseling organizations, down payment assistance organizations, organizations that were automatically revoked and are seeking retroactive reinstatement, and most recently, advocacy organizations), the IRS will assign cases to designated employees to promote consistency. Additionally, in these cases, EO Technical (an office of specialists in Exempt Organizations) works with the IRS Office of Chief Counsel to develop educational materials to assist the revenue agents in issue spotting and crafting questions to develop cases consistently.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. If the application is approved, not only is the administrative record made publicly available (with certain limited exceptions outlined below), but organizations that act as described in the administrative record have reliance on the IRS determination. If the application is denied, the organization may seek review from the Office of Appeals. That Office, which is independent of Exempt Organizations, reviews the complete administrative record and makes its own independent determination of whether the organization meets the requirements for tax-exempt status. It is to the organization's benefit to have all of its materials in the file in the event EO Determinations denies exemption and the organization seeks Appeals review. If, based on the information in the administrative record, the Appeals Office decides the organization meets the requirements for tax-exempt status, the application will be approved. If the Appeals Office agrees that the application should be denied, the applicant may seek relief by paying the tax owed as a taxable entity and seek a refund in federal court.

In those cases where the application raises issues for which there is no established published precedent or for which non-uniformity may exist, EO Determinations refers the application to EO Technical. In EO Technical, the applications are reviewed by tax law specialists whose job is to interpret and provide guidance on the law and who work closely with IRS Chief Counsel attorneys on the issues.

Similar to the process in EO Determinations, EO Technical tax law specialists develop cases based on the facts and circumstances of the issues in the specific application. EO Technical staff engages in a back and forth dialogue with the organization in order to obtain the information needed to complete the administrative record. If, upon review of all of the information submitted, it appears that an organization does not meet the requirements for tax-exempt status, a proposed denial explaining the reasons the organization does not meet the requirements is issued. The organization is then entitled to a "conference of right" where it may provide additional information. Following the conference of right, a final determination is issued. If the application is approved, the administrative record is made publicly available, and if the organization acts as described in the application filed, it has reliance on the IRS determination. If the application is denied, the applicant may seek relief by paying the tax owed as a taxable entity and seek a refund in federal court.

The average case processing time for determination cases closed in FY 2011 was 104 days. However, it is difficult to predict how long it will take to fully process any specific application. Case processing time can vary greatly depending on a number of factors, including whether a case can close through technical screening or requires full development, the availability of an agent with the appropriate experience level to fully develop the application, the particular issues and individualized facts and circumstances presented in the application, the back and forth dialogue between the agent and the applicant to fully develop the application, and whether a case is transferred to EO Technical.

Question 3. A chart showing the number of applications for tax exempt status for all 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) applications, filed by organizations since January 1, 2009. This chart should include the number of applications that have been approved, the number that have been denied, and the number that are still pending for each application type.

Reports of the IRS data requested are created and published in the IRS Data Book by the IRS Statistics of Income (SOI) Division. The Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). We have attached as Enclosures B-1 through B-3, Table 24: Closures of Applications for Tax-Exempt Status by Organization Type and Internal Revenue Code Section, data book information for fiscal years 2009 through 2011.[3]

In addition, we have provided the following supplementary charts.[4]

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[3] Reports of the IRS data requested are created and published by Statistics of Income (SOI) Division. The IRS Data Book provides information on IRS activities conducted during a fiscal year period (October 1 through September 30). Data Book information is updated annually, and is available to the public at http://www.irs.gov/taxstats/index.html. Data on Table 24 reflects all case closures for the Exempt Organizations Determinations function. These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[4] The data for FY 2012 in the supplemental charts reflects the preliminary information available. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

The chart immediately below supplements the enclosed SOI Table 24 data to show the number of cases closed that have resulted in approved or disapproved applications. The chart reflects the available preliminary information on case closures for FY 2012, from October 1, 2011 through April 11, 2012.

FY 2012	Closed Applications for Tax-Exempt Status			
Subsection	Approved	Disapproved	Other[6]	Total
501(c)(3)	22,897	81	2,872	**25,850**
501(c)(4)	1,069	6	172	**1,247**
501(c)(5)	234	0	31	**265**
501(c)(6)	853	8	82	**943**

As of April 2, 2012, the IRS has the following number of pending applications:

	Case Type		Total Pending
Subsection	New (Initial) Applications	Other[7]	
501(c)(3)	26,467	414	**26,881**
501(c)(4)	1,472	9	**1,481**
501(c)(5)	492	0	**492**
501(c)(6)	807	*	**80X**

* 3 or less

[5] These include not only initial applications for tax-exempt status, but also other determinations, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

[6] These include applications withdrawn by the organization; applications that did not provide the required information; incomplete applications; IRS refusals to rule on applications; applications forwarded to other than the Washington, DC office; IRS correction disposals; and others.

[7] These include applications for determinations other than initial applications for tax-exempt status, such as public charity and private foundation status determinations, advance approval of scholarship grant procedures, and group determinations of tax-exempt status.

The following two charts reflect the number of applications filed or received for FY 2009 -2011 and the available information for FY 2012, from October 1, 2011 through April 1, 2012 for sections 501(c)(3) through 501(c)(6).

Determination Case Receipts by Type and Subsection for Fiscal Year 2009-2011

	Application Receipts	New (Initial) Applications	Other [8]
Form Number	Subsection		
1023	501(c)(3)	158,531	24,905
1024	501(c)(4)	5,404	347
1024	501(c)(5)	1,188	54
1024	501(c)(6)	5,064	237
Total Receipts by Type		170,187	25,543
Total of All Specified Receipts		195,730	

Determination Case Receipts for Fiscal Year 2012 October 1, 2011 through April 1, 2012

	Application Receipts	New Applications	Other[9]
Form Number	Subsection		
1023	501(c)(3)	33,307	529
1024	501(c)(4)	1,715	8
1024	501(c)(5)	563	0
1024	501(c)(6)	1,240	*
Total Receipts by Type		36,825	53X
Total of All Specified Receipts		37,364	

* 3 or less

[8] Id.
[9] Id.

Question 4. A list of all the organizations that the IRS sent these types of questionnaires to this year, the date the questionnaire was sent by the IRS, the date the IRS asked for a response, and the date the organizations sent their initial application for tax exempt status (per discussion with staff, response to address development letters).

Section 6103 of the Internal Revenue Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by some provision in the Internal Revenue Code. Section 6104(a) of the Code permits public disclosure of an application for recognition of tax exempt status and supporting materials only after the organization has been recognized as exempt. Consequently, we cannot provide a list of organizations that have received development letters from the IRS, until those applications have been approved.[10]

The chart below provides the number of application closures for sections 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) approved between January 1, 2012 through April 18, 2012 that required full development and, therefore, received development letters during the processing of the application.

Although we are able to produce the number of cases approved during this time period that received development letters, manual review of each file would be necessary to determine the particular organization and the development letters sent. We are available to work with your staff to identify the information that we are able to legally provide that would be relevant to your request.

Fully-Developed Determination Applications that Closed Approved January 1, 2012 through April 18, 2012

Subsection	Approved Fully-Developed Closures
501(c)(3)	2,819
501(c)(4)	141
501(c)(5)	7
501(c)(6)	52

Question 5. A list of the objective criteria the IRS used for determining which groups would be sent these types of questionnaires (per discussion with staff, response to address development letters).

As discussed above, the IRS contacts the organization and solicits additional information when the organization does not provide sufficient information in response to the questions on the Form 1024 or if issues are raised by the application. When an application needs further development, the case is assigned to a revenue agent with the appropriate level of experience for the issues involved in the application.

[10] See disclosure discussion in response to Request # 6, infra.

The general procedures for requesting additional information to develop an application are included in section 7.20.2 of the Internal Revenue Manual. Although there is a template letter that describes the general information on the case development process, the letter does not, and could not, specify the information to be requested from any particular organization because of the broad range of possible facts. Enclosure C is a copy of the template letter.

The amount and nature of development necessary to process an application to ensure that the legal requirements of tax-exemption are satisfied depends on several factors, which include the comprehensiveness of the information provided in the application and the issues raised by the application. Consequently, revenue agents prepare individualized questions and requests for documents relevant to the application, which are attached to the above described general template letter. With certain types of applications where the issues are similar or more complex, EO Technical, in coordination with Chief Counsel, develops educational materials to assist the revenue agents in issue spotting and crafting questions to develop those cases consistently.

The revenue agent uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination of the organization's exempt status. The revenue agent prepares individualized questions and requests for documents based on the facts and circumstances set forth in the particular application.

Once responses are received, the entire application file is evaluated based upon the requirements in the Code and regulations.[11]

Question 6. IRS Form 1040 does not require organizations applying for tax exempt status to provide specific donor information for donors giving less than $5,000 a year. In addition, the names and addresses of donors giving the organization at least $5,000 were not made public by the IRS. However, many of the IRS questionnaires sent to organizations seeking 501(c)(4) status specifically ask for all the organization's donors and the amounts of each of the donations.

The IRS has informed the organizations that it plans to make this donor information public. Provide all documents and communications referring or relating to the decision to ask for this type of donor information and to make this information public.

Based on our discussion with your staff on April 4, 2012, we understand this request is intended to refer to IRS Form 990 rather than Form 1040 as noted in the request. The Form 990, *Return of Organization Exempt from Income Tax*, is the annual information return filed by tax exempt organizations.

[11] IRC § 501(c)(4); Treas. Reg. § 501(c)(4)-1.

As explained above, when a Form 1024 application needs further development, the IRS contacts the organization and solicits additional information in order to have a complete administrative record on which the IRS can make a determination as to whether the requirements of the Code and regulations are met. There are instances where donor information may be needed for the IRS to make a proper determination of an organization's exempt status, such as when the application presents possible issues of inurement or private benefit. Nevertheless, the IRS takes privacy very seriously, and makes an effort to work with the organization to obtain the needed information so that the confidentiality of any potentially sensitive or privileged information is taken into account. We have advised applicant organizations that if they believe that the requested information required to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. As discussed above, we will consider whether compliance with the legal requirements can be satisfied in the alternative manner proposed. We have also provided additional time to respond.

IRS policy or practice does not govern whether or not donor information is made public. This matter is governed by statute. Public disclosure regarding tax exempt organization filings is principally governed by sections 6104 and 6110 of the Internal Revenue Code.

Section 6104 of the Code requires the IRS to make certain materials available for public inspection, including an organization's application for recognition of tax exemption and Form 990 annual information returns.[12] If the IRS approves an organization's application for tax-exempt status, section 6104(a) requires that the application and supporting materials be made available for public inspection. The only exception to that requirement is found in section 6104(a)(1)(D), which exempts from disclosure information that the IRS determines relates to any "trade secret, patent, process, style of work, or apparatus of the organization" that would adversely affect the organization or information that could adversely affect national defense.

The long-standing statutory requirements regarding exemption applications, including Form 1024, are separate from those requiring public availability of Form 990 annual information returns, which are contained in section 6104(b). Under section 6104(b), Form 990 annual information returns are also subject to public inspection, with the sole exception of donor information contained in Schedule B of the Form 990. The withholding of names and addresses of donors from public disclosure applies only to Form 990; this exception does not extend to information obtained from Form 1024 and supporting materials.[13]

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[12] The disclosure rules have been in place since 1958, and the legislative history provided the following rationale for public disclosure of exemption applications: "[the] committee believes that making these applications available to the public will provide substantial additional aid to the Internal Revenue Service in determining whether organizations are actually operating in the manner in which they have stated in their applications for exemption." H.R. Rep. No. 85-262, at 41-42 (1957). In 1987, Congress added what is now section 6104(d) to the Code, that requires organizations to make their returns available to the public, and in 1996 extended this rule to application materials.

[13] The withholding exception does not apply to donor information for organizations that file Form 990-PF or to those section 527 organizations that are required to file Form 990 or 990-EZ.

In light of the statutory requirement to make approved applications public, organizations are notified that information they provide will be available for public inspection on page 2 of the Form 1024 instructions. This notice is reiterated in any development letters sent to the organizations. Although the statute requires the administrative record, including the application, supporting documents and correspondence between the applicant and the IRS, be made available for public inspection, the IRS does not affirmatively publish this information. It is available only upon request.

Additionally, under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter and background information will be subject to public inspection, with certain identifying and other information redacted, to assist the public to understand the IRS reasoning while also protecting the identity of the organization and any person identified in the file (including individual donors).

Question 7. Each of the requests for information, listed below that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.

We are working on a detailed response to the question and will provide it in a supplemental response.

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

May 4, 2012

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter dated March 27, 2012, requesting information about the tax-exempt sector. This response supplements my April 26, 2012 letter, and addresses the remaining question # 7.

Question 7. Each of the requests for information, listed below that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.

As discussed in my prior response and per our discussion with your staff, we understand that references in your letter to "questionnaires" relate to development letters the IRS sends to organizations in the ordinary course of the application process. These letters are sent to obtain the information necessary to make a determination about whether the organization meets the legal requirements for tax-exempt status. As noted in my earlier letter, the law allows section 501(c)(4) organizations to self-declare and hold themselves out as tax-exempt without IRS approval of status or to apply to the IRS for recognition as tax-exempt. Development letters relate to those organizations that apply to the IRS for recognition of tax-exempt status.

Preliminarily, we wish to clarify that under the appropriate facts and circumstances, the requests for information set forth below are not beyond the scope of the Form 1024. To establish tax exemption, the organization must meet the statutory requirements of the particular section of the Internal Revenue Code under which exemption is sought. As set forth in Revenue Procedure 2012-9, the applicant has the burden of establishing that it meets the particular requirements of the statute and regulations under which it seeks exemption through information in its application and supporting materials. A copy of the Revenue Procedure as well as all cited documents is included for your convenience in the enclosed CD-ROM.

As discussed in my prior response and in more detail below, the particular facts and circumstances of an application will determine the specific information requested. Section 6103 of the Internal Revenue Code prohibits the IRS from disclosing the particular facts and circumstances of an application that may lead to a particular question being asked of the organization.[1] The revenue agent working a case uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination of the organization's exempt status. Follow-up information requested would be based on the facts and circumstances set forth in the particular application. Because of the facts and circumstances nature and the need for professional judgment on the part of the revenue agent doing the review, there will naturally be some variances in how cases are developed and how questions back to the applicant are articulated. To minimize possible variances, the IRS utilizes training and tools to promote quality and consistency in similar cases.

To qualify for exemption as a social welfare organization described in section 501(c)(4), the organization must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.[2] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.[3]

Whether an organization meets the statutory requirements of section 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative. A section 501(c)(4) social welfare organization can engage in some non-exempt activity so long as its primary activity is exempt social welfare activity. Because the facts and circumstances of the particular applicant are considered, determinations letters are not precedential and cannot be relied on by anyone except the organization who received the letter. Consequently, a revenue agent must first determine whether particular activities undertaken by the organization further an exempt or non-exempt purpose. If the organization is engaged in some non-exempt activities, then the agent must review the scope of the activities to determine whether, based on all the facts and circumstances, the organization's exempt activities are the primary activities when compared to the aggregate of its non-exempt activities.

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[1] Section 6103(f) sets forth the means by which congressional committees may obtain access to returns and return information. We are available to discuss these rules in more detail with your staff.
[2] IRC § 501(c)(4);Treas. Reg. § 501(c)(4)-1.
[3] Reg. § 1.501(c)(4)-1(a)(2)(i) - (ii).

Whether the IRS needs additional information depends on the completeness of the information provided in the application, as well as the specific activities in which the organization is engaged. Some organizations include in their application all the information necessary to determine whether they meet the statutory requirements for tax exemption. Others may not provide complete information, such as how the organization's activities further their exempt purpose. As explained in our initial response dated April 26, 2012, when a Form 1024 application needs further development, the IRS contacts the organization and solicits additional information in order to have a complete administrative record on which the IRS can make a determination as to whether the requirements of the Code and regulations are met. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information exchanged between the parties as exemption is discussed.

Because we are legally prohibited from responding with respect to any particular application, the responses below explain why each of the questions you specified might be asked to an applicant (but without reference to case-specific information). We have responded in the format you requested. It would be necessary to know the contents of an application file to know why particular information may have been requested from any specific organization. Because our responses cannot address how the information is relevant to any specific application, we have provided a selection of precedents that could apply to the question depending upon the facts. Consequently, there is some necessary repetition in our responses. We have advised applicant organizations that if they believe that the information requested to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. We remain open to considering whether compliance with the legal requirements can be satisfied in an alternative manner. We have also provided additional time to respond.

A) For all the events you have conducted or will conduct for 2012 and 2013, provide the date of each event, issues presented at the event, copies of materials provided, speakers invited, details of speeches made at the event and actions promoted by the speakers, and expenses incurred.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1[4]

[4] Treas. Reg. § 1.501(a)-1(a)(3). In general; proof of exemption. An organization claiming exemption under § 501(a) and described in any paragraph of § 501(c) (other than § 501(c)(1)) shall file the form of application prescribed by the IRS and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in § 401(a), see the regulations under § 401. Treas. Reg. § 1.501(a)-1(b)(2). In addition to the

- Treas. Reg. § 1.501(c)(3)-1(c)(3) ("action" organization)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)[5]

b) the IRS's rationale for needing this piece of information;

Form 1024, Part II, Question 1 requests that the organization provide a detailed narrative description of all of the activities of the organization – past, present and planned. Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or non-exempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

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information specifically called for by this section, the IRS may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under § 501(a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the IRS may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

[5] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Reg. § 1.501(c)(3)–1 and is not an action organization as set forth in paragraph (c)(3) of Reg. § 1.501(c)(3)–1. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1[6]
- Form 1024, Part II, Question 16[7]
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73[8]
- Rev. Rul. 81-95, 1981-1 C.B. 332[9]
- Rev. Rul. 80-282, 1980-2 C.B. 178[10]
- Rev. Rul. 80-107, 1980-1 C.B. 117[11]

[6] Form 1024, Part II, Question 1: "Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted. As noted on Form 1024, this question must be completed by all applicants.

[7] Form 1024, Part II, Question 16: "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each." As noted on Form 1024, this question must be completed by all applicants.

[8] Rev. Rul. 86-95 determines that, in the context of a § 501(c)(3) organization, a forum held for the purpose of educating and informing the voters, which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, would not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office. The facts and circumstances of this case established that both the format and content of the proposed forums would be presented in a neutral manner.

[9] Rev. Rul. 81-95 provides that "an organization may carry on lawful political activities and remain exempt under § 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

[10] Rev. Rul. 80-282 provides that a § 501(c)(3) organization that published partisan voter guides was participating in prohibited political campaign intervention.

[11] Rev. Rul. 80-107 denied exemption to an "advocacy" organization due to private benefit. The ruling held that because the primary beneficiaries of the organization's activities were its members, "together with other individuals who own shares in the public utility companies," it was primarily operated to serve private interests rather than the community as a whole. Thus, it did not qualify for § 501(c)(4) exemption.

- Rev. Rul. 78-248, 1978-1 C.B. 154[12]
- Rev. Rul. 78-131, 1978-1 C.B. 156[13]
- Rev. Rul. 75-286, 1975-2 C.B. 210[14]
- Rev. Rul. 74-574, 1974-2 C.B. 160[15]
- Rev. Rul. 74-361, 1974-2 C.B. 159[16]
- Rev. Rul. 74-298, 1974-1 C.B. 133[17]
- Rev. Rul. 68-656, 1968-2 C.B. 216[18]
- Rev. Rul. 68-224, 1968-1 C.B. 262[19]

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[12] Rev. Rul. 78-248 provides that whether a § 501(c)(3) organization is participating or intervening, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office depends upon all of the facts and circumstances of each case.

[13] In Rev. Rul. 78-131, an organization whose purpose is to develop and encourage interest in painting, sculpture, and other art forms by conducting, in a noncommercial manner, a community art show qualifies for exemption as an organization operated exclusively for the promotion of social welfare under § 501(c)(4).

[14] Rev. Rul. 75-286 provides that an organization exempt under § 501(c)(4) must be operated exclusively for the promotion of social welfare. It may not benefit select individuals or groups, but must instead benefit the community as a whole.

[15] Rev. Rul. 74-575 concludes that a § 501(c)(3) organization operating a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office.

[16] Rev. Rul. 74-369 provides that whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities.

[17] Rev. Rul. 74-298 held that a nonprofit organization, whose membership was limited to local residents, and whose sole activity was sponsoring an annual professional golf tournament for which it leased a golf course and charged admission, was not operated primarily for the promotion of social welfare and did not qualify for exemption under § 501(c)(4).

[18] Rev. Rul. 68-656 concludes that an organization that was organized and operated for the purpose of educating the public on controversial subjects and attempts to influence legislation germane to its program may qualify for exemption under § 501(c)(4). The organization sought changes in the law and informed the public about a currently illegal activity, by circulating printed material and legislative proposals.

[19] Rev. Rul. 68-224 concludes that an organization that conducted an annual festival centered around regional customs and traditions engaged in activities that promoted the common good and social welfare of the people of the community and may qualify for exemption under § 501(c)(4). The organization provided the community with recreation and provided a means for citizens to express their interest in the community's history, customs, and traditions.

- Rev. Rul. 67-368, 1967-2 C.B. 194[20]
- Rev. Rul. 66-256, 1966-2 C.B. 210[21]
- Rev. Rul. 60-193, 1960-1 C.B. 195[22]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[20] In Rev. Rul. 67-368, an organization formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under § 501(c)(4) because such activity does not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, constitutes participation or intervention in a political campaign on behalf of candidates favorably rated and in opposition to those less favorably rated.

[21] Rev. Rul. 66-256 provides that an organization whose primary purpose was to bring about a fair and open-minded consideration and debate of social, political, and international questions by the promoting and sponsoring public forums at which debates and lectures are conducted qualifies for exemption under § 501(c)(3). The presentation of public lectures, forums, or debates is a recognized method of educating the public, even though some of its programs include controversial speakers or subjects. Therefore, the organization was organized and operated for charitable and educational purposes.

[22] Rev. Rul. 60-193 concludes that an organization whose purpose was to encourage greater participation in governmental and political affairs promoted social welfare and therefore qualified for recognition of exemption under § 501(c)(4). Activities of the organization included conducting nonpartisan seminars and workshops relating to the American political system. All lecturers were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent the program from becoming partisan in character.

B) Provide the time, location, and content of each of your meetings, copies of any material provided at the meeting, lists of speakers who have attended the meetings, topics discussed, contents of speeches, and expenses incurred on these meetings.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9[23]
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

[23] Rev. Proc. 2012-9, section 3.08(3).

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Q1 (and instructions)
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16[24]
- Form 1024, Part III (Financial Data)[25]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-45, 1968-1 C.B. 259[26]
- Rev. Rul. 66-256, 1966-2 C.B. 210

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[24] Form 1024, Part II, Question 16: Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each. The instructions to Form 1024, Question 16, provide that, "This includes any printed material that may be used to publicize the organization's activities, or as an informational item to members or potential members.

[25] As provided in Form 1024, Part III, this information must be competed by all organizations.

[26] Rev. Rul. 68-45 provides that whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities.

- Rev. Rul. 60-193, 1960-1 C.B. 195

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

The Form 1024 asks organizations whether they publish pamphlets, brochures, newsletters, journals, or similar printed material. If the response is "yes," to the organization must attach copies of such materials. If the organization completes the application fully, no additional information for this type of material is requested. If the organization does not provide this material with the application, it will be requested in further development. Whether an organization is requested to provide additional information depends on all the facts and circumstances of the organization's application.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

C) Provide copies of any lease or rental agreements.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)[27]

[27] Reg. §1.501(c)(4)-1(a)(2) provides that an organization is not operated primarily for the

b) the IRS's rationale for needing this piece of information;

Form 1024, Part II, Question 14 asks whether the applicant leases or plans to lease any property. If the organization responded in the affirmative, the second part of the same question clearly states to explain in detail, including descriptions property and amount of rent, as well as "attach a copy of any rental or lease agreement." To minimize burden, the question offers the organization to "attach a single representative copy of the leases" if it is a party to multiple leases of property under similar agreements.

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists; whether the organization is engaging in potential unrelated business activities; whether section 4958 taxes on excess benefit transactions apply[28]; and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1

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promotion of social welfare if its *primary* activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

[28] Section 4958 taxes on excess benefit transactions applies to any transaction in which an economic benefit is provided by [a] tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

- Form 1024, Part II, Question 14[29]
- Form 1024, Schedule A, Question 5
- Form 1024, Schedule B, Question 2[30]
- Form 1024, Schedule C, Question 1[31] (section 501(c)(5)s and 501(c)(6)s)
- Form 1024, Schedule D, Question 1[32] (section 501(c)(7)s)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 70-535, 1970-2 C.B. 117[33]
- Rev. Rul. 68-455, 1968-2 C.B. 215[34]

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[29] "Does the organization now lease or does it plan to lease any property? If "Yes," explain in detail. Include the amount of rent, a description of the property, and any relationship between the applicant organization and the other party. Also, attach a copy of any rental or lease agreement. (If the organization is a party, as a lessor, to multiple leases of rental real property under similar lease agreements, please attach a single representative copy of the leases."

[30] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)"

[31] Form 1024, Schedule C, Question 1, regarding §§ 501(c)(5) and (6) organizations: "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"

[32] Form 1024, Schedule D, Question 1, with regards to § 501(c)(7) organizations, "Has the organization entered or does it plan to enter into any contract or agreement for the management or operation of its property and/or activities, such as restaurants, pro shops, lodges, etc.? If "Yes," attach a copy of the contract or agreement. If one has not yet been drawn up, please explain the organization's plans."

[33] Rev. Rul. 70-535 provides that a nonprofit organization formed to manage low and moderate income housing projects for a fee does not qualify for exemption under § 501(c)(4). The organization entered into agreements with a number of nonprofit corporations exempt from Federal income tax under § 501(a) to manage low and moderate income housing projects for a fee. The organization operates in a manner similar to those providing such management services for profit. All of its income is from management fees. Its funds are used to meet expenses incurred in providing the management services. Managing these housing projects is the organization's primary activity. Its other activities are negligible. Since the organization's primary activity is carrying on a business by managing low and moderate income housing projects in a manner similar to organizations operated for profit, the organization is not operated primarily for the promotion of social welfare. The fact that these services are being performed for tax exempt corporations does not change the business nature of the activity.

[34] Rev. Rul. 68-455 states that an organization qualifies for exemption under § 501(c)(4) if its

- Rev. Rul. 68-46, 1968-1 C.B. 260[35]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

D) Provide copies of any materials or other communications prepared by another person or individual that you have or will distribute, when the distribution was or will be conducted, and who has distributed or will distribute the materials.

a) the IRS's authority for asking for the information;

- Treas. Reg. § 1.501(a)-1

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primary activity is the promotion of social welfare, notwithstanding the business activities from which it derived the major part of its income was the carrying on of a business with the general public in a manner similar to organizations which are operated for profit. The organization had the exclusive right to operate a bathhouse and bathing beach, from which the major portion of its income derived. The organization's activities, other than those incident to the concession, included participation in various civic and charitable drives, organizational welfare activities. The IRS concluded that if the promotion of social welfare remained the primary activity of the organization it would qualify for exemption under § 501(c)(4).

[35] Rev. Rul. 68-46 concludes that an organization does not qualify for exemption from Federal income tax under § 501(c)(4) where it is primarily engaged in renting a commercial building and operating a public banquet and meeting hall having bar and dining facilities. Although the organization carries on veterans' programs and other benevolent, welfare, patriotic, and civic activities, the organization's business activities relating to the rental of the office building and meeting room space and the food and bar catering services exceeded all its other activities.

- Rev. Proc. 2012-9
- Form 1024

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Form 1024, Part II, Question 1[36]
- Form 1024, Part II, Question 5[37]

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[36] "Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted."

- Form 1024, Part II, Question 16[38]
- Form 1024, Schedule B, Question 1[39]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 66-256, 1966-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

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[37] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[38] "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each." The Form 1024 Instructions, Question 16 also provide that, "This includes any printed material that may be used to publicize the organization's activities, or as an information item to members or potential members."

[39] Has the Internal Revenue Service previously issued a ruling or determination letter recognizing the applicant organization (or any predecessor organization listed in Question 4, Part II of the application) to be exempt under § 501(c)(3) and later revoked that recognition of exemption on the basis that the applicant organization (or its predecessor) was carrying on propaganda or otherwise attempting to influence legislation or on the basis that it engaged in political activity.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

E) Provide copies of all solicitations your organization has made regarding fundraising, including pamphlets, flyers, brochures, and webpage solicitations. Provide all sources of fundraising expenses.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 2[40]
- Form 1024, Part II, Question 5[41]
- Form 1024, Part II, Question 15[42]
- Form 1024, Part II, Question 16
- Form 1024, Part III, Financial Data
- Form 1024, Schedule B, Question 2[43]
- Form 1024, Schedule C, Question 1[44]
- Form 1024, Schedule D, Question 2[45]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

[40] "List the organization's present and future sources of financial support, beginning with the largest source first."
[41] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."
[42] Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization? If "Yes," explain in detail and list the amounts spent or to be spent in each case.
[43] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)"
[44] "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"
[45] "Does the organization seek or plan to seek public patronage of its facilities or activities by advertisement or otherwise? If "Yes," attach sample copies of the advertisements or other requests. If the organization plans to seek public patronage, please explain the plans."

- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 81-95, 1981-1 C.B. 332
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 161
- Rev. Rul. 66-256, 1966-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

F) Provide all newsletters, emails and other items distributed to your members or other interested individuals.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)
- Form 1024, Part II, Question 7[46]
- Form 1024, Part II, Question 16 (and instructions)[47]

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[46] "State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued."

[47] "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each. The instructions to Form 1024, Question 16,

- Form 1024, Part III, Financial Data, Part A, Line 1 (Gross dues and assessments of members)
- Form 1024, Part III, Financial Data, Part B, Line 12 (Disbursements to or for the benefit of members)
- Form 1024, Schedule B, Question 2[48]
- Form 1024, Schedule C, Question 1[49]
- Form 1024, Schedule D, Question 2[50]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117[51]
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 78-132, 1978-1 C.B. 157[52]
- Rev. Rul. 75-286, 1975-2 C.B. 210

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also states: "This includes any printed material that may be used to publicize the organization's activities, or as an informational item to members or potential members."

[48] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here."

[49] "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"

[50] "Does the organization seek or plan to seek public patronage of its facilities or activities by advertisement or otherwise? If "Yes," attach sample copies of the advertisements or other requests. If the organization plans to seek public patronage, please explain the plans."

[51] Rev. Rul. 80-107 concludes that an organization does not qualify for recognition of exemption under § 501(c)(4) where it is operated for the private benefit of its members. The organization represented the interests of its members before administrative agencies and legislative bodies. Because the primary beneficiaries of the organization's activities were its members, it was primarily operated to serve private interests rather than the community as a whole. Thus, it did not qualify for § 501(c)(4) exemption.

[52] Rev. Rul. 78-132 concludes that an organization did not qualify for exemption under § 501(c)(4) because the organization was operated primarily for the benefit of private interests, and not the community as a whole.

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

G) Provide all copies of your corporate and meeting minutes from your organization's inception to present.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)[53]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)[54]

[53] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)–1 and is not an action organization as set forth in paragraph (c)(3) of § 1.501(c)(3)–1.

[54] The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 75-286, 1975-2 C.B. 210

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operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

H) Provide the names of all donors, contributors, and grantors and the amounts of each donation, contribution, and grant.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention. Nevertheless, the IRS takes privacy very seriously when developing applications, and makes the effort to work with the organization to obtain the needed information so that the confidentiality of any potentially sensitive or privileged information is taken into account. As discussed, we have advised applicant organizations that if they believe that the requested information requested to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. We remain open to considering whether compliance with the legal requirements can be satisfied in an alternative manner.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-09
- Form 1024, Part II, Question 2[55]
- Form 1024, Part II, Question 5[56]
- American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989)[57]
- Rev. Rul. 80-302; 1980-2 C.B. 182[58]

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[55] "List the organization's present and future sources of financial support, beginning with the largest source first."

[56] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[57] In American Campaign Academy, the court denied exemption under § 501(c)(3) to an organization that conducted activities for the primary benefit of a political party and the candidates it served. The court found that the private benefit to the group of individuals was more than incidental and, therefore, the organization was not organized and operated exclusively for exempt purposes.

[58] In Rev. Rul. 80-302, an organization did not qualify for exemption under § 501(c)(3) because

- Rev. Rul. 80-107
- Rev. Rul. 78-132, 1978-1 C.B. 157
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 70-186; 1970-1 C.B. 128
- Rev. Rul. 69-631; 1969-2 C.B. 119[59]
- Rev. Rul. 68-266; 1968-1 C.B. 270[60]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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the organization primarily benefited a family, instead of the community as a whole.

[59] Rev. Rul. 69-631 concludes that an organization qualified for exemption under § 501(c)(3) because no part of the organization's funds were used for the private benefit of any individual.

[60] Rev. Rul. 68-266 concludes that an organization was exempt under § 501(c)(7) because none of its income inured to the private benefit of any individual.

l) Provide the details of how your organization will use the donations, contributions, and grants.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part, II, Question 1

- Form 1024, Part II, Question 5[61]
- Form 1024, Part II, Question 9[62]
- Form 1024, Part II, Question 11[63]
- Form 1024, Part II, Question 15
- Form 1024, Part III, Financial Data
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 75-286, 1975-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[61] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[62] Has the organization made or does it plan to make any distribution of its property or surplus funds to shareholders or members? If "Yes," state the full details, including: (1) amounts or value; (2) source of funds or property distributed or to be distributed; and (3) basis of, and authority for, distribution or planned distribution

[63] Has the organization made, or does it plan to make, any payments to members or shareholders for services performed or to be performed? If "Yes," state in detail the amount paid, the character of the services, and to whom the payments have been, or will be, made."

J) Provide a resume, total compensation package, and rationale for how each compensation package was determined for your past and present directors, officers, and key employees.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Internal Revenue Code § 4958 (taxes on excess benefit transactions)
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)
- Treas. Reg. §§ 53.4958-1 through 53.4958-8

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 3(a) and (b)[64]
- Form 1024, Part III, Financial Data, Part A[65]
- Internal Revenue Code § 4958 (taxes on excess benefit transactions)
- Treas. Reg. §§ 53.4958-1 through 53.4958-8
- Rev. Rul. 75-286, 1975-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[64] "Give the following information about the organization's governing body: (a) Names, addresses, and titles of officers, directors, trustees, etc., and; (b) Annual compensation." The instructions to Part III, Question 3, also state: "Furnish the mailing addresses of the organization's principal officers, directors, or trustees. Do not give the address of the organization." Further, the Instruction for Line 3(b) state: "The annual compensation includes salary, bonus, and any other form of payment to the individual for services performed for the organization."

[65] Form 1024, Part III, Financial Data (Part A) Statement of Revenue and Expenses, requires the applicant to report the compensation of officers, directors, and trustees, and to attach a schedule. The Instructions further state: "Attach a schedule that show the name of the person compensated; the office or position; the average amount of time devoted to business per week, month, etc.; and the amount of annual compensation."

K) Provide a list of all issues that are important to your organization, indicating your position regarding each issue.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv)[66] ("action" organizations)
- Treas. Reg. § 1.501(c)(4)-1(a)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)[67]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)[68]

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

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[66] Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv) provides that an organization is an "action" organization if it has the following two characteristics: (a) its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results there of available to the public.

[67] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)–1 and is not an "action" organization as set forth in paragraph (c)(3) of § 1.501(c)(3)–1.

[68] The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Proc. 86-43, 1986-2 C.B. 729[69]
- Rev. Rul. 81-95, 1981-1 C.B. 332

[69] Rev. Proc. 86-43 discusses the criteria that the IRS uses to determine the circumstances under which advocacy of a particular viewpoint or position by an organization is considered educational within the meaning of § 501(c)(3) and within the meaning of Reg. §1.501(c)(3)-1(d)(3). The Rev. Proc. provides that the presence of any of the following factors in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational: (1) the presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications; (2) the facts purport to support the viewpoints or positions are distorted; (3) the organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations; and the approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter. This methodology test is set forth in Section 3 of the revenue procedure, and is used in all situations where the educational purposes of an organization that advocates a particular viewpoint or position are in question.

- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-656, 1968-2 C.B. 216
- Rev. Rul. 68-45, 1968-1 C.B. 259
- Rev. Rul. 67-368, 1967-2 C.B. 194
- Rev. Rul. 66-256, 1966-2 C.B. 210
- Rev. Rul. 60-193, 1960-1 C.B. 195

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

L) Provide details regarding all training your organization has provided or will provide, indicating who has received or will receive the training and providing all copies of the training material.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv) ("action" organization)
- Treas. Reg. § 1.501(c)(4)-1(a)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1[70]
- Form 1024, Part II, Question 5
- Form 1024, Part II, Question 10
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 81-95, 1981-1 C.B. 332
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 75-286, 1975-2 C.B. 21
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 68-656, 1968-2 C.B. 216
- Rev. Rul. 67-368, 1967-2 C.B. 194
- Rev. Rul. 66-256, 1966-2 C.B. 210
- Rev. Rul. 60-193, 1960-1 C.B. 195

[70] Form 1024 Instructions, Part II, Question 1, provides that: "It is important that you report all activities carried on by the organization to enable the IRS to make a proper determination of the organization's exempt status. It is also important that you provide detailed information about the nature and purpose of each of the activities. The organization will be contacted for such information if it is not furnished."

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

M) Provide the member application and registration form, the membership agreement and rules that govern members, and copies of your website that only members can access.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 7[71]
- Form 1024, Part II, Question 9
- Form 1024, Part II, Question 11
- Form 1024, Part II, Question 16
- Form 1024, Part III, Financial Data, Part A, Line 1
- Form 1024, Part III, Financial Data, Part A, Line 12
- Form 1024, Schedule B, Question 2
- Form 1024, Schedule C, Question 1
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

[71] "State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued."

- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-45, 1968-1 C.B. 259

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

N) Provide a vendor list, a list of all merchandise items sold, your cost for each item, and the selling price for each item.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 990-T (unrelated business income tax)
- Form 1024
- Internal Revenue Code section 512 (unrelated business taxable income)
- Internal Revenue Code section 513 ("unrelated trade or business")

- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(4)-1(a)(1)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)
- Treas. Reg. § 1.512(a)-1
- Treas. Reg. § 1.513-1

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists; whether the organization is engaging in potential unrelated business activities; and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 990-T
- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 10

- Form 1024, Part II, Question 11
- Form 1024, Part II, Financial Data, Part A, Line 3
- Form 1024, Part II, Financial Data, Part A, Line 4
- Form 1024, Part II, Financial Data, Part B, Line 9
- Form 1024, Part II, Financial Data, Part B, Line 10
- Form 1024, Schedule D, Question 1
- Form 1024, Schedule D, Question 2
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-112, 2004-2 C.B. 985 (unrelated trade or business in §501(c)(6) context

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

O) Provide all activities your organization has engaged in with the news media, including copies of articles printed or transcripts of items aired because of that activity.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. § 1.501(c)(4)-1(a)
- Treas. Reg. § 56.4911-2 (certain public charities)
- Treas. Reg. § 53.4945-2 (private foundations only)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 5
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160[72]
- Rev. Rul. 70-79, 1970-1 C.B. 127[73]
- Rev. Rul. 68-656, 1968-2 C.B. 216

d) the objective standards the IRS will use when revlewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

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[72] Rev. Rul .74-574 concludes that a § 501(c)(3) organization that operates a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office.

[73] Rev. Rul. 70-79 concludes that an organization created to assist local governments of a metropolitan region by studying and recommending regional policies directed at the solution of mutual problems qualifies for recognition of exemption under § 501(c)(3). The organization researches and analyzes problems discussed at meetings and distributes reports to the local governments and news media.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

P) Provide copies of all direct or indirect communication with members of legislative bodies.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Internal Revenue Code section 4911
- Internal Revenue Code section 4945 (exceptions to definition of lobbying)
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv)
- Treas. Reg. § 1.501(c)(4)-1
- Treas. Reg. § 53.4945-2 (private foundations only)
- Treas. Reg. § 56.4911-2(b)(1)(i) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(1)(ii) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(2)(i) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(2)(ii) (certain public charities)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 1
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 70-449, 1970-2 C.B. 111 (§ 501(c)(3) context)
- Rev. Rul. 70-79, 1970-1 C.B. 127 (§ 501(c)(3) context)
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 68-656, 1968-2 C.B. 216

- Rev. Rul. 67-293, 1967-2 C.B. 185
- Rev. Rul. 67-163, 1967-1 C.B. 43
- Rev. Rul. 67-6, 1967-1 C.B. 135[74]
- Rev. Rul. 64-195, 1964-2 C. B. 138 (§ 501(c)(3) context)
- Rev. Rul. 62-71, 1962-1 C.B. 85

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

[74] Rev. Rul. 67-6 concludes that an association whose activities are primarily devoted to preserving the traditions, architecture, and appearance of a community by means of individual and group action before the local legislature and administrative agencies with respect to zoning, traffic, and parking regulations may be exempt from Federal income under § 501(c)(4).

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosures

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

May 4, 2012

The Honorable Jim Jordan
Chairman
Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter dated March 27, 2012, requesting information about the tax-exempt sector. This response supplements my April 26, 2012 letter, and addresses the remaining question # 7.

Question 7. Each of the requests for information, listed below that has appeared on an IRS questionnaire is beyond the scope of IRS Form 1024. For each of these requests, listed below, please state: a) the IRS's authority for asking for the information; b) the IRS's rationale for needing this piece of information; c) whether any precedent exists for the IRS asking for this type of information; d) the objective standards the IRS will use when reviewing the response; and e) how the IRS will use the information to determine tax-exempt status.

As discussed in my prior response and per our discussion with your staff, we understand that references in your letter to "questionnaires" relate to development letters the IRS sends to organizations in the ordinary course of the application process. These letters are sent to obtain the information necessary to make a determination about whether the organization meets the legal requirements for tax-exempt status. As noted in my earlier letter, the law allows section 501(c)(4) organizations to self-declare and hold themselves out as tax-exempt without IRS approval of status or to apply to the IRS for recognition as tax-exempt. Development letters relate to those organizations that apply to the IRS for recognition of tax-exempt status.

Preliminarily, we wish to clarify that under the appropriate facts and circumstances, the requests for information set forth below are not beyond the scope of the Form 1024. To establish tax exemption, the organization must meet the statutory requirements of the particular section of the Internal Revenue Code under which exemption is sought. As set forth in Revenue Procedure 2012-9, the applicant has the burden of establishing that it meets the particular requirements of the statute and regulations under which it seeks exemption through information in its application and supporting materials. A copy of the Revenue Procedure as well as all cited documents is included for your convenience in the enclosed CD-ROM.

As discussed in my prior response and in more detail below, the particular facts and circumstances of an application will determine the specific information requested. Section 6103 of the Internal Revenue Code prohibits the IRS from disclosing the particular facts and circumstances of an application that may lead to a particular question being asked of the organization.[1] The revenue agent working a case uses sound reasoning based on tax law training and his or her experience to review the application and identify the additional information needed to make a proper determination of the organization's exempt status. Follow-up information requested would be based on the facts and circumstances set forth in the particular application. Because of the facts and circumstances nature and the need for professional judgment on the part of the revenue agent doing the review, there will naturally be some variances in how cases are developed and how questions back to the applicant are articulated. To minimize possible variances, the IRS utilizes training and tools to promote quality and consistency in similar cases.

To qualify for exemption as a social welfare organization described in section 501(c)(4), the organization must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.[2] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.[3]

Whether an organization meets the statutory requirements of section 501(c)(4) depends upon all of the facts and circumstances, and no one factor is determinative. A section 501(c)(4) social welfare organization can engage in some non-exempt activity so long as its primary activity is exempt social welfare activity. Because the facts and circumstances of the particular applicant are considered, determinations letters are not precedential and cannot be relied on by anyone except the organization who received the letter. Consequently, a revenue agent must first determine whether particular activities undertaken by the organization further an exempt or non-exempt purpose. If the organization is engaged in some non-exempt activities, then the agent must review the scope of the activities to determine whether, based on all the facts and circumstances, the organization's exempt activities are the primary activities when compared to the aggregate of its non-exempt activities.

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[1] Section 6103(f) sets forth the means by which congressional committees may obtain access to returns and return information. We are available to discuss these rules in more detail with your staff.
[2] IRC § 501(c)(4);Treas. Reg. § 501(c)(4)-1.
[3] Reg. § 1.501(c)(4)-1(a)(2)(i) - (ii).

Whether the IRS needs additional information depends on the completeness of the information provided in the application, as well as the specific activities in which the organization is engaged. Some organizations include in their application all the information necessary to determine whether they meet the statutory requirements for tax exemption. Others may not provide complete information, such as how the organization's activities further their exempt purpose. As explained in our initial response dated April 26, 2012, when a Form 1024 application needs further development, the IRS contacts the organization and solicits additional information in order to have a complete administrative record on which the IRS can make a determination as to whether the requirements of the Code and regulations are met. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information exchanged between the parties as exemption is discussed.

Because we are legally prohibited from responding with respect to any particular application, the responses below explain why each of the questions you specified might be asked to an applicant (but without reference to case-specific information). We have responded in the format you requested. It would be necessary to know the contents of an application file to know why particular information may have been requested from any specific organization. Because our responses cannot address how the information is relevant to any specific application, we have provided a selection of precedents that could apply to the question depending upon the facts. Consequently, there is some necessary repetition in our responses. We have advised applicant organizations that if they believe that the information requested to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. We remain open to considering whether compliance with the legal requirements can be satisfied in an alternative manner. We have also provided additional time to respond.

A) For all the events you have conducted or will conduct for 2012 and 2013, provide the date of each event, issues presented at the event, copies of materials provided, speakers invited, details of speeches made at the event and actions promoted by the speakers, and expenses incurred.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1[4]

[4] Treas. Reg. § 1.501(a)-1(a)(3). In general; proof of exemption. An organization claiming exemption under § 501(a) and described in any paragraph of § 501(c) (other than § 501(c)(1)) shall file the form of application prescribed by the IRS and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in § 401(a), see the regulations under § 401. Treas. Reg. § 1.501(a)-1(b)(2). In addition to the

- Treas. Reg. § 1.501(c)(3)-1(c)(3) ("action" organization)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)[5]

b) the IRS's rationale for needing this piece of information;

Form 1024, Part II, Question 1 requests that the organization provide a detailed narrative description of all of the activities of the organization – past, present and planned. Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or non-exempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

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information specifically called for by this section, the IRS may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under § 501(a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the IRS may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

[5] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Reg. § 1.501(c)(3)–1 and is not an action organization as set forth in paragraph (c)(3) of Reg. § 1.501(c)(3)–1. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1[6]
- Form 1024, Part II, Question 16[7]
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73[8]
- Rev. Rul. 81-95, 1981-1 C.B. 332[9]
- Rev. Rul. 80-282, 1980-2 C.B. 178[10]
- Rev. Rul. 80-107, 1980-1 C.B. 117[11]

[6] Form 1024, Part II, Question 1: "Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted. As noted on Form 1024, this question must be completed by all applicants.

[7] Form 1024, Part II, Question 16: "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each." As noted on Form 1024, this question must be completed by all applicants.

[8] Rev. Rul. 86-95 determines that, in the context of a § 501(c)(3) organization, a forum held for the purpose of educating and informing the voters, which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, would not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office. The facts and circumstances of this case established that both the format and content of the proposed forums would be presented in a neutral manner.

[9] Rev. Rul. 81-95 provides that "an organization may carry on lawful political activities and remain exempt under § 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

[10] Rev. Rul. 80-282 provides that a § 501(c)(3) organization that published partisan voter guides was participating in prohibited political campaign intervention.

[11] Rev. Rul. 80-107 denied exemption to an "advocacy" organization due to private benefit. The ruling held that because the primary beneficiaries of the organization's activities were its members, "together with other individuals who own shares in the public utility companies," it was primarily operated to serve private interests rather than the community as a whole. Thus, it did not qualify for § 501(c)(4) exemption.

- Rev. Rul. 78-248, 1978-1 C.B. 154[12]
- Rev. Rul. 78-131, 1978-1 C.B. 156[13]
- Rev. Rul. 75-286, 1975-2 C.B. 210[14]
- Rev. Rul. 74-574, 1974-2 C.B. 160[15]
- Rev. Rul. 74-361, 1974-2 C.B. 159[16]
- Rev. Rul. 74-298, 1974-1 C.B. 133[17]
- Rev. Rul. 68-656, 1968-2 C.B. 216[18]
- Rev. Rul. 68-224, 1968-1 C.B. 262[19]

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[12] Rev. Rul. 78-248 provides that whether a § 501(c)(3) organization is participating or intervening, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office depends upon all of the facts and circumstances of each case.

[13] In Rev. Rul. 78-131, an organization whose purpose is to develop and encourage interest in painting, sculpture, and other art forms by conducting, in a noncommercial manner, a community art show qualifies for exemption as an organization operated exclusively for the promotion of social welfare under § 501(c)(4).

[14] Rev. Rul. 75-286 provides that an organization exempt under § 501(c)(4) must be operated exclusively for the promotion of social welfare. It may not benefit select individuals or groups, but must instead benefit the community as a whole.

[15] Rev. Rul. 74-575 concludes that a § 501(c)(3) organization operating a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office.

[16] Rev. Rul. 74-369 provides that whether an organization is "primarily engaged" in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities.

[17] Rev. Rul. 74-298 held that a nonprofit organization, whose membership was limited to local residents, and whose sole activity was sponsoring an annual professional golf tournament for which it leased a golf course and charged admission, was not operated primarily for the promotion of social welfare and did not qualify for exemption under § 501(c)(4).

[18] Rev. Rul. 68-656 concludes that an organization that was organized and operated for the purpose of educating the public on controversial subjects and attempts to influence legislation germane to its program may qualify for exemption under § 501(c)(4). The organization sought changes in the law and informed the public about a currently illegal activity, by circulating printed material and legislative proposals.

[19] Rev. Rul. 68-224 concludes that an organization that conducted an annual festival centered around regional customs and traditions engaged in activities that promoted the common good and social welfare of the people of the community and may qualify for exemption under § 501(c)(4). The organization provided the community with recreation and provided a means for citizens to express their interest in the community's history, customs, and traditions.

- Rev. Rul. 67-368, 1967-2 C.B. 194[20]
- Rev. Rul. 66-256, 1966-2 C.B. 210[21]
- Rev. Rul. 60-193, 1960-1 C.B. 195[22]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[20] In Rev. Rul. 67-368, an organization formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under § 501(c)(4) because such activity does not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, constitutes participation or intervention in a political campaign on behalf of candidates favorably rated and in opposition to those less favorably rated.

[21] Rev. Rul. 66-256 provides that an organization whose primary purpose was to bring about a fair and open-minded consideration and debate of social, political, and international questions by the promoting and sponsoring public forums at which debates and lectures are conducted qualifies for exemption under § 501(c)(3). The presentation of public lectures, forums, or debates is a recognized method of educating the public, even though some of its programs include controversial speakers or subjects. Therefore, the organization was organized and operated for charitable and educational purposes.

[22] Rev. Rul. 60-193 concludes that an organization whose purpose was to encourage greater participation in governmental and political affairs promoted social welfare and therefore qualified for recognition of exemption under § 501(c)(4). Activities of the organization included conducting nonpartisan seminars and workshops relating to the American political system. All lecturers were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent the program from becoming partisan in character.

B) Provide the time, location, and content of each of your meetings, copies of any material provided at the meeting, lists of speakers who have attended the meetings, topics discussed, contents of speeches, and expenses incurred on these meetings.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9[23]
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)-(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

[23] Rev. Proc. 2012-9, section 3.08(3).

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Q1 (and instructions)
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16[24]
- Form 1024, Part III (Financial Data)[25]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-45, 1968-1 C.B. 259[26]
- Rev. Rul. 66-256, 1966-2 C.B. 210

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[24] Form 1024, Part II, Question 16: Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each. The instructions to Form 1024, Question 16, provide that, "This includes any printed material that may be used to publicize the organization's activities, or as an informational item to members or potential members.

[25] As provided in Form 1024, Part III, this information must be competed by all organizations.

[26] Rev. Rul. 68-45 provides that whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances determination. Relevant factors include the manner in which the organization's activities are conducted; resources used in conducting such activities, such as buildings and equipment; the time devoted to activities (by volunteers as well as employees); the purposes furthered by various activities; and the amount of funds received from and devoted to particular activities.

- Rev. Rul. 60-193, 1960-1 C.B. 195

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

The Form 1024 asks organizations whether they publish pamphlets, brochures, newsletters, journals, or similar printed material. If the response is "yes," to the organization must attach copies of such materials. If the organization completes the application fully, no additional information for this type of material is requested. If the organization does not provide this material with the application, it will be requested in further development. Whether an organization is requested to provide additional information depends on all the facts and circumstances of the organization's application.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

C) Provide copies of any lease or rental agreements.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)[27]

[27] Reg. §1.501(c)(4)-1(a)(2) provides that an organization is not operated primarily for the

b) the IRS's rationale for needing this piece of information;

Form 1024, Part II, Question 14 asks whether the applicant leases or plans to lease any property. If the organization responded in the affirmative, the second part of the same question clearly states to explain in detail, including descriptions property and amount of rent, as well as "attach a copy of any rental or lease agreement." To minimize burden, the question offers the organization to "attach a single representative copy of the leases" if it is a party to multiple leases of property under similar agreements.

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists; whether the organization is engaging in potential unrelated business activities; whether section 4958 taxes on excess benefit transactions apply[28]; and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1

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promotion of social welfare if its *primary* activity is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

[28] Section 4958 taxes on excess benefit transactions applies to any transaction in which an economic benefit is provided by [a] tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

- Form 1024, Part II, Question 14[29]
- Form 1024, Schedule A, Question 5
- Form 1024, Schedule B, Question 2[30]
- Form 1024, Schedule C, Question 1[31] (section 501(c)(5)s and 501(c)(6)s)
- Form 1024, Schedule D, Question 1[32] (section 501(c)(7)s)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 70-535, 1970-2 C.B. 117[33]
- Rev. Rul. 68-455, 1968-2 C.B. 215[34]

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[29] "Does the organization now lease or does it plan to lease any property? If "Yes," explain in detail. Include the amount of rent, a description of the property, and any relationship between the applicant organization and the other party. Also, attach a copy of any rental or lease agreement. (If the organization is a party, as a lessor, to multiple leases of rental real property under similar lease agreements, please attach a single representative copy of the leases."

[30] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)"

[31] Form 1024, Schedule C, Question 1, regarding §§ 501(c)(5) and (6) organizations: "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"

[32] Form 1024, Schedule D, Question 1, with regards to § 501(c)(7) organizations, "Has the organization entered or does it plan to enter into any contract or agreement for the management or operation of its property and/or activities, such as restaurants, pro shops, lodges, etc.? If "Yes," attach a copy of the contract or agreement. If one has not yet been drawn up, please explain the organization's plans."

[33] Rev. Rul. 70-535 provides that a nonprofit organization formed to manage low and moderate income housing projects for a fee does not qualify for exemption under § 501(c)(4). The organization entered into agreements with a number of nonprofit corporations exempt from Federal income tax under § 501(a) to manage low and moderate income housing projects for a fee. The organization operates in a manner similar to those providing such management services for profit. All of its income is from management fees. Its funds are used to meet expenses incurred in providing the management services. Managing these housing projects is the organization's primary activity. Its other activities are negligible. Since the organization's primary activity is carrying on a business by managing low and moderate income housing projects in a manner similar to organizations operated for profit, the organization is not operated primarily for the promotion of social welfare. The fact that these services are being performed for tax exempt corporations does not change the business nature of the activity.

[34] Rev. Rul. 68-455 states that an organization qualifies for exemption under § 501(c)(4) if its

- Rev. Rul. 68-46, 1968-1 C.B. 260[35]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

D) Provide copies of any materials or other communications prepared by another person or individual that you have or will distribute, when the distribution was or will be conducted, and who has distributed or will distribute the materials.

a) the IRS's authority for asking for the information;

- Treas. Reg. § 1.501(a)-1

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primary activity is the promotion of social welfare, notwithstanding the business activities from which it derived the major part of its income was the carrying on of a business with the general public in a manner similar to organizations which are operated for profit. The organization had the exclusive right to operate a bathhouse and bathing beach, from which the major portion of its income derived. The organization's activities, other than those incident to the concession, included participation in various civic and charitable drives, organizational welfare activities. The IRS concluded that if the promotion of social welfare remained the primary activity of the organization it would qualify for exemption under § 501(c)(4).

[35] Rev. Rul. 68-46 concludes that an organization does not qualify for exemption from Federal income tax under § 501(c)(4) where it is primarily engaged in renting a commercial building and operating a public banquet and meeting hall having bar and dining facilities. Although the organization carries on veterans' programs and other benevolent, welfare, patriotic, and civic activities, the organization's business activities relating to the rental of the office building and meeting room space and the food and bar catering services exceeded all its other activities.

- Rev. Proc. 2012-9
- Form 1024

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Form 1024, Part II, Question 1[36]
- Form 1024, Part II, Question 5[37]

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[36] "Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted."

- Form 1024, Part II, Question 16[38]
- Form 1024, Schedule B, Question 1[39]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 66-256, 1966-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

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[37] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[38] "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each." The Form 1024 Instructions, Question 16 also provide that, "This includes any printed material that may be used to publicize the organization's activities, or as an information item to members or potential members."

[39] Has the Internal Revenue Service previously issued a ruling or determination letter recognizing the applicant organization (or any predecessor organization listed in Question 4, Part II of the application) to be exempt under § 501(c)(3) and later revoked that recognition of exemption on the basis that the applicant organization (or its predecessor) was carrying on propaganda or otherwise attempting to influence legislation or on the basis that it engaged in political activity.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

E) Provide copies of all solicitations your organization has made regarding fundraising, including pamphlets, flyers, brochures, and webpage solicitations. Provide all sources of fundraising expenses.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 2[40]
- Form 1024, Part II, Question 5[41]
- Form 1024, Part II, Question 15[42]
- Form 1024, Part II, Question 16
- Form 1024, Part III, Financial Data
- Form 1024, Schedule B, Question 2[43]
- Form 1024, Schedule C, Question 1[44]
- Form 1024, Schedule D, Question 2[45]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

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[40] "List the organization's present and future sources of financial support, beginning with the largest source first."

[41] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[42] Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization? If "Yes," explain in detail and list the amounts spent or to be spent in each case.

[43] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)"

[44] "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"

[45] "Does the organization seek or plan to seek public patronage of its facilities or activities by advertisement or otherwise? If "Yes," attach sample copies of the advertisements or other requests. If the organization plans to seek public patronage, please explain the plans."

- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 81-95, 1981-1 C.B. 332
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 161
- Rev. Rul. 66-256, 1966-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

F) Provide all newsletters, emails and other items distributed to your members or other interested individuals.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)
- Form 1024, Part II, Question 7[46]
- Form 1024, Part II, Question 16 (and instructions)[47]

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[46] "State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued."

[47] "Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? If "Yes," attach a recent copy of each. The instructions to Form 1024, Question 16,

- Form 1024, Part III, Financial Data, Part A, Line 1 (Gross dues and assessments of members)
- Form 1024, Part III, Financial Data, Part B, Line 12 (Disbursements to or for the benefit of members)
- Form 1024, Schedule B, Question 2[48]
- Form 1024, Schedule C, Question 1[49]
- Form 1024, Schedule D, Question 2[50]
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117[51]
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 78-132, 1978-1 C.B. 157[52]
- Rev. Rul. 75-286, 1975-2 C.B. 210

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also states: "This includes any printed material that may be used to publicize the organization's activities, or as an informational item to members or potential members."

[48] "Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here."

[49] "Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)"

[50] "Does the organization seek or plan to seek public patronage of its facilities or activities by advertisement or otherwise? If "Yes," attach sample copies of the advertisements or other requests. If the organization plans to seek public patronage, please explain the plans."

[51] Rev. Rul. 80-107 concludes that an organization does not qualify for recognition of exemption under § 501(c)(4) where it is operated for the private benefit of its members. The organization represented the interests of its members before administrative agencies and legislative bodies. Because the primary beneficiaries of the organization's activities were its members, it was primarily operated to serve private interests rather than the community as a whole. Thus, it did not qualify for § 501(c)(4) exemption.

[52] Rev. Rul. 78-132 concludes that an organization did not qualify for exemption under § 501(c)(4) because the organization was operated primarily for the benefit of private interests, and not the community as a whole.

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

G) Provide all copies of your corporate and meeting minutes from your organization's inception to present.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)[53]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)[54]

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[53] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)–1 and is not an action organization as set forth in paragraph (c)(3) of § 1.501(c)(3)–1.

[54] The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 75-286, 1975-2 C.B. 210

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operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

H) Provide the names of all donors, contributors, and grantors and the amounts of each donation, contribution, and grant.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention. Nevertheless, the IRS takes privacy very seriously when developing applications, and makes the effort to work with the organization to obtain the needed information so that the confidentiality of any potentially sensitive or privileged information is taken into account. As discussed, we have advised applicant organizations that if they believe that the requested information requested to demonstrate eligibility for section 501(c)(4) status can be provided through alternative information, they should contact the revenue agent assigned to their application. We remain open to considering whether compliance with the legal requirements can be satisfied in an alternative manner.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Rev. Proc. 2012-09
- Form 1024, Part II, Question 2[55]
- Form 1024, Part II, Question 5[56]
- American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989)[57]
- Rev. Rul. 80-302; 1980-2 C.B. 182[58]

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[55] "List the organization's present and future sources of financial support, beginning with the largest source first."

[56] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[57] In American Campaign Academy, the court denied exemption under § 501(c)(3) to an organization that conducted activities for the primary benefit of a political party and the candidates it served. The court found that the private benefit to the group of individuals was more than incidental and, therefore, the organization was not organized and operated exclusively for exempt purposes.

[58] In Rev. Rul. 80-302, an organization did not qualify for exemption under § 501(c)(3) because

- Rev. Rul. 80-107
- Rev. Rul. 78-132, 1978-1 C.B. 157
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 70-186; 1970-1 C.B. 128
- Rev. Rul. 69-631; 1969-2 C.B. 119[59]
- Rev. Rul. 68-266; 1968-1 C.B. 270[60]

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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the organization primarily benefited a family, instead of the community as a whole.

[59] Rev. Rul. 69-631 concludes that an organization qualified for exemption under § 501(c)(3) because no part of the organization's funds were used for the private benefit of any individual.

[60] Rev. Rul. 68-266 concludes that an organization was exempt under § 501(c)(7) because none of its income inured to the private benefit of any individual.

l) Provide the details of how your organization will use the donations, contributions, and grants.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part, II, Question 1

- Form 1024, Part II, Question 5[61]
- Form 1024, Part II, Question 9[62]
- Form 1024, Part II, Question 11[63]
- Form 1024, Part II, Question 15
- Form 1024, Part III, Financial Data
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 75-286, 1975-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[61] "If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees)."

[62] Has the organization made or does it plan to make any distribution of its property or surplus funds to shareholders or members? If "Yes," state the full details, including: (1) amounts or value; (2) source of funds or property distributed or to be distributed; and (3) basis of, and authority for, distribution or planned distribution

[63] Has the organization made, or does it plan to make, any payments to members or shareholders for services performed or to be performed? If "Yes," state in detail the amount paid, the character of the services, and to whom the payments have been, or will be, made."

J) Provide a resume, total compensation package, and rationale for how each compensation package was determined for your past and present directors, officers, and key employees.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Internal Revenue Code § 4958 (taxes on excess benefit transactions)
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. §1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)
- Treas. Reg. §§ 53.4958-1 through 53.4958-8

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 3(a) and (b)[64]
- Form 1024, Part III, Financial Data, Part A[65]
- Internal Revenue Code § 4958 (taxes on excess benefit transactions)
- Treas. Reg. §§ 53.4958-1 through 53.4958-8
- Rev. Rul. 75-286, 1975-2 C.B. 210

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

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[64] "Give the following information about the organization's governing body: (a) Names, addresses, and titles of officers, directors, trustees, etc., and; (b) Annual compensation." The instructions to Part III, Question 3, also state: "Furnish the mailing addresses of the organization's principal officers, directors, or trustees. Do not give the address of the organization." Further, the Instruction for Line 3(b) state: "The annual compensation includes salary, bonus, and any other form of payment to the individual for services performed for the organization."

[65] Form 1024, Part III, Financial Data (Part A) Statement of Revenue and Expenses, requires the applicant to report the compensation of officers, directors, and trustees, and to attach a schedule. The Instructions further state: "Attach a schedule that show the name of the person compensated; the office or position; the average amount of time devoted to business per week, month, etc.; and the amount of annual compensation."

K) Provide a list of all issues that are important to your organization, indicating your position regarding each issue.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv)[66] ("action" organizations)
- Treas. Reg. § 1.501(c)(4)-1(a)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)[67]
- Treas. Reg. §1.501(c)(4)-1(a)(2)(ii)[68]

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

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[66] Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv) provides that an organization is an "action" organization if it has the following two characteristics: (a) its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results there of available to the public.

[67] An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of § 1.501(c)(3)–1 and is not an "action" organization as set forth in paragraph (c)(3) of § 1.501(c)(3)–1.

[68] The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Proc. 86-43, 1986-2 C.B. 729[69]
- Rev. Rul. 81-95, 1981-1 C.B. 332

[69] Rev. Proc. 86-43 discusses the criteria that the IRS uses to determine the circumstances under which advocacy of a particular viewpoint or position by an organization is considered educational within the meaning of § 501(c)(3) and within the meaning of Reg. §1.501(c)(3)-1(d)(3). The Rev. Proc. provides that the presence of any of the following factors in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational: (1) the presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications; (2) the facts purport to support the viewpoints or positions are distorted; (3) the organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations; and the approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter. This methodology test is set forth in Section 3 of the revenue procedure, and is used in all situations where the educational purposes of an organization that advocates a particular viewpoint or position are in question.

- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-656, 1968-2 C.B. 216
- Rev. Rul. 68-45, 1968-1 C.B. 259
- Rev. Rul. 67-368, 1967-2 C.B. 194
- Rev. Rul. 66-256, 1966-2 C.B. 210
- Rev. Rul. 60-193, 1960-1 C.B. 195

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

L) Provide details regarding all training your organization has provided or will provide, indicating who has received or will receive the training and providing all copies of the training material.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv) ("action" organization)
- Treas. Reg. § 1.501(c)(4)-1(a)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1[70]
- Form 1024, Part II, Question 5
- Form 1024, Part II, Question 10
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 86-95, 1986-2 C.B. 73
- Rev. Rul. 81-95, 1981-1 C.B. 332
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 78-248, 1978-1 C.B. 154
- Rev. Rul. 75-286, 1975-2 C.B. 21
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 68-656, 1968-2 C.B. 216
- Rev. Rul. 67-368, 1967-2 C.B. 194
- Rev. Rul. 66-256, 1966-2 C.B. 210
- Rev. Rul. 60-193, 1960-1 C.B. 195

[70] Form 1024 Instructions, Part II, Question 1, provides that: "It is important that you report all activities carried on by the organization to enable the IRS to make a proper determination of the organization's exempt status. It is also important that you provide detailed information about the nature and purpose of each of the activities. The organization will be contacted for such information if it is not furnished."

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

M) Provide the member application and registration form, the membership agreement and rules that govern members, and copies of your website that only members can access.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(i)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 7[71]
- Form 1024, Part II, Question 9
- Form 1024, Part II, Question 11
- Form 1024, Part II, Question 16
- Form 1024, Part III, Financial Data, Part A, Line 1
- Form 1024, Part III, Financial Data, Part A, Line 12
- Form 1024, Schedule B, Question 2
- Form 1024, Schedule C, Question 1
- Rev. Rul. 2007-41, 2007-1 C.B. 1421

[71] "State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued."

- Rev. Rul. 80-107, 1980-1 C.B. 117
- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-361, 1974-2 C.B. 159
- Rev. Rul. 68-45, 1968-1 C.B. 259

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

N) Provide a vendor list, a list of all merchandise items sold, your cost for each item, and the selling price for each item.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 990-T (unrelated business income tax)
- Form 1024
- Internal Revenue Code section 512 (unrelated business taxable income)
- Internal Revenue Code section 513 ("unrelated trade or business")

- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(4)-1(a)(1)
- Treas. Reg. § 1.501(c)(4)-1(a)(2)
- Treas. Reg. § 1.512(a)-1
- Treas. Reg. § 1.513-1

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists; whether the organization is engaging in potential unrelated business activities; and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 990-T
- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 10

- Form 1024, Part II, Question 11
- Form 1024, Part II, Financial Data, Part A, Line 3
- Form 1024, Part II, Financial Data, Part A, Line 4
- Form 1024, Part II, Financial Data, Part B, Line 9
- Form 1024, Part II, Financial Data, Part B, Line 10
- Form 1024, Schedule D, Question 1
- Form 1024, Schedule D, Question 2
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-112, 2004-2 C.B. 985 (unrelated trade or business in §501(c)(6) context

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

O) Provide all activities your organization has engaged in with the news media, including copies of articles printed or transcripts of items aired because of that activity.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Treas. Reg. § 1.501(c)(4)-1(a)
- Treas. Reg. § 56.4911-2 (certain public charities)
- Treas. Reg. § 53.4945-2 (private foundations only)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 5
- Form 1024, Part II, Question 15
- Form 1024, Part II, Question 16
- Treas. Reg. § 1.501(c)(3)-1(c)(3)
- Rev. Rul. 2007-41, 2007-1 C.B. 1421
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 74-574, 1974-2 C.B. 160[72]
- Rev. Rul. 70-79, 1970-1 C.B. 127[73]
- Rev. Rul. 68-656, 1968-2 C.B. 216

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

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[72] Rev. Rul .74-574 concludes that a § 501(c)(3) organization that operates a broadcasting station presenting religious, educational, and public interest programs, is not participating in political campaigns on behalf of public candidates in violation of the provisions of that section by providing reasonable air time equally available to all legally qualified candidates for election to public office.

[73] Rev. Rul. 70-79 concludes that an organization created to assist local governments of a metropolitan region by studying and recommending regional policies directed at the solution of mutual problems qualifies for recognition of exemption under § 501(c)(3). The organization researches and analyzes problems discussed at meetings and distributes reports to the local governments and news media.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

P) Provide copies of all direct or indirect communication with members of legislative bodies.

a) the IRS's authority for asking for the information;

- Rev. Proc. 2012-9
- Form 1024
- Internal Revenue Code section 4911
- Internal Revenue Code section 4945 (exceptions to definition of lobbying)
- Treas. Reg. § 1.501(a)-1
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)
- Treas. Reg. § 1.501(c)(3)-1(c)(3)(iv)
- Treas. Reg. § 1.501(c)(4)-1
- Treas. Reg. § 53.4945-2 (private foundations only)
- Treas. Reg. § 56.4911-2(b)(1)(i) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(1)(ii) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(2)(i) (certain public charities)
- Treas. Reg. § 56.4911-2(b)(2)(ii) (certain public charities)

b) the IRS's rationale for needing this piece of information;

Additional information is requested when the organization does not provide a sufficient response to questions in Form 1024 to meet its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

Depending on the facts and circumstances set forth in an organization's application, this additional information may be requested in order to help the agent determine if potential inurement or private benefit exists, and whether the organization's activities primarily further exempt purposes or nonexempt purposes, such as direct or indirect political campaign intervention.

Because the organization is permitted to engage in some non-exempt activities, the information provided must be analyzed not only to determine whether the activities further an exempt purpose, but also to review the scope of the activities to determine whether the primary activities are exempt or non-exempt.

It is important to develop a complete administrative record for the application. The administrative record must be complete so that it either supports exemption or denial. Further, if the application is approved, not only is the administrative record made publicly available (with certain limited exceptions), but organizations that act as described in the administrative record have reliance on the IRS determination.

c) whether any precedent exists for the IRS asking for this type of information;

Listed below is a selection of the applicable precedents that may apply in a given application. In specific cases, there may be additional precedents applicable to the particular facts of the circumstances of the organization.

- Form 1024, Part II, Question 1
- Form 1024, Part II, Question 1
- Rev. Rul. 2004-6, 2004-1 C.B. 328
- Rev. Rul. 70-449, 1970-2 C.B. 111 (§ 501(c)(3) context)
- Rev. Rul. 70-79, 1970-1 C.B. 127 (§ 501(c)(3) context)
- Rev. Rul. 76-81, 1976-1 C.B. 156
- Rev. Rul. 75-286, 1975-2 C.B. 210
- Rev. Rul. 68-656, 1968-2 C.B. 216

- Rev. Rul. 67-293, 1967-2 C.B. 185
- Rev. Rul. 67-163, 1967-1 C.B. 43
- Rev. Rul. 67-6, 1967-1 C.B. 135[74]
- Rev. Rul. 64-195, 1964-2 C. B. 138 (§ 501(c)(3) context)
- Rev. Rul. 62-71, 1962-1 C.B. 85

d) the objective standards the IRS will use when reviewing the response; and

Responses received from the applicant are evaluated based upon the requirements of the particular section in the Code and regulations under which the organization is claiming its exemption.

The IRS has experienced revenue agents, who use sound reasoning based on tax law training, to review applications and supporting materials and to prepare individualized questions and document requests based on the facts and circumstances set forth in the application. The general procedures for reviewing applications for tax-exempt status, which includes requesting further development information, are included in Internal Revenue Manual (IRM) section 7.20.2, as already mentioned. Also, see Revenue Procedure 2012-9, section 4 on the standards for issuing a determination letter or ruling on exempt status.

e) how the IRS will use the information to determine tax-exempt status.

This information is used to establish whether, based on the facts and circumstances, the organization's activities primarily further exempt or non-exempt purposes. The IRS will use the information gathered to determine, within the context of the organization's entire application, whether the organization has met its burden of establishing that it meets the requirements of the statute and regulations under which it seeks exemption.

[74] Rev. Rul. 67-6 concludes that an association whose activities are primarily devoted to preserving the traditions, architecture, and appearance of a community by means of individual and group action before the local legislature and administrative agencies with respect to zoning, traffic, and parking regulations may be exempt from Federal income under § 501(c)(4).

I hope this information is helpful. If you have questions, please contact me or have your staff contact Cathy Barre at (202) 622-3720.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosures