AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

113th Congress
2nd Session

COMMITTEE PRINT

S. PRT.
113–26

IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

MAJORITY STAFF REPORT
with
MINORITY STAFF DISSENTING VIEWS

PREPARED BY THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

SEPTEMBER 5, 2014

Available via the World Wide Web: http://www.fdsys.gov

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

113th Congress
2nd Session

COMMITTEE PRINT

S. PRT.
113–26

IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

MAJORITY STAFF REPORT
with
MINORITY STAFF DISSENTING VIEWS

PREPARED BY THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

SEPTEMBER 5, 2014

Available via the World Wide Web: http://www.fdsys.gov

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

89–800 PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

THOMAS R. CARPER, Delaware *Chairman*

CARL LEVIN, Michigan
MARK L. PRYOR, Arkansas
MARY L. LANDRIEU, Louisiana
CLAIRE MCCASKILL, Missouri
JON TESTER, Montana
MARK BEGICH, Alaska
TAMMY BALDWIN, Wisconsin
HEIDI HEITKAMP, North Dakota

TOM COBURN, Oklahoma
JOHN MCCAIN, Arizona
RON JOHNSON, Wisconsin
ROB PORTMAN, Ohio
RAND PAUL, Kentucky
MICHAEL B. ENZI, Wyoming
KELLY AYOTTE, New Hampshire

RICHARD J. KESSLER, *Staff Director*
KEITH B. ASHDOWN, *Minority Staff Director*
LAURA W. KILBRIDE, *Chief Clerk*
LAUREN M. CORCORAN, *Hearing Clerk*

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CARL LEVIN, Michigan *Chairman*

MARK L. PRYOR, Arkansas
MARY L. LANDRIEU, Louisiana
CLAIRE MCCASKILL, Missouri
JON TESTER, Montana
TAMMY BALDWIN, Wisconsin
HEIDI HEITKAMP, North Dakota

JOHN MCCAIN, Arizona
RON JOHNSON, Wisconsin
ROB PORTMAN, Ohio
RAND PAUL, Kentucky
KELLY AYOTTE, New Hampshire

ELISE J. BEAN, *Staff Director and Chief Counsel*
AHMAD SARSOUR, *Detailee*
HENRY J. KERNER, *Staff Director and Chief Counsel to the Minority*
MICHAEL LUEPTOW, *Counsel to the Minority*
ELISE MULLEN, *Research Assistant to the Minority*

MARY D. ROBERTSON, *Chief Clerk*
ADAM HENDERSON *Professional Staff Member*

Former Subcommittee Staff Who Contributed

LAURA E. STUBER, *Senior Counsel*
HEIDI KELLER, *Congressional Fellow*
MOHAMMAD ASLAMI, *Law Clerk*
BENJAMIN DRISCOLL, *Law Clerk*
KATHERINE ERNST, *Law Clerk*
THARUNI JAYARAMAN, *Law Clerk*
REBECCA PSKOWSKI, *Law Clerk*
JACOB ROGERS, *Law Clerk*
ALEX ZERDEN, *Law Clerk*
KATHRYN BUSCAGLIA, *Law Clerk to the Minority*
DANICA HAMES, *Law Clerk to the Minority*

THOMAS R. CARPER, DELAWARE, CHAIRMAN
CARL LEVIN, MICHIGAN
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE McCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA
TAMMY BALDWIN, WISCONSIN
HEIDI HEITKAMP, NORTH DAKOTA
TOM COBURN, OKLAHOMA
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
MICHAEL B. ENZI, WYOMING
KELLY AYOTTE, NEW HAMPSHIRE
GABRIELLE A. BATKIN, STAFF DIRECTOR
KEITH B. ASHDOWN, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

September 5, 2014

The Honorable Thomas R. Carper
The Honorable Tom Coburn
Committee on Homeland Security and Governmental Affairs
Washington, D.C. 20510

Dear Chairman and Ranking Member:

Today, after more than a year of work, the Permanent Subcommittee on Investigations is releasing this report summarizing the Subcommittee's bipartisan investigation into problems with how the Internal Revenue Service (IRS) has processed applications for tax exempt status under Section 501(c)(4) of the tax code. The Subcommittee Majority staff report is entitled, "IRS and TIGTA Management Failures Related to 501(c)(4) Applicants Engaged in Campaign Activity." The Subcommittee Minority staff, which did not join the Majority staff report, has filed dissenting views entitled, "IRS Targeting Tea Party Groups." In connection with the report, the Subcommittee is also releasing over 1,700 pages of documents from the IRS and Treasury Inspector General for Tax Administration (TIGTA), including emails, correspondence, memoranda, charts, handwritten notes, reports, and analyses.

We hope this report and the accompanying documents provide useful information. Although the Majority and Minority were unable to reach agreement on an analysis of the issues, the Subcommittee maintained its tradition of bipartisan fact-finding throughout the investigation, conducting joint interviews, performing detailed document reviews, and engaging in productive consultations to advance the Subcommittee's oversight work.

Sincerely,

John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

Carl Levin
Chairman
Permanent Subcommittee on Investigations

IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

TABLE OF CONTENTS

I. **EXECUTIVE SUMMARY** 1
- **A. Subcommittee Investigation** 2
- **B. Investigation Overview.** 5
- **C. Findings and Recommendations** 9

Findings
- (1) IRS Management Failures 9
- (2) Inadequate Guidance 9
- (3) Flawed Test 9
- (4) No Political Bias 10
- (5) Flawed Audit Report 10
- (6) TIGTA Management Failures 10
- (7) TIGTA Failure to Disclose 10

Recommendations
- (1) Restore Statutory Standard 10
- (2) Replace Facts and Circumstances Test 11
- (3) Use FEC Data 11
- (4) Improve FEC Forms 11
- (5) Amend TIGTA Report 11

II. **BACKGROUND** 12
- **A. IRS Organizational Responsibilities** 12
- **B. Social Welfare Groups** 15
- **C. IRS Oversight of Section 501(c)(4) Organizations** 24
- **D. Federal Election Law and Increased 501(c)(4) Campaign Involvement** 30

III. **IRS 501(c)(4) SCREENING** 37
- **A. Screening 501(c) Applications Generally** 38
- **B. Flagging Tea Party and Other Groups** 46
- **C. Reviewing Test Cases** 52
- **D. Handling Other Tea Party Cases in Cincinnati: February to October 2010** 62
- **E. Delaying Tea Party Cases Another Year: November 2010 to November 2011** 70
- **F. Processing Applications from Liberal Groups** 81
  - (1) ACORN 82
  - (2) Occupy 90
  - (3) Emerge America 96
  - (4) Progressive Groups 101

G. Developing 501(c)(4) Guidance 105
(1) Seeking Increased Guidance 105
(2) Failing to Agree on a Guidesheet 111
(3) Disagreeing on Development Letters 118
(4) Failing to Agree on Effective Screening Criteria 128
H. Addressing the Backlog 134
(1) Backlog Discovered 135
(2) Bucketing Begins 136
(3) Case Resolutions 138
I. Evaluating Campaign and Social Welfare Activities 140
J. Analysis... 149

IV. TIGTA AUDIT 152
A. TIGTA In General 155
B. Requesting the Audit 156
C. Conducting the Audit 159
(1) Determining the Audit Focus 160
(2) Initiating the Audit 163
(3) Collecting and Analyzing Information 167
(4) Looking for Political Bias 181
(5) Communicating the Audit Results 188
(6) Drafting the Audit Report 192
(7) Apologizing for IRS Conduct 196
(8) Releasing the Audit Report 202
(9) Testifying on the Audit Results 204
D. Analysis 217

MINORITY STAFF DISSENTING VIEWS: IRS TARGETING TEA PARTY GROUPS

I. EXECUTIVE SUMMARY... 219
A. Question of Political Bias and Disparate Impact..... 219
B. Unresolved Factual Issues Meriting Further Investigation... 221
C. IRS Scrutiny of Liberal Groups Differed in Justification and Extent From Its Scrutiny of Conservative Groups... 224
D. The TIGTA Audit Accurately Represented the IRS's Mistreatment of Conservative Groups 228

II. CONSERVATIVE GROUPS TARGETED SIGNIFICANTLY MORE OFTEN AND PERVASIVELY THAN LIBERAL GROUPS... 231
A. Conservative Groups on the BOLO Spreadsheet..... 231

B. Liberal Groups on the BOLO Spreadsheet 235
(1) Progressive and "Progress" Groups 236
(2) ACORN Successors 239
(3) "Occupy" Groups 240
(4) Emerge 241
C. Disparate Impact on Conservative Groups 242

III. TIGTA AUDIT 250
A. Scope of the Audit 250
B. Office of Investigations Email Review 254
C. Advocacy Case List 256
D. Conclusion of TIGTA Section: Audit Was Accurate and Proper. 257

IV. CONCLUSION OF SUBCOMMITTEE MINORITY STAFF REPORT 259

APPENDIX 260
Document Locator List and documents cited in the footnotes to this Report, IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY, a Majority Staff Report with Minority Staff Dissenting Views. The Document Locator List provides the bates numbers or description of the documents cited in the Report and the report exhibit page number where the document can be located. Not included are widely available public documents and documents related to Subcommittee interviews, which are not available to the public.

✧ ✧ ✧

IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

I. EXECUTIVE SUMMARY

On May 10, 2013, the Internal Revenue Service (IRS) apologized for having used the phrase, "Tea Party," to identify 501(c)(4) applications filed by organizations involved with campaign activities and then subjecting those applications to heightened scrutiny. That apology triggered a firestorm of criticism of the IRS centered on a concern that the IRS might have shown political bias in selecting groups for review. An audit report released by the Treasury Inspector General for Tax Administration (TIGTA) a few days later intensified that criticism by reporting that the IRS had used "inappropriate criteria" in selecting applications for review and otherwise mismanaged the 501(c)(4) program. In response, President Obama required the Acting IRS Commissioner to resign, and replaced the leadership of the IRS division handling Exempt Organizations.

For over a year, the U.S. Senate Permanent Subcommittee on Investigations has conducted an investigation into the facts that led to widespread condemnation of how the IRS handled 501(c)(4) applications. That work came on top of a Subcommittee review, already underway, into how the IRS was generally enforcing the law pertaining to groups claiming tax exempt status under Section 501(c)(4) of the tax code.

The Subcommittee investigation has reached many of the same conclusions as the TIGTA audit of the 501(c)(4) application process. The Subcommittee investigation found that the IRS used inappropriate screening criteria when it flagged for increased scrutiny applications based upon the applicants' names or political views rather than direct evidence of their involvement with campaign activities. The Subcommittee investigation also found significant program mismanagement, including years-long delays in processing 501(c)(4) applications; inappropriate, intrusive, and burdensome questioning of groups; and poor communication and coordination between IRS officials in Washington and Cincinnati. At the same time, like TIGTA, the Subcommittee investigation found no evidence of IRS political bias in selecting 501(c)(4) applications for heightened review, as distinguished from using poor judgment in crafting the selection criteria. Based on investigative work that went beyond what TIGTA examined, the Subcommittee investigation also determined that the same problems affected IRS review of 501(c)(4) applications filed by liberal groups.

In addition, the Subcommittee investigation found that, by focusing exclusively on how the IRS handled 501(c)(4) applications filed by conservative groups and excluding any comparative data on applications filed by liberal groups, the TIGTA audit produced distorted audit results that continue to be misinterpreted. The TIGTA audit engagement letter stated that the audit's "overall objective" was to examine the "consistency" of IRS actions in identifying and reviewing 501(c)(4) applications, including whether "conservative groups" experienced "inconsistent treatment." Instead, the audit focused solely on IRS treatment of conservative groups, and omitted any mention of other groups. For example, while the TIGTA report criticized the IRS for using "Tea Party," "9/12," and "Patriot" to identify applications filed by conservative groups, it left out that the IRS also used "Progressive," "ACORN," "Emerge," and "Occupy" to identify applications filed by liberal groups. While the TIGTA report criticized the IRS for subjecting conservative groups to delays, burdensome questions, and mismanagement, it failed to disclose that the IRS subjected liberal groups to the same treatment. The result was that when the TIGTA audit report presented data showing conservative groups were treated inappropriately, it was interpreted to mean conservative groups were handled differently and less favorably than liberal groups, when in fact, both groups experienced the same mistreatment. By excluding any analysis of how liberal groups were handled and failing to provide critical context for its findings, the TIGTA audit inaccurately and unfairly damaged public confidence in the impartiality of the IRS.

The Subcommittee investigation also determined that, by using a "facts and circumstances" test to evaluate 501(c)(4) applications for excessive campaign involvement, the IRS relied upon a time-consuming, case-by-case, non-transparent, subjective, and unpredictable method of evaluation that not only confused and delayed IRS processing of individual applications, but also invited public suspicion that IRS decisionmaking may have been influenced by politics. An overarching problem was the IRS' ongoing failure to enforce the law's requirement that tax-exempt 501(c)(4) groups be operated "exclusively for the promotion of social welfare." To restore compliance with the law as well as public confidence in the impartial resolution of requests for tax exempt status, the IRS needs to establish a more objective and transparent set of standards for evaluating 501(c)(4) applications filed by groups engaged in campaign activities.

A. Subcommittee Investigation

In accordance with its longstanding rules and traditions, the Subcommittee conducted a bipartisan investigation into the 501(c)(4) application process, with joint interviews and document analysis. The Subcommittee collected and reviewed over 800,000 pages of documents

produced by the IRS and TIGTA, including emails, correspondence, memoranda, and analyses. It also reviewed relevant IRS regulations, revenue rulings, private letter rulings, court proceedings, and a number of publicly available Form 1024 applications and Form 990 tax returns filed by 501(c) organizations involved with campaign activities. The Subcommittee also obtained information from the IRS in response to a series of detailed letter requests by Senator Levin, the Subcommittee chairman, and through multiple briefings. In addition, the Subcommittee received a detailed briefing from the Federal Election Commission (FEC) and reviewed FEC regulations and filings, including some independent expenditure and electioneering communication reports filed by 501(c) groups.

During the course of the investigation, the Subcommittee conducted 22 interviews of current and former IRS and TIGTA personnel. The Subcommittee also spoke with and reviewed materials provided by representatives of the FEC and a range of nonprofit groups, as well as academics and other experts in campaign finance, election law, and nonprofit tax requirements. IRS, TIGTA, and FEC personnel, as well as other parties contacted during the course of the investigation, generally cooperated with Subcommittee requests for information.

The Subcommittee investigation proceeded under one key restriction. Unlike the Senate Finance Committee, the Permanent Subcommittee on Investigation does not have statutory authority to view tax return information related to specific taxpayers. For that reason, both the IRS and TIGTA removed from the documents they produced to the Subcommittee all taxpayer-specific return information, requiring the Subcommittee to review documents that included redactions. In addition, the Subcommittee was not permitted to review the actual 501(c)(4) applications selected by the IRS for heightened scrutiny and was also, at times, unable to determine how certain applications were finally resolved. The Subcommittee's inability to get actual taxpayer submissions to the IRS did not, however, preclude the Subcommittee from reviewing hundreds of thousands of IRS documents, including emails, correspondence, memoranda, and analyses; identifying and evaluating the criteria used by the IRS to select applications for heightened review; and examining and evaluating the steps taken by the IRS to manage its review of the 501(c)(4) applications.

On April 30, 2013, as part of its investigation, the Subcommittee conducted a bipartisan, wide-ranging, six-hour inquiry into various aspects of the 501(c) application process with a team of eight IRS employees specializing in issues related to groups seeking tax exempt status. The IRS team was led by Exempt Organizations head Lois Lerner. During that briefing, Ms. Lerner did not mention the audit then underway by the Treasury Inspector General for Tax Administration

(TIGTA) or the upcoming TIGTA audit report that would be released two weeks later. Ms. Lerner also failed to disclose or downplayed the many substantive and administrative problems plaguing the 501(c)(4) application process. After the TIGTA report was released in May 2013, Subcommittee Chairman Levin and Ranking Member McCain sent a letter to the IRS calling for Ms. Lerner's immediate suspension from office due to her failure to disclose "crucial information ... leading to an incomplete account of the full operations of her unit."[1] When the Subcommittee later requested an interview to examine her role in the 501(c)(4) review process, Ms. Lerner asserted her rights under the Fifth Amendment of the U.S. Constitution not to answer questions. The requested interview did not take place. For that reason, the Subcommittee's investigation was unable to obtain Ms. Lerner's testimony about key events, and its investigative results do not reflect any information she might have provided through interviews.

In June 2014, the IRS disclosed that, in the course of producing emails sent to or by Ms. Lerner from 2009 to 2014, the agency discovered that an unknown additional number of Lerner emails over a two-year period from June 2009 to June 2011 – including the period from February 2010 to May 2011 when Tea Party applications were being flagged for review – may have been lost due to a failure of Ms. Lerner's computer hard drive.[2] Since then, an intensive effort has been undertaken by multiple parties to understand how Ms. Lerner's hard drive failed in June 2011, what efforts were made by the IRS at the time to recover emails from her failed hard drive, how the IRS disposed of the hard drive, whether the agency's backup tapes had been recycled and erased the emails, and whether the emails could be recovered in some other manner.[3] In July 2014, TIGTA informed the Subcommittee that it had located several backup tapes that may contain the emails, and that a forensic analysis of those tapes was underway.[4] In addition, the IRS was able to recover many of the Lerner emails from other IRS personnel who had sent or received them.

Because resolution of the issues related to Ms. Lerner's emails is likely to require additional months to resolve, the Subcommittee has

---

[1] 5/23/2013 letter from Subcommittee Chairman Levin and Ranking Member McCain to Acting IRS Commissioner Daniel Werfel.

[2] See, e.g., 6/30/2014 letter from IRS Commissioner John Koskinen to the Subcommittee, with attachment entitled, "Description of IRS Email Collection and Production," at 7. The Subcommittee has already received and reviewed more than 67,000 Lerner emails produced by the IRS to date.

[3] See, e.g., 7/9/2014 letter from IRS Commissioner John Koskinen to the House Committee on Ways and Means, with a copy to the Subcommittee (describing IRS and TIGTA investigations and multiple Congressional hearings); IRS declarations filed in True The Vote, Inc. v United States, Civil Action No. 1:13-cv-00734-RBW (USDC DC), "Federal Defendants' Notice of Filing the Declarations of Timothy P. Camus, Stephen L. Manning, and Todd O. Egaas," (filed on 7/18/2014).

[4] 7/29/2014 briefing by TIGTA of Congressional staff.

already reviewed over 67,000 Lerner emails, and the Subcommittee investigation provides information relevant to an ongoing IRS effort to issue revised regulations for evaluating 501(c)(4) applications filed by groups engaged in campaign activities, Senators Levin and McCain have jointly determined to release this Report, together with the Minority Staff's Dissenting Views, at this time.

B. Investigation Overview

Using documents and interviews, the Subcommittee has conducted an extensive examination of the actions taken by the IRS to review and resolve 501(c)(4) applications filed by groups engaged in political campaign activities. The IRS flagged the first Tea Party application in February 2010. For the next three years, the IRS used a series of screening criteria to identify similar applications from both conservative and liberal groups, subjected those applications to individualized reviews, and determined whether the groups should be granted tax exempt status despite their involvement with campaign activities.

During the first half of that three-year period, the screening criteria used to select applications for heightened review used key phrases taken from the names of some of those organizations or from materials indicating their political views, rather than direct indicators of the groups' involvement with campaign activities. From February 2010 to May 2011, the cases selected for heightened review were referred to as "Tea Party" cases; beginning in June 2011, at the direction of IRS officials in Washington, the name of the category of cases was changed to "advocacy" cases. During both phases, the IRS subjected not only conservative groups with "Tea Party," "9/12," or "Patriot" in their names to heightened scrutiny, but also liberal groups with "Progressive," "Progress," "ACORN," "Emerge," or "Occupy" in their names. The evidence also shows that, from 2010 to mid-2013, more conservative groups than liberal groups applied for tax exempt status, underwent IRS scrutiny, and ultimately won tax exempt status.

All of the cases were handled by the IRS Exempt Organizations Determinations (EOD) Unit in Cincinnati, where IRS agents reviewed the applications to determine whether they should be approved, denied, or suspended pending receipt of more information. Work to resolve the applications was often interrupted, delayed, or halted, while senior IRS Determinations personnel sought guidance from the Exempt Organizations Technical (EOT) Unit in Washington, D.C. about how to handle the cases. Guidance was sought, because EOD personnel were uncertain about how to apply the required "facts and circumstances" test, which mandated consideration of all relevant, material factors to determine whether an applicant was engaged primarily in social welfare activities. Despite constant pressure for additional guidance, EOT

personnel took more than three years to resolve two test cases and drafted, but never finalized, additional guidance on how to screen, develop, and evaluate the applications.

While awaiting the promised EOT guidance, the backlog of 501(c)(4) cases awaiting IRS action grew to about 320 cases. The affected groups could and generally did continue to operate while awaiting disposition of their applications, but they were forced to act without certainty over their tax exempt status, sometimes for years. While waiting for an IRS decision on their tax exempt status, some of the groups had difficulty obtaining contributions from donors or lost funding opportunities, many spent funds on legal representation, and all were unable to exercise appeal rights to advance their cases. When in December 2011, almost two years after the first case was flagged, a newly appointed advocacy case coordinator approved sending out "development letters" to obtain additional information needed to apply the facts and circumstances test, some of the recipients objected to some of the questions as inappropriate, burdensome, or intrusive. Some critics also complained that the letters singled out Tea Party groups for heightened scrutiny. Negative media reports and Congressional inquiries followed. In response, in the first quarter of 2012, the IRS established a special "bucketing" process intended to reduce the backlog of cases, but a year later hundreds of cases remained unresolved.

TIGTA Audit. The audit conducted by the Treasury Inspector General for Tax Administration (TIGTA) was initiated in March 2012, in the midst of the negative media reports about IRS treatment of 501(c)(4) applications filed by organizations engaged in campaign activity, in particular groups aligned with the Tea Party. TIGTA's Office of Audit undertook the audit at the request of the House of Representatives Committee on Oversight and Government Reform. The work was conducted over the following year, and a final audit report was issued in May 2013.

The official TIGTA audit engagement letter stated that the audit's "overall objective" was to "assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues." It also stated: "Several accusations of inconsistent treatment towards conservative groups have been made." Despite being charged with examining the "consistency" of the IRS' actions, TIGTA auditors examined how the IRS handled applications filed by conservative groups, but did not perform any comparative analysis of how the IRS handled applications filed by liberal groups. In response to later media inquiries about why information about liberal groups was excluded, a TIGTA spokeswoman initially said, "we were asked to narrowly focus on Tea Party

organizations," but later indicated she had been given incorrect information.

During the audit, TIGTA auditors focused on actions taken by IRS screeners to identify applications filed by groups whose names or application materials contained the phrases, "Tea Party," "9-12," or "Patriot," noting that the selection criteria focused on the groups' names or political views, rather than on their participation in campaign activities. The TIGTA auditors also focused on a single entry in a broader "Be-on-the-Lookout" (BOLO) list whose wording changed over time, moving from language which urged IRS personnel to identify applications filed by groups affiliated with the "Tea Party movement," to language urging them to identify applications containing "indicators of significant amounts of political campaign intervention." While the IRS admitted the earlier selection criteria were inappropriate, IRS personnel also attempted to demonstrate the criteria were not the result of political bias, by showing TIGTA that the IRS used similar BOLO listings for liberal groups, with screening criteria using the phrases "Progressive," "ACORN," and "Occupy" to identify applications of interest. Despite the IRS' repeatedly drawing attention to those BOLO entries, the TIGTA auditors failed to examine either how the IRS used those BOLO entries or how the IRS handled 501(c)(4) applications filed by liberal groups in comparison to applications filed by conservative groups.

In February 2013, after receiving an allegation that an IRS email had directed IRS employees to "target" Tea Party groups, the Assistant Inspector General responsible for exempt organization issues, Gregory Kutz, asked the TIGTA Office of Investigations to conduct an email search of certain IRS employees. The Office of Investigations then searched over 2,200 emails and other documents from the email accounts of five IRS employees involved with processing 501(c)(4) applications. The Office of Investigations concluded that the 2,200 IRS emails and other documents contained "no indication" that the pulling of Tea Party applications for additional scrutiny by IRS personnel was "politically motivated," advising that the IRS actions were instead the result of inadequate guidance on how to process the applications. Even though that finding by the TIGTA Office of Investigations analysis directly addressed the central issue TIGTA was auditing, whether there was political bias at the IRS, the documentary analysis performed by the Office of Investigations was not included in TIGTA's audit report.

In February 2013, the audit team submitted a draft audit report to the TIGTA Chief Counsel and Office of Audit head. The Chief Counsel suggested removing the word "targeted" from the report, because "targeted has a connotation of improper motivation that does not seem to be supported by the information presented in the audit report." The audit team removed the word from the report except when describing the

allegations that led to the audit. Later that month, TIGTA provided a draft of the report to the IRS.

As the release date for the TIGTA audit report neared, Acting IRS Commissioner Steven Miller decided to try to preempt news coverage of the negative audit results by having the head of the Exempt Organizations division, Lois Lerner, disclose the audit before it was released and apologize for the agency's conduct during a conference she was scheduled to address. On May 10, 2013, at the Acting IRS Commissioner's direction and in response to a planted question, Ms. Lerner apologized for the IRS' having used "Tea Party" to identify 501(c)(4) applications subjected to heightened review. Her apology triggered a public firestorm centered on the allegation that the IRS had shown political bias against conservative groups seeking tax exempt status. The Acting IRS Commissioner and other senior IRS officials were required to resign.

The apology generated intense interest in the TIGTA audit report which was released the following week, on May 14, 2013. The audit report found that the IRS had used "inappropriate criteria" to flag 501(c)(4) applications for heightened review, and "ineffective management" had caused delays and subjected applicants to burdensome information requests. TIGTA Inspector General George was asked to testify at multiple Congressional hearings about the audit findings. When pressed about whether the IRS had unfairly targeted conservative groups, Mr. George testified that TIGTA had found no sign of political bias at the IRS, but offered as evidence only the denials of the IRS officials involved. He made no mention of the email review conducted by the TIGTA Office of Investigations or its conclusion that the documents contained "no indication" that the IRS' actions were "politically motivated," even though that investigative finding directly addressed the issue of political bias at the IRS. Mr. George told the Subcommittee that he did not mention the Office of Investigations' finding, because no one on his staff had told him about it. On June 6, 2014, Mr. George confirmed in a letter to the Subcommittee that the TIGTA audit had "found no evidence of political bias," also stating "it is important to note that the matter is being further reviewed."

On May 21, 2013, the night before the third Congressional hearing at which the Inspector General testified about the audit, the TIGTA Chief Counsel decided to review the IRS BOLOs before providing copies to Congress. During his review, he saw, for the first time, BOLO entries naming two liberal groups, ACORN and Occupy. He promptly informed Inspector General George and Assistant Inspector General Kutz, both of whom told the Subcommittee they had previously been unaware of any BOLO listings for liberal groups, even though the IRS had provided copies and repeatedly informed the TIGTA audit team

about them. Even after learning about them, the senior TIGTA officials remained silent for weeks about the BOLO entries for liberal groups, and provided incomplete and inaccurate testimony about them at Congressional hearings. When the BOLO listings for liberal groups were finally disclosed by Members of Congress and the media, senior TIGTA officials insisted that the IRS had not disclosed those listings during the TIGTA audit, despite ample evidence to the contrary.

During their Subcommittee interviews, Mr. George and Mr. Kutz indicated they had since reconsidered how the TIGTA audit report treated 501(c)(4) applications filed by liberal groups. Mr. George told the Subcommittee that the audit report should have acknowledged the existence of the BOLO entries that named liberal groups and that TIGTA auditors should have looked into those other groups. Mr. Kutz indicated TIGTA potentially should have included the BOLO listings for progressive, ACORN, and Occupy groups in its analysis, although he thought it might have delayed completion of the audit for another year. TIGTA has since initiated an audit into how those and other BOLO entries were used, but has put that audit on hold pending other law enforcement investigative efforts related to Lois Lerner and IRS.

C. Findings and Recommendations

Findings. The Subcommittee investigation makes the following findings of fact.

(1) **IRS Management Failures.** From 2010 through 2013, the IRS mismanaged the 501(c)(4) applications process for both conservative and liberal groups engaged in campaign activities, using inappropriate selection criteria based on the applicants' names or policy views to flag applications for heightened review, subjecting some applicants to burdensome questions, and delaying disposition of some applications for years.

(2) **Inadequate Guidance.** The IRS provided insufficient guidance and training to IRS personnel on how to process 501(c)(4) applications filed by groups engaged in campaign activities, and failed to finalize a proposed set of guidesheets with additional guidance for IRS personnel despite nearly one year of work on the project.

(3) **Flawed Test.** The facts and circumstances test used by the IRS was criticized as difficult to administer by every IRS official interviewed, from most to least senior; it required IRS agents to ask wide ranging and intrusive questions, slowed the processing of 501(c)(4) applications, and

produced subjective and inconsistent decisions on applications.

(4) **No Political Bias.** A review of nearly 800,000 pages of documents and the conduct of nearly two dozen IRS and TIGTA employee interviews produced no evidence of political bias by the IRS against conservative groups that filed 501(c)(4) applications, a finding which is consistent with TIGTA's June 2014 letter stating that the TIGTA audit "found no evidence of political bias."

(5) **Flawed Audit Report.** The TIGTA audit report presented a distorted description of how the IRS handled 501(c)(4) applications, by omitting TIGTA's determination that the audit had "found no evidence of political bias"; by restricting its analysis to conservative groups and omitting comparative data for nonconservative groups; by failing to disclose the BOLO listings for liberal groups; and by omitting mention of the email review by the TIGTA Office of Investigations which, after conducting a thorough review of over 2,200 emails and other documents, found "no indication" that IRS actions in pulling Tea Party applications for heightened scrutiny were politically motivated.

(6) **TIGTA Management Failures.** TIGTA management failed to adequately supervise and ensure a balanced audit process, excluded key information from the audit report, omitted the key determination that the audit had "found no evidence of political bias," and inaccurately and unfairly damaged public confidence in the impartiality of the IRS.

(7) **TIGTA Failure to Disclose.** After TIGTA senior officials learned that the audit report omitted important information about IRS BOLO listings for liberal as well as conservative groups, TIGTA failed to disclose the new information for weeks, even though it was directly relevant to TIGTA's audit objective and could have helped alleviate public concern about potential IRS political bias.

Recommendations. Based upon the Subcommittee's investigation, the Report makes the following recommendations.

(1) **Restore Statutory Standard.** The IRS should revise its rules to comply with the statutory requirement that 501(c)(4) organizations engage "exclusively" in social welfare activities, including by applying an "insubstantial"

test to limit other activities, similar to the one already applied to 501(c)(3) charities, and by applying a percentage test to ensure campaign activities comprise no more than an insubstantial portion of a tax-exempt social welfare organization's activities.

(2) **Replace Facts and Circumstances Test.** The IRS should replace the "facts and circumstances test" with objective standards and bright line rules that would produce more consistent, timely, transparent, and predictable treatment of 501(c)(4) applications filed by groups that engage in campaign activities.

(3) **Use FEC Data.** The IRS should require 501(c)(4) groups to provide a copy of any FEC filing within a few days of submitting it to the FEC, and use the FEC data to help identify 501(c)(4) groups warranting heightened review for campaign activity, since the FEC data provides direct evidence of campaign involvement.

(4) **Improve FEC Forms.** The FEC should amend its forms to include the filer's 501(c) status, including whether it has been approved by the IRS for tax exemption under a specific 501(c) subsection or has a pending application.

(5) **Amend TIGTA Report**. To provide a more complete and balanced analysis of how the IRS identified and reviewed 501(c)(4) applications for groups engaged in campaign activities, TIGTA should amend its audit report to include its determination that the audit "found no evidence of political bias" and add information about IRS BOLO entries and IRS processing of applications filed by groups with "Progressive," "Progress," "ACORN," "Occupy," or "Emerge" in their names.

II. BACKGROUND

Section 501(c) of the U.S. tax code exempts from taxation over two dozen types of nonprofit organizations, including charities, social welfare groups, business associations, and labor unions.[5] The tax code also exempts from taxation "political organizations," such as campaign committees, under Section 527.[6] Today, within the United States, about 1.6 million tax exempt organizations report about $2.4 trillion in assets.[7]

A. IRS Organizational Responsibilities

Tax-exempt organizations, under both Section 501(c) and Section 527, are overseen by a number of offices and organizations within the IRS. The following chart depicts the key IRS offices involved with overseeing 501(c) applications and organizations.[8]

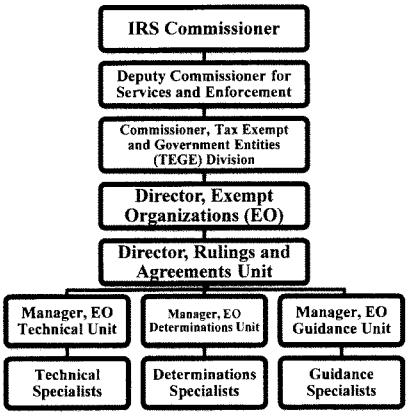
---

[5] Charities are exempt from taxation under Section 501(c)(3), social welfare organizations under Section 501(c)(4), labor unions under Section 501(c)(5), and business groups under Section 501(c)(6). More specifically, Section 501(c)(3) exempts "[c]orporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes." 26 U.S.C. § 501(c)(3) (2012). Section 501(c)(4) exempts "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare." Id. at 501(c)(4)(A). Section 501(c)(5)(a)(2) exempts labor, agricultural, and horticultural organizations that "have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations." 26 C.F.R. § 1.501(c)(5)-1(a)(2) (2012). Section 501(c)(6) exempts "[b]usiness leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual." 26 U.S.C. § 501(c)(6) (2012).

[6] Section 527(e)(1) defines a political organization as a "a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function." Section 527(e)(2) defines an "exempt function" as "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." Unlike 501(c) organizations, Section 527 organizations must disclose "[t]he name and address ... of all contributors which contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount and date of the contribution." Section 527(j)(3)(B).

[7] "Tax Exempt & Government Entities Division At-a-Glance," IRS (2/21/2014), http://www.irs.gov/uac/Tax-Exempt-&-Government-Entities-Division-At-a-Glance.

[8] This chart, which was prepared by the Subcommittee, is based upon an organizational chart and other information supplied by the IRS. See, e.g., IRS chart, http://www.irs.gov/pub/irs-news/irs_org_chart_2012_.pdf; undated "FY 2012 Annual Report & FY 2013 Workplan," IRS Exempt Organizations, at 2, http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf. See also 5/14/2013 TIGTA Audit Report, at 29; "Tax Exempt & Government Entities Division At-a-Glance," prepared by IRS (2/21/2014), http://www.irs.gov/uac/Tax-Exempt-&-Government-Entities-Division-At-a-Glance, reprinted in "IRS Org Chart Puts Ingram, Lerner at Center of Power," Breitbart, Wynton Hall (5/23/2013), http://www.breitbart.com/Big-Government/2013/05/23/EXCLUSIVE-IRS-Org-Chart-Puts-Ingram-and-Lerner-At-Center-of-Power.



Prepared by U.S. Senate Permanent Subcommittee on Investigations, August 2014

The lead organization is the IRS Tax Exempt and Government Entities (TEGE) Division, which oversees all "Exempt Organizations."[9] The head of the TEGE Division reports to the Deputy Commissioner for Services and Enforcement who, in turn, reports to the IRS Commissioner. From 2004 to 2009, the TEGE Division head was Steven T. Miller. When he was promoted in 2009, he was replaced by Sarah Hall Ingram.[10] In December 2010, after Ms. Ingram was also promoted, she was replaced by her deputy Joseph Grant who served as the Acting and then full TEGE Commissioner until May 2013, when he retired. Mr. Grant was replaced by Acting Commissioner Michael Julianelle, who was, in turn, replaced in December 2013, by the current TEGE Commissioner Sunita Lough.

Within the TEGE Division, a subdivision called Exempt Organizations (EO) is charged with handling all entities claiming tax exempt status.[11] The EO mission statement requires it to help exempt organizations "to understand and comply with applicable tax laws, and to protect the public interest by applying the tax law with integrity and

[9] "Tax Exempt & Government Entities Division At-a-Glance," prepared by IRS, http://www.irs.gov/uac/Tax-Exempt-&-Government-Entities-Division-At-a-Glance. The TEGE Division was established in late 1999, as part of an IRS modernization effort, replacing a group headed by an Assistant Commissioner for Employee Plans and Exempt Organizations, established in 1974. Id. It also oversees "Employee Plans" and "Government Entities." Id.
[10] In April 2009, Mr. Miller was promoted to Commissioner of the Large and Mid-Sized Business Division; in September 2009, he was promoted to Deputy Commissioner for Services and Enforcement, where he remained until appointed Acting IRS Commissioner in November 2012.
[11] "Tax Exempt & Government Entities Division At-a-Glance," prepared by IRS, http://www.irs.gov/uac/Tax-Exempt-&-Government-Entities-Division-At-a-Glance. EO oversees organizations exempt from income tax under Section 501, Section 527, and other tax code provisions. Id.

fairness to all."[12] Its responsibilities include overseeing the disposition of applications for tax exempt status, and overseeing existing tax-exempt organizations to ensure ongoing compliance with the legal requirements for tax exemption. From 1999 to 2004, the EO Director was Steven Miller, who served in that position until he was promoted to TEGE Commissioner. In 2006, Lois Lerner was appointed EO Director and served in that post until May 2013, when she was replaced by Acting Director Ken Corbin.[13] In December 2013, Mr. Corbin was replaced by Tamera Ripperda, the current EO Director.

Within the EO, the Rulings and Agreements Unit has "jurisdiction over processing determination letters and ruling letters on applications for recognition of tax exempt status under sections 501(a) and 521."[14] From 2006 to December 2010, the Acting and then full Director of the Rulings and Agreements Unit was Robert Choi. In January 2011, he was promoted and replaced by Holly Paz.[15] Ms. Paz held that position until June 2013, when she was placed on administrative leave,[16] and Karen Schiller became the Acting Director. In December 2013, Ms. Schiller was replaced by Stephen Martin who is the current Acting Director of the Rulings and Agreements Unit.[17]

Within the Rulings and Agreements Unit, the EO Determinations Unit is responsible for the initial handling of tax exempt applications.[18] Each year, the IRS receives approximately 70,000 applications from groups seeking tax exempt status under Section 501(c), most of which are filed by Section 501(c)(3) applicants.[19] From 2005 until 2013, the

---

[12] Id.

[13] Ms. Lerner retired from the IRS in September 2013. See, e.g., "Lois Lerner still Hill's favorite piñata," Politico, Lauren French, (9/23/2013), http://www.politico.com/story/2013/09/lois-lerner-retires-irs-97217.html.

[14] Internal Revenue Manual, § 7.20.1.1 (12-20-2012), Part 7. Rulings and Agreements, IRS, http://www.irs.gov/irm/part7/irm_07-020-001.html.

[15] Prior to becoming Rulings and Agreements Director, Ms. Paz worked in the EO Technical Unit. At the request of Mr. Choi, she became Acting Director in charge of EO Technical in September 2009, and then, a year later in September 2010, she had become the full Director. In January 2011, she was promoted to Acting Director of Rulings and Agreements, taking over from Mr. Choi. In May 2012, she became the permanent Director of Rulings and Agreements. In June 2013, she was placed on administrative leave pending an investigation into the matters covered by this Report. Subcommittee interview of Holly Paz, IRS (10/30/2013).

[16] 4/23/2012 email from Kim Barczak to IRS Staff (Executives All), "Executive Announcement," TIGTA Bates No. 012554.

[17] "About Exempt Organizations," IRS (3/27/2014), http://www.irs.gov/Charities-&-Non-Profits/About-IRS-Exempt-Organizations.

[18] "2012 Annual Report & 2013 Work Plan," IRS (2013), http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf.

[19] "SOI Tax Stats – Annual Extract of Tax-Exempt Organization Financial Data," prepared by IRS, http://www.irs.gov/uac/SOI-Tax-Stats-Annual-Extract-of-Tax-Exempt-Organization-Financial-Data; 5/15/2013 "Questions and Answers on 501(c) Organizations," IRS, http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-501(c)-Organizations (stating EO Determinations "receives approximately 70,000 applications for tax-exempt status of all kinds each year"). The following is a statistical breakdown of 501(c) applications, including for 501(c)(4) tax exempt status, the IRS received over 7 fiscal years. **Fiscal Year 2007 Applications:** Section 501(c) total applications = 91,689; Social welfare applications = 1,867;

head of the EO Determinations Unit was Program Manager Lucinda (Cindy) Thomas. Ms. Thomas was located at an IRS office in Cincinnati which housed the EO Determinations Unit, and reported to the Director of Rulings and Agreements who was located in Washington, D.C. In August 2013, Ms. Thomas became a senior technical adviser to the EO Director. The position of EO Determinations head is currently vacant.

From 2008 to November 2012, the IRS Commissioner was Douglas H. Shulman. After he completed his five-year term, Mr. Shulman was replaced by Steven Miller who served as the Acting IRS Commissioner until his resignation in May 2013. Mr. Miller was replaced by Acting IRS Commissioner Daniel Werfel until, on December 20, 2013, John Koskinen was confirmed by the Senate as the new IRS Commissioner and sworn into office a few days later.

B. Social Welfare Groups

Within Section 501(c), which grants tax exempt status to a variety of organizations and entities, Section 501(c)(4) focuses on civic groups dedicated to the "promotion of social welfare." Since the law permits but does not require social welfare groups to obtain prior IRS approval before holding themselves out as tax exempt, the IRS does not have a comprehensive list of all 501(c)(4) organizations.[20] As of 2013, the total number of tax-exempt social welfare groups was estimated to exceed 82,000 organizations.[21]

History of Tax Exemption. The origins of Section 501(c)(4) date back to the Revenue Act of 1913, which created the modern Federal

---

Fiscal Year 2008 Applications: Section 501(c) total applications = 84,180; Social welfare applications = 1,492; **Fiscal Year 2009 Applications:** Section 501(c) total applications = 77,221; Social welfare applications = 1,922; **Fiscal Year 2010 Applications:** Section 501(c) total applications = 65,548; Social welfare applications = 1,741; **Fiscal Year 2011 Applications:** Section 501(c) total applications = 60,980; Social welfare applications = 1,777; **Fiscal Year 2012 Applications:** Section 501(c) total applications = 60,780; Social welfare applications = 2,774; **Fiscal Year 2013 Applications:** Section 501(c) total applications = 53,179; Social welfare applications = 2,253. 6/4/2012 letter from the IRS responding to the Subcommittee, prepared by the IRS, PSI-IRS-02-000001 - 026, at 022 - 026 (providing the 2007 to 2011 statistical breakdown); "2012 IRS Internal Revenue Service Data Book, prepared by the IRS, (October 1, 2011 to September 30, 2012), at 55, http://www.irs.gov/pub/irs-soi/12databk.pdf (providing the 2012 statistical breakdown); "SOI Tax Stats – Closures of Applications for Tax-Exempt Status – IRS Data Book," prepared by the IRS, http://www.irs.gov/uac/SOI-Tax-Stats-Closures-of-Applications-for-Tax-Exempt-Status-IRS-Data-Book-Table-24 (providing the 2013 statistical breakdown). See also Subcommittee interview of John Shafer, IRS (1/17/2013).

[20] See "Contributions to Organization with IRS Application Pending," IRS (4/18/2014), http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Contributions-to-Organization-with-IRS-Application-Pending.

[21] "Number of Nonprofit Organizations in the United States, 2003 - 2013," National Center for Charitable Statistics, http://nccsweb.urban.org/PubApps/profileDrillDown.php?state=US&rpt=CO.

income tax system.[22] The 1913 provision granted tax exempt status to "civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare."[23] Those same words remain in the law today. In 1986, Section 231(8) was re-designated Section 501(c)(4) as part of a comprehensive tax reform bill enacted that year.[24] In 1996, the statutory provision was amended by adding a clarification that a social welfare organization's net earnings may not inure to the benefit of private shareholders or individuals.[25]

Promoting Social Welfare. The initial implementing regulations did not explain the meaning of the phrase "promotion of social welfare."[26] In 1924, revised regulations explained that organizations seeking exemption under Section 501(c)(4)'s predecessor section were required to operate "exclusively for purposes beneficial to the community as a whole," and included "organizations engaged in promoting the welfare of mankind."[27] Those regulations remained substantially unchanged until 1959, when they were revised again. The 1959 regulations stated for the first time that 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," including organizations operated "primarily for the purpose of bringing about civic betterments and social improvements."[28] A 1973 IRS Revenue Ruling explained that

---

[22] See Revenue Act of 1913, also known as the Underwood Tariff Act of 1913, ch. 16, § II (G)(a), 38 Stat. 114 (1913); "501(c)(4) Organizations," IRS, John Francis Reilly, Carter C. Hull, and Barbara A. Braig Allen, at 2 (2003), http://www.irs.gov/pub/irs-tege/eotopici03.pdf. The Committee Reports for the 1913 Revenue Act do not discuss the reason behind providing tax exempt status to civic leagues. See also "Social Welfare: What Does it Mean? How Much Private Benefit is Permissible? What is Community?" IRS, at 1, http://www.irs.gov/pub/irs-tege/eotopicg81.pdf. Some commentators suggest that the section was designed to address organizations which did not qualify based on religious, educational, or charitable grounds, but still provided benefits to the public. See "The History of the 501(c)(4) Exemption," Wall Street Journal, Jacob Gershman, (11/26/2013), http://blogs.wsj.com/law/2013/11/26/the-history-of-the-501c4-exemption/ (quoting "Exempt Organizations Advocacy: Matching the Rules to the Rationales," 63 Ind. L. Rev. 201, 290, Laura B. Chisolm (1988)).

[23] Revenue Act of 1913, ch. 16, § II (G)(a), 38 Stat 114 (1913). In 1924, the provision was amended to add certain local associations of employees, but retained the same wording for civic leagues and organizations. See Revenue Act of 1924, ch. 234, § 231(8), 43 Stat. 253 (1924).

[24] See Tax Reform Act of 1986, P.L. 99-514, 100 Stat. 2085 (1986); Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, Prop. Treas. Reg. § 1.501(c)(4), 78 Fed. Reg. 230, at 71535 (2013), http://www.gpo.gov/fdsys/pkg/FR-2013-11-29/pdf/2013-28492.pdf (describing history of Section 501(c)(4)).

[25] See Taxpayer Bill of Rights II, P.L. 104-168, 110 Stat. 1452, § 1311(a) (1996), http://www.irs.gov/pub/irs-utl/doc7394.pdf. See also Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, Prop. Treas. Reg. § 1.501(c)(4), 78 Fed. Reg. 230, at 71535 (2013), http://www.gpo.gov/fdsys/pkg/FR-2013-11-29/pdf/2013-28492.pdf.

[26] See Regulations 33 (Rev.), art. 67 (1918) (cited in 11/29/2013 "Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities," Prop. Treas. Reg. § 1.501(c)(4), 78 Fed. Reg. 230, http://www.gpo.gov/fdsys/pkg/FR-2013-11-29/pdf/2013-28492.pdf.).

[27] Treas. Reg. 65, Art. 519, T.D. 3640, 26 Treas. Dec. Int. Rev. 745. 897 (1924).

[28] Treas. Reg. § 1.501(c)(4)-(1)(a)(2)(i).

an organization which is "operated essentially for the benefit of its members" does not promote social welfare.[29]

Over time, a small group of court cases have applied the statutory and regulatory provisions to specific organizations and further addressed their meaning. One case held that "the organization must be a community movement designed to accomplish community ends."[30] Others explained that organizations do not qualify for tax exemption under Section 501(c)(4) if they provide primarily a private benefit, even in instances where such private benefits contribute substantial benefits to the public.[31]

Exclusively v. Primarily. A second key issue is the extent to which a social welfare organization may engage in unrelated activities and still retain its tax exempt status. Section 501(c)(4) states: "Civic leagues or organizations not organized for profit but operated **exclusively** for the promotion of social welfare" are exempt from taxation.[32] However, the 1959 implementing regulation states: "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."[33] The 1959 regulation essentially substituted the word "primarily" for the word "exclusively," contrary to the plain wording of the statute and the plain meaning of the word "exclusively." This mismatch between the statute and regulation has been the subject of debate within the IRS for decades.[34] Despite the clear contradiction, the IRS regulation has been upheld in court.[35]

---

[29] Rev. Rul. 73-306, 1973-2 C.B., http://www.irs.gov/pub/irs-tege/rr73-306.pdf.

[30] Erie Endowment v. United States, 316 F.2d 151, 156 (3d Cir. 1963).

[31] See, e.g., Commissioner v. Lake Forest, Inc., 305 F.2d 814, 818 (4th Cir. 1962) (denying tax exempt status to an organization which was a "public-spirited but privately devoted endeavor" and provided only incidental benefits to the community); Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d. 684, 687 (2d Cir. 1974), cert. denied , 419 U.S. 827 (1974) (determining that the "substantial and different benefits to both the public and its private members" meant the cooperative was not primarily devoted to the common good, and was therefore excluded from tax-exempt status).

[32] 26 U.S.C. § 501(c)(4) (2012) (emphasis added).

[33] 26 C.F.R. § 1.501(c)(4)-1(a)(2)(i) (2012) (emphasis added).

[34] See, e.g., undated legal analysis entitled, "Exclusively Standard Under § 501(c)(4)," prepared by IRS, IRSR0000410696 - 711, circulated with a 3/21/2012 email from Justin Lowe to David Fish, "c4 history," IRSR0000410695 (hereinafter "Exclusively Standard Under § 501(c)(4)") (citing, among other materials, a 3/31/1978 Interpretative Division Memorandum that "'prompted a reexamination of a perennially troublesome question: Should the Regulations implementing 501(c)(4) be changed?' because the regulatory language ('primarily') differs from the statutory language ('exclusively').").

[35] See, e.g., Democratic Leadership Council, Inc. v. United States, 542 F. Supp.2d 63, 69 (D.D.C. 2008) ("Federal courts have long interpreted the statute consistently with the regulations: a § 501(c)(4) organization must *primarily* operate to bring about social improvements. ... Though the Supreme Court has not explicitly held that the somewhat counterintuitive definition of 'exclusively' as 'primarily' is permissible, the parties agree that this is the applicable definition." (emphasis in original)); Vision Serv. Plan v. United States, 96 A.F.T.R.2d 2005-7440 (E.D. Cal 2005), aff'd 265 Fed. Appx. 650 (9th Cir. 2008) ("Although the

An internal IRS analysis also highlights a difference between the implementing regulations for 501(c)(4) and 501(c)(3) organizations.[36] Although both statutory provisions require covered organizations to be engaged "exclusively" in a specified activity, and both regulations then replace "exclusively" with "primarily," the 501(c)(3) regulation goes on to impose a restriction that the 501(c)(4) regulation does not. It states that a 501(c)(3) organization "will not be so regarded *if more than an insubstantial part* of its activities is not in furtherance of an exempt purpose."[37] The courts have interpreted this regulatory provision to bar 501(c)(3) charities from engaging in a "substantial non-exempt purpose."[38] In contrast, the IRS has determined that 501(c)(4) social welfare organizations "may engage in more non-exempt activity than (c)(3) organizations ... reasoning that the §501(c)(4) regulations lack the 'insubstantial part' language that is present in the §501(c)(3) regulations."[39] It concludes that a "§501(c)(4) exempt organization may engage in substantial non-exempt activities,"[40] and may engage in "as much non-exempt activity as it wants so long as it is 'short of being the organization's primary activity.'"[41]

The 1959 regulation did not define either "exclusively" or "primarily," and neither term has been defined by the IRS since then, despite debate on the topic within the IRS over the years.[42] Instead, the IRS engages in a "facts and circumstances test" in order to determine whether an organization is engaged primarily in social welfare activities.[43] Under that test, the IRS considers multiple factors in assessing an organization's activities, and "no one factor is determinative."[44] Factors considered by the IRS 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 such activities (by volunteers and employees); the purposes

---

words 'exclusively' and 'primarily' have different meanings, courts interpret the word 'exclusively' to mean 'primarily.'"). See also "Section 501(c)(4) Advocacy Organizations: Political Candidate-Related and Other Partisan Activities in Furtherance of the Social Welfare," 36 Seattle U. L. Rev. 1337, 1346, Terence Dougherty (2013).

[36] See "Exclusively Standard Under § 501(c)(4)," prepared by IRS, IRSR0000410696 - 711.

[37] Id. at 1-2, citing Treas.Reg. § 1.501(c)(3)-1(c)(1) (emphasis in original).

[38] Id. at 4-9, citing among other cases, Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d. 684 (2d Cir. 1974), cert. denied, 419 U.S. 827 (1974) ("the presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purposes").

[39] Id. at 10.

[40] Id.

[41] Id. at 12.

[42] See, e.g., undated "Proposals to Alter the 501(c)(4) Regulations," prepared by the IRS, IRSR0000508181 (citing G.C.M. 32395 (1962); G.C.M. 33495 (1967); and G.C.M. 38215 (1979)).

[43] See, e.g., Rev. Rul. 68-45, 1968-1 C.B. 259 (ruling that the principal source of income does not determine an organization's primary activity under § 501(c)(4); all facts and circumstances must be considered).

[44] 6/4/2012 IRS letter responding to the Subcommittee, PSI-IRS-02-000008. See also 4/20/2012 email from Lois Lerner to Nalee Park, [no subject line], IRSR0000411359.

furthered by various activities; and the amount of funds received from and devoted to particular activities."[45]

Percentage Test. One recurrent issue is whether the IRS uses a "percentage test" to determine whether an organization is engaged primarily in social welfare activities. Under this approach, the IRS would determine the percentage of an organization's funds or resources spent on social welfare activities and, if that percentage were to exceed a specified level, would then find the organization to be engaged primarily in social welfare activities.

The IRS informed the Subcommittee that it does not use a percentage test: "The IRS has taken no position on a fixed percentage or any one factor in precedential guidance."[46] At the same time, the investigation uncovered several internal documents suggesting that the IRS has, at least at times, used a 50% or 51% test.[47] In addition, several senior IRS officials told the Subcommittee that the IRS uses a percentage test.[48] Many in the tax exempt community have also indicated that they view "primarily" to mean the organization's social

---

[45] Priv. Ltr. Rul. 201224034 (3/21/2012), prepared by IRS. See also Rev. Rul. 74-361, 1974-2 C.B. 159; Rev. Rul. 68-45, 1968-1 C.B. 259.

[46] 6/4/2012 IRS letter responding to the Subcommittee, PSI-IRS-02-000001 - 026, at 008. The IRS cited a number of sources supporting its position:

> "Treas. Reg. § 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 § 501 (c)(4); all the facts and circumstances are considered). See, generally Haswell v. United States, 500 F.2d 1133, 1142, 1147 (Cl. Cl. 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)."

Id. at footnote 12. See also Exclusively Standard Under § 501(c)(4), prepared by IRS, at 14 ("The IRS has not published a precise method of measuring exempt activities or purposes in any of its published guidance, though three revenue rulings have stated that all of the organization's activities must be considered and that there is no pure expenditure test.").

[47] See, e.g., 7/2009 "Instructor Guide, Exempt Organizations Determinations Unit 1b," prepared by IRS, IRSR0000540412 - 545, at 436 (stating "exclusively only means primary for (c)(4) and primary is generally understood to mean 51%"); 7/28/2010 "Screening Workshop Notes," prepared by IRS, IRSR0000006723 (including a presentation indicating that if an organization engaged in "more than 50% political" activity, it might be a political action committee, rather than a social welfare organization).

[48] Subcommittee interview of Steven Miller, IRS (12/11/2013) (indicating it was common knowledge at the IRS that a 501(c)(4) organization was permitted to engage in campaign activities up to 49% of its total expenditures) and Cindy Thomas, IRS (11/13/2013) (indicating the IRS used a 51% test to establish whether an organization was engaged primarily in social welfare activities).

welfare activities must consume at least 50% of its spending and resources.[49]

Over the years, some courts have interpreted the terms "exclusively" and "primarily," but those cases have not been dispositive with respect to social welfare organizations.[50] Most of the court decisions have interpreted the law with respect to 501(c)(3) charities as opposed to social welfare organizations, or examined the term "exclusively" in other contexts.[51]

Social Welfare v. Campaign Activities. A third key issue, which has gained urgency in recent years, is distinguishing between social welfare activities and campaign activities which do not qualify an organization for tax exempt status under Section 501(c)(4). The law's 1959 implementing regulations state: "[T]he 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."[52] The provision makes it clear that participating in political campaigns on behalf of or against a candidate is not considered a social welfare activity.

The wording of Section 501(c)(4)'s regulatory restriction on campaign activities is similar to the wording of a statutory restriction on Section 501(c)(3) charitable organizations, which states that a tax exempt charity may "not participate in, or intervene in (including the

---

[49] See, e.g., 5/25/2004 letter from Richard Shaw to IRS Commissioner Mark Everson, IRSR0000507273; 5/25/2004 "Comments of the Individual Members of the Exempt Organizations Committee's Task Force on Section 501(c)(4) and Politics," Greg Colvin and Miriam Galston, IRSR0000507274, at 307 - 309, "501(c)(4) and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 5 (5/17/2013).

[50] See, e.g., People's Educ. Camp Society, Inc. v. Commissioner, 39 T.C. 756, 768 (1963) (applying an unrelated Supreme Court interpretation of "exclusively" as lacking any other substantial purpose to 501(c)(4) status determination). See also G.C.M. 33495 (1967); "Vision Service Plan v. U.S.: Implications for Campaign Activities of 501(c)(4)s," 53 Exempt Org. Tax Rev. 165, Miriam Galston (2006).

[51] See, e.g., Better Business Bureau v. United States, 326 U.S. 279, 283 (1945) (the Supreme Court, when asked to determine whether an organization was operating "exclusively" as required by a provision in the Social Security Act, wrote that the exclusivity requirement "plainly means that the presence of a single [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purpose"). Several courts have analyzed the meaning of the word "substantial" and "insubstantial" in the context of Section 501(c)(3) charities which may lose their tax exempt status "if a substantial part of [their] activities is attempting to influence legislation (commonly known as lobbying)." IRS document entitled, "Lobbying," on IRS website, http://www.irs.gov/Charities-%26-Non-Profits/Lobbying. Case law has determined that lobbying activities may be treated as "insubstantial" if they use no more than 5 to 15% of the charitable organization's expenditures. See, e.g., Haswell v. United States, 500 F.2d 1133 (Ct. Cl. 1974) (spending between 16.6% and 20.5% of an organization's time on lobbying is substantial); Seasongood v. Commissioner, 227 F.2d 907 (6th Cir. 1955) (devoting less than 5% of activities to lobbying is not substantial). See also "501(c)(4) and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 3-4 (5/17/2013).

[52] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."[53] Section 501(c)(3) imposes a complete statutory ban on charities participating in campaign activities. Section 501(c)(4)'s regulation appeared to have attempted to impose the same ban on social welfare groups by stating that campaign activities do not qualify as social welfare activities. But because of the regulation's substitution of the word "primarily" for "exclusively," the end result has been that the IRS has allowed social welfare organizations to engage in campaign activities while retaining their tax exempt status, so long as the organization remained engaged "primarily" in social welfare activities.[54]

Determining when an organization is engaged in social welfare versus campaign activity can be difficult, since some educational and issue advocacy activities that might qualify as promoting social welfare could also be seen as advocating for a particular candidate or party.[55] The IRS has issued several revenue rulings that provide limited guidance on identifying campaign activities.[56] A June 2013 report by the IRS after a review of 501(c)(4) tax-exempt applications concluded: "One of the significant challenges with 501(c)(4) review process has been the

---

[53] 26 U.S.C. § 501(c)(3) (2012). See also 26 C.F.R. § 1-501(c)(3) - 1(b)(3)(ii) (2008).

[54] See Rev. Ruling 81-95, 1981-1 C.B. 332 ("[A]n 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 the social welfare."). See also Rev. Rul, 2007-41, 2007-25 I.R.B (describing activities that qualify as intervening on behalf of or in opposition to a specific candidate); 1995 "Political Organizations and IRC 501(c)(4)," IRS, Raymond Chick and Amy Henchey, http://www.irs.gov/pub/irs-tege/eotopicm95.pdf (stating that "an organization exempt under IRC 501(c)(4) may engage in political activities if those activities are not the organization's primary activity.").

[55] See, e.g., 6/24/2013 "Charting a Path Forward at the IRS: Initial Assessment and Plan of Action," issued by Acting IRS Commisioner Daniel Werfel, at 28, http://www.irs.gov/PUP/newsroom/Initial%20Assessment%20and%20Plan%20of%20Action.pdf; 1995 "Political Organizations and IRC 501(c)(4)," prepared by IRS, Raymond Chick and Amy Henchey, http://www.irs.gov/pub/irs-tege/eotopicm95.pdf (providing additional information about political versus educational activities by 501(c)(4) organizations); Priv. Ltr. Rul. 20044008E (12/2/2003), prepared by IRS (discussing prior revenue rulings and private letter rulings on what activities qualify as social welfare activities).

[56] See, e.g., Rev. Ruling 2004-6, 2004-1 C.B. 328, http://www.irs.gov/irb/2004-04_IRB/ar10.html (discussing whether certain activities qualify as political campaign activities); Rev. Ruling 81-95, 1981-1 C.B. 332. Another revenue ruling provides guidance in the context of Section 501(c)(3) charitable organizations, but is generally viewed as also applying to 501(c)(4) organizations. See Rev. Rul, 2007-41, 2007-1 C.B. 1421. See also "Section 501(c)(4) Advocacy Organizations: Political Candidate-Related and Other Partisan Activities in Furtherance of the Social Welfare," 36 Seattle U. L. Rev. 1337 Terence Dougherty (2013), http://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=2182&context=sulr (providing an analysis of IRS revenue rulings and private letter rulings); 1995 "Political Organizations and IRC 501(c)(4)," prepared by IRS, Raymond Chick and Amy Henchey, http://www.irs.gov/pub/irs-tege/eotopicm95.pdf ("IRC 501(c)(4) does not define political campaign activities; instead, the definition and interpretation of terms used has occurred principally under IRC 501(c)(3).").

lack of clear and concise definition of 'political campaign intervention.'"[57]

In the past, the IRS has denied tax exempt status to organizations that have an explicit partisan purpose and engage in openly partisan activities, holding that their activities seek to benefit a private group – the favored political party – rather than the broader community. A 1997 letter denying tax exempt status under Section 501(c)(4) for the National Policy Forum explained: "partisan political activity does not promote social welfare as defined in section 501(c)(4)," because it "benefit[s] select individuals or groups, instead of the community as a whole."[58] In reaching its decision, the denial letter noted that the National Policy Forum's Articles of Incorporation stated that the organization intended to encourage the development of ideas through forums and exchanges with the public, and to develop a "national Republican policy agenda."[59] The letter also noted partisanship elements in the composition of the organization's board members; the organization's participants and speakers at forums; publications that the organization disseminated or distributed; and the financial support it received; concluding that the National Policy Forum was a "partisan issues-oriented organization."[60] In 2011, the IRS made a similar decision, discussed in more detail below, to deny tax exempt status to organizations associated with Emerge America, a group dedicated to training Democratic women candidates to run for elective office.[61] Today, however, many 501(c)(4) applicants do not engage in openly partisan activities, making it more difficult for the IRS to determine when organizations are seeking to intervene on behalf or in opposition to particular candidates.

Facts and Circumstances Test. To resolve questions about whether a particular activity qualified as a social welfare versus campaign activity, and whether an organization was engaged primarily in social welfare activities, the IRS elected to use a "facts and circumstances" test. That test required IRS personnel to consider all relevant material facts when making a determination and to refrain from treating any one factor as determinative.[62] Due to its fact-specific

---

[57] 6/24/2013 "Charting a Path Forward at the IRS: Initial Assessment and Plan of Action," prepared by Acting IRS Commissioner Daniel Werfel, at 20, http://www.irs.gov/PUP/newsroom/Initial%20Assessment%20and%20Plan%20of%20Action.pdf. See also 11/29/2013 "Proposed Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities," Prop. Treas. Reg. § 1.501(c)(4), 78 Fed. Reg. 230.

[58] 2/21/1997 National Policy Forum Denial Letter, PSI-IRS-01-000001 - 013, at 010 - 012.

[59] Id. at 001.

[60] Id. at 010 - 013.

[61] See, e.g., 5/26/2011 email from Siri Buller to Jason Kall, "Referral to ROO," IRSR0000196739 - 758, at 739, ("Recently, we denied the 1024 applications of three state chapters of ... a Democratic candidate training school for women. We denied the applications on the basis that their primary activity confers a private benefit to a political party.").

[62] See, e.g., 6/4/2012 IRS letter from the IRS responding to the Subcommittee, PSI-IRS-02-000001 - 026, at 008.

nature, the facts and circumstances test required IRS personnel to gather detailed information about each 501(c)(4) applicant, so that all relevant material factors could be identified and evaluated.[63]

At the same time, the IRS provided few objective standards or bright line rules, and little written guidance to its agents to address common fact patterns.[64] For example, the IRS did not instruct its agents to treat all candidate contributions as campaign activity; instead, agents were required to make an individualized analysis of each contribution.[65] While federal campaign law treated television advertisements that mentioned a candidate and were broadcast to the candidate's electorate within 30 days of a primary or 60 days of a general election as electioneering communications, IRS agents were not allowed to use those same objective criteria to reach a decision about whether a television advertisement constituted campaign activity; instead, each agent was required to develop the facts and then evaluate the timing, audience, wording, and context of each televised advertisement on a case-by-case basis.[66] The IRS also provided little training to agents handling 501(c)(4) applications on how to apply the facts and circumstances test.[67]

The result was that IRS personnel were required to ask detailed questions about many aspects of a group's organization and activities, and spend long hours analyzing the information. Critics complained that the IRS inquiries were inappropriate, burdensome, and intrusive. In addition, the IRS analysis took place in a nontransparent setting, leading to complaints about how particular facts were treated. In addition, because the analysis was so fact specific and required consideration of all relevant material facts, it produced case-by-case determinations with limited precedential effect. Moreover, because the IRS provided few objective standards, bright line rules, or detailed guidance, IRS agents were put in the position of having to make essentially subjective determinations about how individual applications should be viewed. Hesitancy about making those determinations led to inaction on many

---

[63] See, e.g., 4/30/2013 "Memorandum for Deputy Inspector General for Audit," from Joseph H. Grant, Acting IRS Commissioner, Tax Exempt and Government Entities, reprinted in 5/14/2013 TIGTA Audit Report, 43-48, at 43-44.

[64] Id. at 44 ("There are no bright line tests for what constitutes political campaign intervention (in particular, the line between such activity and education) or whether an organization is primarily engaged in social welfare activities.").

[65] See, e.g., 6/4/2012 letter from IRS responding to Subcommittee, PSI-IRS-02-000001 - 026, at 009-010 (indicating, when asked whether a cash contribution to a political organization would be considered campaign activity, that all the facts and circumstances would have to be considered).

[66] See, e.g., Rev. Rul. 2007-41; 4/25/2012 draft guide sheet, "Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications (Political Campaign Intervention and Lobbying)," PSI-TIGTA-01-000146 - 199, at 160 ("Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention").

[67] Subcommittee interviews of Gary Muthert, IRS (1/15/2014) and Elizabeth Hofacre, IRS (10/25/2013). See also 5/14/2013 TIGTA Audit Report, at 11, 17 (recommending increased training).

501(c)(4) applications, some of which sat unresolved for years at a time.[68]

Proposed Rulemaking. In an attempt to address these and related problems, in November 2013, in response to a recommendation in the audit report by the Treasury Inspector General for Tax Administration, the Treasury Department and IRS issued a Notice of Proposed Rule Making with proposals for clarifying what activities qualified as "candidate-related campaign activities" under Section 501(c)(4).[69] One of the goals of the proposed rule was to reduce IRS reliance on the inherently time-consuming, non-transparent, and subjective facts and circumstances test and instead move towards more objective standards and bright line rules. As IRS Commissioner John Koskinen put it, the proposed rule would benefit the agency by taking it out of any "political judgment position."[70] The IRS Commissioner also stated:

> "[E]veryone would gain and we would avoid issues that we've had in the past if it were clearer what the definition of political activity is and how much of it [organizations] are allowed to engage in with as much clarity as possible and if it was clearer to whom those rules apply."[71]

The proposed IRS rule generated over 150,000 comments and is now under review.[72] The IRS has indicated that it is likely to revise the proposed rule and will hold a public hearing on it.[73]

C. IRS Oversight of Section 501(c)(4) Organizations

IRS oversight of the 501(c)(4) tax exempt community relies principally upon two sets of documents, applications filed by organizations seeking IRS approval of their tax exempt status and tax returns filed annually by existing 501(c)(4) organizations. While organizations are not required to do so, many choose to file applications with the IRS to obtain official recognition of their tax exempt status. To

---

[68] 5/14/2013 TIGTA Audit Report, at 14 (stating that "[m]any organizations waited much longer than 13 months for a decision," with several cases that experienced delays of "more than 1,000 calendar days").

[69] 11/29/2013 "Proposed Guidance for Tax-Exempt Social Welfare Organizations On Candidate-Related Political Activities," Prop. Treas. Reg. § 1.501(c)(4), 78 Fed. Reg. 230. The NPRM was undertaken in response to a TIGTA recommendation that the Treasury Department place a priority on developing 501(c)(4) guidance. See 5/14/2013 TIGTA Audit Report, at 17.

[70] 1/6/2014 "New IRS Chief Sees End to Tea Party Investigation," USA Today, Kendall Breitman, http://www.usatoday.com/story/news/politics/2014/01/06/irs-commissioner-koskinen-tea-party/4344465/.

[71] Id.

[72] See, e.g., "IRS Update on the Proposed New Regulation on 501(c)(4) Organizations," IRS press release, (5/22/2014), http://www.irs.gov/uac/Newsroom/IRS-Update-on-the-Proposed-New-Regulation-on-501(c)(4)-Organizations ("The proposal generated over 150,000 written comments — the most comments ever received by Treasury and IRS on a proposed tax regulation.").

[73] Id.

maintain their tax exemption, all 501(c)(4) organizations must also file an annual tax return. The IRS reviews all submitted applications to determine whether an applicant meets the legal requirements for social welfare organizations. It also reviews some annual tax returns and uses other means to monitor existing 501(c)(4) organizations' ongoing compliance with the tax code.

Self-Declared Tax Exempt Organizations. Neither the tax code nor the IRS requires 501(c)(4) social welfare organizations to file a formal application or obtain prior IRS approval before holding themselves out as tax exempt.[74] Any group may simply declare its tax exempt status and initiate operations. In instances where an organization does not file an application prior to claiming tax exempt status, the IRS categorizes these entities as "non-declaring" or "self-declaring" social welfare organizations.[75]

1024 Applications. Despite the absence of any statutory or regulatory requirement, many organizations choose to file a Form 1024 application with the IRS to obtain official recognition as a tax exempt 501(c)(4) social welfare organization.[76] The IRS notes several reasons why organizations may decide to file an application: to obtain public recognition of its tax exempt status, assure donors of the group's tax exempt status, and gain "exemption from certain state taxes."[77]

To apply for formal tax-exempt recognition under section 501(c)(4), an organization must request a federal Tax Identification Number and fill out an application on IRS Form 1024.[78] Form 1024 requests basic identification information as well as specific information designed to help IRS personnel determine whether the group qualifies for tax exemption. For example, the form asks the organization to list its activities, the percentage of time devoted to each activity, its sources of

---

[74] See, e.g., 5/17/2013 "501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 2; 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, at 2, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.

[75] See, e.g., 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, at 2, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.

[76] See "Application for Recognition of Exemption," IRS Form 1024, http://www.irs.gov/pub/irs-pdf/f1024.pdf. See also 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, at 3, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.

[77] See "Instructions for Form 1024," IRS publication, http://www.irs.gov/pub/irs-pdf/i1024.pdf.

[78] "Exempt Organizations – Exempt Application," prepared by IRS, http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organization-Exemption-Application.

income, and other financial information.[79] With respect to campaign activity, Form 1024 asks:

> "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?"[80]

When filed, 1024 applications are sent to a centralized IRS Submission Processing Center, entered into an IRS database for exempt organizations, and then forwarded to the IRS Exempt Organizations Determinations Unit in Cincinnati, Ohio, for further processing.[81] The review process is detailed below. At the conclusion of the review process, the application is either approved or denied.

An organization whose application is denied is given an "adverse determination" letter. According to the IRS, "[a]n 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."[82] The IRS also told the Subcommittee that, in many cases, if an organization perceives that its application may be denied, it will withdraw the application prior to denial and determine later whether to resubmit a modified version.[83]

If an application is actually denied, the applicant can seek review from the IRS Office of Appeals, an independent office within the IRS which will review the administrative record associated with the organization, and make an independent determination on whether the organization meets the requirements for tax exempt status.[84] If the Appeals Office approves the application, the organization is officially designated as tax exempt. If the Appeals Office agrees that the application should be denied, the applicant can challenge that determination in court.[85]

According to the IRS, from 2007 to 2012, it issued ten adverse determination letters to 501(c)(4) applicants which denied them tax exempt status due to involvement with campaign activities.[86] Since September 2012, the IRS has indicated that it has issued nine additional adverse determinations to organizations applying for 501(c)(4) status,

---

[79] See "Form 1024—Application for Recognition of Exemption Under Section 501(a)," IRS form, http://www.irs.gov/pub/irs-pdf/f1024.pdf.
[80] Id., at 4, Part II, line 15.
[81] 6/4/2012 letter from IRS responding to Subcommittee, PSI-IRS-02-000001 - 026, at 002.
[82] 3/15/2013 letter from IRS responding to Subcommittee, PSI-IRS-08-000001 - 010, at 001.
[83] 4/30/2013 briefing by IRS of Subcommittee.
[84] 6/4/2012 letter from IRS responding to Subcommittee, PSI-IRS-02-000001 - 026, at 003.
[85] Id.
[86] 11/23/2012 letter from IRS responding to Subcommittee, PSI-IRS-07-000001 - 119, at 002 - 003.

but some of those denials may not have involved campaign activities.[87] Organizations that receive an adverse determination letter can voluntarily surrender their tax exempt status, dissolve, invoke another type of tax exemption, reorganize, or take other action.

990 Tax Returns. Whether or not a tax exempt social welfare organization files a Form 1024 application, it is required to file an annual tax return using IRS Form 990, "Return of Organization Exempt for Income Tax."[88] This tax return must be filed by all organizations claiming tax exemption under Section 501(c). It is the key mechanism used by the IRS to monitor tax exempt organizations and determine whether they continue to comply with the legal requirements for tax exemption, including in the case of 501(c)(4) organizations that they continue to be engaged primarily in social welfare activities.[89]

Form 990 requires organizations to provide basic identification and financial information about their operations during the covered period. It requires, for example, information about the number of individuals employed by the group, the number of volunteers employed, and any contributions or grants. With respect to campaign activity, Form 990 asks the following question: "Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office?"[90] If an organization provides an affirmative response, it is required to provide additional information on "Schedule C."

Form 990 has several Schedules that may need to be completed, depending on the applicant's finances and activities. For any donation of $5,000 or more, Schedule B requires the recipient organization to disclose the donor's name, address, and the type and amount of the contributions.[91] While tax exempt organizations are required to provide copies of their 990 tax returns to the public upon request, the release of Schedule B donor information is optional and is generally not made publicly available.[92] Schedule C requires the organization, if it has

---

[87] 4/22/2014 letter from IRS responding to Subcommittee, PSI-IRS-50-000001 - 002.
[88] "Form 990 – Return of Organization Exempt from Income Tax," IRS form, http://www.irs.gov/pub/irs-prior/f990--2012.pdf.
[89] See, e.g., 5/17/2013 "501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 7.
[90] "Form 990 – Return of Organization Exempt from Income Tax," IRS form, at 3, Part IV, line 3, http://www.irs.gov/pub/irs-prior/f990--2012.pdf.
[91] "Form 990 – Schedule of Contributors (Schedule B)," IRS form, http://www.irs.gov/pub/irs-prior/f990ezb--2012.pdf. See also 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.
[92] See Treas. Reg. 1.6104(b)-1(b), allowing Schedule B to be withheld from the public. See also 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20 Welfare%20Organizations%20v.6.pdf.

provided an affirmative response to the question about political campaign activities, to provide additional information about those activities. The IRS established Schedule C in 2008, as a part of a significant revision of Form 990 to ensure better "tax compliance, accountability, and transparency."[93] It requires organizations to answer questions about the direct and indirect campaign activities of the group, any campaign expenditures made by the group, and the number of volunteer hours related to carrying out campaign activities.[94]

A major concern related to the 990 tax returns involves the long period of time before they have to be filed and the difficulty of using the returns to obtain timely information about an organization's activities. Organizations are required to file the return by the 15th day of the fifth month following the close of an organization's taxable year.[95] An organization may obtain an automatic three-month extension from the initial due date by filing Form 8868, "Application for Extension of Time to File an Exempt Organization Return." The organization may request a second extension for another three months by filing a second Form 8868 and explaining why more time is needed.[96] If a newly formed organization uses the full time permitted to file the 990 return, its first tax return may be filed 22.5 months after its creation.[97] An organization may time its formation to enable it to engage in campaign activities prior to an election, and not file a 990 return disclosing its activities until after the election has concluded.[98]

Ongoing IRS Oversight and Enforcement. To conduct ongoing oversight of tax exempt groups' compliance with the tax code, the IRS has instituted several methods to monitor existing tax exempt organizations, including social welfare groups.

One option is for an EO unit called Review of Operations (ROO) to conduct a review of an existing tax exempt organization to determine

---

[93] 5/17/2013 "501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 10.

[94] "Form 990 – Political Campaign and Lobbying Activities (Schedule C)," Internal Revenue Service, http://www.irs.gov/pub/irs-prior/f990sc--2012.pdf .

[95] Treas. Reg. § 1.6033-1(3). See also "501(c)(4) and Campaign Activity: Analysis Under Tax and Campaign Finance Law," at 10. See also 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.

[96] "Exempt Organizations Filing Requirements: Extending Due Date for Form 990," prepared by IRS, http://www.irs.gov/Charities-&-Non-Profits/Political-Organizations/Exempt-Organization-Filing-Requirements:---Extending-Due-Date-for-Form-990.

[97] See 5/20/2013 "FAQs on 501(c)(4) Social Welfare Organizations," prepared by Donald Tobin, Ohio State University – Moritz College of Law, http://moritzlaw.osu.edu/electionlaw/analysis/documents/FAQs%20on%20501(c)(4)%20Social%20Welfare%20Organizations%20v.6.pdf.

[98] See, e.g., 5/17/2013 "501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws," Congressional Research Service, Erika K. Lunder and L. Paige Whitaker, at 7.

whether it is in compliance with the law.[99] A so-called "ROO review" is not an audit, and the tax exempt entity is not contacted when the IRS conducts the evaluation.[100] Applications are either randomly selected or referred by other IRS offices to determine if an organization has complied with its stated exempt purpose, and the ROO specialist typically assesses the organization's latest Form 990, website, and publicly available information.[101] When a ROO review determines that an organization may be out of compliance with the tax code, it typically refers the organization to examinations personnel for an audit.[102]

A second option involves "Compliance Checks." A compliance check is an IRS review of an entity's filing information and tax returns, which the filer permits on a voluntary basis.[103] An IRS specialist initiates a compliance check by issuing a letter to the tax exempt entity, typically after IRS personnel discover an error in a tax return, or determine the IRS needs to obtain clarification with respect to an issue of importance.[104] Compliance checks provide a more limited review than an audit, and are typically restricted to verifying the timely, complete, and accurate filing of tax return documents and deposits.[105] After reviewing the tax information, cases are either closed or recommended for further examination, which requires approval from a Field Manager.[106]

The third option is a traditional examination or audit. Section 7602 of the tax code authorizes the IRS to conduct an audit to determine whether an organization still qualifies for tax exempt status.[107] The IRS conducts two types of audits of tax exempt entities. In a "Field Examination," an EO revenue agent will "perform the work at the

---

[99] See "IRS Exempt Organizations FY 2012 Annual Report and FY 2013 Workplan," prepared by IRS, at 12, http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf.
[100] 8/4/2012 letter from IRS to Subcommittee, PSI-IRS-04-000001 – 008, at 004.
[101] Id.
[102] Id. Since mid-July 2012, ROO examination recommendations must also be reviewed by the Political Activities Referral Committee, an IRS unit which makes the final determination on whether an examination is warranted.
[103] See IRM 4.90.3.2 (2/1/2008) ("A compliance check is a contact with the customer that involves a review of filed information and tax returns of the entity. A compliance check is NOT an examination and the customer may legally choose not to participate. A compliance check does not directly relate to determining a tax liability for any particular period. The check is a tool to help educate government entities about their reporting requirements and increase voluntary compliance.").
[104] IRM 4.90.3.4 (12/16/2011); 8/24/2012 letter from IRS responding to Subcommittee, PSI-IRS-04-000001 - 008, at 004.
[105] The Internal Review Manual identifies a limited list of documents that should be reviewed during the compliance check: Forms 941, 945, W-2, W-3, W-4, W-9, 1099, 1096, 1042, 1042-S, or others as applicable. IRM 4.90.3.5 (12/16/2011).
[106] IRM 4.90.3.7 (12/16/2011); IRM 4.90.3.12.1 (2/21/2013).
[107] See "IRS Exempt Organizations FY 2012 Annual Report and FY 2013 Workplan," prepared by IRS, http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf.

organization's place of business."[108] In a "Correspondence Examination," the revenue agent asks the organization to send documents to the agent's location, where they are reviewed.[109]

If, after an examination, the IRS determines that a tax exempt organization is out of compliance with the law, the agency can issue the organization a "revocation notice," revoking its tax exempt status. According to the IRS, "[a] revocation notice is a written notice that tax exempt status is being revoked, as a result of an examination."[110] In a letter to the Subcommittee, the IRS reported that, from 2007 to 2014, it issued 42 revocation notices to 501(c)(4) organizations for involvement with campaign activities, five of which were not sustained on appeal.[111] The IRS also told the Subcommittee that, from 2007 to 2012, it sent 18 written advisories to 501(c)(4)s citing "irregularities."[112]

When the IRS revokes an organization's 501(c)(4) tax exempt status, the organization can voluntarily surrender its tax exempt status, dissolve, invoke another type of tax exemption, reorganize, or take other action.

D. Federal Election Law and Increased 501(c)(4) Campaign Involvement

Over the last decade, 501(c)(4) organizations have become increasingly involved with campaign activities, and some have incurred filing obligations under the Federal Election Campaign Act (FECA).

The FECA, first enacted in 1971, and subsequently amended in 1974, 1976, and 1979, "remains the foundation of the nation's campaign finance law."[113] Among other provisions, it created the Federal Election Commission (FEC), and imposed a set of detailed disclosure requirements for candidates, parties, and others involved with federal elections. The FEC is an independent federal regulatory agency tasked with administering and enforcing the FECA. It maintains the law's campaign finance disclosure systems, accepts and reviews all FECA filings, and enforces compliance with the law's disclosure obligations.

---

[108] Id. at 5. In fiscal year 2012, over three-fourths of the IRS examinations were field examinations. Id.
[109] Id.
[110] Id.
[111] See 11/23/2012 letter from IRS responding to Subcommittee, PSI-IRS-07-000001 - 004. See also 4/22/2014 letter from IRS to Subcommittee, PSI-IRS-50-000001 - 002 (indicating that 5 of the 42 revocations were not sustained on appeal and, in addition, from October 2012-February 2014, the IRS revoked the tax exempt status of 5 additional 501(c)(4) organizations for a variety of reasons, which could have included political activity). For a set of revocation letters to 10 groups, with the names redacted, see attachments to 11/23/2012 IRS letter, PSI-IRS-07-000005 - 119.
[112] See 11/23/12 IRS letter responding to the Subcommittee, PSI-IRS-07-000001 - 004, at 003.
[113] 4/22/2014 "The State of Campaign Finance Policy: Recent Developments and Issues for Congress," Congressional Research Service, R. Sam Garrett, at 4.

The FEC requires persons involved with campaign activities to file periodic reports. Candidate political committees, political action committees, and political parties must disclose their campaign contributions and expenditures on Form 3, while non-candidate organizations – including 501(c)(4) groups – are required to disclose any independent expenditures on Form 5, and any electioneering communications expenditures on Form 9.[114]

Although the FEC filings provide direct evidence of the involvement of a 501(c)(4) group in campaign activity, contain information supplied directly by the filing group under penalty for submitting false information, and do not require any intrusive inquiries by the IRS, the FEC told the Subcommittee that it was unaware of the IRS making routine use of the filings to screen or evaluate 501(c)(4) applications.[115] The FEC also told the Subcommittee that the IRS had not asked the FEC to include Taxpayer Identification Numbers or 501(c) status information on the FECA filing forms, even though that information would increase the forms' usefulness to the IRS and the IRS had a statutory role in developing those FEC forms.[116]

The IRS told the Subcommittee that, while it used FEC filings in its 501(c)(4) oversight work, including when evaluating 501(c)(4) applications, it did not have a system that formally tracked FEC filings made by 501(c)(4) organizations.[117] In addition, the IRS indicated that it did not make routine use of FEC filings to identify 501(c) applications of groups involved with campaign activities.[118] The IRS explained that its rules require it to use the facts and circumstances test to evaluate each electioneering communication or independent expenditure made by a 501(c)(4) organization, which meant that the organization's FEC filings were not dispositive evidence of its involvement with campaign intervention activities.[119]

2010 Citizens United Decision. In January 2010, in the landmark Citizens United v. Federal Election Commission case, the U.S. Supreme Court authorized political action committees (PACs) for the first time to accept unlimited contributions from donors, including businesses, unions, and individuals, as long as they made independent campaign

---

[114] An independent expenditure is "an expenditure by a person – (A) expressly advocating the election or defeat of a clearly identified candidate; and (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents." 2 U.S.C. § 431(17) (2012). "Electioneering communications" are communications which are broadcast within 30 days of a primary or 60 days of a general election and mention a clearly identified candidate to the electorate. 2 U.S.C. § 434(f)(3) (2012).

[115] 6/12/2013 briefing by the FEC of the Subcommittee.

[116] Id. See also 2 U.S.C. § 438(f) (requiring the FEC and IRS to "consult and work together to promulgate rules, regulations, and forms which are mutually consistent").

[117] See 3/15/2013 IRS letter responding to Subcommittee, PSI-IRS-08-000001 - 108, at 009.

[118] 4/30/2013 IRS briefing of the Subcommittee.

[119] See 3/15/2013 IRS letter responding to Subcommittee, PSI-IRS-08-000001 - 108, at 009.

expenditures that were not coordinated with any candidate.[120] PACs which determined to make such independent expenditures became known as "Super PACs," due to their ability to accept unlimited donations and engage in massive campaign spending.[121] At the same time Super PACs began to operate, according to the Center for Responsive Politics, the number of tax-exempt groups engaged in campaign spending also increased, including Section 501(c)(4) social welfare groups.[122]

Senior officials at the IRS were aware that the Citizens United case could affect tax-exempt groups, including 501(c)(4) organizations, some of which had already increased their campaign activities.[123] On January 22, 2010, soon after the Citizens United decision, Lois Lerner, head of Exempt Organizations, sent an email to senior IRS officials, including then TEGE Commissioner Steven Miller, with the following observation:

> "I'm sure you've heard about the S. Ct.'s decision in Citizen's United that corporations have first amendment rights and the prohibitions on corporate spending in elections are unconstitutional. While I don't think that changes our legal position—that tax-exemption is a privilege and if you want the privilege you have to play by the rules, I do think we need to be prepared to respond to inquiries about c3 and c4 spending in elections."[124]

Ms. Lerner also stated: "I know this is a very sensitive issue."[125] Despite this acknowledgement of the likely impact of the Citizens United decision in 2010, the IRS did not put any new procedures or safeguards in place at the time to identify, evaluate, or resolve questions about 501(c) applicants planning to engage or engaged in campaign spending.

Increased 501(c)(4) Campaign Involvement. Since the 2010 Citizens United decision, it has become common for a Super PAC to have an affiliated 501(c)(4) organization which, under the tax code, can

---

[120] Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).
[121] The FEC also refers to them as independent-expenditure-only committees (IEOCs). See "Quick Answers to PAC Questions," Federal Election Commission, http://www.fec.gov/ans/answers_pac.shtml.
[122] See "Outside Political Spending Surging in 2010 Midterms," Center for Responsive Politics OpenSecrets Blog, David Levinthal (10/14/2010), http://www.opensecrets.org/news/2010/10/outside-political-spending-skyrocke.html; "Outside Spending: Frequently Asked Questions About 501(c)(4) Groups," Center for Responsive Politics, https://www.opensecrets.org/outsidespending/faq.php.
[123] See, e.g., "The Darker Side of Nonprofits: When Charities and Social Welfare Groups Become Political Slush Funds," 147 University of Pennsylvania Law Review 971, Robert Paul Meiert (1999), http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3414&context=penn_law_review.
[124] 1/22/2010 email from Lois Lerner to Sarah Ingram, Steven Miller, and Nancy Marks, IRSR0000444375 - 377.
[125] Id.

accept unlimited contributions from all types of donors, including businesses, unions, and individuals, and can engage in campaign activity as long as it is not the organization's primary activity.[126] In addition, unlike Super PACs, 501(c)(4) organizations are not legally obligated to publicly disclose the names of their donors or the amounts of the donations, although all donations over $5,000 must be reported confidentially to the IRS on Schedule B of their annual 990 tax returns.[127] The ability of 501(c)(4) groups to keep donor information confidential has, in some cases, made those groups attractive to donors interested in financing campaign activities without publicly disclosing their identities. Some 501(c)(4) organizations have used confidential donations to directly fund campaign activities.[128] Others have contributed donated funds to other 501(c)(4) organizations, Super PACS, or other political organizations involved with campaign activities, without disclosing the names of the donors who originated the funds.[129]

Campaign spending data corroborates increased campaign involvement by 501(c)(4) groups. According to the Center for Responsive Politics, in 2010, a federal election year, 501(c) organizations, including social welfare, business, and labor groups, spent about $170 million on independent campaign expenditures and electioneering communications that required filings with the FEC; in

---

[126] See, e.g., "American Crossroads/Crossroads GPS," FactCheck.org (2/7/2014), http://www.factcheck.org/2014/02/american-crossroadscrossroads-gps-2/ (American Crossroads, a Republican leaning Super PAC that is affiliated with Crossroads GPS, a 501(c)(4) group, raised a combined $325 million in the 2012 election); "Priorities USA/Priorities USA Action," FactCheck.org (3/3/2014), http://www.factcheck.org/2014/03/priorities-usapriorities-usa-action-3/ (Priorities USA Action, a Democrat leaning Super PAC affiliated with Priorities USA, a 501(c)(4) group, raised a combined $88 million in the 2012 election). See also "Crossroads GPS and Priorities USA were created for the purpose of hiding donors," Washington Post, Dylan Matthews (5/15/2013), http://www.washingtonpost.com/blogs/wonkblog/wp/2013/05/15/wonkbook-all-the-latest-on-all-the-scandals/?tid=up_next.

[127] See "Form 990 – Schedule of Contributors (Schedule B)," IRS form, http://www.irs.gov/pub/irs-prior/f990ezb--2012.pdf. Schedule B is not released by the IRS to the public.

[128] For more information about these activities, see Report section on Deepening Campaign Involvement, below.

[129] See, e.g., Fair Political Practices Commission v. The Center to Protect Patients Rights and Americans for Responsible Leadership, https://www.propublica.org/documents/item/809469-arl-cppr-stipulation-final-with-ag.html (referencing a settlement between the California Fair Political Practices Commission (FPPC) and the California Attorney General on one side with two 501(c)(4) organizations on the other side that received $15 million in donations from undisclosed donors and contributed the same amount to political action committees involved with campaign activities); 10/24/2013 "FPPC Announces Record Settlement in $11 Million Arizona Contribution Case," California Fair Political Practices Commission Press Release, http://www.fppc.ca.gov/press_release.php?pr_id=783. See also, e.g., "Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch," Fox News, (7/19/2012), http://www.foxnews.com/politics/2012/07/19/taxpayer-watchdog-calls-on-irs-to-probe-re-branded-texas-acorn-branch/ (describing a letter alleging that a 501(c)(3) ACORN successor group had collected $640,000 in donations from undisclosed donors and funneled the money to a related 501(c)(4) ACORN successor group which was using the funds to support a Democratic candidate for the Texas legislature).

2012, the next federal election year, that number nearly doubled to $336 million.[130] The growth in campaign spending by social welfare groups alone has reportedly been even more explosive, rising 80 fold over the last decade.[131]

According to the IRS, from 2010 to 2012, the number of applications filed to obtain 501(c)(4) status nearly doubled, from about 1,700 in 2010, to more than 3,300 in 2012.[132] In addition, from 2008 to 2010, the same year the Citizens United decision was issued, the number of 501(c)(4) groups reporting campaign activities to the IRS doubled, while the amount of campaign-related expenditures during that period almost tripled.[133] The IRS also reported that while all 990 tax returns for 2012 were not yet in, "large 501(c)(4)s with political campaign activities expenditures in TY 2010 reported a large increase in spending to the FEC between 2010 and 2012."[134] At the same time, the IRS reported receiving "numerous referrals from the public, media, watchdog groups, and members of Congress alleging that specific section 501(c)(4) organizations were engaged in political campaign activity to an impermissible extent."[135] Former IRS Commissioner Steven Miller, in handwritten notes, commented on the increased levels of campaign spending as follows: "Then along came a wave of cash – unleashed by Citizens' United and that cash chose a favorable port due to disclosure and underenforced gift tax rules."[136]

More Conservative Groups. The evidence also indicates that, from 2010 to mid-2013, more conservative groups than liberal groups filed applications for 501(c)(4) tax exempt status, underwent scrutiny by

---

[130] See undated graph, "Political Nonprofits," prepared by the Center for Responsive Politics, http://www.opensecrets.org/outsidespending/nonprof_summ.php.

[131] See 12/5/2013 "IRS Targets Money Transfers In Social-Welfare Politicking," National Public Radio, http://www.npr.org/2013/12/05/248934819/irs-targets-money-transfers-among-politically-active-groups ("The IRS is taking aim at the growing political role of tax-exempt social welfare groups. It's a category of American politics where spending has increased 80-fold in the last decade.").

[132] See 6/3/2013 testimony of Acting IRS Commissioner Daniel Werfel before House Appropriations Subcommittee on Financial Services and General Government, "Oversight Hearing – Internal Revenue Service," 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014, (6/3/2013), 219-284 at 263; 5/14/2013 TIGTA Audit Report, at 3.

[133] See 5/7/2013 "Updated Baseline Analysis of 501(c)(4) Form 990 Filers with Political Campaign Activities," prepared by the IRS, IRSR0000507010 - 044, at 013. The analysis of 501(c)(4) groups also states: "For filers with Political Campaign Activities, those with over $10M in revenue represent 95% of total expenses (by filers with PCA) and present a small universe to explore." Id. at 015.

[134] Id. at 020. According to the IRS, a large 501(c)(4) is one with revenue of over $10 million.

[135] 4/30/2013 "Memorandum for Deputy Inspector General for Audit," from Joseph H. Grant, Acting IRS Commissioner for Tax Exempt and Government Entities, reprinted in 5/14/2013 TIGTA Audit Report, 43-48, at 43.

[136] 5/9/2013 handwritten notes of Steven Miller, ABA Closed Door, IRSR0000506548. See also 1/28/2014 letter from the IRS National Director for Legislative Affairs to the Subcommittee, PSI-IRS-40-000001 - 002 (noting that Steven Miller is the custodian of the ABA Closed Door document).

the IRS during the application process, and won tax exempt status. For example, when the House Committee on Ways and Means reviewed 298 501(c)(4) cases that had been provided to TIGTA, it determined that, as of September 2013, 111 "right-leaning" groups had received tax exempt status, while only 20 "left-leaning" groups did, meaning more than five times as many conservative as liberal groups had gained tax exemption.[137] Rather than demonstrate IRS favoritism of conservative groups, however, those disparate numbers likely reflect the fact that many more conservative than liberal groups had requested tax exempt status.

Similarly, when the IRS released a list of 176 501(c)(4) organizations that had been approved for tax exempt status from 2010 through May 2013,[138] an analysis of those organizations by Tax Analysts, a publication specializing in tax issues, found that just over two-thirds were associated with conservative groups, while nearly one-third were not.[139] The analysis determined that, of the 176 groups approved for tax exempt status from 2010 to 2013, 46 had Tea Party, Patriot, or 9/12 in their names; 76 were associated with other conservative organizations; 48 were non-conservative organizations; and 6 were organizations about which no determination could be made.[140] In addition, the analysis showed that the IRS had granted tax exempt status to twice as many conservative groups as other groups during that time period, while also indicating that groups across the political spectrum obtained exemptions.[141]

Consistent with the data from the list of 176 groups released by the IRS, IRS employees told the Subcommittee that, from 2010 to 2013, the

---

[137] See Opening Statement of Congressman Boustany, "Internal Revenue Service's Exempt Organizations Division," hearing before House Committee on Ways and Means (9/18/2013), http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126.

[138] See 5/15/2013 "Approved Tax-Exempt Applications For Advocacy Organizations through May 9, 2013," prepared by IRS, http://www.irs.gov/PUP/newsroom/Approved%20Tax%20Exempt%20Applications%20For%20Advocacy%20Organizations%20through%20May%209%202013.pdf. The IRS has interpreted the law as allowing it to release the names of 501(c) applicants that have been approved for tax exempt status, but not the names of those denied a tax exemption.

[139] See "Substantial Minority of Scrutinized EOs Were Not Conservative," Tax Analysts, Martin Sullivan, (5/30/2013), http://www.taxanalysts.com/www/features.nsf/Articles/D2A6C735EAFA7A9085257B7B004C0D90?OpenDocument ("[T]he list suggests that the majority of groups selected for extra scrutiny probably matched the political criteria the IRS used and backed conservative causes, the Tea Party, or limited government generally. But a substantial minority – almost one-third of the subset – did not fit that description.").

[140] Id.

[141] Id. Similarly, a list of about 160 organizations whose 501(c) applications were undergoing review in November 2011, allegedly compiled by the IRS and leaked to USAToday two years later, also indicated that more applications had been filed by conservative groups than other groups. See "IRS list reveals concerns over Tea Party 'propaganda,'" USAToday, Gregory Korte (9/17/2013), http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-propaganda/2825003/ (attaching list of 160 organizations with pending applications as of November 16, 2011).

IRS saw a surge in tax exempt applications filed by conservative groups.[142] Spending data in FEC filings also showed that, in the election years of 2010 and 2012, conservative 501(c)(4) groups spent almost ten times as much as liberal 501(c)(4) groups, suggesting that conservative groups may have outnumbered their liberal counterparts during that time period.[143] In addition, media reports depicted conservative groups as the leaders in the 501(c)(4) area at the time, with liberal groups working to catch up.[144] Together, the evidence indicates that more conservative than liberal groups filed for 501(c)(4) tax exempt status from 2010 to 2013, underwent IRS scrutiny, and ultimately won tax exempt status.

---

[142] See, e.g., Subcommittee interviews of Holly Paz, IRS (10/30/2013) and Judith Kindell, IRS (11/5/2013).

[143] An analysis conducted by the Center for Responsive Politics found, for example, that in 2010, conservative 501(c)(4) spending was $115.2 million (88.1%), liberal 501(c)(4) spending was $10.7 million (8.2%) and "other" spending was $4.8 million (3.6%). In 2012, the Center determined that conservative 501(c)(4) spending was $265.2 million (85.3%), liberal spending was $34.7 million (11.2%) and "other" spending was $10.9 million (3.5%). "2010 Outside Spending, by Group," and "2012 Outside Spending, by Group," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2010&chrt=V&disp=O&type=U, and http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U.

[144] See, e.g., 11/6/2013 "Secret Persuasion: How Big Campaign Donors Stay Anonymous," National Public Radio, Peter Overby, Viveca Novak and Robert Maguire, http://www.npr.org/2013/11/06/243022966/secret-persuasion-how-big-campaign-donors-stay-anonymous ("So far, conservatives have predominated in social welfare politics. In the 2012 federal campaigns, 20 groups on the right ran up a million dollars or more in disclosed spending, compared with seven on the left. Now liberals are working to catch up.").

III. IRS 501(C)(4) SCREENING

The IRS identified the first application for 501(c)(4) tax exempt status from a group affiliated with the Tea Party in February 2010. For the next three years, the IRS used a series of screening criteria to identify similar applications from both conservative and liberal groups, subject those applications to heightened scrutiny, and determine whether the groups should be granted tax exempt status despite their involvement with campaign activities.

During the first half of that three-year period, to identify applications of interest, the IRS employed screening criteria that used key phrases from the names of some organizations and from materials indicating their political views, rather than any direct indicators of the groups' involvement with campaign activities. From February 2010 to May 2011, the cases were referred to as "Tea Party" cases; beginning in June 2011, at the direction of IRS officials in Washington, the name of the category of cases was changed to "advocacy" cases. During both phases, the IRS subjected not only conservative groups with "Tea Party," "9/12," or "Patriot" in their names to heightened scrutiny, but also liberal groups with "Progressive," "ACORN," "Emerge," or "Occupy" in their names.

All of the cases were handled by the IRS Exempt Organizations Determinations (EOD) Unit in Cincinnati, where IRS agents reviewed the applications to determine whether they should be approved, denied, or suspended pending receipt of more information. Work to resolve the applications was often interrupted, delayed, or halted, while senior Determinations personnel sought guidance from the Exempt Organizations Technical (EOT) Unit in Washington, D.C. about how to handle the cases. Guidance was sought, because EOD personnel were uncertain how to apply the required "facts and circumstances" test, which mandated consideration of all relevant, material factors to determine whether an applicant was engaged primarily in social welfare activities. Despite constant pressure for additional guidance, EOT personnel took more than three years to resolve two test cases and drafted, but never finalized, additional guidance on how to screen, develop, and evaluate the applications.

While awaiting the promised EOT guidance, the backlog of 501(c)(4) cases awaiting IRS action grew to about 320 cases. The affected groups could and generally did continue to operate while awaiting disposition of their applications, but they were forced to act without certainty over their tax exempt status, sometimes for years. While waiting for an IRS decision on their tax exempt status, some of the groups had difficulty obtaining contributions from donors or lost funding opportunities, many spent funds on legal representation, and all

were unable to exercise appeal rights to advance their cases. When, in December 2011, almost two years after the first case was flagged, a newly appointed case coordinator approved sending out "development letters" to obtain additional information needed to apply the facts and circumstances test, some of the recipients criticized some of the questions as inappropriate, burdensome, or intrusive. Some critics also complained that the letters singled out Tea Party groups for heightened scrutiny. Negative media reports and Congressional inquiries followed. In response, in the first quarter of 2012, the IRS established a special "bucketing" process which reduced the backlog of cases, but a year later still left hundreds of cases unresolved.

A. Screening 501(c) Applications Generally

In recent years, of the 70,000 applications filed each year by groups seeking tax exemption under Section 501(c), between 1,700 and 2,700 – less than 5% of the total – were filed each year by applicants seeking tax exempt status under Section 501(c)(4).[145] Each of those applications had to be assigned, screened, and evaluated by IRS revenue agents assigned to the Exempt Organization Determinations Unit. Key mechanisms used by the Determinations Unit to resolve the 501(c) applications included a general screening group, specialty groups focused on particular categories of applications, a general inventory of cases awaiting determination, and Be-on-the-Lookout (BOLO) lists to flag applications raising particular concerns.

During the three-year period reviewed by the Subcommittee, from 2010 to 2013, all 501(c) applications were filed with a centralized IRS Submission Processing Center in Kentucky, entered into an IRS database for exempt organizations, and then forwarded to the EO Determinations Unit in Cincinnati, Ohio.[146] Generally, each application was assigned to a Determinations Unit revenue agent who could seek

---

[145] See 3/21/2014 "SOI Tax Stats – Closures of Applications for Tax-Exempt Status – IRS Data Book Table 24," prepared by the IRS, http://www.irs.gov/uac/SOI-Tax-Stats-Closures-of-Applications-for-Tax-Exempt-Status-IRS-Data-Book-Table-24. The IRS data shows that, over a four-year period from 2010 through 2013, 501(c)(4) applications filed with the IRS increased by at least 25%: in 2010, the IRS received 1,741 501(c)(4) applications; in 2011, the IRS received 1,777; in 2012, the IRS received 2,774; and in 2013, the IRS received 2,253. Id.

[146] 6/4/2012 IRS letter to the Subcommittee, PSI-IRS-02-000001 - 026, at 002; Subcommittee interview of Cindy Thomas, IRS (11/13/2013). See also Internal Revenue Manual, Part 7, Rulings and Agreements, § 7.21.3.3.1 (8/01/2003), "Exemptions and Determinations," http://www.irs.gov/irm/part7/irm_07-021-003.html ("Organizations seeking exemption (including group exemptions) from Federal income tax must submit an application for recognition of exemption to the Cincinnati Submission Processing Center (CSPC)."). The CSPC was located in Kentucky. See Internal Revenue Manual, Part 7, Rulings and Agreements, § 7.20.2.1 (8/24/2012), "Determination Letter Processing Overview," http://www.irs.gov/irm/part7/irm_07-020-002r.html#d0e11 ("[A]pplications for tax exempt status under sections 501 and 521 (Forms 1023, 1024, and 1028), as well as group exemption requests (controlled as Form 1026), are submitted to the Cincinnati Submission Processing Center (CSPC), PO Box 12192, Covington, KY.").

more information from the applicant, approve the application, or deny it with the concurrence of a manager.[147] According to the head of the EO Screening Group, in recent years, about 30% to 40% of the 501(c) applications were quickly approved or denied; about 40% to 50% of the cases required some additional information, such as missing documentation, before they could be processed; and about 20% were assigned to a specialty group for more indepth scrutiny.[148]

Screening Group. The typical first stop for 501(c) applications sent to the Cincinnati EOD Unit was the "Screening Group." According to the Screening Group's manager, John Shafer, the IRS formed the Screening Group in 2003, to centralize and standardize the screening process for 501(c) applications.[149] Mr. Shafer served as the Screening Group's head from its inception in 2003 until 2013.[150] He explained that revenue agents assigned to the Screening Group were called "screeners" and used a screening guide sheet, called a "Be-on-the-Lookout" (BOLO) List, to identify 501(c) applications requiring heightened scrutiny.[151] As the screeners completed work on incoming applications, they were supposed to inform the group manager who would then provide them with new applications as they came in, typically sent in hard copy form from the processing center in Kentucky.[152]

According to the Screening Group manager, the training for the screeners consisted of instructing them about the applications and relevant tax code sections, and providing them with guidance from more senior personnel.[153] He explained that most of the screeners were "senior people" who had worked at the IRS for 10 to 30 years.[154] He indicated that, when a new agent joined the Screening Group, that person received training from a more senior screener who then reviewed the new person's work until the new screener was comfortable with the process.[155]

---

[147] See, e.g., Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[148] Subcommittee interview of John Shafer, IRS (1/17/2014). TIGTA referenced similar percentages in an internal summary of an early meeting with IRS personnel about the 501(c) applications process. See 5/1/2012 "Review of [IRS]'s Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4) - (6) Organizations," prepared by TIGTA, PSI-TIGTA-05-000892 - 898, at 897 (indicating that the IRS told TIGTA that about 35% of the screened cases were "closed on merit"; about 45% required limited additional information; and about 20% required "full development"). The TIGTA audit report also stated that, in fiscal year 2012, "70% of all closed applications for tax-exempt status were approved during an initial review with little or no additional information from the organizations." See 5/14/2013 TIGTA Audit Report, at 1.
[149] Id. Mr. Shafer told the Subcommittee that the idea to centralize the screening process had been his.
[150] Id.
[151] Id.
[152] Subcommittee interview Stephen Soek, IRS (11/22/2013).
[153] Subcommittee interview of John Shafer, IRS (1/17/2014).
[154] Id.
[155] Id.

Mr. Shafer said that the Screening Group typically had about a dozen screeners at a time, together with an administrative assistant and a secretary.[156] According to Gary Muthert, a senior revenue agent who worked in the Screening Group and served at times as the acting manager, the group manager assigned the incoming applications on an electronic, random basis to screeners requesting new cases.[157] He explained that, once a screener received a new application, the screener made one of six initial determinations:

1) If the application was covered by a specialty group, the screener was unable to work on it and was required to send it to the specialty group in charge of those cases.
2) If the application was not subject to a specialty group and the screener found the case file to be complete, the screener could immediately approve it, or could recommend denial of the application and submit the case to the group manager for review. The manager then reviewed the application and, if appropriate, could concur in the denial, completing the application process.
3) If the application was not subject to a specialty group and the case file was incomplete, the screener could send the application back to the applicant with a request for the missing documentation. The applicant was generally given 90 days to respond.
4) If the application was very close to being complete but missing only one or two items, the screener could send it to the Accelerated Processing (AP) group.
5) If the application was too large for the AP group or needed information beyond one or two items, the screener could send it to the Intermediate Processing (IP) group.
6) If the application did not fall into any of the above five categories and the screener was unsure how to process it, the screener could send it to what was called "general inventory." The application then remained in general inventory until it was assigned to an EOD revenue agent for review.[158]

Each EO group outside of the Screening Group also had what was called a "secondary screener" who doublechecked that the first screener had made the correct determination in sending the application to the group; if the secondary screener determined that the application should

---

[156] Id.
[157] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[158] Id. See also 6/4/2012 letter from IRS to Subcommittee, PSI-IRS-02-000001 - 026, at 002 - 003; Internal Revenue Manual, § 7.20.2.3.2, http://www.irs.gov/irm/part7/irm_07-020-002r.html#d0e4446, (providing a description of how cases are screened).

not have been sent to the group, that screener returned it to the Screening Group for further processing.[159]

Whether an application was sent to a specialty group, AP, IP, or general inventory, it was reviewed by an EO revenue agent, called a "determinations specialist." During the review process, the determinations specialist was required to consider the facts and circumstances depicted in the information contained in the application, as well as any applicable precedent for how the group should be handled.[160] If an application presented questions that required further development, the determinations specialist was authorized to engage in a dialogue with the applicant to obtain additional information.

Specialty Groups. During the time period reviewed by the Subcommittee, the Exempt Organizations (EO) group had about 12 specialty groups reviewing 501(c) applications, each of which was assigned to evaluate certain types of applications.[161] In a 2011 email to a colleague, the head of the Determinations Unit, Cindy Thomas, described some of the specialty groups as well as the reasoning behind establishing them:

> "In fact, most of the groups have more than one category of cases assigned to them. For example, one group works charter schools and farmers' co-ops, another group works foreclosure assistance/downpayment assistance/credit counseling cases, another group works potential emerging issues and potential auto revocation cases, another carbon credit cases/VEBAs/foreign organizations, and on and on. The reason we took this step was to improve quality, decrease time per case, improve customer satisfaction, and improve employee/manager satisfaction so that everyone did not need to be a technical expert in every area."[162]

---

[159] Subcommittee interview of Stephen Seok, IRS (11/22/2013). The recent TIGTA audit found that the EO screeners were not always accurate; they forwarded to specialists some 501(c) applications that had no "indications of significant political campaign intervention," and failed to forward other applications with "evidence of significant political campaign intervention." 5/14/2013 TIGTA Audit Report, at 5.

[160] 6/4/2012 letter from IRS to Subcommittee, PSI-IRS-02-000001 - 026, at 002.

[161] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). Some of the cases handled by the EOD specialty groups were applications filed by credit counseling groups; groups handling health care issues such as hospital status requests and community service centers for pregnant or parenting teenagers; groups handling anti-terrorism matters; hedge funds; medical marijuana groups; groups handling carbon credits; donor advised funds; groups involved with conservation easements; foreign organizations; housing down payment groups; partnerships; and school-charter groups. See, e.g., 9/30/2013 "Memorandum For All Employees – Exempt Organizations Determinations Unit," prepared by IRS, http://www.irs.gov/pub/foia/ig/spder/TEGE-07-0913-15%5b1%5d.pdf (listing case categories).

[162] 3/16/2011 email from Cindy Thomas to Holly Paz, "TAG info," IRSR0000008593.

Applications subject to specialty group review were required to be evaluated by the relevant EOD group and generally were not supposed to be resolved outside of it.[163]

General Inventory. If a case wasn't within the subject matter of any specialty group, but could not be quickly resolved, a screener could assign the case to "general inventory."[164] "General inventory" was not the name of a review group, but referred to cases that had been assigned to sit in a queue until an EOD revenue agent became available to review them. Any EOD manager of a group could assign cases from the general inventory to the agents within the manager's group if they had time to work on the cases.

EO Technical. If an application raised issues for which there was no established precedent and involved concerns that could produce inconsistent outcomes, the EOD Unit could refer the case to the EO Technical (EOT) Unit.[165] EOT is an Exempt Organizations subdivision whose personnel work in Washington, D.C. It is staffed with higher graded tax law specialists who work with the IRS Office of Chief Counsel to interpret and provide guidance on the law governing tax exempt entities; provide technical advice on complex issues affecting the tax exempt community; and assist EO revenue agents with spotting issues and handling cases in a consistent manner.[166] EOT specialists had the authority to review applications and seek additional information from applicants to complete the administrative record.[167] If, upon review, an EOT specialist concluded that an applicant did not meet the requirements for tax-exempt status, the specialist could issue a proposed denial explaining why and provide a copy to the applicant. The applicant could then request a "conference of right" to address the issues. Following the conference, the EOT specialist typically issued a final determination. "If the application is approved, the administrative record is made publicly available" for inspection.[168] If the application is denied, the applicant may challenge that determination in court.

501(c) BOLOs. One of the key issues confronting the IRS was screening and categorizing the 70,000 501(c) applications that were filed each year so that similar groups were handled in a consistent manner, including, if appropriate, by being assigned to the proper specialty group. The Subcommittee was told that, in recent years, a key mechanism used by the Exempt Organizations Determinations (EOD)

---

[163] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[164] Id.
[165] 6/4/2012 IRS letter to the Subcommittee, PSI-IRS-02-000001 - 026, at 003.
[166] Id. See also Internal Revenue Manual Part 7, Rulings and Agreements, §7.29.1.2 (02-01-2008), "EO Technical Responsibilities," http://www.irs.gov/irm/part7/irm_07-029-001.html.
[167] See Internal Revenue Manual Part 7, Rulings and Agreements, §7.29.3.2 (07-14-2008), "Processing of Cases by Tax Law Specialists (TLS)," http://www.irs.gov/irm/part7/irm_07-029-003.html.
[168] 6/4/2012 letter from IRS responding to Subcommittee, at PSI-IRS-02-000001 - 026, at 003.

Unit to help with those tasks involved the development of "Be-On-the-Lookout" Lists, referred to as "BOLOs."

BOLOs represented an IRS effort to identify and aggregate groups of similar 501(c) applications that required special scrutiny and to subject them to a more standardized process of review.[169] According to the Determinations Unit head, the groups identified on the BOLO lists were generally ones which had raised concerns in the past over whether they qualified for tax exemption, or which IRS employees had reason to believe could raise tax exemption problems in the future.[170] The BOLOs were emailed periodically – usually on a monthly basis – to all EO determination specialists and managers to alert them to the highlighted cases and ensure they were treated in the same way.[171]

The first BOLO was issued by email in August 2010.[172] Prior to that, IRS employees had sent one another email alerts about various types of entities to be aware of when processing applications.[173] According to Determinations head Cindy Thomas, EO personnel had found it too difficult to keep track of the numerous email alerts they were receiving, and the alerts were instead consolidated into a single document, resulting in the "BOLO" list.[174] The BOLO list consisted of a number of spreadsheets circulated as a single document.[175] As one senior EO official explained to another in a 2011 email: "The BOLO spreadsheet is disseminated to managers and specialists so that they have a consolidated list to reference and don't need to keep individual emails, etc."[176]

EO determinations specialist Ronald Bell was the keeper of the BOLO lists, from their inception in 2010 through approximately August 2012, and then from approximately April 2013 until the BOLOs stopped being used later that year.[177] He told the Subcommittee that he retained the BOLOs that were sent to him, but generally did not author individual BOLO entries, with one exception explained below.[178] According to the EOT head, for the first two years the BOLOs were issued, the process for adding new entries to the BOLO list was informal and, at times,

---

[169] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[170] Id.
[171] Id.; 2/18/2011 email from Holly Paz to Cindy Thomas, "TAG info," IRSR0000008593 - 602, at 595.
[172] Subcommittee interview of Holly Paz, IRS (10/30/2013); 5/14/2013 TIGTA Audit Report, at 6. The TIGTA audit report stated that the Determinations Unit first began developing the BOLO list in May 2010. Id.
[173] Subcommittee interview of Holly Paz, IRS (10/30/2013). The "Touch and Go" or TAG list appears to have been a predecessor to the BOLO list.
[174] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[175] See, e.g., August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503 - 515.
[176] 2/18/2011 email from Holly Paz to Cindy Thomas, "TAG info," IRSR0000008593 - 602, at 595.
[177] Subcommittee interview of Ronald Bell, IRS (1/15/2014).
[178] Id.

entries were added, revised, or updated without the knowledge or participation of senior EO personnel.[179] In May 2012, the process was formalized to require management approval of BOLO revisions and additions.[180] According to the Screening Group manager, the BOLOs were not seen as "a critical part" of the training process for new screeners, and he was unsure to what extent the screeners used the BOLOs.[181] However, one senior screener told the Subcommittee that he used the BOLOs extensively and always checked to see if he had any cases on the BOLO list.[182]

The BOLO list was divided into a handful of subsections that sometimes varied. The subsections typically included these five categories: "TAG," "TAG Historical," "Watch List," "Coordinated Processing," and "Emerging Issues."[183] "TAG" stood for "Touch-and-Go," a term which was used in earlier email alerts about problematic organizations to look for in 501(c) applications and which generally referred to organizations suspected of involvement with tax avoidance, fraud, or terrorism.[184] "TAG Historical" referred to cases that had been historically problematic for the IRS; entries in the section cautioned IRS agents to be on the lookout for related cases. The Subcommittee was told that all screeners and determination specialists were supposed to review the names in the TAG and TAG Historical sections and run searches and check their files for those entities.[185] Applications involving organizations listed in the two sections were supposed to be sent to a TAG specialty group and processed only by that group.[186]

The "Watch List" section was a "general term for issues or cases in need of special handling" such as a request from the IRS Criminal Investigation Division to look for a specific application, or a request

---

[179] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[180] Id.; 5/14/2013 TIGTA Audit Report, at 41.
[181] Subcommittee interview of John Shafer, IRS (1/17/2014).
[182] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[183] See 5/10/2010 email from Cindy Thomas to Joseph Herr, "Emerging Issue follow-up," IRSR0000485854 - 860, at 857 - 860. See also 2/18/2011 email from Holly Paz to Cindy Thomas, "TAG info," IRSR0000008593 - 602, at 595. Some subsections appeared in only a few BOLOs. For example, in the inaugural BOLO list prepared in August 2010, the "Watch List" section was entitled, "BOLO list." See August 2010 BOLO Spreadsheet, prepared by IRS, IRS0000002503 - 515 (containing sections entitled, "TAG," "TAG Historical," "Emerging Issues," "Coordinated Processing," and "BOLO List"); June 2012 BOLO Spreadsheet, prepared by IRS, IRS0000001423 - 438 (containing sections entitled, "Potential Abusive Historical," "Potential Abusive," "Emerging Issues," "Coordinated Processing," and "Watch List"); February 2012 BOLO Spreadsheet, prepared by IRS, IRS0000001500 - 511 and IRSR0000006705 - 709 (containing sections entitled, "Potential Abusive Historical," "Potential Abusive," "Emerging Issues," "Coordinated Processing," and "Watch List").
[184] See 5/10/2010 email from Cindy Thomas to Joseph Herr, "Emerging Issue follow-up," IRSR0000485854 - 860, at 857 - 860. See also undated "Heightened Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 604 (explaining various BOLO sections).
[185] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[186] Id.

from EOT to look for applications filed by certain groups.[187] It was also used to alert IRS agents to problematic applications that were expected, but not yet received.[188]

The "Coordinated Processing" section of the BOLO was used as "the mechanism for promoting uniform case handling by assigning multiple related cases to a particular specialist or group when there is existing precedent and procedures that cover the issues involved."[189] It was used, for example, to flag applications involving "multiple entities related through a complex business structure such as a senior housing management company and separate senior housing properties."[190]

Finally, the "Emerging Issues" section of the BOLO was used to flag "an issue identified in a group of cases for which no standard practice for handling has been established."[191] As one senior EO official explained to a colleague in a 2011 email:

> "Most new emerging issues [were] identified by screeners through the initial screening process, for example tea party cases. When these potential emerging issue cases [were] identified, they [were] assigned to the group designated to work emerging issues."[192]

The Emerging Issues section of the BOLO was used, for example, to flag applications filed by "Tea Party" organizations, "Pension trust 501(c)(2) non-traditional investment" organizations, credit counseling groups, and hedge funds seeking tax exempt status as entities whose applications should be sent to the Emerging Issues specialty group.[193]

The evidence reviewed by the Subcommittee investigation indicates that the IRS used at least three of the BOLO sections to identify 501(c)(4) organizations engaged in campaign or other advocacy activities requiring heightened review. For example, as explained below, the Emerging Issues section led to hundreds of cases being selected for heightened review by EOD personnel, including groups with

---

[187] 5/10/2010 email from Cindy Thomas to Joseph Herr, "Emerging Issue follow-up," at IRSR0000485858.

[188] See undated "Heightened Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 612 - 614.

[189] 5/10/2010 email from Cindy Thomas to Joseph Herr, "Emerging Issue follow-up," at IRSR0000485857 - 858.

[190] Id. at 858. Additional examples included "a break-up of a large group ruling resulting in the subordinates seeking individual exemptions," and organizations subject to a "change in state law requiring instrumentalities to change their form 990 filing requirement." Id. See also undated "Heightened Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 609 - 610.

[191] 5/10/2010 email from Cindy Thomas to Joseph Herr, "Emerging Issue follow-up," at IRSR0000485857. See also undated "Heightened Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 605-608.

[192] 2/18/2011 email from Holly Paz to Cindy Thomas, "TAG info," at IRSR0000008595.

[193] See undated "Heightened Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 609 - 610. See also, e.g., November 2010 BOLO spreadsheet, prepared by IRS, IRS0000001349 - 364, at 357.

"Tea Party," "9/12," or "Patriot" in their names.[194] In addition, the TAG Historical section included an entry for "Progressive political activities"[195] that, together with the Emerging Issues section, contributed to groups with "Progressive" or "Progress" in their names being subjected to heightened scrutiny for advocacy activities.[196] Further, as explained below, the Watch List section included entries for "ACORN successor" groups[197] and "Occupy" groups[198] which were also identified and subjected to heightened review for their advocacy activities.[199] In June 2012, an Emerging Issues entry was revised to encompass all of the advocacy groups in a single BOLO entry, combining the Tea Party, ACORN successor, and Occupy groups, among others. At the same time, while the evidence indicates the BOLO listings played a major role in identifying the 501(c)(4) advocacy groups subjected to heightened review, they were not the only way the groups were identified.[200]

B. Flagging Tea Party and Other Groups

In February 2010, an IRS screener working in the Cincinnati office flagged the first application in which the applicant used the phrase "Tea Party" in its name, and asked the head of the Screening Group how to handle the case. The Screening Group head forwarded an email from the screener describing the application to more senior Determinations

---

[194] See TIGTA Audit Report at 10 ("We reviewed all 298 applications that had been identified as potential political cases as of May 31, 2012."). All of those 298 applications had been identified through the Emerging Issues section of a BOLO. Id. at 24; 6/11/2012 email from Holly Paz to Cheryl Medina, "TIGTA request – updated case data," TIGTA Bates No. 011102 - 103. About one-third of those applications had been filed by groups with "Tea party," "9/12," or "Patriot" in their names. TIGTA Audit Report at 8.

[195] See, e.g., August 2010 BOLO spreadsheet, prepared by the IRS, IRS0000002503 - 515, at 513; August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; July 2012 BOLO spreadsheet, prepared by the IRS, at IRS000001484 - 499. See also 8/10/2010 email from Elizabeth Hofacre to Cindy Thomas and others, "Watch List Alerts," IRSR0000014013 - 028, at 018.

[196] See, e.g., an analysis of 501(c)(4) advocacy cases as of 6/5/2012, prepared by the IRS Chief Risk Officer David Fisher (hereinafter "IRS analysis of 501(c)(4) advocacy cases as of 6/5/2012"), PSI-IRS-37-000004 - 014, at 011 -012 (listing applications filed by groups with "Progressive" or "Progress" in their names, some of which had been included in lists of Emerging Issues cases and others of which had been otherwise identified); Subcommittee interview of David Fisher, IRS (12/6/2013). See also Report section on Processing Applications from Liberal Groups, below.

[197] See August 2010 BOLO spreadsheet, prepared by the IRS, IRS0000002503 - 515, at 513; August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; June 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000014253 - 258 (BOLO expanded by the IRS to make it readable for the Subcommittee); 10/7/2010 email from Jon Waddell to Steven Bowling and Sharon Camarillo, "BOLO Tab Update," IRSR0000410433 - 434.

[198] See January 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000630285 - 289, at 285.

[199] See Report section on Processing Applications from Liberal Groups, below.

[200] For example, dozens of 501(c)(4) groups were selected for heightened review before the first BOLO was issued in August 2010, as indicated below. See also 9/8/2008 email from Donna Abner to Cindy Westcott and others, "Political Case Alert," IRSR0000011493 - 494 (recommending an email alert for Emerge groups). Emerge groups were selected for heightened scrutiny by EOD personnel even though they had no separate BOLO listing and were not identified through the Emerging Issues entry. See Report section on Processing Applications from Liberal Groups, below.

personnel who alerted the EO Technical Unit to the potentially high profile case. By March, a senior screener had flagged ten similar cases. He also highlighted what he called an "equal Democratic 'tea party' type entity, called Emerge" and later suggested flagging applications filed by groups with either "Emerge" or "Progressive" in their names. The head of the EOT agreed to provide technical advice on how to handle the applications and requested two test cases. Also in April 2010, at a regular meeting of IRS screeners to discuss emerging issues, the senior screener gave a presentation about the "Tea Party" category of cases and asked the screeners to send the cases to the Screening Group manager.

First Tea Party Group Flagged. In February 2010, Jack Koester, a senior member of the EO Screening Group, reviewed an application for tax exempt status from an organization with the words "Tea Party" in its name.[201] Characterizing the application as a "high profile case" due to "media attention" to those types of organizations, he sent an email to the Screening Group manager, Mr. Shafer, asking him how to handle it.[202] His action was apparently the first to flag a 501(c) application from an organization that included "Tea Party" in its name. Mr. Shafer responded by telling Mr. Koester that he would forward the issue to his supervisor. Mr. Shafer told the Subcommittee that, at the time he received the Koester email, he was not familiar with the Tea Party, but had heard of it and thought it was a conservative group.[203] Mr. Shafer said that he forwarded the Koester email to his supervisor, Sharon Camarillo, who, in turn, forwarded the email to the head of the Determinations Unit, Cindy Thomas.[204]

Ms. Thomas sent an email to the acting manager of the EO Technical Unit, Holly Paz, located in Washington, D.C., asking whether "EO Technical wants this case because of recent media attention."[205] Ms. Paz told the Subcommittee that, according to the Internal Revenue Manual, EO application cases that were without precedent and cases that had national media impact were supposed to be handled by EO

---

[201] Subcommittee interview of John Shafer, IRS (1/17/2014); 2/25/2010 email from Jack Koester to John Shafer, "Case # [REDACTED BY IRS]," IRSR0000195553 - 554, at 553.

[202] 2/25/2010 email from Jack Koester to John Shafer, "Case # [REDACTED BY IRS]," at IRSR0000195553. (Mr. Koester wrote: "Here is the case number for the 'Tea Party' application for 501(c)(4) exemption that we discussed this morning. Recent media attention to this type of organization indicates to me that this is a 'high profile' case.").

[203] Subcommittee interview of John Shafer, IRS (1/17/2014).

[204] Id. See also 2/25/2010 email from John Shafer to Sharon Camarillo, "Case # [REDACTED BY IRS]," IRSR0000181003 - 007, at 005; 2/25/2012 email from Sharon Camarillo to Cindy Thomas, "Case # [REDACTED BY IRS]," IRSR0000195549 - 554, at 551 (The email sent by Ms. Camarillo forwarding Mr. Koester's email to Cindy Thomas included this comment: "Cindy: Please let 'Washington' know about this potentially politically embarrassing case involving a 'Tea Party' organization. Recent media attention to this type of organization indicates to me that this is a 'high profile' case.").

[205] 2/25/2010 email from Cindy Thomas to Holly Paz, "High Profile Case – Does EO Technical Want It," IRSR0000195549 - 554, at 551. Ms. Thomas told the Subcommittee that it was not unusual for EOT to take cases from Cincinnati. Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

Technical.[206] Ms. Paz responded to Ms. Thomas' inquiry in the affirmative: "I think sending it up here is a good idea given the potential for media interest."[207] Ms. Paz told the Subcommittee that her plan was to have EOT work on the case and develop a template for how to handle future determinations in the area although, ultimately, no template was developed.[208]

Ten Cases Flagged. By mid-March 2010, the Screening Group had identified ten applications that raised issues similar to the application Mr. Koester had flagged in February from the organization with "Tea Party" in its name.[209] Mr. Muthert, a senior revenue agent who worked in the Screening Group and sometimes served as its acting manager, told the Subcommittee that he had found the additional cases by conducting searches of the IRS database, TEDS, using the following words: "Tea Party," "9-12," and "Patriot."[210] He said that he presented the cases to the Screening Group manager, Mr. Shafer.[211]

On March 16, 2010, Mr. Shafer sent an email to the EO Determinations head, Ms. Thomas, stating: "We have identified a total of 10 Tea Party cases. Three cases have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward

---

[206] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[207] 2/26/2010 email from Holly Paz to Cindy Thomas, "High Profile Case – Does EO Technical Want It," IRSR0000195551. See also 4/1/2010 email from Steven Grodnitzky to Donna Elliot-Moore and Ronald Shoemaker, "two cases," IRSR0000443984 ("These are high profile cases as they deal with the Tea Party so there may be media attention.").

[208] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[209] Subcommittee interview of Gary Muthert, IRS (1/15/2014). See also 5/14/2013 TIGTA Audit Report, at 31.

[210] Subcommittee interview of Gary Muthert, IRS (1/15/2014). According to Mr. Muthert, Mr. Shafer did not ask how he found these cases. Id. When asked if he had a negative view of the Tea Party, Mr. Muthert replied: "No, I align with them." Id. It is also important to note that the term "Patriot" was not used exclusively by conservative groups. In 2010, for example, a 501(c)(4) group called "Patriot Majority USA" began operations, supporting views and candidates affiliated with the Democratic Party. In the 2012 election cycle, the Center for Responsive Politics characterized it as one of the largest spending, Democratic- leaning 501(c)(4) groups. See "2012 Outside Spending, by Group: Non-Disclosing Groups," prepared by Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U. For more information about Patriot Majority USA, see the Report section on Evaluating Campaign and Social Welfare Activities, below.

[211] Subcommittee interview of Gary Muthert, IRS (1/15/2014). Mr. Muthert and Mr. Shafer disagreed on how the ten cases came to be identified. According to Mr. Muthert, in March 2010, Mr. Shafer asked him to find as many Tea Party groups as possible so Mr. Muthert conducted a search and found four applications with Tea Party in the organizations' names, two of which were open and two of which were closed. Id. Mr. Muthert told the Subcommittee that, about a week later, Mr. Shafer asked him to find ten Tea Party applications which he did by expanding the search terms to also include "Patriot" and "9-12." Mr. Shafer, however, disputes that he asked Mr. Muthert to look for Tea Party groups. Instead, he contends that Mr. Muthert came to him with a list of ten Tea Party cases; Mr. Shafer told the Subcommittee that he was "surprised [there wer]e so many cases." Subcommittee interview of John Shafer, IRS (1/17/2014). See also undated "Timeline," a document prepared by Mr. Muthert, IRSR0000487175 (stating that, from 2/26 to 4/5/2010, "I was asked by John to query our system and find any Tea Party application and similar cases. John asked me to secure 10 Tea Party cases and transfer them to EOT for review. I conducted TEDS research and found 10 TP cases.").

them to EO Technical."[212] Ms. Thomas forwarded Mr. Shafer's email to the EOT head, Ms. Paz. The next day, March 17, 2010, Ms. Thomas wrote to Ms. Paz: "Did you know about these additional 10 tea party cases? Do you want all of them or do you only want a few and then give us advice as to what to do with the remaining?"[213]

Ms. Paz responded that EOT would take "a few more cases, (I'd say 2) and would ask that you hold the rest until we get a sense of what the issues may be."[214] In response, Mr. Shafer sent two cases to EOT and held the remaining case files in his office.[215]

Democratic Equivalents Flagged. At the same time the Tea Party cases were being presented to the EOT, on March 16, 2010, Mr. Muthert sent an email to Mr. Shafer about what he called "an equal Democratic 'tea party' type entity, called Emerge," and offered to provide information on applications filed by that group as well.[216] Mr. Muthert wrote:

> "I just looked at CNN.com. There is a major TEA Party protest in Washington D.C. today. I watched the video. It appears the TEA party is a Republican based entity. I am now a resident expert on the TEA Party. However, that being said, there is also an equal Democratic 'tea party' type entity, called 'Emerge.' If you want more info, just ask."[217]

Mr. Shafer replied: "What's the [REDACTED BY IRS] movement?"[218] The Subcommittee was unable to identify any substantive response made by Mr. Muthert to Mr. Shafer at the time.

As detailed further below, other evidence shows that, by the time of Mr. Muthert's 2010 email, the IRS had already flagged multiple applications submitted by Emerge groups, which were affiliated with a national organization, Emerge America, dedicated to encouraging and training Democratic women candidates to run for office. Beginning in 2008, the applications had been set aside for heightened review due to their political activities and apparent private benefits for the Democratic

---

[212] 3/16/2010 email from John Shafer to Cindy Thomas, "[REDACTED BY IRS] – EO Technical Would Like [REDACTED BY IRS]," PSI-IRS-09-000041.
[213] 3/17/2010 email from Cindy Thomas to Holly Paz, "[REDACTED BY IRS] – EO Technical Would Like [REDACTED BY IRS]," PSI-IRS-09-000041.
[214] 3/17/2010 email from Holly Paz to Cindy Thomas, "[REDACTED BY IRS] – EO Technical Would Like [REDACTED BY IRS]," PSI-IRS-09-000040.
[215] See 3/17/2010 email from John Shafer to Cindy Thomas, "[REDACTED BY IRS] – EO Technical Would Like [REDACTED BY IRS]," PSI-IRS-09-000040. (Mr. Shafer: "I will sen[d] [REDACTED BY IRS] to EO Technical, [REDACTED BY IRS]. I can hold the remaining cases in my group '75' number unless you want them held some other place."); Subcommittee interview of John Shafer, IRS (1/17/2014).
[216] 3/16/2010 email from Gary Muthert to John Shafer, "TEA PARTY," IRSR0000482737.
[217] Id.
[218] 3/16/2010 email from John Shafer to Gary Muthert, "TEA PARTY," IRSR0000482737.

Party. According to IRS materials released by the House Committee on Ways and Means, the Emerge groups were the subject of a Significant Case Report in April 2010, the same month a similar report discussed the Tea Party cases; the Emerge cases were subjected to the same level of heightened scrutiny, including EOT reviews; and the Emerge groups ultimately were either denied tax exempt status or lost their 501(c)(4) tax exempt status due to engaging in partisan advocacy activities.[219] More information about these cases is provided below.

In addition to conducting searches for Tea Party groups, Mr. Muthert suggested conducting searches using the term "Emerge" and "Progressive" to identify other groups warranting heightened review, both before and after the August 2010 BOLO urged screeners to look for those organizations.[220] Mr. Muthert explained to the Subcommittee that "Progressive" was one of the entries in the BOLO spreadsheet, in the section called "TAG Historical."[221] Mr. Muthert told the Subcommittee that all EO screeners were obligated to be on the lookout for groups described in the BOLO TAG Historical section, including by running searches for those entities and checking their files to see if they had any of those cases.[222] Mr. Muthert told the Subcommittee that, just as he did with the Tea Party, he ran electronic queries using the word "Progressive" and would have sent any cases he found to the relevant specialty group handling them.[223] According to an analysis by the IRS Chief Risk Officer, over a period running from May 2010 to December 2012, 20 applications were filed by groups with the words "Progressive" or "Progress" in their names, most of which were subjected to heightened scrutiny by the IRS, demonstrating that, at the same time the agency began to focus on Tea Party groups, it also began to examine progressive groups.[224]

---

[219] See, e.g., "3 Groups Denied Break by IRS are Named," New York Times, Stephanie Strom, (7/21/2011), http://www.nytimes.com/2011/07/21/business/advocacy-groups-denied-tax-exempt-status-are-named.html?_r=0.

[220] Subcommittee interview of Gary Muthert, IRS (1/15/2014); 7/28/2010 "Screening Workshop Notes," prepared by IRS, attached to 7/29/2010 email from Nancy Heagney to multiple IRS colleagues, IRSR0000006700 - 704, at 703 (indicating that at a July 2010 workshop, Mr. Muthert had urged his fellow IRS screeners to flag applications filed by both Emerge and Progressive groups).

[221] See August 2010 BOLO Spreadsheet, prepared by IRS, IRS0000002503 - 515, in TAG Historical section.

[222] Subcommittee interview of Gary Muthert, IRS (1/15/2014).

[223] Id.

[224] See IRS analysis of 501(c)(4) advocacy cases as of 6/5/2012, PSI-IRS-37-000004 - 019, at 011 - 012 (showing that at least 11 groups with "Progressive" or "Progress" in their names had filed 501(c)(4) applications that had been subjected to IRS reviews lasting six months or longer). This evidence shows that from 2010 to 2012, progressive groups were applying for tax exempt status and were being identified and subjected to heightened review by IRS personnel, countering the assertion in the Minority Staff's Dissenting Views that cases involving progressive groups "were inactive during the time period of the TIGTA audit." Dissenting Views at 227, 229, 237.

Other Screeners Notified about Cases. According to Mr. Muthert, he continued to run searches to find "Tea Party" cases and found additional examples which were held within his Screening Group, while awaiting word from EOT on how to handle them.[225] On April 5, 2010, the head of the Determinations Unit, Cindy Thomas, asked Mr. Muthert, then acting manager of the Screening Group while Mr. Shafer was on vacation, to compile a list of the Tea Party cases that had been identified.[226] In response, Mr. Muthert provided a list of 18 organizations, almost double the number from a few weeks earlier.[227]

On April 14, 2010, Mr. Muthert gave a presentation on the cases at a routine Screening Group meeting designed to alert screeners to a variety of applications and emerging issues.[228] The minutes from the meeting provided this summary of the presentation:

> "Gary Muthert gave a presentation on 'Tea Party Cases.' He stated that 3 cases have been approved including one as a 501(c)(3). We are waiting guidance from HQ on these cases. John Shafer is h[o]lding these cases in his office if you identify one. Give case information to Gary Muthert as well."[229]

Mr. Muthert told the Subcommittee that after giving this presentation, he stopped running electronic searches for the applications, because he believed that the other screeners had been put on notice to look for the cases and would turn them over to Mr. Shafer.[230] Mr. Muthert told the Subcommittee that he did not believe the other screeners had been running queries like he had been doing to find the cases, but were identifying the cases as they came in and were assigned to the screeners for review.

On April 24, 2010, Ms. Thomas sent the list of 18 cases to Steven Grodnitzky, then acting EOT head while Ms. Paz was on maternity leave, and noted: "None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT."[231] Her email was sent about two months after the first Tea Party application had been flagged by the Screening Group.

---

[225] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[226] 4/5/2010 email from Cindy Thomas to Gary Muthert, "Tea Party Cases – ACTION," IRSR0000443983.
[227] See 4/6/2010 email from John Shafer to Cindy Thomas, "Tea Party Cases – ACTION," IRSR0000443982 (providing Mr. Muthert's list of Tea Party cases).
[228] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[229] 4/14/2010 "Minutes of Group Meeting - Group 7838," prepared by the IRS, IRSR0000168256 - 257.
[230] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[231] 4/24/2010 email from Cindy Thomas to Steven Grodnitzky, "SCR," IRSR0000165439 - 440.

C. Reviewing Test Cases

The EO Screening Group sent two "test cases" involving applications filed by Tea Party groups to the EO Technical Unit in early 2010, which left them unresolved for more than three years. The initial EOT specialist assigned to the cases, Carter Hull, took a year to obtain information from the applicants, analyze the issues, and propose how the applications should be handled, recommending that a 501(c)(4) application be approved and a 501(c)(3) application be denied. On the instruction of EO head Lois Lerner, his analysis of the test cases was then forwarded to the Tax Exempt and Government Entities (TEGE) division within the IRS Chief Counsel's office for analysis and advice. Even though the cases had been pending for over a year and other development letters had been sent, the TEGE legal counsel advised obtaining additional information from the applicants before deciding the cases, including reviewing any campaign activities undertaken in 2010. In response, the EOT specialist drafted a new letter requesting the additional information, but failed to send it after the cases were reassigned to a new EOT specialist in August 2011, about 18 months after the applications were first filed with the IRS. The new EOT specialist, Hilary Goehausen, recommended denying both applications, but those recommendations were not acted on, and both test cases remained unresolved for another two years. During the course of their work, both EOT specialists prepared Significant Case Reports that provided monthly updates on the two test cases to senior EO management.

Initial EOT Review of Test Cases. In late February 2010, Holly Paz, EOT head, told Determinations head Cindy Thomas that it would be a good idea to send the first Tea Party case to EOT for review.[232] In mid-March, Ms. Paz suggesting sending two Tea Party cases to EOT to "get a sense of what the issues may be."[233] On March 31, 2010, Ms. Paz accepted two "tea party" cases.[234]

In April 2010, Ronald Shoemaker, the manager of EOT Group II, assigned the two Tea Party cases to Carter (Chip) Hull, a senior EOT Tax Law Specialist who had been with the IRS for decades, and told him they were test cases intended to help provide guidance to the Cincinnati office on how to handle those types of applications.[235] Around the same time, Steven Grodnitzky, then acting head of the EOT,

---

[232] See 2/26/2010 email from Holly Paz to Cindy Thomas, "High Profile Case – Does EO Technical Want It," IRSR0000195551 (indicating sending a test case to EOT "is a good idea").
[233] 3/17/2010 email from Holly Paz to Cindy Thomas, "[REDACTED BY IRS] – EO Technical Would Like [REDACTED BY IRS]," PSI-IRS-09-000040.
[234] See 3/31/2010 email from Donna Elliot-Moore to Steven Grodnitzky, "two cases," IRSR0000443985 ("Re: Two 'tea party' cases .... Holly accepted the cases for EO Technical.").
[235] Subcommittee interview of Carter Hull, IRS (11/19/2013).

asked Mr. Hull to begin preparing "Significant Case Reports" for the test cases, which is a type of monthly report that the IRS uses to monitor cases with significant issues.[236] The report information was provided to senior management, including EO head Lois Lerner.[237]

Mr. Hull told the Subcommittee that, after the two test cases were assigned to him, he read and analyzed the case files, one of which involved a 501(c)(4) organization and the other of which involved a 501(c)(3) organization.[238] He said that the cases fit "broadly" within the Tea Party category but, at the time he was analyzing them, he did not know why they were called Tea Party cases or why the IRS was interested in them.[239] When Ms. Thomas, the head of the Determinations Unit, was asked why the category used for the cases was called "Tea Party," she explained that the first case involved an organization with Tea Party in its name.[240]

Mr. Hull sent a development letter to the 501(c)(3) applicant, but never received a reply from the group and closed the file.[241] He also sent a development letter to the 501(c)(4) applicant and received the requested information.[242] At some point, Mr. Hull requested another case to take the place of the closed 501(c)(3) case, and Mr. Shoemaker sent him another 501(c)(3) Tea Party case.[243]

---

[236] 4/23/2010 email from Steven Grodnitzky to Ronald Shoemaker, "SCR," IRSR0000165439 - 440 (Mr. Grodnitzky wrote: "Can you or Chip [Carter Hull] make up the SCR [Significant Case Report], and confer with Cindy [Thomas] to include their information in the SCR?"); Subcommittee interview of Holly Paz, IRS (10/30/2013). See also 4/5/2010 email from Steven Grodnitzky to Ronald Shoemaker and Cindy Thomas, "two cases," IRSR0000443984 ("Can you assign these cases to one person and start an SCR for this month on the cases?"). In some IRS documents, a "Significant Case Report" is referred to as a "Sensitive Case Report." See also 5/14/2013 TIGTA Audit Report, at 31.

[237] See 5/14/2013 TIGTA Audit Report, at 32 ("Sensitive Case Reports are shared with the Director, Rulings and Agreements, and a chart summarizing all Sensitive Case Reports is provided to the Director, EO.").

[238] Subcommittee interview of Carter Hull, IRS (11/19/2013). See also 4/6/2010 email from Carter Hull to Siri Buller, "Political Issues," IRSR0000012133 (Mr. Hull wrote: "I was just assigned a couple of cases on Tea Party organizations, one seeking exemption under 501(c)(3) and one under 501(c)(4).").

[239] Subcommittee interview of Carter Hull, IRS (11/19/2013). In response to a question, Mr. Hull told the Subcommittee that he had no animosity towards the Tea Party nor did anyone else at the IRS. Id.

[240] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

[241] Subcommittee interview of Carter Hull, IRS (11/19/2013); 5/17/2011 Significant Case Report, prepared by Carter Hull, IRSR0000165721 - 722. (indicating that, with respect to "Organization (1)" of the Tea Party cases, "closed FTE [Failed to Establish] for failure to respond to a development letter").

[242] Subcommittee interview of Carter Hull, IRS (11/19/2013); 5/17/2011 Significant Case Report, prepared by Mr. Hull, IRSR0000165721 - 722. Mr. Hull told the Subcommittee that the organization requested additional time to respond to the development letter, and he gave the group 30 additional days. He also indicated that the group submitted additional information in response to the letter, but a few items were still missing. He indicated that the group ultimately provided all of the missing information. Subcommittee interview of Carter Hull, IRS (11/19/2013).

[243] Subcommittee interview of Carter Hull, IRS (11/19/2013).

In October 2010, Mr. Hull sent a memorandum to Mr. Shoemaker providing an update on the two test cases, explaining that he was working on those as well as other similar applications in coordination with the Cincinnati office.[244] That memorandum was dated about seven months after the test cases had first been referred to EOT. During that period, Mr. Hull had been working with Elizabeth Hofacre, a Determinations specialist who had been tasked with coordinating the Tea Party cases and who had sought his advice with respect to developing the facts associated with those cases while awaiting resolution of the two test cases.[245]

On November 20, 2010, Determinations head Cindy Thomas sent an email to Steven Bowling, head of the EOD group handling Tea Party cases, to update him on the EOT review of the test cases. She wrote:

> "I had a discussion with Holly Paz on Wednesday (11/17) afternoon to again discuss the tea party cases. She advised me that we were sending applicable parts of the application package to EOT along with the additional information letter and that based on this information they are finding that not all the tea party cases have the same issues. This is why they have not been able to prepare a template [development] letter with additional questions. EOT is putting together a briefing paper and going to discuss the various issues in these cases with Judy Kindell [Senior Technical Advisor to EO Director]. If Judy does not believe they have a basis for denial for the egregious situations, then they will most likely recommend all cases be approved. In the meantime, the specialist(s) need to continue working the applications as they have and will need to advise applicants that the cases are still under review. If this has not been finalized by 12/13/2010, please follow up with me and I will ask for a status report from Holly."[246]

In December 2010, the test cases were still unresolved, and Ms. Thomas asked Ms. Paz for an update: "Has there been any update regarding the tea party cases as far as the discussion with Judy Kindell?"[247] Ms. Paz responded:

> "We will be going to Judy shortly with the proposal to grant exemption to the c4 applicant .... The c3 application is not yet

---

[244] 10/18/2010 memorandum from Carter Hull, IRS, to Ronald Shoemaker, IRS, "Coordinating Tea Party Cases Update Memorandum," IRSR0000168087 - 091; Subcommittee interview of Carter Hull, IRS (11/19/2013).

[245] Subcommittee interviews of Carter Hull, IRS (11/19/2013) and Elizabeth Hofacre, IRS (10/25/2013). Ms. Hofacre eventually had about 40 cases that she was supposed to develop while awaiting resolution of the two test cases, as detailed further below.

[246] 11/20/2010 email from Cindy Thomas to Steven Bowling and Sharon Camarillo, "Political Cases – Information," IRSR0000014069 - 070, at 070.

[247] 12/13/2010 email exchange between Holly Paz and Cindy Thomas, "Political Cases – Status," IRSR0000014069 -070, at 070.

> ready for discussion with Judy – TP's [taxpayer's] response to development letter is under review. We expect to move that to Judy sometime in January."[248]

In January 2011, Lois Lerner, head of Exempt Organizations, reviewed a Significant Case Report for that month which included a discussion of the two Tea Party test cases. On February 1, 2011, Ms. Lerner warned Holly Paz, EOT head, about the dangers involved with those cases and suggested the cases should not be left in the Cincinnati office:

> "Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one .... Cincy [Cincinnati office] should probably NOT have these cases – Holly please see what exactly they have please."[249]

Ms. Paz responded that the Cincinnati agents were being carefully supervised and were not making any final decisions on the cases until the two test cases were resolved by EOT:

> "Cases in Determs are being supervised by Chip Hull at each step – he reviews info from TPs [taxpayers], correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon."[250]

Ms. Paz told the Subcommittee that, after this email exchange, she communicated Ms. Lerner's instructions that the two test cases be elevated to Judith Kindell and legal counsel in the Tax Exempt and Government Entities (TEGE) division of the IRS Chief Counsel's office.[251] Ms. Kindell, along with Siri Buller and Justin Lowe, were then the EOT subject matter experts on political advocacy and campaign issues.[252] The TEGE division was a key source of legal advice on tax exempt issues for EO personnel.

Mr. Hull told the Subcommittee that, at some point in late 2010 or early 2011, he discussed the Tea Party test cases with his "reviewer,"

---

[248] Id.
[249] 2/1/2011 email from Lois Lerner to Holly Paz, "SCR Table for Jan. 2011," IRSR0000168020 - 023, at 022.
[250] 2/2/2011 email from Holly Paz to Lois Lerner, "SCR Table for Jan. 2011," IRSR0000168020 - 023, at 021.
[251] Subcommittee interview of Holly Paz, IRS (10/30/2013). See also IRS organizational chart for the Chief Counsel office. "Office of the Chief Counsel," prepared by the IRS, http://www.irs.gov/irm/part1/30379001.html.
[252] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

Elizabeth Katzenberg, and she suggested sending the cases to Judith Kindell for her review.[253]

In late 2010 or the first quarter of 2011, Mr. Hull finally reached a decision on how the two test cases should be handled, recommending that tax exemption be approved for the 501(c)(4) group, but denied for the 501(c)(3) group.[254] A later briefing paper prepared for EO head Lois Lerner indicated that his favorable recommendation on the 501(c)(4) group was because the group would "conduct advocacy and political intervention, but political intervention will be 20% or less of activities."[255] The briefing paper indicated that his recommended denial of the 501(c)(3) application was based on the group's "ties to politically active (c)(4)s and 527s."[256] The paper also noted: "A proposed denial is being revised by TLS [Tax Law Specialist] to incorporate the org.'s response to the most recent development letter."[257]

The meeting between Mr. Hull and Ms. Kindell took place on or around April 7, 2011, about two months after it was first proposed and a full year after Mr. Hull first received the test cases;[258] the reason why the meeting was so delayed is unclear. Mr. Hull met at the time with both Ms. Katzenberg and Ms. Kindell, and discussed his analysis and recommendations for approving the 501(c)(4) application and denying the 501(c)(3) application.[259] Ms. Kindell responded by recommending that additional information be obtained regarding both cases, and that the cases be sent to TEGE counsel for review.[260]

---

[253] Subcommittee interview of Carter Hull, IRS (11/19/2013).

[254] See, e.g., 4/7/2011 email from Judith Kindell to Lois Lerner and Holly Paz, "sensitive (c)(3) and (c)(4) applications," IRSR0000350220 - 221.

[255] 6/27/2011 email from Justin Lowe to Holly Paz, "Briefing Paper on c3/4 Advocacy Orgs," prepared by staff for Lois Lerner, IRSR0000002734 - 735, at 735. Mr. Hull told the Subcommittee that he could not confirm the information in the email or discuss his recommendations with respect to either group due to the confidentiality requirements of Section 6103 of the tax code. Subcommittee interview of Carter Hull, IRS (11/19/2013).

[256] 6/27/2011 email from Justin Lowe to Holly Paz, "Briefing Paper on c3/4 Advocacy Orgs," prepared by staff for Lois Lerner, IRSR0000002734 - 735, at 735.

[257] 6/27/2011 email from Justin Lowe to Holly Paz, "Briefing Paper on c3/4 Advocacy Orgs," prepared by staff for Lois Lerner, IRSR0000002734 - 735, at 735. Donald Spellmann, one of the legal experts within TEGE Counsel's office on campaign activity issues, told the Subcommittee that he recalled the case, but did not recall there being a recommendation accompanying it when it was forwarded. Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[258] 4/7/2011 email from Judith Kindell to Lois Lerner and Holly Paz, "sensitive (c)(3) and (c)(4) applications," IRSR00000350220 - 221 (Ms. Kindell wrote: "I just spoke with Chip Hull and Elizabeth Katzenberg" about the test cases).

[259] See 5/12/2011 email from Michael Seto to Holly Paz, Tea Party – Email from TAS," IRSR0000429362 - 363; Subcommittee interview of Carter Hull, IRS, (11/19/2013).

[260] Subcommittee interview of Carter Hull, IRS (11/19/2013); 4/7/2011 email from Judith Kindell to Lois Lerner and Holly Paz, "sensitive (c)(3) and (c)(4) applications," IRSR0000350220 - 221 (Ms. Kindell wrote: "I just spoke with Chip Hull and Elizabeth Katzenberg about [REDACTED BY IRS] cases they have that are related to the Tea Party [REDACTED BY IRS] a (c)(3) application and the [REDACTED BY IRS] a (c)(4) application. I recommended that they develop the private benefit argument further and that they coordinate with Counsel."); 5/12/2011 email from Michael Seto to Holly Paz, "Tea Party – Email from

After the meeting, Ms. Kindell wrote to Lois Lerner, EO head, and Ms. Paz, EOT head, proposing that all of the Tea Party cases collected by the Determination Unit in Cincinnati be moved to the EOT office in Washington, D.C., "[g]iven the sensitivity of the issue."[261] Ms. Paz responded that the EOT staff was busy with other work which precluded them from being able to work on the Tea Party cases.[262] Ms. Paz noted that, by then, the inventory of Tea Party cases had grown to 102.[263]

In May 2011, Mr. Hull included this observation in his Sensitive Case Report:

> "The various 'tea party' organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The 'tea party' organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be 'tea party' organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity."[264]

His report indicated that the total number of related, pending applications had reached 25, and that his office had "not seen" those case files but were in the process of requesting them. The total cited in his report conflicted with the larger total given to EO head Lois Lerner in the prior month of 102 cases. At the time of his report, the two Tea Party test cases had been pending for over one year without resolution.

TAS," IRSR0000429362 - 363 (Mr. Seto wrote: "The current status is: Judy [Kindell] has reviewed our proposed (c)(3) denial and (c)(4) favorabl[y] and requested the staff to ask for more information from the taxpayers.").

[261] 4/7/2011 email from Judith Kindell to Lois Lerner, Holly Paz, and others, "sensitive (c)(3) and (c)(4) applications," IRSR0000350219.

[262] 4/7/2011 email from Holly Paz to Judith Kindell, Lois Lerner, and others, "sensitive (c)(3) and (c)(4) applications," IRSR0000350219. (Ms. Paz wrote that the EOT and Guidance staffs were "tied up with ACA (cases and Guidance) and the possibility looming that we may have to work reinstatement cases up here to prevent a backlog in Determs," and that she had "serious reservations about our ability to work all of the Tea Party cases out of this office.").

[263] Id. When asked about that total, Ms. Paz told the Subcommittee that she had always understood that the phrase "Tea Party" was being used generically, and that the total of 102 pending cases included both conservative and liberal groups. Subcommittee interview of Holly Paz, IRS (10/13/2013).

[264] 5/17/11 Sensitive Case Report, prepared by Carter Hull, IRSR0000165721 - 722.

Consultation with TEGE Counsel. In May or June 2011, at the suggestion of Ms. Kindell, Mr. Hull forwarded the two test case files to the TEGE division of the IRS Chief Counsel's office for its review.[265] He included his recommendations for approving one application and denying the other.[266]

On June 26, 2011, Lois Lerner, head of Exempt Organizations, met with lawyers from the TEGE Counsel's office.[267] The meeting participants included EO senior personnel Holly Paz and Nan Marks, and TEGE legal counsel Don Spellmann and Janine Cook. According to Mr. Spellmann, at the meeting, Ms. Lerner explained that, by then, EO had 100 "advocacy cases," and she wanted to find a way to process them.[268] Mr. Spellmann told the Subcommittee that his office had suggested drafting a model development letter.[269] He said that Ms. Lerner told TEGE counsel that EOT would forward them the two pending test cases to demonstrate what the cases looked like and what issues were involved.[270]

Mr. Spellmann told the Subcommittee that, after the meeting with Ms. Lerner, the TEGE Counsel's office discovered that the two test cases had already been provided to them by Mr. Hull, and that one had been assigned to Amy Franklin and the other to David Marshall.[271] Mr. Spellmann told the Subcommittee that he personally reviewed the case files and saw that both organizations had been engaged in some campaign activities.[272] He indicated that he planned to recommend that

---

[265] Mr. Hull told the Subcommittee that he forwarded the cases in May 2011. Subcommittee interview of Carter Hull, IRS (11/19/2013). Donald Spellmann, from the TEGE legal counsel's office, told the Subcommittee the case files were forwarded in June 2011. Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[266] See 5/17/2011 Sensitive Case Report, prepared by Carter Hull, IRSR0000165721 - 722 (indicating he had sent his recommendation for a favorable ruling on the 501(c)(4) group to TEGE Counsel and also sought additional information on the 501(c)(3) group); 8/17/2011 "Sensitive Case Report," prepared by Carter Hull, IRSR0000164559 - 561, at 560 (indicating his proposed denial of the 501(c)(3) group had been "forwarded for review 07/19/2011," while also removing his proposed approval of the 501(c)(4) group and indicating that an additional development letter would be prepared for that group). See also 6/27/2011 email from Justin Lowe to Holly Paz, "Briefing Paper on c3/4 Advocacy Orgs," prepared by staff for Lois Lerner, IRSR0000002734 - 735, at 735 (noting a proposed favorable recommendation for the 501(c)(4) group and a proposed denial for the 501(c)(3) group); 1/31/2013 EO Technical Significant Case Report, prepared by the IRS, IRSR0000161237. Mr. Spellmann told the Subcommittee that he did not recall seeing any recommendation with regard to approving or denying the applications, nor did he receive the related Significant Case Reports. Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[267] Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[268] Id. Mr. Spellmann told the Subcommittee that Ms. Lerner had called the cases "advocacy cases" and did not refer to them as "Tea Party" cases. Id.

[269] Id. Mr. Spellmann told the Subcommittee that he did not get the sense from the meeting that there was an urgency to processing the cases, but that managers were trying to figure out how to handle them. Id.

[270] Id. According to Mr. Spellmann, it was not uncommon for TEGE Counsel to receive cases from EOT or from Cincinnati to help evaluate particular types of cases. Id.

[271] Id.

[272] Id.

EOT take a closer look at the organizations' campaign activities in 2010, since it had been an election year, to determine the extent of their campaign involvement.[273]

Two months later, on August 4, 2011, a brief meeting took place between TEGE Counsel and EOT staff in which TEGE recommended that EOT "factually develop the election year of 2010."[274] Invited participants were TEGE counsels Don Spellmann, Amy Franklin, David Marshall, and Ken Griffin; and EOT staff Carter Hull, Hilary Goehausen, Justin Lowe, Andy Megosh, and Elizabeth Kastenberg.[275] In an email discussing the upcoming meeting, EOT head Ms. Paz wrote that the meeting would be helpful to coordinate with counsel on the two test cases, a guidesheet – referred to as a "checksheet" – to help determinations specialists develop and evaluate the cases, and a research paper defining "exclusively."[276] Mr. Spellmann told the Subcommittee that he recalled attending the meeting with Michael Seto and Amy Franklin, but did not recall anything else about the meeting other than it was brief.[277]

On August 10, 2011, TEGE counsel participated in a larger and longer meeting with Carter Hull and other EOT staff to discuss the two test cases and "advocacy case development."[278] The invited participants were Carter Hull; the three TEGE lawyers, Donald Spellmann, Amy Franklin, and David Marshall; and other EOT personnel, including Elizabeth Kastenberg, Hilary Goehausen, Justin Lowe, Andy Megosh, and Ronald Shoemaker.[279] According to Mr. Hull, at the meeting,

---

[273] Id.

[274] Id. See also 8/2/2011 email from Donald Spellmann to Holly Paz, "Mtg on Advocacy Cases," IRSR0000013066 - 067, at 067 (referencing August 4, 2011 meeting).

[275] 8/2/2011 email from Donald Spellmann to Holly Paz, "Mtg on Advocacy Cases," IRSR0000013067. It is unclear if all invited participants actually attended the meeting.

[276] 8/2/2011 email from Holly Paz to Donald Spellmann, "Mtg on Advocacy Cases," IRSR0000013066.

[277] Subcommittee interview of Donald Spellmann, IRS (12/18/2013). Mr. Spellmann told the Subcommittee that after the TIGTA report was issued, an article was written about an item in the report citing an IRS meeting on August 4, 2011, attended by the IRS "Chief Counsel." Id. See 5/14/2013 TIGTA Audit Report, at 36; "IRS Knew Tea Party Targeted In 2011," Associated Press, Stephen Ohlemacher (5/11/2013), http://bigstory.ap.org/article/irs-apologizes-targeting-tea-party-groups. Mr. Spellmann explained that the meeting was not attended by the actual IRS Chief Counsel, William Wilkins, but by attorneys from the TEGE Counsel's office which is a division of the Chief Counsel's office. Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[278] Subcommittee interview of Donald Spellmann, IRS (12/18/2013). See also 8/4/2011 email from Donald Spellmann, IRS, to Elizabeth Kastenberg, IRS, and others, "Advocacy Case Development," IRS0000001341 (regarding scheduling a meeting on August 10, 2011); 8/8/2011 email from Donald Spellman, IRS, to David Marshall, Amy Franklin, and others, IRS, "Wednesday Meeting," IRSR0000015566 (requesting their presence at the August 10th meeting); 8/17/2011 Sensitive Case Report, prepared by Carter Hull, IRSR0000164559 - 561, at 560 (noting that Mr. Hull "[m]et with Chief Council on August 10, 2011 to discuss further development of Organization (2)").

[279] 8/4/2011 email from Donald Spellmann, IRS, to Elizabeth Kastenberg and others, IRS, "Advocacy Case Development," IRS0000001341; Subcommittee interview of Carter Hull, IRS (11/19/2013). It is unclear if all invited participants actually attended the meeting.

TEGE counsel recommended collecting additional information about both test cases by sending another development letter to the groups and reviewing the groups' 2010 election activities since that election cycle had recently concluded.[280] Mr. Hull told the Subcommittee that he was surprised by the recommendation for additional development letters, since the applications had already been pending for more than a year, and he had already sent at least one development letter to each group.[281]

Mr. Spellmann told the Subcommittee that his office had offered to help Mr. Hull prepare the suggested development letters, but never heard back from Mr. Hull or anyone else with regard to the test cases.[282] Mr. Spellmann also told the Subcommittee that although the TEGE counsel's office had offered to draft a model development letter, the EOT head, Holly Paz, told him not do so.[283] When asked whether TEGE counsel had caused a delay with regard to processing the test cases, William Wilkins, IRS Chief Counsel, told the Subcommittee that he had instructed his staff to look into the matter and his staff had found there was no delay.[284] Mr. Spellmann concurred there was no delay on TEGE Counsel's end, contending that his office received the applications from Mr. Hull in June 2011, met with Mr. Hull in August 2011, and then never heard anything further about the cases.[285]

---

[280] Subcommittee interviews of Carter Hull, IRS (11/19/2013) and Donald Spellmann, IRS (12/18/2013). See also July 2011 email exchange between Donald Spellmann, Amy Franklin, Janet Gitterman, Kenneth Griffin, and David Marshall, "Case referred from EO," IRS0000001330 - 331 (On July 26, 2011, Janet Gitterman, senior EOT tax law specialist, emailed Amy Franklin, TEGE counsel, requesting an "estimate on timeframe for review by your office." Mr. Spellmann, TEGE counsel, responded: "Let's talk about this. But my suggestion from the meeting with Lois is that we go ahead and send it back with the advice that they develop 2010.").

[281] Subcommittee interview of Carter Hull, IRS (11/19/2013).

[282] Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[283] Id. See also 8/3/2011 email from Holly Paz to Donald Spellmann, "Mtg on Advocacy Cases," IRSR0000013066 - 067 (Ms. Paz advised Mr. Spellmann that "there are several moving pieces connected to this issue, my folks think it would still be helpful to coordinate as to: . . . [t]he checksheet (not a model development letter) EOT is writing for Determs specialists working the advocacy cases.").

[284] Subcommittee interview of William Wilkins, IRS (12/4/2013). Mr. Wilkins also told the Subcommittee that he had been unaware at the time that TEGE legal counsel had been consulted about the test cases in 2011, and said he learned of their role only when the TIGTA report was published in 2013. Id.

[285] Subcommittee interview of Donald Spellmann, IRS (12/18/2013). Aside from the August 2011 meeting on the two test cases, Mr. Spellmann told the Subcommittee that the TEGE Counsel's office had no other role in specific advocacy cases aside from two brief matters that took place in 2012 and 2013. Id. According to Mr. Spellmann, in April 2012, EOT transferred to the TEGE Counsel's office an application involving an applicant with Tea Party in its name, but TEGE Counsel did not review the case and returned it to EOT, because TEGE Counsel knew that those cases were supposed to be handled through a special "bucketing process" that had recently been established, as described further below. Also according to Mr. Spellmann, on another occasion in early 2013, prior to publication of the TIGTA report, Sharon Light, EO Senior Technical Advisor, sent a proposed 501(c)(4) denial to TEGE counsel for review involving a 501(c)(4) organization advocating on behalf of Democratic candidates. On that occasion, TEGE counsels Don Spellmann and Susan Brown agreed with the recommendation to deny the exemption. Id.

According to Mr. Hull, in August 2011, after the meeting with TEGE counsel's office, Michael Seto, EO Quality Assurance Manager, told Mr. Hull that his Tea Party cases were being reassigned to another EOT specialist.[286] Holly Paz, EOT head, told the Subcommittee that she made the decision to reassign the cases after speaking with Mr. Seto about Mr. Hull's work.[287] Other EO personnel had apparently also questioned the quality of Mr. Hull's work.[288]

Ms. Paz told the Subcommittee that she assigned the two test cases to both Hilary Goehausen, a new attorney in EOT, and Justin Lowe, a more senior EOT specialist with expertise on political advocacy and campaign issues.[289] Ms. Goehausen, an attorney who had started at the IRS in the EOT Unit earlier in 2011, told the Subcommittee that Mr. Seto had asked her to take on the cases, because one of the subject matter experts on campaign activities, Siri Buller, was leaving the IRS.[290] Ms. Goehausen also told the Subcommittee that she believed that the backlog of cases needing action had accumulated due to a cessation of work on them in the Cincinnati office while awaiting EOT guidance.[291] When asked during an interview by staff from two House Committees, Ms. Goehausen described herself as a registered Republican.[292]

---

[286] Subcommittee interview of Carter Hull, IRS (11/19/2013). Mr. Hull told the Subcommittee that he had known Mr. Seto a long time, and when he was told about the reassignment of the cases, he didn't want to ask why and did not ask why. Id.

[287] Subcommittee interview of Holly Paz, IRS (10/30/2013). Ms. Paz told the Subcommittee that Mr. Hull had gotten "complacent" and "was not as thorough as he used to be." Id.

[288] Cindy Thomas, Determinations Unit head, told the Subcommittee that the reason for Mr. Hull's removal was that he was not handling the cases quickly enough. Subcommittee interview of Cindy Thomas, IRS (11/13/2013). Three months earlier, on May 26, 2011, Lois Lerner, EO head, wrote to Holly Paz, EOT head, as well as other colleagues about a 501(c)(4) organization: "Looks to me like [REDACTED BY IRS] is simply an acronym for [REDACTED BY IRS] (-: Joseph, Cindy also believes there is an application in Cincy [Cincinnati] on this as part of a larger look — it is being coordinated with EO Tech." 5/26/2011 email from Lois Lerner to Nanette Downing, Joseph Grant, and others, "C 4," IRSR0000222949 - 950. On the same day, thirty minutes later, Ms. Lerner wrote to Ms. Paz and David Fish: "I'm told Chip Hull is heading up the up [sic] – scaring me – can I get a briefing?" 5/26/11 email from Lois Lerner to Holly Paz and David Fish, "C 4," IRSR0000222949 - 950.

[289] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[290] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

[291] Id.

[292] According to a transcript of Ms. Goehausen's July 2, 2013 interview with the House Ways and Means Committee and the House Oversight and Government Reform Committee, Ms. Goehausen provided the following testimony:

Q: Do you have a party affiliation when you're voting, registration?
A: Yes.
Q: What is your party affiliation?
A: Republican Party.

See "Leaked Document Undermines its Case and Highlights Lack of IRS Political Motivation," Committee on Ways and Means – Democrats, (9/18/2013), http://democrats.waysandmeans.house.gov/press-release/gop-leaked-document-undermines-its-case-and-highlights-lack-irs-political-motivation.

According to Ms. Goehausen, Mr. Hull's two cases were transferred to her, but no one described them as "test cases."[293] Mr. Hull told the Subcommittee that he provided Ms. Geohasuen with a great deal of information about the two cases, but did not speak with her about them after they were transferred.[294] Mr. Hull told the Subcommittee that he also drafted an additional development letter, but did not send it because he no longer had the test cases.[295]

Ms. Goehausen told the Subcommittee that, after researching the law and reviewing the case files, she prepared proposed denials on both applications.[296] She indicated that she did not consult with TEGE counsel prior to making the recommendations. Ms. Goehausen told the Subcommittee that she asked to be taken off of the cases nearly a year later, in the summer of 2012.[297] She also told the Subcommittee that, as of the end of 2013, the two Tea Party test cases still had not been closed, more than three years after they were first flagged in early 2010.[298]

D. Handling Other Tea Party Cases in Cincinnati: February to October 2010

At the same time the Tea Party test cases were sent to EOT for guidance on how to handle them, the EO Screening Group continued to identify additional applications raising similar concerns. To collect and analyze those cases, the Determinations Unit designated Elizabeth Hofacre, an EO determinations specialist in the Emerging Issues Specialty Group in the Cincinnati office, as the "Tea Party Coordinator." For the next eight months, the evidence indicates that the screeners and Ms. Hofacre had different views as to what types of organizations fit into the Tea Party category, leading to confusion over what cases should be sent to her. Although most screeners thought the category included both conservative and liberal groups, Ms. Hofacre viewed her job as analyzing only conservative groups and redirected any other cases referred to her to the general inventory of tax exempt cases. At the same time, internal EO presentations clearly included both conservative and liberal groups within the Tea Party category of cases.

---

[293] Id.
[294] Subcommittee interview of Carter Hull, IRS (11/19/2013).
[295] Id. Mr. Hull, who had been employed by the IRS for decades and was in his seventies, retired from the agency in June 2013. "Written Testimony of Carter Hull Before the House Oversight and Government Reform Committee: Carter Hull Biographical Summary," (7/18/2013), http://oversight.house.gov/wp-content/uploads/2013/07/Hull-Testimony-Final.pdf.
[296] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013). See also 11/19/2012 Sensitive Case Report, prepared by Hilary Goehausen, IRSR0000162544 - 546 (noting proposed denials for two 501(c) organizations).
[297] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).
[298] Id. See also 1/31/2013 EO Technical Significant Case Report, prepared by the IRS, IRSR0000161237 - 249, at 237 (noting Hilary Goehausen and Steve Grodnitzky were responsible for the two cases, and "proposed denials [were] with Judy and Sharon for review").

While serving as the case coordinator, Ms. Hofacre attempted to develop and resolve the 40 or so cases she collected, including by sending development letters and seeking guidance from EOT Carter Hull, but ongoing delays over the test cases stymied her efforts. In October 2010, Ms. Hofacre asked to move to a different IRS division, and her cases were reassigned.

First Tea Party Coordinator. After identifying the first Tea Party case in February 2010, Cincinnati continued to amass similar cases. From February 2010 to October 2010, about 40 cases falling into the Tea Party category were assigned to Elizabeth Hofacre, a determinations specialist for Emerging Issues.[299] When she first began collecting the cases, Ms. Hofacre worked in Group 7825, headed by Joseph Herr.[300] Later in 2010, after the EO groups were reorganized, Ms. Hofacre moved to Group 7822, bringing her Emerging Issues cases with her.[301] Group 7822 was headed by Steven Bowling.[302]

Confusion Over Relevant Applications. As screeners in the Screening Group identified potential "Tea Party" cases, they forwarded them to Ms. Hofacre who retained the case files. The evidence indicates that the screeners as well as other EO personnel were confused as to what types of organizations fit into the Tea Party category and should be sent to Ms. Hofacre. Ms. Hofacre told the Subcommittee that screeners sent her all types of organizations, both liberal and conservative.[303] She also told the Subcommittee that she kept the conservative ones and sent the liberal ones to the general inventory, because she understood that the phrase, "Tea Party," meant she was responsible for reviewing only the conservative organizations.[304] Many of her colleagues, however, viewed the term, "Tea Party," as including both conservative and liberal groups.[305]

---

[299] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[300] Id.
[301] Id. See also 5/14/2013 TIGTA Audit Report, at 33.
[302] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[303] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[304] Id.
[305] In interviews conducted by TIGTA, for example, most IRS employees said the term "Tea Party" included both conservative and liberal groups. See, e.g., 7/30/2012 TIGTA interview of Justin Lowe, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," PSI-TIGTA-03-000669 (According to Mr. Lowe, "Cincinnati referred to cases as Tea Party, but it was just a shorthand for all advocacy cases."); 7/31/2012 TIGTA interview of Holly Paz, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," PSI-TIGTA-03-000678 - 682, at 679 (According to Ms. Paz, "[c]ases were commonly referred to as Tea Party cases in Cincinnati and by Chip Hull. It did not occur to Determinations not to use this 'short hand' for the types of cases they were identifying. Other issues have been referred to by particular names in the past."); 7/31/2012 TIGTA interview of Sharon Light, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," PSI-TIGTA-03-000685 ("She has always referred to these cases as advocacy cases, but prior to her involvement they were probably referred to as Tea Party cases. People understood that Tea Party referred to a range of issues, not the Tea Party specifically."); 8/7/2012 TIGTA interview of Cindy Thomas,

On July 28, 2010, at a routine "Screening Workshop" designed to alert screeners to a variety of issues, both Mr. Muthert and Ms. Hofacre made presentations to explain what types of cases should be sent to her as part of the "Tea Party" category of cases. The presentations reflect their division of opinion over what cases were included in that category, with Mr. Muthert identifying both conservative and liberal groups involved with "political activities," and Ms. Hofacre identifying only conservative groups.

Two key documents describe what was discussed at the July 2010 workshop, the official IRS notes summarizing the issues addressed and a powerpoint presentation shown to IRS screeners. The official IRS "Notes" summarizing the issues discussed at the workshop included this summary of Mr. Muthert's presentation:

"Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like – regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to [Group] 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - Emerge,
  - Progressive
  - We The People,
  - Rally Patriots, and
  - Pink-Slip Program.'"[306]

The named groups included both conservative and liberal groups. The conservative groups were 9/12 Project, We The People, Rally Patriots, and Pink-Slip Program; the liberal groups were Emerge, a group that helped Democratic women candidates run for office, and Progressive.[307] This IRS document shows that, even before the first BOLO was issued, IRS screeners were being advised to be on the lookout for both conservative and liberal groups.

"Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," PSI-TIGTA-03-000705 - 707 (According to Ms. Thomas, "Determinations should also not have used the term Tea Party to refer to advocacy cases. They did not think about how it would look to outsiders. Tea Party was just used as a shorthand for political advocacy cases."). IRS employees provided similar statements to the Subcommittee.

[306] 7/28/2010 "Screening Workshop Notes," prepared by IRS, attached to 7/29/2010 email from Nancy Heagney to multiple IRS colleagues, IRSR0000006700 - 704, at 703 (circulating the "Screening Workshop meeting minutes).

[307] The Minority Staff's Dissenting Views state, at 238, that only groups with "Tea Party," "9/12," or "Patriot" in their names were flagged for enhanced review, but this IRS document shows that, in July 2010, the IRS was also using the names "Emerge" and "Progressive" to flag groups for review.

The Screening Workshop Notes followed the Muthert summary with this summary of Ms. Hofacre's presentation:

"Elizabeth Hofacre, Tea Party Coordinator/Reviewer

- Re-emp[has]ize that applications with Key Names and/or Subjects should be transferred to [Group] 7822 for Secondary Screening. Activities must be primary.
- 'Progressive' applications are not considered 'Tea Parties.'"[308]

Ms. Hofacre's presentation showed that, contrary to Mr. Muthert, she did not consider applications filed by "Progressive" groups to be within the "Tea Party" category of cases and advised against sending her applications filed by those groups.[309]

In addition to summarizing the two presentations, the Screening Workshop Notes attached a 25-page powerpoint presentation that was shown at the meeting addressing a variety of issues.[310] Six of those pages addressed the cases discussed by Mr. Muthert and Ms. Hofacre.[311] The first page presented images of an elephant and a donkey, symbols of the Republican and Democratic political parties, suggesting that the cases were portrayed as involving groups across the political spectrum.[312] Other pages named the conservative and liberal groups listed in the Muthert summary above.[313] None of the pages contained any indication that the Tea Party category of cases was limited to conservative groups; the presentation's overall message was, indeed, the opposite.

Mr. Muthert told the Subcommittee there was a great deal of confusion at the meeting about which cases should be considered "Tea Party" cases.[314] The meeting minutes themselves note, on the one hand, that both liberal and conservative groups should be flagged for additional screening, while on the other hand, that "Progressive" applications were not to be considered "Tea Parties." At the same time, the powerpoint presentation indicated that both liberal and conservative groups should be flagged. In contrast to Mr. Muthert, the Screening Group manager, John Shafer, told the Subcommittee that he did not recall a great deal of confusion by the screeners at the July meeting; he

---

[308] Id.

[309] While Ms. Hofacre advised against sending progressive cases to her, no evidence indicates that she thought subjecting progressive cases to heightened review was inappropriate or opposed flagging those applications for heightened review by another EOD specialist.

[310] "Screening Workshop July 28, 2010," powerpoint prepared by IRS, IRSR0000006674 - 699.

[311] Id. at 687 - 692. Neither Mr. Muthert nor Ms. Hofacre clearly recalled the powerpoint presentation, and neither could remember who had prepared it. Subcommittee interviews of Gary Muthert, IRS (1/15/2014) and Elizabeth Hofacre, IRS (10/25/2013).

[312] "Screening Workshop July 28, 2010," powerpoint prepared by IRS, IRSR0000006674 - 699, at 687.

[313] Id. at 688 - 690.

[314] Subcommittee interview of Gary Muthert, IRS (1/15/2013).

indicated that if an applicant appeared to engage in campaign activity that did not adhere to the 501(c)(4) law, the application was supposed to be sent to Ms. Hofacre, regardless of whether it had a liberal or conservative character.[315] All of the EO personnel interviewed by the Subcommittee agreed that, in 2010, IRS management did not intervene to clarify what applications were intended to be included in the new category of Tea Party cases.

August 2010 BOLO. In August 2010, the month after the screeners' meeting, the EO Determinations Unit sent out the first BOLO to help screeners identify applications warranting additional scrutiny. That BOLO included an entry using the phrase "Tea Party" and urged EO employees to be on the lookout for applicants using that phrase in their names or application materials.[316] Ms. Hofacre told the Subcommittee that she authored the BOLO language, with assistance from and the approval of more senior personnel, John Waddell and Steve Bowling.[317] The BOLO entry, which appeared in the "Emerging Issues" section, stated:

> "These cases involve various local organizations in the Tea Party movement [that] are applying for exemption under 501(c)(3) or 501(c)(4)."[318]

As indicated earlier, "Tea Party" was not the only political group named in the August BOLO. In addition, the BOLO's "TAG Historical" section contained an entry urging EO employees to be on the lookout for applicants using "Progressive" in either their names or their applications. The TAG Historical entry for "Progressive political activities" stated:

> "[C]ommon thread is the word 'progressive.' Activities appear to lean towards a new political party. Activities are partisan and appear anti-Republican. You see references to 'blue' as being 'progressive.'"[319]

This description of the progressive groups focused on their "political activities" as the central concern.

---

[315] Subcommittee interview of John Shafer, IRS (1/17/2014).
[316] 2010 BOLO spreadsheet, prepared by IRS, IRSR0000455182 - 196; August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503-515, at 509.
[317] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[318] 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503 - 515, at 509.
[319] See June 2011 BOLO spreadsheet, prepared by IRS, IRS0000001423 - 438, at 426. See also 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503 - 515, at 507. The Minority Staff's Dissenting Views state that the "progressive cases, unlike their Tea Party counterparts, were not selected for additional scrutiny because of the group's name," see Dissenting Views at 228, 238, but this BOLO entry explicitly directed IRS screeners to focus on "the word 'progressive.'"

In addition, as indicated earlier, another BOLO section called the "BOLO List" – later renamed the "Watch List" – urged EO employees to be on the lookout for "ACORN successor" groups. The BOLO's description of those groups was mostly redacted by the IRS, but stated in part: "ACORN successors, Following the breakup of ACORN [REDACTED BY IRS]."[320] A later email urged EOD personnel to focus on the names and political views of those ACORN successor groups.[321] These two BOLO entries show that, from the first BOLO, the IRS did not single out only conservative groups for greater scrutiny, but also spotlighted liberal groups.

Ms. Hofacre told the Subcommittee that she was the person who actually sent the email containing the first BOLO in August 2010.[322] She also explained that, by mistake, instead of sending the BOLO only to the EO Determinations email list, she sent the BOLO to everyone on the EO's email list, including EOT.

After the August 2010 BOLO was issued, screener Gary Muthert told the Subcommittee that if an organization had the words "Tea Party" in its name, the screeners automatically sent the application to Ms. Hofacre, but "anything else was a guess."[323] In contrast, the Screening Group manager, John Shafer, told the Subcommittee that it was common knowledge that all organizations involved with campaign activity or political advocacy had to be sent to Ms. Hofacre, whether conservative or liberal.[324] At the same time, Ms. Hofacre continued to view her job as coordinating only those applications whose organizations were conservative in nature. The diverging views of these three key individuals demonstrate the ongoing confusion about what groups were supposed to be included in the "Tea Party" category of cases.

Development Letters. In addition to identifying and retaining "Tea Party" applications, Ms. Hofacre was responsible for developing them and, if possible, resolving them. Ms. Hofacre told the Subcommittee that, even though she was the Tea Party coordinator, the

---

[320] 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503 - 515, at 513. ACORN stands for Association of Community Organizations for Reform Now, a decades-old, openly liberal organization discussed in more detail below. The August BOLO did not reference any "Emerge" groups, possibly because they were already referenced in another email alert, a copy of which was not provided by the IRS due to Section 6103 barring IRS disclosure of individual taxpayer information.

[321] See 10/7/2010 email from Jon Waddell to Steven Bowling and Sharon Camarillo, "BOLO Tab Update," IRSR0000410433 - 434 (urging EOD personnel to look for "[t]he name(s) Neighborhoods for Social Justice or Communities Organizing for Change" and for groups whose activities included mention of "Voter Mobilization or the Low-Income/Disenfranchised," or which included advocating for "the poor").

[322] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).

[323] Subcommittee interview of Gary Muthert, IRS (1/15/2014). Mr. Muthert said that when screeners were in doubt, they generally sent the application to Ms. Hofacre and let her figure it out. Id.

[324] Subcommittee interview of John Shafer, IRS (1/17/2014).

IRS provided no special training or guidance to help her determine how to develop or evaluate an organization that appeared to be involved with campaign activity or political advocacy.[325] Ms. Hofacre's manager, Joseph Herr, told her that she needed to get guidance from EOT on how to handle the applications, and she contacted Carter Hull, the EOT specialist handling the two test cases.[326]

According to Ms. Hofacre, she initially sent Mr. Hull examples of some of the cases she was collecting and asked for his suggestions on appropriate development letters.[327] She also supplied him with initial drafts of those development letters and at times supplied copies of the case files.[328] Mr. Hull told the Subcommittee that, at the direction of his supervisor, Ronald Shoemaker, he contacted Steve Grodnitzky who was then acting EO Director, and they worked together on a draft for the first development letter which Mr. Hull then sent to Ms. Hofacre.[329]

Mr. Hull told the Subcommittee that Ms. Hofacre contacted him seeking advice on about 40 cases total.[330] Ms. Hofacre told the Subcommittee that she contacted Mr. Hull regarding 30 to 40 cases, of which she sent out about 20 development letters to the organizations.[331] One IRS document produced to the Subcommittee indicates that, from May 2010 to October 2010, Mr. Hull reviewed and, in most instances, provided comments on, approximately 26 applications and development letters.[332] Ms. Hofacre told the Subcommittee that she recalled one issue in connection with those development letters; the letters asked for copies of the applicants' Facebook and Twitter pages which upset some Tea Party organizations, but Ms. Hofacre said she had asked for the same information from other groups she had evaluated.[333]

At one point in October 2010, Determinations head Cindy Thomas wrote to EOT head Ms. Paz expressing concern about EOT's ongoing involvement with the Tea Party cases, which was slowing down the review process:

---

[325] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[326] Subcommittee interviews of Elizabeth Hofacre, IRS (10/25/2013) and Carter Hull, IRS (11/19/2013). Mr. Hull told the Subcommittee that his manager, Ronald Shoemaker, told him to discuss the cases with Ms. Hofacre. Subcommittee interview of Carter Hull, IRS (11/19/2013).
[327] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[328] Id.
[329] Subcommittee interview of Carter Hull, IRS (11/19/2013). According to Mr. Hull, for first five cases or so, Mr. Shoemaker advised Mr. Hull to coordinate with Mr. Grodnitzky. Mr. Hull indicated that, after their collaboration on the first letter, Mr. Godnitzsky told Mr. Hull that he did not need to show him any more. Id.
[330] Id.
[331] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[332] See "Timeline for informal technical assistance which was provided by EOT Personnel to EOD between May 2010 to October 2010," prepared by the IRS, IRSR0000222967 - 971, at 970.
[333] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).

> "I have a concern with the approach being used to develop the tea party cases we have here in Cincinnati. Apparently, an additional information letter is prepared for each case and the letter is faxed to Chip Hull for him to review. After he reviews, we send out the letter. In some instances, the organizations have responded and we are just 'sitting' on these cases. Personally, I don't know why Chip needs to look at each and every additional information letter. It seems to me that if he reviewed the template letter and approved it, we should be good to go."[334]

Ms. Hofacre told the Subcommittee that, during the eight-month period she served as the Tea Party case coordinator, she continued to call Mr. Hull to ask him how she should handle the applications aside from sending development letters, and he continued to respond that she had to wait until the test cases were resolved before going any further.[335] Mr. Hull told the Subcommittee that, at some point, although he couldn't recall exactly when, he stopped advising Ms. Hofacre on the cases, because he was waiting for guidance on the test cases from the TEGE Counsel's office and felt that he couldn't advise her without that advice.[336] His explanation does not, however, fit the timeline of the cases, since he was not instructed to contact the TEGE Counsel's office until mid-2011, and Ms. Hofacre ceased handling the cases in October 2010.

Ms. Hofacre told the Subcommittee that she found the Tea Party cases frustrating, because the applicants kept calling her to get their applications resolved, and she couldn't help them; she said she felt like she was "working in lost luggage."[337] Ms. Hofacre said it was that frustration that, in October 2010, caused her to move to a different part of the IRS, the Quality Assurance division.[338] Her cases were then reassigned to a new Tea Party case coordinator, Ronald Bell.

Mr. Hull told the Subcommittee that he wasn't frustrated by the delay in getting guidance from the TEGE Counsel's office about the Tea Party test cases, and never mentioned it to his supervisors, because he had too much other work to do.[339] Ms. Goehausen accepted reassignment of the cases from Mr. Hull in August 2011.[340]

---

[334] 10/26/2010 email from Cindy Thomas to Holly Paz, "Political Cases – Need to Discuss," IRSR0000014070.
[335] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[336] Subcommittee interview of Carter Hull, IRS (11/19/2013).
[337] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013).
[338] Id.
[339] Subcommittee interview of Carter Hull, IRS (11/19/2013). Mr. Hull also told the Subcommittee that he never told Ms. Hofacre he was waiting for TEGE Counsel. In addition, Mr. Hull said that Ms. Hofacre never expressed any frustration regarding the cases to him. Id.
[340] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

E. Delaying Tea Party Cases Another Year: November 2010 to November 2011

In November 2010, eight months after the first Tea Party case was flagged by the IRS, about 40 of the cases were reassigned to the new case coordinator, Ronald Bell. For the next year, Mr. Bell essentially took no action to resolve the cases, while awaiting guidance from EOT on how to handle them. EO head Lois Lerner and EOT head Holly Paz in Washington, and Determinations head Cindy Thomas in Cincinnati were in general agreement that the applications being held in Cincinnati should wait for EOT guidance on the test cases to ensure that all of the cases were resolved in a consistent manner. At the same time, Ms. Thomas expressed impatience with how long EOT was taking to resolve the two test cases. By April 2011, the inventory of Tea Party cases had grown to 102. In June 2011, EOT raised questions about the criteria being used to identify the relevant cases, and Ms. Lerner instructed the Determinations Unit to stop referring to them as "Tea Party" cases and instead call them "advocacy cases." In response, in July 2011, the Determinations Unit revised the language used in the BOLOs to flag the cases, dropping the reference to "Tea Party."[341]

By the fall of 2011, about 160 advocacy cases had been identified. In September 2011, EOT proposed developing "informal guidance" on how to handle the cases and spent months working on a "guidesheet" for the cases, before abandoning the effort. In the meantime, EOT initiated a review of the backlogged cases to remove any lacking campaign issues. EOT specialist Hilary Goeshausen conducted that review in October 2011, and prepared a list of the 160 cases with comments about how each should be handled, but her list was seen as unhelpful by the Determinations Unit in Cincinnati and was not used to close any cases. In November 2011, the advocacy cases awaiting action in the Determinations Unit were transferred from Ronald Bell to Stephen Seok, who became the third EOD coordinator of the cases in three years.

Reassignment of Tea Party Cases in Cincinnati. In November 2010, Steven Bowling, head of Group 7822 which included the Emerging Issues cases, reassigned the Tea Party cases from Ms. Hofacre to Ronald Bell.[342] Mr. Bell told the Subcommittee that Ms. Hofacre "briefly briefed" him on the cases, and it was his understanding that as Tea Party coordinator he was focusing only on conservative groups.[343] Like Ms. Hofacre, Mr. Bell reported that he always received a mix of both liberal and conservative cases from the screeners, but kept only the

---

[341] That change was made nearly two years before the TIGTA audit report criticized the IRS for the earlier practice.

[342] Subcommittee interview of Ronald Bell, IRS (1/15/2014); 5/14/2013 TIGTA Audit Report, at 33.

[343] Subcommittee interview of Ronald Bell, IRS (1/15/2014).

conservative ones.[344] Mr. Bell said that if he received a case that didn't fall into the Tea Party category as he understood it, he returned the case to the agent who had sent it to him who then had to decide how to handle the case.[345]

Instruction to Wait. Ms. Hofacre had sent development letters to some of the Tea Party groups and when the requested information began arriving at the Cincinnati office, Mr. Bell told the Subcommittee that he asked Mr. Bowling how to proceed.[346] He said that Mr. Bowling told him to wait to get guidance "from headquarters," meaning the EOT office in Washington, D.C., before moving forward.[347] Mr. Bowling's instruction to Mr. Bell led to essentially a one-year delay in the resolution of the Tea Party cases, from approximately November 2010 to November 2011, while Mr. Bell awaited guidance from EOT on how to handle the cases.[348]

Mr. Bell told the Subcommittee that during that waiting period he received numerous complaints from organizations asking about the status of their applications, conveyed the complaints to Mr. Bowling, and was told by Mr. Bowling to say that the cases were under review.[349] According to Mr. Bell, over the year, he repeatedly asked Mr. Bowling about when the EOT guidance on the cases would be available, and Mr. Bowling repeatedly told him that they were still waiting for it.[350]

On November 16, 2010, Mr. Bowling wrote to his supervisor, Sharon Camarillo, to alert her to the delay in processing the cases:

> "I know Cindy has contacted Holly Paz about the tea party cases but I don't know or remember if a game plan was established. I believe when this all started the idea was to have EOT take a look at some of these and provide us with a development letter similar to how we handled Credit Counseling cases. I'm not sure how everyone wants to proceed but I think we need to get a handle on this. Ron is getting phone calls on these cases and his typical answer is 'the case is under review.'"[351]

---

[344] Subcommittee interviews of Elizabeth Hofacre, IRS (10/25/2013) and Ronald Bell, IRS (1/15/2014).
[345] Subcommittee interview of Ronald Bell, IRS (1/15/2014).
[346] Id.
[347] Id.
[348] Id. See also 5/14/2013 TIGTA Audit Report, at 33 ("The specialist did not work on the cases while waiting for guidance from the Technical Unit."); Subcommittee interview of Hilary Goehausen, IRS (12/13/2013) (indicating she had been told that EO agents in Cincinnati had stopped working the cases while waiting for guidance from Washington).
[349] Subcommittee interview of Ronald Bell, IRS (1/15/2014).
[350] Id.
[351] See 11/16-17/2010 email exchange among Steven Bowling, Sharon Camarillo, and Cindy Thomas, "emerging issue cases," PSI-TIGTA-03-000134 - 135.

Ms. Camarillo forwarded his email to the Determinations Unit head, Cindy Thomas, who responded: "I called Holly [Paz] a couple of weeks ago and she indicated she was going to check into this matter and would get back with me."[352] In December 2010, Ms. Thomas asked Ms. Paz for another status report and was told that the cases had yet to be presented to Judy Kindell who would be reviewing them.[353]

Five months later, in April 2011, the 501(c)(4) cases were still sitting idle awaiting EOT guidance. That month, Ms. Thomas wrote to Steven Bowling:

> "Judy [Kindell] also recommended that all tea party cases be sent to EOT (tell Ron Bell not to get too excited!), but Mike Seto does not believe this should happen. He thinks EOT should give us a template letter for the c3 denials and share developmental questions, etc., for the c4's. Holly will be meeting with Lois to discuss this. Stay tuned."[354]

That same month, Ms. Paz assured EO head Lois Lerner that the Cincinnati office had "been told not to issue determs" until EOT "work[ed] through the test cases we have here."[355]

Mr. Bell told the Subcommittee that over the course of the year from November 2010 to November 2011, he spoke on a few occasions with Mr. Hull, the EOT specialist then handling the test cases.[356] Mr. Bell told the Subcommittee that when he asked Mr. Hull when he would be receiving guidance about the cases, Mr. Hull indicated that he didn't know.[357] Ms. Goehausen told the Subcommittee that when she took over the test cases in August 2011, she received only a few calls from the Determinations Unit about them.[358] Mr. Bell told the Subcommittee that he did not contact Ms. Goehausen about the cases.

---

[352] Id. See also 11/20/2010 email from Cindy Thomas to Steven Bowling, "Political Cases – Information," IRSR0000014069 - 070 (providing him with an update, that the test cases were going to be discussed with Judith Kindell).

[353] See 12/13/2010 email from Cindy Thomas to Holly Paz, "Political Cases – Status," IRSR0000014069 - 070 ("Has there been any update regarding the tea party cases as far as the discussion with Judy Kindell?"); 12/13/2010 email from Holly Paz to Cindy Thomas, "Political Cases – Status," IRSR0000014069 - 070.

[354] 4/13/2011 email from Cindy Thomas to Steven Bowling, "Tea Party Cases – DUE 5/31/2011," IRSR0000013882.

[355] 4/7/2011 email from Holly Paz to Lois Lerner, Judith Kindell, and others, "sensitive (c)(3) and (c)(4) applications," IRSR0000350220 - 221.

[356] Subcommittee interview of Ronald Bell, IRS (1/15/2014).

[357] Id.

[358] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013). A July 2011 email from Michael Seto, EO Quality Assurance Manager, stated that Justin Lowe was "the contact person for EOT for all political advocacy cases pending in EOD [Exempt Organizations Determinations Unit]," and that Mr. Lowe would work with "Hilary Goehausen and Chip Hull, who are initiators on political advocacy cases pending in EOT." 7/23/2011 email from Michael Seto to Justin Lowe, Hilary Goehausen, Carter Hull, and others, "Contact Person for EOD Political Advocacy Cases," IRSR0000002738.

While Mr. Bell waited for guidance from EOT, EO screeners continued to identify additional cases falling within the Tea Party category. By April 2011, the inventory of Tea Party cases had grown to 102.[359] When asked about those cases, Ms. Paz told the Subcommittee that she had always understood that the phrase "Tea Party" was being used generically, and that the total of 102 pending cases included both conservative and liberal groups.[360]

In May 2011, Mr. Bell received a request from another IRS revenue agent about how to handle a Tea Party case, and he wrote to the Determinations head, Ms. Thomas, inquiring how he should respond.[361] Ms. Thomas sent Mr. Bell's inquiry to Ms. Paz, the EOT head, who forwarded it to Michael Seto, the EO Quality Assurance Manager. Mr. Seto responded:

> "Okay. The current status is: Judy [Kindell] has reviewed our proposed (c)(3) denial and (c)(4) favorabl[y] and requested the staff to ask for more information from the taxpayers. We are waiting for the information from the taxpayers. The cases have not gone to Counsel yet."[362]

It would be another three months until Mr. Hull met with TEGE counsel in August 2011, after which his test cases were transferred to Ms. Goehausen.

Focus on Tea Party Selection Criteria. In June 2011, for the first time, IRS personnel in Washington asked IRS personnel in Cincinnati to describe exactly how they were identifying applications falling within the category of "Tea Party" cases. On June 1, 2011, Ms. Paz, EOT head, asked Ms. Thomas, Determinations head, to tell her "[w]hat criteria are being used to label a case a 'Tea Party case?'"[363] On June 2, 2011, Ms. Thomas conveyed that inquiry to the Screening Group manager, John Shafer, writing: "Could you send me an email that includes the criteria screeners use to label a case a 'tea party case?'"[364]

In response, Mr. Shafer emailed his top three screeners, Gary Muthert, Roger Vance, and Dale Schaber, and asked them to provide him with "what issues may indicate an organization is involved with the

---

[359] 4/7/2011 email from Holly Paz to Lois Lerner, Judith Kindell, and others, "sensitive (c)(3) and (c)(4) applications," IRSR0000350219.
[360] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[361] See 5/12/2011 email from Ronald Bell to Cindy Thomas, "exempt application," IRSR0000429362 - 363.
[362] 5/12/2011 email from Michael Seto to Holly Paz, "Tea Party – Email from TAS," IRSR0000429362.
[363] 6/1/2011 email from Holly Paz to Cindy Thomas, "group of cases," PSI-IRS-09-000093 (Ms. Paz wrote: "What criteria are being used to label a case a 'Tea Party case'? We want to think about whether those criteria are resulting in over-inclusion.").
[364] 6/2/2011 email from Cindy Thomas to John Shafer, "Tea Party Cases – NEED CRITERIA," PSI-IRS-09-000092.

tea party movement."[365] Mr. Muthert promptly responded: "I myself look for cases with the names, such as 'Tea Party', 'Patriots', or the '9/12 Project'."[366] Mr. Vance responded: "Some of the cases do contain references to the tea party and other cases that I have identified are organizations concerned with government spending, government debt, and taxes."[367] The IRS was unable to locate the email response from Mr. Schaber. Later that same day, June 2, 2011, after hearing from his agents, Mr. Shafer sent Ms. Thomas an email summarizing the criteria being used to identify Tea Party cases:

> "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening.
>
> 1. "Tea Party", "Patriots" or "9/12 Project" is referenced in the case file.
>
> 2. Issues include government spending, government debt and taxes.
>
> 3. Educate the public through advocacy/legislative activities to make America a better place to live.
>
> 4. Statements in the case file that are critical of how the country is being run."[368]

These emails indicate that, as of June 2011, more than one year after the first Tea Party case was flagged, the IRS office in Cincinnati did not have any official criteria for identifying which cases fell within the Tea Party category. Instead, when asked, the Screening Group head surveyed his screeners to find out how they were identifying the cases, compiled their uncoordinated and divergent approaches into a list, and forwarded the list to the Determinations Unit head, explaining that the proffered criteria "could indicate a case to be considered a potential 'tea party' case."

The emails also indicate that, prior to June 2011, IRS officials in Washington were unaware of the criteria being used by EO screeners in

---

[365] 6/2/2011 email from John Shafer to Gary Muthert, Roger Vance, and Dale Schaber, "Tea Party Cases – NEED CRITERIA," PSI-IRS-09-000092; Subcommittee interview of John Shafer, IRS (1/17/2014).

[366] 6/2/2011 email from Gary Muthert to John Shafer, "Tea Party Cases – NEED CRITERIA," IRSR0000706928. Mr. Muthert was the only IRS screener to report using those three search terms to identify 501(c)(4) applications for heightened review. When asked if he had a negative view of the Tea Party, Mr. Muthert replied: "No, I align with them." Subcommittee interview of Gary Muthert, IRS (1/15/2014).

[367] 6/2/2011 email from Roger Vance to John Shafer, "Tea Party Cases – NEED CRITERIA," IRSR0000706930.

[368] 6/2/2011 email from John Shafer to Cindy Thomas, "Tea Party Cases – NEED CRITERIA," PSI-IRS-09-000048.

Cincinnati to identify cases falling within the Tea Party category. In fact, Ms. Paz, located in Washington, D.C., had to ask Ms. Thomas, the EO Determinations head in Cincinnati, and Ms. Thomas had to ask Mr. Shafer, the Screening Group head in Cincinnati, for the specific criteria being used. He, in turn, had to ask his screeners. These internal emails demonstrate that no Washington IRS official had directed any IRS personnel in Cincinnati to single out Tea Party groups for special scrutiny.[369] To the contrary, the evidence indicates that the screeners themselves had first identified the Tea Party cases as raising sensitive issues and then came up with their own selection criteria to identify similar cases, without any input from IRS personnel in Washington.[370] The Subcommittee investigation found no evidence that any IRS official directed, pressured, or encouraged any IRS personnel in Cincinnati to subject applications filed by Tea Party or other conservative groups to heightened review.

When asked about the four selection criteria listed in the Shafer email, Ms. Thomas told the Subcommittee that she didn't know whether the criteria were conservative or liberal in nature, and observed that they had picked up liberal leaning organizations as well as conservative ones.[371] During the TIGTA audit, when asked by a TIGTA auditor who had "sanctioned" the four criteria listed in the Shafer email, Ms. Paz stated that "[n]o one in the EO management chain sanctioned the use of the four criteria."[372]

To the contrary, the criteria listed in the Shafer email stirred up both questions and concerns among IRS officials in Washington. On June 6, 2011, Determinations head Cindy Thomas sent an email to Steven Bowling, manager of the group handling the Tea Party cases, indicating that questions had been raised about the criteria; she also

---

[369] For allegations that Washington politicians pressured the IRS to scrutinize Tea Party groups, see, e.g., Linchpins of Liberty v. Internal Revenue Service, Case No. 1:13-cv-00777 (D.D.C. filed May 29, 2013), http://media.aclj.org/pdf/second-amended-complaint-filed-redacted.pdf.

[370] See, e.g., 2/25/2010 email from Jack Koester to John Shafer, "Case # [REDACTED BY IRS]," IRSR0000195549 - 554, at 553 (indicating that it was a screener in Cincinnati, Jack Koester, who first identified an applicant using the Tea Party name and sent his manager, Mr. Shafer, an email asking how he should handle the case); 6/2/2011 email from John Shafer to Cindy Thomas, " Tea Party Cases – NEED CRITERIA," PSI-IRS-09-000048 (indicating the screeners identifying the Tea Party cases had devised their own search terms and selection criteria).

[371] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). For example, Patriot Majority USA, a 501(c)(4) group that began operation in 2010, used the word "Patriot" in its name, but supported views and candidates affiliated with the Democratic Party. In the 2012 election cycle, the Center for Responsive Politics characterized it as one of the largest spending Democratic-leaning 501(c)(4) groups. See "2012 Outside Spending, by Group: Non-Disclosing Groups," prepared by Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U. For more information about the Patriot Majority USA, see the Report section on Evaluating Campaign and Social Welfare Activities, below.

[372] 11/19/2012 email from Holly Paz to Troy Paterson, "Responses," IRSR0000188490 - 493, at 490.

expressed a willingness to change the criteria and a need to get official guidance on what selection criteria should be used to ensure consistent treatment of the cases. Ms. Thomas wrote:

> "Holly [Paz] sent an email and asked questions about criteria being used to identify cases as 'tea party cases.' The D.C. office thinks the criteria being used may be resulting in over-inclusion. [REDACTED BY IRS]. My response was that we have no problem including or excluding any type of case, as long as they come up with the criteria so we can provide it to the Screening Group. And, it doesn't matter what the cases are called or how they are grouped, EOD still needs guidance to ensure consistency."[373]

A week later, on June 14, 2011, Ms. Thomas sent an email to Steven Bowling about an upcoming meeting to discuss the selection criteria for Tea Party cases:

> "Discussion probably won't be about specific cases but more of a general discussion about criteria for determining the cases that are in this group, figuring out if there are like kinds that can be grouped into buckets, changing the label we have assigned to these cases, i.e., tea party cases, to something that is more descriptive for the wide net we are using to capture these cases (all cases included in the net are not tea party cases), etc."[374]

Changing Case Label and BOLO Description. On June 29, 2011, Lois Lerner, EO head, convened a meeting of senior EO staff in Washington, D.C. to discuss the Tea Party cases. Participants included Ms. Lerner, Ms. Paz, Mr. Hull, Michael Seto, Hilary Goehausen, Justin Lowe, and Elizabeth Kastenberg, with Ms. Thomas participating by telephone from Cincinnati.[375] A briefing paper prepared in anticipation of the meeting described the category of cases as "advocacy" cases instead of "Tea Party" cases, while also including the criteria listed in the Shafer email.[376] The briefing paper also noted that two "sample" cases had been transferred to EOT, and a total of about 100 cases had been identified by the Determinations Unit.[377]

Ms. Thomas told the Subcommittee that, during the meeting, Ms. Lerner expressed concern about using the phrase "Tea Party" in the

---

[373] 6/6/2011 email from Cindy Thomas to Steven Bowling, "[REDACTED BY IRS]," PSI-TIGTA-03-000156.
[374] 6/14/2011 email from Cindy Thomas to Steven Bowling, "C3 AND C4 APPLICATIONS BRIEFING," IRSR0000440089.
[375] Subcommittee interviews of Holly Paz, IRS (10/30/2013) and Cindy Thomas, IRS (11/13/2013).
[376] 6/27/2011 email from Justin Lowe to Holly Paz, "Briefing Paper on c3/4 Advocacy Orgs," prepared by staff for Lois Lerner, PSI-TIGTA-03-000165.
[377] Id.

BOLO lists to describe the cases that required additional review.[378] According to Ms. Thomas, Ms. Lerner said that she knew Tea Party organizations weren't being singled out, but the term still needed to be changed since it could be misperceived by others.[379] According to Ms. Paz, Ms. Lerner directed that the cases be referred to in the future as "advocacy cases," rather than "Tea Party" cases.[380] Ms. Thomas told the Subcommittee that she agreed with Ms. Lerner and thought "that makes sense."[381] Ms. Paz said that during the discussion, various participants explained that the Determinations Unit had not been looking just at Tea Party groups, even though that was the phrase used in the BOLO, and agreed the focus should be on all groups involved with campaign activity.[382]

Ms. Thomas told the Subcommittee that, in response to the June meeting, she revised the BOLO entry flagging the cases, and on July 5, 2011, Ronald Bell, the keeper of the BOLO lists, distributed the revised version.[383] The new description, which appeared in the Emerging Issues section, omitted any mention of the Tea Party and instead described the cases as follows:

> "Advocacy Orgs[:] Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."[384]

The BOLO indicated that covered cases should be forwarded to "Group 7822," and identified Mr. Bell as the case coordinator.[385]

The revised description did not please everyone. EO screener Gary Muthert told the Subcommittee that, because the new BOLO entry used much broader terms than the prior version, it no longer offered useful search terms to conduct electronic reviews of incoming

---

[378] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). See also 5/14/2013 TIGTA Audit Report, at 30 ("Criteria changed ... based on the concerns the Director, EO, raised in June 2011.").
[379] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[380] Subcommittee interview of Holly Paz, IRS (10/30/2013). Ms. Paz also told the Subcommittee that when she first learned that the relevant BOLO used by the screeners listed "Tea Party," she found it surprising and told Lois Lerner about it as soon as she could. Id.
[381] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). Two EO employees told the Subcommittee that they did not understand why using "Tea Party" was a bad idea. Subcommittee interviews of Hilary Goehausen (12/13/2013) and Carter Hull (11/19/2013).
[382] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[383] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). See also 5/14/2013 TIGTA Audit Report, at 35. This change was made nearly two years before the TIGTA report was issued.
[384] 7/27/2011 BOLO spreadsheet, prepared by IRS, IRS0000002540 - 552, at 547. The revised language was promptly put into effect. See, e.g., 7/15/2011 email from Laurice Ghougasian to Michael Seto, "July SCRs due 07/22/11," IRSR0000159751 - 752 (Ms. Ghougasian wrote: "Should we reassign the 'Tea Party' SCR [Significant Case Report] to Hilary (and change its name)? Thank you." Mr. Seto responded : "Yes. We should call it 'political advocacy organization' henceforth.").
[385] 7/27/2011 BOLO spreadsheet, prepared by IRS, IRS0000002540 - 552, at 547.

applications; instead he had to look at each application and determine whether the applicant was engaged in political advocacy or campaign activities.[386]

Ongoing Delays. In Cincinnati, despite the focus by senior EO management on changing the case label and BOLO description, the advocacy cases continued to sit idle through the summer and fall of 2011, with no EOT guidance about how they should be resolved. The number of cases also continued to increase, reaching 160 cases by the fall.[387] Ms. Thomas and Mr. Bell continued to ask EOT in Washington, D.C. for guidance on the cases.

On July 19, 2011, Holly Paz sent an email outlining a plan for processing the cases:

> "Lois would like to discuss our planned approach for dealing with these cases. We suspect we will have to approve the majority of the c4 applications. Given the volume of applications and the fact that this is not a new issue (just an increase in frequency of the issue), we plan to [have] EO Determinations work the cases. However, we plan to have EO Technical compose some informal guidance re: development of these cases (e.g., review websites, check to see whether org is registered with FEC, get representations re: the amount of political activity, etc.) EO Technical will also designate point people for Determs to consult with questions. We will also refer these organizations to the Review of operations for follow-up in a later year."[388]

This email was written about 18 months after the first Tea Party case was flagged by the EO screeners, and six months after Ms. Lerner wrote that the Cincinnati office "should probably NOT" handle the cases.[389] It indicates that, even then, neither the EOT nor the Determinations Unit in Cincinnati had an established process or clear guidance as to how to handle those cases.

Two months later, in September 2011, Holly Paz and Sharon Light, senior EOT personnel based in Washington, happened to be in the Cincinnati office, and Ms. Thomas shared with them an application filed by an advocacy group and asked how to handle it.[390] Ms. Light reviewed the application and determined that it could be approved.[391] Ms. Thomas asked them for help in resolving the growing backlog of advocacy cases, and Ms. Paz offered to assist by having EOT personnel

---

[386] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[387] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).
[388] 7/19/2011 email from Holly Paz to Janine Cook, "Advocacy orgs," IRSR0000428420.
[389] 2/1/2011email from Lois Lerner to Holly Paz, "SCR Table for Jan. 2011," IRSR0000168020 - 023.
[390] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[391] Id.

review all of the pending cases to weed out those that did not involve lobbying or campaign activities.[392]

On September 21, 2011, Ms. Paz sent an email to EOT personnel announcing that review effort:

> "We have now have over 100 advocacy cases on hold in determs awaiting guidance from EOT/EOG in the form of a list of areas to be developed. Justin [Lowe] has been overseeing Hillary [Goehausen] on this. In meeting with Cindy [Thomas] in Cincy [Cincinnati] last week and looking at some of the cases, it is clear to me that we cast the net too wide and have held up cases that have nothing to do with lobbying or campaign intervention (e.g., org distributing educational material on the national debt). We are tasking Hilary with the task of looking at these cases on TEDs and triaging them – identifying those that clearly are advocacy cases and those that are clearly not."[393]

Ms. Goehausen told the Subcommittee that, when she was given the assignment, about 160 advocacy cases were pending.[394] According to Ms. Goehausen, she went through the list of advocacy cases in the TEDS system, looked at the "facts and circumstances" of each case, and made comments on each application in a document she provided to the Determinations Unit.[395] Her document listed each case with her comments after each organization's name.

Ms. Thomas, the Determinations Unit head, told the Subcommittee that she did not find Ms. Goehausen's list particularly helpful,[396] writing in an email at the time: "Not sure where this leaves us and I'm unclear as to what action is being suggested for some of these cases."[397] Ms. Thomas told the Subcommittee that even after Ms. Goehausen's effort, her team struggled to decipher a confusing set of IRS regulations on how to handle applications involving campaign activity.[398] According to Ms. Goehausen, a few weeks later, Michael Seto, EO Quality Assurance Manager, instructed Ms. Goehausen to rework the document, which she did, but it appears that it was never used by the Determinations Unit to close cases.[399]

---

[392] Id.
[393] 9/21/2011 email from Holly Paz to David Fish and Andy Megosh, "advocacy cases," IRSR0000010132.
[394] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).
[395] Id.
[396] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[397] 10/25/2011 email from Cindy Thomas to Theodore Lieber and Michael Seto, "Advocacy Orgs_Cincinnati.xls," IRS0000000285 - 316, at 288.
[398] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[399] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013). See also 4/17/2012 email from Cindy Thomas, IRS, to Nancy Marks and others, IRS, "Advocacy Orgs Guidesheet from EOT and Listing of Cases," IRS0000000285.

Two years later, USAToday published what it claimed was a 2011 IRS list of 160 501(c)(4) organizations that were reviewed by "IRS lawyers in Washington."[400] The title of the published document is "EOD Political Advocacy Cases – Screened by EO Technical 11/16/11." According to the article, while most of the organizations on the list were conservative in nature, at least eleven were on the liberal side of the political spectrum.[401] It is possible that the published document was the list prepared by Ms. Goehausen.[402]

Cases Transferred to Third Coordinator. In the late fall of 2011, the advocacy cases awaiting action in the Determinations Unit were transferred again, from Ronald Bell to Stephen Seok, who became the third coordinator of the cases in three years.[403] Ms. Thomas told the Subcommittee that Mr. Bowling put Mr. Seok in charge of the cases instead of Mr. Bell, because Mr. Bowling thought Mr. Seok would be a better leader.[404] Mr. Seok told the Subcommittee that he transferred to IRS Determinations Group 7822 in August of 2011, and when he asked his manager, Steven Bowling, about the cases he'd be handling, Mr. Bowling said he would have an assignment for him later.[405] Mr. Seok told the Subcommittee that he later received an email from Mr. Bowling assigning him the advocacy cases.[406]

According to Mr. Seok, after receiving the email, he met with Mr. Bowling and Ms. Thomas to determine how to develop the cases.[407] He said they discussed creating an "advocacy team" to handle the cases, which he would lead.[408] Mr. Seok told the Subcommittee that, in December 2011, he called the first advocacy team meeting to discuss the cases which then numbered around 170.[409] He said that, in January 2012, he also introduced himself by email to the EOT specialists who were assigned to the test cases, Ms. Goehausen and Mr. Lowe, and asked for their technical assistance.[410] Mr. Seok told the Subcommittee,

---

[400] "IRS list reveals concerns over Tea Party 'propaganda,'" USAToday, Gregory Korte (9/17/2013), http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-propaganda/2825003/.

[401] Id. The liberal groups apparently included the following: Arkansans for Common Sense, Californians for Regulatory Reform, Coffee Party USA, Corporate Accountability Project, Delawareans for Social and Economic Justice, Louisiana Progress Action Fund, Inc., Progress Texas, Progressives United, Inc., and New York Civic Action, Inc.

[402] See "EOD Political Advocacy Cases," prepared by the IRS, IRSR0000063025 - 037 (providing the Subcommittee with a case list in redacted form).

[403] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[404] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

[405] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[406] Id. Mr. Seok didn't recall exactly what was in the email, and the Subcommittee was unable to locate it.

[407] Id.

[408] Id.

[409] Id. Mr. Seok said that the team members were taken from different groups around the IRS.

[410] Id. See also 1/31/2012 email from Stephen Seok to Hilary Goehausen and Justin Lowe, "Advocacy team in EOD," IRSR0000011217 - 218 (Mr. Seok wrote: "Hello, Justin and Hilary, My name is Stephen Seok in Group 7822 in Cincinnati. Steve graciously put me in charge of the

when asked, that he thought most of the advocacy cases assigned to him were conservative groups, but wasn't certain.[411] Mr. Seok said that he wasn't concerned about the type of cases he had; his objective was to work all of the cases in the inventory, as he did when he worked credit counseling cases, his previous assignment.[412]

F. Processing Applications from Liberal Groups

While the TIGTA audit report provided systematic information about IRS treatment of conservative groups, comparative information about IRS treatment of liberal groups has emerged through isolated IRS documents, liberal organization complaints, and media reports suggesting liberal groups encountered many of the same IRS processing problems as conservative groups.[413] To determine whether liberal

---

Advocacy Team recently formed in EOD. As you are our contacts in EOT, I would like to introduce myself to you. So far, we are in the stage of developing cases and forging template questions and developmental guidance. Once they are done, I would like to send them to you for your input and feedback. Please let me know that is ok with you.").

[411] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[412] Id.

[413] See, e.g., 6/5/2012 IRS analysis of 501(c)(4) advocacy cases, PSI-IRS-37-000004 - 19, at 011-012 (listing 24 progressive advocacy cases reviewed by the IRS, some of which took six months or longer to resolve); "Does the IRS really have it in for tea party groups?" Colorado Independent, Teddy Wilson (3/28/2012), http://www.coloradoindependent.com/116361/does-the-irs-really-have-it-in-for-tea-party-groups (describing conservative and progressive groups in Texas experiencing application delays and intrusive questions); "IRS Sent Same Letter to Democrats That Fed Tea Party Row," Bloomberg News, Julie Bykowicz and Jonathan Salant (5/14/2013), http://www.bloomberg.com/news/2013-05-15/irs-sent-same-letter-to-democrats-that-fed-tea-party-row.html (describing intrusive letters sent to Progress Texas and Clean Elections Texas); "IRS approved liberal groups while Tea Party in limbo," USAToday, Gregory Korte (5/15/2013), http://www.usatoday.com/story/news/politics/2013/05/14/irs-tea-party-progressive-groups/2158831/ (indicating Bus for Progress, Progress Florida, and Action for a Progressive Future experienced delays of 9 to 18 months and at least one group received "intrusive questions" before obtaining tax exempt status); "Nonconservative Groups Say IRS Scrutinized Them, Too," National Public Radio, Brian Naylor (5/19/2013), http://www.npr.org/2013/05/19/185206908/nonconservative-groups-say-irs-scrutinized-them-too (describing progressive groups experiencing application delays and intrusive questions, including Progress Texas and the Chicago News Cooperative); "Dems unhappy IRS screened for progressive groups, upset investigator didn't tell lawmakers," Associated Press, Stephen Ohlemacher and Henry Jackson (6/24/2013), http://news.yahoo.com/dems-unhappy-irs-screened-progressives-071941069.html (describing BOLO entries for liberal groups in 15 IRS BOLOs); "In IRS Scandal, Spat Over Level of Scrutiny," Wall Street Journal, John McKinnon (6/25/2013) (describing a liberal group, Alliance for a Better Utah, whose affiliate experienced intrusive questions and a two-year delay in processing a still pending application); "IRS Scrutiny Went Beyond the Political," New York Times, Jonathan Weisman (7/4/2013), http://www.nytimes.com/2013/07/05/us/politicas/irs-scrutiny-went-beyond-the-political.html?pagewanted=all&_r=0 (describing delays and intrusive questions directed to two liberal groups seeking tax exempt status, Minnesota Break the Bonds, a group promoting Palestinian rights, and Chi Eta Phi, a black nurses' sorority advocating social change); "IRS scrutinized some liberal groups," Politico, David Nather (7/22/2013), http://www.politico.com/story/2013/07/irs-scrutinized-liberal-groups-94556.html (indicating Progress Texas' 501(c)(4) application had been subjected to intrusive questions and an 18-month delay before the group obtained tax exempt status); "New Records: IRS Targeted Progressive Groups More Extensively Than Tea Party," Think Progress website, Josh Israel and Adam Peck (4/23/2014), http://thinkprogress.org/politics/2014/04/23/3429722/ire-records-tea-party/ (providing a chart showing that IRS BOLOs issued between August 2010 and April 2013,

groups had, in fact, experienced the same mismanagement as conservative groups, the Subcommittee examined how the IRS processed applications filed by groups associated with three nationwide, liberal organizations: ACORN, Occupy, and Emerge America, and by groups with "Progressive" or "Progress" in their names. The evidence shows that some of those liberal groups underwent the same types of inappropriate IRS screening, lengthy EOT reviews, intrusive questions, and years-long delays as some conservative groups.

(1) ACORN

As explained earlier, "ACORN" stands for Association of Community Organizations for Reform Now, a decades-old, openly liberal organization that advocated for the poor, especially in the area of housing. At its peak, it claimed more than 1,200 community-based affiliates. On November 2, 2010, the national association declared bankruptcy, leading to the termination of the ACORN network of groups. When it appeared that some ACORN affiliates were reorganizing under new names, questions arose about whether those successor organizations might be disqualified from tax exempt status, in part due to issues involving political advocacy or campaign activities. Like Tea Party groups, applications filed by ACORN successor groups were singled out for heightened scrutiny, resolution of the applications was suspended pending EOT review of the issues, and the ACORN successor cases sat idle for more than three years awaiting final disposition.

First ACORN Case Flagged. The first ACORN successor case was flagged by the IRS in February 2010, the same month as the first Tea Party case. On February 26, 2010, an IRS ROO examinations specialist wrote:

> "There is a lot of internet traffic about ACORN reinventing itself. [REDACTED BY IRS] office is now occupied by [REDACTED BY IRS]. They have formed a new corporation and will be applying for exemption under 501(c)(4). ... These cases probably should be handled by the TAG group if they can be identified."[414]

"included more explicit references to progressive groups, ACORN successors, and medical marijuana organizations than to Tea Party entities").

[414] 2/26/2010 email from Richie Heidenreich to Nancy Todd, "Investigation," IRSR0000458439 - 447, at 441. As explained earlier, "ROO" stands for "Review of Operations," and refers to an IRS review of an existing tax exempt organization to gauge its compliance with the tax code. Seven months earlier, in August 2009, Congressman Darrell Issa, Chairman of the House Government Reform Committee, wrote to the IRS voicing concerns regarding ACORN's tax-exempt status due to alleged violations of the tax code and Federal Election Campaign Act. See 8/11/2009 letter from Committee Chairman Issa to the IRS, IRSR0000469223 - 228.

He and others noted that an earlier ACORN successor group had been the subject of a Sensitive Case Report.[415]

By March 2010, the examiner's email had been forwarded to Steven Grodnitzky, then acting head of the EO Technical Unit, who forwarded it to the head of the EO Rulings and Agreements Unit, Robert Choi, with this note:

> "Just a heads up that it appears that ACORN is morphing into new organizations. According to Cincy [Cincinnati], there was one organization that came in for exemption, but they believe it was closed FTE [Failure to Establish]. Will keep you updated as to new developments in this area. May cause some press attention."[416]

A few days later, Mr. Choi indicated to his EO colleagues that he was scheduled to meet with IRS officials from headquarters in Washington, D.C., to discuss the ACORN cases. In an email dated March 26, 2010, Mr. Choi wrote to Determinations head Cindy Thomas and others: "I need a summary from Cincy regarding this issue of ACORN morphing into new entities. I have a meeting Monday afternoon, 3/29, to discuss this issue with HQ folks."[417] Jon Waddell, a manager in the Determinations Unit, responded to Mr. Choi that no ACORN successor applications had recently been approved or denied, but managers and screeners had been told that ACORN groups were changing their names and they should be on the lookout for successor organizations.[418]

ACORN BOLO Entry. Five months later, in August 2010, an ACORN entry was included in the first BOLO issued by the Determinations Unit in Cincinnati asking EO employees to be on the lookout for certain applications. That BOLO included entries for both conservative and liberal groups; a section called "Emerging Issues" contained the entry for "Tea Party" groups, while a separate section called "BOLO List" (later renamed "Watch List") contained the entry

---

[415] See 3/28/2010 email from Cindy Thomas to Robert Choi and others, "ACTION by 12 noon 3/29/10: Investigation," IRSR0000458456 (attaching a copy of the sensitive case report).

[416] 3/24/2010 email from Steven Grodnitzky to Robert Choi, "Investigation," IRSR0000458430 - 432. "Failure to Establish" means that the group failed to provide the information needed to establish its tax exemption.

[417] 3/26/2010 email from Robert Choi to Cindy Thomas and others, "ACTION by 12noon 3/29/2010: Investigation," IRSR0000458439. A week earlier, on March 21, 2010, the ACORN Board of Directors had met and approved steps to close its operations, amid media speculation about ACORN successor groups. See, e.g., ACORN Board statement reprinted in "ACORN Board Approves Shutdown," National Public Radio, Frank James (3/22/2010), http://www.npr.org/blogs/thetwo-way/2010/03/acorn_board_approves_groups_sh.html; "Acorn Disbanding, Housing Offshoot to Remain," Wall Street Journal, James Hagerty and Brody Mullins, (3/23/2010), http://online.wsj.com/news/articles/SB10001424052748704117304575138161112658930.

[418] 3/26/2010 email from Jon Waddell to Cindy Thomas and Sharon Camarillo, "ACTION BY 12noon 3/29/10: Investigation," IRSR0000458456 - 459, at 456-457.

for "ACORN successor" groups.[419] The entry describing the ACORN cases has been largely redacted by the IRS so that all that is disclosed in the BOLO is as follows: "ACORN successors, Following the breakup of ACORN [REDACTED BY IRS]."[420]

IRS screeners used the BOLO list to conduct searches for the listed groups, including ACORN successor organizations. Gary Muthert, a senior IRS screener, told the Subcommittee that, as he did with the Tea Party groups, he ran electronic searches for applications filed by ACORN successor groups.[421] Mr. Muthert told the Subcommittee that he ran searches for ACORN successor organizations even before the August 2010 BOLO, because he had received an earlier email alert asking screeners to be on the lookout for those organizations.[422] Mr. Muthert told the Subcommittee that he recalled personally finding about two ACORN successor cases which he sent to the specialty group handling them.[423] Mr. Muthert also observed that ACORN had been featured in an internal IRS presentation as a "watch for example" which included a picture of a smiling acorn.[424]

The BOLOs used by the EOD Unit continued to carry the ACORN successor entry for nearly two years until approximately June 2012, when multiple entries were consolidated in the Emerging Issues section of the BOLO and were referred to by this single entry: "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit)."[425] When that new entry was included in the June 2012 BOLO for groups involved with campaign activity, the separate ACORN entry was eliminated and ACORN successor groups were intended to be included in the new one.

ACORN Selection Criteria. Just as they had for the Tea Party cases, EOD personnel in the Cincinnati office created selection criteria

---

[419] August 2010 BOLO spreadsheet, prepared by the IRS, IRS0000002503 - 515, at 509 (for Tea Party) and 513 (for ACORN); August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196.

[420] Id.

[421] Subcommittee interview of Gary Muthert, IRS (1/15/2014).

[422] Id.

[423] Id.

[424] Id. See also undated "Heightened Awareness Issues," prepared by IRS, IRSR0000195600 - 617, at 613-614 (containing the cartoon picture of a smiling acorn and referencing the ACORN successor groups issue).

[425] See June 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000013252. See also 5/17/2012 email from Holly Paz to Lois Lerner, Nancy Marks, Judith Kindell, Sharon Light, and Cindy Thomas, "Potential revised BOLO language," IRS0000000492 (Ms. Paz wrote: "I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups[:]

> 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention or excess private benefit to organizations or individuals.").

to identify the cases that should be included within ACORN successors category. In October 2010, a determinations manager, Jon Waddell, advised that he had identified two applications for ACORN successor groups based in Pennsylvania that were in addition to two pending applications for ACORN successor groups in New York.[426] He recommended issuing an email alert asking EO personnel to be on the lookout for similar cases, and proposed adding the following criteria to the BOLO Watch list section for ACORN:

1. "The name(s) Neighborhoods for Social Justice or Communities Organizing for Change.
2. Activities that mention Voter Mobilization or the Low-Income/Disenfranchised.
3. Advocating for Legislation to Provide for Economic, Healthcare, and Housing Justice for the poor.
4. Educating Public Policy Makers (i.e. Politicians) on the above subjects."[427]

The proposed criteria were very similar in style and in their use of organization names and political views to the criteria used to identify the Tea Party cases.[428] John Shafer, the manager of the Screening Group, forwarded the proposed ACORN criteria to the IRS screeners and asked them to be on the lookout for the ACORN successor cases.[429]

ACORN EOT Review. Like the Tea Party cases, once the ACORN cases were identified, action on the applications was delayed pending receipt of guidance from the EO Technical Unit in Washington D.C. on how to handle the cases. Carter Hull, the EOT specialist who

---

[426] 10/7/2010 email from Jon Waddell to Steven Bowling and Sharon Camarillo, "BOLO Tab Update," IRSR0000410433 - 434.

[427] Id.

[428] Compare with 6/6/2011 email from John Shafer to Cindy Thomas, "Tea Party cases – NEED CRITERIA," PSI-IRS-09-000048 (providing the following selection criteria for Tea Party cases:

"1.'Tea Party,' 'Patriots' or '9/12 Project' is referenced in the case file.
2. Issues include government spending, government debt and taxes.
3. Educate the public through advocacy/legislative activities to make America a better place to live.
4. Statements in the case file that are critical of how the country is being run.").

[429] See 10/8/2010 email from John Shafer, IRS, to Gary Muthert and others, IRS, "FW: BOLO Tab Update," IRSR0000410433; 10/8/2010 email from Sharon Camarillo, IRS, to John Shafer, IRS, "BOLO Tab Update," IRSR0000410433 - 434 (including the ACORN successor selection criteria and asking: "John: Please ask your screeners to be on the lookout for these cases."). The Minority Staff's Dissenting Views suggest that ACORN successor groups were placed on the BOLO list because of concerns about illegality, rather than advocacy activities, writing that the groups were "not flagged simply for their political activities, but also because of a specific association to a group known to have legal problems." Dissenting Views at 240. That assertion, however, is at odds with the actual selection criteria used by the IRS to flag ACORN successor cases; those criteria make no mention of illegality or fraud, and instead focus exclusively on the successor groups' names and political views. Attributing the flagging of ACORN successor groups as solely the result of IRS concerns about illegality or fraud is also inconsistent with the actions taken by the IRS in June 2012, to combine the ACORN, Occupy, and Tea Party cases under a single, new Emerging Issues entry focused on indicators of campaign activity.

handled the Tea Party cases, also handled the ACORN cases.[430] He told the Subcommittee that he did not know why he had been designated as the EOT contact person for the ACORN cases.[431] According to Mr. Hull, his only involvement with the ACORN cases was that he received a phone call from someone asking about an ACORN successor case, and advised treating the group as a new organization.[432] Ronald Bell, a determinations specialist who, from November 2010 to November 2011, served as the coordinator for the Tea Party cases, told the Subcommittee that he also worked on ACORN cases, including with Mr. Hull, and knew other people who had as well.[433]

The Determinations Unit in Cincinnati waited years for ACORN EOT guidance, just as it waited years for Tea Party guidance. As with the Tea Party cases, EO senior management explicitly suspended resolution of the ACORN cases pending issuance of EOT guidance on them. In June 2010, for example, Steven Grodnitzky, then acting head of EO Technical, wrote to Determinations head Cindy Thomas about the ACORN-related cases:

> "Just want to make sure we are all on the same page as to the ACORN-related cases. We should not be developing or resolving them at this point. I had spoken to Rob [Choi] about a successor to one of the ACORN orgs in NY and he mentioned that some

---

[430] See 11/26/2010 email from Holly Paz to Cindy Thomas, "ACORN Successor," IRSR0000054942 -944 (Ms. Paz wrote: "I apologize for the delay – I thought I had already responded but, in going through the emails today, I realized I had not. Please work with Chip Hull on these cases."); Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

[431] Subcommittee interview of Carter Hull, IRS (11/19/2013). A year later, in July 2011, Mr. Hull told at least one EO determinations specialist that he was no longer handling ACORN cases. That specialist sent an email to a colleague as follows: "I am working a case that has a board member who is also serving on the board of an ACORN organization. Per the instructions on the BOLO list and your instruction, I called Chip Hull in EO Technical for guidance in developing the case. Mr. Hull informed me that he should not be on a list as contact person for ACORN related organizations. While he previously provided guidance to a Determ manager re: ACORN successors, his manager informed him that he should not be doing research for our cases. Mr. Hull requested that his name be removed from the BOLO list as a contact person." 7/11/2011 email from Melissa Conley to William Angner, "BOLO List Issue," IRSR0000054946. The next month, in August 2011, his Tea Party cases were transferred to a new EOT specialist, Hilary Goehausen, as explained earlier, but his name continued to be listed as the contact for ACORN cases until June 2012, when the ACORN cases were folded into the category of tax exempt groups with campaign activities. See June 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000013252. See also 5/17/2012 email from Holly Paz to Lois Lerner and others, "potential revised BOLO language," IRS0000000492 (recommending a revision of the BOLO entry for advocacy groups in part to eliminate "the separate references to ACORN successors and Occupy groups").

[432] Subcommittee interview of Carter Hull, IRS (11/19/2013). Mr. Hull told the Subcommittee that he could not recall who had contacted him about the ACORN case or when. Mr. Hull also said that he had heard of ACORN, but was unaware of the screening criteria used to identify ACORN cases.

[433] Subcommittee interview of Ronald Bell, IRS (1/15/2014). See also 5/13/2012 email from Ronald Bell to Carter Hull, "ACORN Successor org's," IRSR0000054963 (Mr. Bell wrote: "Hi Chip – I've got a case that I believe is an acorn successor org. I googled the name of the org and that is where several websites (such as the capital research center) indicate that it is an acorn successor. The BOLO list states to contact you.").

> activity is going on in the TEGE Commissioner's office with respect to ACORN and to hold off."[434]

Internal IRS documents confirm that limited action was taken on the ACORN cases while awaiting EOT guidance. A July 2010 document, for example, reported that one ACORN group's application had been awaiting guidance from EO Technical for over 60 days.[435] Emails exchanged among EO personnel three months later, in October 2010, described two more pending ACORN successor cases that were sitting idle in Cincinnati, awaiting EOT guidance.[436] On March 8, 2011, one year after the ACORN successor cases were first flagged, Donna Abner, in Quality Assurance, sent this email to her team:

> "Today I received a call from Jon Waddell regarding specifically Acorn related cases and Tea Party cases. In brief, guidance from EO Technical is pending and EO Technical has advised that no determination letters be issued – favorable or unfavorable – until guidance is received."[437]

This email shows that ACORN and Tea Party cases were being handled by the same IRS personnel in the same way.

Proposed ACORN Denials. Almost two years after the first ACORN case was flagged, in January 2012, Ms. Abner proposed denying tax exempt status for one of the ACORN successor organizations. She wrote: "[B]ecause this is the first such letter we've prepared I'd like to have someone in EO Technical review before it is issued. (I also think that this might receive some attention)."[438]

Ms. Abner submitted the proposed denial to EOT in February 2012, and provided the case file in March.[439] In March 2012, EOT

---

[434] 6/8/2010 email from Steven Grodnitzky to Cindy Thomas and Donna Abner, "High Profile orgs," IRSR0000054937.

[435] See 7/2/2010 "June Briefing Notes, Group 7830," prepared by the IRS, IRSR0000054918 - 923, at 920 ("[o]ne case exceeds 60 days which is [REDACTED BY IRS but previously identified as ACORN successor organization]. We are awaiting guidance from EO Technical on next action with this case.").

[436] See October/November 2010 email chain among Sharon Camarillo, Cindy Thomas, Holly Paz, and others, "ACORN Successor," IRSR0000054942 - 944; 7/15/2010 email from Cindy Thomas to Robert Choi, "Potential Successor to Acorn," IRSR0000054948 ("It appears as though we have another case that may be a potential successor to Acorn. Refer to Jon's email below. We placed the other case in suspense pending guidance from the Washington Office and are doing so with this case.").

[437] 3/8/2011 email from Donna Abner to her Quality Assurance team, "politically sensitive cases," IRSR0000453023.

[438] 1/30/2012 email from Donna Abner to David Fish and Michael Seto, "Review requested," IRSR0000458064 - 065. Ms. Abner also noted: "This case has a March 2010 control date," which suggests it had been pending for nearly two years. See also proposed ACORN denial letters, with IRS redactions: 1/30/2012 email from Donna Abner to David Fish and Michael Seto, "Review requested," IRSR0000457889 - 899.

[439] See 4/6/2012 email from Donna Abner to Michael Seto, with a copy to Holly Paz, "Denial – advocacy," IRSR0000617103.

advised that the ACORN "denial need[ed] additional facts to support the legal conclusion that the organization doesn't qualify as a (c)(3)."[440] In response, Ms. Abner revised the denial.[441]

On April 6, 2012, Holly Paz, by then Director of the Rulings and Agreements Unit, indicated that EOT needed to review the revised denial.[442] That same day, Ms. Abner asked Michael Seto, then EOT Acting Manager, for an estimate on how long the review would take, in particular because the Determinations Unit wanted to issue a second ACORN denial and wanted EOT's advice before proceeding.[443] Mr. Seto responded that he would reassign the case to another EOT specialist whose review would take about two weeks.[444] In fact, the review took months, and the case remained unresolved for more than another year.

In July 2012, according to press reports, a group called Cause of Action urged review of two ACORN successor groups in Texas, the Texas Organizing Project and the Texas Organizing Project Education Fund, for what it said was "a scheme to collect donations and divert them for political use" to support Democratic candidates for office.[445] One article stated that the Texas groups provided the third occasion in which Cause of Action had asked for ACORN successor groups to be

---

[440] 3/26/2012 email from Michael Seto to Donna Abner, "Review requested," IRSR0000458064.
[441] The IRS did not supply a copy of the revised denial, citing Section 6103 barring disclosure of taxpayer information.
[442] 4/6/2012 email from Holly Paz to Donna Abner and Michael Seto, "Denial – advocacy," IRSR0000617102 ("I would like EOT to look at this proposed denial Donna just sent.").
[443] 4/6/2012 email from Donna Abner to Michael Seto, "Denial – advocacy," IRSR0000617103 ("I want to follow up on the status of the review of the Acorn successor denial (originally forwarded denial letter early February and copy of case March). Determs has another proposed denial for an almost identical Acorn successor. So, the decision on the first will help with the second. Any idea on when we might receive feedback?").
[444] 4/6/2012 email from Michael Seto to Donna Abner, "Denial – advocacy," IRSR0000617102.
[445] "Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch," Fox News, (7/19/2012), http://www.foxnews.com/politics/2012/07/19/taxpayer-watchdog-calls-on-irs-to-probe-re-branded-texas-acorn-branch/; "ACORN Political Money Laundering," Front Page Magazine, Matthew Vadum (7/26/2012), http://www.frontpagemag.com/2012/matthew-vadum/acorn-political-money-laundering-in-texas/. See also "Texas Organizing Project says it's 'not ACORN with a new name,'" Dallas Morning News, Kim Horner (7/23/2010, updated 1/18/2011), http://www.dallasnews.com/news/community-news/coppell/headlines/20100723-texas-organizing-project-says-it_s-not-acorn-with-a-new-name.ece. TIGTA's auditors took note of the 2012 Fox News article. See 7/23/2012 email from Troy Paterson to Thomas Seidell and others, "Article on Political Advocacy," TIGTA Bates No. 010433 - 434 (referencing the Fox News article).

investigated.[446] The IRS and TIGTA declined at the time to discuss either organization.[447]

In October 2012, Jon Waddell, an IRS determinations manager, noted in a monthly briefing report that two ACORN cases with proposed denials were still pending at EOT:

> "These are advocacy cases (similar to Tea Parties) where we have proposed denial and QA [Quality Assurance] has agreed. There are two cases that are involved and both currently reside in EO Tech for review of the denial letters – cases have been in EO Tech for at least six months. At some point (months from now), the cases will ultimately return to the group to issue the denial letters and communicate with the applicants. When the denial letters are ultimately issued, media attention will almost certainly follow."[448]

Mr. Waddell's report directly compared the ACORN and Tea Party cases, both of which were then undergoing extended EOT review.

At another point in 2012, at least one ACORN case was included in the so-called "bucketing" effort, described further below, which was a 2012 effort by the IRS to process a large number of the advocacy cases quickly.[449] But in March 2013, at least two ACORN cases were still pending, awaiting guidance from EOT on the proposed denials.[450] When the IRS received a new application from still another ACORN successor organization in March 2013, this summary was prepared regarding the pending ACORN cases:

> "I'm elevating a case identified in Vicki's group related to the political advocacy area. While the development issues within Vicki's group are straightforward, any type of ruling on this case could be impactful. Below is the background on the Acorn-related cases:

---

[446] See "Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch," Fox News, (7/19/2012), http://www.foxnews.com/politics/2012/07/19/taxpayer-watchdog-calls-on-irs-to-probe-re-branded-texas-acorn-branch/. In August 2012, Cause of Action released a list of what it alleged were 174 ACORN successor groups across the country. See "174 Hidden ACORN Chapters Still Exist," Cause of Action website (8/27/2012), http://causeofaction.org/174-hidden-acorn-chapters-still-exist/.

[447] "Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch," Fox News, (7/19/2012), http://www.foxnews.com/politics/2012/07/19/taxpayer-watchdog-calls-on-irs-to-probe-re-branded-texas-acorn-branch/.

[448] "Area 1 Monthly Briefing, October 2012," prepared by Jon Waddell, IRS, IRSR0000167847 - 851, at 851.

[449] Subcommittee interview of Holly Paz, IRS (10/30/2013); 3/21/2013 email from Cindy Thomas to Sharon Light and David Fish, "Advocacy Case – Congressional Inquiry," IRSR0000444264 (identifying case "like the Acorn successor cases" as "a bucket 3 case").

[450] See 3/26/2013 email from Jon Waddell to Cindy Thomas, "Sensitive Case," IRSR0000054977.

1. Acorn-related cases were previously reflected on the BOLO and subsequently folded into the political advocacy category over a year ago.

2. Currently, we have two proposed denials under review in D.C. involving Acorn-related cases. One is assigned to Ed Pomerantz and the other to April Garrett[.]

3. These cases contain the same characteristics as other identified political advocacy cases as the applications contain instances of partisan political activity and excessive legislative and mobilization activities precluding approval under c(3)."[451]

This email indicates that the IRS viewed the ACORN-related cases as involving the "same characteristics as other identified political advocacy cases."

In April 2013, Rulings and Agreements Director Holly Paz indicated that the EOT review of the ACORN cases continued unabated: "These cases are still going back and forth between the initiator and reviewer. I have asked Mike to get these cases to Virginia ASAP for a fast track review so we can reach a decision."[452]

Over Three Year Delay. When Determinations head Cindy Thomas was asked about the status of the ACORN successor cases during her Subcommittee interview in November 2013, she indicated that the proposed denial letters still had not been sent and the cases were still pending more than three years after the ACORN successor applications were first submitted to the IRS in February 2010.[453] The evidence shows that those ACORN cases experienced the same inappropriate selection criteria focused on their names and political views, the same EOT reviews, and the same delays and mismanagement as the Tea Party cases being considered at the same time.

(2) Occupy

A second example of IRS treatment of liberal groups involves applications filed by groups associated with "Occupy." Occupy, sometimes called "Occupy Wall Street," has described itself as "a people-powered movement that began on September 17, 2011 in Liberty Square in Manhattan's Financial District, and has spread to over 100

---

[451] Id.

[452] 4/2/2013 email from Holly Paz to Cindy Thomas, "Sensitive Case," IRSR0000054976. See also 5/7/2013 emails between Cindy Thomas and Holly Paz, "Sensitive Case," IRSR0000444805 (indicating Determinations continued to hold an ACORN case while waiting for EO Examinations to finish its audit).

[453] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

cities in the United States and actions in over 1,500 cities globally."[454] Occupy has described its mission as "fighting back against the corrosive power of major banks and multinational corporations over the democratic process, and the role of Wall Street in creating an economic collapse that has caused the greatest recession in generations."[455] A loose affiliation of organizations using the word "Occupy" in their names began forming across the country in late 2011. The groups were generally viewed as liberal or progressive organizations, sometimes described as having opposing or overlapping interests with the Tea Party.[456] Like Tea Party groups, applications filed by Occupy groups were singled out for heightened scrutiny by the IRS due to advocacy issues, they were identified using screening criteria that focused on the groups' names and political views, the applications were subjected to extended EOT review, and resolution of the cases was delayed for years.

First Occupy Case Flagged. On January 20, 2012, the first Occupy case was flagged within the IRS by EOD personnel. An email was sent to Determinations head Cindy Thomas under the subject line, "Potential Watch List/BOLO item - Occupy Groups Applying for (c)(3)."[457] Ms. Thomas told the Subcommittee that she first heard about the Occupy organizations when an IRS agent saw the group in the news and elevated the related case to her.[458] She also told the Subcommittee that she wasn't sure at the time whether Occupy organizations were conservative or liberal, but viewed their applications as ones that should be treated in the same manner as other advocacy cases.[459] A few days after the case was flagged, Jon Waddell, a senior EOD manager, advised that he saw the Occupy cases as falling into the same "advocacy cases" category as the Tea Party and ACORN successor cases.[460]

Issues involving the Occupy cases were handled by Steven Bowling, head of Group 7822 which was already handling the Tea Party cases. In an email, Mr. Bowling indicated that he viewed the Occupy cases as falling within the advocacy category, but also expressed

---

[454] "About Occupy Wall Street," prepared by Occupy Wall Street, http://occupywallst.org/about/.
[455] Id.
[456] See, e.g., "A Very Simple Venn Diagram of Where the Tea Party and Occupy Wall Street Agree," The Atlantic, Alexis C. Madrigal (10/14/2011), http://www.theatlantic.com/politics/archive/2011/10/a-very-simple-venn-diagram-of-where-the-tea-party-and-occupy-wall-street-agree/246687/.
[457] 1/20/2012 email from Peggy Combs to Cindy Thomas, "Potential Watch List/BOLO item – Occupy Groups Applying for (c)(3)," IRSR0000013419. See also 5/25/2012 email from Peggy Combs to Tyler Chumney, "Watch List Case Identified," IRSR0000013430 - 433, at 432 (Ms. Combs: "Are these cases considered advocacy cases per the BOLO?").
[458] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). See also "Which 'Occupy' Movements are Seeking, Considering Nonprofit Status?" Huffington Post (11/18/2011, updated 11/21/11), http://www.huffingtonpost.com/2011/11/18/occupy-wilmington-files-f_n_1097351.html (discussing efforts by Occupy Las Vegas, Occupy Denver, Occupy Wilmington, and Occupy Portland to obtain nonprofit status).
[459] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[460] 1/24/2012 email from Jon Waddell to Steven Bowling, "Advocacy Cases—Clarification," IRSR0000645603.

confusion over how to alert screeners to be on the lookout for them: "I know we don't want to use the words 'tea party' or 'occupy' but I'm not sure how we could weed out a simple advocacy type organization."[461] This email suggests that, from the initial effort to alert IRS personnel to Occupy applications, EO managers viewed the Occupy cases as comparable to the Tea Party cases. EO personnel debated how to adequately capture the Occupy groups on the BOLO list without referring to them as "Occupy," with one agent noting: "We wouldn't want to miss this one if it comes in so it needs to be pretty clear."[462]

Occupy BOLO Entry. In January 2012, a separate entry for Occupy organizations was added to the BOLO in the "Watch List" section. The entry read as follows:

> "Occupy Organizations involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to 'big money' influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy."[463]

The BOLO entry instructed IRS agents to send any Occupy applications to Group 7822, the same group handling the Tea Party cases.[464]

The January 2012 BOLO also contained a revised entry for "current political issues," in the Emerging Issues section, which read as follows:

> "[C]urrent political issues: Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform/movement."[465]

In a January 25, 2012 email, Ronald Bell, the keeper of the BOLO lists for the Determinations Unit, wrote to his manager, Steven Bowling, asking why there was a separate Occupy entry: "I thought the $ocial economic reform in the updated current political issues was our 'code word' for the occupy organizations."[466] Mr. Bell told the Subcommittee that he had met with Mr. Bowling and Stephen Seok about revising the BOLO entry for political issues, and thought that the group had agreed

---

[461] 1/20/2012 email from Steve Bowling to Cindy Westcott, "Potential Watch List/BOLO item – Occupy Groups Applying for (c)(3)," IRSR0000013418 - 419.
[462] Id. at 418.
[463] January 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000630285 - 289, at 285.
[464] Id.
[465] Id. at 287.
[466] 1/25/2012 email from Ronald Bell to Steven Bowling, "BOLO," IRSR0000013187.

to use "$ocial economic reform" as a "code" for identifying Occupy cases.[467] Mr. Bowling responded: "I think we can leave it in. Some of the orgs are pushing that other than occupy groups."[468]

Gary Muthert, a senior EO screening agent, told the Subcommittee that once he received the January 2012 BOLO, he would have been on the lookout for Occupy cases and would have sent any to Group 7822.[469] He said that he didn't recall receiving any of those cases nor did he recall if he used "Occupy" as a search term.[470] He also noted that he did not know why Occupy had its own separate BOLO entry, and wasn't simply included in the advocacy issues entry.[471]

In June 2012, at the direction of Lois Lerner and Holly Paz, the BOLO entry for current political issues, which appeared in the Emerging Issues section, was revised to encompass all types of political groups, including Occupy and ACORN, with campaign activity.[472] At that time, the BOLO dropped the separate entry for Occupy cases.[473] From then on, the political issues entry was the sole entry used to identify Occupy as well as other advocacy cases.[474]

Occupy Applications. In February 2012, Mr. Bowling assigned the first Occupy case to Stephen Seok, who was then the Tea Party case coordinator, explaining that it was similar to the other "political type cases" he was handling.[475] The IRS received a second Occupy application in May 2012.[476] Ronald Bell, the prior Tea Party

---

[467] Subcommittee interview of Ronald Bell, IRS (1/15/2014). Mr. Bell told the Subcommittee that he did not recall the use of any other code words in the BOLO entries.
[468] 1/25/2012 email from Steven Bowling to Ronald Bell "BOLO," IRSR0000013187.
[469] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[470] Id.
[471] Id.
[472] See 6/14/2012 email from Ronald Bell to Tyler Chumney, "BOLO ALERT 06/13/2012," IRSR0000013251, attaching "BOLO Spreadsheet 06132012.xls" (Mr. Bell wrote: "Attached is the latest BOLO updates. ... The issue description for **Current Political Issues** located in the Emerging Issue Tab has been revised and the new coordinator is Sharon Light. Watch list issues #2 [REDACTED BY IRS] and #21 'Occupy' Organizations from the last BOLO Alert dated 3-26-12 have been removed and now are to be included in the description for Current Political Issues.")(emphasis in original). The redacted portion of the email was later disclosed as referring to ACORN successor groups.
[473] Id.
[474] Id. The wording, as indicated earlier, was as follows: "[C]urrent political issues: 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit))." See 6/13/12 BOLO spreadsheet, prepared by IRS, IRS0000013252 - 256, at 254.
[475] 2/292012 email from Steven Bowling to Stephen Seok, "BOLO case," IRSR0000014171 – 174, at 173 - 174 (Mr. Bowling wrote: "We have our first 'occupy' type organization. We were thinking that these could be worked by the same agents working the political type cases."). See also 5/24/2012 email from Tyler Chumney to Peggy Combs, "Watch List Case Identified," IRSR0000013420 (Ms. Combs wrote: "There is one other 'Occupy' case, Steve Bowling just called to let me know this. He also told me it is assigned to Stephen Seok who is developing the case.").
[476] See 5/24/2012 email from Tyler Chumney, IRS, to Peggy Combs, IRS, "Watch List Case Identified," IRSR0000014175 - 189, at 177; 7/19/2013 letter from TIGTA to Congressman Sander Levin, at 2,

coordinator, told the Subcommittee that he also worked on the Occupy cases, which he perceived as involving liberal organizations.[477]

Mr. Seok told the Subcommittee that he helped develop the Occupy case he was assigned.[478] Hilary Goehausen, the EOT specialist who began handling the Tea Party cases in 2011, told the Subcommittee that she was also assigned an Occupy case as part of her work on the advocacy cases.[479] She told the Subcommittee that she did not recall the details of the Occupy case, but would have treated it like any other advocacy case and helped put together development questions for the group.[480] In addition, at least one Occupy case was included in the 2012 so-called "bucketing" effort, described further below, which was an IRS attempt to quickly process a large number of the advocacy cases then pending.[481] In short, the Occupy cases went through the same processing, using the same IRS personnel, as the Tea Party cases.

The current status of the Occupy applications is unclear. Applications filed in the first half of 2012 were still unresolved by the end of the year, but whether or how they may have been resolved in 2013 or 2014 has not been publicly disclosed. When asked, the IRS told the Subcommittee that it was barred by Section 6103 of the tax code from discussing individual cases and could not disclose the current status of the Occupy applications. The IRS personnel interviewed by the Subcommittee indicated that they did not know the current status of the cases.

On the internet, Occupy Solidarity Network, Inc., which operates the OccupyWallSt.org website, "the oldest and most trusted online resource for the Occupy Movement," describes itself as a "New York

---

http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/TIGTA%20Response%20Letter%20to%20the%20Honorable%20Sander%20Levin%207-19-13.pdf (noting 0 Occupy organizations in the political advocacy list from May 2010 to May 2012, and two Occupy organizations after May 2012).

[477] Subcommittee interview of Ronald Bell, IRS (1/15/2014). The Minority Staff's Dissenting Views note that the Occupy cases were not included in the IRS list of advocacy cases reviewed by IRS specialists from May 2010 to May 2012. See Dissenting Views at 240. The evidence shows, however, that whether or not they appeared on that list, Occupy cases were flagged using a BOLO entry that focused on the groups' names and political views, were later combined with Tea Party cases under a revised BOLO Emerging Issues entry, and were assigned to the same EOD and EOT personnel handling Tea Party cases. In addition, the first Occupy application was filed in February 2012, more than a year before the TIGTA audit report was released in May 2013, and the IRS repeatedly brought the Occupy BOLO entry and cases to the attention of TIGTA auditors who failed to examine them.

[478] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[479] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

[480] Id. She told the Subcommittee that she did not recall whether development letters were actually sent out.

[481] See 5/31/2012 email from Tyler Chumney to Stephen Seok, "Occupy Case," IRSR0000014190 ("You indicated you had an Occupy case. This case [ ] needs to go to the bucketing team today. Would you let me know where it is so I can get it to them, thanks.").

501(c)(4) non-for-profit organization."[482] Another group, Occupy.com, Inc., which operates the Occupy.com website, describes itself as a nonprofit corporation "currently awaiting our tax-exempt, 501(c)(3) status."[483] Friends of Occupy Portland has described itself as a nonprofit "social welfare/civic organization for the purpose of tax laws."[484] It is unclear whether these or other Occupy groups submitted the applications described in IRS documents.

One Occupy group which does not appear to have filed one of the applications already discussed has provided public information on its website about its nearly two-year effort to obtain tax exempt status from the IRS. On its website, Occupy the Roads, a group whose self-described mission is "to educate Americans about the social and economic injustices which oppress people or destroy resources of the earth for profit," indicates that it first applied for 501(c)(3) status from the IRS in August 2012.[485] More than a year later, in September 2013, the group's application was still pending.[486] In January 2014, hoping to expedite the process, Occupy the Roads divided its operations and sought approval as two tax-exempt organizations — one under Section 501(c)(3) and one under Section 501(c)(4).[487] Both applications were finally approved in April 2014, 21 months after the initial application was filed.[488] According to Occupy the Roads, its activities were curtailed during the prolonged review process, because its uncertain tax status did not permit it to apply for grants or accept tax-deductible donations. After approval was granted, on June 6, 2014, the group's director called the IRS to ask why the group's approved 501(c)(3) status was still not listed on the IRS website. According to the director, the IRS informed her that the group's approved application had been "lost,"

---

[482] See "About Occupy Wall Street," prepared by Occupy Wall Street, www.Occupywallst.org/about/.

[483] "Donate," prepared by Occupy.com, www.occupy.com/donate.

[484] "How to Support FO OP," prepared by Friends of Occupy Portland, www.foopdevelopment.blogspot.com.

[485] See "About Us," prepared by Occupy the Roads, http://www.occupytheroads.com/blog/about/; 1/23/2014 "Weekly Update," Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2014/01/11326/.

[486] 9/24/2013 "Parkersburg on hold while IRS play politics for 501c3 status," Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2013/09/10322/ (discussing group's effort to establish its headquarters in Parkersburg, West Virginia). According to Occupy the Roads executive director Janet Wilson, "The agent at the IRS has said we don't educate enough.... We are fighting back with the help of a tax advocate and a Senator from Colorado." Id. See also 6/30/2013 "Ready to roll on to Parkersburg," Occupy the Roads, http://www.occupytheroads.com/blog/2013/06/ready-to-roll-on-to-parkersburg/.

[487] 1/14/2014 "Ready for Final Inspection at Pueblo House," Occupy the Roads, http://www.occupytheroads.com/blog/2014/01/11291/. According to Occupy the Roads, the IRS asked it to file a second 501(c)(3) application, and converted its initial August 2012 application to a 501(c)(4) application. 1/23/2014 "Weekly Update," Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2014/01/11326/.

[488] 4/23/2014 "OTR gives birth to OTR Foundation," Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2014/04/otr-otr-foundation/; 6/6/2014 "Lost in space but surely this cant be?", Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2014/06/lost-in-space-but-surely-this-cant-be/.

and it might take up to eight more weeks for the listing to appear, during which time potential grantors and donors would be unable to easily verify Occupy the Roads' tax-exempt status.[489]

The evidence shows that Occupy cases were handled by the same IRS personnel who handled Tea Party cases and, like Tea Party groups, were flagged using BOLO entries that at first focused on the groups' names and political views, and later employed the same Emerging Issues criteria used to flag Tea Party cases. Occupy groups also underwent the same EOT reviews and experienced the same lengthy delays and mismanagement as their Tea Party counterparts.

(3) Emerge America

A third example of IRS treatment of liberal groups involves organizations associated with Emerge America. Emerge America characterizes itself as an organization dedicated to encouraging and training Democratic women candidates to run for office.[490] It currently operates in 14 states and has affiliates across the country.[491]

Emerge organizations began applying for 501(c)(4) tax exempt status in 2008. Documents reviewed by the Subcommittee discuss at least eight Emerge organizations whose tax exempt applications have undergone IRS review since then. Like Tea Party groups, the Emerge applications were singled out for heightened scrutiny by the IRS using inappropriate screening criteria focused on their names, and the applications were subjected to extended EOT review. In 2011, after a three-year wait, the IRS denied tax exempt status to three Emerge organizations and approved tax exempt status for five others, demonstrating ongoing confusion within the IRS on applying the law to groups involved with partisan campaign activity. In 2012, the IRS revoked the tax exemptions that had been granted to the five Emerge organizations in the prior year.

Emerge Applications Flagged. The first Emerge application appears to have been flagged for heightened review in January 2008.[492] By September 2008, two Emerge applications had been sent to the EO

---

[489] 6/6/2014 "Lost in space but surely this cant be?", Janet Wilson, Occupy the Roads, http://www.occupytheroads.com/blog/2014/06/lost-in-space-but-surely-this-cant-be/.

[490] According to Emerge America's website: "Emerge America is changing the face of American politics by identifying, training and encouraging women to run for office, get elected and to seek higher office. Our intensive, cohort-based seven-month training program is unique. As the number of elected Democratic women remains flat or even declines, the need for our work is growing across the country." "About Emerge America," prepared by Emerge America, http://www.emergeamerica.org/about.

[491] Id.

[492] See 4/28/2010 EO Technical Significant Case Report, Exhibit 21, House Ways and Means Committee, http://waysandmeans.house.gov/uploadedfiles/4.9.14_lerner_referral_and_exhibits.pdf.

Technical Unit for review. Donna Abner, in the IRS Quality Assurance division, wrote:

> "Because of the partisan nature of the cases – guidance from EO Technical is pending. … Per IRM [Internal Revenue Manual] 7.20.5 – 'sensitive political issue' cases were designated as subject to mandatory review in 2007. Please note the two case[s] above closed in 2008 that did not come through QA [IRS Quality Assurance]. I recommend an alert be issued regarding this type of case as well as a reminder that 'sensitive political issue' cases are subject to mandatory review."[493]

Her email indicated that two other Emerge cases had already been "closed," in addition to the two cases then undergoing review, but did not indicate whether those applications had been approved or denied.[494] The Subcommittee was told that, at some point, an email alert was issued to EO personnel as Ms. Abner had requested, asking them to be on the lookout for Emerge cases.[495]

In November 2008, two Emerge applications were the subject of an EO Sensitive Case Report.[496] The report was prepared by Jon Waddell, a senior EOD manager who also worked on Tea Party and ACORN cases. He wrote:

> "Two organizations from 2 different states applied for exemption under section 501(c)(4) for the purpose of training women to run for political office. The services are only provided to women affiliated with the Democratic Party and focus on a variety of subjects such as public speaking and press relations, as well as how

---

[493] 9/8/2008 email from Donna Abner to Cindy Westcott and others, "Political Case Alert," IRSR0000011493 - 494. Under IRM 7.20.5.4, IRS Quality Assurance conducts mandatory reviews of certain activities, including:

> "Applications that present sensitive political issues, including the following types of activities:
> • Voter registration
> • Inaugural and convention host committees
> • Post-election transition teams (to assist the elected official prior to officially assuming the elected position)
> • Voter guides
> • Voter polling
> • Voter education
> • Other activities that may appear to support or oppose candidates for public office."

Internal Revenue Manual, § 7.20.5.4 (03-0-2008), "Cases Subject to Review," http://www.irs.gov/irm/part7/irm_07-020-005.html.

[494] 9/8/2008 email from Donna Abner to Cindy Westcott and others, "Political Case Alert," IRSR0000011493 - 494. The IRS told the Subcommittee that Section 6103 of the tax code barred the IRS from discussing the closed cases.

[495] The IRS told the Subcommittee that Section 6103 of the tax code barred the IRS from providing a copy of the email alert. When the first official BOLO list was issued almost two years later, in August 2010, it did not include a separate entry for Emerge groups, perhaps because of this earlier email alert.

[496] See 11/14/2008 Sensitive Case Report, prepared by Jon Waddell, IRS, IRSR0000444824 - 825. See also 11/19/2008 Sensitive Case Report, IRSR0000444817 - 829.

to conduct fund raising activities. The applications appear to represent potential partisan political activity."[497]

EOT Review. At EOT, the two Emerge cases were originally assigned to Justin Lowe, an EOT tax law specialist who handled a variety of 501(c)(4) cases involving political and campaign activities, including Tea Party cases.[498] Mr. Waddell coordinated with Mr. Lowe on the Emerge cases.[499] In February 2009, when a third case, described as "another Emerge Case (political Case)," was identified, and Mr. Waddell learned that Mr. Lowe had been temporarily detailed to another office, he contacted the EOT head, Steven Grodnitzky, about what to do. Mr. Grodnitzky advised Mr. Waddell to consult with EOT tax law specialists Siri Buller and Andy Megosh, who handled "political activity cases."[500]

Ms. Buller became the lead EOT contact for the three Emerge cases.[501] In at least one of them, she sent a development letter to gather more information about the group and its application.[502] In April 2010, another EOT specialist Janet Gitterman, working on still another Emerge case, also worked on a development letter.[503]

On April 28, 2010, an EOT Sensitive Case Report indicated that Emerge applications were then pending from four organizations: Emerge Maine, Emerge Nevada, Emerge Massachusetts, and Emerge Oregon.[504] The report indicated that the groups were being reviewed to determine "[w]hether orgs that recruit women belonging to [the] Democratic party to schools that teach campaign-related skills qualify

---

[497] 11/14/2008 Sensitive Case Report, prepared by Jon Waddell, IRS, IRSR0000444824 - 825. See also 11/19/2008 email from Cindy Westcott to Oksana Xenos, "Sensitive Case Report for November," IRSR0000444817.

[498] See 12/12/2008 emails exchanged between Jon Waddell and Justin Lowe, "Emerge Case Correspondence," IRSR0000640307 - 308.

[499] Id.

[500] 2/6/2009 email from Steven Grodnitsky to Jon Waddell, "Emerge Case Correspondence," IRSR0000640307.

[501] See 4/28/2010 EO Technical Significant Case Report, Exhibit 21, House Ways and Means Committee, http://waysandmeans.house.gov/uploadedfiles/4.9.14_lerner_referral_and_exhibits.pdf.

[502] See 4/23/2010 email exchange between Siri Buller and Janet Gitterman, "scr case," IRSR0000626700 - 701.

[503] Id.

[504] The Significant Case Report contains specific taxpayer information that the IRS is prohibited from disclosing under Section 6103 of the tax code, but the report was released in unredacted form by the House Ways and Means Committee, which has independent authority to release taxpayer information. See 4/28/2010 EO Technical Significant Case Report, Exhibit 21, House Ways and Means Committee, (referencing Emerge Maine, Emerge Nevada, Emerge Massachusetts, and Emerge Oregon), http://waysandmeans.house.gov/uploadedfiles/4.9.14_lerner_referral_and_exhibits.pdf. For the redacted version provided to the Subcommittee, see 4/28/2012 email from Steven Grodnitzky to Lois Lerner and Robert Choi, "SCR Chart," IRSR0000141809 - 811.

for C4 status."[505] April 2010 was also the first month that a Sensitive Case Report was prepared for two Tea Party groups.[506]

In July 2010, as described earlier, at a routine "Screening Workshop" to alert EOD screeners to a variety of issues, a presentation urging IRS personnel to look for groups involved with "political activities" listed "Emerge" groups along with "Tea Party" groups.[507] The presentation stated that "the following names ... were of interest and should be flagged for review," and listed Emerge along with six other groups.[508] This presentation showed that, like Tea Party groups, IRS screeners were instructed to look for Emerge groups by name and, due to their "political activities," ensure they were subjected to heightened review.[509]

Emerge Denials. In the first half of 2011, three years after the first Emerge application was flagged, the IRS denied tax exempt status to three Emerge organizations due to the groups' engaging in partisan political activity benefiting the Democratic party.[510] Emerge America publicly acknowledged at the time that three state organizations, Emerge Nevada, Emerge Maine, and Emerge Massachusetts, had been denied tax exemption.[511]

---

[505] 4/28/2010 Significant Case Report, Exhibit 21, House Ways and Means Committee, http://waysandmeans.house.gov/uploadedfiles/4.9.14_lerner_referral_and_exhibits.pdf.

[506] 4/19/2010 TEGE Division Sensitive Case Report, submitted by Carter Hull, IRSR0000165382 - 383. ("The various 'tea party' organizations are separately organized, but appear to be a part of a national politically conservative movement that may be involved in political activities."). As explained earlier, the prior month, Gary Muthert, a senior EO screener, had directly compared the Emerge and Tea Party cases, calling Emerge "an equal Democratic 'tea party' type entity." 3/16/2010 email from Gary Muthert to John Shafer, "TEA PARTY," IRSR0000482737.

[507] See 7/28/2010 "Screening Workshop Notes," prepared by IRS, attached to 7/29/2010 email from Nancy Heagney to multiple IRS colleagues, IRSR0000006700 - 704, at 703; "Screening Workshop July 28, 2010," powerpoint presentation prepared by IRS, IRSR0000006674 - 699, at 689.

[508] 7/28/2010 "Screening Workshop Notes," prepared by IRS, attached to 7/29/2010 email from Nancy Heagney to multiple IRS colleagues, IRSR0000006700 - 704, at 703 (stating that, in addition to Tea Party groups, "the following names and/or titles were of interest and should be flagged for review: o 9/12 Project, o Emerge, o Progressive, o We The People, o Rally Patriots, and o Pink-Slip Program").

[509] Id. The Minority Staff's Dissenting Views contend that the IRS treated the Emerge groups differently from Tea Party groups due to their partisan activities, but the facts indicate that, in both cases, the groups were flagged for heightened review due to their involvement in political activities, were flagged in part due to their names, were sent to Washington, D.C. for EOT review, were subjected to development letters, and underwent years of review. See Dissenting Views at 241-242.

[510] See 5/26/2011 email from Siri Buller to Jason Kall, "Referral to ROO," IRSR0000196739 - 758, at 739 ("Recently, we denied the 1024 applications of three state chapters of [REDACTED BY IRS], a Democratic candidate training school for women. We denied the applications on the basis that their primary activity confers a private benefit to a political party. In the course of reviewing these applications, we learned that Determinations had already approved the 1024 applications of several other state chapters and the national organization."). See also 2011 IRS letters to the Emerge groups denying their applications. Id.

[511] "3 Groups Denied Break by IRS are Named," New York Times, Stephanie Strom, (7/21/2011), http://www.nytimes.com/2011/07/21/business/advocacy-groups-denied-tax-exempt-

At the same time the IRS denied those three applications, which had undergone EOT review, the IRS approved five other Emerge applications which had apparently been processed by EO screeners without EOT input.[512] The executive director of one of the groups granted tax exemption, Emerge California, was quoted as saying: "It's just bizarre. Nevada has been around and waiting for approval for the last five years, and in the interim, Oregon and Kentucky are established and file for their approval – and Kentucky gets it but Nevada, Maine and Massachusetts don't."[513]

When Lois Lerner learned that the five Emerge applications had been approved by EOD screeners in the Cincinnati office without EOT input, she wrote: "How in the world did this get screened in Cincy?"[514] That IRS EO personnel approved some Emerge cases and disapproved others in the same year provides another indicator of the subjective nature of the decisionmaking process as well as ongoing IRS confusion over how the rules related to campaign activities should be applied to 501(c)(4) organizations.

In 2012, the IRS reversed course and revoked the tax exemptions that had been granted to the five Emerge organizations in the prior year.[515] To prevent a repetition of the problem, two training sessions were provided to IRS screeners and determinations specialists.[516]

---

status-are-named.html?_r=0. See also 7/20/2011 email from Stephanie Strom, New York Times to Grant Williams, IRS, "Bazinga," IRSR0000640490 (asked why some Emerge organizations had been approved, while others hadn't); 7/22/2011 email from Lois Lerner to Holly Paz, "New York Times – 501(c)(4)s," IRSR0000350749.

[512] See 5/26/2011 email from Siri Buller to Jason Kall, "Referral to ROO," IRSR0000196739 ("In the course of reviewing these [Emerge] applications, we learned that Determinations had already approved the 1024 applications of several other state chapters and the national organization."); 7/21/2011 email from Donna Abner to Holly Paz, "IRM 7.20.5," IRSR0000429501 ("I'm also concerned with the cases approved in screening. The screening checksheet does not include 'Political Activities-Sensitive Issues' among the types of cases 'not' suitable for screening. Despite this, the cases were closed on merit with no contact. It might be helpful to pull the admin file to see if the applicant fully disclosed their operations - or - if the screeners/specialists need a reminder regarding political/sensitive cases.").

[513] "3 Groups Denied Break by IRS are Named," New York Times, Stephanie Strom, (7/21/2011), http://www.nytimes.com/2011/07/21/business/advocacy-groups-denied-tax-exempt-status-are-named.html?_r=0.

[514] 7/20/2011 email from Lois Lerner to Holly Paz, "website info," IRSR0000196659. See also 10/21/2011 email from David Fish to Nanette Downing, Holly Paz, and others, "previously referred cases," IRSR0000636330 (discussing plans to revoke the approval of "5 or 6 Emerge cases").

[515] See 7/17/2012 draft document from Lois Lerner to Steven Miller, "Recent section 501(c)(4) activity," IRSR0000468978 - 980, at 979 ("Emerge cases were worked in 2008. Recent activity was revoking the 5 organizations that were wrongly approved.").

[516] See 8/1/2011 email from Holly Paz to Justin Lowe, "Sensitive Political Issues – CENTRA Session," IRSR0000435473 (indicating Judith Kindell conducted a training session with EO employees in September 2011, and Siri Buller provided a training presentation sometime in 2011; in her email, Ms. Paz stated: "[t]he private benefit analysis of Emerge should also be discussed.").

These facts show that Emerge groups, like Tea Party groups, were identified using inappropriate selection criteria focused on their names and political views, were subjected to EOT analysis and development letters, and in some cases, waited three years for their applications to be resolved. Worse yet, the applications were decided by the IRS in an inconsistent manner, and five groups that were granted tax exemptions lost those exemptions within a year. No Tea Party group experienced that same level of case mismanagement.

(4) Progressive Groups

A final example of IRS treatment of liberal groups involves organizations with "Progressive" or "Progress" in their names. Like some Tea Party groups, a number of these groups were identified using inappropriate selection criteria focused on their names and political views, were subjected to EOT reviews, and experienced lengthy delays and intrusive questions.

Inappropriate Selection Criteria. The earliest occasion identified by the Subcommittee in which "Progressive" was used as a selection criteria for groups involved with political activity was in connection with a July 2010 IRS "Screening Workshop," described earlier, which directed EOD screeners to look for certain applications and send them to the same IRS group handing Tea Party cases. The official IRS summary of the workshop included these notes:

"Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like – regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to [Group] 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - Emerge,
  - Progressive
  - We The People,
  - Rally Patriots, and
  - Pink-Slip Program.'"[517]

[517] 7/28/2010 "Screening Workshop Notes," prepared by IRS, attached to 7/29/2010 email from Nancy Heagney to multiple IRS colleagues, IRSR0000006700 - 704, at 703 (circulating the "Screening Workshop meeting minutes). See also "Screening Workshop July 28, 2010," powerpoint prepared by IRS, IRSR0000006674 - 699, at 690 (also indicating that IRS screeners should look for "Progressive" groups). The Minority Staff's Dissenting Views state that the "progressive cases, unlike their Tea Party counterparts, were not selected for additional scrutiny because of the group's name," Dissenting Views at 228, but this document shows that, in fact,

This IRS document shows that at the earliest stages of the effort to subject Tea Party groups to heightened review, in July 2010, IRS screeners were also advised to look for progressive groups, using the groups' names as the key selection criteria.[518]

When the IRS issued the first Be On the Lookout (BOLO) list in August 2010, progressive groups were again spotlighted. As indicated earlier, the BOLO's "TAG Historical" section included an entry urging EO employees to look for applications filed by groups involved with "Progressive political activities," explaining:

> "[C]ommon thread is the word 'progressive.' Activities appear to lean towards a new political party. Activities are partisan and appear anti-Republican. You see references to 'blue' as being 'progressive.'"[519]

This BOLO description urged screeners to focus on the "the word 'progressive,'" described the groups' political views, and identified their "political activities" as the central concern.[520] Like the BOLO entry for Tea Party groups, it urged IRS personnel to flag a set of groups solely because of their names and political views and subject them to heightened review.

Heightened Reviews and Lengthy Delays. Gary Muthert, a senior EOD screener interviewed by the Subcommittee, confirmed that, in 2010, he conducted searches using the term "progressive" to identify groups for heightened review.[521] Mr. Muthert explained that, due to the progressive entry in the BOLO TAG Historical section, all EOD screeners were obligated to be on the lookout for those groups, including by running searches for those entities and checking their files to see if they had any of those cases.[522] Mr. Muthert told the Subcommittee that, just as he did with the Tea Party, he ran electronic queries using the word "progressive" and would have sent any cases he found to the

---

IRS screeners were explicitly instructed to use certain "names," including "Progressive," to identify groups that "should be flagged for review."

[518] In the same presentation, while the Tea Party case coordinator, Elizabeth Hofacre, advised against sending progressive cases to her, she did not suggest that heightened review of those cases was inappropriate or that the cases should not be sent to Group 7822, which was also handling the Tea Party cases. Id.

[519] August 2010 BOLO spreadsheet, prepared by the IRS, IRS0000002503 - 515, at 513; August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196. Because the 2010 BOLO has been partially redacted by the IRS, see also July 2012 BOLO spreadsheet, prepared by the IRS, at IRS0000001484 - 499.

[520] Again, in contrast to the Minority Staff's Dissenting Views statement that "progressive cases, unlike their Tea Party counterparts, were not selected for additional scrutiny because of the group's name," Dissenting Views at 228, this BOLO entry directed IRS personnel to focus on "the word 'progressive.'"

[521] Subcommittee interview of Gary Muthert, IRS (1/15/2014).

[522] Id.

relevant specialty group handling them.[523] That specialty group, Group 7822, was also handling the Tea Party cases.

The evidence shows that groups with "Progressive" or "Progress" in their names were, in fact, subjected to heightened scrutiny by the IRS. For example, a list compiled by the IRS Chief Risk Officer, David Fisher, looking at 501(c)(4) groups reviewed by the IRS from May 2010 through December 2012, identified 20 applications filed by groups with the words "Progressive" or "Progress" in their names.[524] Of those 20 applications, nine were included in the same advocacy case list as the Tea Party groups and four others were otherwise subjected to EOT review, for a total of 13 cases out of 20, or 65%.[525] The list also showed that at least eleven of the cases had been under IRS review for six months to a year.[526] Five other applications on the list appear to have been processed relatively quickly.[527] The final four applications had been under consideration for just one to five months before the analysis was undertaken, making it difficult to determine whether they were undergoing heightened scrutiny.[528]

Several groups with "Progressive" or "Progress" in their names have publicly disclosed the difficulties they experienced in obtaining tax exempt status from the IRS. A group called Progress Texas, for example, reported that it had been subjected to intrusive questions and underwent an 18-month delay before it obtained a 501(c)(4) exemption.[529] Another group known as Action for a Progressive Future

---

[523] Id.

[524] See IRS analysis of 501(c)(4) advocacy cases as of 6/5/2012, PSI-IRS-37-000004 - 019, at 011 - 012. The total does not include four groups that appear to have been processed prior to May 2010. Although the Minority Staff's Dissenting Views suggest, at 236, that the IRS limited its review to progressive groups seeking 501(c)(3) status, all of the cases on the list compiled by the IRS Chief Risk Officer sought (c)(4) status. Id.

[525] IRS analysis of 501(c)(4) advocacy cases as of 6/5/2012, PSI-IRS-37-000004 - 019, at 011 (indicating that nine cases were included in a May or December 2012 advocacy case list, and four cases underwent "other tech/group screening" as shown by the "6" or "9" designation in the column showing "Current EDS Status"). A TIGTA letter has indicated that seven, rather than nine, progressive groups appeared on the advocacy case list, but TIGTA's smaller number is due to TIGTA's considering only the May 2012 advocacy case list and not the December 2012 advocacy case list which included two additional progressive groups. See 7/19/2013 letter from TIGTA to Congressman Sander Levin of the House Committee on Ways and Means, http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/TIGTA%20Response%20Letter%20to%20the%20Honorable%20Sander%20Levin%207-19-13.pdf.

[526] Id.

[527] Id.

[528] Id.

[529] See, e.g., "Nonconservative Groups Say IRS Scrutinized Them Too," National Public Radio, Brian Naylor (5/19/2013), http://www.npr.org/2013/05/19/185206908/nonconservative-groups-say-irs-scrutinized-them-too; "IRS scrutinized some liberal groups," Politico, David Nather (7/22/2013), http://www.politico.com/story/2013/07/irs-scrutinized-liberal-groups-94556.html (discussing Progress Texas and Progress Now), providing a link to an IRS letter at http://www.scribd.com/doc/141747252/IRS-Request-for-More-Information-Progress-Texas-Feb-2012. See also "Does the IRS really have it in for tea party groups?" Colorado Independent, Teddy Wilson (3/28/2012), http://www.coloradoindependent.com/116361/does-the-irs-really-

had a similar experience, undergoing both extensive questioning and an 18-month delay.[530] While some dismiss concerns involving Progressive groups by noting that all of the Progressive groups on the IRS case advocacy list eventually obtained tax exempt status, during the same period 111 conservative groups – more than five times as many – also received approval, while others continued to wait for resolution of their applications. Eventual approval of an application does not mean that the application approval process itself was appropriate or timely.

The following chart summarizes some of the common negative experiences among the liberal groups that filed 501(c)(4) applications with the IRS.

IRS PROCESSING OF 501(C)(4) APPLICATIONS 2010 - 2013

	ACORN Successors	Occupy Groups	Emerge Groups	Progressive Groups	Tea Party Groups
Inappropriate selection criteria focusing on name or political views	X	X	X	X	X
BOLO searches	X	X		X	X
IRS reviews in Cincinnati and Washington	X	X	X*	X*	X*
Intrusive questions			X*	X*	X*
At least one year of delay	X*	X*	X*	X*	X*
At least three years of delay	X*		X*		X*
Tax exemption reversed			X*		

*Affected some but not all groups.

---

have-it-in-for-tea-party-groups (providing copies of IRS letters sent to a conservative group and a progressive group in Texas and indicating the two letters were equally intrusive).

[530] See "IRS approved liberal groups while Tea Party in limbo," USAToday, Gregory Korte (5/15/2013), http://www.usatoday.com/story/news/politics/2013/05/14/irs-tea-party-progressive-groups/2158831/ (discussing Action for a Progressive Future as well as mentioning Bus for Progress and Progress Florida). Another liberal group that did not have "Progressive" or "Progress" in its name, but reported similar experiences was Alliance for a Better Utah, a "multi-issue education and advocacy organization promoting progressive ideas and causes." See Alliance for a Better Utah website, http://betterutah.org/about/; "In IRS Scandal, Spat Over Level of Scrutiny," Wall Street Journal, John McKinnon (6/25/2013), http://online.wsj.com/news/articles/SB10001424127887323998604578567963466211132 (indicating Alliance for a Better Utah affiliate had waited almost two years for action on a still pending application). Still other liberal groups were the subject of other BOLO listings, including groups promoting medical marijuana, Palestinian rights, and implementation of President Obama's health care law. See, e.g., "New Records: IRS Targeted Progressive Groups More Extensively Than Tea Party," Think Progress website, Josh Israel and Adam Peck (4/23/2014), http://thinkprogress.org/politics/2014/04/23/3429722/ire-records-tea-party/ (providing a chart showing that IRS BOLOs issued between August 2010 and April 2013, "included more explicit references to progressive groups, ACORN successors, and medical marijuana organizations than to Tea Party entities"); "I.R.S. Scrutiny Went Beyond the Political," New York Times, Jonathan Weisman (7/4/2013), http://www.nytimes.com/2013/07/05/us/politics/irs-scrutiny-went-beyond-the-political.html?pagewanted=all&_r=0 (discussing Minnesota Break the Bonds, a group promoting Palestinian rights, that underwent intrusive questioning and a two-year delay in the processing of its then still pending application).

Together, the evidence of how the IRS treated 501(c)(4) applications filed by ACORN successor, Occupy, Emerge America, and progressive groups offers additional proof that the IRS subjected liberal groups to the same types of inappropriate selection criteria, heightened scrutiny, delayed processing, and mismanagement that affected conservative groups.

G. Developing 501(c)(4) Guidance

The Subcommittee investigation found that applications filed by both conservative and liberal groups were put on hold for years while IRS revenue agents awaited guidance from the EO Technical Unit on how to proceed. The IRS' inability to provide timely and effective guidance for EO employees on how to develop and evaluate 501(c)(4) cases involving campaign activities was a major contributor to the casework delays. Missed opportunities included the IRS' inability to produce a 501(c)(4) guidesheet for EO employees; failure to provide templates for or detailed guidance on development letters; and repeated changes in the key screening criteria. In large part, the IRS' difficulties revolved around its decision to use a facts and circumstances test to evaluate the cases rather than provide more objective criteria and bright line rules to guide EO deliberations.

(1) Seeking Increased Guidance

A primary reason the advocacy applications were delayed for years was IRS hesitation and confusion over how to apply the 501(c)(4) requirements to organizations involved with campaign activities. Because the agency mandated use of a facts and circumstances test that sought to take into account all relevant material factors, whatever they might be, the IRS required EO employees to make case-by-case determinations with multiple interpretation issues and few objective standards or bright line rules.[531]

One key issue was determining what activities qualified as campaign intervention. Questions included how to evaluate issue ads, legislative campaigns, voter educational materials, voter guides, and donations to other 501(c)(4) groups. A second issue was that the law governing 501(c)(4) organizations stated unequivocally that they should be used "exclusively" to promote social welfare, but the key implementing regulation stated that 501(c)(4) organizations may be used "primarily" for social welfare activity.[532] That statutory-regulatory

[531] See, e.g., 4/30/2013 "Memorandum for Deputy Inspector General for Audit," from Joseph H. Grant, Acting IRS Commissioner, Tax Exempt and Government Entities, reprinted in 5/14/2013 TIGTA Audit Report, 43-48, at 44 ("There are no bright line tests for what constitutes political campaign intervention (in particular, the line between such activity and education) or whether an organization is primarily engaged in social welfare activities.").

[532] Compare 26 U.S.C. § 501(c)(4) (2012) with 26 C.F.R. § 1.501(c)(4)-1(a)(2)(i) (2012). An internal TIGTA memorandum took note of this contradiction: "It appears that the Treasury

mismatch required EO personnel to determine when an organization was engaged "primarily" in social welfare activities. The issues included how to categorize various expenditures, how to quantify volunteer efforts, and whether to use a percentage test.

The IRS provided limited regulatory guidance and revenue rulings on those and other issues, leaving EO personnel struggling to interpret how the facts and circumstances test should be applied. In addition, because the facts and circumstances test, by its nature, considered a wide range of unspecified factors, applicants often criticized it as inherently time consuming, intrusive, unpredictable, nontransparent, or subjective.[533] EO agents had to operate under that constant barrage of criticism as well as broader skepticism about the ability of IRS revenue agents to evaluate campaign activities in a fair, consistent, and unbiased manner.

Consensus on Lack of Clear Standards. Virtually all of the IRS personnel interviewed by the Subcommittee, from the most to least senior, described the facts and circumstances test as difficult to administer and made more difficult by a lack of objective criteria or bright line rules.

Defining campaign intervention activities was widely acknowledged as a problem. Former IRS Commissioner Steven Miller told the Subcommittee that determining campaign intervention was a "very difficult area."[534] In 2008, when Mr. Miller was Commissioner of Tax Exempt and Government Entities, he wrote a draft memo to Lois Lerner about the "2008 Political Campaign Season" and advocated issuing additional guidance due to "the limited and somewhat flawed statutory tools available to us to address instances of political intervention."[535] When asked about the revenue rulings used by agents

---

regulation contradicts the I.R.C. [Internal Revenue Code]. If an organization is required by law to operate exclusively for the promotion of social welfare, its activities cannot be properly assessed using a lesser standard of primarily engaged in promoting the common good and general welfare of the people of the community and still meet the requirements of the law." 1/28/2013 TIGTA Memorandum for the Office of the Chief Counsel, by the Assistant Inspector General for Audit (Management Services and Exempt Organizations), "Request for Assistance Regarding Internal Revenue Code Section 501(c)(4) and Treasury Regulation Section 1.501(c)(4)-1," PSI-TIGTA-16-000006 - 009, at 007.

[533] The problems with the facts and circumstances test were described in one publication, the National Review, as follows: "The proposed rule [to revise the regulation] is not entirely without merit. It would do away with the broad, indeterminate 'facts and circumstances' test that was a major contributing factor to the IRS scandal. Under that rule, it was left to IRS agents, considering all the 'facts and circumstances,' to decide whether an organization's activities constituted 'social welfare activities' (good) or 'electioneering' (bad). Obviously, that gave huge discretion to the IRS agents .... Replacing the 'facts and circumstances' test with more objective criteria is a plus." "Silenced by the Taxman," National Review Online, Bradley A. Smith (11/30/2013), http://nationalreview.com/node/365143/print.

[534] Subcommittee interview of Steven Miller, IRS (12/11/2013).

[535] 1/24/2008 memorandum from Steven Miller to Lois Lerner, "2008 Political Campaign Season," IRSR0000379714 -719 (Mr. Miller wrote: "This leads to the third goal for this year. I believe we must clarify our interpretation of the law in certain areas, and act to obtain certainty

to determine political advocacy and campaign intervention, IRS Chief Counsel William Wilkins said they were "better than nothing," but "not that helpful."[536]

EO head Lois Lerner wrote to a colleague: "I personally have been up to the Hill at least 8 times this past year to explain the complexities of the rules — they are not black and white and they are not always intuitive."[537] She made the same point at a January 2013 meeting with TIGTA officials. A summary of that meeting stated:

> "Lois noted that it is difficult for non-lawyers (like our exams and determs agents) who are looking for clear rules to operate in areas where there are no clear rules. In this situation you can't apply black and white rules."[538]

Ms. Lerner later complained to TIGTA officials that in their report: "[T]here was no recognition about how difficult these cases were and the fact that there is no bright line test for making determinations on applications involving these issues."[539] At another point, Ms. Lerner wrote to an attorney in the Chief Counsel's office: "We need guidance on c4, we need guidance on c4, we need guidance on C4. … IRS is getting hammered!"[540]

---

with respect to several of our legal positions. We can do some of this by issuing additional guidance, or, where our guidance is challenged, by seeking confirmation of our position in the courts. But guidance is preferred.").

[536] Subcommittee interview of William Wilkins, IRS (12/4/2013). Mr. Wilkins noted that the lack of helpful guidance was one of the motivating factors behind the IRS's November 2013 proposed regulation on political activity. Id. See also 7/25/2011 meeting invitation from Justin Lowe, an attorney in the Chief Counsel's office, "Advocacy Orgs Meeting," IRSR0000428433 (Mr. Lowe: "David Marshall and Amy Franklin, who are working on the advocacy organization cases in Chief Counsel, suggested that we meet so that they can gain a better understanding of the big picture surrounding these cases and so that we can discuss some of the broad legal issues together. This sounds like a good idea to me as the issue is a tricky one and the more collaboration we have, the better.").

[537] 1/31/2012 email from Lois Lerner to Christopher Wagner, "A Couple Items," IRSR0000122863. See also 12/21/2012 email from Lois Lerner to Nancy Marks, "501(c)(4) question in Senate Finance Committee Nomination Hearing," IRSR0000408471 (Ms. Lerner: "Just got back from lunch with my old FEC boss, Larry Noble who now works for Americans for Campaign Reform. Informed me that Congress is pretty mad at the IRS for not doing anything about the c4s – I'm shocked! But what really got me is the expectation that not only should we be revoking them, we should be prosecuting them for tax fraud! Hadn't heard that before. It was disappointing to me that Larry didn't recognize that determining what is political activity is not easy – he thought IRS should have provided 'clearer' guidance – you can't win."); 8/16/2012 email exchange between Sharon Light and Lois Lerner, "Lungren (2012-30473)," IRSR0000221479 (Ms. Light: "[A group hasn't] demonstrated they qualify for c/3. I'm not sure they can, but we figured one more development letter that educated them (in the absence of having their own counsel) would be more appropriate (and understandable) than a denial." Ms. Lerner responded: "Nothing is ever sure under IRS rules (:").

[538] 1/31/2013 Minutes from meeting between IRS and TIGTA, prepared by IRS, IRSR0000428195 - 203, at 202.

[539] 3/26/2013 email from Troy Paterson, TIGTA, to Gregory Kutz, TIGTA, "EO Applications Report," TIGTA Bates No. 008440 (summarizing Mr. Paterson's conversation with Lois Lerner).

[540] 4/4/2013 email from Lois Lerner to Janine Cook, copying Holly Paz, "EO Enforcement Guidance Priority," IRSR0000054399.

Other EO personnel made similar points. Former EOT head and later head of the Rulings and Agreements Unit Holly Paz told the Subcommittee that determining campaign intervention was difficult and confusing for the Cincinnati revenue agents working the cases.[541] Cindy Thomas, Determinations Unit head, told the Subcommittee that IRS agents struggled with determining what political advocacy and campaign intervention were, also describing it as a difficult and confusing area.[542] Hilary Goehausen, an EOT specialist who worked on the advocacy cases, told the Subcommittee that, under "the facts and circumstances [test] two people can come to different conclusions" on the same case.[543] Carter Hull, another EOT specialist who worked on the advocacy cases, described "political activity" as "a complicated area."[544] One of the Cincinnati determinations specialists, Stephen Seok, told the Subcommittee that, from his own experience, it was "almost impossible" to define campaign activity and the work was made harder by the absence of useful guidance.[545] Two other Cincinnati EOD employees, Gary Muthert and Elizabeth Hofacre, each told the Subcommittee that their jobs were made harder by the fact that they had received no training on how to apply the facts and circumstances test.[546]

Defining Primarily. IRS officials acknowledged a lack of clarity, not only with respect to what activities qualified as campaign intervention, but also as to what was meant by "exclusively" and "primarily." On September 19, 2012, Ms. Lerner wrote to two of her advocacy experts, Justin Lowe and Judith Kindell: "I am going up on the Hill today – I know both of you have given me insight about why the Reg say primarily instead of exclusively – like the statute, but I have no recollection of the reasons. Can you remind me ASAP please!?"[547] Mr. Lowe responded:

> "There is nothing public about why the regs say primarily instead of exclusively. In the old drafting files from when the regs were written, both (c)(3) and (c)(4) regs originally said primarily. During the editing process, a reviewer commented on the (c)(3) regs that the primarily language was overbroad and should be restricted, so the insubstantial wording was added. There was no

[541] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[542] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[543] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).
[544] Subcommittee interview of Carter Hull, IRS (11/19/2013).
[545] Subcommittee interview of Stephen Seok, IRS (11/22/2013).
[546] Subcommittee interviews of Gary Muthert, IRS (1/15/2014) and Elizabeth Hofacre, IRS (10/25/2013).
[547] 9/19/2012 email from Lois Lerner to Justin Lowe and Judith Kindell, "c4," IRSR0000184248 - 250, at 249.

> similar comments or changes made to (c)(4) regs, so we don't know what the thinking was there."[548]

On another occasion in 2012, Joseph Urban, TEGE Tax Law Specialist, discussed the lack of a clear benchmark for the "primarily" standard:

> "FYI, among the questions I would ask an IRS witness at a hearing is why, after all these years, the IRS has not defined primary, or given any indication as to what facts and circumstances the IRS uses in determining whether a (c)(4)'s activities primarily benefit public or private interests. Mr/Ms Witness, don't you think vagueness might scare honest folks away from doing things they are permitted to do, but be exploited by those who want to take advantage of (c)(4) although they are not legitimate social welfare orgs? Doesn't vagueness leave the IRS open to charges of arbitrary enforcement?"[549]

In 2013, when asked about these issues during a hearing before the Senate Finance Committee, former IRS Commissioner Douglas Shulman testified:

> "I think everybody knew that it was very difficult to administer the (c)(4) laws, and so I do not have any memory of it, but there very well could have been conversations [between the IRS and the Treasury Department] about policy, the policy matters that members of this committee have talked about: should the 'primary purpose' test be changed?"[550]

Together, these statements suggest that senior IRS officials were well aware that the lack of guidance was inhibiting IRS enforcement efforts with regard to 501(c)(4) organizations.

Percentage Standard. Another ongoing source of debate and confusion, both within and outside of the IRS, was whether the agency used a percentage test to determine whether a group was engaged "primarily" in social welfare activities and, if so, what the percentage was.

When the Subcommittee asked about this issue in 2012, the IRS replied: "The IRS has taken no position on a fixed percentage or any

---

[548] 9/19/2012 email from Justin Lowe to Lois Lerner and Judith Kindell, "c4," IRSR0000184248 - 250, at 249. See also 3/21/2012 email from Justin Lowe to David Fish, "c4 history," IRSR0000410695 (attaching a legal analysis of the issue entitled, "Exclusively Standard Under §501(c)(4)," detailing decades of disputes within the IRS over the definition of "primarily").

[549] 4/20/2012 email from Joseph Urban to Lois Lerner and Nancy Marks, "Sen. Levin—Draft Response # 4," IRSR0000410028.

[550] Testimony of Douglas Shulman, "A Review of Criteria Used by the IRS to Identify 501(c)(4) Applications for Greater Scrutiny," Senate Committee on Finance, S. Hrg. 113-232, (5/21/2013) , at 30.

one factor in precedential guidance."[551] When asked about the issue during a briefing, the IRS told the Subcommittee that the agency did not have an official percentage test that was used to decide cases.[552] Yet former Acting IRS Commissioner Steven Miller told the Subcommittee that it was common knowledge at the IRS that a 501(c)(4) organization was permitted to engage in campaign activities up to 49% of its total expenditures.[553] Cindy Thomas, the Determinations head, told the Subcommittee that the IRS used a 51% test to establish whether an organization was engaged primarily in social welfare activities, although she didn't recall why that number was used or where the number came from.[554] Elizabeth Hofacre told the Subcommittee that the test was 51% social welfare activity and up to 49% campaign activity, while Carter Hull told the Subcommittee that "everyone assumed a 50% dividing line." During the 2012 special bucketing effort to reduce the advocacy case backlog, Holly Paz told the Subcommittee that she had instructed IRS employees to use a 51/49% test for permissible social welfare/campaign activity.[555]

The investigation also found several IRS documents suggesting that the agency was using a 51% test. For example, a July 2009 Instructor Guide for determinations specialists stated: "[E]xclusively only means 'primary' for (c)(4) and 'primary' is generally understood to mean 51%."[556] A summary of a 2010 briefing on Tea Party cases noted that when determining political activity, if that activity was "more than 50% political, possible PAC (Political Action Committee)."[557] On the other hand, an undated document from the IRS Quality Assurance Division stated:

> "There is no absolute 51% primary activity test. Because the law is so grey, the conclusion that the organization qualifies for exemption under 501(c)(4) is ultimately a professional assertion of the specialist."[558]

---

[551] 6/4/2012 letter from IRS responding to Subcommittee, PSI-IRS-02-000001 - 026, at 008. See also earlier discussion of this issue in the Report's Background section.

[552] 4/30/2013 IRS briefing of the Subcommittee.

[553] Subcommittee interview of Steven Miller, IRS (12/11/2013).

[554] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

[555] Subcommittee interviews of Elizabeth Hofacre, IRS (10/25/2013), Carter Hull, IRS (11/19/2013), and Holly Paz, IRS (10/30/2013).

[556] 9/2009 Instructor Guide, "Exempt Organizations Determinations Unit 1b," prepared by the IRS, IRSR0000540412 - 545, at 436. See also 7/28/2010 Screening Workshop Notes, prepared by IRS, IRSR0000006723 (including a powerpoint presentation indicating that if an organization engaged in more than 50% campaign activity, it could be a political action committee: "Concerns: May be more than 50% political, possible PAC (Political Action Committee)").

[557] 7/28/2010 "Screening Workshop" powerpoint presentation, prepared by IRS, IRSR0000006674 - 699, at 692

[558] Undated "Advocacy Feedback from QA," prepared by IRS Quality Assurance, IRSR0000415066. See also 3/21/2012 email from Justin Lowe to David Fish, "c4," IRSR0000410695 (attaching an undated draft analysis of the issue entitled, "Exclusively

Together, these statements and documents show conflicting guidance and ongoing ambiguity over use of a percentage test in 501(c)(4) cases; the result was confusion for the Cincinnati determinations specialists who repeatedly requested clarifying guidance.

(2) Failing to Agree on a Guidesheet

In the summer of 2011, more than a year after the first Tea Party application was filed and as the number of advocacy cases collected by the IRS exceeded 100 for the first time, the Exempt Organizations Technical (EOT) Unit undertook an effort to produce a "guidesheet" to help EOD employees identify, develop, and evaluate the cases assigned to them. In September 2011, EOT circulated a draft, but multiple rounds of comments, criticisms, and suggested edits from the Chief Counsel's office slowed and eventually halted work on the draft. In May 2012, after about ten months of effort and despite ongoing requests for guidance, EO stopped working on the guidesheet, which was never finalized.

Initiating the Guidesheet. The EO Determinations (EOD) Unit had been pressing EOT to develop additional written guidance on how to handle advocacy cases since 2010.[559] According to EOT head Holly Paz, the effort to develop a guidesheet was finally undertaken, because the determination specialists in Cincinnati were struggling with how to handle the advocacy cases; understanding the activities that qualified as campaign intervention was generally difficult for the agents who were confused about how to make those determinations; and making those determinations was time consuming and complex.[560]

In July 2011, the Exempt Organizations division decided that additional written guidance on advocacy cases should be developed for the Determinations Unit.[561] An attorney in the IRS Chief Counsel's office later summarized the "three principal objectives" of the guidesheet as follows:

> "To help agents (1) screen applications for possible political campaign intervention or lobbying, (2) decide which cases require further development and which facts to develop, and (3) make a

---

Standard Under §501(c)(4)," prepared by the IRS, IRSR0000410696 - 711, at 709 ("The IRS has not published a precise method of measuring exempt activities or purposes in any of its published guidance, though three revenue rulings have stated that all of the organization's activities must be considered and that there is no pure expenditure test.")).

[559] See 5/14/2013 TIGTA Audit Report, at 12-13. See also 4/24/2010 email from Cindy Thomas to Steven Grodnitzky, "SCR," PSI-IRS-09-000045 - 046 (Ms. Thomas: "None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT.").

[560] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[561] 5/14/2013 TIGTA Audit Report, at 13, 36.

> determination whether a particular activity is political campaign intervention or lobbying."[562]

Circulating the Draft Guidesheet. According to EOT specialist Hilary Goehausen, around the same time she took over the advocacy case duties from Carter Hull, then Acting EOT head Michael Seto directed her to draft the advocacy "guidesheet" that the Determinations Unit had been requesting.[563] Ms. Goehausen told the Subcommittee that she worked to model the guidesheet after ones the IRS had previously created for other issues like health care.[564] She said that she was the primary author of the initial draft, with help from Justin Lowe.[565]

In September 2011, Ms. Goehausen circulated the draft guidesheet to a number of EOT managers and specialists to obtain their comments, including Judith Kindell, Thomas Miller, Carter Hull, and Elizabeth Kastenberg.[566] On October 25, 2011, Determinations head Cindy Thomas asked for an update on the effort, noting the IRS was "starting to get a lot of heat" to resolve the cases:

> "[W]here do we stand with the document Justin Lowe or others from D.C. were putting together with lessons learned, suggested developmental questions for those applying under c3 and for those applying under c4, sample denial letter, etc.? We're starting to get a lot of heat from the public on these cases sitting idle and now have Congressionals on some of these. What is the plan of action and estimated completion date?"[567]

Five days later, on October 30, 2011, Ms. Thomas sent an email with the subject line, "Congressionals Coming! WE NEED TO MOVE ON THIS," in which she urged swift action on the guidesheet:

> "I'm not sure what the hold is on the document/guidance EOT is supposed to be providing for us, but I've received a phone call from an individual who was previously an EO Determinations specialist. He is working with one of these organizations [REDACTED BY IRS] and is threatening to go to his Congressional Office regarding this organization and others. That is only going to create even more work for us and we need to get

---

[562] 4/20/2012 email from Janine Cook to Lois Lerner and others, "Retooled Advocacy Guidesheet," IRSR0000057184.
[563] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).
[564] Id.
[565] Id.
[566] Id. See also 9/21/2011 email from Hilary Goehausen to EOT colleagues, "Advocacy Orgs Guidesheet Draft – updated," IRSR0000011220 - 221 (alerting them to the revised draft); and accompanying draft guidesheet, "Advocacy Organizations Guidesheet," prepared by the IRS, IRS0000000289 - 300.
[567] 10/25/2011 email from Cindy Thomas to Theodore Lieber and Michael Seto, "Advocacy Orgs – Where Do We Stand?," IRSR0000013911.

> letters out to these organizations ASAP. Please let me know when we can expect to get the document from EOT."[568]

By that point, Ms. Thomas had been pressing EOT to issue guidance for nearly 18 months.[569]

On November 3, 2011, after incorporating suggested edits, Ms. Goehausen circulated a revised draft, writing: "Attached is an updated version of the draft Advocacy Org Guidesheet that Cincinnati requested and has been asking us for."[570] A copy was provided to Ms. Thomas by Michael Seto later in November.[571] In December, the draft was also given to the members of a newly formed "advocacy team" of determinations specialists.[572]

The draft guidesheet was summarized by a TEGE attorney as a document that had been drafted:

> "for organizations that engage in lobbying, political intervention and general issue advocacy. It summarizes the law for applicable organizations (social welfare, labor, business leagues and political organizations), explains how to distinguish politics from issue advocacy, and provides comprehensive case development questions. EO will use the guide to process exemption applications and provide general guidance to the public on irs.gov."[573]

At that point, the guidesheet was composed of an overview and eight individual guidesheets on specific activities, including how to distinguish between issue advocacy versus campaign intervention. Generally, the specific guidesheets set out some general principles, provided a list of facts tending to show that an activity did or did not qualify as campaign intervention, and offered a list of questions that

---

[568] 10/30/2011 email from Cindy Thomas to Michael Seto, "Advocacy Orgs – Congressionals Coming! WE NEED TO MOVE ON THIS," IRSR0000013910.
[569] See, e.g., 4/24/2010 email from Cindy Thomas to Steven Grodnitzky, "SCR," PSI-IRS-09-000045 - 046 (Ms. Thomas: "None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT.").
[570] 11/3/2011 email from Hilary Goehausen to Judith Kindell and others, "Advocacy Orgs Guidesheet – [U]pdated," IRSR0000011220 (circulating the revised draft "Advocacy Org Guidesheet").
[571] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).
[572] Subcommittee interview of Stephen Seok, IRS (11/22/2013); 12/12/2011 email from Stephen Seok to advocacy team members, "Advocacy Org. Guide Sheet (Draft), IRSR0000069334 (forwarding draft "Advocacy Org Guidesheet").
[573] 2/28/2012 email from Donald Spellmann to Victoria Judson and others, "Advocacy Org Guide Sheet," IRSR0000014377.

could be directed to an applicant to develop the facts needed to apply the facts and circumstances test.[574]

According to Ms. Goehausen, in late 2011, she learned that the Determinations Unit viewed the draft guidesheet as unhelpful because it was "too lawyerly."[575] She also learned that attorneys in the TEGE Counsel's office had a copy and were working on revisions.[576] In February 2012, Donald Spellmann, one of the TEGE attorneys, also alerted his supervisor, Victoria Judson, to the guidesheet project. Ms. Judson worked directly for IRS Chief Counsel William Wilkins.[577] Ms. Goehausen told the Subcommittee that the draft guidesheet then began going back and forth between her office, attorneys who worked directly for the Chief Counsel, and attorneys in the TEGE section of the Chief Counsel's office.[578] Various changes were made without the participants coming to a final agreement on the document.[579]

IRS Chief Counsel Wilkins told the Subcommittee that the attorneys who worked directly for him, Victoria Judson and Janine Cook, told him about the guidesheet effort, explained that EO head Lois Lerner had asked them to review the draft due to the sensitive topics, and indicated the draft needed some fine tuning. Mr. Wilkins also said that Ms. Judson and Ms. Cook had indicated that they thought the guidesheet should not stray from existing law, and he agreed with that assessment.[580]

Mr. Wilkins told the Subcommittee that he did not share a copy of the draft guidesheet with anyone at Treasury or the White House, nor did he talk to anyone there about it.[581] When asked about an email in which he asked his staff about whether the draft guidesheet should be shared with Treasury, Mr. Wilkins told the Subcommittee that he thought Treasury was concerned primarily about public guidance, and the guidesheet was intended to be used internally within the IRS.[582] Mr.

---

[574] See, e.g., 4/25/2012 email from Donald Spellmann to Lois Lerner and others, "Clean-ups & Revisions to Guide Sheet," PSI-TIGTA-01-000145 - 199 (attaching the draft guidesheet with revisions suggested by TEGE).

[575] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013); 5/14/2013 TIGTA Audit Report, at 37.

[576] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

[577] See 2/28/2012 email from Donald Spellmann to Victoria Judson and others, "Advocacy Org Guide Sheet," IRSR0000014377 ("[w]e wanted you to be aware that the EO client asked us for an accelerated review of a guide sheet they drafted"). See also Subcommittee interviews of Donald Spellmann, IRS (12/18/2013) and William Wilkins, IRS (12/4/2013).

[578] Subcommittee interview of Hilary Goehasusen, IRS (12/13/2013).

[579] Id.

[580] Subcommittee interview of William Wilkins, IRS (12/4/2013).

[581] Id.

[582] 3/7/2012 and 3/8/2012 email exchange between William Wilkins, Janine Cook, and Victoria Judson, "Heads up on Draft Guide Sheet for advocacy organizations," IRSR0000428427 - 428 (Mr. Wilkins: "Isn't this the kind of subreg guidance that Treasury is complaining about not seeing in advance?" Ms. Judson: "In their discussion, Treasury has been focusing on items that

Wilkins said that he learned his staff was exchanging comments on the draft with EOT and TEGE attorneys, and that Ms. Lerner began having intense conversations with Ms. Judson and others about how the guidesheet should look.[583]

The key participants from the TEGE Counsel office were Donald Spellmann, Susan Brown, and David Marshall.[584] Mr. Spellmann told the Subcommittee that Lois Lerner gave his office the draft in February 2012, and the TEGE attorneys viewed it as needing additional work.[585] On February 24, 2012, Ms. Lerner wrote to Mr. Spellmann and others: "The guidance provided to Cincy [Cincinnati] that Don reviewed – I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets."[586] On February 28, 2012, Mr. Spellmann wrote to his supervisor, Victoria Judson, that EO had asked the TEGE Counsel's office "for an accelerated review of the guide sheet" and that they viewed the draft as "good, but needs a fair amount of work throughout."[587]

Mr. Spellmann told the Subcommittee that his office returned preliminary comments on the draft to Ms. Lerner in early March 2012.[588] On March 7, 2012, after reviewing TEGE's suggested changes, Ms. Lerner made the following comments:

> "I looked quickly last night and overall like the approach. I do think, however, that we need more upfront text explaining why this is a difficult determination. You[r] papers [are] great for lawyers who understand the facts and circumstances grayness, but I think we need to add a more 'practical' piece in the introduction, as well. Also, I noticed you took out the chart on different types of orgs and what they can do – I'd like that added back in – I think it clearly illustrates to the non-expert that this isn't even on[e] size fits all for the requirements – we have given it to the press with good results in the past."[589]

On March 26, 2012, Ms. Lerner tried to explain to Victoria Judson of the Chief Counsel's office the importance of providing practical guidance to the IRS agents analyzing 501(c)(4) applications:

---

are published in the I.R.B., so this is not what they have been talking about. However, my guess is that they would also want to be seeing items like this one.").

[583] Subcommittee interview of William Wilkins, IRS (12/4/2013).

[584] Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[585] Id.

[586] 2/24/2012 email from Lois Lerner to Donald Spellman and others, "Congressional Follow-Up," PSI-IRS-09-000027.

[587] 2/28/2012 email from Donald Spellman to Victoria Judson and Janine Cook, "Advocacy Org Guide Sheet," IRSR0000014377.

[588] Subcommittee interview of Donald Spellmann, IRS (12/18/2013).

[589] 3/7/2012 email from Lois Lerner to Donald Spellmann and others, "Corrections to Draft Guide Sheet," IRSR0000333194.

> "I also think we live in 2 different worlds. I live in a more 'real' world than yours where my staff can't wait for formal guidance to do their jobs. ... These are live cases and if all we can give them is published guidance on the extreme ends of the spectrum, they will get themselves in trouble."[590]

Attorneys from EOT, the TEGE section of the Chief Counsel's office, and the attorneys who worked directly for the Chief Counsel continued to exchange comments on the guidesheet. The TEGE and Chief Counsel attorneys carefully reviewed the existing IRS revenue rulings and attempted to ensure that the guidesheet did not break new ground, even though the purpose of the guidesheet was to provide additional guidance beyond what already existed. In late March, the TEGE and Chief Counsel's attorneys discussed cutting out certain parts of the draft to ensure it didn't exceed existing guidance.[591] Mr. Spellman noted at one point that striking the right balance between the existing and new guidance was "super tricky."[592] On April 4, 2012, Susan Brown wrote that she and Mr. Spellman were thinking about deleting the specific guidesheet on lobbying, due to difficulties associated with distinguishing between lobbying communications and campaign activities.[593] Ms. Cook responded:

> "I think Lois [Lerner] will react very strongly against that, particularly on the theory that this is fact gathering focused. I think we need to leave them in if at all possible; she is already pushing back a lot on [501(c)] 5/6s deletion and if we take out lobbying, I'm concerned we'll lose any remaining credibility in their eyes in giving them something they can conceivably use."[594]

In fact, the next day, Ms. Lerner wrote to Ms. Cook, opposing the suggestion that the guidesheet address only 501(c)(3) and (4) organizations, and omit any mention of 501(c)(5) or (6) groups, since applications were being filed by all four groups, and EO determinations specialists were going to be confronted with campaign activity issues with respect to all of them:

---

[590] 3/26/2012 email from Lois Lerner to Victoria Judson, "Thanks," IRSR0000411078.

[591] 3/26/2012 email exchange between Donald Spellman and Janine Cook, "Do you have original draft guidesheet that you can send me," IRSR0000057111. The TEGE attorneys also considered bringing in the Treasury Department, but decided against it since they didn't think the guidesheet was "breaking much new ground." Id.

[592] Id.

[593] See 4/4/2012 email from Susan Brown to Donald Spellmann and Janine Cook, "Advocacy guide," IRSR0000057166 ("Just to let you know Don and I are struggling with lobbying questions because we're concerned that agents that put a communication in the 'lobbying' bucket might think their job is done and not look further at whether the lobbying is disguised campaign activity. Could be a problem if the lobbying is 'Stop the wrongheaded legislation (sponsored by Candidate X)!' For that reason we plan to delete the lobbying guide sheets (which applied to (c)(3)s only anyway). These issues don't get easier!").

[594] See 4/4/2012 email from Janine Cook to Susan Brown and Donald Spellmann, "Advocacy guide," IRSR0000057166.

> "I know you suggested just including c3 and c4 information in the guide sheet – that just won't work. So, if – as we initially agreed – you can tell me specifically what parts of the draft we sent give you heart burn and why, we will try to lessen the heartburn. Ignoring pieces or not speaking to them because Counsel is not comfortable is NOT an option for me. The work is here, my folks need to do it, and they will regardless of what we give them. Our job is to provide them with the best tool we can."[595]

Ms. Cook responded:

> "I do have a sense of the challenges you are under here and that frankly you're being caught between a rock and a hard place. … While much of what you do every day falls into the highly sensitive category, I venture to say that this has got to be one of the top at this time. Accordingly, our legal advice is to follow as closely to the guidance line as possible in what is disseminated and thus publicly available – formal or not, we all know it will be scrutinized."[596]

A few weeks later, on April 25, 2012, Mr. Spellmann provided Ms. Lerner with still another revised version of the guidesheet, explaining: "We just can't keep our hands off this thing (or stop thinking about it)."[597] At the end of May, Ms. Lerner expressed frustration with the edits made by the attorneys, in particular the proposed deletion of substantive portions of the draft guidesheet, given the pressing need for guidance to ensure IRS agents treated cases in a consistent manner in accordance with the law.[598] Ms. Lerner expressed her concerns in an email to Nancy Marks, who worked for then TEGE Commissioner Steven Miller:

> "Counsel has been very uncomfortable about applying c3 stuff even to c4 and wasn't willing to include the c5 and 6s. They also were unwilling to use the c4, 5 and 6 rev rule because it was designed to talk about 527 political activity, which has a slightly different articulation. I find that silly since the entire regulated community has been relying on that guidance as a look at how the irs might think about specific factual scenarios. Nikole [Flax] asked me whether I thought this would actually help our guys practically – for example does it provide direction in how the determine which activity is primary. I told her I think it is

---

[595] 4/3/2012 email from Lois Lerner to Janine Cook, "Follow-up," IRSR0000428403 - 404.
[596] 4/3/2012 email from Janine Cook to Lois Lerner, "Follow-up." IRSR0000428403 - 404.
[597] 4/25/2012 email from Donald Spellmann to Lois Lerner, and others, "Clean-Ups & Revisions to Guide Sheet," PSI-TIGTA-01-000145. See also 4/20/2012 email from Janine Cook to Lois Lerner and others, "Retooled Advocacy Guide Sheet," IRSR0000057184.
[598] 5/30/2012 email from Lois Lerner to Nancy Marks, Sharon Light, and Joseph Urban, "Revised Guide Sheet," IRSR0000198670 - 671.

> cumbersome and not the best practical tool, but – with some discussion about where to focus – could work. ... Perhaps could add language that reminds them it's a look at all the facts and circumstances including, but not limited to, expenditures, volunteer activity, communications, etc."[599]

Abandoning the Guidesheet Project. Mr. Spellmann told the Subcommittee that after supplying the revised version of the draft guidance at the end of April 2012, he didn't hear back from Ms. Lerner, and eventually learned EO had decided it wasn't going to issue the document.[600] After ten months of effort, EO gave up trying to finalize the draft guidesheet.[601]

The documents suggest that the biggest issue dividing IRS personnel over the guidesheet was how much guidance to provide beyond the regulations and revenue rulings already available. Determinations personnel wanted more guidance; the Chief Counsel's office apparently did not want to use the guidesheet to expand the existing guidance, despite acknowledging gray areas and interpretation difficulties. The inability of the IRS to provide the guidance repeatedly requested by the Determinations Unit is more evidence of the difficult issues and ongoing confusion and disagreements over how to apply the law to 501(c)(4) organizations.

Initial Refusal to Provide Guidesheet. The Subcommittee first learned of the draft guidesheet when it was mentioned in a June 2012 letter from the IRS.[602] In that letter, the IRS wrote: "In connection with recent cases, EO Technical prepared a 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 guide sheet was neither mandated nor finalized."[603] The Subcommittee requested a copy of the guidesheet on several occasions in 2012 and 2013, but the IRS refused to provide it. After the TIGTA report was issued in May 2013, however, the IRS finally provided a copy to the Subcommittee.

(3) Disagreeing on Development Letters

The draft guidesheet was intended to provide guidance not only on how to apply the law, but also on how to use development letters to gather the information needed to apply the facts and circumstances test requiring consideration of all relevant, material factors. Development

---

[599] Id.
[600] Subcommittee interview of Donald Spellmann, IRS (12/18/2013).
[601] See 6/4/2012 IRS letter responding to the Subcommittee, PSI-IRS-02-000001 - 026; Subcommittee interview of Donald Spellmann, IRS (12/18/2013).
[602] 6/4/2012 IRS letter responding to the Subcommittee, PSI-IRS-02-000001 - 026, at 013.
[603] Id.

letters were the primary tool used by EO determinations specialists to obtain additional information about pending 501(c)(4) applications. Early on, EOT specialists had reviewed some of the development letters before they went out and sometimes promised to develop templates for them, but never did so. In January 2012, in an effort to reduce a growing backlog of 501(c)(4) applications, some of which had been sitting idle for more than a year, a newly designated advocacy case coordinator, Stephen Seok, used the draft guidesheet to develop sample questions, encouraged the determinations specialists to draft development letters, and approved the sending of dozens of development letters to applicants. Some recipients of those letters criticized some questions as inappropriate, burdensome, or intrusive, resulting in negative media stories and Congressional inquiries. The new coordinator was removed from his post, despite having consulted his supervisor beforehand, demonstrating the ongoing division of opinion within the agency and lack of reliable guidance on how to develop 501(c)(4) cases.

Early Development Letters. For the first eight months that IRS was reviewing Tea Party cases, from February to November 2010, as explained earlier, Elizabeth Hofacre acted as the case coordinator and worked with EOT specialist Carter Hull who reviewed her development letters. Her caseload was then reassigned to Ronald Bell, who acted as the case coordinator from November 2010 to November 2011. He took little action on the cases, while awaiting guidance from EOT. In December 2011, he was replaced by Stephen Seok who became the third coordinator of what, by then, were called the "advocacy" cases.

That same month, in consultation with his supervisors, Mr. Seok formed an "advocacy team" composed of determinations specialists who would be working on the advocacy cases, and, on December 16, 2011, called a team meeting to discuss how to handle the cases.[604] According to the meeting minutes, the team faced a backlog of about 170 pending cases, which were described in the following manner: "30 Something Tea party, Several 912, Repeal PPACT (Patient Protection and Affordable Care Act), Enact Universal Single-Payer Health Care System, etc."[605] While that list was not all inclusive, it suggested that the team was processing both conservative and liberal leaning organizations.

Mr. Seok told the Subcommittee that, at the advocacy team meeting, he emphasized the need to treat the cases in a consistent manner, and discussed the use of development letters to develop key facts, including developing a template letter which the team hoped EOT

[604] Subcommittee interview of Stephen Seok, IRS (11/22/2013). The team members were taken from different EOD groups in the IRS. See also 5/14/2013 TIGTA Audit Report, at 38.
[605] 12/16/2011 "Advocacy Team Meeting Minutes," IRS0000000386 - 387.

would provide.[606] He said that Ms. Hofacre also attended the meeting, gave a history of the cases, and provided copies of the development letters she had sent out.[607] Mr. Seok said that, after the meeting, he sent the team members a copy of the draft guidesheet which had recently been sent to him and which included guidance on developing 501(c)(4) cases.[608]

January 2012 Development Letters. Mr. Seok told the Subcommittee that he used the draft guidesheet to develop a list of questions that could be included in development letters sent to advocacy organizations.[609] According to a later email, Mr. Seok circulated to the advocacy team a 12-page list of possible questions, which he later described as a "reference" list, not a "template" for development letters.[610] In January 2012, EOD revenue agents began sending a new round of development letters to organizations with pending 501(c)(4) applications. Many of those letters contained questions from the list circulated by Mr. Seok.[611]

According to a later email, a total of 59 development letters were sent by multiple IRS revenue agents to organizations with pending 501(c)(4) applications.[612] Mr. Seok told the Subcommittee that development letters were not sent to all 170 of the pending applicants in early 2012, due to resource constraints.[613]

IRS personnel later summarized some of the troubling development letter questions as follows:

"A. Requests Names of Donors.

---

[606] Subcommittee interview of Stephen Seok, IRS (11/22/2013).
[607] Id.
[608] Id. See also 12/12/2011 email from Stephen Seok to Advocacy Team, "Advocacy Org. Guide Sheet (Draft)," IRSR0000069334 (forwarding draft "Advocacy Org Guidesheet"). Although the guidesheet was only in draft form, Mr. Seok expressed his appreciation to the authors for the guidance. 2/2/2012 email from Stephen Seok to Hilary Goehausen and Justin Lowe, "Advocacy Team in EOD," IRSR0000011217-218, ("Note: Advocacy Organizations Guide Sheet and Comments on BOLO Advocacy cases from you are excellent and extremely helpful. We sincerely thank you.").
[609] Subcommittee interview of Stephen Seok, IRS (11/22/2013).
[610] See 4/17/2012 email from Cindy Thomas to Nancy Marks, and others, "Advocacy Org Questions – Shared with Team for Reference," IRS0000000271 - 284 ("Attached are sample questions that were shared with team members. These questions were developed based on the Advocacy Organization Guidesheet given to EOD from EOT."). Ms. Thomas attached a copy of a 3/23/2012 email sent to her by Stephen Seok, "ADVOCACY QUESTIONS – REFERENCE," IRS0000000271 - 284 (containing Mr. Seok's donor related questions).
[611] See 5/14/2013 TIGTA Audit Report, at 18-19, 38.
[612] 4/25/2012 email from Judith Kindell to Holly Paz and Sharon Light, "Determs Review," IRSR0000006583 - 584. See also 5/13/2013 email from Judith Kindell to Holly Paz, Sharon Light and Nancy Marks, "Review of Determinations Development Letters," IRSR0000168062 (indicating that 59 development letters had been sent); Subcommittee interview of Ronald Bell, IRS (1/15/2014) (indicating that Mr. Bell, who sent out one of the development letters, had based his letter on the list of questions provided by Mr. Seok).
[613] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

B. Provide a list of all issues that are important to your organization. Indicate your position regarding such issue[s].

C. In list of questions soliciting details about activity ask[s] about the following: (1) the roles and activities of audience and participants other than members in the activity and (2) what type of conversations and discussions did your members and participants have during the activity

D. Asks whether officer, director, etc. has run or will run for public office

E. Requests political affiliation of officer, director, speakers, candidates supported, etc. or otherwise refers to relationship with identified political party-related organizations

F. Requests info re employment other than for org, including hours worked

G. Letter requests information regarding activities of another org – not just relationship of other org to applicant."[614]

The TIGTA audit report reprinted the following set of questions seeking detailed donor information, which it indicated were included in some of the development letters:

"Provide the following information for the income you received and raised for the years from inception to the present. Also, provide the same information for the income you expect to receive and raise for 2012, 2013, and 2014.

a. Donations, contributions, and grant income for each year, which includes the following information:
    1. The names of the donors, contributors, and grantors. If the donor, contributor, or grantor has run or will run for a public office, identify the office. If not, please confirm by answering this questions 'No.'
    2. The amounts of each of the donations, contributions, and grants and the dates received them.
    3. How did you use these donations, contributions, and grants? Provide the details."[615]

In addition, some of the development letters asked applicants to provide printed copies of all of their information on their websites, Twitter, or Facebook.[616]

---

[614] 4/25/2012 email from Judith Kindell to Holly Paz and Sharon Light, "Determs Review," IRSR0000006583 - 584. See also 5/14/2013 TIGTA Audit Report, at 20.
[615] 5/14/2013 TIGTA Audit Report, at 19.

EOT head Holly Paz told the Subcommittee that, for the most part, the development letters issued by the new advocacy team in January and February 2011, were not reviewed by anyone other than Mr. Seok before they went out.[617] The TIGTA Audit Report, which conducted a review of all of the development letters sent by the IRS to the 170 organizations, many of which received more than one letter and many of which received letters prior to 2012, determined that 98 of the applicants received requests for "unnecessary" information.[618]

Negative Reaction to Information Requests. A few weeks after the first development letters were mailed in January 2011, as word of the letters spread, some recipients objected to some of the questions as inappropriate, burdensome, or intrusive, criticizing in particular requests for donor information and copies of materials on the organizations' websites, Twitter, and Facebook. Negative media stories followed.[619] A March 2012 New York Times article, which was circulated among IRS officials, expressed alarm about IRS inquiries into the groups' politics: "In recent weeks, the IRS has sent dozens of detailed questionnaires to Tea Party organizations applying for nonprofit tax status, demanding to know their political leanings and activities."[620]

Members of Congress also expressed concern. On February 28, 2012, Mr. Spellmann from the IRS Chief Counsel's office sent an email to his colleagues noting: "Lois [Lerner] told me the Hill gripes include the applications are taking too long to process, the requests for information are too burdensome, and some types of organizations (like Tea Party) are being singled out for greater scrutiny."[621] A number of Members of Congress expressed concern about the requests for donor names. Although 501(c)(4) organizations were already required to disclose the names of donors of $5,000 or more on Schedule B of their Form 990 tax returns, that information was filed after the close of the covered year, and Schedule B was normally kept confidential unless an organization elected to make it public. A March 2012 letter signed by twelve Senators stated in part: "A number of our constituents have raised concerns that the recent IRS inquiries sent to civic organizations

---

[616] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[617] Id.
[618] 5/14/2013 TIGTA Audit Report, at 20, 28.
[619] See, e.g., "Numerous Tea Party chapters claim IRS attempts to sabotage nonprofit status," Fox News Online, Perry Chiaramonte, (2/28/2012), http://www.foxnews.com/politics/2012/02/28/numerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/; "Tea Party Groups Question IRS Requests For Information," CBS News, Bud Gillett (2/29/2012), http://dfw.cbslocal.com/2012/02/29/tea-party-groups-question-irs-requests-for-information/.
[620] "Scrutiny of Political Nonprofits Sets Off Claim of Harassment," New York Times, Jonathan Weisman (3/6/2012). This article was included in a number of press clips circulated within the IRS. See, e.g., 3/7/2012 email from Steven Miller to Catherine Barre, "In the News –March 7, 2012," IRSR0000210445 - 464.
[621] 2/28/2012 email from Donald Spellmann to Victoria Judson, Janine Cook, and Susan Brown, "Advocacy Org Guide Sheet," IRSR0000014377.

exceed the scope of typical disclosures required under IRS Form 1024 and accompanying Schedule B."[622]

Intrusive Questions to Conservative and Liberal Groups. On March 26, 2012, an article was circulated to Ms. Lerner and others reporting that the Landmark Legal Foundation had sent a letter to TIGTA calling for an investigation into the IRS' "inappropriate and intimidating investigation tactics in the administration of applications for exempt status submitted by organizations associated with the Tea Party movement."[623] A TIGTA analysis later determined, however, that of the development letters sent to the 170 organizations, only 27 letters included donor questions, and of those 27, only 13 were sent to groups with Tea Party, Patriots, or 9/12 in their names.[624]

The evidence indicates that burdensome development letters were sent to both conservative and liberal groups.[625] For example, an article

---

[622] 3/14/2012 letter from twelve Senators to the IRS, IRSR0000468544 - 547. See also 6/18/2012 letter from eleven Senators to IRS, IRSR0000462281 (expressing concerns over IRS requests for donor information); 4/23/2012 letter from 63 Members of Congress to IRS, IRSR0000465030.

[623] 3/26/2012 email from Joseph Urban to Lois Lerner and others, "Referral to TIGTA on (c)(4)," IRSR000218372 - 375. See also 3/27/2012 email from Joseph Grant to Nancy Marks, "Referral to TIGTA on (c)(4)," IRSR0000218372 (circulating the article and recommending that TIGTA investigate the allegations: "This may already have been decided by now, but, for my part, I think it would be a good idea to have TIGTA review this."). See also 3/23/2012 letter from the Landmark Legal Foundation to the IRS, "REQUEST FOR INVESTIGATION INTO IRS AGENCY MISCONDUCT," http://www.landmarklegal.org/uploads/IRS%20IG%20Letter%20without%20attachments.pdf.

[624] 5/14/2013 TIGTA Audit Report, at 18 and footnote 43. See also 9/25/2012 "Consistency in Identifying and Reviewing Applications for Tax-exempt Status Involving Political Advocacy Cases, Audit Status Meeting," prepared by TIGTA, TIGTA Bates 003084 - 085. At least some liberal groups also received requests for donor information. See, e.g., "In IRS Scandal, Spat Over Level of Scrutiny," Wall Street Journal, John McKinnon (6/25/2013), (indicating a liberal affiliate of Alliance for a Better Utah was asked for donor information); "Scrutiny Went Beyond the Political," New York Times, Jonathan Weisman, (7/4/2013), http://www.nytimes.com/2013/07/05/us/politics/irs-scrutiny-went-beyond-the-political.html?pagewanted=all (indicating Minnesota Break the Bonds, a group promoting Palestinian rights, and Chi Eta Phi Sorority, a black nurses' society advocating "social change," were subjected to intrusive questions, including regarding "fees" and "any voluntary contributions"); "IRS scrutinized some liberal groups," Politico, David Nather (7/22/2013), http://www.politico.com/story/2013/07/irs-scrutinized-liberal-groups-94556.html (indicating Progress Texas, a progressive group, was subjected to questions about its "membership fees"), providing a link to the IRS letter at http://www.scribd.com/doc/141747252/IRS-Request-for-More-Information-Progress-Texas-Feb-2012.

[625] See, e.g., "IRS Sent Same Letter to Democrats That Fed Tea Party Row," Bloomberg News, Julie Bykowicz and Jonathan Salant (5/14/2013), http://www.bloomberg.com/news/2013-05-15/irs-sent-same-letter-to-democrats-that-fed-tea-party-row.html (describing intrusive letters sent to Progress Texas and Clean Elections Texas); "IRS approved liberal groups while Tea Party in limbo," USAToday, Gregory Korte (5/15/2013), http://www.usatoday.com/story/news/politics/2013/05/14/irs-tea-party-progressive-groups/2158831/ (indicating Action for a Progressive Future received "intrusive questions" before obtaining tax exempt status); "Nonconservative Groups Say IRS Scrutinized Them, Too," National Public Radio, Brian Naylor (5/19/2013), http://www.npr.org/2013/05/19/185206908/nonconservative-groups-say-irs-scrutinized-them-too (describing progressive groups that received intrusive questions, including Progress Texas and the Chicago News Cooperative).

examining IRS review of two Texas groups seeking tax exempt status analyzed IRS development letters sent to a Tea Party organization and a progressive group, making copies of both letters publicly available.[626] The article concluded:

> "A comparison of the letter from the IRS released by the Waco Tea Party and of a letter provided by the progressive Texas organization found that both are extensively detailed, asked similar questions, and were tailored to each organization. Both letters asked for copies of the organization's board meeting minutes and for copies of each organization's web sites. Questions also addressed specific concerns that the IRS had with each organization but, on the whole, did not appear to treat the organizations differently."[627]

While the article indicated that the letters did not treat the conservative and liberal groups differently, it indicated that both were subjected to extensive, detailed questions.

Prior Approval of Donor Questions. Mr. Seok told the Subcommittee that, before the development letters went out, he had sought guidance on asking for donor names and related information and received permission to include the questions.[628] Mr. Seok indicated that he had shown a draft development letter with the donor questions to his manager, Steve Bowling, and they had discussed the donor questions with EOD manager Jon Waddell.[629] Mr. Seok told the Subcommittee that Mr. Waddell had advised against including the donor questions, but Mr. Seok had explained it was important, because it would indicate whether a Super PAC involved with campaign activities was funding the proposed 501(c)(4) organization.[630] Mr. Seok told the Subcommittee that his manager, Mr. Bowling, agreed that the donor questions should be included in the development letters.[631]

---

[626] See "Does the IRS really have it in for the tea party groups?" The Colorado Independent, Teddy Wilson, (3/28/2012), http://www.coloradoindependent.com/116361/does-the-irs-really-have-it-in-for-tea-party-groups). Copies of both letters are included as exhibits to this Report.

[627] Id.

[628] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[629] Id.

[630] Id.

[631] Id. See also draft guidesheet, IRSR0000069334 - 346, at 338 (advising IRS agents to ask about a group's fundraising activities, including requesting "copies of all documents related to the organization's fundraising events including pamphlets, flyers, brochures, webpage solicitations," determining "[h]ow much of the organizations' budget is spent on fundraising," and determining "the sources of fundraising expenses"); 3/23/2012 email from Stephen Seok to Cindy Thomas, "ADVOCACY QUESTIONS – REFERENCE," IRS0000000271 - 284, at 277 (containing Mr. Seok's donor related questions, including questions asking for "[t]he names of the donors, contributors and grantors," "[t]he amounts of each of the donations, contributions, and grants and the dates" received, and how the organization "use[d] these donations, contributions, and grants").

Development Letters Halted. According to Mr. Seok, he held a second advocacy team meeting in February 2012.[632] At that meeting, he noted the negative media reports raising concerns about the IRS asking inappropriate questions, and urged his advocacy team to be very careful when sending out their development letters.[633]

Due to the criticism, confusion arose over whether EOD determinations specialists in the Cincinnati office were supposed to stop issuing new development letters. On February 27, 2012, one EOD manager wrote to Mr. Seok:

> "Do we have any idea on when we might be able to issue developmental letters again. I have four un-reviewed cases. It does not make sense to review them if we cannot issue letters. If it will be a while, I should request some non-advocacy case[s] to work."[634]

The same day, Determinations head Cindy Thomas emailed Mr. Seok's manager, Mr. Bowling: "A question though: Why are we not issuing development letters? Who instructed folks to stop? The only thing I heard from Holly is that we shouldn't be asking organizations to submit their entire website."[635] Mr. Bowling responded: "I told Stephen [Seok] to hold off on any further development of template questions, not to stop developing cases. I'll straighten it out. I understood that Washington is looking at the letters that went public and would provide guidance."[636]

In March 2012, then TEGE Commissioner Steven Miller approved giving some of the advocacy groups that had received development letters an additional 60 days to respond.[637] Ms. Thomas sent an email to EOT head Holly Paz, protesting: "I don't understand why an organization who is not being compliant is getting special treatment. But obviously, we'll do what we are told."[638] Ms. Paz responded: "The theory is that when we have had a case for a long time without taking action and are asking for a lot of stuff, we have to give more time. I hear you on fairness but I also do what I am told."[639]

---

[632] Subcommittee interview of Stephen Seok, IRS (11/22/2013). There are no notes summarizing that meeting.
[633] Id.
[634] 2/27/2012 email from Joseph Herr to Stephen Seok, "Guidance on developing advocacy cases," PSI-TIGTA-02-000067.
[635] 2/27/2012 email from Cindy Thomas to Steven Bowling, "Guidance on developing advocacy cases," PSI-TIGTA-02-000065.
[636] 2/28/2012 email from Steven Bowling to Cindy Thomas, "Guidance on developing advocacy cases," PSI-TIGTA-02-000065.
[637] Subcommittee interviews of Cindy Thomas, IRS (11/13/2013) and Holly Paz, IRS (10/30/2013).
[638] 3/8/2012 email from Cindy Thomas to Holly Paz, "EDS Letter 4587 (modified) (3).doc," PSI-TIGTA-01-000206-209; Subcommittee interview of Cindy Thomas (10/30/2013).
[639] 3/8/2012 email from Holly Paz to Cindy Thomas, "EDS Letter 4587 (modified) (3).doc," PSI-TIGTA-01-000206 - 209, at 206.

Mr. Seok told the Subcommittee that, in early March 2012, Mr. Bowling sent him an email directing him to stop his team from sending out any more development letters on the advocacy cases, and Mr. Seok relayed this message to his team.[640] On March 6, 2012, EO head Lois Lerner wrote: "Cincy [Cincinnati] is on hold for the time being on sending anymore questions out on these cases."[641] A few days later, according to Mr. Seok, Mr. Bowling reversed course and told him to instruct his team to continue sending out development letters.[642] Mr. Seok said that, two weeks later, Mr. Bowling reversed course again and told him to stop developing the cases entirely.[643]

Team Leader Removed. On April 11, 2012, William Angner, an EOD manager, sent an email to Mr. Seok and others announcing an upcoming TIGTA audit of how the agency was handling 501(c)(4) cases:

> "FYI: Holly Paz and TIGTA employees will be here in Cincy 4/30-5/1/2012 to review advocacy cases (ie TIGTA audit). There will also be Congressional hearings about how we handle those cases as well. Glad those are in another group worked by other agents! Please give Stephen all the morale support you can muster :)"[644]

Mr. Seok responded to Mr. Angner: "Boss, You are going to save me, right?" Mr. Angner replied: "pawns in chain of command are either overlooked or sacrificed … some one up the chain should take the heat for you :)."[645] In May 2012, then Deputy Commissioner for Services and Enforcement Steven Miller removed Mr. Seok from his position as advocacy team leader.[646]

Lack of Development Guidance. Development letters are the primary mechanism used by EOD determinations specialists to obtain additional information needed to apply the facts and circumstances test to 501(c)(4) cases, but the IRS failed to provide its agents with clear guidance on permissible questions. The draft guidesheet, which included guidance on appropriate questions, was never finalized. Although the advocacy team leader used the draft guidesheet to develop a list of sample questions, obtained explicit permission from his supervisors to include questions about donor information in his team's

---

[640] Subcommittee interview of Stephen Seok, IRS (11/22/2013).
[641] 3/6/2012 email from Lois Lerner to Nikole Flax, "Cinc. template questions," IRSR0000198415.
[642] Subcommittee interview of Stephen Seok, IRS (11/22/2013).
[643] Id.
[644] 4/11/2012 email from William Angner to Stephen Seok and others, "TIGTA audit 4/30-5/1/2012," IRSR0000484246.
[645] 4/11/2012 emails between William Anger and Stephen Seok, "TIGTA audit 4/30-5/1/2012," IRSR0000484246.
[646] Subcommittee interview of Steven Miller, IRS (12/11/2013).

development letters, and sought donor information that is routinely supplied in organizations' tax returns, he was removed from his post for encouraging the inclusion of allegedly inappropriate and burdensome questions. Rattled by public criticism, senior IRS officials then went back and forth over whether to allow any 501(c)(4) development letters to be issued at all. Together, the facts demonstrate that, within the IRS in 2012, confusion and a lack of consensus about the types of information that should be obtained through development letters continued to roil the agency.

The issue that received the most attention in early 2012 involved development letters with requests for donor information. The IRS did not keep a list of the 27 organizations that received donor questions, but noted that most of those organizations did not provide the requested information in any event.[647] In the few cases where donor information was provided, the IRS expunged the information from the files and notified the affected organizations accordingly.[648] Although Mr. Seok was removed from his post for asking donor questions, both Steven Miller and Judith Kindell told the Subcommittee that situations existed where asking for donor information would be appropriate, for example, if a group were potentially controlled by a 527 political organization or if someone in the group was receiving a private benefit from the group.[649] The donor issue is just one among many development letter issues that appear to remain unresolved.

Under current practice, the facts and circumstances test requires IRS agents to consider a wide range of material facts affecting 501(c)(4) applications. To gain an understanding of those facts, IRS agents are required to ask detailed questions that, by their nature, are likely to generate criticisms that the IRS inquiries are inappropriate, burdensome, or intrusive. To avoid that outcome, the IRS should consider replacing the facts and circumstances test with more objective standards and bright line rules that would relieve its agents of the need to ask wide-ranging, detailed questions of 501(c)(4) applicants.

---

[647] See 8/16/2012 email from Holly Paz to Cheryl Medina, "Bucketing Results List," TIGTA Bates No. 010755 ("[T]here is no list of the organizations who were sent the letter indicating that the donor information was expunged from the file. My understanding is that that letter has only been sent in one or two cases as most organizations did not provide this information.").

[648] Id.; Subcommittee interview of Holly Paz, IRS (10/30/2013). Ms. Paz noted that IRS Chief Counsel's office was involved in in approving the destruction of the donor information. See also, e.g., 6/5/2012 email from Holly Paz to Cindy Thomas, "donor info letter.doc," IRSR0000462238 ("Attached is the letter to applicants that sent us donor info in response to our requests. We will need to destroy the information."); 7/17/2012 draft document from Lois Lerner to Steven Miller, "Recent section 501(c)(4) activity," IRSR0000468978 - 980, at 979 ("In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.").

[649] Subcommittee interviews of Steven Miller, IRS (12/13/2013) and Judith Kindell, IRS (11/5/2013).

(4) Failing to Agree on Effective Screening Criteria

In addition to failing to provide needed guidance on substantive issues and development letters, the IRS failed to provide effective guidance to its agents about how to screen incoming 501(c) applications to identify those that should be subject to heightened scrutiny. From 2010 to 2012, the primary BOLO entry for advocacy cases was changed four times in three years without producing consensus support for the screening criteria. Some of the screening criteria were criticized for relying on organizations' names or political views rather than indicators of campaign activity. Other criteria were criticized for being so broadly worded, that they did not facilitate electronic searches for relevant cases or convey the types of campaign and advocacy activities that warranted subjecting an application to heightened scrutiny. In addition to providing ineffective guidance to EOD screeners through the BOLOs, the IRS failed to make routine use of FEC filings that provided more direct indicators of campaign activity and less intrusive means for identifying relevant cases.

2010 Tea Party Screening Criteria. As explained earlier, the IRS receives about 70,000 applications for tax exempt status each year, only a small percentage of which – typically much less than 1% – involve 501(c)(4) organizations involved with campaign activities. The IRS is required by law to determine whether 501(c)(4) organizations have engaged in too much campaign activity to retain their tax exempt status. The evidence reviewed by the Subcommittee indicates, however, that identifying the 501(c)(4) cases that ought to be subjected to that analysis is difficult. From the time that the first Tea Party application was flagged in February 2010, the IRS used primarily two tools to identify advocacy cases: (1) screening criteria which was included in email alerts or Be-on-the-Lookout (BOLO) lists; and (2) case-by-case reviews of individual applications when filed.

As explained earlier, the first BOLO, issued in August 2010, included an entry instructing EO screeners and determination specialists to be on the lookout for applications filed by "local organizations in the Tea Party movement."[650] Screeners then used that BOLO entry to look for a variety of advocacy cases, both conservative and liberal, finding more than 40 the first year and over 100 by June 2011. When, in June 2011, senior EO officials asked for the exact criteria being used to identify "Tea Party" cases, as explained earlier, John Shafer, head of the EO Screening Group, surveyed three of his screeners, compiled their various approaches into a list, and provided the following four "issues that could indicate a case to be considered a potential 'tea party' case":

---

[650] August 2010 BOLO spreadsheet, prepared by IRS, IRS0000002503 - 515, at 509; August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196

"1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file.
2. Issues include government spending, government debt and taxes.
3. Educate the public through advocacy/legislative activities to make America a better place to live.
4. Statements in the case file that are critical of how the country is being run."[651]

The Shafer email shows that, more than one year after the first case was flagged, the IRS still did not have official or widely accepted criteria to identify cases falling within the Tea Party category; instead, IRS agents were using their own individual criteria to identify the cases.

July 2011 BOLO Change. Also as explained earlier, on June 29, 2011, EO head Lois Lerner convened a meeting of senior EO staff to discuss the advocacy cases.[652] Among other matters, Ms. Lerner expressed concern about using "Tea Party" to refer to the category of cases at issue and directed that, from then on, the cases should be referred to as "advocacy cases."[653] In response to her instruction, beginning in July 2011, the BOLO dropped any reference to the "Tea Party" and instead described the cases, in the Emerging Issues section, as follows: "Advocacy Orgs[:] Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."[654]

January 2012 BOLO Change. Six months after that change was made, however, in January 2012, the BOLO entry was altered a third time. The Subcommittee was told that, in January 2012, Stephen Seok, the newly appointed advocacy case coordinator; Ronald Bell, the keeper of the BOLO lists and former Tea Party case coordinator; and their supervisor, Steven Bowling, met to "brainstorm" about the BOLO entry for advocacy cases.[655] According to Mr. Seok and Mr. Bell, the three believed the BOLO language was so broad that it did not effectively help screeners identify 501(c)(4) groups involved with campaign activities, and all three wanted to revise the wording.[656] Mr. Bell told the Subcommittee that, at the same time, none of them wanted to use "insensitive words" in the BOLO.[657] Mr. Bell said that the objective of

---

[651] 6/2/2011 email from John Shafer to Cindy Thomas, "Tea Party Cases – NEED CRITERIA," PSI-IRS-09-000048.
[652] Subcommittee interviews of Cindy Thomas, IRS (11/13/2013) and Holly Paz, IRS (10/30/2013).
[653] Id. See also 5/14/2013 TIGTA Audit Report, at 30 ("Criteria changed ... based on the concerns the Director, EO, raised in June 2011).
[654] 7/27/2011 BOLO spreadsheet, prepared by IRS, IRS0000002540 - 552, at 547.
[655] Subcommittee interviews of Stephen Seok, IRS (11/22/2013) and Ronald Bell, IRS (1/15/2014).
[656] Id. See also 5/14/2013 TIGTA Audit Report, at 30 ("Criteria changed ... based on Determinations Unit concerns that the July 2011 criteria was too generic.").
[657] Subcommittee interview of Ronald Bell, IRS (1/15/2014).

their discussion was to create a revised BOLO entry that would help identify 501(c)(4) applicants that might be involved with campaign activities.[658]

The January 2012 BOLO circulated among the Determinations Unit in Cincinnati contained, for the first time, the following new language to describe advocacy cases:

> "Current political issues. Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform/movement."[659]

The new language replaced the prior language that had been in use since June 2011.[660]

Both Mr. Seok and Mr. Bell, two of the three participants in the January 2012 "brainstorming session," denied authoring the revised BOLO language.[661] Mr. Seok told the Subcommittee that he saw the new language when he received the January 2012 BOLO, but said he did not draft or approve the change.[662] Mr. Bell told the Subcommittee he had not authored the new BOLO language, and did not know who did.[663] Cindy Thomas told the Subcommittee that she reviewed the January 2012 BOLO before it was sent out, saw the new language, and sent an email to Holly Paz alerting her to it, but when she didn't hear back, Ms. Thomas assumed that Ms. Paz did not have a problem with it and allowed the BOLO to go forward.[664] Ms. Paz told the Subcommittee that she learned during the course of the TIGTA audit that she had

---

[658] Id.

[659] 1/26/2012 email from Ronald Bell circulating the BOLO, IRSR0000013533 - 538 [including redactions by IRS]; January 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000630285 - 289.

[660] Id. See also February 2012 BOLO spreadsheet, prepared by IRS, IRS0000001500 - 511 and IRSR0000006705 - 709.

[661] Subcommittee interviews of Stephen Seok, IRS (11/22/2013) and Ronald Bell, IRS (1/15/2014). The Subcommittee staff did not interview the third participant, Mr. Bowling.

[662] Subcommittee interview of Stephen Seok, IRS (11/22/2013).

[663] Subcommittee interview of Ronald Bell, IRS (1/15/2014). As explained earlier, however, on January 25, 2012, Mr. Bell sent an email to Mr. Bowling asking why a new BOLO entry had been added for Occupy organizations, stating: "I thought the $ocial economic reform in the updated current political issues was our 'code word' for the occupy organizations." 1/25/2012 email from Ronald Bell to Steven Bowling, "BOLO," IRSR0000013187. Mr. Bell told the Subcommittee that he had met with Mr. Bowling and Stephen Seok about revising the BOLO entry for advocacy groups, and thought that the group had agreed to use "$ocial economic reform" as a "code" for identifying Occupy cases. Subcommittee interview of Ronald Bell, IRS (1/15/2014). His explanation suggests that the three had reached at least some level of agreement on specific BOLO language.

[664] Subcommittee interview of Cindy Thomas, IRS (11/13/2013). Ms. Thomas told the Subcommittee that she elevated the BOLO entry to Ms. Paz, because she knew that the D.C. headquarters wanted to be kept informed about the advocacy cases, and that Cincinnati "wasn't doing anything without letting D.C. know." Id. Ms. Thomas also told the Subcommittee that she couldn't tell if the new language was left-leaning or right-leaning. Id.

received the email from Ms. Thomas, but did not recall looking at the revised BOLO language.[665]

Mr. Muthert, a screening agent, told the Subcommittee that he saw the revised entry in the January 2012 BOLO language and, thereafter, if he saw an application with the exact language used in the BOLO, sent the organization's application to Mr. Bell.[666] According to Mr. Muthert, however, the January 2012 language was still very broad, it was difficult to use to search for relevant organizations electronically, and he did not receive any guidance as to what was a "Political action type organization."[667] Mr. Muthert said that he did not view the entry as limited to Tea Party groups.[668]

May 2012 BOLO Change. Five months later, the BOLO language was changed a fourth and final time. Ms. Paz told the Subcommittee that, in April 2012, she asked Ms. Thomas for a copy of all of the past BOLOs, reviewed the latest BOLO, and only then realized that the entry for advocacy cases had been changed to include references to the political views of applicants.[669] She told the Subcommittee that she immediately informed EO head Lois Lerner, and worked to revise the entry so that it would, once again, use more generic language.[670]

Ms. Paz also told the Subcommittee that she not only authored the new language, but also, because the advocacy entry was intended to cover all types of political groups, both conservative and liberal, directed that separate BOLO entries for two other types of advocacy groups, ACORN successor and Occupy groups, be eliminated.[671] The ACORN successor entry had been included in the BOLO list since 2010;[672] the Occupy entry had been included in the BOLO Watch List section since January 2012.[673]

On May 17, 2012, Ms. Paz sent the revised BOLO language to Ms. Lerner and others, explaining:

> "I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the

---

[665] Ms. Paz indicated she was on maternity leave from October 2011 to February 2012. Subcommittee interview of Holly Paz, IRS (10/30/2013).
[666] Subcommittee interview of Gary Muthert, IRS (1/15/2014).
[667] Id.
[668] Id.
[669] Subcommittee interview of Holly Paz, IRS (10/30/2013); 5/14/2013 TIGTA Audit Report, at 40.
[670] Subcommittee interview of Holly Paz, IRS (10/30/2013).
[671] Id.
[672] See 10/8/2010 email from Sharon Camarillo to John Shafer, IRSR0000410433 - 434 (including the ACORN successor selection criteria and asking: "John: Please ask your screeners to be on the lookout for these cases.").
[673] See January 2012 BOLO spreadsheet, prepared by IRS, IRSR0000630285.

BOLO as well as the separate references to ACORN successors and Occupy groups.

> Current Political Issues: 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit)."[674]

Her suggested language was approved and incorporated into the Emerging Issues section of the June 2012 BOLO. The June 2012 BOLO accordingly provided a single entry for all advocacy cases.[675] It also omitted the separate entries for Occupy and ACORN successor groups.[676] In addition to revising the Emerging Issues entry and eliminating the separate Occupy and ACORN entries, Ms. Paz instituted a new procedure requiring management approval of all new or updated BOLO entries.[677]

The revised advocacy case entry remained in place for another year, until the TIGTA report was released in May 2013, after which the IRS suspended use of all EOD BOLOs.[678] According to screening agent Gary Muthert, the final version of the advocacy case BOLO entry used language that was so broad it could not be used effectively to search pending applications by electronic means to locate groups involved with campaign activities.[679] Instead, he indicated that every application had to be reviewed individually as it came in to see whether it fit within the

---

[674] 5/17/2012 email from Holly Paz to Lois Lerner, Nancy Marks, and others, "potential revised BOLO language," IRS0000000492.

[675] See June 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000013251, at 252. See also 5/14/2013 TIGTA Audit Report, at 30.

[676] See, e.g., 6/14/2012 email from Ronald Bell to Tyler Chumney, "BOLO Alert 06/13/12," IRSR0000013251 (Mr. Bell wrote: "Attached is the latest BOLO updates. … The issue description for Current Political Issues located in the Emerging Issue Tab has been revised and the new coordinator is Sharon Light. Watch list issues #2 [REDACTED BY IRS] and #21 'Occupy' Organizations from the last BOLO Alert dated 3-26-12 have been removed and now are to be included in the description for Current Political Issues."); 3/26/2013 email from Jon Waddell to Cindy Thomas, "Sensitive Case," IRSR0000054976 - 978, at 977 ("Acorn-related cases were previously reflected on the BOLO and subsequently folded into the political advocacy category over a year ago.").

[677] See 5/17/2012 email from Holly Paz to Cindy Thomas, "BOLO," includes attachment "Memorandum for Manager, EO Determinations," signed by Holly Paz, IRSR0000177228 - 230 (creating a new instruction for adding or changing BOLO entries: "The procedures provide that any new entries and updates to the BOLO list must first be approved by the Emerging Issues group manager, then the EO Determinations manager and finally the EO R&A director."). Prior to this change, BOLO entries could be updated by the manager of a particular EOD group sending an email to the manager of Group 7822, the screening group. 5/11/2012 email from Cindy Thomas to Holly Paz, "BOLO Spreadsheet Description," PSI-TIGTA-01-000210 - 211.

[678] See 6/24/2013 "Report Outlines Changes for IRS To Ensure Accountability, Chart a Path Forward; Immediate Actions, Next Steps Outlined, the IRS announced," IRS press release, http://www.irs.gov/uac/Newsroom/Report-Outlines-Changes-for-IRS-To-Ensure-Accountability,-Chart-a-Path-Forward;-Immediate-Actions,-Next-Steps-Outlined (indicating that, on June 12, 2013, the IRS "suspended the use of any 'be-on-the-lookout,' or BOLO lists in the application process for tax-exempt status").

[679] Subcommittee interview of Gary Muthert, IRS (1/15/2014).

BOLO screening criteria for groups involved with campaign activities.[680] In addition, according to Mr. Muthert, the BOLO screening criteria failed to provide sufficient guidance to help EO personnel determine whether an individual application should be selected for heightened scrutiny due to involvement with campaign intervention. In other words, while the BOLO entry had become inoffensive, it had also become ineffective.

Failure to Make Use of FEC Filings. A key criticism of the IRS has been its use of 501(c)(4) selection criteria that focused on organizations' names or political views instead of direct indicators of campaign involvement to trigger heightened review by IRS personnel. The revised criteria were also criticized for providing ineffective search terms to identify groups that were involved with campaign activities. One available alternative that would have cured both problems would have been for the IRS to make greater use of the FEC filings submitted by groups seeking 501(c)(4) status, since those filings provided direct evidence of campaign activities, but the IRS failed to make effective use of those FEC filings to identify relevant cases.

As explained earlier, the Federal Election Campaign Act (FECA) requires persons involved with campaign activities to file certain periodic reports. Non-candidate organizations, including 501(c)(4) groups, that engage in certain campaign-related spending, are required to file reports disclosing "independent expenditures" on Form 5, and expenditures on "electioneering communications" on Form 9.[681] The FEC told the Subcommittee, however, that it was unaware of the IRS making routine use of those filings to identify 501(c)(4) groups involved with campaign activities.[682] The FEC also told the Subcommittee that the IRS had never asked the FEC to include Taxpayer Identification Numbers (TINs) or 501(c) status information on its forms, even though that information would have increased the usefulness of those forms in IRS oversight efforts related to tax exempt groups engaged in campaign activities.[683] In addition, the FEC told the Subcommittee that it had never been asked to set up any special procedures for the IRS to obtain FECA reports of interest on an automated basis.[684] In a briefing, the IRS

---

[680] Id.

[681] Independent expenditure is "an expenditure by a person – (A) expressly advocating the election or defeat of a clearly identified candidate; and (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents." Federal Election Campaign Act of 1971, 2 U.S.C. § 431(17) (2012). "Electioneering communications" are communications which are broadcast within 30 days of a primary or 60 days of a general election and mention a clearly identified candidate to the electorate. Bipartisan Campaign Reform Act of 2002, 2 U.S.C. § 434 (f)(3) (2012).

[682] 6/12/13 briefing by the FEC of the Subcommittee.

[683] Id.

[684] Id. The FEC also said that the IRS could set up automatic feeds to obtain reports of interest without consulting the FEC, but was unaware of the IRS' having done so. Id.

told the Subcommittee that while its agents often made use of FEC filings, it had not set up automated procedures to obtain the filings and match them to pending case files, nor had its agents routinely used FEC filings as a screening device to identify 501(c)(4) applications warranting heightened review.[685]

If the IRS were to ask 501(c)(4) applicants and exempt organizations to provide copies of any Form 5, Form 9, or other relevant forms filed with the FEC within a specified period of time, such as within ten days of filing an independent expenditure or electioneering communications report, the IRS would become the recipient of timely information regarding two of the largest categories of campaign spending. Receiving copies of those filings would immediately alert the agency to those campaign-related expenditures, without IRS agents having to conduct any inquiries of its own. If the IRS were to ask the 501(c)(4) organizations submitting copies of those forms to also include their TINs and 501(c) status information, EO agents could easily match the forms to any existing case files. If the IRS were also to establish a bright line rule treating those expenditures as evidence of campaign intervention activities, it would relieve EO agents of any need to perform a facts and circumstances analysis of the expenditures, and enable them to consider the total amount of expenditures when evaluating whether the organization was engaged primarily in social welfare activities.

The failure of the IRS to make efficient use of FEC filings as a screening device deprived EO agents of a useful mechanism to identify 501(c)(4) applications warranting heightened scrutiny due to campaign activities.

H. Addressing the Backlog

After the January 2012 development letters focused media and Congressional attention on IRS treatment of 501(c)(4) applications, senior IRS managers learned of the growing backlog of unresolved cases and the internal confusion and hesitancy about how to resolve them. In April 2012, in an effort to reduce the backlog, the TEGE Commissioner, with the approval of the IRS Deputy Commissioner, sent a task force of EOT specialists from Washington headquarters to the Cincinnati office to tackle the backlog. The team reviewed and categorized the pending cases, which by then had hit a peak of about 320 cases, in what was called a "bucketing" effort. The EOT specialists also conducted training to help the Cincinnati determinations specialists resolve the cases. A year after the special bucketing and training effort, however, the majority of 501(c)(4) cases remained unresolved, demonstrating the ongoing difficulties within the IRS over how to handle the cases.

[685] 4/30/2013 briefing by the IRS of the Subcommittee.

(1) Backlog Discovered

According to Steven Miller, then IRS Deputy Commissioner for Services and Enforcement, it was in February 2012, that he read the negative press reports and saw the letters from Members of Congress asking about 501(c)(4) organizations being unfairly questioned by the IRS, and asked EO head Lois Lerner to brief him on the issues.[686] Mr. Miller told the Subcommittee that it was around then that he learned for the first time that a backlog of advocacy cases was awaiting IRS action, some since 2010, and that the number of cases had climbed to over 300.[687] Mr. Miller told the Subcommittee that because the press had referred to "Tea Party" cases, he asked Ms. Lerner and EOT head Holly Paz if the cases were limited to Tea Party applicants, and learned that they instead encompassed "a wide spectrum" of groups.[688] According to Mr. Miller, he was told the cases involved primarily conservative groups, but some applications had also been filed by liberal groups.[689]

Mr. Miller told the Subcommittee that he tasked Nancy Marks, then a Senior Technical Adviser to Acting TEGE Commissioner Joseph Grant, with taking a close look at the 501(c)(4) applications process for advocacy cases.[690] Mr. Miller indicated that Ms. Marks put together a team of specialists who travelled to the Cincinnati office on a "fact finding tour."[691] Around the same time, in March 2012, the Treasury Inspector General for Tax Administration (TIGTA) initiated an audit of the application process for advocacy cases, which also included a visit to the Cincinnati office.[692]

On April 20, 2012, Determinations head Cindy Thomas sent an email to her staff announcing both upcoming visits:

> "Because of the hearings involving advocacy cases in which Steve Miller will need to testify, several folks from TEGE Headquarters will be in Cincinnati next week to take a tour of our operations, review advocacy cases, etc., in order to prep Steve for the hearings. While the folks from D.C. are in Cincinnati, they plan to review all of the advocacy cases. A separate email will be sent regarding these cases.

---

[686] Subcommittee interview of Steven Miller, IRS (12/11/2013).
[687] Id. See also 2/22/2012 email from Holly Paz to Cindy Thomas, "Tea Party application," IRSR0000013739 - 741, (Ms. Paz: "Can you get me number of advocacy cases by 11 tomorrow? Also I think all meeting bolo criteria go to full development. Is that right? How do we currently have this described on the bolo? Sorry for the rush. Steve Miller now wants to meet with Lois tomorrow at 1.").
[688] Subcommittee interview of Steven Miller, IRS (12/11/2013).
[689] Id. Mr. Miller told the Subcommittee that it is likely he spoke to IRS Commissioner Shulman about the cases at that time, but did not recall the conversation. Id.
[690] Id. See also 5/14/2013 TIGTA Audit Report, at 19, 40.
[691] Subcommittee interview of Steven Miller, IRS (12/11/2013). See also 5/14/2013 TIGTA Audit Report, at 19, 40.
[692] For more information about the TIGTA audit, see below.

> The following week three representatives from TIGTA ... will be in Cincinnati to take a tour, etc."[693]

The email explained that the TIGTA representatives would visit Cincinnati on April 30 and May 1, 2012, to examine the process for screening 501(c) applications and developing cases.[694] The Washington team led by Ms. Marks visited the Cincinnati office on April 23, 2012, and examined about half of the advocacy cases.[695]

Mr. Miller told the Subcommittee that Ms. Marks reported to him in early May 2012, and indicated that what she and her team had seen in Cincinnati "wasn't a pretty sight."[696] Mr. Miller said that, among other issues, he learned that Ms. Lerner had changed the wording of the BOLO entries used to identify advocacy cases from using the phrase "Tea Party" to more generic language a year earlier, but that the language had been changed again since then, and TIGTA was looking into the issue.[697] Mr. Miller told the Subcommittee that he recognized there was a problem with the cases, decided that an effort should be made to accelerate their processing to reduce the backlog, and instituted weekly meetings on the project.[698]

(2) Bucketing Begins

In May 2012, with Mr. Miller's approval, Joseph Grant, then Acting TEGE Commissioner, ordered a team of EO experts from the Washington, D.C. office, led by Nancy Marks and Sharon Light, to return to the Cincinnati office to "bucket" the pending advocacy cases, meaning divide the 320 cases into categories, and help train the Cincinnati EOD determinations specialists to process the cases in each of the buckets.[699] In addition, Mr. Miller directed that progress in resolving the cases be reviewed in weekly staff meetings to be attended by himself, Ms. Lerner, Ms. Paz, and Mr. Miller's chief of staff, Nikole

---

[693] 4/20/2012 email from Cindy Thomas to Determinations staff, "Schedule for Next Two Weeks Including Tours and Action Items," IRSR0000003152 - 155, at 153. Despite the email's reference to upcoming hearings on advocacy cases, Mr. Miller was not asked to testify on that subject until a July 25, 2012 hearing before the House Committee on Ways and Means. See "Public Charity Organizational Issues, Unrelated Business Income Tax, and the Revised Form 990," House Ways and Means Subcommittee on Oversight, House Serial No. 112-OS14, (7/25/2012), http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg80340/pdf/CHRG-112hhrg80340.pdf.

[694] 4/20/2012 email from Cindy Thomas to Determinations staff, "Schedule for Next Two Weeks Including Tours and Action Items," IRSR0000003152 - 155, at 154 - 155.

[695] 5/14/2013 TIGTA Audit Report, at 40.

[696] Subcommittee interview of Steven Miller, IRS (12/11/2013).

[697] Id.; Subcommittee interview of Holly Paz, IRS (10/30/2013).

[698] Subcommittee interview of Steven Miller, IRS (12/11/2013). See also 6/28/2012 email from Lois Lerner to Sharon Light and others, "Hearing prep," IRSR0000178714 - 715, at 714 ("I just got clarification from Nikole [Flax] that [Steven] Miller was talking about getting a briefing on how the referral process works, what issues TIGTA raised in its audit and what we have done to meet the concerns.").

[699] Subcommittee interview of Holly Paz, IRS (10/30/2013). See also 5/14/2013 TIGTA Audit Report, at 41.

Flax.[700] Mr. Miller said that he attended the weekly meetings on a regular basis at first, but then only sporadically.[701]

On or around May 14, 2012, a group of eight advocacy experts from Washington, D.C. traveled to the Cincinnati office to bucket all of the pending cases and help train the Cincinnati employees to work them.[702] They spent the first two days training a team of determinations specialists in the Cincinnati office. Then the Washington and Cincinnati employees worked together to bucket the 320 cases. They used four categories of buckets: Bucket 1 – favorable decision on the application likely; Bucket 2 – minor information needed; Bucket 3 – more development needed; and Bucket 4 – denial of application likely.[703]

According to one participant in the effort, to categorize the pending cases, each case was reviewed by two different people on the bucketing team, usually one from Washington and one from Cincinnati.[704] Initially, each reviewer decided how a particular case should be bucketed. If the reviewers agreed, the case was referred to that bucket; if they disagreed, they attempted to reach consensus on the appropriate bucket; if they were unable to reach agreement, Ms. Light made the final decision.[705] One of the Washington participants, Hilary Goehausen, told the Subcommittee that categorizing the cases was difficult, because under "the facts and circumstances [test,] two people can come to different conclusions" about how a case should be handled.[706] Ms. Goehausen indicated that, despite the disagreements, the group completed reviewing all of the cases in about three weeks.[707]

---

[700] Subcommittee interview of Steven Miller, IRS (12/11/2013). See also 7/10/2012 email from Cindy Thomas to Cincinnati employees, "Advocacy Cases – Data Needed COB Every Wednesday," IRSR000005273 ("Holly Paz and others in D.C. have regular meetings with Steve Miller regarding the political advocacy cases and they typically need data for these meetings because Steve wants to make sure these cases continue to move.").

[701] Subcommittee interview of Steven Miller, IRS (12/11/2013).

[702] The Washington employees who traveled to Cincinnati were Matthew Giuliano, Hilary Goehausen, Judith Kindell, Sharon Light, Justin Lowe, Andy Megosh, and Holly Paz, under the leadership of Nancy Marks and Sharon Light. The Cincinnati employees who participated in the bucketing were Janine Estes, Jodi Garuccio, Joseph Herr, Grant Herring, Faye Ng, Mitch Steele, and Carly Young. Two individuals from the Quality Assurance office in Cincinnati, Daniel Dragoo and Mike Ludwig, also participated. See email from Cindy Thomas to John Shafer and others, "Advocacy Cases – Next Steps – Update," PSI-IRS-09-000064 - 065. See also 5/14/2013 TIGTA Audit Report, at 41.

[703] Subcommittee interview of Holly Paz, IRS (10/30/2013). See also 5/14/2013 TIGTA Audit Report, at 41.

[704] Subcommittee interview of Holly Paz, IRS (10/30/2013). See also 6/8/2012 email from Holly Paz to Cindy Thomas, "advocacy cases – next steps – revised," IRSR0000168059 - 061 (outlining bucketing process).

[705] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013). See also 6/8/2012 email from Holly Paz to Cindy Thomas, PSI-TIGTA-03-000661 - 663, at 663 (outlining bucketing process, "Sharon will be involved in any reconciliation discussions needed if Mitch [Steele] and Joseph [Herr] place cases in different buckets.").

[706] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

[707] Id. See also 5/14/2013 TIGTA Audit Report, at 41.

(3) Case Resolutions

After the cases were bucketed, they had to be reviewed and resolved. Some of the cases placed in Bucket 1 were immediately approved, including some organizations that had failed to respond to development letters.[708] Over a dozen other applications were withdrawn. In July 2012, Lois Lerner, EO head, provided an update to Mr. Miller, then Deputy Commissioner for Services and Enforcement.[709] She indicated that the IRS had begun with 320 advocacy cases pending, including 97 501(c)(3) groups and 223 (c)(4) groups. She indicated in the document that 55 of the applications had been approved, including 51 (c)(4) applications, while 15 applications had been withdrawn; and that "no denials" had been issued other than the revocation of approvals that had been "wrongly" granted to five Emerge organizations the prior year.[710] Her report indicated that 70 of the 320 cases had been resolved within two months.

Resolving many of the 250 remaining advocacy cases took much longer.[711] In October 2012, Determinations head Cindy Thomas sent EOT head Holly Paz an email expressing her fear that: "with the pace that is taking place that they'll be working the bucket 4 cases until they retire (this isn't intended to be a flip comment, but rather a sincere concern)."[712]

One key issue was whether organizations engaged in lobbying rather than campaign activities should be included in the advocacy category of cases. In February 2013, the advocacy team leader Sharon Light contacted other EO personnel about a particular case which had initially been labeled as an advocacy case; after a flurry of email traffic analyzing the case, it was determined that the case involved lobbying rather than campaign activities and should not be considered an advocacy case.[713] On March 12, 2013, however, Donna Abner, head of the IRS Quality Assurance Division, wrote: "This is no different than

---

[708] See 5/24/2012 email exchange among Holly Paz, Cindy Thomas, and others, IRSR0000005338 - 342. (Ms. Thomas wrote to Kenneth Bibb: "The wording for the favorable determination letters is attached. Per Steve Miller's request, these cases need to be closed by COB 5/25/2012."); 5/23/2012 email exchange among Lois Lerner, Judith Kindell, Nancy Marks, and others, IRSR0000210032 - 034 (diseussing a script to use when calling groups whose applications had been approved); 5/23/2012 email from Lois Lerner to Holly Paz, Nancy Marks, Sharon Light, and Judith Kindell, "Phone Script favorable advocacy case," IRSR0000210035 - 036 (attaching telephone script).

[709] 7/17/2012 draft document from Lois Lerner to Steven Miller, "Recent section 501(c)(4) activity," IRSR0000468978 - 980. Mr. Miller told the Subcommittee that it was his handwriting at the top of the document indicating the document was "from Lois." Subcommittee interview of Steven Miller, IRS (12/11/2013).

[710] Id. at 979.

[711] Subcommittee interview of Hilary Goehausen, IRS (12/13/2013).

[712] October 30, 2012 email from Cindy Thomas to Holly Paz, "Issue from Advocacy Team Held 10/30/2012," IRSR0000005935.

[713] 3/12/2013 emails between Donna Abner and Sharon Light, "Case Returned from EODQA – Potential Political Advocacy," IRSR0000012122 - 126.

other cases we have seen bucketed that supported or opposed particular legislation. Sorry – I'm confused as to what is and is not bucketed. Will you please clarify?" Ms. Light responded: "There has been confusion about this issue."[714] Ms. Abner replied that she was satisfied that the case at issue had been adequately analyzed, but was unsure that future cases would be appropriately classified.[715]

According to the TIGTA Audit Report, a decision was also made "to refer cases to the Review of Operations Unit for follow-up if there were indications of political campaign intervention but not enough to prevent approval of tax-exempt status."[716]

Senior IRS officials continued to follow the advocacy cases, including Steven Miller after his November 2012 appointment as Acting IRS Commissioner. In February 2013, for example, his Chief of Staff Nikole Flax received a detailed data report on the number of advocacy cases that had come in, how the cases had been bucketed and resolved, and how many remained pending.[717] In May 2013, one year after the special bucketing effort was launched, about 259 advocacy cases from across the political spectrum remained unresolved, some dating back to 2010.[718] That so many cases remained unresolved after the concerted bucketing effort a year earlier offers additional evidence that the cases were difficult to resolve using the facts and circumstances test and more objective standards, bright line rules, and useful guidance were needed.

---

[714] Id. Ms. Light continued, "Some cases that only involved lobbying got bucketed and worked as advocacy cases because it wasn't clear from screening that political intervention wasn't a problem. Cases got identified as 'advocacy cases' if they mentioned lobbying and someone felt the lobbying was a sign of political intervention. And sometimes cases that vaguely mentioned 'advocacy' got identified because it wasn't clear on screening whether they were talking about lobbying or political intervention. But when it's clear that lobbying, not political intervention, is the issue then they don't fit the criteria." Id. at 123.

[715] Ms. Abner wrote, "I'm ok with the explanation below that this one particular case did not need to now go through bucketing because the case has been adequately developed to the point where we now know that political intervention is not a problem. However, will this treatment be consistent? If a similar case was received by specialists today and screener noted the 'political consultant' issue would it/should it be bucketed? Or, would we only send to bucketing if development uncovered significant or clear political intervention? And, if so, would this be consistent?" Id. at 122.

[716] 5/14/2013 TIGTA Audit Report, at 42.

[717] See 2/8/2013 email from Holly Paz to Nikole Flax, Lois Lerner, and others, "Advocacy Data Request," IRSR0000468937 - 938

[718] See undated notes by Steven Miller, Acting IRS Commissioner, "Fact sheet-6:30 p.m.," IRSR0000468916 - 920, at 920 (believed to be from 2013) ("Through May 9, IRS identified 472 applications for exemption for review of potential advocacy issues (including 301 §501(c)(4) applications). The balance of applications are for section 501(c)(3) status. To date, 176 applications have been approved (136 of which [are] §501(c)(4) applications). There have been 37 withdrawals, inclusive of both §501(c)(3) and (4) organizations.") In the same document, Mr. Miller wrote: "Moreover, while it is impossible based on name alone to determine with specificity the political alignment of all organizations, in their totality it is clear that they span the entire political spectrum." Id.

I. Evaluating Campaign and Social Welfare Activities

During the three-year period from 2010 through 2012, as the IRS struggled with the growing backlog of 501(c)(4) applications raising advocacy issues, many 501(c)(4) groups deepened their involvement in campaign activities. Those activities raised a number of difficult issues for IRS agents charged with using the facts and circumstances test to evaluate the nature and extent of those activities and ensure compliance with the tax code. A brief discussion of some of the campaign-related issues helps explain why IRS agents moved so slowly to resolve the cases, and what impact those issues could have on an organization's tax exempt status.

Increased Campaign Expenditures. As discussed earlier, the IRS reported that "[s]tarting in 2010," it saw "a significant increase" in the number of section 501(c)(3) and (c)(4) applications from groups "that appeared to be, or planned to be engaged in political campaign activity."[719] IRS data shows that, from 2008 to 2012, the number of 501(c)(4) applications filed with the IRS more than doubled.[720] IRS data also indicates that during the two-year period from 2008 to 2010 alone, the amount of campaign-related expenditures reported by 501(c)(4) groups almost tripled.[721] Spending data in filings with the Federal Election Commission (FEC) are consistent. They show that, in 2010 and 2012, two years in which federal elections took place, 501(c)(4) tax exempt groups spent millions of dollars on independent expenditures and electioneering communications. An analysis of FEC filings conducted by the Center for Responsive Politics found that, in 2010 alone, conservative and liberal 501(c)(4) groups reported campaign spending that totaled about $126 million.[722] Two years later, in 2012, the Center determined that conservative and liberal 501(c)(4) groups reported spending twice as much, totaling nearly $300 million.[723]

Press reports of 501(c)(4) organizations sponsoring election advertisements, bankrolling get-out-the-vote efforts, or making large contributions to groups engaged in campaign activities also increased. Media stories included descriptions of campaign activities and expenditures by liberal 501(c)(4) groups such as the League of

---

[719] 4/30/2013 "Memorandum for Deputy Inspector General for Audit," from Joseph H. Grant, Acting IRS Commissioner, Tax Exempt and Government Entities, reprinted in 5/14/2013 TIGTA Audit Report, 43-48, at 43.
[720] Id.
[721] See 5/7/2013 "Updated Baseline Analysis of 501(c)(4) Form 990 Filers with Political Campaign Activities," prepared by the IRS, IRSR0000507010 - 044, at 013.
[722] "2010 Outside Spending, by Group," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2010&chrt=V&disp=O&type=U.
[723] "2012 Outside Spending, by Group: Non-Disclosing Groups," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U.

Conservation Voters,[724] Patriot Majority USA, [725] Women's Voices Women Vote Action Fund,[726] and VoteVets Action Fund,[727] as well as by conservative groups such as the American Action Network[728] and Crossroads Grassroots Policy Strategies.[729] Their FEC filings, 1024 application forms, and 990 tax returns illustrate some of the problems that IRS agents have encountered, why many sought guidance on how to resolve them, and why the processing of these cases slowed as the IRS sought ways to ensure the cases were treated consistently.

Issue Ads Versus Campaign Ads. One key issue often confronting IRS agents handling 501(c)(4) applications filed by groups

---

[724] According to the Center for Responsive Politics, the League of Conservation Voters (LCV), which works to elect pro-environment candidates, was the largest spending, Democratic leaning 501(c)(4) group in the 2012 election cycle. See "2012 Outside Spending, by Group: Non-Disclosing Groups," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U. The League of Conservation Voters is affiliated with one 501(c)(3) group, League of Conservation Voters Education Fund; one other 501(c)(4) group, Federation of State Conservation Voter Leagues; and three 527 political organizations which primarily focus on "federal electoral activity," League of Conservation Voters Action Fund, LCV Political Engagement Fund, and League of Conservation Voters Victory Fund. See LCV 2011 Form 990, Schedule R, at 1-cont. 1, Part II.

[725] According to the Center for Responsive Politics, Patriot Majority USA was the second largest spending, Democratic leaning 501(c)(4) group in the 2012 election cycle. See "2012 Outside Spending, by Group: Non-Disclosing Groups," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U. While "Patriot" has been characterized as a criteria used by the IRS to identify conservative 501(c)(4) groups, here it is part of the name of a major Democratic-leaning group. Patriot Majority USA's stated mission is to "create jobs, promote economic development and preserve the American Dream for all families." "America Back on Track," Patriot Majority, http://www.patriotmajority.org/about.

[726] Women's Voices Women Vote Action Fund is a Democratic leaning 501(c)(4) group whose stated mission is: "to promote social welfare ... including but not limited to, conducting research on determining how to increase the share of unmarried women in the electorate, developing public education campaigns that motivate the voter registration and participation of unmarried women, advocating for public policy issues that affect the lives of unmarried women, and publicizing the position of elected officials concerning these issues." Women's Voices Women Vote Action Fund Form 1024, Exhibit 2, Articles of Incorporation, at 1.

[727] VoteVets Action Fund is a 501(c)(4) group affiliated with VoteVets Political Action Committee, a 527 political organization. See VoteVets Action Fund 2010 Form 990, Schedule R, at 1, Part II, line 1. The stated mission of VotesVets Action Fund is to use "public issue campaigns and direct outreach to lawmakers to ensure that troops abroad have what they need to complete their missions, and receive the care they deserve when they get home." "About Us," VoteVets, http://www.votevets.org/about?id=0001.

[728] The American Action Network is a Republican leaning 501(c)(4) organization affiliated with the Congressional Leadership Fund, a 527 political organization, and the American Action Forum, a 501(c)(3) charitable organization. American Action Network's stated mission is to "create, encourage and promote center-right policies based on the principles of freedom, limited government, American exceptionalism, and strong national security." "About," American Action Network, http://americanactionnetwork.org/about.

[729] Crossroads Grassroots Policy Strategies (Crossroads GPS) is a Republican-leaning 501(c)(4) group affiliated with American Crossroads, a 527 political organization. See Crossroads GPS 2011 Form 990, Schedule R, at 1, Part II. According to the Center for Responsive Politics, in 2012, Crossroads GPS spent the largest amount on political activity of any 501(c)(4) group, reporting nearly $71 million in political expenditures. See 2012 "American Crossroads/Crossroads GPS," prepared by Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cmte=American+Crossroads%2FCrossroads+GPS&cycle=2012.

involved with campaign activities was distinguishing between spending on issue advocacy versus campaign activities. The IRS required its agents to use the facts and circumstances test to determine, for example, whether a broadcast advertisement sponsored by a 501(c)(4) organization should be treated as a campaign or social welfare activity.[730] The IRS did not allow its agents to rely on the Federal Campaign Finance Act (FECA) provision which treated any ad that is broadcast on radio or television with 30 days of a primary or 60 days of an election, and mentions a candidate to the electorate, as an "electioneering communication."[731] Instead, the IRS required its agents to consider all of the facts and circumstances surrounding the advertisement, including its timing, wording, broadcast medium, audience, and context.[732]

One of the most difficult aspects of the required analysis involved the ad's wording. If the ad used words that were campaign related, such as "vote for," "elect," or "defeat," an IRS agent would likely treat it as evidence of a campaign activity. For example, a television ad aired by the League of Conservation Voters in October 2012, within a month of an election, urged viewers to "Help us defeat [a Republican candidate] and the Flat Earth Five."[733] But other ads aired by 501(c)(4) groups did not explicitly call for the election or defeat of a candidate, while still

---

[730] Rev. Rul. 2007-41.

[731] 2 U.S.C. § 434 (f)(3)(A)(i).

[732] See Rev. Rul. 2007-41. See also 4/25/2012 draft guidesheet, "Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications (Political Campaign Intervention and Lobbying), at PSI-TIGTA-01-000146 - 199, at 159 - 162.

[733] Transcript of advertisement aired by the League of Conservation Voters, naming Congressman Dan Benishek (R) of Michigan's 1st Congressional District:

Written on Screen: Meet the Flat Earth Five

Female Voice: Is global warming a major threat to the Great Lakes?

Written on Screen: Candidate Debate
North Central Michigan College Library
October 15, 2012
Dan Benishek MI-01

Dan Benishek: "Well frankly, I'm not sure...umm... how significant global warming is. [booing in the background] uuhh... Well, I don't know, I'm a scientist." [laughter in background]

Written on Screen: The National Academy of Sciences found that 98% of climate scientists accept that humans are contributing to climate change.

Written on Screen: Help us defeat Dan Benishek and the Flat Earth Five.
lcv.org/FlatEarthFive
Paid for by the League of Conservation Voters, www.lcv.org, and not authorized by any candidate or candidate's committee

conveying a message about an individual running for office. For example, in September 2012, Patriot Majority USA aired an ad that named a Republican Congressman and, without using the words "defeat" or "vote against," discussed his position on Medicare in very negative terms, ending with the statement: "He's for them. Not us."[734] It is possible that an IRS agent would view the wording of that ad as representative of issue advocacy, in particular if Medicare legislation were under consideration in the House or a vote took place in the House on a Medicare issue around the time the ad aired. But another IRS agent might treat it as a campaign ad due to its negative tone and its being broadcast within two months of an upcoming election. Either decision would be supportable under current IRS practice. By requiring consideration of all material factors when evaluating an ad, the facts and circumstances test required IRS agents to make judgments based upon a subjective analysis of a collection of various issues related to the advertisement, rather than a dispassionate analysis of objective facts not open to dispute.

---

[734]Transcript of advertisement aired by Patriot Majority USA, naming Congressman Tom Latham (R) of Iowa's 3rd Congressional District:

Male Announcer: Republicans in Congress. What are they dishing out for Iowans?
Written on Screen: Republican Diner
Today's Special

Male Announcer: They voted to end Medicare as we know it.
Written on Screen: Republicans in Congress voted to end Medicare as we know it.
H Con Res 34, Vote #277, 4/15/11; Wall Street Journal, 4/4/11

Male Announcer: Forcing seniors to pay $6,400 dollars more
Written on Screen: Republicans in Congress
Seniors pay $6,400 more
USA Today, 10/3/11; Congressional Joint Economic Committee, 5/20/11

Male Announcer: While serving the average millionaire a tax break of nearly $265,000 dollars.
Written on Screen: Republicans in Congress
$265,000 tax break for millionaires
Center for Budget and Policy Priorities, 3/27/12

Male Announcer: And here's Tom Latham. A top chef in Congress said, quote, he'd do anything for his close friend House Speaker John Boehner.
Written on Screen: "I'd do anything he asked."
Politico, 9/21/10
Congressman Tom Latham

Male Announcer: Tom Latham. He's for them. Not us. Patriot Majority USA is responsible for the content of this advertising.
Written on Screen: Congressman Tom Latham. He's for them. Not us.
Paid for by Patriot Majority USA, www.patriotmajority.org. Not authorized by any candidate or candidate's committee. Patriot Majority USA, which opposes Tom Latham for re-election, is responsible for the content of this advertising.

Inconsistent Tax and FEC Spending Totals. A second issue confronting IRS agents involved inconsistent spending reports. On its 990 tax return for 2010, Women's Voices Women Vote Action Fund (WVWVAF), a Democratic-leaning group, checked a box indicating that it did not engage in any "direct or indirect political campaign activities," but reported on filings with the FEC for 2010, that it had spent nearly $880,000 on electioneering communications and nearly $250,000 on independent expenditures.[735] When questioned about the discrepancy, WVWAF reported it had made an inadvertent error and would amend its 2010 tax return, which it did.[736] In its amended 990 tax return for 2010, WVWVAF changed its "no" response to a "yes" on political campaign activities; added a Schedule C for "Political Campaign and Lobbying Activities;" and reported about $250,000 in political expenditures, representing about 9% of its total reported expenses for the year of $2.73 million.

Assuming WVWVAF, in fact, made an inadvertent mistake on its tax return, a second issue is why WVWVAF then reported substantially less campaign related spending on its tax return – $250,000 – compared to its FEC filings – $1.1 million. A related issue is whether the IRS agent reviewing the 990 tax return would, as a standard practice, compare the group's spending totals on its tax return versus those on its FEC filings and, if so, ask about the difference. Still another issue is how the agent will treat the information provided on the FEC filings. If the IRS had a bright line rule requiring agents to treat electioneering communications and independent expenditures as campaign spending, then the IRS, 501(c)(4) group, and tax exempt community would know how the IRS would analyze the facts. Instead, under the facts and circumstances test, the IRS, the group, and the tax exempt community cannot be sure how the group's expenditures will be treated.

In addition, if the IRS were to determine that all of WVWVAF's FEC reported spending, totaling about $1.1 million, must be treated as campaign activity, then that campaign spending would represent about 41% of the group's total spending for 2010.[737] Since the IRS does not have a clear percentage test in place and instead relies on the facts and circumstances test to determine when a group is primarily engaged in social welfare activities, it is unclear whether the IRS would treat the 41% figure as evidence of excessive campaign activity, thereby

---

[735] See 2010 Women's Voice Women Vote Action Fund Form 990 at 3, Part IV, line 3; "Women's Voice Women Vote Action Fund," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cycle=2010&cmte=C30001754.

[736] Women's Voice Women Vote Action Fund 2010 990 and amended 990. See amended 2010 990 for Women's Voice Women Vote Action Fund 2010, at 3, Part IV, line 3; Schedule C, at 1, Part I-C, line 3. See "How Nonprofits Spend Millions on Elections and Call it Public Welfare," ProPublica, Kim Barker, (8/18/2012), http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare.

[737] "Women's Voice Women Vote Action Fund," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cycle=2010&cmte=C30001754.

disqualifying the group for a tax exemption. It is also easy to see why an IRS agent might delay resolving these issues pending receipt of written guidance about how to proceed.

This issue is not confined to WVWVAF. The American Action Network, a Republican- leaning organization, reported on its 990 tax return for 2010, that it had spent a total of about $25.7 million during the year, of which $5.5 million, or about 21%, was spent on political campaign activities.[738] On its FEC filings for 2010, however, American Action Network reported spending about $18.9 million on electioneering communications and independent expenditures, which represented about 73% of its total expenditures for the year.[739] Again, the reasons for the disparate spending totals and how the IRS would treat them are unclear. In addition, under the facts and circumstances test, it is unclear whether the IRS would view American Action Network's campaign spending as representing 21% or 73% of its total expenditures for the year, and whether it would view its campaign activities as having become the group's primary activity, in violation of its tax exempt status.

The IRS has reported that, beginning in 2010, "[m]any applications included what appeared to be incomplete or inconsistent information," with some organizations indicating that they "did not plan to conduct political campaign activity, but elsewhere described activities that appeared in fact to be such activity."[740] The IRS attributed the problem in part to organizations not understanding "what activities would constitute political campaign intervention under the tax law."[741] The IRS also explained that the discrepancies required its agents to "gather additional information,"[742] which slowed the case resolution process.

Vague Spending Explanations. A third issue confronting the IRS agents involved how to categorize particular group expenditures. The IRS has reported that the applications it began to receive in 2010, "were in many cases vague as to the activities the applicants planned to conduct."[743] Those activities were described not only on the groups' 1024 application forms, but also on their 990 tax returns, at times using broad or vague terms that made it difficult for IRS agents to determine whether the related spending should be treated as evidence of campaign or social welfare activities.

---

[738] See 2010 American Action Network Form 990, at 1, Part I, line 18; at 3, Part IV, line 3; and Schedule C, at 1, Part I-C, line 3.
[739] "American Action Network," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/detail.php?cycle=2010&cmte=American Action Network.
[740] 4/30/2013 "Memorandum for Deputy Inspector General for Audit," from Joseph H. Grant, Acting IRS Commissioner, Tax Exempt and Government Entities, reprinted in 5/14/2013 TIGTA Audit Report, 43-48, at 44.
[741] Id.
[742] Id.
[743] Id.

For example, Crossroads GPS reported on its 2010 tax return that it compensated its largest independent contractor, Crossroads Media, $18.3 million for "media services."[744] In another section of the tax return, Crossroads GPS listed expenses of $8.2 million spent on "grassroots issue advocacy," without explaining what that phrase covered, who received the funds, or how those funds related to its contractor expenditures.[745] Crossroads GPS also reported on its 2010 tax return that it engaged in political campaign activities, and spent about $15.9 million on campaign expenditures from June 2010 to June 2011, representing about 37% of its total expenses for that time period.[746] Crossroads GPS reported even larger figures two years later. On its 2012 tax return, Crossroads GPS reported paying about $118.7 million for "media services" to Crossroads Media, and $74.5 million for "grassroots issue advocacy."[747] Crossroads GPS also reported spending a total of over $74 million on campaign expenditures, or about 39% of its total expenses of $189 million for the covered time period.[748] Because IRS agents must operate under the facts and circumstances test with few bright line rules, they would have to identify and analyze each of the expenditures included within the terms, "media services" and "grassroots issue advocacy," and make case-by-case determinations about what qualified as campaign versus social welfare spending.

Another example involved VoteVets Action Fund, which reported on its 990 tax return for 2010, that it had engaged in political campaign activities, and spent about $3.5 million on those activities, representing about 48% of its total expenses of $7.3 million for the year.[749] Of the $3.5 million spent on political campaign activities, VoteVets Action Fund indicated it had contributed $250,000 to Patriot Majority PAC, a Super PAC, for "voter education," and a total of $110,000 to three other 501(c)(4) groups, including in one instance $45,000 to WVWAF for "general support."[750] In addition, it spent about $1.1 million on "communications/media" and about $855,000 on "consulting."[751] An IRS agent would have to determine what activities were included within the terms, "communications/media," "consulting," and "general support," how to categorize each type of expenditure, and then determine how to evaluate the 48% total. Again, it is easy to see why an IRS agent might want guidance on how to proceed.

---

[744] See 2010 Crossroads GPS Form 990, at 8, Part VII, Section B, line 1

[745] See id. at 10, Part IX, line 24b.

[746] See id. at 1, Part I, line 18; at 3, Part IV, line 3; Schedule C at 1, Part I-A, line 1.

[747] See 2012 Crossroads GPS Form 990, at 8, Part VII, Section B, line 1; at 10, Part IX, line 24a.

[748] See id. at 1, Part I, line 18; Schedule C, at 1, Part I-A, line 1.

[749] See 2010 VoteVets Action Fund Form 990, at 1, Part I, line 18; at 3, Part IV, line 3; Schedule C at 1, Part I-A, line 1.

[750] See id., Schedule I at 1, Part II.

[751] See id. at 10, Part IX, lines 24a-b.

Categorizing Grants and Donations. A fourth issue confronting the IRS involved how to categorize "grants" and "donations." In recent years, many 501(c)(4) organizations made large grants or donations to other nonprofit groups, raising a host of difficult questions about whether the funds were being used on campaign activities. For example, in 2010, according to its 990 tax return, Patriot Majority USA, a Democratic-leaning group, spent the majority of its revenue on grants to ten 501(c)(4) groups and one 527 political organization, describing the funds as spent on "general support for grassroots advocacy," "general support for direct advocacy," or "general support for nonpartisan voter turnout."[752] Its tax return contained no information about how the recipients actually used the funds, including whether they were ultimately spent on campaign activities. In its 2012 tax return, Crossroads GPS reported providing over $35 million in grants to three 501(c)(3) organizations, five 501(c)(4) organizations and two 501(c)(6) organizations, all for "social welfare purposes."[753] Under the facts and circumstances test with few bright line rules in place, an IRS agent required to evaluate these tax returns would have to analyze each grant, determine how far to go in finding out how the recipient used the funds that were provided, decide whether to categorize the grants as campaign spending, and analyze how that spending would affect an analysis of the group's primary activity.

In California, the settlement of a recent case illustrated how some 501(c)(4) groups have functioned as intermediaries to transfer funds from undisclosed donors to campaign organizations. The case involved two Arizona 501(c)(4) groups, the Center to Protect Patient Rights and Americans for Responsible Leadership, which settled with the California Fair Political Practices Commission (FPPC) and the California State Attorney General's office in 2013.[754] The Center to Protect Patient Rights was alleged to have accepted a total of $15 million in contributions from undisclosed donors, and then transferred the funds to intermediary groups – either Americans for Responsible Leadership or a group called the American Future Fund – each of which, in turn, donated the funds to political action committees engaged in campaign activities.[755] Only the immediate contributor – Americans for

---

[752] Of $5.2 million in total revenue, Patriot Majority USA spent about $2.9 million on grants. See 2010 Patriot Majority USA Form 990, at 1, 2, Part I, line 13; at 17, Schedule I, Part II.

[753] See 2012 Crossroads GPS Form 990, at 2, Part III, line 4b; at 38, Schedule I, Part II, line 1a. In 2010, Crossroads GPS reported over $15.8 million in grants, distributed to eleven 501(c)(4) organizations and one 501(c)(6) organization. See 2010 Crossroads GPS Form 990, at 2, Part III, line 4b; at 38, Schedule I, Part II.

[754] See "FPPC Announces Record Settlement in $11 Million Arizona Contribution Case," prepared by California Fair Political Practices Commission (10/24/2013), http://www.fppc.ca.gov/press_release.php?pr_id=783.

[755] See Fair Political Practices Commission v. The Center to Protect Patients Rights and Americans for Responsible Leadership, https://www.propublica.org/documents/item/809469-arl-cppr-stipulation-final-with-ag.html. See also "Dark Money Groups Pay $1 Million in Fines in

Responsible Leadership or American Future Fund – was listed as a PAC contributor; in the words of the FPPC, the groups' intermediary roles deprived "the public of the initial source of the contribution[s]."[756] Under the terms of the settlement, the Center to Protect Patient Rights and Americans for Responsible Leadership paid fines totaling $1 million, but did not have to disclose the original donors. California has since enacted legislation to prevent similar situations in the future.[757]

Discontinuities. Still another issue involved how the IRS treated organizations that changed their names or employer identification numbers over time. For example, since its inception, Patriot Majority USA, a Democratic leaning group, has gone through five different iterations.[758] It started out, in 2006, as the Midwest Alliance for Better Government, and changed its name a year later, in 2007, to Patriot Majority For a Stronger America, while operating under the same employer identification number, mission statement, and president, Craig Varoga.[759] In 2008, Mr. Varoga terminated Patriot Majority for a Stronger America, and formed a new 501(c)(4) group, the American Alliance for Economic Development, with a new employer identification number but located in the same office as the previous organization.[760] Two years later, in 2010, he formed Patriot Majority USA, using the same employer identification number as the American Alliance for Economic Development.[761] In 2011, Patriot Majority USA liquidated and reincorporated under the same name, changing its address and

---

California Case," ProPublica, (10/24/2013), http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case.

[756] See Fair Political Practices Commission v. The Center to Protect Patients Rights and Americans for Responsible Leadership, https://www.propublica.org/documents/item/809469-arl-cppr-stipulation-final-with-ag.html.

[757] See California Senate Bill 27, introduced by State Senator Lou Correa, (12/3/2012), http://fppc.ca.gov/SUNCenter/wp-content/uploads/2013/10/California-SB-27-amended-PDF1.pdf; "Jerry Brown signs law requiring political nonprofits identify donors," The Sacramento Bee, (5/14/2014), http://blogs.sacbee.com/capitolalertlatest/2014/05/jerry-brown-signs-law-requiring-political-nonprofits-identify-donors.html.

[758] See, e.g., "Shape-Shifting by Liberal Dark Money Groups Seems Meant to Confuse," Center for Responsive Politics, Robert Maguire and Viveca Novak (5/22/2013), https://www.opensecrets.org/wp/2013/05/shape-shifting-by-liberal-dark-mone/.

[759] Compare 2006 Midwest Alliance for Better Government Form 990 (initial return), with 2007 Patriot Majority for a Stronger America Form 990 (name change) (each listing the group's purpose as "education of the public regarding the elimination of corruption in government.")

[760] Compare 2007 Patriot Majority for a Stronger America Form 990, with 2008 American Alliance for Economic Development Form 990 (initial return) (both listing an address of "300 M St. SE, 1102, Washington, DC"). It is unclear whether American Alliance for Economic Development or Midwest Alliance for Better Government ever filed applications with the IRS for tax exempt status, since no application for either group is publicly available. However, a 2011 application for tax-exempt status by a successor organization indicates that American Alliance for Economic Development received recognition of its 501(c)(4) status on May 12, 2009. See 2011 Patriot Majority USA Form 1024 at 3, Part II, line 4. The law allows section §501(c)(4) organizations to hold themselves out as tax-exempt whether or not they have applied for such status with the IRS. See 6/4/2012 Letter from the IRS to Subcommittee, at 1.

[761] See 2010 Patriot Majority USA Form 990 (name change) at 1, letters B, D.

employer identification number.[762] Clearly, all five organizations were successors to each other, but the details were and are complex.[763] Since these types of changes are not unusual among nonprofits, it illustrates the importance of the IRS having clear standards and bright line rules about how to track and analyze reorganizations, asset transfers, activities and expenditures.

These examples of issues that have recently confronted IRS agents assigned to 501(c)(4) advocacy cases illustrate some of the challenges they faced. They also help explain why so many cases were delayed while IRS agents awaited guidance from more senior managers on how to process the applications for tax exempt status.

J. Analysis

The Subcommittee investigation into how the IRS handled 501(c)(4) applications filed by organizations engaged in campaign activity exposed extensive IRS mismanagement. The litany of management failures included delayed disposition of many applications for as long as three years; unauthorized and troubling changes in the BOLO screening criteria; use of inappropriate screening criteria; use of an inappropriate descriptor for the category of cases being subjected to heightened scrutiny; yearly turnover in the key case coordinator; slow

---

[762] See 2011 Patriot Majority USA Form 990-EZ; 2011 Patriot Majority USA Form 990; and 2011 Patriot Majority USA Form 1024 application. Two organizations named Patriot Majority USA filed 2011 tax returns as tax exempt organizations, one using the old employer identification number and one using a new number, since both were in operation that year. Both organizations listed the same mailing address, officers, and records custodian. The predecessor Patriot Majority USA filed a Form 990-EZ for the time period January 1-April 26, 2011, indicating that the group had terminated, liquidated its assets and made a grant of about $17,000 to the successor Patriot Majority USA. The successor Patriot Majority USA filed a Form 990 for the time period March 17-December 31, 2011, designated as an initial return. Its 2011 Form 990 listed the predecessor Patriot Majority USA as a "related tax-exempt group." Also in 2011, the successor Patriot Majority USA filed articles of incorporation in the District of Columbia, and submitted a form 1024 application to the IRS for 501(c)(4) tax exempt status, using the new employer identification number and a new address. Its application explained the group's history as follows: "Patriot Majority USA, Inc. (PMUSA) is a successor organization to the American Alliance for Economic Development, Inc. ... which was incorporated on April 29, 2008, received its recognition of tax-exempt status under section 501(c)(4) of the Code on May 12, 2009. AAED wound down its affairs, distributed its assets in accordance with section 501(c)(4), and dissolved as of January 14, 2011. PMUSA was originally started as an unincorporated nonprofit association and was the recipient of AAED's remaining assets. It was then incorporated in March 2011 to continue the mission of AAED, with substantially similar activities and goals." See 2011 Patriot Majority USA Form 990-E-Z at 1, letters A-D; at 2, Part IV; at 3, Part V, lines 36, 42a; Schedule N; 2011 Patriot Majority form 990 at 1, letters A-D; at 6, Part VI, Section C, line 20; at 7, Part VII; Schedule R, at 1, Part II; at 3, Part V, line 2; 2011 Patriot Majority USA form 1024, at 1, Part I; at 3, Part II, line 4; attached Articles of Incorporation of Patriot Majority USA, Inc.

[763] See, e.g., "Shape-Shifting by Liberal Dark Money Groups Seems Meant to Confuse," Center for Responsive Politics, Robert Maguire and Viveca Novak (5/22/2013), https://www.opensecrets.org/wp/2013/05/shape-shifting-by-liberal-dark-mone/ ("'It's hard to tell what is going on here,' said Marcus Owens, former head of the Internal Revenue Service's Exempt Organizations division, 'but starting and terminating organizations makes it more difficult for the IRS to identify who did what when.'").

approval of development letters; inclusion of inappropriate, intrusive, or burdensome questions in some development letters; poor coordination between IRS personnel in Cincinnati and senior managers and legal counsel in Washington, D.C.; delayed casework pending the resolution of two test cases that remained unresolved for at least three years; confusion over the standards for identifying campaign activities and determining primary activities; inadequate guidance for IRS personnel confronting complex and sensitive issues involving issue advocacy and campaign intervention; failure to finalize additional written guidance despite nearly a year of work; inadequate training on how to apply the facts and circumstances test; failure to resolve the growing backlog of advocacy cases; failure to disclose the nature and extent of the management problems in response to Congressional inquiries; and failure to develop regulations that faithfully reflected the statutory requirement that 501(c)(4) groups engage "exclusively" in social welfare activities. A number of these same management failures are described in the audit report issued by the Treasury Inspector General for Tax Administration (TIGTA).

The Subcommittee investigation also found evidence that the IRS management failures affected both conservative and liberal applicants for tax exempt status. Years-long delays, intrusive questions, and poorly coordinated reviews by IRS personnel in Cincinnati and Washington, D.C. impeded the disposition of 501(c)(4) applications filed by groups across the political spectrum, including conservative-leaning groups associated with the Tea Party, 9/12, and Patriot organizations, and liberal-leaning groups associated with ACORN, Occupy, Emerge America, and progressive organizations.

The Subcommittee investigation found no evidence that political bias influenced the decisions made by IRS personnel processing 501(c)(4) applications. A review of nearly 800,000 pages of documents and nearly two dozen interviews produced no evidence of political bias influencing IRS decisionmaking about how to process 501(c)(4) applications filed by conservative organizations, and no evidence that the IRS singled out conservative groups for harsher treatment than other groups. In fact, key IRS personnel involved with processing 501(c)(4) applications turned out to be registered Republicans or politically aligned with the Tea Party, with no apparent animus against conservative groups. TIGTA reached the same conclusion about the lack of political bias at the IRS in processing 501(c)(4) applications, as indicated in more detail below.

Finally, the Subcommittee investigation determined that one of the key contributors to the IRS management failures was the agency's reliance on the facts and circumstances test to identify campaign activities and determine whether a 501(c)(4) group was engaged

primarily in social welfare activities. Because that test was fact-intensive and led to case-by-case determinations, and because the IRS did not provide its agents with objective standards or bright line rules on how to handle common fact patterns, IRS agents were often forced to exercise discretion over how to develop and evaluate the facts of a case and apply the law. Delays were common as some IRS agents or their supervisors hesitated over how to proceed and sought guidance to ensure they were acting appropriately. In other instances, IRS agents made decisions on pending applications that, at times, produced inconsistent results, most easily seen in the cases involving Emerge America affiliates, which sought to help Democratic women candidates run for office. In 2011, different IRS agents approved tax exempt status for five Emerge organizations, and denied tax exempt status for three Emerge organizations, exposing the confusion and subjective decisionmaking over how to process those cases; in 2012, the IRS revoked the tax exempt status of the five groups previously approved. The evidence indicates that the facts and circumstances test, when applied to 501(c)(4) applications, led to lengthy delays, intrusive questions, subjective analysis regarding the relative importance of various factors, and inconsistent results. Given the sensitivities surrounding IRS treatment of politically active groups, the ongoing management problems, and the public distrust of IRS actions in this area, the evidence indicates that the facts and circumstances test should be replaced with more objective standards and bright line rules to produce more predictable and trustworthy results.

IV. TIGTA AUDIT

The audit conducted by the Treasury Inspector General for Tax Administration (TIGTA) was initiated in March 2012, in the midst of negative media reports about IRS treatment of 501(c)(4) applications filed by organizations engaged in campaign activity, in particular groups aligned with the Tea Party. TIGTA's Office of Audit undertook the audit at the request of the House of Representatives Committee on Oversight and Government Reform. The work was conducted over the following year, and a final audit report was issued in May 2013.

The official TIGTA audit engagement letter stated that the audit's "overall objective" was to "assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues." It also stated: "Several accusations of inconsistent treatment towards conservative groups have been made." Despite being charged with examining the "consistency" of the IRS' actions, TIGTA auditors examined how the IRS handled applications filed by conservative groups, but did not perform any comparative analysis of how the IRS handled applications filed by liberal groups. In response to later media inquiries about why information about liberal groups was excluded, a TIGTA spokeswoman initially said, "we were asked to narrowly focus on Tea Party organizations," but later indicated she had been given incorrect information.

During the audit, TIGTA auditors focused on actions taken by IRS screeners to identify applications filed by groups whose names or application materials contained the phrases, "Tea Party," "9-12," or "Patriot," noting that the selection criteria focused on the groups' names or political views, rather than on their participation in campaign activities. The TIGTA auditors also focused on a single entry in a broader "Be-on-the-Lookout" (BOLO) list whose wording changed over time, moving from language which urged IRS personnel to identify applications filed by groups affiliated with the "Tea Party movement," to language urging them to identify applications containing "indicators of significant amounts of political campaign intervention." While the IRS admitted the earlier selection criteria were inappropriate, IRS personnel also attempted to demonstrate the criteria were not the result of political bias, by showing TIGTA that the IRS used similar BOLO listings for liberal groups, with screening criteria using the phrases "Progressive," "ACORN," and "Occupy" to identify applications of interest. Despite the IRS' repeatedly drawing attention to those BOLO entries, the TIGTA auditors failed to examine either how the IRS used those BOLO entries or how the IRS handled 501(c)(4) applications filed by liberal groups in comparison to applications filed by conservative groups.

In February 2013, after receiving an allegation that an IRS email had directed IRS employees to "target" Tea Party groups, the Assistant Inspector General responsible for exempt organization issues, Gregory Kutz, asked the TIGTA Office of Investigations to conduct an email search of certain IRS employees. The Office of Investigations then searched over 2,200 emails and other documents from the email accounts of five IRS employees involved with processing 501(c)(4) applications. After conducting a thorough review, the Office of Investigations concluded that the 2,200 IRS emails and other documents contained "no indication" that the pulling of Tea Party applications for additional scrutiny by IRS personnel was "politically motivated," advising that the IRS actions were instead the result of inadequate guidance on how to process them. Even though that finding by the TIGTA Office of Investigations analysis directly addressed the central issue TIGTA was auditing, whether there was political bias at the IRS, the documentary analysis performed by the Office of Investigations was not included in TIGTA's audit report.

In February 2013, the audit team submitted a draft audit report to the TIGTA Chief Counsel and Office of Audit head. The Chief Counsel suggested removing the word "targeted" from the report, because "targeted has a connotation of improper motivation that does not seem to be supported by the information presented in the audit report." The audit team removed the word from the report except when describing the allegations that led to the audit. Later that month, TIGTA provided a draft of the report to the IRS.

As the release date for the TIGTA audit report neared, Acting IRS Commissioner Steven Miller decided to try to preempt news coverage of the negative audit results by having the head of the Exempt Organizations division, Lois Lerner, disclose the audit before it was released and apologize for the agency's conduct during a conference she was scheduled to address. On May 10, 2013, at the Acting IRS Commissioner's direction and in response to a planted question, Ms. Lerner apologized for the IRS' having used "Tea Party" to identify 501(c)(4) applications subjected to heightened review. Her apology triggered a public firestorm centered on the allegation that the IRS had shown political bias against conservative groups seeking tax exempt status. The Acting IRS Commissioner and other senior IRS officials were required to resign.

The apology generated intense interest in the TIGTA audit report which was released the following week, on May 14, 2013. The audit report found that the IRS had used "inappropriate criteria" to flag 501(c)(4) applications for heightened review, and "ineffective management" had caused delays and subjected applicants to burdensome information requests. TIGTA Inspector General Russell George was

asked to testify at multiple Congressional hearings about the audit findings. When pressed about whether the IRS had unfairly targeted conservative groups, Mr. George testified that TIGTA had found no sign of political bias at the IRS, but offered as evidence only the denials of the IRS officials involved. He made no mention of the email review conducted by the TIGTA Office of Investigations or its conclusion that the documents contained "no indication" that the IRS' actions were "politically motivated," even though that investigative finding directly addressed the issue of political bias at the IRS. Mr. George told the Subcommittee that he did not mention the Office of Investigations' finding, because no one on his staff had told him about it. On June 6, 2014, Mr. George wrote in a letter to the Subcommittee that the TIGTA audit had "found no evidence of political bias," also stating "it is important to note that the matter is being further reviewed."

On May 21, 2013, the night before the third Congressional hearing at which the Inspector General testified about the audit, the TIGTA Chief Counsel decided to review the IRS BOLOs before providing copies to Congress. During his review, he saw, for the first time, BOLO entries naming two liberal groups, ACORN and Occupy. He promptly informed Inspector General George and Assistant Inspector General Kutz, both of whom told the Subcommittee they had previously been unaware of any BOLO listings for liberal groups, even though the IRS had provided copies and repeatedly informed the TIGTA audit team about them. Even after learning about them, the senior TIGTA officials remained silent for weeks about the BOLO entries for liberal groups, and provided incomplete and inaccurate testimony about them at Congressional hearings. When the BOLO listings for liberal groups were finally disclosed by Members of Congress and the media, senior TIGTA officials insisted that the IRS had not disclosed those listings during the TIGTA audit, despite ample evidence to the contrary.

During their Subcommittee interviews, Mr. George and Mr. Kutz indicated they had since reconsidered how the TIGTA audit report treated 501(c)(4) applications filed by liberal groups. Mr. George told the Subcommittee that the audit report should have acknowledged the existence of the other BOLO entries and the auditors should have looked into the other groups; Mr. Kutz indicated TIGTA potentially should have included the Progressive, ACORN, and Occupy BOLO listings in its analysis, although he thought it might have delayed completion of the audit for another year. TIGTA has since initiated an audit into how those and other BOLO entries were used, but has put that audit on hold pending other law enforcement investigative efforts related to Lois Lerner and the IRS.

A. TIGTA In General

The office of the Treasury Inspector General for Tax Administration (TIGTA), first established in 1999, is charged with overseeing the IRS.[764] TIGTA's stated mission is to "[p]rovide quality professional audit, investigative, and inspections and evaluations services that promote integrity, economy, and efficiency in the administration of the Nation's tax system."[765] While the TIGTA office is organizationally part of the U.S. Department of the Treasury, the TIGTA Inspector General has authority to act independently in its audits.[766]

The current TIGTA Inspector General is J. Russell George, who has been in office since November 2004.[767] Mr. George oversees a staff of about 960 employees, including auditors, investigators, attorneys, and support staff.[768] Two key TIGTA subdivisions are the Office of Audit and the Office of Investigations.[769] The Office of Audit is charged with conducting "performance and financial audits of IRS programs, operations, and activities" to identify "opportunities to improve the administration of the nation's tax laws," while the Office of Investigations is charged with conducting investigations to combat "fraud, waste, abuse and mismanagement" in IRS activities as well as attempts to "corrupt or threaten" IRS personnel.[770]

During the three-year period reviewed by this Report, 2010 to 2013, the Office of Audit was led first by Deputy Inspector General for Audit Michael Phillips and then, starting in June 2012, by Deputy Inspector General for Audit Michael McKenney. Within the office, five Assistant Inspectors General oversaw various aspects of the IRS, including an Assistant Inspector General for Audit, Management Services, and Exempt Organizations, a position which Gregory Kutz assumed in 2012.[771] The Office of Investigations was led by Deputy Inspector General for Investigations Timothy Camus.[772] A third Deputy Inspector General in charge of Inspections and Evaluations was David

---

[764] TIGTA was created by the Internal Revenue Service Restructuring and Reform Act of 1998, P.L. 105-206, 112 Stat. 685, to provide independent oversight of the IRS. See "Introducing the Treasury Investigator General for Tax Administration," prepared by TIGTA, http://www.treasury.gov/tigta/about/tigta_brochure.pdf; "What is TIGTA," prepared by TIGTA, http://www.treasury.gov/tigta/about_what.shtml.
[765] "About TIGTA," prepared by TIGTA, http://www.treasury.gov/tigta/about.shtml.
[766] See Inspector General Act of 1978, 5 U.S.C. App. 3, § 8D (2012).
[767] "Meet the IG: J. Russell George," prepared by TIGTA, http://www.treasury.gov/tigta/about_ig.shtml.
[768] "Introducing the Treasury Investigator General for Tax Administration," prepared by TIGTA, http://www.treasury.gov/tigta/about/tigta_brochure.pdf.
[769] Id.
[770] Id.
[771] "Organizational Chart," prepared by TIGTA, http://www.treasury.gov/tigta/about_orgchart.shtml.
[772] Id.

Holmgren. In addition, TIGTA obtained legal advice from its Chief Counsel Michael McCarthy and from Counselor Matthew Sutphen.[773]

TIGTA Audit Plans. Each year, the TIGTA Office of Audit develops and publishes an Annual Audit Plan.[774] As part of that plan, TIGTA identifies major management and performance challenges confronting the IRS, and develops audits to focus on those concerns.[775] In addition, TIGTA performs audits mandated by statute or regulation, as well as audits requested by Congress, the IRS, or the IRS Oversight Board.[776] TIGTA uses the Annual Audit Plan as a guide, but may modify its audit plans in response to staffing needs or unforeseen risk areas that require immediate attention.[777] In recent years, TIGTA has allocated roughly 10% of its staff days to suggested audits, 14% to mandatory audits, and the remaining 76% to risk-based audits.[778]

B. Requesting the Audit

The TIGTA audit of how the IRS processed 501(c)(4) applications filed by groups associated with the Tea Party was initiated at the request of the House of Representatives Committee on Oversight and Government Reform (OGR). On March 8, 2012, three senior TIGTA officials, Matthew Sutphen, Counselor to the Inspector General, Nancy Nakamura, Assistant Inspector General for Audit, Management Services, and Exempt Organizations, and Troy Paterson, an Audit Director in the TIGTA Office of Audit, traveled to Capitol Hill and met with OGR staff.[779] The Committee staff expressed concern "that the IRS is biased in how it is processing 501(c)(4) applications from Tea Parties versus other organizations."[780] OGR staff highlighted, in

---

[773] Id.

[774] "Introducing the Treasury Investigator General for Tax Administration," prepared by TIGTA, http://www.treasury.gov/tigta/about/tigta_brochure.pdf.

[775] See "Fiscal Year 2014 Annual Audit Plan," TIGTA Office of Audit, at 1-4, http://www.treasury.gov/tigta/auditplans/auditplans_fy2014.pdf.

[776] Id.

[777] Subcommittee interview of Greg Kutz, TIGTA (3/26/2014).

[778] "Fiscal Year 2014 Annual Audit Plan," TIGTA Office of Audit, at 11, http://www.treasury.gov/tigta/auditplans/auditplans_fy2014.pdf; "Fiscal Year 2013 Annual Audit Plan," TIGTA Office of Audit, at 13, http://www.treasury.gov/tigta/auditplans/auditplans_fy2013.pdf; "Fiscal Year 2012 Annual Audit Plan," TIGTA Office of Audit, at 15, http://www.treasury.gov/tigta/auditplans/auditplans_fy2012.pdf; "Fiscal Year 2011 Annual Audit Plan," TIGTA Office of Audit, at 70, http://www.treasury.gov/tigta/auditplans/auditplans_fy2011.pdf.

[779] See "Note to File," prepared by Troy Paterson, TIGTA Bates No. 007221 - 222 (describing meeting with House Committee on Oversight and Government Reform staff). See also Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); 3/22/2014 email from Troy Paterson to Russell Martin, TIGTA Bates No. 004297 - 299 (indicating the meeting took place in the OGR Committee offices).

[780] "Note to File," prepared by Troy Paterson, TIGTA Bates No. 007221 - 222. See also Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); 3/22/2014 email from Troy Paterson to Russell Martin, TIGTA Bates No. 004297 - 299.

particular, concerns that the IRS was targeting Tea Party organizations by asking inappropriate, burdensome, and intrusive questions.[781]

After the March 8, 2012 meeting, TIGTA personnel in the Office of Audit began looking into the concerns raised by the OGR Committee. A June 2012 letter signed by OGR Committee Chairman Darrell Issa and Subcommittee Chairman Jim Jordan acknowledged those inquiries at the time and described them as a result of the March meeting.[782] A letter by the TIGTA Inspector General in response noted: "As stated in your letter, after our meeting with the Committee staff, our Office of Audit recently began work on this issue."[783] The TIGTA audit report also stated: "TIGTA initiated this audit based on concerns expressed by members of Congress,"[784] without mentioning OGR Committee Chairman Issa or Subcommittee Chairman Jordan. At another point, the audit report stated TIGTA had initiated the audit "based on concerns expressed by Congress and reported in the media regarding the IRS's treatment of organizations applying for tax-exempt status."[785] In testimony before that Committee, TIGTA Inspector General George testified that the audit was initiated as a result of Chairman Issa's concerns.[786]

---

[781] "Note to File," prepared by Troy Paterson, TIGTA Bates No. 007221 - 222. ("The staffers are concerned about whether the questions being asked of potential 501(c)(4) organizations have gone over the line (e.g., requests for names of donors and future speakers). The staffers are also concerned about the application process for 501(c)(4)s. What is the IRS trying to achieve with the actions it is taking?").

[782] 6/28/2012 letter from Committee Chairman Issa and Subcommittee Chairman Jordan to TIGTA, PSI-TIGTA-03-001404 - 405 ("On March 8, 2012, Committee staff and Treasury Inspector General for Tax Administration (TIGTA) staff discussed potential problems with IRS's recent effort to increase scrutiny of organizations operating under 501(c)(4) status. We understand that because of our March meeting, TIGTA is conducting ongoing work to better understand this IRS initiative."). Congressman Jordan was the Chairman of the OGR Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs.

[783] 7/11/2012 letter from TIGTA Inspector General George to Chairman Issa, with an identical letter to Subcommittee Chairman Jordan, PSI-TIGTA-03-001409 - 410.

[784] 5/14/2013 TIGTA audit report, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," (hereinafter "5/14/2013 TIGTA Audit Report"), at Highlights, http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf.

[785] Id. at 3.

[786] Testimony of J. Russell George, "The IRS: Targeting Americans for Their Political Beliefs," hearing before U.S. House Committee on Oversight and Government Reform, Serial No. 113-33, (5/22/2013), at 10, http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg81742/pdf/CHRG-113hhrg81742.pdf ("[A]s you are aware, Mr. Chairman, our audit was initiated based on concerns that you expressed due to taxpayer allegations that they were subjected to unfair treatment by the IRS."). See also 4/19/2013 email from Matthew Sutphen to Russell George, "Congressional Update," TIGTA Bates No. 015966 (TIGTA Counselor Matthew Sutphen: "[T]his report was initiated as a result of meeting with the committee staff last spring, and Chairman Issa sent a follow-up letter expressing his interest in the matter."). The week prior to the release of the TIGTA audit report, the head of the TIGTA Audit Office, Michael McKenney, questioned why the TIGTA audit report did not clearly state that it had been performed at Congressman Issa's request. See 5/8/2013 email from Michael McKenney to Gregory Kutz, "Final Report 201210022 – Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review," TIGTA Bates No. 016072 ("Greg, why is it that that we don't say that this review was performed at the request of the Chairman of the House Oversight and Government Reform Committee?") See also 5/7/2013 email from John Anderson, TIGTA, to

Although the OGR Committee allegations appear to have been the primary motivator for the TIGTA audit, the Landmark Legal Foundation also asked TIGTA to look into the allegations that Tea Party groups were being unfairly targeted.[787] According to TIGTA, its decision to initiate the audit was also influenced by negative media reports on the IRS' handling of Tea Party applications.[788] TIGTA told the Subcommittee that none of the Tea Party groups themselves requested an audit of the IRS.[789]

In addition to inducing the TIGTA audit, OGR Committee staff apparently asked the TIGTA audit team to provide regular briefings about the status of its work, but TIGTA told the Subcommittee that it declined to provide those briefings. As the director of the TIGTA 501(c) audit, Troy Paterson, noted in an email to his supervisor, Russell Martin:

> "Hmm … I've never provided regular updates on audits where we have not issued a report. Are we allowed to say what we are finding to outside stakeholders, such as staffers, without issuing a report? I've never heard of us doing that before. From our previous meeting with Mr. Hixon and other staffers, I'm certain the first question in the meeting will be 'Have you found any indications that the IRS is targeting Tea Party groups?' If we are not prepared to provide an answer to that question without issuing a report, I think we should limit the request to providing a briefing on the scope of our review and providing a copy of the final report."[790]

Mr. Paterson told the Subcommittee that TIGTA decided not to provide ongoing briefings to the OGR Committee staff on the audit work, but to wait until the audit was complete and a report prepared.[791] When asked about a TIGTA audit log entry stating: "Office of Audit

---

Michael McKenney, "Final Report 201210022 – Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review," TIGTA Bates No. 016073 ("TIGTA initiated this audit based on concerns expressed by members of Congress.").

[787] TIGTA auditor Thomas Seidell told the Subcommittee that he recalled Landmark Legal Foundation's writing to TIGTA with a request to look into the allegations that the Tea Party was being targeted by the IRS. Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). See also 3/26/2012 email from Karen Kraushaar to Russell George, "TIGTA in the News March 26, 2012 (revised)," TIGTA Bates No. 015855 (sending a copy of a press article about the Landmark Legal Foundation's letter to TIGTA); 3/26/2012 email from Joseph Urban to Lois Lerner, and others, "Referral to TIGTA on (c)(4)," IRSR0000218372 - 375 (circulating copy of Landmark Legal Foundation letter); 3/23/2012 letter from Landmark Legal Foundation to TIGTA, "REQUEST FOR INVESTIGATION INTO IRS AGENCY MISCONDUCT," http://www.landmarklegal.org/uploads/IRS%20IG%20Letter%20without%20attachments.pdf.

[788] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[789] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[790] 6/22/2012 email from Troy Paterson to Russell Martin, "TIGTA Letter," TIGTA Bates No. 011343.

[791] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

agreed to brief the Government Oversight Sub-committee by September 2012,"[792] Mr. Paterson stated that the proposed briefing did not occur.[793]

C. Conducting the Audit

Troy Paterson, one of three senior directors in the Office of Audit's division of Audit, Management Services, and Exempt Organizations, was given responsibility for heading up the 501(c) audit effort.[794] He asked four TIGTA employees to conduct the audit, Thomas Seidell who served as the "Audit Manager"; Cheryl Medina who served as the "Lead Auditor"; and Michael McGovern and Evan Close who served as the "Auditors."[795]

According to Mr. Paterson, the TIGTA auditors began by conducting general research into 501(c)(4) issues, and then focused on the allegations of unfair treatment of Tea Party groups, which had been made by the OGR Committee and were also the subject of ongoing media reports.[796] On March 19, 2012, in one of the earliest emails TIGTA produced to the Subcommittee, Mr. Paterson circulated a report to his team and recommended their reading it for background, with the following explanation:

> "Proving that there is nothing new under the sun, here is a March 2000 report from the Joint Committee on Taxation regarding allegations that the IRS was biased when reviewing applications and conducting examinations of politically active organizations that were tax-exempt or applying to be tax-exempt. Sound familiar? I haven't read this yet, but I'm thinking we might be able to glean some bits of wisdom from an investigation that has already been down the path we are heading."[797]

The report circulated by Mr. Paterson described an extensive investigation by the Joint Committee on Taxation (JCT) into allegations of "politically motivated treatment" of 501(c) applications by the IRS; after an examination that included reviews of organizations across the

---

[792] "TIGTA OA: Process for Reviewing Applications for Tax Exemption," TIGTA Audit Log, PSI-TIGTA 05-000909 - 949, at 927.

[793] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014). See also 1/14/2013 email from Lois Lerner to Troy Paterson, with copies to Holly Paz and Dawn Marx, "Advocacy discussion," IRSR0000441700 - 701 (indicating the TIGTA auditors appeared to be "preparing for a meeting with Congressman Issa, where they may be opining on their preliminary take on the review").

[794] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[795] Id. See also 5/1/2012 Memorandum of Discussion, "Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations," prepared by TIGTA, PSI-TIGTA-05-000892 - 898, at 892 (listing participating auditors).

[796] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[797] 3/19/2012 email from Troy Paterson to Cheryl Medina, Thomas Seidell, and Michael McGovern, "JCT Report on Allegations of Bias Surrounding Applications for Tax Exemption and Examinations of Tax-Exempt Organizations," TIGTA Bates No. 003991.

political spectrum, the JCT found "no credible evidence" of political bias at the IRS.[798]

On March 29, 2012, Ms. Medina sent Mr. Paterson and Mr. Seidell a press article noting that, while conservatives were denouncing the IRS for targeting Tea Party organizations, progressive groups were complaining about similar experiences. The article stated in part:

> "Conservative activists and some Republican lawmakers are up in arms about what they describe as the Internal Revenue Service conducting a partisan and ideologically driven campaign against tea party groups around the country. They claim that progressive organizations are not experiencing the same level of scrutiny. However, some progressive groups say they have had similar experiences with the IRS, and at least one expert dismisses the notion that the government is engaged in an ideological witch hunt."[799]

Ms. Medina commented: "Here is the first article I've seen that actually compares letters from the IRS to both conservative and progressive groups – letters ask similar questions."[800] This email indicates that, from the inception of the audit, the TIGTA audit team was aware that a factual question at issue was whether liberal groups had experienced the same treatment as conservative groups and that at least some evidence suggested they had.

(1) Determining the Audit Focus

Mr. Paterson told the Subcommittee that he originally recommended conducting two audits, one looking at how the IRS managed the 501(c)(4) application process and the other looking at how the IRS monitored tax exempt groups engaged in campaign activity, but was given approval for only the audit of the application process.[801] On March 22, 2012, Mr. Paterson sent the following email to his supervisor, Russell Martin:

> "Nancy [Nakamura] and I were up on the hill about a week and a half ago to discuss concerns one of the House Ways and Means subcommittees had with the way the IRS is processing requests

---

[798] 3/16/2000 Joint Committee on Taxation Press Release No. 00-02, http://www.jct.gov/pr00-02.pdf,; 3/6/2000 "Report Of Investigation Of Allegations Relating To Internal Revenue Service Handling Of Tax-Exempt Organization Matters," Report No. JCS-3-00, prepared by Joint Committee on Taxation, https://www.jct.gov/publications.html?func=startdown&id=2545.

[799] 3/29/2012 email from Cheryl Medina to Troy Paterson, Thomas Seidell, and Michael McGovern, "Articles on Determs," TIGTA Bates No. 004603 - 606 (forwarding copy of "Does the IRS really have it in for the tea party groups?" The Colorado Independent, Teddy Wilson, (3/28/2012), http://www.coloradoindependent.com/ 116361/does-the-irs-really-have-it-in-for-tea-party-groups).

[800] Id.

[801] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

> from tax exemption from potential section 501(c)(4) organizations related to the Tea Party. Basically, the staffers we met with allege that the IRS has been sitting on requests for a long time and, during an election year, asking a massive amount of unreasonable questions before deciding on whether to grant tax exemption to Tea Party-related groups. At the same time, the IRS is getting a lot of heat from the Democrat side who allege that the IRS is not cracking down hard enough on organizations funneling money to super PACS that are masquerading as tax-exempt social welfare organizations (section 501(c)(4) organizations). In response, we've decided to look at both sides of it (how the IRS is processing applications for tax exemption by potential 501(c)(4) organizations and how the IRS is overseeing 501(c)(4) organizations that are already in business and filing information returns)."[802]

The TIGTA Audit Plan for Fiscal Year 2013 included an entry indicating that TIGTA planned to conduct both audits.[803] According to Mr. Paterson, however, due to resource constraints and concern that the audit scope would be too large if the issues were combined, Nancy Nakamura, then Assistant Inspector General for Audit, Management Services, and Exempt Organizations, actually approved only the audit focusing on the application process.[804] TIGTA's subsequent "engagement letter" providing official internal notice of the audit, its scope, and what the auditors hoped to accomplish, stated in part:

> "Our overall objective is to assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues. ... Several accusations of inconsistent treatment towards conservative groups have been made."[805]

---

[802] 3/22/2012 email from Troy Paterson to Russell Martin, "501(c)(4) Briefing Paper," TIGTA Bates No. 004297 - 299. Although his email references "Ways and Means subcommittees," TIGTA indicted that Mr. Paterson meant to refer to the House OGR Committee, the only Committee that TIGTA staff met with prior to the audit.

[803] See "Fiscal Year 2013 Annual Audit Plan," TIGTA Office of Audit, at 18, 22, http://www.treasury.gov/tigta/auditplans/auditplans_fy2013.pdf (stating TIGTA would be conducting two audits: 1) "*Oversight of 501(c)(4)–(6) Organizations That Are Politically Active* (FY 2013 – New Start – Audit Number: 201310016) Audit Objective: Assess how the EO Function monitors Internal Revenue Code § 501(c)(4), (c)(5), and (c)(6) organizations to ensure political advocacy activities do not constitute their primary activity." 2) "*Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues* (FY 2012 – Work in Process – Audit Number: 201210022) Audit Objective: Assess the consistency of the EO function's identification and review of applications for tax-exempt status involving potential political advocacy issues.").

[804] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[805] 6/22/2012 memorandum from Michael McKenney, TIGTA Auditor, to TIGTA Acting Commissioner, Tax Exempt and Government Entities Division, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status involving Political Advocacy Issues (Audit # 201210022)," IRSR0000444445 - 447, at 445. See also 6/22/2012 email from Russell Martin to

After the audit report was released more than a year later, in May 2013, media questions arose regarding the scope of the audit, which examined only 501(c)(4) organizations associated with the Tea Party and did not consider 501(c)(4) applications filed by liberal groups, despite information indicating that some liberal groups may have experienced the same treatment as some conservative organizations.

As part of TIGTA's effort to respond to those media questions, on June 25, 2013, TIGTA's Director of Communications, Karen Kraushaar and her staff sent emails to some reporters stating that "TIGTA was asked to narrowly focus on Tea Party organizations."[806] When pressed by a Washington Post reporter to explain who asked TIGTA to focus narrowly on Tea Party organizations, Ms. Kraushaar responded by email that her statement had been based on "erroneous information."[807] Ms. Kraushaar told the Subcommittee that she had made her original statement after asking the TIGTA auditors how to respond to a question concerning the scope of the audit, and the auditors told her they had been asked to look at Tea Party organizations and the delays those groups encountered.[808] Ms. Kraushaar told Subcommittee that, in hindsight, the information she received from the auditors was not erroneous but "imprecise."[809] Ms. Kraushaar stated that when she said "narrowly," she meant "intensively," and that the word "narrowly" had been misconstrued, adding that she had not intended for "narrowly" to be interpreted as "exclusively."[810] On July 18, 2013, at a Congressional hearing, TIGTA Inspector General Russell George testified that Ms. Kraushaar's original statement had been "incorrect" and that she "misspoke."[811]

Michael McKenney, TIGTA Audit Office head, "TIGTA letter," TIGTA Bates No. 010384 ("I just signed the audit plan and Engagement Letter will be coming up for your review and signature. ... (We will now be focusing on whether the identified applicants were treated inconsistently with applicants that did not relate to a Tea Party Organization.)").

[806] 6/25/2013 email from Karen Kraushaar, TIGTA, to Sam Stein, Huffington Post, "Response to your inquiry," TIGTA June 2013 emails Bates No. 000307 - 308; 6/25/2013 email from TIGTA Media Liaison, David Barnes, to Bernie Becker, The Hill, "TIGTA Statement on 'Be On the Look Out' Listings," TIGTA June 2013 emails Bates No. 000241 – 245, at 242 ("TIGTA was asked to narrowly focus on Tea Party organizations.").

[807] 6/27/2013 email from Karen Kraushaar, TIGTA, to Josh Hicks, Washington Post, "Tax-Exempt audit objective," TIGTA June 2013 emails Bates No.000434 – 437, at 434 (Ms. Kraushaar wrote: "Regrettably, erroneous information was provided to my office. It happens.").

[808] Subcommittee interview of Karen Kraushaar, TIGTA (4/11/2014).

[809] Id.

[810] Id.

[811] Testimony of J. Russell George, "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013), at 81-82, http://oversight.house.gov/wp-content/uploads/2014/02/2013-07-18-Ser.-No.-113-51-FC-IRS-Systematic-Delay-and-Scrutiny-of-Tea-Party-Applications.pdf. ("Mr. CONNOLLY: Mr. George, there have been reports with respect to the scope of your audit or review, including by the spokesperson in your office, that you met with the chairman of this committee and, essentially, he helped limit the scope of the review. Mr. GEORGE: That's incorrect, sir. Mr. CONNOLLY: That is incorrect? Mr. GEORGE: The report I did see, but that did not occur. Mr. CONNOLLY: So Karen Kraushaar, your spokesperson who quoted –

(2) Initiating the Audit

On March 29, 2012, Mr. Paterson sent an email to the IRS informing it of TIGTA's plan to audit the application process. The email stated that the audit would examine "the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations."[812] Holly Paz, who was by then head of the Exempt Organization's Rulings and Agreements Unit, described herself as the "point person" at the IRS for the TIGTA audit, with responsibility to provide TIGTA with the documents and information it requested.[813]

On May 1, 2012, three TIGTA auditors, Thomas Seidell, Cheryl Medina, and Michael McGovern, began the 501(c) audit by conducting what they described as a "walkthrough" of the Cincinnati IRS office to better understand the process by which the IRS reviews 501(c) applications for tax exempt status.[814] According to Mr. Seidell, as part of the site visit to the Cincinnati office, senior EO personnel, including Holly Paz, Cindy Thomas, and John Shafer, explained the application process.[815] The auditors also revewed the relevant law, regulations, court rulings, and a draft "guidesheet" that the EO Technical Unit had been working on. After the site visit, the auditors prepared a memorandum summarizing what they had learned.[816]

On May 4, 2012, in response to the auditors' request, Ms. Paz provided a copy of the BOLO list then being used to identify 501(c)

---

who said, and I quote, that Darrell Issa had specifically requested that investigators, 'narrowly focus on Tea Party organizations,' so they did just that, according to Kraushaar, that is an inaccurate statement? Mr. GEORGE: That is correct. Mr. CONNOLLY: On what basis would she make such a statement on your behalf to the press? Mr. GEORGE: Well, it was not without my authorization, and she misspoke, sir.").

[812] See 3/29/2012 email from Troy Paterson to Joel Rutstein, "Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) organizations," IRSR0000168115 - 116 ("This email is to inform you of an audit we plan to conduct of the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations, which will be included in our Fiscal Year 2013 Annual Audit Plan."); 3/26/2012 email from Cheryl Medina to Michael McGovern, "c4s," TIGTA Bates No. 004451 ("Tom [Seidell] called me this morning to say that Nancy [Nakamura] has given Troy [Paterson] the ok to contact legislative affairs informing them of this review."). Although Mr. Paterson indicated that the audit would examine applications filed by 501(c)(5) and (6) organizations, TIGTA did not review any of those applications during the audit.

[813] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[814] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). See also 5/1/2012 Memorandum of Discussion, "Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations," prepared by TIGTA, PSI-TIGTA-05-000892 - 898.

[815] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).

[816] See 5/3/2012 Memorandum of Discussion, "Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations," prepared by TIGTA, PSI-TIGTA-05-000892 - 898.

applications of interest.[817] At that time, the BOLO did not include the phrase "Tea Party"; instead it asked screeners to look for "[p]olitical action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform / movement."[818] The BOLO also included listings asking IRS screeners to look for applications filed by "progressive" groups, "ACORN successors," "Occupy" groups, "Medical Marijuana" groups, and "Green Energy Organizations," among others.[819] Later, some TIGTA officials claimed that the IRS had failed to disclose to the TIGTA auditors the BOLO entries for liberal groups; this email and the BOLO attachment show that the IRS provided copies of those entries from the beginning of the audit.

After receiving the BOLO, the TIGTA auditors asked the IRS for earlier versions of the BOLO listings and received, among others, the original August 2010 BOLO asking screeners to be on the lookout for "organizations in the Tea Party movement."[820] The TIGTA auditors examined that original BOLO entry, and traced the changes in its wording over time. As explained earlier, that BOLO entry was changed four times in three years, from the original version in August 2010, to a more generic version in June 2011, then a January 2012 version using the language in the BOLO that was first provided to TIGTA on May 4, and finally to another generic version that began to be circulated in June 2012.[821] The TIGTA documentation contains no evidence that the auditors conducted a similar analysis of any other BOLO entries, despite being aware the BOLO had multiple sections with entries asking screeners to be on the lookout for a variety of applications and organizations, including liberal groups.

On May 17, 2012, the TIGTA auditors held a conference call with the IRS to discuss possible audit issues, including the BOLO entries

---

[817] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014); 5/4/2012 email from Holly Paz to Cheryl Medina, Thomas Seidell, and Michael McGovern, with copy to Cindy Thomas, "BOLO Alert," IRSR0000014253, attaching a copy of "BOLO Spreadsheet 03262012.xls." See also 5/1/2012 Memorandum of Discussion, "Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations," prepared by TIGTA, PSI-TIGTA-05-000892 - 898, at 897 (showing the auditors were already aware that the BOLO contained multiple sections, citing the "Watch List, Coordinated Processing, Emerging Issues, and Potential Abusive Transactions" sections).

[818] "BOLO Spreadsheet 03262012.xls," IRSR0000014254 - 258 (later reproduced to the Subcommittee in an enlarged format), provided to TIGTA as an attachment to 5/4/2012 email from Holly Paz to Cheryl Medina, Thomas Seidell, and Michael McGovern, with copy to Cindy Thomas, "BOLO Alert," IRSR0000014253.

[819] Id.

[820] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).

[821] See, e.g., 5/13/2013 email from Holly Paz to Nikole Flax, and others, "Be on the Lookout List (BOLO) description of advocacy cases over time (including phrases and issues treated as falling within the BOLO description," IRSR0000168058. For more information on the BOLO wording changes, see Report section on Failing to Agree on Effective Screening Criteria. See also 5/14/2013 TIGTA Audit Report at 6-7, 30.

related to the Tea Party.[822] The participants were Thomas Seidell and Cheryl Medina from TIGTA, and Holly Paz and David Fish from the IRS. A summary of the conference call, prepared by TIGTA lead auditor, Ms. Medina, stated:

> "AM [Audit Manager] Seidell then turned to our concerns with the nature of the criteria in the briefing paper. Based upon this criteria, it appears the complaints being made in the media by certain groups are valid. In addition, it appears to contradict the testimony of the Commissioner before Congress. Ms. Paz agreed that the initial criteria was not a good way to identify advocacy cases. However, it is common to refer to certain groups by name for identification purposes in Determinations. For example, the 'Occupy' and [REDACTED BY TIGTA] groups are listed specifically on the BOLO."[823]

This summary indicates, in the words of TIGTA's own lead auditor, that on May 17, 2012, IRS personnel explicitly drew the attention of TIGTA auditors to the liberal groups identified in the BOLOs that had been provided to the audit team, explained that names of both conservative and liberal groups were used to flag applications for heightened scrutiny, and pointed out that the BOLOs had not singled out only conservative groups. While senior TIGTA officials later claimed that the IRS had not disclosed the BOLO entries for liberal groups to the audit team during the audit period, this conference call summary shows that the IRS identified those BOLO entries to the audit team in the earliest stages of the audit process.

On May 22, 2012, the director of the TIGTA 501(c) audit, Troy Paterson, called EO head Lois Lerner to inform her that the audit team viewed the BOLO entries related to the Tea Party and other conservative groups as a concern, because they "targeted" those groups for added scrutiny. In his notes of the conversation, Mr. Paterson wrote that he told Ms. Lerner the following:

> "I'm just calling to let you know that we will be raising an issue to our IG [Inspector General] regarding § 501(c)(4) applications. We have received documentation showing that certain organizations (Tea Party, organizations criticizing how the country is being run) were targeted for additional scrutiny in part of the EO function."[824]

---

[822] See 5/17/2012 "Memo of Contact," prepared by Cheryl Medina, TIGTA, "Determinations Process Planning," PSI-TIGTA-04-000016 - 018.

[823] Id. at 017. See also TIGTA Audit Log, at PSI-TIGTA-05-000909 - 949, at 913. The redacted group is believed to be the ACORN successor groups.

[824] 5/22/2012 memorandum prepared by Troy Paterson, TIGTA, "To Document Discussion of the IG Briefing Paper that we Prepared on Certain § 501(c)(4) Application Being 'Targeted,'" TIGTA Bates No. 006699 (describing discussion between Mr. Paterson and Lois Lerner).

Mr. Paterson's notes contained no acknowledgement of the existence of the BOLO entries for liberal groups or of the contention made by the IRS that the BOLO's many entries demonstrated the IRS was not singling out conservative groups.

On May 30, 2012, the auditors gave Russell Martin, who had become Acting Assistant Inspector General for Audit, Management Services, and Exempt Organizations after Ms. Nakamura took another position, a briefing paper discussing the key audit issues that had been identified and describing the audit's objective as focusing on "the process used by the IRS when reviewing applications for tax-exempt status by §501 (c)(4) organizations."[825] The briefing paper did not mention 501(c)(5) or (c)(6) organizations, even though they had been part of the initial audit planning.

On June 22, 2012, the then acting head of the TIGTA Office of Audit, Michael McKenney, issued the official engagement letter for the 501(c)(4) audit.[826] The two-page engagement letter stated that the audit's "overall objective" was "to assess the Internal Revenue Service (IRS) Exempt Organizations function's consistency in the identification and review of applications for tax-exempt status involving political advocacy issues."[827] The engagement letter also stated: "Several accusations of inconsistent treatment towards conservative groups have been made."[828] By focusing on "consistency" and "inconsistent treatment towards conservative groups," the engagement letter seemed to indicate that the audit would focus on how conservative groups were treated compared to non-conservative groups, although it contained no explicit direction to gather comparative data.

In July 2012, according to TIGTA's official audit log, the auditors held an "opening conference" with IRS officials to outline the steps the Office of Audit planned to take to complete the audit.[829] By then, however, the TIGTA auditors had already conducted a site visit, obtained key documents, and identified the key issues of concern.

---

[825] 5/30/2012 "Process for Reviewing Applications for Tax Exemption," TIGTA Office of Audit Briefing Paper, TIGTA Bates No. 006651 - 652. See also "TIGTA OA: Process for Reviewing Applications for Tax Exemption," TIGTA Audit Log, PSI-TIGTA 05-000909 - 949, at 913.
[826] 6/22/2012 memorandum from Michael McKenney to TIGTA Acting Commissioner, Tax Exempt and Government Entities Division, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status involving Political Advocacy Issues (Audit # 201210022)," IRSR0000444445 - 447.
[827] Id. at 445.
[828] Id.
[829] See "TIGTA OA: Process for Reviewing Applications for Tax Exemption," TIGTA Audit Log, PSI-TIGTA 05-000909 - 949, at 920.

(3) Collecting and Analyzing Information

For a one-year period, from May 2012 until May 2013, the TIGTA auditors collected and analyzed information in connection with the 501(c) audit.[830] Among other steps, the auditors obtained from the IRS a list of 298 501(c)(4) applications that had been referred for heightened scrutiny over a two-year period, reviewed two groups of closed 501(c)(4) cases to determine whether they should have been referred for heightened scrutiny, conducted multiple interviews of IRS personnel, and submitted written questions to the IRS. Throughout the audit period, IRS personnel repeatedly pointed out to the TIGTA auditors that the Exempt Organizations Determinations (EOD) Unit subjected both conservative and liberal groups to heightened review, and did not single out Tea Party organizations, but the TIGTA auditors failed to provide any audit analysis focused on how the IRS processed applications filed by non-conservative groups.

Analysis of 298 Cases. An early step taken by the TIGTA audit team during the audit period was to ask the IRS for a list of all of the advocacy cases that were subjected to heightened scrutiny by EOD determinations specialists over the prior two years. On June 1, 2012, TIGTA lead auditor Cheryl Medina sent an email to Determinations Unit head Cindy Thomas requesting "an updated copy of the advocacy case tracking sheet used by the advocacy team."[831] In response, the IRS supplied a list of 298 advocacy cases with 501(c)(4) and (c)(3) applications that had been flagged under the "Emerging Issues" section of the BOLO as of May 2012.[832] At other times, as indicated above and below, IRS personnel asked the TIGTA auditors also to consider cases involving liberal groups, such as the ACORN successor and Occupy groups, but TIGTA failed to do so, and the IRS did not supply a list of those additional advocacy cases.

TIGTA examined all 298 cases on the Emerging Issues list to determine their status as open or closed, and how long each case took to be processed. In addition, of those 298 cases, TIGTA determined that 96, or about one-third of the cases, involved applications filed by

---

[830] See 5/14/2013 TIGTA Audit Report, at 4.

[831] 6/1/2012 email from Cheryl Medina to Cindy Thomas, "TIGTA request –updated case data," TIGTA Bates No. 011102 - 103.

[832] 6/11/2012 email from Holly Paz to Cheryl Medina, "TIGTA request – updated case data," TIGTA Bates No. 011102 - 103. TIGTA was unable to review two of the 298 cases due to incomplete documentation in the case files. See 5/14/2013 TIGTA Audit Report, at 10, footnote 27. TIGTA later disclosed that 89 of the 298 cases, or nearly one-third, involved 501(c)(3) rather than (c)(4) applications, which was significant since 501(c)(3) groups are not allowed to engage in any substantial campaign activities and their applications would have been denied on that basis. See testimony of J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014 (6/3/2013), 219-284, at 262-263.

organizations with "Tea Party," "9-12," or "Patriot" in their names.[833] The audit report did not categorize or characterize the remaining 202 cases, however, explain how they were selected, or acknowledge that they included non-conservative groups. When asked why, Mr. Paterson told the Subcommittee that TIGTA concentrated on the cases that were flagged using what looked to be inappropriate selection criteria using the three names, and did not characterize the other 200 cases.[834] Mr. Seidell told the Subcommittee that the auditors were uncertain why the other cases had been flagged for heightened scrutiny, couldn't tell much from their names, and so did not analyze them, other than to determine their status and how long each case took to be processed.[835] At a hearing, Inspector General George said that the "vast majority of the other organizations" had names that "were so innocuous that we did not deem it possible to determine whether or not they were conservative groups, or whether or not they were groups that might be on the other side of the political spectrum."[836]

Six months later, when drafting the audit report, two senior TIGTA officials noted the audit team's lack of knowledge about why the category of 298 advocacy cases included 202 groups that did not have "Tea Party," "9-12," or "Patriot" in their names. In an internal draft of the audit report, TIGTA Assistant Inspector General Gregory Kutz wrote a comment that the team needed "to discuss whether the other 200 (100 tea party/9/12/patriot) and other 200 – how the 'other 200' were selected?"[837] TIGTA audit director Troy Paterson responded:

> "We do not know. Either the IRS was using 'Tea Party' as shorthand and selecting any organization that was involved in political campaign intervention or the other 200 had something to

---

[833] See 5/14/2013 TIGTA Audit Report, at 8. At a hearing, TIGTA also disclosed that, of those 96 cases, "[t]here were 72 Tea Party groups, there were 13 groups identified under the Patriot category, and there were 11 that were identified under the 9/12 category." Testimony of J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014 (6/3/2013), 219-284, at 264.

[834] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[835] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). See also 1/31/2013 email from Lois Lerner to Troy Paterson, "Follow-Up," IRSR0000466814 - 815, at 815 (noting the TIGTA auditors were aware of and had "acknowledged that there are both conservative and liberal organizations on the list of advocacy cases"). The TIGTA Audit Report contained no specific information about the other 202 cases, and no acknowledgement that they included potentially liberal groups as well as conservative groups. See 5/14/2013 TIGTA Audit Report.

[836] Testimony of J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014 (6/3/2013) 219-284, at 263.

[837] Undated TIGTA draft of the audit report, "Ineffective Oversight Resulted in Delayed Processing of Tax-Exempt Applications DRAFT," prepared by TIGTA, PSI-TIGTA-06-000686 - 754, at 702.

> do with the 'values' in the criteria. We could not determine either way."[838]

This exchange indicates that, after spending nearly a year on the audit, two of the senior TIGTA officials realized the IRS was using "Tea Party" as "shorthand" for a broader category of groups, but still had no clear idea why many of those other groups had been selected for heightened scrutiny.

The final version of the audit report explicitly acknowledged that IRS personnel used the "Tea Party" phrase as "shorthand" for a broader category of cases.[839] The report also observed that, according to the IRS, "the fact that the team of specialists worked applications that did not involve the Tea Party, Patriots, or 9/12 groups demonstrated that the IRS was not politically biased in its identification of applications for processing by the team of specialists."[840] The TIGTA audit team did not take the next step, however, and present an analysis of the remaining 202 cases, explain how they were selected, or acknowledge that they likely included liberal groups.

A later outside analysis shed more light on the composition of the 298 advocacy cases. In May 2013, the IRS released a list of 176 501(c)(4) organizations that had been approved for tax exempt status since 2010.[841] Tax Analysts, a publication specializing in tax issues, reasoned that, given the time period covered and number of groups included, the list of 176 organizations likely substantially overlapped with the list of 298 cases analyzed by TIGTA.[842] Tax Analysts then analyzed the 176 groups and concluded that, while most involved conservative groups, nearly one third did not.[843] It found that, of the 176

---

[838] Id. at 702.

[839] See, e.g., 5/14/2013 TIGTA Audit Report, at 7 ("Determinations Unit employees stated that they considered the Tea Party criterion as a shorthand term for all potential political cases.").

[840] Id. at 8.

[841] 5/15/2013 "Approved Tax-Exempt Applications For Advocacy Organizations through May 9, 2013," prepared by IRS, http://www.irs.gov/PUP/newsroom/Approved%20Tax%20Exempt%20Applications%20For%20Advocacy%20Organizations%20through%20May%209%202013.pdf. The IRS has interpreted the law as allowing it to release the names of 501(c) applicants that have been approved for tax exempt status, but not the names of those denied tax exemption. For that reason, the IRS has never released the names of all of the 298 groups reviewed by the IRS from May 2010 to May 2012, since some of them may have been denied tax exempt status or are still pending resolution.

[842] See 5/30/2013 "Substantial Minority of Scrutinized EOs Were Not Conservative," Tax Analysts, Martin Sullivan, http://www.taxanalysts.com/www/features.nsf/Articles/D2A6C735EAFA7A9085257B7B004C0D90?OpenDocument ("Because the IRS is prohibited by law from releasing information on applications either denied or not yet approved, we will probably never know the political persuasions of all of the 298 advocacy cases selected for extra scrutiny and of the additional 170 or so applications selected since then. We can, however, try to assess the political persuasion of the 176 approved organizations that the IRS identified on May 15.").

[843] Id. ("[T]he list suggests that the majority of groups selected for extra scrutiny probably matched the political criteria the IRS used and backed conservative causes, the Tea Party, or

groups, only 46 had Tea Party, Patriot, or 9/12 in their names; 76 were associated with other conservative organizations; 48 were non-conservative – including liberal – organizations; and 6 were organizations about which no determination could be made.[844] The analysis also showed that the IRS had granted tax exempt status to groups across the political spectrum.[845] Had TIGTA done a similar analysis as part of its audit, the audit would have found that the IRS had not singled out only conservative groups for heightened scrutiny.

In addition, had TIGTA researched the issue, it might have determined that the list of 298 cases contained more conservative than liberal groups, not because conservative groups were being singled out, but because during the relevant time period, more conservative 501(c)(3) and 501(c)(4) organizations were being formed and applying for tax exempt status. The list of 176 organizations released by the IRS showed that twice as many conservative organizations as non-conservative organizations obtained tax exempt status from 2010 to May 2013.[846] A later analysis by the House Committee on Ways and Means determined that, of the 298 cases provided to TIGTA, by September 2013, 111 "right-leaning" groups had received tax exempt status, while only 20 "left-leaning" groups did, meaning more than five times as many conservative as liberal groups had gained tax exemption.[847] Rather than demonstrate IRS favoritism of conservative groups, however, those disparate numbers likely reflect the fact that many more conservative than liberal groups had requested tax exempt status.

---

limited government generally. But a substantial minority – almost one-third of the subset – did not fit that description.").

[844] Id. TIGTA later acknowledged that six of the 298 cases subjected to heightened scrutiny by the IRS had the word "progress" or "progressive" in their names. See 6/26/2013 letter from TIGTA to Congressman Sander Levin, at 1-2, http://online.wsj.com/public/resources/documents/TIGTAFinalResponseToRepLevin06262013.pdf. TIGTA justified ignoring those cases in its analysis, by asserting that the audit did not find evidence that the term "Progressives," was actually used by the IRS to select cases for heightened review during the 2010 to 2012 timeframe, even though the term was included in the BOLOs and groups with "progress or "progressive" in their names were included in the 298 cases. Id. TIGTA admitted that it "did not audit" the Progressives entry to determine how that entry was developed, whether it included inappropriate criteria, or whether the affected groups were subjected to the same delays and intrusive questioning as the conservative groups. Id.

[845] See 5/30/2013 "Substantial Minority of Scrutinized EOs Were Not Conservative," Tax Analysts, Martin Sullivan.

[846] Id.

[847] See Opening Statement of Congressman Charles Boustany, "Internal Revenue Service's Exempt Organizations Division," hearing before House Committee on Ways and Means (9/18/2013), http://waysandmeans.house.gov/news/ documentsingle.aspx?DocumentID=350126; chart entitled, "Review of Applications Subject to Inappropriate Scrutiny (May 2010-May 31, 2012)," prepared by the House Committee on Ways and Means Majority Staff, reprinted at House Republicans website, "Accountability: Investigation of the IRS," section entitled, "House Committee on Ways and Means," under "Reports," through link entitled, "Committee on Ways and Means Majority Staff Statistical Overview – 'IRS Targeting By the Numbers' Slideshow," http://www.gop.gov/solution_content/irs-investigation/.

In addition to the data on the groups that obtained tax exempt status, several IRS employees told the Subcommittee that the IRS saw a surge in applications from conservative groups from 2010 to 2013.[848] Spending data in FEC filings showing that, in 2010 and 2012, conservative groups spent almost ten times as much as liberal groups, also suggest conservative groups may have outnumbered their liberal counterparts during that time period.[849] In addition, media reports depicted conservative groups as the leaders in the 501(c)(4) area at the time, with liberal groups working to catch up.[850] TIGTA did not, however, look into whether more conservative groups versus liberal groups had filed applications with the IRS.[851]

It is difficult to understand why TIGTA did not, when it was provided with a list of 298 cases, create a randomly selected, statistically valid subset containing both conservative and non-conservative groups, which it could have then used to develop comparative data on how the two groups were handled by the IRS. TIGTA could have used those cases to meet the stated audit objective of determining whether "conservative groups" experienced "inconsistent treatment." Instead, TIGTA failed to analyze IRS treatment of any non-conservative cases.

Statistical Analysis of Closed Cases. TIGTA also conducted an analysis of two sets of closed 501(c)(4) cases to test whether the IRS had accurately identified applications with "indications of significant political campaign intervention" that should have been subjected to heightened review.[852] TIGTA found that the IRS should have but failed to identify 2 out of 94 cases in one statistical sample and 14 out of 244

---

[848] Subcommittee interviews of Holly Paz, IRS (10/30/2013) and Judith Kindell, IRS (11/5/2013).

[849] An analysis conducted by the Center for Responsive Politics found, for example, that in 2010, conservative 501(c)(4) spending was $115.2 million (88.1%), liberal 501(c)(4) spending was $10.7 million (8.2%) and "other" spending was $4.8 million (3.6%). In 2012, the Center determined that conservative 501(c)(4) spending was $265.2 million (85.3%), liberal spending was $34.7 million (11.2%) and "other" spending was $10.9 million (3.5%). "2010 Outside Spending, by Group," and "2012 Outside Spending, by Group," Center for Responsive Politics, http://www.opensecrets.org/outsidespending/summ.php?cycle=2010&chrt=V&disp=O&type=U, http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chrt=V&disp=O&type=U

[850] See, e.g., 11/6/2013 "Secret Persuasion: How Big Campaign Donors Stay Anonymous," National Public Radio, Peter Overby, Viveca Novak and Robert Maguire, http://www.npr.org/2013/11/06/243022966/secret-persuasion-how-big-campaign-donors-stay-anonymous ("So far, conservatives have predominated in social welfare politics. In the 2012 federal campaigns, 20 groups on the right ran up a million dollars or more in disclosed spending, compared with seven on the left. Now liberals are working to catch up.").

[851] Tax Analysts has observed: "[I]f there were a surge in the creation of potentially political conservative organizations in the last few years (that was disproportionate to the creation of nonconservative organizations), more conservative groups would be targeted than nonconservative groups even if there were no political bias among IRS officials." 5/30/2013 "Substantial Minority of Scrutinized EOs Were Not Conservative," Tax Analysts, Martin Sullivan, http://www.taxanalysts.com/www/features.nsf/Articles/D2A6C735EAFA7A9085257B7B004C0D90? OpenDocument.

[852] 5/14/2013 TIGTA Audit Report, at 9.

cases in a second sample as cases warranting heightened scrutiny, while noting that none of the cases that avoided scrutiny involved groups with the words "Tea Party," "9/12," or "Patriot" in their names.[853] The audit report also determined that 91 out of the 298 advocacy cases, about one-third, that had been subjected to heightened scrutiny by the IRS should not have been, because, in TIGTA's view, their application materials did not contain "indications of significant political campaign intervention."[854] Of those 91 cases, the audit report noted that 17 "involved Tea Party, Patriots, or 9/12 organizations," which meant that 74 of the cases did not.

The report did not explain how TIGTA determined which applications contained or did not contain evidence of "significant political campaign intervention," in light of the facts and circumstances test requiring activities to be evaluated on a fact-intensive, case-by-case basis. In January 2013, EO head Lois Lerner sent an email to TIGTA challenging TIGTA's methodology and legal analysis of cases that allegedly did not require heightened scrutiny, explaining:

> "Because the legal analysis of whether specific advocacy is political intervention requires analyzing all the facts and circumstances surround that advocacy in light of the formal guidance provided in this area, we included all organizations indicating they were engaged in potentially problematic advocacy, so that they would be worked by specialists who have a better understanding of the facts and circumstances to be considered, and who would be able to analyze the cases in a consistent manner."[855]

---

[853] Id. at 8, 9, footnotes 21 and 23. In its audit report and in a later letter to Ways and Means Ranking Member Sander Levin, TIGTA asserted that all groups with "Tea Party," "9/12," or "Patriot" in their names were subjected to heightened IRS review. See TIGTA Audit Report, at 8; 6/26/2013 letter from TIGTA to Congressman Sander Levin, at 2, http://online.wsj.com/public/resources/documents/TIGTAFinalResponseToRepLevin06262013.pdf ("[O]ur audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit."). Those assertions, however, were incorrect. A subsequent analysis by the IRS Chief Risk Officer identified a dozen instances in which groups with the words "Tea Party," "9/12" or "Patriot" were not referred to an IRS specialist for heightened review, including two groups with "Tea Party" in their names, three groups with "9/12," "9-12," "9 12," or "912" in their names, and seven groups with "patriot" in their names. See 6/11/2012 "PA6.ee EDS 501c4 Case Universe Open and Closed," prepared by IRS Chief Risk Officer David Fisher, PSI-IRS-37-000004 - 014. In a later letter to Congressman Levin, TIGTA justified its earlier assertion by explaining: "100 percent of the Section 501(c)(4) tax-exempt applications in our *statistical samples* with the words 'Tea Party,' 'Patriots,' or '9/12' in their names were processed as potential political cases." 7/19/2013 letter from TIGTA to Congressman Sander Levin, at 2 (emphasis in original), http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/TIGTA%20Response%20Letter%20to%20the%20Honorable%20Sander%20Levin%207-19-13.pdf.

[854] Id. at 10.

[855] 1/14/2013 email from Lois Lerner to Troy Paterson, with copies to Holly Paz and Dawn Marx, "Advocacy discussion," IRSR0000441700 - 701.

The next day, Mr. Paterson responded that, to facilitate the discussion of the cases, he was forwarding the criteria used by the audit team to analyze whether the closed cases should have been treated as advocacy cases and subjected to heightened scrutiny.[856] According to the TIGTA auditors, to analyze the closed cases, they had gone through the hard copy file for each application as well as any supporting documentation.[857] In his email, Mr. Paterson provided what appeared to be essentially a checklist of nine factors that the audit team had taken into consideration when evaluating a group's application materials. Most posed factual questions, such as whether or not a particular activity, such as a voter drive, voter guide, or candidate forum, had failed to state that it was nonpartisan; whether the group's funds had been commingled with funds from a political organization; and whether the group had answered certain tax return or application questions with a "yes," "no," or a blank. The ninth and final factor was whether the audit team had determined that the group had engaged in "[a]ny political campaign activity that totals 35 percent or more," with no further explanation of how specific activity was identified as campaign related or how expenditures were determined.[858] If at the end of the review of each case, the auditors could not determine how the IRS had decided that the application presented indications of "significant political campaign intervention," the auditors concluded it had not been properly forwarded to IRS personnel for enhanced scrutiny.

Neither the TIGTA email nor audit report acknowledged that, under IRS regulations, finding "significant political campaign intervention" was a complex determination that did not permit the decisionmaker to use a checklist of objective factors. Nevertheless, using its own checklist criteria, the TIGTA Audit Report concluded that the IRS had made a number of incorrect decisions on which applications should have been subjected to enhanced scrutiny, while noting IRS disagreement with its analysis.[859] The audit report did not offer any comparative analysis of how the IRS treated the 17 "Tea Party, Patriots, or 9/12 organizations" that the audit team concluded should not have been subjected to heightened review versus the 74 other organizations that were also, in TIGTA's view, incorrectly selected for heightened review. Nor did the audit report acknowledge or offer any explanation of why four times as many groups were allegedly incorrectly subjected to heightened scrutiny by the IRS compared to groups with "Tea Party, Patriots, or 9/12" in their names.

---

[856] 1/15/2013 email from Troy Paterson to Lois Lerner, "TIGTA Case Review Criteria," IRSR0000354397. See also Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).
[857] Subcommittee interviews of Troy Paterson, TIGTA (3/21/2014) and Thomas Seidell, TIGTA (3/19/2014).
[858] 1/15/2013 email from Troy Paterson to Lois Lerner, "TIGTA Case Review Criteria," IRSR0000354397.
[859] 5/14/2013 TIGTA Audit Report, at 10.

TIGTA Interviews of IRS Personnel. In addition to its statistical analyses, in July and August 2012, TIGTA auditors interviewed a number of IRS employees in both Cincinnati and Washington, regarding why the BOLO entries had been changed over time, how 501(c)(4) cases were selected for heightened review, and whether political bias at the IRS had motivated its decisionmaking with respect to Tea Party cases.[860] During the course of those interviews, several IRS employees told the TIGTA auditors that the BOLOs sought to identify all types of advocacy groups suspected of involvement with campaign activity, not just Tea Party groups. For example, in his interview with TIGTA auditors, Stephen Seok, who became the advocacy case coordinator in late 2011, pointed out that the BOLO identifying advocacy groups contained both Tea Party groups and Occupy organizations, which were liberal groups.[861] The head of the Rulings and Agreements Unit Holly Paz told the Subcommittee that, on several occasions, she told TIGTA auditors Thomas Seidell and Cheryl Medina that ACORN and other liberal groups were also subjected to specialist reviews.[862] Both Ms. Paz and EOT specialist Judith Kindell told the Subcommittee that during the course of the audit, TIGTA auditors even acknowledged that the cases contained both conservative and liberal organizations.[863]

According to Ms. Paz, she asked the TIGTA auditors outright whether they would be reporting that liberal groups and organizations with all kinds of political leanings were subjected to heightened scrutiny by IRS personnel, and was told by the auditors that wasn't the focus of the audit and that the auditors were not in a position to determine what

---

[860] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). See also handwritten notes and typed transcripts of TIGTA interviews conducted on various dates during July and August 2012, IRSR0000168024 – 054, including TIGTA interviews of Carter Hull (7/30/2012), PSI-TIGTA-03-000666-667; Michael Seto (7/30/2012), PSI-TIGTA-03-000668; Justin Lowe (7/30/2012), PSI-TIGTA-03-000669; Nancy Marks (7/31/2012), PSI-TIGTA-03-000673-677; Holly Paz (7/31/2012), PSI-TIGTA-03-000678-681; Steven Grodnitzky (7/31/2012), PSI-TIGTA-03-000683; Sharon Light (7/31/2012), PSI-TIGTA-03-000685-686; Judith Kindell (7/31/2012), PSI-TIGTA-03-000687-688; Ron Shoemaker (7/31/2012), PSI-TIGTA-03-000689; Hilary Goehausen (7/31/2012), PSI-TIGTA-03-000690; John Shafer (8/6/2012 and 8/7/2012), PSI-TIGTA-03-000691-692; Elizabeth Hofacre (8/6/2012), PSI-TIGTA-03-000693-694; Joseph Herr (8/6/2012), PSI-TIGTA-03-000695-696; Steven Bowling (8/7/2012), PSI-TIGTA-03-000699-700; Ronald Bell (8/7/2012), PSI-TIGTA-03-000701-702; Tyler Chumney (8/7/2012), PSI-TIGTA-03-000703-704; Cindy Thomas (8/7/2012), PSI-TIGTA-03-000705-707; and Gary Muthert (8/15/2012), PSI-TIGTA-03-000710-711.

[861] See 8/9/2012 "Memo of Contact" prepared by Cheryl Medina, TIGTA, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," PSI-TIGTA-05-000002 - 003, at 003 (summarizing Seok interview: "He had input to the January 2012 BOLO criteria change. It was discussed during a meeting. The BOLO changes as issues arise during case reviews. Other types of cases may be identified as participating in political activities. For example, it started with Tea Party cases, but eventually included Occupy cases.").

[862] Subcommittee interview of Holly Paz, IRS (10/30/13).

[863] Subcommittee interviews of Holly Paz, IRS (10/30/2013) and Judith Kindell, IRS (11/5/2013). See also 1/31/2013 email from Lois Lerner to Troy Paterson, "Follow-Up," IRSR0000466813 - 815, at 815 (noting TIGTA auditors "have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases").

groups were conservative or liberal.[864] Mr. Seidell told the Subcommittee that he recalled discussing liberal groups with Ms. Paz, but did not recall specifically what was discussed.[865]

During its interviews, the TIGTA auditors did not inquire into the political leanings of the IRS personnel and so failed to discover that self-declared Republicans played key roles in the review of Tea Party and other advocacy cases. For example, the manager of the IRS screening group in Cincinnati that conducted the initial screenings of 501(c)(4) applications was a self-described "conservative Republican" who said there was no bias in the IRS treatment of Tea Party cases.[866] The senior IRS screener who took the lead role in identifying applications filed by Tea Party and other conservative groups described himself as aligned politically with the Tea Party.[867] The EO Technical Unit attorney who conducted a 2011 assessment of the advocacy cases was a registered Republican.[868] Still another IRS attorney in the Chief Counsel's office told the Subcommittee there was no reason to believe one side was being singled out over the other because, from 2010 to 2013, he was asked to work on seven 501(c) cases, and four involved groups associated with the Democratic party.[869]

Another Set of BOLOs. During July and August 2012, Ms. Paz sent TIGTA additional copies of the BOLOs used by the EOD to flag applications for heightened scrutiny, from the earliest BOLO in August 2010, through the latest in July 2012.[870] As mentioned earlier, those BOLOs included entries for not only Tea Party organizations, but also progressive, ACORN, and Occupy groups, offering concrete evidence

---

[864] Subcommittee interview of Holly Paz, IRS (10/30/2013). See also TIGTA interview of Holly Paz (7/31/2012), PSI-TIGTA-03-000678.

[865] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).

[866] Transcript of 6/6/2013 interview of John Shafer, IRS, by House Committee on Oversight and Government Reform, at 28, http://democrats.oversight.house.gov/images/user_images/gt/stories/IRS_Screening_Manager_Part_1.pdf. See also Subcommittee interview of John Shafer, IRS (1/17/2014).

[867] Subcommittee interview of Gary Muthert, IRS (1/15/2014).

[868] See transcript of 7/2/2013 interview of Hilary Goehausen, IRS, by House Committee on Ways and Means and House Committee on Oversight and Government Reform, http://democrats.waysandmeans.house.gov/press-release/gop-leaked-document-undermines-its-case-and-highlights-lack-irs-political-motivation. Ms. Goehausen's testimony was as follows:

Q: Do you have a party affiliation when you're voting, registration?
A: Yes.
Q: What is your party affiliation?
A: Republican Party.

[869] Subcommittee interview of Donald Spellman, IRS (12/18/2013).

[870] See 7/23/2012 email from Holly Paz to Thomas Seidell and Cheryl Medina, "TIGTA Document Request," IRSR0000066973 (providing BOLOs with ACORN and Occupy entries at IRSR0000066977 - 981); 8/8/2012 email from Holly Paz to Thomas Seidell and Cheryl Medina, "Watch List Alerts," IRSR0000014013 (supplying August 2010 BOLO with Tea Party and Progressive entries at IRSR0000014014 - 028, 016, 018, 021). See also 8/8/2012 emails from Holly Paz to Thomas Seidell and Cheryl Medina, "BOLO Alerts," TIGTA Bates No. 010609 - 611 (noting BOLO spreadsheets dated 6/16/2012, 6/25/2012, 7/10/2012, 07/11/2012, 08/12/2010, and 12/13/2010 were supplied to TIGTA).

that the IRS was using screening criteria to flag both conservative and liberal groups. TIGTA officials later claimed the IRS had not alerted its audit team to the BOLO entries for liberal groups included in those lists, but even a cursory review of the BOLOs would have provided notice of those entries.

On July 23, 2012, TIGTA audit director Troy Paterson forwarded his audit team a press article recounting how a "watchdog" group was urging TIGTA to investigate two ACORN successor groups in Texas,[871] demonstrating again the auditors' awareness of issues related to liberal groups filing 501(c)(4) applications. The next day, July 24, 2012, Ms. Paz forwarded to the audit team an email she had written two months earlier, in May 2012, showing that she had insisted on the use of generic language in the BOLO entry to identify advocacy cases and that the generic entry was intended to include both conservative and liberal groups, referring to ACORN successor and Occupy groups by name.[872] Her email again provided the audit team with documentary evidence that the EOD was flagging applications filed by both conservative and liberal groups, and again attempted to draw their attention to the BOLO entries for liberal groups.

Briefing New Audit Leadership. In August 2012, Gregory Kutz joined the TIGTA Audit Office as the new Assistant Inspector General for Audit handling Management Services and Exempt Organizations, replacing Russell Martin.[873] Soon after, Troy Paterson briefed Mr. Kutz on the status of the 501(c) audit. In an email to Mr. Martin, Mr. Paterson summarized his discussion with Mr. Kutz as follows:

> "Greg called me this morning to introduce himself. ... He also asked if there was anything 'big' going on that he should know about right away. I told him that the biggest thing on the horizon in our directorate had to do with a commitment we made to meet with congressional staff before September 30th on the political

---

[871] See 7/23/2012 email from Troy Paterson to Thomas Seidell, and others, "Article on Political Advocacy," TIGTA Bates No. 010433 - 434 (forwarding a copy of "Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch," a 7/19/2012 article from Fox News, http://www.foxnews.com/politics/2012/07/19/taxpayer-watchdog-calls-on-irs-to-probe-re-branded-texas-acorn-branch/). See also 5/31/2012 letter from Cause of Action to TIGTA requesting the investigation of two Texas nonprofit groups, reprinted at http://www.foxnews.com/politics/interactive/2012/07/18/cause-action-call-for-investigation-into-acorn-spin-off-texas-organizing/.

[872] 7/24/2012 email from Holly Paz, IRS, to Thomas Seidell and Cheryl Medina, TIGTA, "potential revised BOLO language," IRSR0000013981 (forwarding 5/17/2012 email from Holly Paz to Lois Lerner and others, "potential revised BOLO language," in which Ms. Paz wrote: "I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to [REDACTED BY IRS] and Occupy groups."). See also 5/17/2012 email from Holly Paz to Lois Lerner, "potential revised BOLO language," IRS0000000492 (containing an unredacted version of the Paz email which indicates the redacted words were "ACORN successors").

[873] Subcommittee interview of Greg Kutz, TIGTA, (3/26/2014). Prior to working at TIGTA, Mr. Kutz had been a long time auditor at the Government Accountability Office. Id.

> advocacy applications job. I gave him some background on the job and suggested that we would need to get together and determine the timing of the briefing and what we would like to discuss. He agreed that this would be something we would need to plan in advance due to the political sensitivity of the issue and the fact that we are in fieldwork."[874]

In September 2012, the TIGTA auditors met with Mr. Kutz to discuss the audit and a plan to issue an interim report.[875] The meeting participants were Mr. Kutz and audit team members Troy Paterson, Thomas Seidell, Cheryl Medina, Michael McGovern, and Evan Close.[876] Among other issues, the meeting discussed whether the interim report should include information on liberal groups as well as Tea Party organizations in its analysis. A meeting summary described the discussion as follows:

> "Director Paterson mentioned the interim report we plan on issuing. It would include information on whether the IRS targeted Tea Party organizations, whether more liberal organizations were referred to the advocacy group. A discussion on how to word issues in the report was had. It was decided we need to state the facts – other organizations with political campaign intervention issues were not sent to the advocacy group (objective IIIA and IIIB). We cannot definitively identify liberal vs. conservative organizations, so we want to stay away from using 'heated' jargon."[877]

This meeting summary indicates that the TIGTA auditors were not only aware of, but also discussed, the issue of whether liberal groups were being referred to the advocacy group for heightened review. The summary also suggests that the auditors may have decided not to discuss liberal groups in the audit report, to avoid having to label certain groups as liberal or conservative.

In October 2012, Mr. Kutz wrote directly to the TIGTA Inspector General about the sensitivity of the ongoing audit. He wrote: "[G]iven the highly sensitive nature of this ongoing audit (politically active non-profits) a more in depth discussion would be useful for you."[878]

---

[874] 8/14/2012 email from Troy Paterson to Russell Martin, "Discussion with Greg," TIGTA Bates No. 010710. Mr. Paterson told the Subcommittee that the September briefing of Congressional staff was later cancelled. Subcommittee interview of Troy Paterson (3/21/2014).
[875] See 9/25/2012 "Memo of Contact," prepared by TIGTA , "Consistency in Identifying and Reviewing Applications for Tax-exempt Status Involving Political Advocacy Cases," TIGTA Bates No. 003084 - 085.
[876] Id.
[877] Id. at 085.
[878] 10/23/2012 email from Gregory Kutz to Russell George, "Greetings to you from Emilia," TIGTA Bates No. 016007. Mr. Kutz told the Subcommittee that he and Mr. Paterson personally

Written Questions and Answers. In November 2012, EO head Lois Lerner provided written responses to questions posed by the TIGTA auditors.[879] In response to a question about why the BOLO entries had been changed over time, Ms. Lerner explained what happened, while also reminding the TIGTA auditors once more that the BOLO lists had included entries for liberal groups as well as conservative groups: "The separate entries for Occupy groups and ACORN successors were deleted and the advocacy organization description was revised ...."[880] She also wrote:

> "In addition, in light of the diversity of applications selected under this 'tea party' label (e.g., some had 'tea party' in their name but others did not, some stated that they were affiliated with the 'tea party' movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases."[881]

Ms. Lerner asked TIGTA to include that information in the audit report, but TIGTA declined.[882]

TIGTA Failure to Examine Liberal Groups. During the audit period, TIGTA auditors were repeatedly exposed to issues related to whether liberal groups, such as the Progressive, ACORN, and Occupy organizations, were subjected to the same heightened scrutiny as Tea Party and other conservative groups. The TIGTA auditors failed, however, to examine any BOLO entry that named a group other than the one that named the Tea Party.[883] The TIGTA auditors also failed to acknowledge that groups in the 298 cases with "Progressive" or "Progress" in their names were subjected to inappropriate selection criteria and other improper treatment.

When asked why, the TIGTA auditors offered a number of reasons. The TIGTA audit director, Troy Paterson, told the Subcommittee that the auditors did not actually make a decision not to analyze the progressive, ACORN, and Occupy BOLO entries, but

---

briefed the Inspector General about the audit in January 2013. Subcommittee interviews of Gregory Kutz (3/26/2014) and Troy Paterson (3/21/2014).

[879] See 11/2/2012 email from Lois Lerner to Troy Paterson, "Responses," IRSR0000013545 - 565.

[880] Id. at 548.

[881] Id. at 547. See also Audit Log, prepared by TIGTA, PSI-TIGTA-05-000909 - 949, at 934 (entry dated 11/9/2012 noting receipt of the same information).

[882] Ms. Lerner proposed including the identical sentence she had written in the timeline prepared for the TIGTA audit report, but TIGTA chose not to include it. See comments by EO Director Lois Lerner on a draft timeline supplied by TIGTA, PSI_TIGTA-03-000081 - 098, at 089.

[883] See TIGTA Audit Report, at 6, footnote 16 ("We did not review the use of other named organizations on the BOLO listing to determine if their use was appropriate."). The footnote did not explain why.

viewed them as not relevant to the audit.[884] He did not explain, however, why BOLO entries with overtly political search terms were seen as irrelevant to an audit designed to "assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues."[885]

The BOLO entry for "progressive" organizations urged EOD personnel to be on the lookout for groups with "progressive political activities" that "appear to lean towards a new political party. Activities are partisan and appear anti-Republican. You see references to 'blue' as being 'progressive.'"[886] The BOLO entry for Occupy groups urged EOD personnel to be on the lookout for groups claiming "social injustices due to 'big money' influence" or concerns that "the democratic process is controlled by wall street/banks/multinational corporations."[887] While the IRS redacted most of the wording of the BOLO entry for ACORN successor groups, a 2010 email indicated that EOD personnel were looking for groups called "Neighborhoods for Social Justice" or "Communities Organizing for Change," as well as groups advocating for "Voter Mobilization of the Low-Income/ Disenfranchised" or "Housing Justice for the poor."[888] IRS personnel repeatedly urged the audit team to examine those BOLO entries, since they would have helped demonstrate that the IRS was not unfairly singling out conservative groups, but TIGTA failed to do so.

Several of the TIGTA auditors told the Subcommittee staff that the audit team had simply examined the BOLO entries that the IRS advised them to examine.[889] That explanation ignores the evidence cited above,

---

[884] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[885] 6/22/2012 memorandum from Michael McKenney, TIGTA Office of Audit, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status involving Political Advocacy Issues (Audit # 201210022)," IRSR0000444445 - 447, at 445 (providing the official "engagement letter" for the audit).

[886] 2010 August BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196; August 2010 BOLO spreadsheet, prepared by the IRS, IRS0000002503 - 515.

[887] February 2012 BOLO spreadsheet, prepared by the IRS, IRSR0000006705 -719, at 710 (The BOLO Watch List entry for Occupy organizations read in its entirety: "Occupy Organizations involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to 'big money' influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.").

[888] 10/7/2010 email from Jon Waddell to Steven Bowling and Sharon Camarillo, "BOLO Tab Update," IRSR0000410433 (The BOLO Watch list entry for ACORN successor groups was described as including these selection criteria:

1. "The name(s) Neighborhoods for Social Justice or Communities Organizing for Change.
2. Activities that mention Voter Mobilization of the Low-Income/Disenfranchised.
3. Advocating for Legislation to Provide for Economic, Healthcare, and Housing Justice for the poor.
4. Educating Public Policy Makers (i.e. Politicians) on the above subjects.").

[889] Subcommittee interviews of Gregory Kutz, TIGTA (3/26/14); Thomas Seidell, TIGTA (3/19/2014); and Troy Paterson, TIGTA (3/21/2014).

however, showing that the IRS also asked the auditors to examine the BOLO entries for Progressive, Occupy, and ACORN groups. One auditor told the Subcommittee that the audit team did not look at the BOLO entries for liberal groups because no organizations had pending applications.[890] In fact, as shown earlier, applications were pending from both ACORN successor and Progressive groups during the entire period Tea Party groups were under review, and the first Occupy group application was filed in February 2012, more than one year before the release of the TIGTA audit.[891]

Two of the auditors told the Subcommittee that the Tea Party cases were the only groups with potentially problematic screening criteria used to search for additional cases.[892] But IRS screeners named liberal groups, including Progressive, ACORN and Occupy groups, in the BOLO entries just as they had named the Tea Party groups. They also used screening criteria for ACORN successor organizations which cited the groups' political positions in ways that both the TIGTA auditor director and TIGTA Chief Counsel acknowledged looked similar to the criteria used for Tea Party groups.[893] The Occupy and Progressive criteria also used phrases taken from the groups' political views. The TIGTA auditors told the Subcommittee that they had not seen the ACORN screening criteria during the audit, nor had they looked for any screening criteria other than what was used for the Tea Party groups,[894] even though one key focus of the audit had been to identify problematic screening criteria.[895]

---

[890] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).

[891] See Report section on "Handling Liberal Groups." The first ACORN case was assigned in February 2010. See 2/26/2010 email from Richie Heidenreich to Nancy Todd, "Investigation," IRSR0000458439 - 447, at 441. The first Occupy case was assigned in February 2012. See 2/29/2012 email from Steven Bowling to Stephen Seok, "BOLO case," IRSR000 00014173 - 174 (Mr. Bowling wrote: "We have our first 'occupy' type organization. We were thinking that these could be worked by the same agents working the political type cases."). See also Report section on Flagging Tea Party Groups, which shows that, from the beginning in 2010, IRS personnel urged EO screeners to look for "Progressive" groups at the same time and in the same documents used to urge them to look for Tea Party groups, and which discusses how the IRS actively flagged applications from groups with "Progressive" or "Progress" in their names and subjected them to heightened review.

[892] Subcommittee interviews of Thomas Seidell, TIGTA (3/19/2014) and Troy Paterson, TIGTA (3/21/2014).

[893] See 10/7/2010 email from Jon Waddell to Steven Bowling and Sharon Camarillo, "BOLO Tab Update," IRSR0000410433 - 434 (recommending ACORN selection criteria) cited in footnote 888 above. When asked about the ACORN criteria, TIGTA Chief Counsel Michael McCarthy said that it "looks very similar" to the Tea Party criteria. Subcommittee interview of Michael McCarthy, TIGTA (4/30/2014). See also Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[894] Subcommittee interviews of Thomas Seidell, TIGTA (3/19/2014) and Troy Paterson, TIGTA (3/21/2014).

[895] See, e.g., 7/13/2012 email from Cheryl Medina, TIGTA, to Michael McGovern, TIGTA, "case review criteria," TIGTA Bates No. 010404 ("The focus is on the bad criteria used and if it caused cases to be missed or misidentified.").

The TIGTA auditors took one year to collect and analyze information related to the IRS review of 501(c)(4) applications. They did not examine how the IRS processed applications filed by liberal organizations engaged in advocacy activities, despite being continually asked by the IRS to do so. Since the audit was designed to identify and review how the IRS handled "applications for tax-exempt status involving political advocacy issues," sought to evaluate the "consistency" of IRS actions, and was undertaken amid allegations that the IRS had unfairly targeted Tea Party groups, TIGTA's failure to obtain and examine comparative data related to how the IRS handled liberal groups is inexplicable.

(4) Looking for Political Bias

In February 2013, Assistant Inspector General Gregory Kutz in the TIGTA Office of Audit asked the TIGTA Office of Investigations to search the email of ten IRS employees in the EOD Unit to look for an email that allegedly directed IRS employees to "target" Tea Party groups. The Office of Investigations declined to conduct the search, until directed to do so by the TIGTA Inspector General who also caused Mr. Kutz to reduce the number of IRS employees subject to the email search to five individuals. After a subsequent search of over 2,200 IRS emails and other documents, the Office of Investigations concluded that the documents contained "no indication" that the pulling of the Tea Party applications for additional scrutiny by IRS personnel was "politically motivated," advising that they instead appeared to be the result of inadequate guidance on how to process the cases. That conclusion by the Office of Investigations was not mentioned in TIGTA's audit report, however, even though it was directly relevant to the issue of political bias at the IRS and was based on a documentary review of key emails.

Involving the Office of Investigations. At some point during early 2013, a TIGTA auditor was told that an email existed at the IRS directing IRS employees to "target" Tea Party organizations; the auditor passed on that information to Gregory Kutz, the Assistant Inspector General.[896] In response, Mr. Kutz took action to try to find the alleged "smoking gun" email.[897]

---

[896] Mr. Kutz told the Subcommittee that either Mr. Seidell or Mr. Paterson had been told about the email. Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014). See also 5/3/2013 email from Timothy Camus to Gregory Kutz, and others, "Review of E-mails," PSI-IRS-37-000001 (stating that the Office of Investigations had been asked to determine "[i]f an e-mail existed that directed the [IRS] staff to 'target' Tea Party and other political organizations").

[897] Both TIGTA Inspector General Russell George and Office of Investigations head Timothy Camus told the Subcommittee that Mr. Kutz had described the email as a "smoking gun" email. Subcommittee interviews of Russell George, TIGTA (4/22/2014) and Timothy Camus, TIGTA (4/7/2014). See also testimony of J. Russell George, "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before the House Committee on Oversight and Government

On February 13, 2013, Mr. Kutz sent a memorandum to Timothy Camus, head of the TIGTA Office of Investigations, the agency's law enforcement arm, asking for assistance in looking for the email.[898] He sought Mr. Camus' assistance, because the Office of Audit did not have the authority to retrieve IRS emails from the agency's servers that had not been produced to it by the IRS.[899] The memorandum provided ten names of IRS personnel and specific search terms that Mr. Kutz wanted the Office of Investigations to use to search and retrieve the IRS employee emails.[900]

Mr. Camus told the Subcommittee that he had felt "uncomfortable" conducting the type of IRS email search, retrieval, and review that Mr. Kutz wanted, describing it as a "fishing expedition."[901] Mr. Camus told the Subcommittee that, at the time, he responded to Mr. Kutz by indicating that he did not feel comfortable using law enforcement tools to search and retrieve the emails of ten IRS employees, until Mr. Kutz provided more specificity as to who wrote or received the "smoking gun" email.[902] Mr. Camus indicated that Mr. Kutz was unable to provide the name of any IRS employee who was suspected of writing or receiving the email.[903] When asked about Mr. Camus' reaction, Mr. Kutz disagreed that the request was a "fishing expedition," explaining that it was "prudent to look through emails for the reasons stated in the February referral letter."[904]

In early April 2013, Mr. Kutz set up a meeting with Inspector General Russell George and Mr. Camus to discuss his request for the Office of Investigations email review.[905] According to Mr. Camus, at

---

Reform, Serial No. 113-51, (7/18/2013), at 99 ("I was told by my staff that there was a smoking gun email.").

[898] See 2/13/2013 memorandum from Gregory Kutz to Timothy Camus, "Memorandum for Deputy Assistant Inspector General for Investigations," PSI-IRS-37-000002 - 003 (asking the Office of Investigations to "determine who at the Internal Revenue Service (IRS) EO function Determinations Unit in Cincinnati, Ohio originally developed and who authorized the policy to improperly target applications of certain organizations based on their names and political views").

[899] Subcommittee interviews of Gregory Kutz, TIGTA (3/26/2014) and Timothy Camus, TIGTA (4/7/2014).

[900] Id.

[901] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).

[902] Id.

[903] Mr. Camus told the Subcommittee that he viewed the proper course of action to be that the Office of Audit finish its pending audit and then, if an issue warranted review by the Office of Investigations, to task his office with that review. Subcommittee interview of Timothy Camus, TIGTA (4/7/2014). Mr. Camus also stated that he thought the Office of Audit could have conducted the email search itself, a point that was disputed by Mr. Kutz. Subcommittee interviews of Timothy Camus, TIGTA (4/7/2014) and Gregory Kutz, TIGTA (3/26/2014).

[904] 4/24/2014 email from TIGTA counsel to the Subcommittee, "HSGAC PSI Question," PSI-TIGTA-21-000001-002.

[905] Subcommittee interviews of Timothy Camus, TIGTA (4/7/2014) and Russell George, TIGTA (4/22/2014). Other meeting participants included Lori Creswell from the TIGTA Chief Counsel's office, Randy Silvis from the TIGTA Office of Investigations, and Michael Phillips from the TIGTA Office of Audit. Id.

the meeting, he expressed his concern about using law enforcement tools to search and retrieve IRS employee emails without the knowledge or consent of the IRS, and his hesitance to act without getting additional specificity regarding who and what to search for from Mr. Kutz.[906] Mr. Camus told the Subcommittee that Inspector General George directed the Office of Investigations to conduct the requested email review, but also brokered a "compromise" in which Mr. Kutz agreed to narrow the list of IRS employees whose emails would be searched from ten to five individuals.[907] When asked about the meeting, the TIGTA Inspector General told the Subcommittee that he did not recall a disagreement between the Office of Audit and the Office of Investigations over the matter, but did recall asking the Office of Investigations to undertake the review.[908] Mr. Camus told the Subcommittee that he was not pleased with having to conduct the review, but felt it had been narrowed so that it was "not a broad fishing expedition."[909]

Conducting the Review. Mr. Camus told the Subcommittee that he tasked one of his technical experts, James Jackson, with conducting the search, retrieval, and review of the specified emails from the five IRS employees.[910] According to Mr. Jackson, Mr. Camus instructed him to review the IRS employees' emails, using the key search terms provided by Mr. Kutz, and look for any political direction related to delaying or targeting the processing of 501(c) applications, for example, in response to direction from the White House.[911] Using Mr. Kutz's search terms of "Tea," "Patriots," "9/12," and "(c)(4)," Mr. Jackson's email search produced 5,617 total hits involving 2,277 emails and other documents.[912] Mr. Jackson told the Subcommittee that he personally reviewed all 2,277 emails and documents, but did not find a "smoking gun" email.[913] He said that, instead, he found the emails and documents demonstrated a great deal of confusion about the application process, with IRS employees "begging for guidance" as to how to determine whether organizations were engaged in campaign activity.[914]

Mr. Jackson told the Subcommittee that he found no evidence of political bias in the IRS' processing of the 501(c)(4) applications.[915] Mr. Jackson summarized his findings in a memorandum dated May 3, 2013,

---

[906] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).
[907] Id.
[908] Subcommittee interview of Russell George, TIGTA (4/22/2014).
[909] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).
[910] Id. The five individuals identified by Mr. Kutz and whose emails were reviewed by Mr. Jackson were Joseph Herr, Elizabeth Hofacre, Gary Muthert, John Shafer, and Cindy Thomas. See undated "EO Email Review," prepared by James Jackson, PSI-TIGTA-04-000015. All five of the IRS employees selected by Mr. Kutz for the email search worked in the Cincinnati office; none worked in Washington, D.C.
[911] Subcommittee interview of James Jackson, TIGTA (4/2/2014).
[912] Id.
[913] Id.
[914] Id.
[915] Id.

which he prepared after concluding his review and emailed to Mr. Camus, head of the Office of Investigations:

> "This review revealed that there was a lot of discussion between the employees identified above, as well as other EO employees on how to process 'Tea Party' and other political organization's tax exempt applications. The search also revealed that there was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the group charged with reviewing these applications was not sure how to process them, not because they wanted to stall or hinder the application process. There was no indication from this electronic mail review that the pulling of these selected applications was politically motivated. The electronic mail traffic available indicated that there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications, so they pulled them in order to ensure they were all processed in a consistent manner."[916]

Conveying the Review Results. That same day, May 3, 2013, Mr. Camus summarized the findings of the review in an email he sent to other senior TIGTA executives, Gregory Kutz, Michael McCarthy, Michael Phillips, and Michael McKenney:

> "As a result of our meeting with Russell [George] a couple of weeks ago, we agreed to pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to 'target' Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive. ... Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated. The e-mail traffic indicated there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications so they pulled them. This is a very important nuance."[917]

---

[916] 5/3/2013 memorandum from James Jackson, "Memorandum of Interview or Activity," PSI-TIGTA-18-000002 -003.

[917] 5/3/2013 email from Timothy Camus to Gregory Kutz, Michael McCarthy, Michael Phillips, and Michael McKenney, "Review of E-mails," PSI-IRS-37-000001. TIGTA Inspector General George told the Subcommittee that he did not see this email at the time it was sent, and learned

The Camus email was sent eleven days before the audit report was released to the public. According to TIGTA Inspector General George, none of the senior TIGTA managers who received the email forwarded it to him or informed him of the review's results.[918]

Excluding the Finding from the Audit Report. Although the Office of Investigations found in its review that "there was no indication that pulling these selected applications was politically motivated," addressing an issue that was central to the TIGTA audit, its finding was not included in the TIGTA audit report. When asked why, Mr. Kutz told Subcommittee that the TIGTA report had already shown there was no evidence of political bias in the application process, and the Office of Investigations had simply confirmed the audit results, so there was no need to include its finding in the report.[919]

The TIGTA audit report did not contain, however, an explicit finding that there was no political bias in the IRS application process. When the Subcommittee examined the part of the audit report which Mr. Kutz indicated already showed there was no political bias at the IRS in the application process, it consisted of a description by TIGTA of statements made by IRS employees regarding the absence of political bias, rather than an analysis or statement by TIGTA itself concluding that no political bias had been present.[920]

When asked about the issue in Congressional hearings, TIGTA Inspector General George repeatedly testified that the audit had found no evidence of political bias at the IRS.[921] At the same time, he cited little or no evidence to support that conclusion. Had TIGTA included the TIGTA Office of Investigations finding in the audit report, it would have included information directly relevant to the audit and provided

---

of the Office of Investigation's finding for the first time when the email was made public by a Member of Congress. Subcommittee interview of Russell George, TIGTA (4/22/2014).

[918] Subcommittee interview of Russell George (4/22/2014).

[919] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014). See also testimony of Mr. Kutz, "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013), at 102 ("[W]e were told that what they found validated the facts in our report, and we thought that made us feel good that our report was accurate. And we didn't say something in addition to what we already said, because we'd already said what he found.").

[920] Mr. Kutz referred the Subcommittee to the following statements in the TIGTA audit report as showing the lack of political bias at the IRS:

> "We asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Director, EO; and Determinations Unit personnel if the criteria were influenced by any individual or organization outside the IRS. All of these officials stated that the criteria were not influenced by any individual or organization outside the IRS. ... According to the Director, Rulings and Agreements, the fact that the team of specialists worked applications that did not involve the Tea Party, Patriots, or 9/12 groups demonstrated that the IRS was not politically biased in its identification of applications for processing by the team of specialists."

5/14/2013 TIGTA Audit Report, at 7-8.

[921] More information about TIGTA testimony on this point during Congressional hearings is provided below.

important additional evidence to support TIGTA's conclusion regarding the absence of political bias at the IRS. Given that the Office of Investigations finding was among the strongest evidence developed by the audit on the issue of whether the IRS had shown political bias in processing 501(c)(4) applications, it is difficult to understand why it was excluded from the report.[922]

Documents reviewed by the Subcommittee show that an earlier draft of the TIGTA audit report, a copy of which was sent to EO head Lois Lerner and IRS Chief Counsel William Wilkins in early April 2013, had included two references to the Office of Investigations review.[923] Since the draft was sent to the IRS before that review had concluded, neither reference described what the Office of Investigations had found. In an email, Ms. Lerner expressed concern to TIGTA personnel about what she thought were two separate referrals to the Office of Investigations described in the draft report.[924] Mr. Camus told the Subcommittee that he had asked that the final audit report remove any reference to an Office of Investigations referral, because he viewed any reference to be misleading, since his office had not conducted a formal investigation in connection with the audit.[925] The footnotes referencing the Office of Investigations were removed from the final report.[926]

---

[922] The Minority Staff's Dissenting Views state at one point that the email review was "a limited search of only five employees' emails," "did not include a search of *any* emails from *any* DC based employees," and "was not a general search for evidence of political bias." Dissenting Views at 230 (emphasis in original). That reasoning, however, misses the point of TIGTA's explanation for omitting the review from the audit report, which is not that the email review was too limited, but that it reached the same conclusion that the Office of Audit had already reached after considering all of the available information – that there was no evidence of political bias in how the IRS treated the 501(c)(4) applications. Subsequent broader email productions have not changed TIGTA's view. In June 2014, TIGTA sent a letter to the Subcommittee confirming Mr. George's testimony that the TIGTA audit "found no evidence of political bias" at the IRS. 6/6/2014 letter from TIGTA to the Subcommittee, PSI-TIGTA-22-000001 - 004, at 001.

[923] See 4/12/2013 draft audit report, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review DRAFT," prepared by TIGTA, IRSR0000014721, at 732, footnotes 15 and 17 ("Initially, EO function officials stated that the Determinations Unit sent out an informal e-mail to all Determinations Unit specialists in May 2010 instructing them to forward all Tea Party applications to another specialist. Since EO function officials could not locate a copy of this e-mail, we requested assistance from our Office of Investigations in the matter. EO function officials later determined that an e-mail was not distributed to Determinations Unit specialists in May 2010. ... During interviews with Determinations Unit specialists and managers, we could not specifically determine who had been involved in creating the criteria. EO function officials later clarified that the expanded criteria were a compilation of various Determinations Unit specialist responses on how they were identifying Tea Party cases. Since we could not determine specifically who was involved in creating the expanded criteria, we referred this matter to our Office of Investigations.").

[924] See 4/2/2013 email from Lois Lerner to Greg Kutz and Troy Paterson, "TIGTA report – draft email," IRSR0000195635 ("As you know, we are a bit concerned about the 2 referrals for investigation in the draft report, and want to do all we can to clear up your concerns.").

[925] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).

[926] See 5/14/2013 TIGTA Audit Report. See also 5/7/2013 email from Gregory Kutz to Troy Paterson and Thomas Seidell, "Review of E-mails," PSI-IRS-37-000001 ("I forgot to ask, but did we remove reference to OI [Office of Investigations] in the footnotes and the related referral?").

Making the Investigative Results Public. The existence of the Office of Investigations review and its conclusion were finally made public, not by TIGTA, but by a Member of Congress. On July 12, 2013, Congressman Elijah Cummings, Ranking Member of the House Committee on Oversight and Government Reform, released a letter disclosing that the Committee had received new TIGTA documents, and those documents had disclosed that TIGTA's Office of Investigations had conducted an email review of IRS employees and found "no indication" that the pulling of 501(c)(4) applications was "politically motivated."[927]

By that time, TIGTA Inspector General George had testified at four Congressional hearings about the audit's results, but had not disclosed the existence of the Office of Investigations email review or the conclusion it had reached.[928] Mr. George told the Subcommittee that he had not brought it up in his testimony, because while he was aware of the email review, he had been unaware that the Office of Investigations had reached a conclusion that the IRS documents showed the IRS had not been politically motivated when it subjected applications from conservative groups to additional review, until Congressman Cummings released the key TIGTA email.[929] Mr. George told the Subcommittee that no one on his staff had informed him of the Office of Investigations conclusion or forwarded the Camus email to him, even though the

---

Mr. Kutz also provided the Subcommittee with another reason the Office of Investigations' finding was not included in the final audit report. His memorandum requesting the Office of Investigations review indicated that, if the review discovered "material" evidence, that information might be disclosed in the audit report. See 2/13/2013 memorandum from Gregory Kutz, TIGTA, "Memorandum for Deputy Assistant Inspector General for Investigations," PSI-IRS-37-000002 - 003 ("If you identify evidence material to our audit report before it is issued, we will work with you on any additional disclosures we should make."). Mr. Kutz told the Subcommittee that he did not view the Office of Investigations' finding regarding a lack of evidence of politically motivated actions by the IRS to be material evidence, since he believed it simply confirmed what the audit report already said, and so did not include it in the audit report for that reason. Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[927] See 7/12/2013 letter from Oversight of Government Reform Committee Ranking Member Cummings to Chairman Issa, at 1-2, http://democrats.oversight.house.gov/images/user_images/gt/Letter.pdf ("New documents obtained by the Committee indicate that Mr. George did not disclose to the Committee – either in his report or during his testimony – that he met personally with his top investigator and tasked him to conduct a review of 5,500 emails of IRS employees, and that this official concluded after this review that there was 'no indication that pulling these selected applications was politically motivated' – a fact this official reported was 'very important.' New documents also indicate that all references to work conducted by this official and his team of investigators were scrubbed from an earlier draft of the Inspector General's report.").

[928] TIGTA Inspector General Russell George had testified on 5/17/2013 before the House Ways and Means Committee, on 5/21/2013 before the Senate Finance Committee, on 5/22/2013 before the House Oversight and Government Reform Committee, and on 6/3/2013 before the House Appropriations Subcommittee on Financial Services and General Government.

[929] Subcommittee interview of Russell George, TIGTA (4/22/2014).

finding directly addressed an issue central to the TIGTA audit, whether there had been political bias at the IRS.[930]

The TIGTA personnel who knew about the Office of Investigations finding, not only excluded the finding from the May 2013 audit report and failed to inform the Inspector General about the finding, they remained silent about the review's results for another two months, despite mounting public and Congressional concern about allegations that the IRS had showed political bias in the processing of tax-exempt applications. Had TIGTA personnel briefed Inspector General George during his hearing preparation about the Office of Investigations' finding, Mr. George could have used it to buttress TIGTA's conclusion about a lack of political bias at the IRS. For example, on May 21, 2013, at a Senate Finance hearing, when asked whether TIGTA was basing its conclusion that "there was no political motivation" in how the IRS processed Tea Party applications on "simply the statement of those engaging in the conduct," the Inspector General responded, "yes."[931] According to Mr. George, he did not also cite the TIGTA Office of Investigation's email review that found no indication of political bias, because his staff had not informed him of that conclusion. Mr. George also told the Subcommittee that, when he finally reviewed Mr. Camus' email, he had been "very disappointed" with it.[932] He indicated that, in his view, the email contained a conclusion that Mr. Camus should not have reached; instead, Mr. George indicated that the documentary review should have confined itself to determining whether or not a "smoking gun" email existed at the IRS.[933]

(5) Communicating the Audit Results

By January 2013, the TIGTA auditors had tentatively concluded that, when the EO Determinations Unit used "Tea Party," "9/12," "Patriot," or phrases reflecting the political views of those organizations, the IRS used inappropriate criteria to identify applications that were then

---

[930] Id. See also testimony of Inspector General George before the House Appropriations Subcommittee on Financial Services and General Government (2/26/2014) (Congressman Serrano: "This was a member of your staff who came to this conclusion but didn't tell you?" Mr. George: "Did not tell me directly, correct. That is correct.").

[931] See testimony of J. Russell George, "A Review of Criteria Used by the IRS to Identify 501(c)(4) Applications for Greater Scrutiny," hearing before Senate Committee on Finance, S. Hrg. 113-232, (5/21/2013) at 19-20, http://www.finance.senate.gov/hearings/hearing/?id=9b0a1cc8-5056-a032-5219-3e11fc44d504 (providing this testimony:

> "Senator Crapo: So, in other words, you have simply the statements of those who were engaging in the conduct saying they were not politically motivated?
> Mr. George: That is correct, sir.
> Senator Crapo: And based on that, and statements not under oath, you have reached the conclusion there was no political motivation.
> Mr. George: Yes.").

[932] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[933] Id.

subjected to heightened scrutiny.[934] The auditors had also analyzed several groups of applications and reached a preliminary conclusion that the IRS had failed to identify some applications that should have been treated as advocacy cases, and treated others as advocacy cases when they should not have been. The TIGTA auditors informed IRS officials of their preliminary conclusions and discussed those and other audit issues in a series of meetings.

On January 14, 2013, EO head Lois Lerner sent an email to TIGTA audit director Troy Paterson expressing concern about some of the preliminary audit results and urging that the discussion include more senior personnel.[935] On January 25, 2013, TIGTA auditors Troy Paterson, Thomas Seidell, and Cheryl Medina met with IRS officials Holly Paz, Judith Kindell, and Hilary Goehausen to discuss the audit.[936] Six days later, on January 31, 2013, TIGTA auditors Thomas Seidell and Cheryl Medina met with IRS officials Lois Lerner, Holly Paz, Judith Kindell and Hilary Goehausen.

IRS personnel were taken aback by TIGTA's analysis which they interpreted as indicating that IRS personnel had shown political "bias" against Tea Party organizations by "targeting" them for heightened scrutiny. According to contemporaneous notes of the January 31 meeting taken by IRS personnel, Ms. Lerner objected to that characterization of IRS actions:

> "[T]here was never institutional IRS bias. There was never direction from anyone in management to target anyone. She said it was less targeting than not providing them [EOD personnel] with the tools needed early on."[937]

That same day, January 31, 2013, Ms. Lerner sent a long email to Audit Director Troy Paterson, who wasn't present at the January 31 meeting she had attended. Her email described the audit as "the toughest one you and I have worked on together," and asserted that the TIGTA auditors could not explain how they defined "targeting" or what

---

[934] See, e.g., 1/16/2013 Memorandum of Discussion, "Overall Concerns with Case Review Results," prepared by Troy Paterson, TIGTA, PSI-TIGTA-05-000441.

[935] 1/14/2013 email from Lois Lerner to Troy Paterson, copies to Holly Paz and Dawn Marx, "Advocacy discussion," IRSR0000441700 - 701 ("As you know, the issues here are very sensitive and I know we both recognize that they are not as black and white as some of the issues we deal with, so I think it is important that higher levels on both sides hear the discussion to ensure the best result.").

[936] 1/25/2013 memorandum, "Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity," prepared by TIGTA, PSI-TIGTA-05-000443 (discussing the meeting).

[937] IRS Notes from Meeting with TIGTA on January 31, 2013, prepared by Megan Biss, IRS Technical Advisor, IRSR0000428195 - 203, at 203.

they meant by saying that the targeting under review "wasn't necessarily political."[938] Ms. Lerner wrote:

> "We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect, and illustrates 'targeting.' I think they remain confused about the purpose of screening vs. bucketing – and we have tried to explain several time[s]. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression. ...
>
> "I met with the group today and asked your folks what they thought the TIGTA audit was all about. The response was that they were here because there allegations that the IRS was 'targeting.' When asked, they didn't seem able to provide me with a clear definition of what they meant by targeting, and they confused me when they said it wasn't necessarily political. I told them my understanding is that the audit was to determine whether the IRS was acting in a politically motivated manner – not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases.
>
> "So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting. They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment. I am willing to take the blame for not having provided sufficient direction initially, which may have resulted in front line staff doing things that appeared to

[938] 1/31/2013 email from Lois Lerner to Troy Paterson, "Follow-Up," IRSR0000466814 - 815.

> be politically motivated, but I am not on board that anything that occurred here shows that the IRS was politically motivated in the actions taken."[939]

This January 2013 email shows that the IRS again brought its treatment of liberal groups to the attention of senior TIGTA personnel, noting that the TIGTA auditors had "acknowledged that there are both conservative and liberal organizations on the list of advocacy cases."[940]

The same day that TIGTA auditors met with the IRS, on January 31, 2013, Mr. Kutz and Mr. Paterson briefed the TIGTA Inspector General about the audit. Mr. Kutz told the Subcommittee that he and Mr. Paterson personally met with Inspector General George and described the audit findings, including the changes in the wording of the BOLO entries used to flag applications filed by the Tea Party and other conservative groups.[941]

On February 5, 2013, Ms. Lerner sent an email about the TIGTA audit to senior EO officials, including Joseph Grant, then head of the Tax Exempt and Government Entities division, and Nikole Flax, Chief of Staff to then Acting IRS Commissioner Steven Miller, warning them about the audit outcome. Ms. Lerner wrote:

> "We have met with TIGTA on this several times. ... I think we have a basic difference in our view of their audit. We thought it was to determine whether IRS has a biased program, which would include looking at every aspect. [T]hey seem to think the question is narrower – did we 'target based on the articulation of the BOLO?'[942]

Her email indicates that, by early February 2013, the Acting IRS Commissioner's office had been alerted to the potentially negative audit report.

---

[939] Id.

[940] Id. at 815. The Minority Staff's Dissenting Views state that, when given opportunities to comment on drafts of the audit report, the IRS "did not assert that it had impartially targeted both conservative and liberal groups," Dissenting Views at 226, but in this email to the senior TIGTA auditor as well as in other instances recounted earlier, the IRS did make that assertion, only to be told that the TIGTA auditors were not "looking at whether the organizations are conservative or liberal." This email as well as other evidence showed that the IRS clearly and repeatedly objected to the failure of the TIGTA audit to mention the inclusion of liberal organizations in the list of advocacy cases.

[941] According to Mr. Kutz, the issue of whether liberal groups were also identified using inappropriate criteria and then subjected to heightened scrutiny by the IRS did not come up at the meeting. Subcommittee interviews of Gregory Kutz (3/26/2014) and Troy Paterson (3/21/2014). See also TIGTA Audit log, at PSI-TIGTA-05-000944.

[942] 2/5/2013 email from Lois Lerner to Joseph Grant, Nancy Marks, with copy to Nikole Flax and Holly Paz, "Follow-Up," IRSR0000202644. See also 2/8/2013 email from Lois Lerner to Nikole Flax, "Follow-Up," IRSR0000202703.

(6) Drafting the Audit Report

By February, the TIGTA audit team had prepared a draft audit report. On February 25, 2013, Audit Director Troy Paterson wrote to a colleague: "Everyone is a bit anxious about this report due to its subject matter."[943] Due to the perceived sensitivity regarding the report, TIGTA asked the TIGTA Chief Counsel to review the draft prior to providing it to the IRS, which was not generally done, and later provided the IRS with the opportunity to comment on three different drafts of the audit report prior to its issuance, instead of the usual two.[944]

TIGTA Chief Counsel Comments. On February 25, 2013, Mr. Paterson sent the draft audit report to TIGTA Chief Counsel Michael McCarthy and the head of the Office of Audit, Assistant Inspector General Michael McKenney, explaining: "Greg [Kutz] mentioned that, due to the sensitivity of the attached report, he would like for us to obtain your feedback before we issue a discussion draft report to the IRS."[945]

After reading the draft audit report, TIGTA's Chief Counsel Michael McCarthy wrote to Mr. Kutz and Mr. Paterson expressing several concerns.[946] First, Mr. McCarthy counseled against the draft's using the word "targeted," explaining: "[T]argeted has a connotation of improper motivation that does not seem to be supported by the information presented in the audit report."[947] Mr. McCarthy was also curious about why TIGTA made the claim that the IRS "used inappropriate criteria," since without using some type of identifier: "[t]hat would seem to make it difficult for the IRS to identify potential political applications for referral to the specialized unit."[948] Mr. McCarthy recommended that TIGTA focus more attention on the fact that the IRS used identifying names for non-political groups as well as political ones, "since it suggests both that the IRS was not politically motivated in this case, and that our recommendation might need to be broader."[949] Finally, Mr. McCarthy expressed concern about whether the TIGTA auditors had looked at whether the IRS had named "similarly situated groups from the left side of the political spectrum."[950] Mr.

---

[943] 2/25/2013 email from Troy Paterson to Thomas Dori, "Audit # 2012100022 – Outcome Measure Review," TIGTA Bates No. 009498.
[944] Subcommittee interviews of Greg Kutz, TIGTA (3/26/2014) and Troy Paterson, TIGTA (3/21/2014).
[945] 2/25/2013 email from Troy Paterson to Michael McCarthy and Michael McKenney, "Tax-Exempt Applications Audit Report for your Review and Feedback," TIGTA Bates No. 008273.
[946] See 2/28/2013 email from Michael McCarthy to Gregory Kutz, Troy Paterson, and others, "Tax Exempt Applications Audit Report for your Review and Feedback," TIGTA Bates No. 008272 - 273.
[947] Id.
[948] Id.
[949] Id.
[950] Id. Mr. McCarthy wrote: "Or are we saying it was inappropriate because the use of names was one sided, i.e. name criteria included only certain types of groups seen as conservative, and

McCarthy told the Subcommittee that when he asked the auditors if the IRS had used any BOLO entries that named liberal groups, the auditors told him there were none,[951] which was inaccurate.

On March 8, 2013, the TIGTA auditors met with the TIGTA Chief Counsel to discuss his concerns with the draft report.[952] Mr. Kutz told the Subcommittee that the meeting was "part of the iterative process of a report."[953] Auditor Thomas Seidell told the Subcommittee that he recalled the TIGTA Chief Counsel asking about whether the IRS looked at liberal groups, but did not recall how the matter was resolved.[954] TIGTA Inspector General George told the Subcommittee that the Chief Counsel's comments on the report and his concern about whether the IRS also looked at "similarly situated groups from the left side of the political spectrum" were not made known to him at the time.[955]

Ten days later, on March 18, 2013, the TIGTA Chief Counsel signed off on the report. Lori Creswell of Mr. McCarthy's staff sent an email to Troy Paterson thanking the audit team for making requested changes:

> "We wanted to thank you all for meeting with us to discuss Counsel's comments concerning the draft audit report pertaining to applications for tax-exempt status. We have reviewed the revised draft that you provided to our office last week and appreciate the changes that have been made to the draft report. We believe that the revisions address and/or resolve the comments and concerns that we have offered. At this time, we have no further comments to offer concerning this matter."[956]

One key change made to the draft was to remove the word "targeted" from the text, except when describing the allegations made by the initiators of the report who thought Tea Party groups were being

---

names of other political groups with different policies should have also been included? If that is the rationale, do we have evidence that similarly situated groups from the left side of the political spectrum should have been included by name in the criteria, but were not? The later sections of the report seem to suggest this, but it is not clear." Id.

[951] Subcommittee interview of Michael McCarthy, TIGTA (4/30/2014).

[952] After the meeting, Mr. Kutz wrote to Mr. Seidell and Mr. Paterson: "I thought we had a good meeting with Counsel today." 3/8/2013 email from Gregory Kutz to Thomas Seidell and Troy Paterson, "EO Draft," TIGTA Bates No. 008136. Mr. Paterson wrote to Mr. Seidell and Ms. Medina: "I took off for lunch and tried to clear my head after the Counsel meeting. How do you think we should proceed?" 3/8/2013 email from Troy Paterson to Thomas Seidell and Cheryl Medina, "Well...," TIGTA Bates No. 008185. Three days later, Mr. Paterson wrote to his auditors: "I reviewed the revised report over the weekend and have some minor revisions throughout and a few questions. Fortunately, I believe it will not be difficult to make any needed changes and get this up to Greg today!" 3/11/2013 email from Troy Paterson to Thomas Seidell and Cheryl Medina, "Well...," TIGTA Bates No. 008185.

[953] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[954] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2013).

[955] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[956] 3/18/2013 email from Lori Creswell to Troy Paterson, "Tax-Exempt Applications Audit Report for your Review and Feedback," TIGTA Bates No. 008271.

targeted.[957] Mr. McCarthy told the Subcommittee that he signed off on the report, because his concerns had been addressed.[958]

Draft Provided to IRS. On March 19, 2013, TIGTA provided copies of the revised draft audit report to the IRS.[959] On March 25, 2013, EO Rulings and Agreements Head Holly Paz sent an email to EO head Lois Lerner criticizing the draft:

> "The report lacks any reference to or information regarding the broader context (such as how difficult it is to determine what constitutes political activity and whether political activity is a c4's primary activity). Without this broader context, the report could appear slanted in one direction."[960]

That same day, March 25, 2013, Ms. Lerner and Meghan Biss, a Technical Advisor at the IRS, met with Mr. Kutz, Mr. Paterson, Mr. Seidell, and Ms. Medina from TIGTA to discuss the draft.[961] Later that day, Ms. Lerner described the meeting to Ms. Paz, who was unable to attend. Ms. Lerner wrote:

> "I asked Greg [Kutz] and [T]roy [Paterson] to stay on afterwards. I told them flat out the report felt politically motivated with some of the inflammatory descriptions. ... Greg and I had a longer conversation in general, and I think he gets what's been going on and where this sits in the middle of things. Not sure he can do a whole lot, but I did feel like he was going to go back and think about this. All we can ask for."[962]

The next day, March 26, 2013, Ms. Lerner sent an email to the Acting IRS Commissioner's Chief of Staff Nikole Flax warning her about the draft:

> "I'll send the draft – don't freak out because we had a good talk and I believe there will be another draft to comment on – we had a higher up guy this time. I told him that there were several areas where the way they had provided the information made the report look political. He said it isn't political. I said, I didn't think it was, but they may want to take another look because it was coming

---

[957] See 5/14/2013 " Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," prepared by TIGTA (hereinafter "5/14/2013 TIGTA Audit Report"), http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf

[958] Subcommittee interview of Mike McCarthy, TIGTA (4/30/2014).

[959] See "TIGTA OA: Process for Reviewing Applications for Tax Exemption," TIGTA Audit Log, PSI-TIGTA 05-000909 - 949, at 948 (noting a pre-discussion draft of the report had been sent to Lois Lerner and Holly Paz).

[960] 3/25/2013 email from Holly Paz to Lois Lerner, "TIGTA," IRSR0000428212.

[961] See March 25, 2013, "Memo of Contact," prepared by TIGTA, "Process for Reviewing Applications for Tax Exemption Closing Conference," PSI-TIGTA-05-000957 - 958; 3/26/2013 email from Lois Lerner to Nikole Flax "TIGTA," IRSR0000182659.

[962] 3/25/2013 email from Lois Lerner to Holly Paz, "TIGTA," IRSR0000180969.

across that way. We talked a bit about the larger context of what was going on in the world – I think he got it, but we'll have to see."[963]

On April 2, 2013, Ms. Lerner sent a lengthy email to the TIGTA auditors expressing concerns about the draft report.[964] Among other matters, she expressed concern about references to apparent referrals to TIGTA's Office of Investigations. She also forwarded a presentation that included a smiling picture of an acorn – a reference to ACORN successor groups – providing TIGTA with another document showing that the IRS was looking at liberal as well as conservative groups.[965]

Concealing the Audit. During the first quarter of 2013, TIGTA informed the IRS about the negative 501(c) audit results and provided a copy of the draft audit report. In the meantime, the IRS continued to struggle with how to process the 501(c)(4) applications amid negative press reports and Congressional inquiries. On April 30, 2013, a team of eight IRS EO employees, led by Lois Lerner, met with Subcommittee staff for six hours to discuss the 501(c)(4) application process, how the IRS determined when activities qualified as campaign intervention and when a group was engaged primarily in social welfare activities, and how the IRS enforced the legal constraints on tax exempt groups.[966] During the meeting, neither Ms. Lerner nor her staff mentioned the Tea Party, the TIGTA audit, or the upcoming TIGTA audit report.

Ms. Lerner and her staff also downplayed the ongoing problems with the 501(c)(4) cases. When Subcommittee staff asked about how the IRS analyzed campaign activity by 501(c)(4) groups and determined whether groups were engaged primarily in social welfare activities, Ms. Lerner told the Subcommittee that additional guidance in those areas was not necessary, because additional training had been provided to the IRS employees. She dismissed the value of bright line rules, stating: "If I have 10 bright line rules, someone will come up with 11."[967] Yet three weeks earlier, in an April 4, 2013 email to the EO Technical Unit, Mr. Lerner had written: "We need guidance on c4, we need guidance on c4, we need guidance on c4 … IRS is getting hammered!"[968] A year earlier, in March 2012, Ms. Lerner pleaded with the Chief Counsel's attorneys to complete work on a draft guidesheet: "[M]y staff can't wait for formal guidance to do their jobs. … These are live cases and if all we

---

[963] 3/26/2013 email from Lois Lerner to Nikole Flax, IRS, "TIGTA," IRSR0000182659.
[964] 4/2/2013 email from Lois Lerner to Gregory Kutz and Troy Paterson, "TIGTA report – draft email," IRSR0000195585 - 586.
[965] Id., forwarding "Heighted Awareness Issues," prepared by the IRS, IRSR0000195600 - 617, at 613.
[966] IRS participants included Lois Lerner, Nikole Flax, Nancy Marks, Judith Kindell, Susan Brown, Janine Cook, Suzanne Sinno, and Catherine Barre.
[967] 4/30/2013 IRS briefing of Subcommittee, led by Lois Lerner.
[968] 4/4/2013 email from Lois Lerner to Janine Cook, copy to Holly Paz, "EO Enforcement Guidance Priority," IRSR0000054399.

can give them is published guidance on the extreme ends of the spectrum, they will get themselves in trouble."[969]

(7) Apologizing for IRS Conduct

As the release date for the TIGTA audit report neared, Acting IRS Commissioner Steven Miller decided to try to preempt news coverage of the negative audit results by having Lois Lerner disclose the audit before it was released and apologize for the agency's conduct during a conference she was scheduled to address. On May 10, 2013, at the direction of Mr. Miller and in response to a planted question, Ms. Lerner apologized for the IRS' having used "Tea Party" to identify 501(c)(4) applications that were then subjected to heightened scrutiny. Her apology triggered a firestorm of criticism centered on the concern that the IRS may have shown political bias against conservative groups seeking tax exempt status. The Acting IRS Commissioner was asked to resign and most of the EO senior leadership was replaced. The apology also generated intense interest in the TIGTA audit report which was released the following week.

Planning the Apology. Acting IRS Commissioner Miller was given a copy of the draft TIGTA audit report in April 2013.[970] Mr. Miller told the Subcommittee that he wanted to release information about the audit results before the TIGTA report was actually issued, because he knew it would be a negative report and he wanted the IRS to get out in front of the report.[971] He said that, at the time, although the report seemed to suggest that the IRS had been targeting Tea Party groups when it wasn't, he did not fully recognize the "toxic nature" of the report and the impact it would have on the reputation of the IRS.[972]

Mr. Miller told the Subcommittee that he knew Ms. Lerner was speaking at a conference sponsored by the American Bar Association (ABA) on May 10, 2013, and he thought it might make sense to plant a question for her at the conference which she could use to mention the audit report and apologize for agency missteps.[973] According to Mr. Miller, he realized that the Lerner apology was "not my best management performance."[974]

---

[969] 3/26/2012 email from Lois Lerner to Victoria Judson, "Thanks," IRSR0000411078.
[970] Subcommittee interview of Steven Miller, IRS (12/11/2013).
[971] Id.
[972] Id. See also undated "Steven Miller Hand-written Notes," prepared by Steven Miller, IRSR0000380096 ("[f]ront line folk collected based on name – Tea Party and Patriot were used").
[973] Subcommittee interview of Steven Miller, IRS (12/11/2013). Mr. Miller apparently also considered using an April 25 conference where Ms. Lerner was scheduled to speak. See 4/18/2013 email exchange between Steven Miller and Nikole Flax, "speech," IRSR0000468870 - 871 (Mr. Miller wrote that Ms. Lerner "can apologize for undermanaging.").
[974] Subcommittee interview of Steven Miller, IRS (12/11/2013).

Mr. Miller told the Subcommittee that he spent several weeks prior to the ABA conference working on the apology language with senior level IRS officials. Mr. Miller indicated that he discussed the apology with members of his staff, including his Chief of Staff Nikole Flax, EO head Lois Lerner, Director of Legislative Affairs Catherine Barre, and Chief of IRS National Media Relations Michelle Eldridge, and did not receive any negative feedback.[975] He said that Ms. Lerner suggested having tax attorney, Celia Roady, ask the planted question.[976]

IRS documents indicate that, in the three weeks leading up to the conference, several IRS officials worked on the apology language. For example, on April 21, 2013, draft apology language was circulated among Chief of Staff Nikole Flax, Director of Specialty Operations Jennifer Vozne, and Chief of the Communications and Liaison office Terry Lemons. Mr. Lemons wrote at the time: "So it's close .... But I don't think it's quite there."[977] On May 9, 2013, the day before the conference, Mr. Miller sent another version of the apology to his staff for their review.[978] The final apology given by Ms. Lerner was similar to the final draft.[979] According to Holly Paz, Ms. Lerner told her about the apology prior to the conference, and Ms. Paz advised against it.[980]

IRS Chief Counsel, William Wilkins, told the Subcommittee that Mr. Miller informed him that Ms. Lerner would be making an apology at the upcoming ABA conference.[981] Mr. Wilkins told the Subcommittee that Mr. Miller had indicated to him that a controversial TIGTA audit report would be issued concerning "a provocative subject matter that

---

[975] Id.

[976] Id.

[977] 4/21/2013 email from Terry Lemons, IRS, to Steven Miller, Nikole Flax, and Jennifer Vozne, IRS, "Emailing: draft c4 comments 4-18-13.doc," IRSR0000468891 - 894. Mr. Lemons continued: "For the people in the room at Georgetown, it's fine. But it's not clear enough for people who won't be there and will be combing through the speech afterward. Think current version will create a lot of questions coming in after the speech and actually amplify attention on the upcoming report. Think we need to frame up better – goal should be having a text that stands on its own for reporters and others coming in later and minimizing follow-up questions." Id.

[978] See 5/9/2013 email from Steven Miller to Nikole Flax, Terry Lemons, Jennifer Vozne, and Michelle Eldridge, "050613C4 talking points STM version.doc," IRSR0000468907 - 909. The email provided the following draft statement: "Between 2010 and 2012, the IRS saw the number of applications for section 501(c)(4) status double. As a result, local career employees in Cincinnati sough[t] to centralize work and assign cases to designated employees in an effort to promote consistency and quality. This approach has worked in other areas. However, the IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we centralized did not. Mistakes were made, but they were in no way due to any political or partisan rationale. We have fixed the situation and worked to move the centralized cases through the system." Id. at 908. This draft did not mention the Tea Party by name.

[979] See "Transcript of the May 2010, 2013, ABA Tax Section's Exempt Organizations Committee Meeting," Exempt Organization Tax Review, August 2013 Vol. 9, No. 2, Tax Analysts, http://meetings.abanet.org/webupload/commupload/TX319000/sitesofinterest_files/may_2013_aba.pdf.

[980] Subcommittee interview of Holly Paz, IRS (10/30/2013).

[981] Subcommittee interview of William Wilkins, IRS (12/4/2013).

would portray the IRS in a bad light."[982] According to Mr. Wilkins, a few days before the ABA conference, Mr. Miller told Mr. Wilkins he was going to tell Congressman Boustany's staff about the TIGTA report on the same day as the Lerner apology.[983] Mr. Miller told the Subcommittee that, while he had intended the IRS to inform key Congressional committees at the same time the information was released at the ABA conference, that did not happen, which he attributed to having not provided his staff with enough time to contact the committees.[984]

Mr. Miller told the Subcommittee that, at some point prior to May 10, 2013, he also spoke by telephone with Mark Patterson, the Chief of Staff to the Secretary of the Treasury, alerting him to the upcoming TIGTA report and indicating his plan to release information about the report prior to its issuance.[985] Mr. Miller told the Subcommittee that he asked Mr. Patterson for his reaction to the idea of a planted question at the ABA conference, and read to Mr. Patterson over the telephone a draft question and possible answer.[986] Mr. Miller said that Mr. Patterson did not give him a reaction, but told him he wanted to think about it, and the two did not discuss the matter again.[987]

Mr. Miller told the Subcommittee that he also talked to Mark Mazur, Treasury Assistant Secretary for Tax Policy, about the upcoming TIGTA report and his idea of planting a question at the ABA conference, but Mr. Mazur did not give Mr. Miller a reaction to the idea.[988] Mr. Miller acknowledged that, as Acting IRS Commissioner, he did not need the approval of Mr. Mazur or Mr. Patterson, but he said that had they objected, he probably would not have gone forward with his plan.[989] Mr. Miller told the Subcommittee that he did not speak with anyone at the White House about the planned apology.[990]

Giving the Apology. On May 10, 2013, EO head Lois Lerner spoke before the Exempt Organizations Committee of the Tax Section of the American Bar Association in Washington, D.C. After her remarks, as planned, a member of the audience asked her the following question:

---

[982] Id.
[983] Id. Mr. Wilkins told the Subcommittee that he received a copy of the draft report on April 29, 2013, but could not recall if he read the report then or after it was publicly released. See 4/29/2013 email from Christopher Sterner to William Wilkins, "TIGTA Draft (c)(4) Report," IRSR0000014719 (providing a copy of the TIGTA draft report). Mr. Wilkins also told the Subcommittee that he did not provide advance notice of the TIGTA report to Treasury General Counsel, Christopher Meade. Subcommittee interviews of William Wilkins, IRS (12/4/2013) and Christopher Meade, Treasury (2/20/2014).
[984] Subcommittee interview of Steven Miller, IRS (12/11/2013).
[985] Id.
[986] Id.
[987] Id.
[988] Id.
[989] Id.
[990] Id.

> "Lois, a few months ago there was some concern about IRS review of 501(c)(4) organizations, 501(c)(4) applications by Tea Party organizations. And I'm just wondering if you can provide any update on any of that."[991]

Ms. Lerner responded as follows:

> "So our line people in Cincinnati that handle the applications did what we call centralization of these cases. They centralized work on these in one particular group. ... So centralization was perfectly fine. However, in this case the way they did the centralization was not so fine. Instead of referring to the cases as advocacy cases, they actually used case names on this list. They used names like Tea Party, or Patriots. They selected cases simply because the application had those names in the title. That was wrong, that was absolutely incorrect, it was insensitive, and it was inappropriate. That's not how we go about selecting cases for further review. We select them for further review because they need further review, not because they have a particular name. ... So I guess my bottom line here is, we, I think the IRS, would like to apologize for that. It was not intentional."[992]

Reacting to the Apology. Ms. Lerner's apology generated an immediate press reaction, with numerous negative press stories written about the IRS' inappropriate scrutiny of Tea Party organizations.

In addition, the Subcommittee was told that many IRS employees in the Cincinnati office were furious at Ms. Lerner's apology, believing she sought to blame lower level workers instead of management for the agency's missteps.[993] A few hours after the apology, Determinations head Cindy Thomas sent the following email to Ms. Lerner:

---

[991] "Transcript of the May 2010, 2013, ABA Tax Section's Exempt Organizations Committee Meeting," Exempt Organization Tax Review, August 2013 Vol. 9, No. 2, Tax Analysts, http://meetings.abanet.org/webupload/ commupload/TX319000/sitesofinterest_ files/may_2013_aba.pdf. The question was asked by Celia Roady, a Washington tax attorney. After the conference, Ms. Roady released the following statement: "On May 9, I received a call from Lois Lerner, who told me that she wanted to address an issue after her prepared remarks at the ABA Tax Section's Exempt Organizations Committee Meeting, and asked if I would pose a question to her after her remarks. I agreed to do so, and she then gave me the question that I asked at the meeting the next day. We had no discussion thereafter on the topic of the question, nor had we spoken about any of this before I received her call. She did not tell me, and I did not know, how she would answer the question."
5/18/2013 "Here's How the IRS Planted the Question That Sparked the Tea Party Scandal," Business Insider, Brett Logiurato, http://www.businessinsider.com/irs-scandal-celia-roady-planted-question-tea-party-conservatives-obama-2013-5 (reprinting Roady statement).

[992] "Transcript of the May 2010, 2013, ABA Tax Section's Exempt Organizations Committee Meeting," Exempt Organization Tax Review, August 2013 Vol. 9, No. 2, Tax Analysts, http://meetings.abanet.org/webupload/commupload/TX319000/sitesofinterest_files/may_2013_aba.pdf.

[993] EOD employees Ronald Bell, Elizabeth Hofacre, Gary Muthert, Stephen Seok, John Shafer, and Cindy Thomas all reported deep disappointment with the Lerner apology. Subcommittee

> "As you can imagine, employees and managers in EO Determinations are furious. ... [I]t appears as though all the blame is being placed on Cincinnati. Joseph Grant and others who came to Cincinnati last year specially told the **low-level workers** in Cincinnati that no one would be 'thrown under the bus.' Based on the articles, Cincinnati wasn't publicly 'thrown under the bus' instead was hit by a convoy of mack trucks."[994]

Ms. Thomas told the Subcommittee that she also spoke with Ms. Lerner to convey her anger, but Ms. Lerner did not express regret at giving the apology.[995]

On the day of the apology, May 10, 2013, Ms. Lerner sent an email to senior IRS officials about the negative press coverage:

> "As you both know, we are getting beaten up in the press for all the wrong reasons. Not sure there is much we can do about it – other than hang in and ride it through. When the report comes out, it will start all over again. We need to keep remembering, we did not do what they are alleging."[996]

On May 12, 2013, prior to leaving for a previously scheduled trip to Canada, Ms. Lerner wrote to a colleague: "I'm afraid I have little confidence that most folks making the stink care about what is true. They've already decided they know without regard to the facts."[997]

TIGTA personnel had a mixed reaction to the apology that had been arranged by Acting IRS Commissioner Miller. At least some at TIGTA initially believed the apology represented a well designed response to the audit report. On May 10, 2013, after the apology, David Holmgren, then TIGTA Deputy Inspector General for Inspections and Evaluations, wrote to a colleague: "Mike, this is a brilliant preemptive strike by the IRS; when we release next week it will be old news."[998] On May 12, 2013, TIGTA's Communications Director Karen Kraushaar

---

interviews of Ronald Bell, IRS (1/15/2014), Elizabeth Hofacre, IRS (10/25/2013), Gary Muthert, IRS (1/15/2014), Stephen Seok, IRS (11/22/2013), John Shafer, IRS (1/17/2014), and Cindy Thomas, IRS (11/13/2013).

[994] 5/10/2013 email from Cindy Thomas to Lois Lerner, "Low-Level Workers thrown under the Bus," IRSR0000218202 (emphasis in original).

[995] Subcommittee interview of Cindy Thomas, IRS (11/13/2013).

[996] 5/10/2013 email from Lois Lerner to Nannette Downing, Holly Paz, and others, "Stuff," IRSR0000411586.

[997] 5/12/2013 email from Lois Lerner to Sharon Light, "Congressional Response with SHORT Turnaround," IRSR0000411587.

[998] 5/10/2013 email from David Holmgren to Michael Phillips, "[MARKETING] News Alert: IRS apologizes for inappropriately targeting conservative political groups," TIGTA Bates No. 007751. Gladys Hernandez, TIGTA's Deputy Chief Counsel, also viewed the apology as a "smart strategy on their part." 5/10/2013 email from Gladys Hernandez to Michael Phillips, "[MARKETING] News Alert: IRS apologizes for inappropriately targeting conservative political groups," TIGTA Bates No. 007791.

sent an email to TIGTA Inspector General George recommending a quick release of the audit report in response to the apology:

> "I have not responded to any reporters this weekend. At this point I do not see the merit in engaging with reporters until we have something concrete to share, such as a date and time for a media briefing. I am hopeful that TIGTA may be able to offer that tomorrow or Tuesday, and have suggested expedited disclosure review so that we can schedule briefings on the final report in an orderly fashion for congressionals and media as soon as possible. By jumping the gun with its public apology, the IRS created some confusion and inaccuracy about the nature of our report and findings, which we can set straight by releasing the final report without delay. Should be an interesting week!"[999]

The next day, after receiving a request for Mr. George to appear on a television show, Ms. Kraushaar wrote: "I recommend a strategy of politely declining until such time as we are ready to release our report. I think it is important that you be able to remain above the political fray until then." Mr. George responded: "I agree with you."[1000]

Dismissing IRS Leadership. On May 15, 2013, Acting IRS Commissioner Miller met with Congressional staff on Capitol Hill, and blamed what was becoming a full-blown scandal on two "rogue agents" in the IRS Cincinnati office, whom he said had been disciplined.[1001] Mr. Miller told the Subcommittee that, in hindsight, it was a mistake to have tried to blame lower level IRS employees.[1002] He also said that, in retrospect, the IRS should not have mentioned only conservative groups in its apology, since liberal groups had been subjected to heightened scrutiny in the same ways.[1003]

Later on May 15, 2013, President Obama announced Mr. Miller's resignation.[1004] That evening, President Obama addressed the nation on television, calling the IRS' actions "inexcusable." He stated: "Americans are right to be angry about it, and I'm angry about it," adding that he "will not tolerate this kind of behavior in any agency, but

---

[999] 5/12/2013 email from Karen Kraushaar to Russell George "Communication Report 05-12-2013," TIGTA Bates No. 007794 - 795.

[1000] 5/13/2013 email exchange between Karen Kraushaar and Russell George, "Cavuto Request," TIGTA Bates No. 007840.

[1001] See "Source: Two 'rogue' workers principally behind IRS targeting of conservatives," CNN, Dana Bash and Thomas Cohen, http://politicalticker.blogs.cnn.com/2013/05/15/breaking-irs-acting-commissioner-says-two-employees-off-reservation/. Mr. Miller indicated to the Subcommittee that he did not recall using the terms "rogue" or "off the reservation" during the meeting, as indicated in the article, nor did he believe he would have done so. 4/11/2014 response by Mr. Miller's legal counsel to Subcommittee questions.

[1002] Subcommittee interview of Steven Miller, IRS (12/11/2013).

[1003] Id.

[1004] Mr. Miller was permitted to retire from the IRS. Subcommittee interview of Steven Miller, IRS (12/11/2013).

especially in the IRS, given the power that it has and the reach that it has." He continued: "[A]s I said earlier, it should not matter what political stripe you're from. The fact of the matter is the I.R.S. has to operate with absolute integrity."[1005]

On May 23, 2013, Ms. Lerner was placed on administrative leave.[1006] Later that month, Ken Corbin replaced her as EO Director.[1007] By June, most of the IRS leadership responsible for exempt organizations had been replaced.[1008]

(8) Releasing the Audit Report

On May 14, 2013, TIGTA released its 501(c)(4) audit report, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." The report's primary findings were as follows:

> "The IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based upon their names or policy positions instead of indications of potential political campaign intervention. Ineffective management 1) allowed inappropriate criteria to be developed and stay in place for more than 18 months, 2) resulted in substantial delays in processing certain applications, and 3) allowed unnecessary information requests to be issued." [1009]

The audit report noted that some 501(c) applications had been pending for more than three years.[1010] It also found that, while the IRS had failed to subject some applications to heightened scrutiny when it should have, the IRS had also subjected others to heightened scrutiny when it should not have.[1011] In addition, the audit report observed that "there appeared to be some confusion by Determinations Unit specialists and applicants on what activities are allowed by I.R.C. § 501(c)(4) organizations ... due to the lack of specific guidance on how to determine the 'primary activity' of an I.R.C. § 501(c)(4) organization."[1012]

Although the TIGTA audit engagement letter had indicated that the audit's "overall objective" was to "assess the consistency of the Exempt

---

[1005] 5/15/2013 Statement by the President, White House Office of the Press Secretary, http://www.whitehouse.gov/the-press-office/2013/05/15/statement-president.
[1006] "Lois Lerner Placed on Administrative Leave," ABC News, John Parkinson, (5/23/2013), http://abcnews.go.com/blogs/politics/2013/05/lois-lerner-placed-on-administrative-leave/.
[1007] Id.
[1008] See testimony of Acting IRS Commissioner Daniel Werfel, "Oversight Hearing – Internal Revenue Service," hearing before the House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014, (6/3/2013), 219-284, at 257-258.
[1009] 5/14/2013 TIGTA Audit Report, at Highlights.
[1010] Id.
[1011] Id. at 9-10.
[1012] Id. at 14.

Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues," including whether "conservative groups" experienced "inconsistent treatment," the audit report did not contain any explicit finding on whether political bias had influenced the IRS' actions.[1013] In a June 6, 2014 letter responding to a Subcommittee question asking about political bias, TIGTA Inspector General George wrote: "I also testified before Congress that TIGTA found no evidence of political bias during this audit. However, it is important to note that the matter is being further reviewed."[1014] Despite that determination by TIGTA addressing the most important issue under examination, the TIGTA audit report inexplicably failed to include that finding.

The report did contain a number of recommendations to remedy problems with the 501(c) application process, which TIGTA summarized as follows:

> "TIGTA recommended that the IRS finalize the interim actions taken, better document the reasons why applications potentially involving political campaign intervention are chosen for review, develop a process to track requests for assistance, finalize and publish guidance, develop and provide training to employees before each election cycle, expeditiously resolve remaining political campaign intervention cases (some of which have been in process for three years), and request that social welfare activity guidance be developed by the Department of the Treasury."[1015]

After its release, the TIGTA audit report was the subject of thousands of media reports, most critical of the IRS. Many media reports indicated that the TIGTA audit report had found that the IRS had targeted conservative groups and subjected them to harsher treatment than other groups, even though the TIGTA personnel interviewed by the Subcommittee uniformly stated that the report had found no evidence of political bias or politically motivated actions at the IRS.[1016]

[1013] TIGTA's failure to provide an explicit finding on political bias stood in sharp contrast to the 2000 report on the same subject prepared by the Joint Committee on Taxation, which TIGTA's auditors had consulted prior to conducting their work. See 3/16/2000 Joint Committee on Taxation Press Release No. 00-02, http://www.jct.gov/pr00-02.pdf; 3/6/2000 "Report Of Investigation Of Allegations Relating To Internal Revenue Service Handling Of Tax-Exempt Organization Matters," Report No. JCS-3-00, prepared by Joint Committee on Taxation, https://www.jct.gov/publications.html?func=startdown&id=2545; 3/19/2012 email from Troy Paterson to Cheryl Medina, Thomas Seidell, and Michael McGovern, "JCT Report on Allegations of Bias Surrounding Applications for Tax Exemption and Examinations of Tax-Exempt Organizations," TIGTA Bates No. 003991.

[1014] 6/6/2014 letter from TIGTA Inspector General George to the Subcommittee, PSI-TIGTA-22-000001 - 004, at 001.

[1015] 5/14/2013 TIGTA Audit Report, at ii.

[1016] In their interviews with the Subcommittee, for example, both Mr. George and Mr. Kutz made unqualified statements that the TIGTA audit had found no evidence of political bias at the IRS. Subcommittee interviews of Russell George, TIGTA (4/22/2014) and Gregory Kutz, TIGTA

(9) Testifying on the Audit Results

After the audit report was released, TIGTA Inspector General George was asked to testify at six Congressional hearings about its findings. He testified on May 17, 2013, before the House Committee on Ways and Means;[1017] on May 21, 2013, before the Senate Committee on Finance;[1018] on May 22, 2013, before the House Committee on Oversight and Government Reform;[1019] and on June 3, 2013, before the House Appropriations Subcommittee on Financial Services and General Government.[1020] He testified a second time before the House Committee on Oversight and Government Reform on July 18, 2013,[1021] and a second time before the House Appropriations Subcommittee on Financial Services and General Government on February 26, 2014.[1022]

No Political Bias. One of the key issues raised in the hearings was whether IRS personnel had unfairly targeted Tea Party groups for special scrutiny and did so because of political bias against conservative groups. TIGTA Inspector General repeatedly testified that the audit had found no evidence of IRS political bias. As explained earlier, however, he made no mention of the strongest evidence of IRS impartiality, the finding made by the TIGTA Office of Investigations that thousands of IRS emails and other documents contained "no indication" that IRS actions had been "politically motivated," because, according to Mr. George, no one on his staff had informed him of that finding.

At his first Congressional hearing about the audit report, which took place before the House Committee on Ways and Means on May 17, 2013, the Inspector General offered this unqualified testimony:

> "Congressman Sander Levin: Did you find any evidence of political motivation in the selection of the tax exemption applications?

(3/26/2014). Mr. George also expressed regret that the report had been misinterpreted. Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1017] See "IRS Tax-Exempt Investigation," hearing before House Committee on Ways and Means, (5/17/2013), unofficial transcript available at http://www.cq.com/doc/congressionaltranscripts-4278171.

[1018] See "A Review of Criteria Used by the IRS to Identify 501(c)(4) Applications for Greater Scrutiny," hearing before Senate Committee on Finance, S. Hrg. 113-232, (5/21/2013).

[1019] See "The IRS: Targeting Americans for Their Political Beliefs," hearing before House Committee on Oversight and Government Reform, Serial No. 113-33, (5/22/2013).

[1020] See "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014, at 219-284, (6/3/2013).

[1021] See "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013).

[1022] See "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, (2/26/2014), unofficial transcript available at http://www.cq.com/doc/congressionaltranscripts-4433073.

Mr. George: We did not, sir."[1023]

Later in the hearing, Mr. George offered a more qualified statement:

"Congressman Reed: [Y]ou made some comments in your testimony about the partisanship determination. You kept referencing [w]hat I've seen many times in my legal career, 'at this time.' That implies to me that there are additional investigations coming down the – the pipeline that potentially could uncover such information. Isn't that correct?"

Mr. George: That is an accurate statement, sir."[1024]

Four days later, at a hearing before the Senate Committee on Finance on May 21, 2013, the Inspector General implied that the audit report's finding was based solely on denials of political bias made by the IRS personnel involved with the 501(c)(4) application process:

"Senator Crapo: Mr. George – is it seems that there is an argument being made that there was no political motivation in these actions. Is that a conclusion that you have reached?

Mr. George: In the review that we conducted thus far, Senator, that is the conclusion that we have reached.

Senator Crapo: And how do you reach that kind of a conclusion?

Mr. George: In this instance, it was as a result of the interviews that were conducted ....

Senator Crapo: So, in other words, you have simply the statements of those who were engaging in the conduct saying they were not politically motivated?

Mr. George: That is correct, sir.

Senator Crapo: And based on that, and statements not under oath, you have reached the conclusion there was no political motivation.

Mr. George: Yes.

Senator Crapo: Now, have you reached the conclusion that there was none, or that you have not found it?

Mr. George: It is the latter, that we have not found any, sir."[1025]

[1023] Transcript of "IRS Tax-Exempt Investigation," hearing before House Committee on Ways and Means, (5/17/2013), unofficial transcript available at http://www.cq.com/doc/congressionaltranscripts-4278171.
Mr. George had similar exchanges with Committee Members Becerra, Kind, and McDermott. Id.

[1024] Id.

In his testimony, Inspector General George began by saying TIGTA had reached the conclusion that there was no political motivation behind the IRS' actions, but then qualified that finding by stating it was based on the TIGTA review "conducted thus far," and relied "simply" on denials made by IRS personnel. In four Congressional appearances, the Inspector General made no mention of the documentary review that had been conducted by the TIGTA Office of Investigation of over 2,200 internal IRS emails and other documents, and its finding that the documents contained "no indication" that IRS actions in pulling 501(c)(4) applications for heightened review had been "politically motivated." Mr. George told the Subcommittee that he did not mention the documentary review, because no one on his staff had informed him of the TIGTA Office of Investigations finding, even though it addressed a central issue in the audit, whether the IRS had shown political bias in handling 501(c)(4) applications.

BOLO Entries for Liberal Groups. A related issue at the hearings involved the question of whether the IRS had used BOLOs to flag 501(c)(4) applications filed by liberal groups in addition to conservative groups. Evidence recited earlier shows that the IRS had repeatedly brought the BOLO entries for liberal groups to the attention of the TIGTA auditors to demonstrate that the agency had treated all groups in the same way.[1026] The Subcommittee was told by senior TIGTA officials, however, that the TIGTA auditors had failed to convey that information to TIGTA senior management until after the release of the report. In fact, as indicated earlier, TIGTA Chief Counsel Michael McCarthy told the Subcommittee that when he had explicitly asked about BOLO entries for liberal groups during his review of the draft audit report in February 2013, the TIGTA auditors had told him none existed.[1027]

The Subcommittee was told that the senior TIGTA officials first learned of the BOLO entries for liberal groups after the Congressional hearings were already underway. The key event took place on May 21, 2013, after the Inspector General had testified earlier in the day before a Congressional committee about the audit report, and before he was due to testify a third time before a different committee on the following day.[1028] Mr. McCarthy told the Subcommittee that, because there had been a Congressional request for copies of the BOLOs, he had decided to personally review the documents to ensure appropriate information had been redacted. He indicated that, about 7 p.m. on the evening of

---

[1025] "A Review of Criteria Used by the IRS to Identify 501(c)(4) Applications for Greater Scrutiny," hearing before Senate Committee on Finance, S. Hrg. 113-232, (5/21/2013) at 19-20, http://www.finance.senate.gov/hearings/hearing/?id=9b0a1cc8-5056-a032-5219-3e11fc44d504.
[1026] See the Report section on Conducting the Audit, in particular the subsections on Initiating the Audit and Collecting and Analyzing Information.
[1027] Subcommittee interview of Michael McCarthy, TIGTA (4/30/2014).
[1028] Id.

May 21, 2013, he opened the BOLO document on his computer screen at the office, and began to review the individual excel spreadsheets used for the various BOLO sections, including the spreadsheet for the Watch List section. He told the Subcommittee that when he reviewed the Watch List section and saw for the first time the BOLO entries for ACORN and Occupy groups, he was "surprised and confused."[1029]

Inspector General George told the Subcommittee that Mr. McCarthy informed him about the two liberal group BOLO entries that same night, which was the night before he was supposed to testify before the House Committee on Oversight and Government Reform.[1030] The Inspector General indicated that Mr. McCarthy had approached him, said "you'd better sit down for this," and then relayed that the IRS had two BOLO listings naming liberal groups in addition to the one naming Tea Party groups.[1031] Mr. George told the Subcommittee that he asked Mr. McCarthy and Mr. Kutz, who was also present, how the IRS had used those entries to identify 501(c)(4) applications, and both responded that they didn't know the answer.[1032] The Inspector General said that he immediately told Mr. Kutz to look into those BOLO entries and how they were used by the IRS.[1033]

Mr. Kutz told the Subcommittee that, like Mr. McCarthy and the Inspector General, he first learned of the two BOLO listings naming liberal groups on the evening of May 21, 2013.[1034] Mr. Kutz told the Subcommittee that after he was directed by the Inspector General to find out more, he immediately asked his audit team about the BOLO entries for the liberal groups and was told by his team that those entries had not come up during the audit.[1035] That assertion is at odds, however, with the evidence presented earlier showing that, from the beginning of the audit, TIGTA personnel were aware of issues related to IRS treatment of liberal groups and, throughout the audit, IRS personnel repeatedly drew

---

[1029] Id. Mr. McCarthy told the Subcommittee that he did not see the BOLO entry for progressive groups at that time because of the confusing way in which the excel spreadsheets were arranged. Id.

[1030] Subcommittee interview of Russell George, TIGTA (4/22/2014). The Inspector General did not recall the exact date, but Gregory Kutz recalled that it was May 21, 2013. Subcommittee interviews of Russell George, TIGTA (4/22/2014) and Gregory Kutz, TIGTA (3/26/2014).

[1031] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1032] Id.

[1033] Id. See also testimony by J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before the House Appropriations Subcommittee on Financial Services and General Government, (2/26/2014), unofficial transcript available at http://www.cq.com/doc/congressionaltranscripts-4433073?23 (Mr. George: "And it was litera[ll]y 6:30 p.m. the night before my first testimony before the Senate Finance Committee in which my former chief council indicated that there was a hidden tab in one of the documents the IRS had supplied to us that indicated that there were other 'Be On the Look Out' list. This list – at that time we had no idea until then, at least I didn't, that it existed but we certainly did not have any indication as to how they were being used.").

[1034] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1035] Id.

the attention of the TIGTA auditors to the BOLO entries listing ACORN, Occupy, and Progressive groups.[1036]

Mr. George told the Subcommittee that, at the Congressional hearing the next day, May 22, 2013, he did not disclose the existence of the BOLO entries naming the ACORN and Occupy groups, due to concerns that he didn't know how those BOLO entries had been used by the IRS and might violate Section 6103, the tax code provision barring IRS disclosure of individual taxpayer information.[1037] At the hearing, when asked about BOLO listings for liberal groups, Mr. George testified that TIGTA had "recently identified some other BOLOs that raised concerns about political factors," but declined to provide specific information about them:

> "Chairman Issa. Were there any BOLOs issued for progressive groups, liberal groups? Because I'm assuming that your investigation – we can't see them – but your investigation showed liberal groups that flew right through during the same time and got their 501(c)(4)s. They were not stopped; isn't that correct?
>
> Mr. George. Sir, this is a very important question. Please, I beg your indulgence.
>
> Chairman Issa. Of course.
>
> Mr. George. The only 'be on the lookout,' that is, BOLO, used to refer cases for political review were the ones that we described within our report. There were other BOLOs used for other purposes. For example, there were lookouts for indicators of known fraud schemes so that they could be referred to the group that handles those issues. For nationwide organizations, there were notes to refer State and local chapters to the same reviewers. As we continue our review of this matter, we have recently identified some other BOLOs that raised concerns about political factors. I can't get into more detail at this time as to the information that is

[1036] See Report section on Conducting the Audit. For example, as documented in that section, the BOLOs containing entries for liberal groups were provided to the TIGTA auditors in March 2012, and again in the summer of 2012. At the same time, the documentation does not demonstrate that the auditors conveyed the information about the BOLO entries for liberal groups to senior TIGTA officials. One TIGTA summary of a September 2012 meeting between Mr. Kutz and the TIGTA auditors indicated that they discussed the issue of 501(c)(4) applications filed by liberal groups, but did not indicate that they discussed, in particular, the BOLO entries for liberal groups. See 9/25/2012 "Memo of Contact," prepared by TIGTA, "Consistency in Identifying and Reviewing Applications for Tax-exempt Status Involving Political Advocacy Cases," TIGTA Bates No. 003084 (indicating Mr. Kutz and the auditors discussed "whether more liberal organizations were referred to the advocacy group" at IRS, and the difficulty of distinguishing between conservative and liberal groups).

[1037] Subcommittee interview of Russell George, TIGTA (4/22/2014). Unlike the IRS, TIGTA has taken the position that disclosing IRS actions related to "ACORN successor" groups would violate Section 6103 of the tax code which requires the IRS to keep specific taxpayer information confidential, even though that phrase does not name any specific taxpayer.

there because it's still incomplete – that we've uncovered, rather, because it's still incomplete. And there are 6103 issues –

Chairman Issa. Of course.

Mr. George. – involved here, too. I hope that provides context[.]"[1038]

Mr. George was then asked whether the IRS had a BOLO entry for "progressive" groups and if he was aware of any other group, other than the Tea Party, that had been "targeted politically" in a BOLO. After initially declining to answer and then being pressed for a response, Mr. George answered there were no such BOLO entries, which he should have known was inaccurate, given the BOLO entries he had learned about the night before:

"Chairman Issa. So, clearly, it's fair to say, though, that there was a BOLO for Tea Party but not a BOLO for MoveOn or Progressive?

Mr. George. I'm not in a position to give you a definitive response on that question at this time, Mr. Issa – Mr. Chairman.

Chairman Issa. So are you saying today that there were other 501(c)(4)s, not specific, so much as one other 501(c)(4) not previously identified during your IG audit that were, in fact, targeted and held in a similar way?

Mr. George. I cannot give you a definitive answer, sir, at this time. But I certainly will when –

Chairman Issa. I only asked you if there's at least one. Are you aware of at least one that was targeted using a BOLO that was a 501(c)(4) in which they were targeted politically but did not fall into this current report we have before us? I'm not asking for privileged information. I'm asking –

Mr. George. No, no, no.

Chairman Issa. – for one.

Mr. George. Under the report, the review – the purposes of the audit that we conducted, which was to determine whether they

---

[1038] Testimony of J. Russell George, "The IRS: Targeting Americans for Their Political Beliefs," hearing before House Committee on Oversight and Government Reform, Serial No. 113-33, (5/22/2013) at 64, http://oversight.house.gov/wp-content/uploads/2014/02/2013-05-22-Ser.-No.-113-33-FC-The-IRS-Targeting-Americans-for-Their-Pol-Beliefs.pdf.

were looked for in the context of political campaign intervention, there were no others."[1039]

Mr. George testified that there were no other groups that had been "targeted politically" in a BOLO despite having learned the night before that the BOLO lists named ACORN and Occupy groups in the same manner as Tea Party groups. In addition, as indicated earlier, a BOLO entry for "progressive" groups had been included in the BOLO lists since 2010.[1040]

Mr. George told the Subcommittee at the time of his testimony on May 22, 2013, he had become aware of the BOLO entries for the two liberal-leaning groups, ACORN and Occupy, but remained unaware of the BOLO entry for "progressive" groups.[1041] TIGTA Chief Counsel Michael McCarthy told the Subcommittee that, at the time of the May 22, 2013 hearing, he was also unaware of the BOLO entry for Progressive groups, since during his review of the BOLO lists the evening before, he had not seen the specific spreadsheet containing that entry.[1042] Mr. Kutz told the Subcommittee that he, too, was unaware of the Progressive BOLO entry at the time of the May 22 hearing.[1043] That all three senior TIGTA officials professed to the Subcommittee to have no knowledge of the BOLO entry for Progressive groups, despite its being listed in the BOLOs reviewed the night before, does not excuse the failure of Mr. George to disclose the existence of the BOLO listings for the two liberal-leaning groups, ACORN and Occupy, either at the hearing or to correct his testimony in the weeks that followed.

TIGTA's silence about the BOLO listings for liberal groups continued for weeks after its senior leadership learned about them, despite ongoing media and Congressional inquiries and public consternation about possible political bias at the IRS. According to TIGTA, on May 28, 2013, the TIGTA Office of Audit asked the TIGTA Office of Investigations to examine how the IRS used BOLO listings on the Watch List section, which includes the ACORN and Occupy listings, but still did not reveal the existence of those BOLO entries to the public.[1044]

[1039] Id.

[1040] See, e.g., August 2010 BOLO spreadsheet, prepared by the IRS, IRSR0000455182 - 196 and at IRS0000002503 - 515 (including "TAG Historical" section containing an entry for "Progressive political activities" described as follows: "[C]ommon thread is the word 'progressive.' Activities appear to lean toward a new political party. Activities are partisan and appear as anti-Republican. You see references to blue.").

[1041] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1042] Subcommittee interview of Michael McCarthy, TIGTA (4/30/2014).

[1043] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1044] See June 26, 2013 letter from TIGTA to Congressman Sander Levin, http://online.wsj.com/public/resources/documents/TIGTAFinalResponseToRepLevin06262013.pdf ("TIGTA's Office of Audit made a referral to our Office of Investigations on May 28, 2013 stating that our recently issued audit report noted the use of other named organizations on the

Disclosure of BOLO Entries for Liberal Groups. Ultimately, the Progressive, ACORN, and Occupy BOLO listings were publicly disclosed by Members of Congress and the media, rather than TIGTA. On June 24, 2013, six weeks after the TIGTA audit report was released and a month after the House hearing at which the TIGTA Inspector General denied the existence of BOLO listings for liberal groups, Congressman Sander Levin, Ranking Member of the House Committee on Ways and Means, released a letter disclosing publicly, for the first time, the existence of the Progressive BOLO entry.[1045] TIGTA Chief Counsel Michael McCarthy told the Subcommittee that he learned about the Progressive BOLO entry from the Levin letter for the first time; he said it had not been disclosed to him by TIGTA's audit team, and he had missed it during his personal review of the BOLO listings.[1046] That same day, the Associated Press reported on a number of other BOLO listings, including one for Occupy groups.[1047] A month after that, on August 20, 2013, Congressman Sander Levin released documents disclosing the existence of the BOLO entry for ACORN successor groups.[1048]

Each of these BOLO entries could have been easily found by the TIGTA audit team or TIGTA senior managers had they carefully

---

BOLO listings that were not related to potential political cases reviewed as part of our audit. TIGTA's Office of Audit requested the Office of Investigations investigate to determine: 1) whether cases meeting the criteria on the 'watch list' [a particular section of the BOLO listings] were routed for any additional or specialized review, or were simply referred to the same group for coordinated processing; 2) how many (if any) applications were affected by use of these criteria; 3) who was responsible for the inclusion of these criteria on the BOLO lists; and 4) whether these criteria were added to the BOLO for an improper purpose." Mr. Kutz told the Subcommittee that as part of this review, the Office of Investigations was asked to look at the "progressive" BOLO listing. Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014). During the Subcommittee interviews, however, no one from TIGTA had any information about whether the referral had been accepted by the Office of Investigations or whether an investigation into IRS processing of applications filed by liberal groups was ongoing.

[1045] 6/24/2013 letter from Congressman Sander Levin to TIGTA, http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/TIGTA%20Letter%20FINAL.pdf.

[1046] Subcommittee interview of Michael McCarthy, TIGTA (4/30/2014).

[1047] See "Documents Show IRS Also Screened Liberal Groups," Associated Press, Alan Fram, (6/24/2013), http://bigstory.ap.org/article/new-irs-chief-inappropriate-screening-was-broader. In response to the BOLO disclosures, on June 24, 2013, the IRS "suspended the use of any 'be-on-the-lookout,' or BOLO lists in the application process for tax-exempt status." "Report Outlines Changes for IRS To Ensure Accountability, Chart a Path Forward; Immediate Actions, Next Steps Outlined," prepared by the IRS, http://www.irs.gov/uac/Newsroom/Report-Outlines-Changes-for-IRS-To-Ensure-Accountability,-Chart-a-Path-Forward;-Immediate-Actions,-Next-Steps-Outlined.

[1048] 8/20/2013 letter from Congressman Sander Levin to TIGTA, described in "New Documents Highlight IRS Scrutiny of Progressive Groups," Ways and Means Committee Democrats, (8/20/2013), http://democrats.waysandmeans.house.gov/press-release/new-documents-highlight-irs-scrutiny-progressive-groups. The IRS determined that information could be disclosed about "ACORN successor" groups without violating Section 6103 of the tax code which requires the IRS to keep specific taxpayer information confidential, since that phrase does not disclose the name of any specific taxpayer. In contrast, TIGTA has determined that disclosures related to ACORN successor groups would violate Section 6103 and has been unwilling to discuss those groups.

reviewed the BOLO lists already in their possession. Had the TIGTA Inspector General disclosed during his Congressional testimony the existence of the BOLO listings for two liberal-leaning groups – ACORN and Occupy – even without naming them, it would have addressed a central issue in the TIGTA audit, whether the IRS had shown political bias in the 501(c)(4) application process or was treating liberal groups the same way it treated conservative groups.

Instead, the TIGTA Inspector General continued to make statements implying that the IRS had unfairly singled out the Tea Party and other conservative groups in the 501(c)(4) application process. For example, at a June 3, 2013 hearing before the House Appropriations Subcommittee on Financial Services and General Government, in response to a question about whether TIGTA had "found any political motivation in reviewing tax-exempt applications," Mr. George testified:

> "[B]ut in the instance of the political activity matter, we did not uncover instances of groups that could readily be identified as being liberal, for lack of a better term, that were treated in the manner that these Tea Party cases were."[1049]

The factual basis for his testimony is unclear, given that the TIGTA audit team deliberately chose not to audit how liberal groups were treated by the IRS in the 501(c)(4) application process; if that audit work had taken place, TIGTA would have discovered that liberal groups like ACORN, Occupy, and Emerge were subjected to the same types of inappropriate screening criteria, delays, and mismanagement as the conservative groups.

When asked about his testimony, the TIGTA Inspector General wrote the following in a letter to the Subcommittee:

> "In the audit report, TIGTA did not characterize any organizations as liberal or conservative. Nor did we assess whether liberal groups were treated in a manner different than Tea Party groups. ... In my testimony before the House Appropriations Subcommittee on Financial Services and General Government, I was conveying that, in the audit report, we did not characterize the political views of any organizations. Many of the names of the organizations used terms not readily categorized on the political spectrum, and we did not identify any objective criteria that we

[1049] Testimony of J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014 (6/3/2013) 219-284, at 263.

> could use to label these groups in a manner that meets government auditing standards."[1050]

Later in the June 3, 2013 hearing, when asked if he had been surprised by what the audit found, Inspector General George responded "very much so," and then compared the IRS' mishandling of 501(c)(4) applications filed by conservative groups to President Nixon's misuse of the IRS to harm political opponents:

> "This is unprecedented, Congressman. And again, during the Nixon administration, there were attempts to use the Internal Revenue Service in manners that might be comparable in terms of misusing it. I am not saying that what the actions that were taken are comparable, but I'm just saying that the misuse of the – causing a distrust of the system occurred sometime ago, but this is unprecedented."[1051]

When asked about those comments, Mr. George told the Subcommittee that he was noting that the IRS had been abused in the past by the Nixon Administration, but did not equate that with the 501(c)(4) situation.[1052] He also stated: "There is no connection between the White House and this."[1053]

On June 25, 2013, TIGTA's "spokeswoman," presumably TIGTA Communications Director Karen Kraushaar, told National Public Radio that TIGTA was "not aware of any BOLOs listing progressive organizations when it conducted its review."[1054] That statement was, again, contrary to the documents cited earlier showing IRS personnel repeatedly brought information about the BOLO entries for liberal groups to the attention of TIGTA auditors.

[1050] 6/6/2014 letter from TIGTA Inspector General George to the Subcommittee, PSI-TIGTA-22-000001 - 004, at 003.

[1051] Testimony of J. Russell George, "Oversight Hearing – Internal Revenue Service," hearing before House Appropriations Subcommittee on Financial Services and General Government, 113th Congress, Part 7 - Financial Services and General Government Appropriations for 2014 (6/3/2013) 219-284, at 268, in an exchange with Congressman Womack.

[1052] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1053] Id. See also "No Evidence of White House Involvement or Political Motivation in IRS Screening of Tax-Exempt Applicants," Democratic Staff report, House Committee on Oversight and Government Reform, (5/6/2014), http://democrats.oversight.house.gov/uploads/Cummings%20Report%20on%2039%20IRS%20Transcripts%20050614.pdf, (showing that the White House had no role in the 501(c)(4) application process).

[1054] 6/25/2013 "Democrats Want Answers on 'Progressives' Targeted by IRS," National Public Radio, Tamara Keith, http://www.npr.org/blogs/itsallpolitics/2013/06/25/195599362/Democrats-Want-Answers-On-Progressives-Targeted-By-IRS (noting that "the BOLOs that Democrats have released contain the term 'progressives.' This raises some questions. For instance: Why wasn't this mentioned sooner? The IRS inspector general's report is clear: Tea Party groups were targeted by the IRS for extra scrutiny simply because they had 'Tea Party' or 'patriot' in their names. But the audit didn't mention progressive groups.").

On July 18, 2013, both Inspector General George and Assistant Inspector for Audit General Kutz testified before the House Committee on Oversight and Government Reform and denied that TIGTA had known about the BOLO entries for liberal groups during the audit period.[1055] In his opening statement, Inspector General George testified:

> "I know you have questions and so do we on the other Be On the Look Out listings, but from the date of the May 17, 2012 document until we issued our report one year later, IRS staff at multiple levels concurred with our analysis citing Tea Party, Patriot, and 9/12 and certain policy positions as the criteria the IRS used to select potential political cases .... In fact, as previously noted, we provided IRS officials with several opportunities to comment on our findings and they consistently agreed that, 'Tea Party,' and related criteria described in our report were the criteria that the IRS used to select cases for review of potential political campaign intervention during the 2010 to 2012 time frame that we reviewed."[1056]

While the evidence shows that Mr. George was correct – the IRS did agree with TIGTA that it had used "Tea Party," "Patriot," and "9/12" as screening criteria – what he left out was that the IRS also repeatedly informed TIGTA auditors that it had used screening criteria for liberal groups as well, which demonstrated that the IRS had not singled out conservative groups or acted out of political bias. Since the July hearing took place nearly two months after Mr. George and Mr. Kutz were told by the TIGTA Chief Counsel about the BOLO listings for liberal groups, it is difficult to understand why TIGTA's senior management had not conducted by then an intensive review of what their auditors had known about the BOLO entries for liberal groups. That type of review would have uncovered, for example, the May 17, 2012 meeting summary prepared by the lead TIGTA auditor, cited earlier, indicating that IRS personnel had drawn the auditors' attention to the BOLO listings for liberal groups in the earliest stage of the audit.[1057]

Nevertheless, during the July 18, 2013 hearing, Mr. Kutz insisted that the IRS had not told the TIGTA auditors about the BOLO entries for

---

[1055] See "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013), http://oversight.house.gov/wp-content/uploads/2014/02/2013-07-18-Ser.-No.-113-51-FC-IRS-Systematic-Delay-and-Scrutiny-of-Tea-Party-Applications.pdf.

[1056] Id. at 62-63.

[1057] See 5/17/2012 "Memo of Contact," prepared by Cheryl Medina, TIGTA, "Determinations Process Planning," PSI-TIGTA-04-000016 - 018 (containing the lead auditor's meeting notes: "Ms. Paz agreed that the initial criteria was not a good way to identify advocacy cases. However, it is common to refer to certain groups by name for identification purposes in Determinations. For example, the 'Occupy' and [REDACTED BY IRS] groups are listed specifically on the BOLO.").

liberal groups, despite ample evidence to the contrary. Mr. Kutz testified:

> "I just want to say, I mean, what Mr. George submitted at the beginning of the hearing is called the BOLO advocacy cases iterations. It was given to us May 17, 2012, and represented by the IRS to be the entire set of BOLOs that were used for political advocacy. We're not making this up. We've submitted it for the record. If IRS was doing something beyond that, they never made it apparent to us in an entire year of doing an audit. So I just want to make that clear. If other people were misused, we're very concerned about that, but IRS is the one that asserted to us in this email and a document Mr. George submitted for the record that the entire population of BOLOs used for political advocacy is on the document that says Tea Party until Lois Lerner changed it to advocacy in July of 2011."[1058]

The head of the EO Rulings and Agreements Unit at the IRS, Holly Paz, told the Subcommittee that when she heard Mr. Kutz's testimony, she was "surprised," given her repeated actions in bringing the BOLO entries for liberal groups to the attention of the TIGTA audit team.[1059]

At times during the hearing, the TIGTA officials seemed to suggest that IRS personnel had deliberately withheld documents from TIGTA auditors about the BOLOs for liberal groups, even though the IRS had been urging TIGTA to consider those same BOLO entries:

> "Congressman Jordan: I'm looking at your testimony, Mr. George. You said, 'New documents from July 2010 listing the term, "progressive" were provided to TIGTA last week on July 9th, 2013.' You're disturbed that these weren't provided earlier. I get that. 'We are currently reviewing the issue.' What can you tell us? Without violating 6103, what can you tell us?
>
> Mr. George: Great question, sir. I don't know whether they were withheld intentionally. I don't know—I don't know the circumstances. Again, I may defer to Mr. Kutz, if he has additional information on that. But I don't know because I just learned about this.
>
> Mr. Kutz: We don't know. But, Congressman, throughout the entire audit, starting May 17, and the document Mr. George

---

[1058] Testimony of Gregory Kutz, "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013), at 115, http://oversight.house.gov/wp-content/uploads/2014/02/2013-07-18-Ser.-No.-113-51-FC-IRS-Systematic-Delay-and-Scrutiny-of-Tea-Party-Applications.pdf.
[1059] Subcommittee interview of Holly Paz, IRS (10/30/2013).

> submitted to the record, we were given a listing of the BOLOs that were —
>
> Congressman Jordan: ... So they had all kinds of opportunities to tell you this was there. They didn't tell you. Suddenly it appears, because the Democrats keep talking about it, appears out of nowhere. You're currently reviewing it. I mean, is there anything else you can tell us about the current review?
>
> Mr. George: It tells me I'm concerned that there may be additional pieces of information that we don't have. I am very concerned about that, sir."[1060]

The testimony provided by Mr. George and Mr. Kutz implied that the IRS had attempted to conceal information from TIGTA about the BOLO entries for liberal groups when, in fact, the IRS had been pleading with TIGTA auditors for nearly a year to consider, not only those BOLO entries, but also IRS treatment of 501(c)(4) applications filed by liberal groups, to show that conservative groups were not singled out for less favorable treatment. In response, the TIGTA auditors failed to investigate any information related to liberal groups.

TIGTA Reconsideration. Mr. George and Mr. Kutz indicated to the Subcommittee during their interviews that they had since reconsidered how the audit report treated 501(c)(4) applications filed by liberal groups. During his interview, TIGTA Inspector General George told the Subcommittee that, although the TIGTA audit report contained a footnote noting that TIGTA did not review "the use of other named organizations on the BOLO listing to determine if their use was appropriate," in hindsight, TIGTA should have elaborated on that footnote.[1061] Mr. George told the Subcommittee that the failure to explain more about the decision to exclude other BOLO entries was a "judgment call" by the auditors, and that the report could have been "better."[1062] He indicated that the audit report should have acknowledged the existence of the other BOLO entries and the auditors should have looked into the other groups.[1063]

During his interview, Mr. Kutz acknowledged to the Subcommittee that "now that we know the interest in it," TIGTA should have potentially looked into or included the Progressive, ACORN, and Occupy BOLO listings in its analysis.[1064] He also noted, however, that

---

[1060] "The IRS's Systematic Delay and Scrutiny of Tea Party Applications," hearing before House Committee on Oversight and Government Reform, Serial No. 113-51, (7/18/2013), at 84-85, http://oversight.house.gov/wp-content/uploads/2014/02/2013-07-18-Ser.-No.-113-51-FC-IRS-Systematic-Delay-and-Scrutiny-of-Tea-Party-Applications.pdf.

[1061] Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1062] Id.

[1063] Id.

[1064] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

to do so would have taken another year which would have delayed the report's issuance.[1065] Mr. Kutz also told the Subcommittee that the evidence indicated that all 501(c)(4) applications within the 298 cases provided by the IRS for the two-year period, May 2010 to May 2012, appeared to have been treated the same by IRS personnel, subjected to the same screening, delays, and problematic questions from the IRS, regardless of their politics.[1066]

D. Analysis

By excluding information about how the IRS handled 501(c)(4) applications filed by liberal groups, the TIGTA audit report presented a distorted analysis of how the IRS processed 501(c)(4) applications. The audit determined that no political bias was involved in the IRS decisionmaking process, but the audit report contained no explicit finding on that central issue. The report discussed the BOLO listing naming the Tea Party and other conservative groups, but made no mention of the BOLO listings naming Progressive, ACORN, or Occupy groups. After receiving a pool of 298 501(c)(4) applications subjected to heightened scrutiny by the IRS over a two-year period, the report analyzed how many applications were filed by groups with the words "Tea Party," "9/12," or "Patriot" in their names, with no mention of cases filed by non-conservative or liberal groups. The audit report also made no mention of the Office of Investigations email review and its conclusion that IRS documents contained "no indication" that IRS decisions to select the 501(c)(4) applications for heightened review were politically motivated. Those omissions, as well as TIGTA's overall decision to exclude any comparative data on how the IRS handled 501(c)(4) applications filed by liberal groups, resulted in a report that failed to present a full and fair picture of IRS actions.

After the audit report was issued, and senior TIGTA officials learned that it had omitted key information about BOLO entries for liberal groups, those TIGTA officials remained silent for weeks about the existence of those BOLO entries, until they were disclosed by Members of Congress or the media. Senior TIGTA officials also gave incomplete and inaccurate testimony at Congressional hearings about the BOLO entries for liberal groups, initially denying they existed despite having been informed of them prior to testifying, later denying TIGTA auditors had known about those BOLO entries, and at one point suggesting that the IRS may have deliberately withheld information about them when, in fact, the IRS had repeatedly supplied information about those BOLO entries to the TIGTA auditors.

[1065] Id.
[1066] Id.

TIGTA's failure to include an official finding in its audit report that the IRS showed no political bias and its failure to present information about how the IRS treated liberal as well as conservative groups filing 501(c)(4) applications damaged public confidence in a critical government agency, undermined public faith in IRS neutrality, and encouraged public suspicions about the IRS despite the absence of any evidence that the IRS or any of its employees engaged in politically motivated actions. Given public concerns about political bias and the potential damage to the reputation and standing of an important public agency, the TIGTA audit report should have provided a more balanced and comprehensive picture of how the IRS handled 501(c)(4) applications filed by both conservative and liberal groups.

One positive outcome from the TIGTA audit report is that it spurred a comprehensive review of the role of the IRS in processing 501(c)(4) applications for organizations involved with political advocacy and campaign activities. The audit report recommended and the IRS has responded by drafting proposed rules to revamp the agency's approach and provide the guidance needed to process applications in a more objective, transparent, consistent, and timely manner. The proposed rules should reduce IRS use of the facts and circumstances test, which is inherently time-consuming, intrusive, nontransparent, and subjective, and make greater use of objective standards and bright line rules to determine when an organization is engaged in campaign activities. The proposed rules should also reduce use of the facts and circumstances test to determine when an organization is engaged primarily in social welfare activities, moving closer toward the statutory requirement of exclusivity and using more objective standards that, among other measures, should establish a clearly defined percentage test. The IRS is now considering more than 150,000 public comments on how the proposed rules should be shaped and has indicated that it intends to continue to press forward to address the mismanagement and public distrust that now taint the 501(c)(4) applications process.

MINORITY STAFF DISSENTING VIEWS: IRS TARGETING TEA PARTY GROUPS

I. EXECUTIVE SUMMARY

The Majority staff on the Permanent Subcommittee on Investigations has issued the foregoing report titled *IRS and TIGTA Management Failures Related to 501(c)(4) Applicants Engaged in Campaign Activity*. The primary conclusion of the Majority staff report is that, contrary to common understanding and widespread reporting, the Internal Revenue Service (IRS) actually exhibited no bias in its review of conservative groups. The Majority staff report claims that the IRS targeted liberal and conservative groups equally and that a Treasury Inspector General for Tax Administration (TIGTA) report on the targeting of conservative groups was fundamentally flawed.

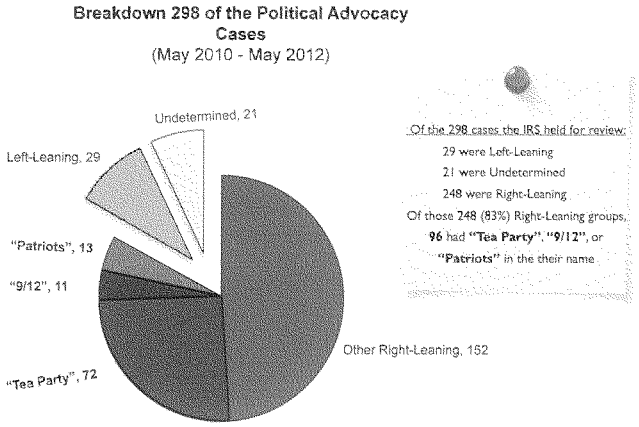
The Subcommittee Minority staff sharply disagrees with the conclusions reached by the Majority staff report. While some liberal groups were examined by the IRS from May 2010 to May 2012, there were far fewer such groups, they were systematically separate from the review of conservative groups, their questioning was far less intrusive, and, in some cases, the liberal groups were affiliates of specific organizations like ACORN that had behaved illegally in the past and could reasonably expect additional scrutiny. The inclusion of a scant few liberal groups by the IRS does not bear comparison to the targeting of conservative groups.

Although the Majority and Minority have profound differences and were unable to come to an agreement in their analysis of this matter, the Subcommittee conducted its investigation through joint interviews and document requests, and continued its tradition of in-depth fact-finding and frequent consultations that are the hallmark of the Subcommittee's oversight work and lead to a deepened understanding of key issues.

A. Question of Political Bias and Disparate Impact

The Majority report asserts that there was no political bias in the way the IRS selected groups for additional scrutiny and that conservative and liberal groups were treated equally. This is simply untrue. The IRS screening resulted in a clearly disparate impact on conservative group applications. Of the groups applying for tax-exempt status that were pulled from normal processing and received additional

scrutiny by the IRS, 83% (or 248 out of 298) of the groups were "right leaning" organizations.[1067]



On July 30, 2014, the House Committee on Ways and Means published a study detailing the number of questions posed to conservative and progressive applicants for tax-exempt status.[1068] The IRS asked conservative groups 1,552 questions, an average of 14.9 questions per group. Meanwhile, the 7 progressive groups were asked a mere 33 questions in total, or 4.7 per group.[1069] Conservative groups were asked on average more than triple the number of questions posed to progressive organizations.

IRS Targeting Statistics of Files Produced by IRS Through July 29, 2013

Organization Names	Total	Questions Asked	Average Questions Asked	Approved	Approved %	Outstanding or Withdrawn
Conservative	8	100	12.5	3	38%	5
Tea Party	72	1012	14.1	33	46%	39
Patriot, 9/12	24	440	18.3	12	50%	12
Subtotal of Conservative Organizations	104	1552	14.9	48	46%	56
Progressive	7	33	4.7	7	100%	0

*1 file in the enumerated categories has not been provided by the IRS despite numerous requests.

[1067] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, (9/18/2013)
http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126
[1068] http://www.npr.org/blogs/itsallpolitics/2013/07/30/207080580/report-irs-scrutiny-worse-for-conservatives
[1069] *Id.*

In addition, the chart above shows that the progressive groups examined by the IRS were all approved, while less than half of the conservative groups were approved.

The Majority report further attempts to diminish the disparate impact of the IRS targeting on conservative groups by stating that "more conservative than liberal groups filed for 501(c)(4) tax exempt status from 2010 to 2013, underwent IRS scrutiny, and ultimately won tax exempt status."[1070] The Majority report's interpretation of the evidence fails, however, to accurately account for the impact of the targeting on conservative groups. The true impact on conservative groups becomes clear when comparing the percentage of liberal and conservative applicants ultimately approved for tax-exempt status. This analysis shows that 70% of liberal group applicants placed on a separate list and scrutinized by the IRS were approved, whereas only 45% of conservative group applicants were granted tax-exempt status.[1071] When the vast disparity in the number of questions asked of and the far lower tax-exempt approval rate for conservative groups are considered, it is clear that conservative and liberal groups were not treated equally. In fact, it plainly evidences that there was a sharp disparate impact on conservative groups as a result of the targeting.

B. Unresolved Factual Issues Meriting Further Investigation

The Majority's report claims to be able to draw definitive conclusions based on the available evidence. However, although the Subcommittee has spent over a year on this investigation, two major questions have yet to be resolved: whether there was political bias motivating the targeting and to what extent outside actors influenced the IRS's actions. The Majority's report purports to answer these questions, but does not take into account the recent release of Lois Lerner's emails containing disparaging remarks about conservatives. Many relevant IRS emails are also still missing, key documents have not been produced, and Lois Lerner – the former Director of the IRS Office of Exempt Organizations and a key witness – continues to refuse to testify. These factual gaps indicate that this Subcommittee's investigation is necessarily incomplete.

At the same time, in the Minority's view, substantial evidence shows political bias was involved in this matter and further investigation is necessary to ascertain the precise extent of it and to find out who

---

[1070] Majority Report at 36. This assertion is based on the U.S. House Committee on Ways and Means analysis of the 298 cases reviewed by TIGTA.

[1071] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126. The 298 cases represent all cases pulled from the standard screening process and listed on a separate Advocacy List created by IRS employees.

besides Ms. Lerner was involved in the targeting. Drawing any definitive conclusion before fully resolving all of the factual issues, at this point, is unwise.

Missing Sources of Information. The IRS learned in February 2014, that the IRS had lost two years of emails belonging to Ms. Lerner and six additional employees. These missing emails were from the time period when the IRS was targeting conservative group applications and would likely prove vital to the investigation. With critical information missing from the relevant time period the targeting occurred and from the head of the division responsible for the inappropriate targeting, the likelihood is more incriminating information will be found. Additionally, very recently produced emails demonstrate the presence of political bias by Ms. Lerner. Lerner revealed her animus towards conservatives in one of these recently released email exchanges from November 2012 with an unnamed sender. In the exchange, the sender complained about the "whacko wing of the GOP" and "scary" "right wing radio shows."[1072] The sender replied that conservative critics as being the reason that the "U.S. is through."[1073] Ms. Lerner responded, "[G]reat. Maybe we are through if there are that many [redacted]holes." Ms. Lerner called conservatives "our own crazies" and compared them to "teRrorists [sic]."[1074]

From: Lerner Lois G
Sent: Friday, November 09, 2012 12:04 PM
To: [redacted]
Subject: Re: Suspension of Retention

So we don't need to worry about alien teRrorists. It's our own crazies that will take us down
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: [redacted]
Sent: Friday, November 09, 2012 12:19 PM
To: Lerner Lois G
Subject: RE: Suspension of Retention

And I'm talking about the hosts of the shows. The callers are rabid.

[redacted]

-----Original Message-----
From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, November 09, 2012 12:17 PM
To: [redacted]
Subject: Re: Suspension of Retention

Great. Maybe we are through if there are that many [redacted]holes
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: [redacted]
Sent: Friday, November 09, 2012 12:02 PM
To: Lerner Lois G
Subject: RE: Suspension of Retention

Well, you should hear the whacko wing of the GOP. The US is through; too many foreigners sucking the teat; time to hunker down, buy ammo and food, and prepare for the end. The right wing radio shows are scary to listen to

[1072] http://waysandmeans.house.gov/uploadedfiles/lerner_email_a.pdf
[1073] Id.
[1074] Id.

The IRS allowed four months to pass before revealing the loss of two years of Ms. Lerner's emails to the House Ways and Means Committee. While the IRS revealed the loss of Ms. Lerner's emails on June 13, 2014, it took four more days until June 17 to inform the committee about the other missing emails.[1075]

The day before the June 17 Ways and Means announcement, IRS Commissioner John Koskinen met with Senate Finance Committee Chair Ron Wyden and Ranking Member Orrin Hatch.[1076] During this meeting Commissioner Koskinen discussed Ms. Lerner's unrecoverable hard drive, but failed to inform them that additional employees' documents were also lost.[1077] Some of these unrecoverable emails belonged to three Washington, D.C.-based employees directly involved in the management and analysis of the Tea Party cases.[1078] These recent revelations and repeated failures to provide relevant information to congressional committees demonstrate an unacceptable culture of secrecy within the IRS. The investigation of these matters cannot be completed until all the facts about the supposed "lost" emails are uncovered.

The "lost" emails may still be recoverable, yielding important new facts. In mid-2011, Ms. Lerner's computer reportedly crashed and the information stored on her computer's hard drive was deemed unrecoverable.[1079] The IRS stated that any "email that was only stored on that computer's hard drive would have been lost," but some emails may have been stored on the IRS's central servers.[1080] It might be possible, therefore, to retrieve Ms. Lerner's emails from the IRS's network. TIGTA is currently investigating whether Ms. Lerner's emails can be recovered and produced to the relevant congressional committees.

Lack of Lerner's Testimony. Lois Lerner's refusal to testify represents a second crucial gap in information. Ms. Lerner is the former Director of the IRS Exempt Organizations division and a key figure in the scandal. As Director, Ms. Lerner was likely in the best position to know precisely what lead to the disparate treatment of conservative

---

[1075] http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=384708

[1076] http://www.finance.senate.gov/newsroom/ranking/release/?id=479df47f-b3cd-4f58-9c64-118f92c254e8

[1077] http://www.finance.senate.gov/newsroom/ranking/release/?id=479df47f-b3cd-4f58-9c64-118f92c254e8; The IRS indicated that Mr. Koskinen's failure to inform the committee stemmed from the fact that he had not yet been briefed on the issue. This once again shows that the IRS is slow in communicating relevant information to the investigative committees.

[1078] The three D.C.-based employees in which the IRS determined email data was lost are Judy Kindell, Justin Lowe, and Ron Shoemaker. *See also* http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=384708.

[1079] http://www.irs.gov/PUP/newsroom/IRS%20Letter%20to%20Senate%20Finance%20Committee.pdf at 7.

[1080] Id. at 7.

groups. Without her testimony, drawing a definitive conclusion is a mistake.

Ongoing Litigation and Investigations. Additional relevant information may be made available through ongoing litigation brought by the some of the targeted groups. One such group's case will soon begin the discovery process.[1081] This process may lead to the production of additional documents the IRS has thus far resisted disclosing and may shed further light on other unanswered questions. One such question may involve the frequent trips by former IRS Commissioner Douglas Shulman and then-acting Commissioner Steven Miller to the White House.[1082] Additionally, the Federal Bureau of Investigation and Department of Justice have been conducting investigations with alacrity into the IRS targeting scandal.[1083] Their findings will likely provide further relevant information.

C. IRS Scrutiny of Liberal Groups Differed in Justification and Extent From Its Scrutiny of Conservative Groups

The Subcommittee Majority claims that the IRS targeted liberal groups and conservative groups equally.[1084] As shown in section A, that claim does not have statistical merit. In addition, liberal groups were targeted by the IRS for different reasons and in a different manner than conservative groups, which were placed on a separate listing for additional scrutiny.

The liberal groups mentioned on the "be-on-the-lookout" (BOLO) spreadsheet were selected for legitimate reasons. The BOLO spreadsheet was an IRS guidance document that alerted agents to potentially problematic types of cases. For example, the BOLO instructed IRS personnel to look out for groups associated with

---

[1081] *Z Street v. Shulman*, Civil Action No. 2012-0401. U.S. District Court for the District of Columbia, Memorandum Opinion, May 21, 2014 at 4 (located at: http://www.washingtonpost.com/news/volokh-conspiracy/wp-content/uploads/sites/14/2014/05/ZStreet.pdf); *see also* IRS Judgment Day: The Untalkative Agency Comes Under Scrutiny from a Federal Judge. Wall Street Journal (5/28/2014) http://online.wsj.com/articles/irs-judgment-day-1401318881.

[1082] *See* IRS Chief's 118 White House Visits Must Be Explained, Investor's Business Daily (5/28/2013) http://news.investors.com/ibd-editorials/052813-657927-irs-heads-118-white-house-visits-suspicious.htm?ref=HPLNews.

[1083] *See* John D. McKinnon, FBI Launces Probe of IRS: Treatment of Tea-Party Groups Eyed; Internal Review Blames Higher-Ups, Wall Street Journal (5/14/2013) http://online.wsj.com/news/articles/ SB10001424127887324216004578483203153773048 ("Attorney General Eric Holder said Tuesday the Justice Department has opened a criminal probe of the Internal Revenue Service's treatment of tea-party groups").

[1084] Majority Report, Part I, Executive Summary, at 9 ("From 2010 through 2013, the IRS mismanaged the 501(c)(4) applications process for both conservative and liberal groups engaged in campaign activities, using inappropriate selection criteria to flag applications for heightened review, subjecting applicants to burdensome questions, and delaying disposition of their applications for years.").

centrally-controlled organizations like ACORN.[1085] These organizations would also naturally be expected to undergo additional scrutiny because of previous controversies associated with their parent organizations.[1086] By contrast, the conservative groups in question were overwhelmingly independent and had no comparable history warranting heavy scrutiny.

The scrutiny endured by conservative groups also differed in kind from the scrutiny accorded to liberal groups. The IRS selected conservative groups out of normal processing, placed them on a separate list, stopped work on their applications completely, forced them to answer intrusive questions about their behavior and demeanor at meetings, and delayed their applications for multiple years. Our investigation has uncovered no evidence that liberal groups received the same expansive inappropriate treatment that conservative groups received.

Furthermore, had liberal groups been targeted in a similarly inappropriate manner, they would have likely voiced their concerns to the IRS and Congressional leaders. Instead, we have uncovered no evidence indicating that liberal groups were writing to their members of Congress to complain about targeting by the IRS during the relevant period. All of the known complaints regarding IRS targeting and burdensome treatment came from conservative groups. These concerns spurred the TIGTA audit[1087] and ultimately led to congressional investigations by four committees and subcommittees.[1088]

The assertion that the IRS targeted liberal and conservative groups equally is further undermined by the IRS's response to the TIGTA audit. The TIGTA audit detailed the pervasive use of inappropriate criteria by the IRS that led to the targeting of conservative groups' applications. Prior to releasing its audit report, TIGTA provided multiple drafts to the IRS for comment. One would expect that, had the IRS been impartially targeting liberal and conservative groups equally, it would have raised that argument in its comments. In its official response, however, the IRS

[1085] IRSR0000196739 - 758 (eight Emerge applicants related to national Emerge America organization and denied for private benefit); Matthew Bigg, Scandals Weaken Liberal Group ACORN, Reuters (2/22/2010) http://www.reuters.com/article/2010/02/23/us-usa-acorn-idUSTRE61M09L20100223; ACORN Hopes New Image Can Save Disgraced Advocacy Group, Fox News (2/23/2010).

[1086] Matthew Bigg, Scandals Weaken Liberal Group ACORN, Reuters (2/22/2010) http://www.reuters.com/article/2010/02/23/us-usa-acorn-idUSTRE61M09L20100223; ACORN Hopes New Image Can Save Disgraced Advocacy Group, Fox News (2/23/2010).

[1087] TIGTA Report, Memorandum from Michael E. McKenney, Acting Deputy Inspector General for Audit, at 1 (5/14/2013) ("This audit was initiated based on concerns expressed by members of Congress and reported in the media regarding the IRS's treatment of organizations applying for tax-exempt status.").

[1088] The four committees investigating the IRS's targeting of conservative groups are: 1)The House Committee on Ways and Means, 2) the House Committee on Oversight and Government Reform, 3) the Senate Committee on Finance, and 4) the Senate Permanent Subcommittee on Investigations.

did not assert that it had impartially targeted both conservative and liberal groups. Instead, the IRS responded by accepting seven of the nine TIGTA recommendations.[1089] The IRS's tacit admission to targeting only conservative groups suggests that the liberal groups were not targeted in a similar manner.

To support its conjecture that the IRS targeted liberal groups, the Subcommittee Majority staff report offers the IRS's BOLO spreadsheet as evidence. Because the BOLO spreadsheet lists liberal groups such as ACORN, Progressive, and Occupy as well as "Tea Party" cases, the Majority staff report concludes that liberal and conservative groups were targeted equally. However, the liberal organizations were grouped in different parts of the BOLO spreadsheet, meaning that the agents responsible for screening were supposed to treat them differently than they did the "Tea Party" cases.

The criteria flagging "Tea Party" groups were included on the spreadsheet tab labeled "Emerging Issues." The Emerging Issues tab was the only spreadsheet on the BOLO associated with an actual, separate list of cases referred from the BOLO. IRS screeners pulled cases based on the criteria described and placed these applications on the Advocacy Case List. These applications were then referred to a specialist for additional scrutiny.

It was the "Emerging Issues" tab, and not any other BOLO tab, that IRS agents utilized to target tax-exempt applications for additional scrutiny; even though the BOLO spreadsheet had other criteria contained in different tabs.

Other BOLO entries, like those on the Watch List tab, included criteria for identifying ACORN successors. The BOLO Watch List tab contained recommendations for processing applications, not yet received, which might present concerns. ACORN successor cases were placed on the "Watch List" because of reports that ACORN successors (i.e., groups that had once been ACORN-affiliates and had spun off after the central organization closed in 2010) might file for 501(c)(3) or (c)(4) status following the breakup of the parent organization due to fraud and misconduct.[1090] That past conduct suggested a need to continue

---

[1089] *See generally*, TIGTA Report. The IRS agreed that it should: implement the memorandum requiring the Direct of Rulings and Agreements to approve all BOLO entries and changes prior to formalization; Develop training on proper identification of political activity in applications; develop a process for Determinations to formally request assistance from the Technical and Guidance Units; Provide oversight to ensure expedient approval or denial of political cases; Have IRS Chief Counsel and Treasury develop guidance on how to measure "primary activity". Two additionally accepted recommendations involved the specifics of what the training on proper identification and handling of political cases should entail.

[1090] IRSR0000410433 ("The officers of the organizations had prior affiliations with Acorn as members of boards on various chapters."); *see also* Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of

monitoring affiliates applying for tax-exempt status to prevent a fraudulent scheme. The reference to ACORN on the "Watch List" also considered that organizations would be applying for both 501(c)(3) and 501(c)(4) status. Thus, the IRS needed to monitor incoming ACORN applications to prevent potential tax fraud and abuse.

The "Watch List" also contained a 2012 listing for "Occupy" organizations affiliated with the Occupy Wall Street movement. However, the "Occupy" criteria were not added until almost two years after the initial targeting of "Tea Party" groups began. TIGTA determined that, during the timeframe that was the scope of its audit, no Occupy cases ever made it onto a list of political advocacy cases. TIGTA found no evidence to show that Occupy groups ever received the same treatment or delay that conservative groups received.[1091] Thus, it appears that the inclusion of Occupy organizations on the "Watch List" did not indicate similar targeting by the IRS.

Finally, the BOLO spreadsheet included a "Historical" tab representing types of cases that were no longer active and were thus "[h]istorical" for the purposes of IRS screening. "Progressive" was listed on the "Historical" tab, and the evidence shows that the listing was for 501(c)(3) cases only. While Progressive was still listed on the BOLO, the cases relating to this tab were inactive during the time period of the TIGTA audit.[1092] The greatest likelihood is that the Progressive 501(c)(4) cases were targeted for inclusion in the Advocacy Case List due to potential political activities, not based on the applicant's name.

Although the IRS was fully aware of the other BOLO tabs, it **specifically directed** TIGTA only to the relevant "Emerging Issues" tab and the corresponding applications during the audit of political targeting. The other BOLO spreadsheet entries did not fit the scope of TIGTA's audit.[1093]

Representatives, at 40-42 (4/7/2014); ACORN dissolved as a National Structure, Politico (2/22/2010) http://www.politico.com/blogs/bensmith/0210/ACORN_dissolved_as_a_national_structure.html.

[1091] Subcommittee interview of Thomas Seidell, TIGTA (3/29/2014); Subcommittee interview of Troy Paterson, TIGTA (3/31/2014).

[1092] IRS0000001354; Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). According to the interviews with TIGTA, the Progressive listing on the Historical Tab of the BOLO Spreadsheet was a reference to 501(c)(3) Progressive organizations that had applied for tax-exempt status pre-2010 and were no longer being received. It was determined that all of the Progressive cases listed on the Advocacy Case List were 501(c)(4) organizations and it can be inferred that those cases were selected after the Emerging Issue criteria for political advocacy cases was expanded in June 2011.

[1093] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); Letter from J. Russell George, Treasury Inspector General for Tax Administration to Rep. Sander Levin, at 2 (6/26/2013) ("Our audit did not find evidence that the IRS used the "Progressives" identifier as selection criteria for potential political cases between May 2010 and May 2012.").

How IRS employees used the BOLO spreadsheet shows the IRS's targeting had a disparate impact on conservative groups, and that liberal groups were not targeted in the same manner as conservative groups. Unlike the liberal groups that were selected out for non-political reasons or merely noted as historical, "Tea Party" cases were actively targeted inappropriately using political criteria. As a result, all "Tea Party" cases had their applications flagged for additional scrutiny by the IRS. Based on the directions of the political advocacy entry on the Emerging Issues tab, a few progressive groups were caught up in the predominately conservative list of advocacy cases. However, these progressive cases, unlike their Tea Party counterparts, were not selected for additional scrutiny because of the group's name.

D. The TIGTA Audit Accurately Represented the IRS's Mistreatment of Conservative Groups

The Subcommittee Majority staff report claims the TIGTA audit distorted the truth because it exclusively focused on conservative groups, not liberal groups. However, documentary evidence and Subcommittee interviews with TIGTA officials disprove this point. TIGTA officials did not consider the political leanings of the organization when they examined whether groups were inappropriately targeted.[1094] Instead, TIGTA audited the controls and procedures the IRS itself claimed it used when processing applications with political activity for 501(c)(4) tax-exempt status. The impartial audit validated the concerns raised by the media, members of Congress, and others that the IRS was using inappropriate criteria and targeting groups by name or policy position. Thus, the Majority report's claim that both liberal and conservative groups experienced the "same mistreatment" is clearly not supported by the evidence. It is incorrect to assert that the TIGTA audit was biased or factually flawed.

TIGTA auditors consulted the IRS to identify which, if any, cases received additional scrutiny through the IRS screening process. When asked by TIGTA if the IRS was tracking any cases separately, the IRS provided a list of applications identified as requiring "further scrutiny." For the purposes of this report, this new Excel spreadsheet will be referred to as the "Advocacy Case List." The Advocacy Case List consisted of applications singled-out according to criteria set out in the corresponding "Emerging Issues" BOLO tab. The scope of the TIGTA audit focused on those applications that the IRS identified as being set aside for further review based on perceived political intervention.[1095] The IRS directed TIGTA auditors only to the "Emerging Issues" tab and the corresponding Advocacy Case List. In doing so, the IRS deliberately

[1094] Subcommittee interview of Russell George, TIGTA (4/22/ 2014).
[1095] TIGTA Report at 10 ("we reviewed all of the applications identified as potential political cases as of May 31, 2012"), *Id.* at 22 ("Detailed Objective, Scope and Methodology").

declined to direct the auditors to the ACORN successors and "Progressive" references made on other BOLO tabs.[1096]

In their interviews, TIGTA officials Gregory Kutz and Troy Paterson made it clear that they looked at the Advocacy Case List because those were the cases the IRS indicated were relevant to the audit.[1097] Additionally, Mr. Kutz said he did not think adding references to Occupy or ACORN in the report would have changed the outcome of the audit.[1098] Furthermore, the Advocacy Case List included only those cases active during the May 2010-May 2012 time period that TIGTA examined in its audit. The BOLO spreadsheet entry mentioning "Progressive" only referenced cases that were not active during the time period of the TIGTA audit. Thus, the TIGTA audit team concluded that the other BOLO spreadsheets were not relevant to its audit.[1099]

The Subcommittee Majority report places extra emphasis on the fact that the TIGTA audit was initiated at the request of the House Committee on Oversight and Government Reform (OGR). However, the Majority report's assertion fails to present the whole story. While OGR did make a request, this alone did not spur TIGTA to audit the targeting. TIGTA began its audit in response to several media reports, an audit request letter sent by the Landmark Legal Foundation, and the OGR request.[1100] Moreover, the Subcommittee Majority staff report claims that TIGTA auditors only examined the treatment received by Tea Party and other conservative groups. In actuality, TIGTA audited the "actions taken by the EO function in response to the increase in applications" and "whether changes to procedures and controls" led to problems processing political advocacy cases.[1101]

The Subcommittee Majority staff report suggests that TIGTA failed to examine liberal groups' treatment even after the IRS made TIGTA aware of the liberal groups in BOLO listings. The reality is that the IRS had three opportunities to edit the TIGTA report and never urged the inclusion of the liberal groups referenced on the other BOLO

[1096] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).
[1097] Id. Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014)..
[1098] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).
[1099] Id.; Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); TIGTA Report, at 6, footnote 16 ("We did not review the use of other named organizations on the BOLO listing to determine if their use was appropriate.").
[1100] *See* TIGTA Report; *see also* Letter from Landmark Legal Foundation to TIGTA (3/23/2012), http://www.landmarklegal.org/uploads/IRS%20IG%20Letter%20without%20attachments.pdf (The Landmark letter also requested TIGTA look into whether IRS employees acted at the command of "politically motivated superiors.").
[1101] TIGTA Report at 22.

listings.[1102] Also, TIGTA reviewed every hard copy application file for the 298 cases on the IRS's Advocacy Case List.[1103]

The Subcommittee Majority report places great weight on the email review conducted by TIGTA's Deputy Inspector General for Investigations, Timothy Camus. The review Mr. Camus conducted allegedly showed that IRS personnel were not politically motivated. The email review was a limited search of only five employees' emails designed to find a smoking gun email; it was not a general search for evidence of political bias. Furthermore, the email review did not include a search of *any* emails from *any* DC based employees. Therefore, the email review cannot be cited for the proposition that this very limited investigation proves that there was no political bias on the part of IRS officials. Also, denial of political motivation is not determinative of there being no political motivation. Finally, TIGTA Inspector General Russell George and Mr. Kutz have indicated they are conducting a new audit into the entire BOLO spreadsheet to determine if the IRS acted improperly in other respects, too.

[1102] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).
[1103] TIGTA Report at 24 ("Obtained and reviewed all 298 application cases identified for processing by the team of specialists").

II. CONSERVATIVE GROUPS TARGETED SIGNIFICANTLY MORE OFTEN AND PERVASIVELY THAN LIBERAL GROUPS

A. Conservative Groups on the BOLO Spreadsheet

The IRS, using a Microsoft Excel spreadsheet referred to as the "Be-On-the-Lookout" Spreadsheet ("BOLO"), flagged conservative groups applying for tax-exempt status for additional scrutiny. One of the main mistaken contentions in the Majority's report is that liberal groups, especially those listed on the BOLO Spreadsheet were treated equally poorly as Tea Party and conservative groups.[1104] In order to support this assertion, the Subcommittee Majority report attempts to draw tenuous comparisons between the different BOLO tabs. The evidence, however, strongly contradicts this finding. Instead, the evidence indicates that the systematic targeting of Tea Party and other conservative groups by the IRS was substantially different from the IRS's treatment of liberal groups. The IRS's treatment of Tea Party cases cannot be boiled down to an apples-to-apples comparison to liberal groups. Only one tab, labeled "Emerging Issues," dealt with political advocacy groups under then-current review by the IRS for tax-exempt status. The other tabs with liberal groups listed were intended to alert IRS screeners only to watch out in the event they receive any tax-exempt status requests from groups like ACORN successors, Progressive or Occupy.

The Subcommittee Minority analyzed the way the IRS utilized the BOLO and found that groups in the "Emerging Issues" BOLO spreadsheet tab – most notably Tea Party groups – were treated differently than groups listed in other BOLO spreadsheet tabs.

In August 2010, IRS employees in Cincinnati created the BOLO spreadsheet to alert employees to certain cases.[1105] The BOLO spreadsheet had five sheets or tabs. The sheets or tabs of the spreadsheet varied over time. The original five tabs were: "TAG," "TAG Historical," "Emerging Issues," "Coordinated Processing," and "BOLO List."[1106] TAG stands for "Touch-and-Go" and the cases referenced on the "TAG" tab indicated potential fraud, terrorism or other sensitive issues.[1107] "TAG Historical" referenced cases that were no longer active in the IRS's system and had similar indications of fraud, terrorism or other sensitive issues.[1108] Later versions of the BOLO spreadsheet

---

[1104] *See* Majority Report, at 81 ("liberal groups encountered many of the same IRS processing problems as conservative groups").
[1105] IRS0000002503 - 515.
[1106] Id.
[1107] IRSR0000006659
[1108] Subcommittee interview of Gary Muthert, IRS (1/15/2014); *see also* Letter from J. Russell George, Treasury Inspector General for Tax Administration to Rep. Sander Levin, at 1

replaced "TAG" with "potential abusive" and "TAG Historical" with "potential abusive historical."[1109] The "BOLO List" tab was a precursor to the "Watch List" tab. The "Watch List" tab was designed to draw attention to cases not yet received by the IRS that agents should be watching for.[1110] The "Emerging Issues" tab was used to flag newly received cases on which there was no precedent.[1111]

The "Emerging Issues" tab explicitly referred to the "Tea Party" movement. The tab contained no mention of any other political organization.[1112] In August 2010, the entry on the BOLO Spreadsheet for Tea Party read: "Tea Party: These case[s] involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4)."[1113] The specific Tea Party reference was an umbrella term for conservative groups, designed to draw attention to a national movement that more often than not included organizations with Tea Party, Patriots, and 9/12 in the group name. On February 1, 2011, head of IRS Exempt Organizations, Lois Lerner emailed several of her employees and stated that the "Tea Party Matter [is] very dangerous."[1114]

From: Lerner Lois G
Sent: Tuesday, February 01, 2011 5:28 PM
To: Seto Michael C
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in this. Cincy should probably NOT have these cases. Holly please see what exactly they have please.

The Tea Party description contained in the "Emerging Issues" tab was used by the IRS to flag cases from August 2010 until July 2011. In July 2011, the description of cases to flag was altered to state the following: "Advocacy Orgs: Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."[1115]

(6/26/2013) ("The "Progressives" criteria appeared on a section. . . labeled 'Historical,' and, unlike other BOLO entries, did not include instruction on how to refer cases that met the criteria." Also, TIGTA "found no indication in any of these materials that 'Progressives' was a term used to refer cases for scrutiny for political campaign intervention.").

[1109] IRS0000001500 - 511.

[1110] IRSR0000006667 ("Typically Applications Not Yet Received").

[1111] IRSR0000006660.

[1112] IRS0000002509.

[1113] Id.

[1114] IRSR0000156541.

[1115] IRS0000001494 (it goes on to read: "Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.").

This change was requested by Lois Lerner, the Washington, D.C.-based Director of Exempt Organizations, in an attempt to broaden the criteria and prevent the inappropriate selection of cases based on their name only.[1116] Even after this effort, the IRS continued to target **all** Tea Party cases for heightened scrutiny.[1117] The "Emerging Issues" tab relating to political advocacy cases changed again in January 2012. The description was altered to read: "Current Political Issues: Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial [*sic*] economic reform/movement."[1118] The January 2012 change was initiated because IRS employees in the Cincinnati office found that the July 2011 broad criteria caused too many cases unrelated to political activity to be sent to the advocacy group for processing. Finally, in May 2012, the Emerging Issues tab entry was changed for a fourth time, back to a broader, more-inclusive set of criteria by IRS management in Washington, D.C.[1119]

The active targeting of Tea Party applications began in February 2010.[1120] At that time, revenue agents screening applications began forwarding *every* Tea Party application to a specialist group handling the Emerging Issue cases. The informal criteria created and used by revenue agents in Cincinnati screening applications related to the Tea Party Emerging Issue entry included:

1) "Tea Party, Patriots or 9/12 Project is referenced in the case file
2) Issues include government spending, government debt or taxes
3) Education of the public by advocacy/lobbying to 'make America a better place to life'
4) Statement in the case file criticize how the country is being run"[1121]

It is clear that all of these criteria were designed to scrutinize conservative applicants, especially considering the political climate of the time. Any application that fit these criteria was sent to the specialist group in Cincinnati handling Emerging Issues cases. Upon receipt of the first few Tea Party cases by the specialist group, a revenue agent created an entirely new Microsoft Excel spreadsheet to track progress on

---

[1116] TIGTA Report at 35 ("During the briefing, the Director, EO, raised concerns over the language of the BOLO listing criteria. The Director, EO, instructed that the criteria be immediately revised.").
[1117] PSI-IRS-37-000004 - 014 (In an assessment of all cases with Tea Party in the name received by June 5, 2012, every case was forwarded to the Advocacy Case List for additional scrutiny).
[1118] IRS0000001507 (it goes on to read: "Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above").
[1119] IRS0000001494 ("Current Political Issues: 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit").
[1120] Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013); PSI-IRS-37-000013 - 014.
[1121] TIGTA Report, at 6, figure 3. *See also*, Lerner Briefing Document (June 2011).

the applications. The spreadsheet, called the Advocacy Case List, recorded the organization's name, the date the IRS received the application, the IRS assigned tracking number, whether it was a 501(c)(3) or (4) application and other information about the case.[1122] The Advocacy Case List was separate and distinct from the BOLO Spreadsheet. Whereas the BOLO contained criteria for flagging applications, the Advocacy Case List consisted of the actual cases being scrutinized by the IRS as a result of its political targeting. Between May 2010 and May 2012, the IRS accumulated 298 applications for tax-exemption, all of which were placed on the Advocacy Case List.[1123] This list of 298 cases was identified by the IRS as the cases the IRS itself had selected for further scrutiny and provided to TIGTA for its audit.[1124]

Although IRS employees in Cincinnati developed the Advocacy Case List, it was not the only IRS office ultimately involved. In March 2010, senior management in Washington, D.C. put the Tea Party cases on hold, while two Tea Party test cases were reviewed by the Washington, D.C. office. These cases were reviewed by the EO Technical department, which was overseen by Holly Paz at the time.[1125] Both of these test cases were Tea Party groups.[1126] While a total of 6 cases from the 298 on the Advocacy Case List were approved between May 2010 and May 2012, not a single one of the approved cases had Tea Party in their name.[1127] The remaining 292 groups either withdrew their applications due to the lengthy delays or continued to await either an approval or denial.[1128] By being kept in limbo, these groups were severely hampered in their ability to raise funds. The IRS's failure to provide decisions on the 292 remaining applications also functionally denied these groups the right to appeal their treatment in federal court.

[1122] IRSR0000006585.
[1123] TIGTA Report at 24.
[1124] Id. at 10.
[1125] PSI-IRS-09-000040; Subcommittee interview of Holly Paz, IRS (10/30/2013).
[1126] IRSR0000430436; *see also* Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of Representatives, at 4 (4/7/2014) ("The IRS's 'test' cases transferred from Cincinnati to Washington were exclusively filed by Tea Party applicants: the Prescott Tea Party, the American Junto, and the Albuquerque Tea Party."). There were actually three cases used for the test cases, one of the original two cases was closed for failure to respond, so a third was selected.
[1127] TIGTA Report at 14 ("Prior to the hands-on training and independent review, the team of specialists only approved six (2 percent) of 298 applications."); Gregory Korte, IRS Approved Liberal Groups While Tea Party in Limbo, USA Today (5/15/2013) ("There wouldn't be another Tea Party application approved for 27 months" starting in March 2010.).
[1128] TIGTA Report at 14 (Of the 298 applications, TIGTA determined that 28 groups withdrew the application and 160 continued to wait).

B. Liberal Groups on the BOLO Spreadsheet

The Subcommittee's primary focus should be on the burdensome treatment of groups targeted via the Tea Party entry on the BOLO spreadsheet's "Emerging Issues" tab. The Majority report, however, attempts to draw attention away from the "Emerging Issues" tab by directing it toward unrelated tabs. It then attempts to draw tenuous similarities in the treatment of liberal organizations such as Progressive, ACORN, Occupy and Emerge to conservative groups by the IRS.[1129] Based on evidence discovered during this investigation the Majority's assertion is completely unsubstantiated. The treatment of these four liberal groups was dramatically and fundamentally different from that of Tea Party, Patriot and 9/12 groups applying for tax-exempt status. Furthermore, the disparate impact on conservative groups far outweighed any impact that the IRS treatment may have had on liberal groups. The comparison chart below shows that the Tea Party groups were systematically selected-out by name by utilizing the Tea Party entry on the BOLO spreadsheet. After being selected-out, the cases were assigned to the Tea Party Coordinator to manage processing and placed on a separate Advocacy Case List. Additionally, during the period of review, two Tea Party test cases were singled out and sent to Washington, D.C. for review. These two cases were also eventually reviewed by the IRS legal counsel's office. Based on these test cases, a sensitive case report was developed to inform senior IRS management of the cases. As is shown below, these actions all happened to Tea Party groups while only sporadically occurring to liberal groups.

[1129] Majority Report, at 1, 2.

Comparison Chart of Tea Party Group Treatment versus Occupy, Emerge, ACORN successors, and Progressive/Progress

	Tea Party (incl. 9-12 and Patriot	Occupy	Emerge	ACORN Successors	Progressive BOLO (c3s)	Progressive / Progress c4s
Listed on the BOLO Spreadsheet	X	X		X	X	
Sensitive Case Report	X		X			
Test Cases sent to Washington	X		X	X		
IRS's office of Legal Counsel's review	X					
Listed on the Advocacy Case List	X			?*		X
Assigned a specific Coordinator (i.e. Tea Party Coordinator)	X					
Development Letters	X		X			X

* Due to 6103 restrictions on releasing individual taxpayer information, TIGTA officials were unable to confirm or deny the addition of a single ACORN group on the Advocacy Case List.

(1) Progressive and Progress Groups

In the original BOLO Spreadsheet, on the TAG Historical tab, there was an entry that read:

> "Progressive: Political Activities: Common thread is the word 'progressive'. Activities appear to lean toward a new political party. Activities are partisan and appear as anti-republican. You see references to 'blue' as being 'progressive.'"[1130]

According to our interviews with TIGTA employees, this entry refers to the IRS's previous handling only of 501(c)(3) applications for tax-exempt status from groups with Progressive in their name.[1131] As a result, it is highly unlikely that this entry was used to select progressive 501(c)(4) groups for review. Instead, 501(c)(4) cases that contained the name progressive or progress were included in the Advocacy Case List only because they fit the expanded criteria for scrutiny articulated by Lois Lerner in June 2011.

[1130] IRS0000001354.

[1131] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014). *See also* Subcommittee interview of Elizabeth Hofacre, IRS (10/25/2013) (Ms. Hofacre informed Subcommittee staff that EO technical had instructed her to send along 501(c)(3) applications and not (c)(4), as well as the fact that progressive cases were handled in a different manner than Tea party cases once flagged.)

The fact that the Progressive cases referenced on the Historical tab of the BOLO Spreadsheet related only to 501(c)(3) cases is an important distinction to the Tea Party entry on the BOLO that referenced 501(c)(3) and (4) cases. Applicants applying for 501(c)(3) charity status are held to a stricter standard under the law than 501(c)(4) groups. That status requires 501(c)(3) charity organizations to *exclusively* conduct themselves for their stated charitable purpose.[1132] On the other hand under IRS regulations, 501(c)(4) organizations must *primarily* operate for their social welfare purpose. The difference between *exclusively* and *primarily* allows 501(c)(4) organizations to participate in some political advocacy activities.[1133] As such, the IRS must carefully examine **all** groups, including explicitly partisan groups, applying for 501(c)(3) status to determine if its activities are at all related to improper political advocacy. However, based on the evidence available, taken together, these facts indicate, and the Subcommittee's interviews confirm, there were no active cases relating to the Historical tab of the BOLO Spreadsheet Progressive entry at the time TIGTA completed its review.

According to the House Committee on Ways and Means, there were only seven applications with Progress or Progressive in the name included on the Advocacy Case List. This Subcommittee's investigation determined that of the seven groups, four groups included "progress" in the name and three groups included Progressive in the name. All seven were groups applying for 501(c)(4) tax-exempt status and all seven were eventually approved.[1134] No Progressive 501(c)(3) cases ever made it onto the Advocacy Case List. There were also 14 organizations with Progressive or Progress in their name that were not sent to the Advocacy Case List.[1135] Unlike the Progress or Progressive groups, *all* Tea Party cases filed between February 2010 and March 2012 were scrutinized and delayed.[1136] Progressive cases were not identified specifically by name in the Emerging Issues tab of the BOLO Spreadsheets used by revenue agents. Further, it is unlikely that progressive cases appeared on the Advocacy Case List until after the Tea Party BOLO was expanded in

---

[1132] *See* 26 C.F.R. § 1.501(c)(3)-1(c)(1).

[1133] *See* 26 C.F.R. § 1.501(c)(4).

[1134] The House Committee on Ways and Means has statutory authority to view individual taxpayer information under 26 U.S.C. § 6103. With the ability to view and analyze this information, it was able to make statistical determinations by reviewing individual applications for tax-exempt status. *See* Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, (9/18/2013) http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126 ("One hundred percent of the groups with 'Progressive' in their name were approved"); PSI-IRS-37-000004 - 014 (Of the cases with the word Progress or Progressive in the applicant's name, seven cases were on the Advocacy Case List by May 2012 when TIGTA completed its analysis); *see also* Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of Representatives, at 34 (4/7/2014).

[1135] PSI-IRS-37-000004 - 014.

[1136] Id. (In an assessment of all cases with Tea Party in the name received by June 5, 2012, every case was forwarded to the Advocacy Case List for additional scrutiny).

July 2011. Fewer than 38 percent of applicants with Progress or Progressive in their name were sent to the Advocacy Case List.[1137]

The Subcommittee Majority report utilizes the existence of the seven total 501(c)(4) applications with either Progress or Progressive in the name to show that liberal groups were targeted and placed on the Advocacy Case List. The seven Progress or Progressive 501(c)(4) applications did not relate to the Progressive BOLO spreadsheet entry because they are not 501(c)(3) organizations. Also, all seven of these groups were likely not targeted for inclusion in the Advocacy Case List based on the applicant's name, but rather due to their potential political activities. Only Tea Party, 9/12 and Patriot groups were specifically targeted based on the applicant's name. Publicly available information released in a *USA Today* article revealed that the earliest a Progress or Progressive application was listed on the Advocacy Case List was *after* March 2011. Therefore, it very likely the case was not actually added to the Advocacy Case List until after the criteria were broadened to include all advocacy groups in July 2011, not just the Tea Party. While at least 33 "Tea Party," six "9/12," and 13 "Patriot" cases languished on the Advocacy Case List, nearly 18 months passed before a single "Progress" or "Progressive" case was added to the list.

Notes taken during a July 28, 2010 screening workshop held in the IRS EO Determinations unit in Cincinnati further underscore the distinction between the Tea Party cases and Progressive cases.[1138] The workshop notes explicitly state Elizabeth Hofacre's role as the senior IRS revenue agent assigned the title Tea Party Coordinator/Reviewer, was only to process Tea Party groups. The notes even go so far as to explicitly exclude progressive groups from her jurisdiction.[1139]

[1137] PSI-IRS-37-000004 - 014 (Of the cases with the word Progress or Progressive in the applicant's name, seven cases were on the Advocacy Case List by May 2012 when TIGTA completed its analysis. Two additional Progress or Progressive cases were added to the December 2012 Advocacy Case List. Of the total 24 Progress or Progressive cases, 9 eventually ended up on the Advocacy Case List. Thus, 15 Progress or Progressive cases were not included on the Advocacy Case List.

[1138] IRSR0000168721 - 723.

[1139] IRSR0000168722 ("'Progressive' applications are not considered 'Tea Parties').

Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like- regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - Emerge,
  - Progressive
  - We The People,
  - Rally Patriots, and
  - Pink Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
  - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
    - "Progressive" applications are not considered "Tea Parties" 1140

The Subcommittee has identified *no* evidence to suggest the treatment and handling of Progressive cases was the same as the Tea Party cases. Unlike Tea Party cases, Progressive cases were not identified by name in the "Emerging Issue" criteria used by revenue agents nor were they likely to have appeared on the Advocacy Case List until July 2011. Finally, every single one of the mere seven cases with Progress or Progressive in their name was approved.[1141]

(2) ACORN Successors

The BOLO spreadsheet also contained an entry referencing "ACORN successors" that appeared on the "Watch List" tab.[1142] The listing has been partially redacted by the IRS for 26 U.S.C. § 6103 protection, but it states "ACORN Successors: Following the breakup of ACORN [Redacted Information]."[1143]

Unlike Tea Party groups, ACORN successor organizations were properly on the BOLO Spreadsheet because ACORN itself had been involved in a number of fraudulent transactions assisting tax evasion.[1144] After a series of scandals, which led to Congress revoking its funding of the organization, the national ACORN organization disbanded.[1145] The

---

[1140] IRSR0000168722 (emphasis added by Subcommittee Minority).

[1141] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA (9/18/2013), http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126 ("One hundred percent of the groups with 'Progressive' in their name were approved"); Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of Representatives, at 34 (4/7/2014).

[1142] IRS0000002513.

[1143] Id.

[1144] Matthew Bigg, Scandals Weaken Liberal Group ACORN, Reuters (2/22/2010) http://www.reuters.com/article/2010/02/23/us-usa-acorn-idUSTRE61M09L20100223; ACORN Hopes New Image Can Save Disgraced Advocacy Group, Fox News (2/23/2010).

[1145] Matthew Bigg, Scandals Weaken Liberal Group ACORN, Reuters (2/22/2010) http://www.reuters.com/article/2010/02/23/us-usa-acorn-idUSTRE61M09L20100223; ACORN Hopes New Image Can Save Disgraced Advocacy Group, Fox News (2/23/2010); Sarah

ACORN groups were thus not flagged simply for their political activities, but also because of a specific association to a group known to have legal problems.[1146] That rationale bears no relation to the Tea Party cases, which appear to have been singled out and targeted based solely on their name or political beliefs.

Based on the information available to the Subcommittee during its review, the IRS's concern about potential ACORN successors never materialized.[1147] Documents show that of the initial four cases identified, the applications possibly came from only two groups applying for both 501(c)(3) and (c)(4) status.[1148] This further indicates the focus of IRS agents was on whether new entities would attempt to succeed ACORN after the national organization disbanded and not the organization's name or policy positions.

(3) "Occupy" Groups

A third group, "Occupy," was only listed on the BOLO spreadsheet late in the processing of the Tea Party and Advocacy cases and related to the Occupy Wall Street movement.[1149] "Occupy" was listed on the "Watch List" tab of the BOLO spreadsheet beginning on February 8, 2012.[1150] IRS agents listed Occupy because media reports suggested this possible national movement might lead to applications by groups from various cities.[1151] At no point between May 2010 and May 2012 did the "Occupy" cases make it onto the Advocacy Case List. There is also no evidence suggesting that these cases were subjected to the same level of severe scrutiny as the Tea Party cases.[1152]

The first Occupy case was received in 2012, two years after the targeting of Tea Party groups had begun. The Occupy listing on the Watch List tab read as follows:

> "Occupy Organizations: Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to 'big money'

Wheaton, Acorn Sues Over Video as I.R.S. Severs Ties, New York Times (9/23/2009) http://www.nytimes.com/2009/09/24/us/politics/24acorn.html?_r=0 (ACORN "has faced a deluge of criticism after a series of videos from hidden cameras caught staff members giving advice about **tax evasion**, human smuggling and child prostitution").

[1146] *See* Subcommittee interview if Troy Paterson, TIGTA (3/21/2014); Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of Representatives, at 42.

[1147] The IRS revenue agents seemed more worried about the fact the applicants applying for 501(c)(3) status were the same as an applicant applying for 501(c)(4) status because they shared an address. *See* IRSR0000410433.

[1148] IRSR0000410433.

[1149] IRSR0000006710.

[1150] Id.

[1151] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).

[1152] *See* Subcommittee Interviews with TIGTA employees.

> influence, claim the democratic process is controlled by was street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy."[1153]

The Occupy listing is substantially different than the Tea Party listing for a number of reasons. First, Occupy was listed on the "Watch List" entry, which meant that it served as an advance notification in the event a possible application came in. The listing was not used by IRS employees to screen and select out applications from a known "emerging issue."[1154] Also, unlike the then purely theoretical Occupy applications, the Tea Party cases were clearly already active. Although two Occupy groups eventually did apply for tax-exempt status, it was not until 2012; roughly two years after the Tea Party targeting began.[1155]

(4) Emerge

The final group cited by the Majority in support of the assertion that liberal groups were targeted by the IRS is "Emerge."[1156] Emerge America is a national organization dedicated to the election of Democrat women with affiliate state-based organizations.[1157] The organization was explicitly a campaign organization for the private benefit of the Democratic Party.[1158] Emerge groups therefore clearly and blatantly did not qualify for tax-exempt status. As a result, all eight applications filed by Emerge affiliates were ultimately and properly denied tax-exempt status. Three of the eight Emerge cases were denied after review by EO Technical in Washington, D.C. because of their clear participation in political campaigns to benefit the Democratic Party.[1159] The other five cases were initially approved, but later had their tax-exempt status revoked by the IRS for the same reasons the other three groups were denied.[1160]

When the Emerge cases were received by the IRS, the cases were sent to the Washington office and IRS agents created a Sensitive Case Report (SCR) on the Emerge groups, similar to the SCR for Tea Party

---

[1153] IRSR0000006710.
[1154] IRSR0000000669 (Watch List was for "World Events that ***Could*** Result in an Influx of Applications" (emphasis in original)).
[1155] *See* IRSR0000014173 - 174; IRSR0000014175 - 189.
[1156] Majority Report, at 96.
[1157] http://www.emergeamerica.org/.
[1158] IRSR0000012211 - 221, at 219 ("Based on the information you submitted with your application, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests."); *see also* Staff Report, Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment, Committee on Oversight and Government Reform, U.S. House of Representatives, at 32-33.
[1159] IRSR0000196739 - 758.
[1160] IRSR0000468978 - 980.

cases.[1161] That, however, is where the similarities end. Unlike the Tea Party groups, Emerge was never added to the BOLO Spreadsheet and it did not have a separate list in Cincinnati that held Emerge cases. On top of this, it was clear that all of the Emerge cases did not meet the requirement to primarily engage in the group's social welfare activity.

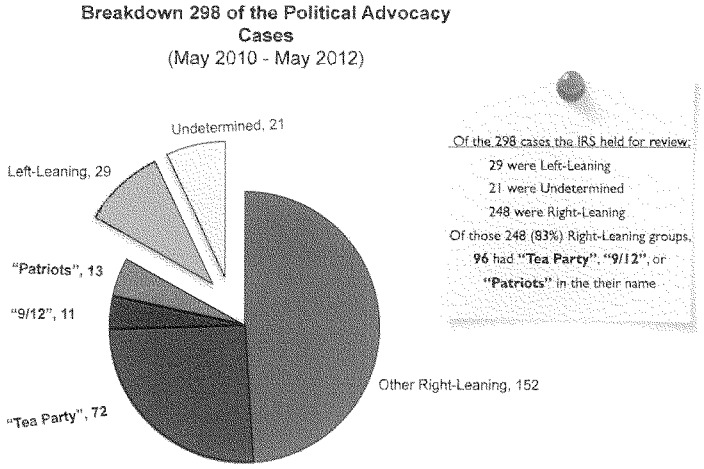
Any attempt to compare the severe scrutiny of conservative groups seeking tax-exempt status to these few liberal groups is untenable. Conservative groups were systematically targeted by the IRS, listed on a separate spreadsheet than the BOLO Spreadsheet, had their applications put on hold by IRS management, and asked obtrusive questions to a significantly greater degree.

C. Disparate Impact on Conservative Groups

TIGTA's report on the IRS's processing of advocacy cases provides an illuminating look at the extent of the IRS's disparate impact on conservative groups. According to TIGTA's analysis, between May 2010 and May 2012, the IRS removed a total of 298 applications from normal processing and placed them on a special Advocacy Case List for additional scrutiny.[1162] Of the 298 groups, 72 had Tea Party in their name, 11 had 9/12 in their name and 13 had Patriots in their name.[1163] Thus, out of the 298 groups, 96 applications contained Tea Party, 9/12, or Patriot in their names and were placed on the Advocacy Case List as a result.[1164] Of the 298 cases, TIGTA auditors looked at the entire, hard-copy application file for 296 applications because two cases were incomplete and could not be reviewed.[1165]

Although the Subcommittee does not have authority to view individual taxpayer data under 26 U.S.C. § 6103, the House Committee on Ways and Means does. It reviewed the 298 applications the IRS provided to TIGTA.[1166] According to the Committee's analysis, 83 percent – 248 of the 298 groups – were "right leaning."[1167] In the same analysis, the Committee found that only 29 of the 298 groups, or 10 percent, were "left leaning."[1168]

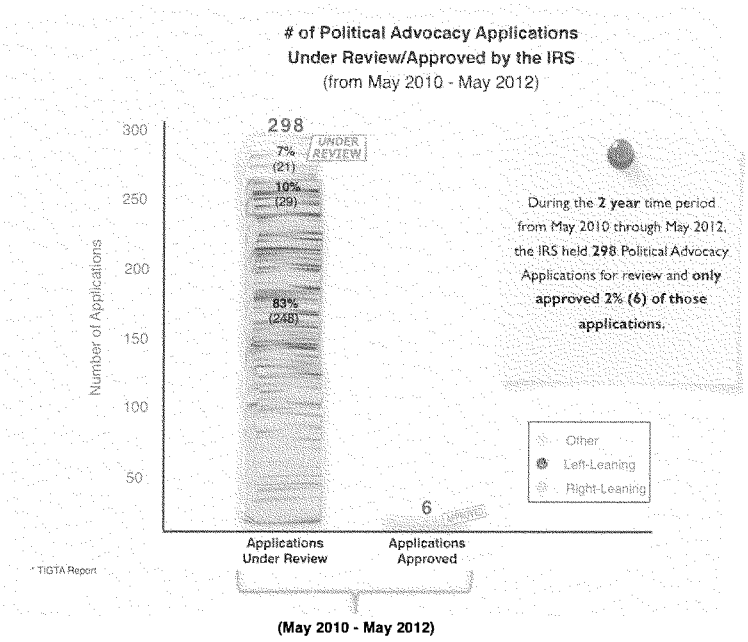
[1161] IRSR0000141809 - 811.
[1162] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, www.Waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126
[1163] TIGTA Report at 8.
[1164] Id.
[1165] Id at 10.
[1166] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126.
[1167] Id.
[1168] Id.



The full story becomes even clearer when the percentage of approvals is considered. The Committee on Ways and Means found that 45 percent, or 111 applications, of the 248 right-leaning groups were eventually approved.[1169] Liberal groups, on the other hand, enjoyed a 70 percent approval rate. Thus, of 29 left-leaning groups, 20 groups were approved while 9 groups withdrew their application or the application is still pending.[1170]

Additionally, according to TIGTA's audit, only six cases from the Advocacy Case List were approved in the span of two years.[1171] Amazingly, after TIGTA initiated its audit, 102 applications were approved from May to December 2012.[1172]

[1169] Id.
[1170] Id.
[1171] TIGTA Report at 14.
[1172] Id. at 14-15.



Of these "hastily approved applications," the Ways and Means Committee determined that many "were flagged for IRS surveillance by Washington, D.C."[1173] As is consistent with the IRS's treatment of conservative groups, "[o]f those flagged, more than eighty percent of the groups were right leaning."[1174] Moreover, Ways and Means determined that of the organizations sent to the IRS Exempt Organizations Examinations unit, 94 percent were right-leaning. That 94 percent of flagged groups being found to be right-leaning is certainly telling, but Ways and Means' other discovery demonstrates the disparate impact on conservative groups even further. The Committee found that "of the organizations referred for audit from this process, 100 percent were right leaning."[1175]

As it reviewed each of the applications, TIGTA attempted to discern whether an application had "indications of significant political campaign intervention," the qualifier the IRS identified as the reason a case would need additional scrutiny.[1176] TIGTA auditors determined

[1173] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126.
[1174] Id. ("The IRS surveillance program, called the "Review of Operations," is conducted by the EO Examinations unit in Dallas and involves the monitoring of a group's activity. The consequence of being in the program is that surveillance can lead to an audit.").
[1175] Analysis by U.S. House Committee on Ways and Means staff of 298 cases analyzed by TIGTA, http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126.
[1176] TIGTA Report, at 10.

that 91 applications, or 31 percent, of the 296 applications reviewed did not have "indications of significant political campaign intervention."[1177] This means that the auditors could not find any activities in the case file that suggested the group would participate in campaign-related events that may have disqualified them from 501(c)(4) status.[1178]

During the course of the audit, TIGTA determined that a number of groups received intrusive questions by the IRS in the form of development letters.[1179] A development letter is drafted by the revenue agent processing the application to obtain additional information from the group prior to its approval or denial of tax-exempt status. According to the TIGTA report, 170 organizations in the Advocacy Case List received a development letter.[1180] Of those 170, TIGTA found that 98 organizations, or 58 percent, received burdensome and unnecessary questions.[1181]

One inappropriate question the IRS asked related to requesting an applicant's list of donors. In all, 27 applicants received that request, [1182] of which TIGTA determined that "13 had Tea Party, Patriots, or 9/12 in their names."[1183] Thus, 48 percent of organizations receiving inappropriate donor questions had been selected solely on the basis of having Tea Party, Patriot, or 9/12 in their name. The donor list questions are particularly disturbing because after a 501(c)(4) group is approved, it does not need to publicly disclose its donor list. The approved tax-exempt organization only needs to privately provide the IRS with this information in its tax returns and the IRS is obligated not to make this public. However, the IRS is required to make information that is part of an approved tax-exempt application publicly available.[1184] As result, if a group submits its donor list and the IRS relies on this information to grant 501(c) status, then that otherwise nonpublic donor list is required to be publicly released.[1185] Thus, the request for donor lists from these conservative groups could be used as an indirect means to force the release of the donor lists of these organizations to the public.

[1177] Id.
[1178] *See* Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).
[1179] TIGTA Report, at 18.
[1180] Id..
[1181] Id.
[1182] Id.
[1183] Id. at 18, fn. 43.
[1184] http://www.irs.gov/Charities-&-Non-Profits/Public-Disclosure-and-Availability-of-Exempt-Organizations-Returns-and-Applications:-Public-Disclosure-Requirements-in-General. *See also*, http://www.irs.gov/Charities-&-Non-Profits/Public-Disclosure-and-Availability-of-Exempt-Organizations-Returns-and-Applications:-Documents-Subject-to-Public-Disclosure (describing the tax exempt application as including all supporting documents and any letter issued by the IRS.).
[1185] TIGTA Report, at 18. According to the IRS, the requirement to disclose all information used to approve a tax-exempt organization's application has changed. The new, current position is that the IRS has discretion to withhold sensitive information such as donor lists or social security numbers.

The IRS provided to the Subcommittee a document showing that all Tea Party applications submitted from February 2010 to June 2012, experienced delays in processing, were placed on the special Advocacy Case List for further scrutiny, and forced to linger in limbo.[1186] By contrast, 24 applications with the word "Progressive" or "Progress" were filed with the IRS during the same time period, but only seven of those were added to the advocacy listing.[1187]

In September 2013, *USA Today* published the 2011 list of applications that IRS employees sent to advocacy specialists for additional scrutiny.[1188] The *USA Today* analysis determined that beginning in March 2010, the IRS failed to approve any organizations with "Tea Party" in their name for 27 months.[1189] Left-leaning groups, however, continued to gain tax-exempt status approvals during that time.[1190]

According to the Majority staff report's analysis of the *USA Today* list, 11 of the 162 organizations listed are likely liberal groups.[1191] This fact is cited to suggest that liberal groups were also treated poorly by the IRS and thus no political bias could have occurred. However, even if 11 liberal groups were included on the list published by *USA Today*, it would still fail to show equal treatment by the IRS of conservative groups and liberal organizations. This is clearly shown by comparing the *USA Today* document to the tax news website, Tax Analysts, report of the 170 cases approved by the IRS between 2010 and 2013.[1192] This analysis showed that all of the liberal groups listed by the Majority were ultimately approved by the IRS for tax-exempt status. Further, that the number of "likely" liberal groups on the list represents just slightly more than 6 percent of the listed organizations only serves to further underline the disparate impact of the targeting on conservative groups.

In addition to using inappropriate criteria to identify Tea Party cases for increased review, the IRS also subjected these groups to invasive, unnecessary, and irrelevant questions. In fact, some groups preferred to remove their applications from consideration rather than comply with the burdensome requests for additional facts.[1193] As has been detailed in the Ways and Means Committee analysis, 89 percent of

---

[1186] PSI-IRS-37-000004 - 014.

[1187] Id. Based on interviews with TIGTA staff, the Subcommittee has determined that of the seven applications with Progressive or Progress in their name, four cases had the word "Progress" in the name and 3 cases had the word "Progressive in the name."

[1188] http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-document/2827925/.

[1189] http://www.usatoday.com/story/news/politics/2013/05/14/irs-tea-party-progressive-groups/2158831/.

[1190] Id.

[1191] Majority Report, at 80.

[1192] *See* Martin A. Sullivan, News Analysis: Substantial Minority of Scrutinized Eos were Not Conservative, Tax Analysts (May 30, 2013).

[1193] http://www.newsmax.com/Newsfront/irs-targeting-tea-party/2014/02/06/id/551274/.

the groups that were asked donor questions were "right leaning."[1194] One particularly inappropriate and invasive set of questions was directed to a pro-life group.[1195] That group was asked to "please explain [if]...activities, including the prayer meetings held outside of Planned Parenthood, are considered educational," as well as to explain the "activities at these prayer meetings" and to estimate the "percentage of time spent on prayer meetings as compared with other activities of the organization."[1196]

The treatment of Catherine Englebrecht, by multiple agencies in response to her founding a tax-exempt organization, represents a specific example of an individual being subjected to excess enforcement and targeting. According to a *Forbes* article, Ms. Engelbrecht has seen:

> "[t]he organization [she founded]has been questioned by the FBI on numerous occasions; she has had her personal tax returns audited by the IRS; and has also had her small manufacturing business tax returns audited by the IRS. In addition, her business has been subjected to two unscheduled audits by the U.S. Bureau of Alcohol, and Tobacco and Firearms (BATF) and has undergone another unscheduled business audit by the Occupational Safety and Health Administration (OSHA)."[1197]

In another example of IRS overreach, Ms. Lerner, head of the Exempt Organizations division, took it upon herself to review referrals sent to the IRS by non-profit watchdog group, Democracy 21. [1198] These referrals urged the IRS to examine a conservative group's 501(c)(4) status.[1199] After reviewing the Democracy 21 referral, she found that "the allegations in the documents [against the conservative group] were really damning, so [she] wondered why [the IRS] hadn't done something with the org."[1200]

[1194] http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=350126.
[1195] https://news.yahoo.com/blogs/the-ticket/irs-conservative-group-2009-members-pray-193833144.html.
[1196] Id.
[1197] http://www.forbes.com/sites/larrybell/2013/05/30/why-you-should-care-that-the-u-s-government-has-targeted-catherine-engelbrecht-and-her-organizations/.
[1198] Democracy 21 is a nonprofit organization and its stated mission seeks to "eliminate the undue influence of big money in American politics, prevent government corruption, empower citizens in the political process and ensure the integrity and fairness of government decisions and elections." *See* http://www.democracy21.org/our-mission/.
[1199] IRSR0000122549 - 551; *see also* Letter from Chairman Dave Camp to Attorney General Eric Holder, at 2-6 (4/9/2014).
[1200] IRSR0000122549 - 551 (The IRS has the ability to take referrals from outside groups and process them through its Referral Committee to determine if an IRS examination of a 501(c)(4) group is necessary. In the instance described, an organization was looked at by the referral committee twice, but the committee twice voted unanimously to not recommend the group for examination.).

From: Lerner Lois G
Sent: Friday, January 04, 2013 4:50 PM
To: Downing Nanette M
Subject: FW: Referral organization

I had a meeting today with an organization that was asking us to consider guidance on the c4 issue. To get ready for the meeting, I asked for every document that had sent in over the last several years because I know they had sent in several referrals. I reviewed the information last night and thought the allegations in the documents were really damning, so wondered why we hadn't done something with the org. The first complaint came in 2010 and there were additional ones in 2011 and 2012.

I asked Tom Miller whether he recalled seeing referral committee notes on the referrals when he and Judy went down to look at the referrals. He looked them up, and as you can see below, the referral committee unanimously non-selected the case twice. I don't know where we go with this--as I've told you before--I don't think your guys get it and the way they look at these cases is going to bite us some day. [redacted]

[redacted] Yet--twice we rejected the referrals for somewhat dubious reasons and never followed up once the 990s were filed.

1201

As the email shows, Lerner agreed with the Democracy 21 complaint and was agitated that the conservative group had not been denied or revoked 501(c)(4) status. An IRS referral committee specifically set up to decide on the need for referrals to the Examinations Unit of Exempt Organizations *unanimously* found, in two separate reviews, the allegations from Democracy 21 were not sufficient for referral.[1202] Nevertheless, despite acknowledging the committee's reviews, Ms. Lerner called for reexamination of the group in question. Ms. Lerner directly stepped in to seek additional scrutiny when the system designed to refer tax-exempt organizations for examination failed to reach the result she wanted. Ms. Lerner even went so far as to inform her senior advisor that "you should know that we are working on a denial of the application, which may solve the problem because we probably will say it isn't exempt."[1203] Ms. Lerner knew full well that a system was in place to handle referrals to the Examinations Unit. Instead of allowing the system to work, she made the decision to actively target a single group and push for additional scrutiny.[1204]

[1201] IRSR0000122549 - 551.
[1202] Id. at 550 ("...the referral committee unanimously non-selected the cases twice").
[1203] Id.
[1204] *See* Staff Report, Lois Lerner's Involvement in the IRS Targeting of Tax-Exempt Organizations, Committee on Oversight and Government Reform, page 10 (3/11/2014) (Lerner's testimony was necessary to understand the rationale for and extent of the IRS's practice of targeting certain tax-exempt groups for heightened scrutiny. By then, it was well known that Lerner had extensive knowledge of the scheme to target conservative groups.).

National Public Radio (NPR), on July 30, 2014, published a House Committee on Ways and Means study detailing the disparity in the number of questions posed to conservative applicants for tax exempt status versus the number posed to progressive organizations.[1205] What the House Committee found perfectly highlights the disparate impact that the IRS targeting had on conservative organizations. The analysis determined conservative groups were asked 1,552 questions, an average of 14.9 questions per group. Meanwhile, the seven progressive groups were asked a mere 33 questions in total or 4.7 per group.[1206] This means that conservative groups were asked on average more than three times the number of questions posed to progressive organizations. This tremendous discrepancy in the number of question posed to conservative and progressive groups emphasizes the difference in treatment that liberal and conservative groups' received at the hands of the IRS.

[1205] http://www.npr.org/blogs/itsallpolitics/2013/07/30/207080580/report-irs-scrutiny-worse-for-conservatives; *see also* http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=344485.
[1206] Id.

III. TIGTA AUDIT

A. Scope of the Audit

The Subcommittee Majority staff report raises concern that the scope of the TIGTA audit was inadequate. The Majority report asserts that the audit should have been broadened to include additional information, especially information related to the purported targeting of liberal groups.[1207] Based on its review, the Subcommittee Minority finds that the scope of the audit adequately covered the relevant material and the TIGTA findings are valid. The IRS raised no objection to the underlying scope of the audit,[1208] including accepting seven of the nine recommendations TIGTA made.[1209] Additionally, the audit followed standard auditing principles[1210] and all members of the TIGTA audit team have stood by the accuracy of its findings.[1211]

TIGTA initiated the IRS targeting audit for three reasons: (1) concerns articulated by members of Congress and the House Committee on Oversight and Government Reform (OGR);[1212] (2) media reports alleging unfair treatment of certain organizations applying for tax-exempt status;[1213] and (3) receipt of a letter from the Landmark Legal Foundation requesting an investigation to determine whether IRS

[1207] Majority Report, at 217 ("By excluding information about how the IRS handled 501(c)(4) applications filed by liberal groups, the TIGTA audit report presented a distorted analysis of how the IRS processed 501(c)(4) applications.").

[1208] The IRS reviewed three drafts of the TIGTA report and never once raised the issue of scope. Additionally, the Subcommittee interviewed multiple witnesses from both the IRS and TIGTA and they all stated they did not have a problem with the audit's scope. *See* Subcommittee interview of Troy Paterson, TIGTA (3/21/2014), Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1209] TIGTA Report, Highlights page; Note: In May 2013, President Obama directed Treasury SecretaryJack Lew to make sure the IRS carried out all of TIGTA's recommendations. *See* http://www.whitehouse.gov/the-press-office/2013/05/14/statement-president.

[1210] Government auditing standards "require that [TIGTA] plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on [their] audit objective." *See* TIGTA Report, at 4.

[1211] Subcommittee interview of Troy Paterson, TIGTA (3/21/ 2014); Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014); Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1212] PSI-TIGTA-03-001404: Letter from House Committee on Oversight and Government Reform to J. Russell George, Treasury Inspector General for Tax Administration (6/28/2012) ("On March 8, 2012, Committee staff and [TIGTA] staff discussed potential problems with IRS's recent effort to increase scrutiny of organizations operating under 501(c)(4) status. We understand that...TIGTA is conducting ongoing work to better understand this IRS initiative. We would greatly appreciate if you provided Committee staff periodic updates and a copy of TIGTA's final report on this matter.").

[1213] Written testimony of J. Russell George for The House Committee on Ways and Means (May 17, 2013), The House Committee on Oversight and Government Reform (5/22/2013), and The House Appropriations Subcommittee on Financial Services and General Government (6/3/2013), at 3; TIGTA Report, at 3; *See e.g.* Pat Holmes, *Agency Questions Tea Party group calls IRS intrusive'*, The Columbus Dispatch (2/16/2012) http://www.dispatch.com/content/stories/local/2012/02/16/tea-party-group-calls-irs-intrusive.html.

employees acted inappropriately in their assessment of applications applying for tax-exempt status.[1214]

The scope of the audit focused on the internal controls the IRS used to review applications from organizations "potentially involved in political campaign intervention."[1215] With this focus in mind, the auditors requested all information from the IRS relating to the matter.[1216] Russell George, Inspector General for TIGTA, stated in his testimony to multiple Congressional Committees, "[w]e focused our efforts on reviewing the processing of applications for tax exempt status and determining whether allegations made against the IRS were founded."[1217] TIGTA did not, as it has been suggested, look only at how "Tea Party" cases were treated.[1218] In actuality, TIGTA looked at the entire group of cases the IRS selected for special review from the Emerging Issues tab and put on the Advocacy Case List.

The audit specifically focused on the IRS's own criteria, which it directed TIGTA to use, that singled out "Tea Party," "9/12," and "Patriot" groups for special scrutiny.[1219] TIGTA reviewed both open[1220] and closed[1221] cases from the period of May 2010 through May 2012. TIGTA did so because this was the time period in which the IRS developed and implemented the "inappropriate criteria," which "focused narrowly on the names and policy position of organizations."[1222] The criteria were modified from July 2011 to January 2012 and again in May 2012 to look at an organization's political activities and not their names or policy positions.[1223]

While the Subcommittee Majority staff report criticized TIGTA for only evaluating the "Emerging Issues" tab on the BOLO spreadsheet and

---

[1214] Letter from Landmark Legal Foundation to TIGTA, (3/23/2012) http://www.landmarklegal.org/uploads/IRS%20IG%20Letter%20without%20attachments.pdf (The Landmark letter also requested TIGTA look into whether IRS employees acted at the command of "politically motivated superiors.").

[1215] TIGTA Report, at 22.

[1216] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014); Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1217] Written testimony of J. Russell George for The House Committee on Ways and Means (May 17, 2013), The House Committee on Oversight and Government Reform (5/22/2013), and The House Committee on Appropriations Subcommittee on Financial Services and General Government (6/3/2013), at 3.

[1218] Letter from J. Russell George, Treasury Inspector General for Tax Administration to Rep. Sander Levin (6/26/2013).

[1219] Subcommittee interview of Russell George, TIGTA (4/22/ 2014); Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[1220] "Open cases" refer to cases in which their tax exempt status had not yet been determined.

[1221] "Closed cases" refer to cases in which their tax exempt status had been determined.

[1222] TIGTA Report, at 6-7 and 22; Written testimony of J. Russell George for The House Committee on Ways and Means (5/17/2013), The House Committee on Oversight and Government Reform (5/22/2013), and The House Committee on Appropriations Subcommittee on Financial Services and General Government (6/3/2013), at 4-5.

[1223] Id. In January 2012, the criteria was altered to again focus on organizations policy positions and remained in place until May 2012. *See* TIGTA Report, at 7.

not the other tabs such as "Watch List" or "TAG Historical,"[1224] the Subcommittee Minority has found that TIGTA's actions were appropriate. Auditors reviewed the "Emerging Issues" tab on the BOLO spreadsheet because the IRS stated this was the only tab used to identify potential political cases for additional scrutiny.[1225] The Subcommittee Majority staff report points to an email from Lois Lerner to TIGTA officials, asserting that "the IRS again brought its treatment of liberal groups to the attention of senior TIGTA personnel."[1226] The email, however, shows that Ms. Lerner did not feel that there is any political motivation and shows her misunderstanding of the purpose of the audit. In addition, the Majority conflates being on the BOLO list with being selected for additional scrutiny.[1227] The BOLO list itself does not signal any additional attention paid to a particular group.

The Lerner email referenced also shows that Ms. Lerner *believed* TIGTA's audit related to the question whether the IRS was politically motivated, and that was her focus. TIGTA auditors attempted to persuade her that the audit was about whether certain groups were *targeted* by the IRS. Ms. Lerner ignored this and instilled her own view of the audit's purpose into the conversation when the auditors explicitly stated they were not attempting to determine if groups were liberal or conservative.

The Subcommittee Majority staff report indicates that the TIGTA audit was done solely at the behest of the House Oversight and Government Reform Committee to look into whether the IRS was specifically targeting "Tea Party" groups.[1228] That allegation is unfounded. Staffers from OGR met in early 2012 with TIGTA to discuss concerns raised by constituent "Tea Party" groups.[1229] Around the same time, the media aired multiple reports regarding the same issue.[1230] TIGTA then completed its standard preliminary review to

---

[1224] Majority Report, at 217.

[1225] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014); Subcommittee interview of Mike McCarthy, TIGTA (4/30/2014).

[1226] Majority Report, at 190-191 (quoting Ms. Lerner's email "I told them my understanding is that the audit was to determine whether the IRS was acting in a politically motivated manner – not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases. So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting. They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment.").

[1227] Majority Report, at 217-218.

[1228] Id. at 6 ("TIGTA's Office of Audit undertook the audit at the request of the House of Representatives Committee on Oversight and Government Reform.").

[1229] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014); Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1230] Republican Senators expressed concern that the IRS targeted conservative groups. *See* Christopher Santarelli, *GOP Senators Call on IRS to Explain Tea Party Bullying*, The Blaze (3/14/2012) http://www.theblaze.com/stories/2012/03/14/gop-senators-call-on-irs-to-explain-tea-

determine the need for an audit and concluded it would begin a full audit into the IRS's handling of political cases.[1231] During interviews with Subcommittee staff, every TIGTA employee stated that at no time was the audit done for, or at the directive of, OGR Chairman Issa, nor did he or his staff influence the audit process. During his interview, the Audit Director, Troy Paterson consistently rejected the idea that TIGTA's audit narrowly focused on processing of Tea Party groups.[1232] Instead, Mr. Paterson stated that TIGTA's audit looked at the full history of the Tea Party/Advocacy Organization case listing.[1233] At no point during the audit process did TIGTA brief any congressional members or staffers as to the progress of the audit, including those staffers with the Oversight Committee.[1234]

Multiple TIGTA officials confirmed the audit was completed and only released earlier than planned due to Lois Lerner's statement and apology at an American Bar Association conference on May 10, 2013.[1235] It was *not* due to pressure from OGR and Congressional Representatives.[1236] TIGTA has verified that the audit was complete and the report in the final editing stages for release in the next week or two.[1237] Moreover, prior to the report's release, TIGTA gave the IRS three opportunities to comment on the draft report to ensure its accuracy.[1238]

Careful analysis of the TIGTA report proves that it properly found that the IRS's internal controls for processing political applications caused systematic delays and burdensome questioning of groups. The

---

party-treatment/; Mike Zapler, *GOP senators to IRS: Don't pick on Tea Party groups*, Politico (3/14/2012) http://www.politico.com/blogs/on-congress/2012/03/gop-senators-to-irs-dont-pick-on-tea-party-groups-117460.html. Tea party and other conservative groups claim the IRS is preventing them from gaining tax-exempt status. *See* Alan Fram, *IRS Battling Tea Party Groups Over Tax-Exempt Status*, The Huffington Post (3/1/2012) http://www.huffingtonpost.com/2012/03/01/irs-tea-party-tax-exempt_n_1314488.html; Perry Chiaramonte, *Numerous Tea Party chapters claim IRS attempts to sabotage nonprofit status*, Fox News (2/28/2012) http://www.foxnews.com/politics/2012/02/28/numerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/. IRS sends Tea Party groups extensive questionnaires. *See* Janie Lorber, *IRS Oversight Reignites Tea Party Ire*, Roll Call (3/8/2012) http://www.rollcall.com/issues/57_106/IRS-Oversight-Reignites-Tea-Party-Ire-212969-1.html; David Martosko, *Congressional investigations sought over IRS 'assault' on Tea Party groups*, The Daily Caller (2/22/2012) http://dailycaller.com/2012/02/22/congressional-investigations-sought-over-irs-assault-on-tea-party-groups/.

[1231] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).

[1232] Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[1233] Id.

[1234] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1235] Subcommittee interview of Troy Paterson, TIGTA (3/212014); Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1236] Id.

[1237] Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014); Subcommittee interview of Troy Paterson, TIGTA (3/21/2014); Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1238] Id.

TIGTA audit was pursued based on standard procedures and completed at the time of its release.

B. Office of Investigations Email Review

One primary contention in the Subcommittee Majority report is that TIGTA's Deputy Inspector General for Investigations Timothy Camus's findings and analysis from a limited email review should have been included in the audit report.[1239] The Majority report erroneously believes that including this information would have definitively shown no explicit directive existed and no political bias was present. TIGTA's Assistant Inspector General for Audit Gregory Kutz and Mr. Camus, however, both agreed that the email search only confirmed the findings in the report and did not add anything new.[1240]

During the audit of the IRS's controls and procedures for processing 501(c)(4) applications, TIGTA's Office of Investigations (OI) played a very minor role. In spite of this, the Subcommittee Majority report relies heavily on the Office of Investigation's supposed email search findings. Mr. Kutz stated in an interview with the Subcommittee that at some point during the audit process, an IRS employee told the auditors about an email that could be a "smoking gun" directive to target specific political organizations.[1241] Since the TIGTA auditors had previously requested all relevant emails from IRS employees and could not locate this particular email in the produced documents, Mr. Kutz was concerned his team was not receiving all relevant emails.[1242]

In an attempt to locate the possible "smoking gun" email, Mr. Kutz requested that Mr. Camus use OI's technical capabilities to perform a keyword search of relevant employee emails in order to locate this email.[1243] The request for assistance from the investigative division was necessary because auditors do not have the ability to retrieve emails not voluntarily provided to them by the IRS.[1244] After discussions between Inspector General George, Mr. Camus, and Mr. Kutz, OI pulled the emails from the actual IRS servers for five IRS employees and ran a

---

[1239] *See* Majority Report at 186 ("it is difficult to understand why [the Office of Investigations review] was excluded from the report."). It has been suggested that Mr. Camus's statements are definitively conclusive that there was no political motivation in the selection of applications. The Subcommittee Minority cannot conclude the same as this was a very narrow review of a very few email accounts. Moreover, the Subcommittee Minority believes that if there were a political directive, it is unlikely that it would have been put in an email.

[1240] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014); Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1241] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014).

[1242] PSI-IRS-37-000002 - 003.

[1243] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014); Subcommittee interview of Timothy Camus, TIGTA (4/7/2014); Subcommittee interview of Russell George, TIGTA (4/22/2014).

[1244] Id.

keyword search to narrow the total number of documents and emails. The review pulled 2,277 emails or documents that had a keyword "hit". These pulled emails were then reviewed by a member of Mr. Camus's team.[1245] No email containing an explicit directive was found.[1246] After the review was completed, Mr. Camus detailed his findings and provided an analysis on the content of the emails.[1247] As mentioned above, Mr. Camus believed the email search results did not add anything new to the TIGTA report and did not require inclusion in the report.

One additional point of concern was the removal of a footnote in the draft report that referenced the referral to OI by the audit team.[1248] According to witness testimony, the footnote was removed at the request of Mr. Camus.[1249] He sought removal because this was not an official investigation request and, typically, it is inappropriate to disclose law enforcement practices.[1250] Overall, the email search that was conducted was a limited search of only four keywords and five IRS employee email accounts, none of which were employees in Washington, D.C.[1251] According to former TIGTA Chief Counsel, Michael McCarthy, the OI email search was not a "definitive statement," but instead was a very limited review to locate a purported document.[1252] This limited search, combined with recent news of the loss of Lois Lerner's emails from 2009 to 2011 and the loss of six other IRS employee's hard drives, further underscores the inability to conclude no political bias was involved in the IRS's targeting of conservative groups.[1253]

[1245] PSI-TIGTA-04-000015 (TIGTA Office of Investigations Email Review results).
[1246] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014); Subcommittee interview of Timothy Camus, TIGTA (4/7/2014); Subcommittee interview of Russell George, TIGTA (4/22/2014).
[1247] PSI-IRS-37-000001.
[1248] IRSR0000014719 - 769 (Draft TIGTA Report, at 6 n. 15).
[1249] Subcommittee interview of Timothy Camus, TIGTA (4/7/2014).
[1250] Subcommittee interview of Gregory Kutz, TIGTA (3/26/2014); Subcommittee interview of Timothy Camus, TIGTA (4/7/2014); Subcommittee interview of Russell George, TIGTA (4/222014); Subcommittee interview of Mike McCarthy, TIGTA (4/30/2014).
[1251] The OI email review searched the email account of five IRS employees located in the Exempt Organizations Determinations Unit in Cincinnati. The search looked for the keywords: "Tea," "Patriots," "9/12," and "(c)(4)." The email review searched a total 16,691 emails, resulting in 5,617 total "hits" found in 2,277 emails/documents. Jim Jackson reviewed the 2,277 emails to look for a directive to target conservative groups. *See* OI Email Review results PSI-TIGTA-04-000015.
[1252] Subcommittee interview of Mike McCarthy, TIGTA (4/30/2014).
[1253] The OI email review searched the email account of five IRS employees located in the Exempt Organizations Determinations Unit in Cincinnati. The search looked for the keywords: "Tea," "Patriots," "9/12," and "(c)(4)." The email review searched a total 16,691 emails, resulting in 5,617 total "hits" found in 2,277 emails/documents. Jim Jackson reviewed the 2,277 emails to look for a directive to target conservative groups. *See* OI Email Review results PSI-TIGTA-04-000015; *See e.g.* Stephanie Condon, IRS Official Says Lois Lerner's Missing Emails May not be Lost, CBS News (7/22/2014) http://www.cbsnews.com/news/irs-official-says-lois-lerners-missing-emails-may-not-be-lost/

C. Advocacy Case List

According to the Majority report, "TIGTA failed to analyze IRS treatment of any non-conservative cases."[1254] This assertion is misleading for a number of reasons. During the audit, TIGTA requested the IRS provide all applications for 501(c)(4) tax-exempt status that the IRS sent off for additional scrutiny for the period in which the improper criteria were in place. In response, the IRS provided TIGTA the list of all "potential political cases" selected for heightened scrutiny from the period of May 2010 to May 2012.[1255] The 298 cases contained in the list, although referred to as "Advocacy Cases" by the time of the audit, had been referred to as "Tea Party Cases" until July 2011.[1256] Of these 298 cases, 72 included "Tea Party" in their name, 11 included "9/12" in their name, and 13 included "Patriots" in their name. The remaining 202 applications were listed as "other" and two applications were incomplete.[1257] The criteria that caused an application to be routed to an IRS specialists group for processing these applications related only to the "Emerging Issues" tab on the BOLO spreadsheet.[1258] Cases identified as using these criteria then went on to receive a heightened review by a team of specialists to determine whether or not the organization was engaged in "significant political campaign intervention."[1259]

TIGTA first reviewed the hard copy application for every case listed in the Advocacy Case List, a total of 298 applications. TIGTA categorized the 298 applications based on the exact same criteria used by the IRS.[1260] The IRS specifically stated that it looked for the names "Tea Party," "9/12," and "Patriots" to determine whether or not a case was "potentially political."[1261] The IRS did not explicitly use any other names to select applications for additional scrutiny.[1262] The IRS also used criteria related to an applicant's policy positions, including: "issues include government spending, government debt or taxes" and "statement in the case file criticize how the country is being run."[1263] After categorizing the cases using the specific names, TIGTA placed the remaining cases in the "other" category.[1264]

[1254] Majority Report, at 171.
[1255] TIGTA Report, at 10.
[1256] Id. at 5 n.13.
[1257] Id. at 8.
[1258] Id. at 6; Subcommittee interview of Thomas Seidell, TIGTA (3/19/2014).
[1259] TIGTA Report, at 5.
[1260] Subcommittee interviews of TIGTA employees.
[1261] Id.
[1262] Id.
[1263] TIGTA Report, at 6, figure 3. *See also*, IRSR0000002737 (Lois Lerner Briefing Document (June 2011)).
[1264] Subcommittee interviews of TIGTA employees.

TIGTA did not identify, by name, the 202 "other" cases in the report for good reason.[1265] First, given the IRS criteria, TIGTA would have had to subjectively decide how to potentially list the 202 different names. It opted instead to objectively use only the IRS's own criteria. Second, 26 U.S.C. § 6103 prevents TIGTA from releasing individual taxpayer information. Thus any group with a name that, if released would violate Section 6103 protections, TIGTA would have had to redact or withhold.[1266] Third, it was too difficult to break the groups out by policy positions. During interviews with the Subcommittee, TIGTA auditors explained that the IRS revenue agents often failed to indicate why an application was forwarded to the Advocacy Case List.[1267] This made it difficult for TIGTA to objectively provide a further breakdown of the remaining 202 other applications.

The Subcommittee Majority staff report argues that TIGTA did not have the resources to complete a review of all 298 cases.[1268] That conclusion is inconsistent with the available facts. TIGTA was able to and did in fact review all 298 applications that were found on the Advocacy Case List. On top of reviewing the 298 cases, TIGTA reviewed an additional 331 cases to determine if the IRS failed to identify cases for additional review.[1269] Again, TIGTA reviewed the entire application for each of the 298 cases and discussed these cases with the IRS.

D. Conclusion of TIGTA Section: Audit Was Accurate and Proper

TIGTA's audit was a focused review of whether "the IRS targeted specific groups applying for tax-exempt status, delayed the processing of targeted groups' applications, and requested unnecessary information from targeted groups."[1270] TIGTA's auditors looked at the IRS's processing of potential political cases to determine if IRS personnel improperly forwarded cases for review. The auditors found that the IRS used inappropriate criteria to select certain groups by using a group's name or policy position. In doing so, the IRS improperly forwarded their applications for review. Simply stated, the IRS treated these

---

[1265] *See* TIGTA Report, at 8.

[1266] *A Review of Criteria Used by the IRS to Identify 501(c)(4) Applications for Greater Scrutiny: Hearing before the S. Comm. on Finance*, 113th Cong. 26-27 (2013) (statement of J. Russell George, Treasury Inspector General for Tax Administration and statement of Steven Miller, Acting Commissioner, Internal Revenue Service); Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

[1267] Subcommittee interviews of TIGTA employees.

[1268] Majority Report, at 168 (The Subcommittee Majority staff report states that "Mr. Paterson told the Subcommittee that TIGTA concentrated on the cases that were flagged using what looked to be inappropriate selection criteria, and didn't have the resources to analyze the other 200 cases.").

[1269] *See* TIGTA Report at 9, 22-23 (The auditors created two statistical samples to review open or closed 501(c)(4) applications from the general inventory of cases the IRS received).

[1270] TIGTA Report, Highlights page.

conservative and Tea Party groups differently from other non-conservative groups.

The Subcommittee Majority report draws a false equivalency. The Majority report alleges that had TIGTA looked into the IRS's treatment of liberal groups, TIGTA would have found that liberal groups were treated the same or similarly as conservative groups. The evidence, however, points to the contrary.[1271] Only conservative groups were inappropriately selected for additional scrutiny solely by their name or policy positions. A selection that often occurred irrespective of the activities listed in the group's application. Finally, the ratio of conservative groups to liberal groups selected for scrutiny, plus the absence of complaints by liberal groups to TIGTA and elected officials, demonstrates that these groups were not targeted *en masse* or treated unfairly.[1272]

Overall, Subcommittee staff interviewed eight people from TIGTA regarding the audit and reviewed 20,000 pages of documents produced by TIGTA. It is clear that the TIGTA audit was unbiased, proper and, most importantly, accurate. The audit in this case has withstood all of the criticisms to remain an accurate depiction of the faulty processes used by the IRS.

[1271] *See e.g.*, Letter from J. Russell George, Treasury Inspector General for Tax Administration to Rep. Sander Levin (6/26/2013) at 2-3 ("Progressive" was found in TAG Historical section of BOLO and no evidence was found that this section was used as selection criteria between May 2010 and May 2012).

[1272] Subcommittee interview of Russell George, TIGTA (4/22/2014); Subcommittee interview of Troy Paterson, TIGTA (3/21/2014).

IV. CONCLUSION OF SUBCOMMITTEE MINORITY STAFF REPORT

Based on the facts identified in the Subcommittee's investigation, the IRS used inappropriate criteria to target specific conservative groups for increased scrutiny and delay. While the Majority report attempts to draw similarities between the IRS's treatment of liberal and conservative groups, the vast distinctions in treatment prove that conservative groups received the bulk of unfair and burdensome treatment. The IRS failed to use its own "facts and circumstances" test, leading IRS employees to focus on a group's name or policy positions instead of the group's potential political activities. This significant bias created a disparate impact on conservative groups. As shown above, the numbers and analysis by TIGTA and others clearly demonstrate that TIGTA's conclusions were proper and the objections raised by numerous conservative groups valid. TIGTA's audit provided a prudent statistical analysis of the inappropriate treatment of conservative groups by the IRS.

# # #

APPENDIX

REPORT EXHIBITS

The following includes a *Document Locator List* and documents cited in the footnotes to this Report, *IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY,* a Majority Staff Report with Minority Staff Dissenting Views. The Document Locator List provides the bates numbers or description of the documents cited in the Report and the report exhibit page number where the document can be located. Not included are widely available public documents and documents related to Subcommittee interviews, which are not available to the public.

REPORT EXHIBIT LOCATOR LIST

IRS AND TIGTA MANAGEMENT FAILURES RELATED TO 501(C)(4) APPLICANTS ENGAGED IN CAMPAIGN ACTIVITY

Bates Number or Document Description	Page Number
IRS0000000271-284	1
IRS0000000285-316	16
IRS0000000386-387	32
IRS0000000492	34
IRS0000001330-331	35
IRS0000001341	37
IRS0000001349-364 (11/9/2010 BOLO)	38
IRS0000001423-438 (6/16/2012 BOLO)	54
IRS0000001484-499 (7/11/2012 BOLO)	70
IRS0000001500-511, together with IRSR0000006705-6710 (2/8/2012 BOLO)	86
IRS0000002503-515 (8/12/2010 BOLO)	104
IRS0000002540-552 (7/27/2011 BOLO)	117
IRSR0000002734-735	130
IRSR0000002738	132
IRSR0000003152-155	133
IRSR0000005273	137
IRSR0000005338-342	138
IRSR0000005935	143
IRSR0000006583-584	144
IRSR0000006674-699	146
IRSR0000006700-704	163
IRSR0000006705-719 (*Also see IRS0000001500-1511*) (2/8/2012 BOLO)	168
IRSR0000006723	184
IRSR0000008593-602 (2/2/2011 BOLO attachment)	185
IRSR0000010132	195
IRSR0000011217-218	196
IRSR0000011220-221	198
IRSR0000011492-494	200
IRSR0000012122-126	203
IRSR0000012133-134	208

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
IRSR0000012226-227	210
IRSR0000013066-067	212
IRSR0000013187	214
IRSR0000013231-256 (6/13/2012 BOLO attachment)	215
IRSR0000013418-419	227
IRSR0000013420-421	229
IRSR0000013430-433	231
IRSR0000013533-538 (1/25/2012 BOLO attachment)	235
IRSR0000013545-565	241
IRSR0000013739-748 (2/21/2012 attachment - enhanced for reading by the IRS)	262
IRSR0000013882-885	272
IRSR0000013909-923	276
IRSR0000013980-981	291
IRSR0000014013, 015-016, 018, 021-022, 025 (8/10/2010 BOLO attachment)	293
IRSR0000014069-070	300
IRSR0000014171-174	302
IRSR0000014175-189	306
IRSR0000014190-191	311
IRSR0000014253-258 (3/26/2012 BOLO attachment)	313
IRSR0000014377	324
IRSR0000014719-769	325
IRSR0000015566	376
IRSR0000054399	377
IRSR0000054590-592	378
IRSR0000054918-922	381
IRSR0000054937	386
IRSR0000054942-944	387
IRSR0000054945-946	390
IRSR0000054948	392
IRSR0000054963	393
IRSR0000054976-978	394
IRSR0000056970-983	397
IRSR0000057111-112	411

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
IRSR0000057166	413
IRSR0000057184-185	414
IRSR0000063025-037	416
IRSR0000066973-981 (2/21/2012 BOLO attachment)	429
IRSR0000069334-346	438
IRSR0000122863-864	451
IRSR0000141809-811	453
IRSR0000159751-752	456
IRSR0000161237-248	458
IRSR0000162544-546	470
IRSR0000164559-561	473
IRSR0000165382-383	476
IRSR0000165439-440	478
IRSR0000165721-722	480
IRSR0000167847-851	482
IRSR0000168020-023	487
IRSR0000168024-054	491
IRSR0000168058	522
IRSR0000168059-061	523
IRSR0000168062	526
IRSR0000168087-091	527
IRSR0000168115-116	532
IRSR0000168256-257	534
IRSR0000177228-230	536
IRSR0000178714-715	539
IRSR0000180969-970	541
IRSR0000181003-007	543
IRSR0000182659-660	548
IRSR0000184248-250	550
IRSR0000188490-493	553
IRSR0000195549-554	557
IRSR0000195585-586	563
IRSR0000195600-617	565

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
IRSR0000195635-636	583
IRSR0000196659-660	585
IRSR0000196739-758	587
IRSR0000198415-416	607
IRSR0000198417-422	609
IRSR0000198670-671	615
IRSR0000202644-646	617
IRSR0000202703-706	620
IRSR0000210032-034	624
IRSR0000210035-036	627
IRSR0000210445-464	629
IRSR0000218202-203	649
IRSR0000218372-375	651
IRSR0000221479-481	655
IRSR0000222604	658
IRSR0000222949-950	659
IRSR0000222967-971	661
IRSR0000333194-195	666
IRSR0000350219	668
IRSR0000350220-221	669
IRSR0000350748-749	671
IRSR0000354397	673
IRSR0000379714-719	674
IRSR0000380096	680
IRSR0000408471-472	682
IRSR0000410028-030	684
IRSR0000410433-434	687
IRSR0000410695-711	689
IRSR0000411078	706
IRSR0000411359-360	707
IRSR0000411578-580	709
IRSR0000411586	712
IRSR0000411587-588	713

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
IRSR0000415066-069	715
IRSR0000428195-203	719
IRSR0000428212	728
IRSR0000428403-404	729
IRSR0000428420-421	731
IRSR0000428427-428	733
IRSR0000428433	735
IRSR0000428435-436	736
IRSR0000429362-363	738
IRSR0000429501-504	740
IRSR0000435473	744
IRSR0000440089-090	745
IRSR0000441700-701	747
IRSR0000443982-985	749
IRSR0000444264-267	753
IRSR0000444375-377	757
IRSR0000444442-447	760
IRSR0000444805-808	765
IRSR0000444817-829	769
IRSR0000453023	778
IRSR0000455182-196 (7/27/2010 BOLO enhanced for reading by the IRS)	779
IRSR0000457889-899	795
IRSR0000458064-065	797
IRSR0000458430-438	799
IRSR0000458439-447	803
IRSR0000458456-459	807
IRSR0000462238-239	811
IRSR0000462280-284	813
IRSR0000465030-035	813
IRSR0000466813-815	824
IRSR0000468544-547	827
IRSR0000468583-584	831
IRSR0000468870-871	833

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
IRSR0000468891-894	835
IRSR0000468907-909	839
IRSR0000468916-920	842
IRSR0000468937-938	847
IRSR0000468978-980	849
IRSR0000469223-228	852
IRSR0000482737	858
IRSR0000484246	859
IRSR0000485854-860	860
IRSR0000487175	867
IRSR0000506547-589, 593-623	868
IRSR0000507010-044	942
IRSR0000508181-182	977
IRSR0000617102-103	979
IRSR0000626700-701	981
IRSR0000630285-289 (1/25/2012 BOLO - enhanced for reading by the IRS)	983
IRSR0000636330	995
IRSR0000640063	996
IRSR0000640307-308	997
IRSR0000640490-491	999
IRSR0000645603	1001
IRSR0000706928-931	1002
PSI-IRS-01-000001-013	1006
PSI-IRS-02-000001-026 (documents will appear in PSI/IRS correspondence section, below)	1378
PSI-IRS-03-000001-002 (documents will appear in PSI/IRS correspondence section, below)	1406
PSI-IRS-04-000001-008 (documents will appear in PSI/IRS correspondence section, below)	1414
PSI-IRS-05-000001-004 (documents will appear in PSI/IRS correspondence section, below)	1424
PSI-IRS-06-000001-003 (documents will appear in PSI/IRS correspondence section, below)	1431
PSI-IRS-07-000001-119 (documents will appear in PSI/IRS correspondence section, below)	1436

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
PSI-IRS-08-000001-108 (documents will appear in PSI/IRS correspondence section, below)	1558
PSI-IRS-09-000026-027	1019
PSI-IRS-09-000040-044	1021
PSI-IRS-09-000045-046	1026
PSI-IRS-09-000047-049	1028
PSI-IRS-09-000064-076	1031
PSI-IRS-09-000092-093	1044
PSI-IRS-37-000001-019	1046
PSI-IRS-40-000001-002	1060
PSI-IRS-50-000001-002	1062
PSI-TIGTA-01-000044-081	1064
PSI-TIGTA-01-000145	1102
PSI-TIGTA-01-000146-199	1103
PSI-TIGTA-01-000206-208	1157
PSI-TIGTA-01-000210-218	1160
PSI-TIGTA-02-0000064-068	1169
PSI-TIGTA-03-000081, 089	1174
PSI-TIGTA-03-000134-135	1176
PSI-TIGTA-03-000156-158	1178
PSI-TIGTA-03-000165-166	1181
PSI-TIGTA-03-000661-663	1183
PSI-TIGTA-03-000666-667	1186
PSI-TIGTA-03-000668	1188
PSI-TIGTA-03-000669	1189
PSI-TIGTA-03-000673-677	1190
PSI-TIGTA-03-000678-682	1195
PSI-TIGTA-03-000683	1200
PSI-TIGTA-03-000685-686	1201
PSI-TIGTA-03-000687-688	1203
PSI-TIGTA-03-000690	1205
PSI-TIGTA-03-000691-692	1206
PSI-TIGTA-03-000693-694	1208
PSI-TIGTA-03-000695-696	1210

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
PSI-TIGTA-03-000699-700	1212
PSI-TIGTA-03-000701-702	1214
PSI-TIGTA-03-000703-704	1216
PSI-TIGTA-03-000705-707	1218
PSI-TIGTA-03-000710-711	1221
PSI-TIGTA-03-001404-405	1223
PSI-TIGTA-03-001409-410	1225
PSI-TIGTA-04-000015	1227
PSI-TIGTA-04-000016-018	1228
PSI-TIGTA-04-000019-022	1231
PSI-TIGTA-05-000002-003	1235
PSI-TIGTA-05-000441-442	1237
PSI-TIGTA-05-000443-444	1239
PSI-TIGTA-05-000892-898	1241
PSI-TIGTA-05-000909-949	1248
PSI-TIGTA-05-000957-958	1289
PSI-TIGTA-06-000686, 702	1291
PSI-TIGTA-16-000006-009	1293
PSI-TIGTA-18-000002-003	1297
PSI-TIGTA-21-000001-002	1299
PSI-TIGTA-22-000001-004 (6/6/14 letter from TIGTA Inspector General to the Subcommittee)	1301
TIGTA Bates No. 003081-083	1305
TIGTA Bates No. 003084-085	1308
TIGTA Bates No. 003991	1310
TIGTA Bates No. 004297-299	1311
TIGTA Bates No. 004451	1314
TIGTA Bates No. 004603-606	1315
TIGTA Bates No. 006649-652	1319
TIGTA Bates No. 006699-700	1323
TIGTA Bates No. 007221-222	1325
TIGTA Bates No. 007751-752	1327
TIGTA Bates No. 007791-792	1329
TIGTA Bates No. 007794	1331

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
TIGTA Bates No. 007840	1332
TIGTA Bates No. 008136	1333
TIGTA Bates No. 008185	1334
TIGTA Bates No. 008271-273	1335
TIGTA Bates No. 008440	1338
TIGTA Bates No. 009498	1339
TIGTA Bates No. 010384-386	1340
TIGTA Bates No. 010404	1343
TIGTA Bates No. 010433-434	1344
TIGTA Bates No. 010609	1346
TIGTA Bates No. 010610	1347
TIGTA Bates No. 010611	1348
TIGTA Bates No. 010710	1349
TIGTA Bates No. 010755	1350
TIGTA Bates No. 011102-103	1351
TIGTA Bates No. 011343-344	1353
TIGTA Bates No. 012554	1355
TIGTA Bates No. 015855-858	1356
TIGTA Bates No. 015966	1360
TIGTA Bates No. 016007	1361
TIGTA Bates No. 016072-074	1362
TIGTA June 2013 emails Bates No. 000241-244	1365
TIGTA June 2013 emails Bates No. 000307	1369
TIGTA June 2013 emails Bates No. 000434-437	1370
CORRESPONDENCE BETWEEN THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS (PSI) AND THE INTERNAL REVENUE SERVICE (IRS), March 20, 2012 - March 15, 2013.	1374
Subcommittee Letter of March 30, 2012; IRS Response of June 4, 2012 (PSI-IRS-02-000001-026)	1375 1378
Subcommittee Letter of June 13, 2012; IRS Response of July 13, 2012 (PSI-IRS-03-000001-002)	1404 1406
Subcommittee Letter of July 27, 2012; IRS Response of August 24, 2012 (PSI-IRS-04-000001-008)	1408 1414

REPORT EXHIBIT LOCATOR LIST

Bates Number or Document Description	Page Number
Subcommittee Letter of August 31, 2012; IRS Response of September 14, 2012 (PSI-IRS-05-000001-004)	1422 1424
Subcommittee Letter of September 27, 2012; IRS Response of October 17, 2012 (PSI-IRS-06-000001-003)	1428 1431
Subcommittee Letter of October 23, 2012; IRS Response of November 23, 2012 (PSI-IRS-07-000001-119)	1424 1436
Subcommittee Letter of January 4, 2013; IRS Response of March 15, 2013 (PSI-IRS-08-000001-108)	1555 1558
OTHER DOCUMENTS - NO BATES	
Joint Committee on Taxation Press Release, dated March 16, 2000, regarding "Report of Investigation Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matter."	1666
Permanent Subcommittee on Investigations letter to Internal Revenue Service Acting Commission Daniel I. Werfel, dated May 23, 2014, urging IRS to suspend Lois Lerner from her office as Director of the Office of Exempt Organizations.	1675
Treasury Inspector General letter to The Honorable Sander M. Levin, July 19, 2013, regarding TIGTA audit report.	1677
IRS list reveals concerns over Tea Party 'propaganda,' USA Today, September 18, 2013, together with IRS list of Political Advocacy Cases.	1680
Does the IRS really have it in for tea party groups?, The Colorado Independent, March 28, 2012, together with IRS Letter to Waco Tea Party Group and IRS Letter to Progressive Group.	1696

Marks Nancy J

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 8:44 AM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P; Paz Holly O
Subject: FW: Advocacy Org Questions - Shared with Team for Reference
Attachments: QuestionnairesSamples.doc

Attached are sample questions that were shared with team members. These questions were developed based on the Advocacy Organization Guidesheet given to EOD from EOT.

From: Seok Stephen D
Sent: Friday, March 23, 2012 2:07 PM
To: Thomas Cindy M
Subject: ADVOCACY QUESTIONS - REFERENCE
Importance: High

Mrs. Thomas,

Here are the questions distributed to my Team Members just for reference, not as a template.

Thank you,
Stephen.

From: Thomas Cindy M
Sent: Friday, March 23, 2012 1:47 PM
To: Seok Stephen D
Subject: Advocacy Questions - NEED INFO ASAP
Importance: High

Stephen,

Were the attached questions given out to team members to use? If not, were other questions given to them? If other questions were given to them, please forward those questions to me. If other questions weren't given to them, what was, i.e., just the guide sheet from EOT?

I need this information ASAP. I'm on the phone with Lois Lerner. Thanks

1) In your Form 1023 application, you provided the fliers of two types of activities (Constitution education and essay project and workshops on the Constitution). Provide the following information for all the events you have held from inception to the present:

   a) The time, location, and content schedule of each event

   b) A copy of the handouts you provided to the audience

   c) Identify the education and workshop materials that instructors used

   d) The names and credentials of the instructors

   e) If speeches or forums were conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members were paid, provide the amount paid for each person. If not, please indicate that they volunteered to conduct the event.

   f) The names of persons from your organization and the amount of time they spent on the event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation that was paid to each person. If no one was paid, indicate this event was conducted by volunteers to each person.

   g) Indicate the percentage of time and resources you spent on these activities in relation to 100% of all your activities.

   Note: You do not need to submit any materials that you already provided with your Form 1023 application. See the attached. They are the ones you already submitted.

2) Provide the following information for all the events you will conduct for 2012 and 2013:

   a) The time, location, and content schedule of each event

   b) Identify handouts you provided to the audience

   c) Identify workshop materials that instructors will use

   d) The names and credentials of the instructors

   e) If speeches or forums will be conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members will be paid, provide the amount will be paid for each person. If not, please indicate they volunteered to conduct the event.

   f) The names of persons from your organization and the amount of time they will spend on the event. Indicate the name and amount of time they will spend on the event. Indicate the name and amount of compensation that will be paid to each person. If no one will be paid, indicate this event will be conducted by volunteers to each person.

   g) Indicate the percentage of time and resources you will spend on these activities in relation to 100% of all your activities.

3) Provide the following information for your web and internet related activities:

a) Copies of your current web and internet pages. If you are a membership organization, please include all the pages that are accessible only to your members, .

b) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

c) Expense amounts incurred for these activities for 2010 and 2011.

d) Expense amounts to be incurred for these activities for 2012 and 2013.

4) Provide the following for your publishing activities:

a) Copies of all the publications and/or advertising materials that you have distributed or will distribute.

b) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

c) Expense amounts incurred for these activities for 2010 and 2011

d) Expense amounts to be incurred on these activities for 2012 and 2013

5) Have you conducted or will you conduct rallies or exhibitions for or against any public policies, legislations, public officers, political candidates, or like kinds? Provide the following for all the events you have conducted and will conduct for 2012 and 2013:

a) The time, location, and content schedule of each rally or exhibition

b) Provide copies of handouts you provided or will provide to the public.

c) The names of persons from your organization and the amount of time they have spent or will spend on the event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation paid or will be paid to each person. If you did not pay or will not pay anyone, then, indicated the event was or will be conducted by volunteers.

d) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

e) Expense amounts incurred for these activities for 2010 and 2011

f) Expense amounts to be incurred for these activities for 2012 and 2013

If not, please confirm by answering "No" to this question.

6) Have you conducted or will you conduct candidate forums or other events at which candidates running for public offices are invited to speak? If so, provide the following details and nature of the forum including:

a) The names of candidates invited to participate

b) the names of the candidates who did participate

c) The issues that were discussed

d) The time and location of the event

e) copies of all handouts provided and distributed at the forum, including any internet or advertising material discussed or used at the forum.

f) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

7) Have any candidates running for public office spoken or will they speak at a function of your organization?

a) If so, provide the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s).

b) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

8) Have you distributed or will you distribute materials or conduct other communications that are prepared by another organization or person? If so, provide the following:

a) Copies of materials and contents of communications

b) When and where the distribution have been conducted or will be conducted?

c) Who has distributed or will distribute the materials?

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

9) Will you, or have you ever, conducted voter education activities, including voter registration drives, get out to vote drives, or publish or distribute voter guides? If so, provide the following:

a) What is the location, date and time of the events?

b) Who on the organization's behalf have conducted or will conduct the voter registration or get out to vote drives?

c) Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

10) Have you engaged or will you engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list?

If so, describe the relationship in detail and copies of any contracts or other agreements documenting the business relationship.

If not, please confirm by answering "No" to this question.

11) Have you attempted or will you attempt to influence the outcome of specific legislation? If so, provide the following:

a) Provide copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation.

b) Provide copies of any radio, television, or internet advertisements relating to your lobbying activities

c) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

12) Do you directly or indirectly communicate with members of legislative bodies? If so, provide copies of the written communications and contents of other form of communications. Please include the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

13) Are you associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, provide the following:

a) Provide the name, employer identification number, and address of the organizations

b) Describe in detail the nature of the relationship(s).

c) Do you work with those organization(s) regularly? Describe the nature of the contacts.

d) List shared employees, volunteers, resources, office space, etc. with the organization(s).

e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

14) Provide the following for your fundraising activities:

a) Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.

b) Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, and webpage solicitations.

c) How much of your organization's budget is spent on fundraising?

d) What are the sources of the fundraising expenses?

e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

15) If you have conducted or will conduct any activities other than the ones we have already cited, provide answers for the following questions regarding past, present and future activities. If you have not conducted and will not conduct any other activities, please confirm by answering "No" to this question.

a) What does the activity/service entail?

b) Who conducts the activity/service?

c) When and where is the activity/service conducted?

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If you have not conducted or will not conduct any activities other than the ones we have already cited, please confirm by answering "No" to this question.

16) Please provide the following information for your board of directors and officers:

a) Provide all copies of your corporate minutes from inception to the present.

b) Provide the titles, duties, work hours, and compensation amounts of your board members, officers, and employees. If they only work for a certain time yearly, bi-yearly, or quad-yearly, please provide the periods they had (have) worked and will work. Please identify your volunteers.

c) If you have a board member or officer who has run or will run for a public office, please describe fully. If none, please confirm by answering "None" to this question.

17) Are you a membership organization? If so, provide the following for your membership:

a) How many members do you have currently?

b) What does the memberships consist of? Are they mostly individuals? What is the percentage of the organizational members as they are part of the whole membership?

c) Provide member application/registration form

d) Provide membership agreement and rules that governs members.

e) Provide a membership fee schedule.

f) What are the membership requirements?

g) What services and benefits do you provide especially for members only?

h) What are the roles and duties of your members?

i) Provide copies of your website that your members can only access.

18) Provide the following information for the income you received and raised for the years from inception to the present. Also, provide the same information for the income you expect to receive and raise for 2012, 2013, and 2014.

a) Donations, contributions, and grant income for each year which includes the following information:

- The names of the donors, contributors, and grantors. If the donor, contributor, or grantor has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each of the donations, contributions, and grants and the dates you received them.
- How did you use these donations, contributions, and grants? Provide the details.

If you did not receive or do not expect to receive any donation, contribution, and grant income, please confirm by answering this question "None received" and/or "None expected".

b) The amounts of membership income received for each year. If you did not receive or do not expect to receive any membership income, please confirm by answering this question "None received" and/or "None expected".

c) The amounts of fundraising income received for each year. If you did not receive or do not expect to receive any fundraising income, please confirm by answering this question "None received" and/or "None expected".

d) The amounts of any other incomes received for each year. If you did not receive or do not expect to receive any other incomes, please confirm by answering this question "None received" and/or "None expected".

NOTE: Please do not attach tax returns or ledgers to respond to the above questions.

19) Provide the following information for the expenses you incurred for the years from inception to the present. Also, provide the same information for the expenses you expect to incur for 2012, 2013, and 2014.

a) Donation, contribution, and grant expenses for each year which includes the following information:

- The names of the donees, recipients, and grantees. If the donee, recipient, or grantee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each of the donations, contributions, and grants and the dates you donated, contributed, or granted them.
- The amounts of each of the donations, contributions, and grants and the dates you expect to donate, contribute, or grant them.
- Provide the reasons for issuing the donations, contributions, and grants.

If you did not issue or do not expect to issue receive any donations, contributions, and grants, please confirm by answering this question "None to be provided".

b) Compensation, salary, wage and reimbursement expenses for each year with the following information:

- The names of the payees. If the payee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each payment and the dates you made or expect to make each payment.
- The services the payee provided in return for the payment.
- Provide the reasons for issuing the donations, contributions, and grants?

c) The lists and amounts of any other expenses for each year.

NOTE: Please do not attach tax returns or ledgers to respond to the above questions.

---

1. Submit copies of emails you sent to educate members about political issues and describe in detail how you encourage members to voice their opinions.
2. Describe in detail your proposed mailings regarding political issues. State whether these mailings are sent only to your members, visitors to your website, or general mass mailings.
3. Provide copies of your web pages.
4. Submit copies of materials from Facebook, Meetup and Twitter.
5. Provide resumes for your board members.

6. You indicated that you are hosting "Meet and greets" and town hall meetings. Therefore, provide copies of literature used to promote these events and a list of candidates and/or elected officials who attended and their political affiliation. Also, provide copies of materials distributed at the event.

7. Explain the criteria you used when selecting individuals for your "Meet and greets".

8. Provide copies of the printed agenda from your meetings and educational events for the past year.

9. Describe in detail your educational events, including topics that you cover, any particular motivational activities, and copies of any publications presented.

10. Provide copies of contracts and agreements that you have as well copies of agreements that you plan to enter in to.

11. Describe in detail your Advocacy Training, and provide copies of any publications concerning such training.

12. Give detailed examples on how you will educate the public concerning key legislation and the positions of political candidates and elected officials on that legislation.

13. Provide a list of speakers and their qualifications for the events you have held in the last year.

14. Provide copies of board meeting minutes since your inception

15. You indicated that you have organized public awareness events including debates, forums and issued related seminars and rallies. Complete the following concerning these events:

    a. Provide a specific list of events including who participated and the location of the event.
    b. Provide copies of promotional materials used for each of your events.
    c. Provide copies of literature handed out at these events.

---

1. Provide a detailed breakdown of your expenses.

2. Provide copies of all Board meeting minutes to date.

3. You state that you are the "educational arm" of AAA Council and that you are a servant to member groups throughout State. However, you have not explained in detail what you mean by "educational arm" and "servant." Provide the following information:

    a. Describe in detail specifically what activities you engage in as an "educational arm" of the AAA Council.

    b. Provide copies of any and all materials related to being the "educational arm" of the AAA Council, including but not limited to any documents, brochures or other resources you have provided to the AAA Council.

    c. Explain in detail what you mean by "servant" to member groups and describe in detail the activities you undertake in this regard and state to what member groups or other organizations you have provided such services.

4. Provide a detailed description of any and all political campaign and/or election activity that you have engaged in to date. In addition, provide the following:

    a. Copies of any and all materials you have published or distributed, in print, on-line or otherwise, expressing support or opposition to a candidate for public office.

    b. Copies of any and all materials you have distributed with regards to any political campaign to date.

5. You have indicated that your services include the planning, facilitating, and executing of educational events for BBB Party.

    a. State whether you have planned, facilitated and/or executed any educational events for BBB Party or any other organization. If so, explain in detail.

    b. Provide a detailed explanation of the types of educational activities that you engage in or have engaged in to date.

    c. Describe in detail the content of the educational events that you provide or have provided including copies of any and all materials related to these and any other events, including materials advertising the event, distributed at the event, or otherwise.

    d. Provide a detailed explanation of any other recipients of such educational activities.

    e. Explain who within your organization or otherwise undertakes these educational activities, organizes events and programs, and provides the educational content.

6. In your response to our Date letter, you indicated that you had not and would not engage in any type of voter education activities, including candidate forums, get out the vote drives, or voter registration. However, you indicated that you will provide "specific education on the process of becoming a county precinct member."

    a. With regards to your purpose of educating on the process of becoming a county precinct member, state whether this is your only activity. If no, describe in detail what other activities you engage in.

    b. Provide a detailed explanation of how you educate and who you educate on the process of becoming a county precinct member including whether you educate individuals on how to get elected as a county precinct member in any manner.

    c. Provide copies of any and all materials to date that you have published or distributed in any manner related to your educational activities and your activities related to educating on the process of becoming a county precinct member.

7. You indicated that you seek to centralize the accounting functions of member groups by providing a central tax-deductible donation vehicle for educational opportunities.

    a. To date, state what the status of this activity is.

    b. Explain in detail what activities you are engaged in or will engage in to undertake this function.

    c. Explain who the "member groups" are that you are referring to.

    d. Explain why organizations would seek to solicit donations from you as opposed to seeking contributions from the general public for their educational activities?

8. You indicated in your Form 1023, Part Z, question Y, that you will "raise funds to be utilized under a grant process for other organizations. These organizations will apply for grants to complete educational activities with their current organization." With regards to this activity:

    a. To date, state whether you have raised funds for other organizations. If so, provide a detailed description of the organization and/or individuals that have provided funds, the amount of the funds provided, and if any of the funds have been utilized, including a detailed description of what the funds were utilized for.

    b. To date, state whether you have made any grants to other organizations. If so, provide a description of the organization, the amount of money granted, a copy of their grant application, and any other related documents.

    c. If you have not made any grants to date, state whether you are currently considering any grant applications. If so, provide a detailed description of the

organization and the activities for which they are seeking grant money, and the amount of the grant requested.

---

1. Submit your completed financial data for 2010, financial data for 2011 to date, and proposed budgets for the remainder of 2011 and 2012. If you have filed Form 990, Return of Organization Exempt From Income Tax (or any other tax return), for years 2009 or 2010, submit a copy of any such returns.

2. Provide a detailed breakdown of your expenses.

3. Provide a detailed narrative of your activities dating from your letter dated June 8, 2010, including a break down of:

    d. The amount of time your members and/or volunteers devoted to each activity.
    e. The amount of financial resources devoted to each activity.

4. In your Form 1024, you indicate that your financial support would be from contributions and sales of merchandise. Submit copies of all solicitations you have made regarding fundraising, copies of all documents relating to your fundraising events (including pamphlets, flyers, brochures, and webpage solicitations), and a statement detailing how much of your budget is spent on fundraising, and the source of your fundraising expenses.
    f. Regarding your sales of merchandise, provide a detailed list of the items you sell or plan to sell.

5. In your answer to Question 15 on your Form 1024 (whether you have spent or 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) you stated: "No monies have been spent in the past, but an approximate 20% of (your) budget will be set aside for future considerations." Describe in detail:
    g. Any and all planned expenditures of money you have set aside for this purpose.
    h. Any and all expenditures you have made.

6. Regarding your Advocacy Training, you sent us a statement of your goal, your objectives to achieve the goal, [redacted] aaa Team Policy Statement, and team descriptions.

    i. Describe in detail any actual training of individuals you perform with regard to the various action teams, including what the training entails, as opposed to informing volunteers of opportunities to participate.
    j. Provide any and all materials distributed to individuals who participate in the Advocacy Training.

[redacted] = Redacted by the Permanent Subcommittee on Investigations

7. You state that a major objective of the CCC Team mission is to inform volunteers of opportunities and to equip them to actively participate in the political process, such as volunteering to help at a Tea Party Rally.

    k. Describe in detail what "opportunities" you are referring to and how you inform volunteers.
    l. Describe in detail how you equip members of the aaa to participate in the political process
    m. Explain in detail how members participate in the political process including but not limited to what type of participation this entails.

8. In describing your Event Rallies you stated that you hosted a question and answer forum with the GOP Primary Candidates for Governor of the state, and that not all GOP candidates attended. You stated that since there was only one candidate in the Democratic primary, there was no comparison to be made in the primary.

    n. Describe in detail the GOP Event Rally, including questions asked, and state the reasons you did not have a candidate rally for the lone Democratic candidate.
    o. Describe the reasons you needed a majority of the candidates to schedule a forum for the Candidates for Lt. Gov. in the Democratic primary.
    p. Provide copies of any materials distributed during the event or related to the event such as materials advertising the event.

9. Provide a copy of each publication of your newsletter, AAA, since April 29, 2010 (except Issue 1, Number 1; Issue 2, Number 5; and Issue 2, Number 7).

10. Provide a copy of each publication of BBB (except Volume 1, No. 8, submitted with your application).

11. In The DDD, Issue 1, Number 1, dated April 29, 2010, you state that the mission of the FFF Action Team is to organize micro-communities of well-informed citizens and motivate them to actively participation in the political process. In the same issue, you stated on page 3 that your action teams will enable you to achieve your principal goal: "In 2010 elect or retain the maximum number of conservative or moderate Democrats, Republicans, and Independents in Local, State, and Federal elected positions." In addition, you state that you will "expose our wayward politicos and either change their actions, or their careers!"

    q. Describe in detail your activities to attain this goal, and how you achieve such purpose.
    r. Provide your definition of "wayward politicos" and explain in detail how you will effectuate a change of their actions or their careers.

12. In The bbb, Issue 2, Number 7, dated Date, in GGG on page 9, you stated: "Bob Young met with HHH, a City Council member, about (your) strategy for the upcoming

election. HHH said that III was much the same as UUU but JJJ's opponent is a big liberal. That would be KKK." You also stated that you "put together 10 questions for the candidates running for City Counsel. They will be e-mailed to candidates and then printed on the pamphlets that we are going to distribute before the election."

s. Describe in detail how you effectuated your "strategy for the election" and submit copies of the 10 questions posed to the candidates and their replies.
t. Submit copies of the pamphlets you printed, explain how they were distributed, and when they were distributed in relation to the election.

13. The letter you published in DDD, Issue A, Number A, dated Date, states on page 19: "LLL is bad for NNN (actually for all the States that voted it in) and we should encourage our Legislators to repeal it. MMM Noon lists all of the NNN Legislators that voted FOR this bad legislation (SB XXX). PPP instigated this bill and Senator introduced the bill in the Legislature." State the reasons for the list, where it was published, and when and how it was distributed.

14. State whether you engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list. If so, describe in relationship in detail, including any contracts or other agreements documenting the business relationship.

15. Describe in detail your relationship to the OOO School.

16. Provide a copy of the board of directors' meeting minutes from formation to date.

17. Provide copies of any other materials, including but not limited to program guides, rules, regulations, and guidelines that will assist us in better understanding you and your activities.

Marks Nancy J

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 8:44 AM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P; Paz Holly O
Subject: FW: Advocacy Orgs Guidesheet from EOT and Listing of Cases
Attachments: Advocacy Org Guidesheet 11-3-2011 (2).doc; Advocacy Orgs_Cincinnati.xls

Attached is the Advocacy Organization Guidesheet that we received from EOT, along with the Excel spreadsheet listing cases.

From: Seto Michael C
Sent: Wednesday, November 16, 2011 8:43 AM
To: Fish David L; Thomas Cindy M
Cc: Sallins Mary J
Subject: RE: Advocacy Orgs

This is not the correct version that is being circulated. We are working on the revised version that is almost done. We are working on it as fast as we can.

From: Seto Michael C
Sent: Wednesday, November 16, 2011 8:42 AM
To: Thomas Cindy M; Fish David L
Subject: RE: Advocacy Orgs

Hilary is almost done with the revised spreadsheet. It breaks down the issue in categories so they may be easier to understand. Cindy, I will call you.

From: Fish David L
Sent: Wednesday, November 16, 2011 8:01 AM
To: Thomas Cindy M
Cc: Seto Michael C; Sallins Mary J
Subject: RE: Advocacy Orgs

Forgot something--you need to look at the guidesheet and tell us whether any bits and pieces are salvageable. Judy thought it was not the correct format but you need to tell us what you want it to look like and whether we could use parts of what we have.

This is separate and apart from bucketing the existing cases (which also should be part of that conversation).

From: Fish David L
Sent: Tuesday, November 15, 2011 8:27 PM
To: Thomas Cindy M
Cc: Seto Michael C; Sallins Mary J
Subject: RE: Advocacy Orgs

Michael needs to have Justin and Hilary (and Judy) set up a conference call with you ASAP.

From: Thomas Cindy M
Sent: Tuesday, November 15, 2011 6:26 PM
To: Fish David L
Cc: Seto Michael C
Subject: FW: Advocacy Orgs
Importance: High

I forwarded the Excel spreadsheet Hilary prepared (Attachment 2) to Judy Kindell earlier today per Lois' instruction.

Regarding the guidesheet ---- we're not doing anything with it at this point. Is that your understanding or should we be taking some action and, if so, what?

From: Thomas Cindy M
Sent: Sunday, November 06, 2011 11:58 PM
To: Seto Michael C
Cc: Fish David L
Subject: FW: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Thanks -- I'm going to speak with manager with oversight of these cases and will get back with you.

From: Seto Michael C
Sent: Sunday, November 06, 2011 8:05 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Cindy,

I am attaching the draft document for you/staff to look at. When you are ready to give us feedback, let me know and I will set-up a meeting.

From: Fish David L
Sent: Sunday, November 06, 2011 7:31 PM
To: Seto Michael C; Thomas Cindy M
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Based on feedback received, the document won't work in its present form. I think we need to work with Determs to make it a usable document.

Mike will check with Hilary on clarifying the cases that can be approved, etc.

From: Seto Michael C
Sent: Sunday, November 06, 2011 7:18 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

This is the follow-up on my e-mail I sent to you a few minutes ago. I read through the list, and I like to have Hilary to make the list a bit more clear on which cases need to be developed, the type of development needed, whether a particular case can be approved without further development and whether the organization is not an advocacy organization (therefore not needed to be included on the list).

The check/guide sheet is with David, Tom Miller and Judy Kindell for review. I can send you a draft copy. Let me know. I think we may have to clear the check/guide sheet with Lois, but I will check with David.

From: Thomas Cindy M
Sent: Sunday, October 30, 2011 2:23 PM
To: Seto Michael C
Cc: Fish David L
Subject: FW: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS
Importance: High

Mike,

It was my understanding from Holly that the cases were going to be put into buckets, i.e., those that can be approved as is, those that require additional development, and those that appear to be denials. Based on the email below from Hillary, it sounds as though all of those with "General Advocacy" only can be approved as is. Is this your understanding? If so, we can go ahead and get those cases approved right away.

I'm not sure what the hold is on the document/guidance EOT is supposed to be providing for us, but I've received a phone call from an individual who was previously an EO Determinations specialist. He is working with one of these organizations [redacted] and is threatening to go to his Congressional Office regarding this organization and others. That is only going to create even more work for us and we need to get letters out to these organizations ASAP.

Please let me know when we can expect to get the document from EOT. Thanks.

From: Goehausen Hilary
Sent: Wednesday, October 26, 2011 1:20 PM
To: Thomas Cindy M
Cc: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs - Where Do We Stand?
Importance: High

Hi Cindy,

Below are comments that I made explaining some of my notations on the cases in Excel. My understanding from speaking with Mike was that I was to review the cases to determine whether the cases were clearly lobbying or engaging in political campaign activities, or if an organization was not engaged in either and therefore was simply engaging in general advocacy (educational/issue advocacy activities etc). Where I had concerns about whether the c3s and c4s were actually engaging in good c3/c4 activities – and not just making inflammatory, emotionally charged statements without any factual support or educational aspect to their activities – I made notes reflecting such. Where it simply states "general advocacy" or "general advocacy/legislative advocacy" (or lobbying), without comments, those organizations appeared to be fine (no development).

If you would like me to provide a definitive answer on what organizations can go Favorable, I can do that (these would be the cases where I noted "general advocacy." However, many appear to need more information (as noted in the comments in Excel).

-- I have marked asterisked (*) c3's that based on their Form 1023 and/or website are engaging in prohibited political campaign activities.
-- I use political activities/political campaign intervention/candidate election activities interchangeably to denote political activities.
-- While many of the c4 organizations appear to be engaging in general advocacy (issue advocacy/educational activities), many of these "social welfare activities" may need further development because their websites include substantial inflammatory/strong emotional rhetoric, articles, etc. that really do not appear to be educational in most or any aspect, provide any factual background for the viewpoints expressed, and therefore may not qualify as good c4 activities (promotion of social welfare, common good, etc.). Where there are questions relating to this and concerns about the activities (ie development would be needed), I have made comments.

-- Where I commented that a website needs to be verified means that the org didn't provide their website address on their Form 1023/1024 but I located it during a web search and it would need to be confirmed by the taxpayer.
-- Where I denoted the activity of the org as "general advocacy," this means I didn't find any indication the org was engaging in political activities or lobbying at all. However, as mentioned above in #3, I made additional notations on such organizations and whether they were even educational, issue advocacy, etc., or whether the activities appear to be propaganda, based on personal emotions, inflammatory, and without any or little factual basis for statements made (ie generally bad c3/c4 activities).

If there are any questions, please let me know. Also, we are in the process of drafting the Advocacy Org Guidesheet and it is circulating for review among our group currently. I don't have a date on when we can get that to you, but will speak with Mike and Justin.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Thomas Cindy M
Sent: Tuesday, October 25, 2011 7:17 PM
To: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs - Where Do We Stand?
Importance: High

Ted/Mike,

Not sure where this leaves us and I'm unclear as to what action is being suggested for some of these cases. Specifically, if the comment indicates "general advocacy," what does that mean --- additional development or what?

Also, where do we stand with the document Justin Lowe or others from D.C. were putting together with lessons learned, suggested developmental questions for those applying under c3 and for those applying under c4, sample denial letter, etc.? We're starting to get a lot of heat from the public on these cases sitting idle and now have Congressionals on some of these. What is the plan of action and estimated completion date? Thanks.

From: Lieber Theodore R
Sent: Monday, October 24, 2011 1:08 PM
To: Thomas Cindy M
Cc: Seto Michael C
Subject: Advocacy Orgs_Cincinnati.xls

Attached are Hillary comments from the screened cases.

Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) **Political Campaign Intervention**:

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) **Lobbying**:

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) **General Advocacy**:

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) **IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) **IRC 501(c)(4) organizations:**

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) **IRC 501(c)(5) organizations:**

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) **IRC 501(c)(6) organizations**:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) **IRC 527 organizations**:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including 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.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; Must Not Constitute Primary Activity Of Organization	YES
Engage in lobbying	LIMITED;	YES;	LIMITED

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
    - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
    - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
    - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
    - What is the location, date and time of the events.
    - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
    - How many resources (funds/employees/volunteers) are devoted to the activity?
    - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
    - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
    - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
    - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office? Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.		
B.	Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.		
	Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	**Personal Endorsements:** Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one		

	candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.) • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert, or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • Does the communication to the public include a "call to action" such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

THESE PAGES REDACTED BY IRS

Advocacy Team Meeting Minutes (12/16/11, 7112B) and Resolution

Attendees: Steve, Stephen, Ron, Janine, Joseph, Grant, Mitch, Annette, Greg, Elizabeth, Liz
Absent: Carly, Jodi (on leave)

1) History of Advocacy Cases was briefed by Liz, Ron, and Steve

2) Advocacy Case Briefing by Stephen:

About 172 cases so far and counting
37 c3 125 c4, no other sections.
Mostly Advocacy with strong or some political activities, at least implied
About 155 cases reviewed by EO Tech: Favorable 13, Denial 13, All others: Development Needed.
30 Something TEA party, Several 912, Repeal PPACT (Patient Protection and Affordable Care Act), Enact Universal Single-Payer Health Case System, etc.

3) Purpose of Advocacy Team:

Consistent development and determination through team effort
Thorough development and determination through team effort
Carful development and determination through team effort

4) Discussion on how we tackle the cases

Control date: General Rule

Cases by Patterns: Specializing similar cases? - Tea Party, c3, c4, 912, general category (not belonging to patterned cases), etc.: Will pursue as long as we do not deviate from the general rule.

Constant updates on new ideas, questions and cases - All team members, management, QA, EO Tech.

1) Stephen, Joseph, and Liz will formulate a general template questionnaire from the letters done by EOD and EO Tech and it will be done by the Advocacy Team members in the future.
2) Once the draft is formulated, it will be emailed to the Advocacy Team members for review and input, and will be discussed at a round table style meeting.
3) This process will be repeated if needed until finalized.

Case closing: Approval and Denial - coordinated process among team members, coordinator, management, QA, and EO Tech - maybe to less degree once all the foundations are established to increase efficiency and effectiveness: Further details will be discussed and forthcoming as case developments progress.

5) Work Capacity: Team Members Time Allocation Survey - the team members will notify Stephen after a discussion with their manager.

6) Case assignment: Questions that have been used so far will be emailed for inquiry letters as a reference:

The various inquiry letters sent out from EO Tech and EOD are attached with those minutes.
Note: The memorandum for file by Hull Carter (EO Tech) will be emailed to all team members as soon as I image it.

Cases will be assigned this afternoon to those who requested them - I will send an notification email after assignment.

7) Research Tools: All cases should be researched in Accurint and the web during the development. For the Team members who do not have Accurint, Accurint ID request form is attached with this memo.

Note: Manager forwards the completed request form to Saundra C Shaw after approval.

Marks Nancy J

From: Marks Nancy J
Sent: Thursday, May 17, 2012 5:23 PM
To: Light Sharon P; Kindell Judith E; Paz Holly O; Lerner Lois G; Thomas Cindy M
Subject: RE: potential revised BOLO language

I think Sharon is right significant is a more helpful guideline although excess is not wrong.

From: Light Sharon P
Sent: Thursday, May 17, 2012 5:11 PM
To: Kindell Judith E; Paz Holly O; Lerner Lois G; Marks Nancy J; Thomas Cindy M
Subject: RE: potential revised BOLO language

I might drop out "excess." I think a significant amount of private benefit makes more sense.

From: Kindell Judith E
Sent: Thursday, May 17, 2012 5:01 PM
To: Paz Holly O; Lerner Lois G; Marks Nancy J; Light Sharon P; Thomas Cindy M
Subject: RE: potential revised BOLO language

Looks fine to me

From: Paz Holly O
Sent: Thursday, May 17, 2012 4:59 PM
To: Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M
Subject: RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention or excess private benefit to organizations or individuals. Note: typical advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

Smith Lon B

From: Marshall David L
Sent: Wednesday, June 12, 2013 3:57 PM
To: Smith Lon B
Subject: FW: Case referred from EO

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW, Room 4409W
Washington, DC 20224
Telephone: (202) 622-3871
Fax: (202) 622-1036

From: Spellmann Don R
Sent: Thursday, July 28, 2011 9:32 AM
To: Marshall David L; Griffin Kenneth M
Cc: Franklin Amy B
Subject: RE: Case referred from EO

Let's talk about this. But my suggestion from the meeting with Lois is that we go ahead and send it back with the advice that they develop 2010.

EO is in the process of drafting model development letters for the advocacy group applications and will be sending them to us to review. That project seems like a better use of our time and will ensure more quality and consistency with all the cases.

From: Marshall David L
Sent: Tuesday, July 26, 2011 8:03 PM
To: Griffin Kenneth M
Cc: Franklin Amy B; Spellmann Don R; Marshall David L
Subject: FW: Case referred from EO

Ken:

How do you want one of us (Don, Amy or me) to respond? Or, do you want to respond?

You are the reviewer on this case. I am providing intermediate assistance. Don is involved because of his involvement with the c4 exemption standards project and his litigation experience with c4s.

Don previously met with EO execs on c4 exemption standards and I understand that there was another meeting this week. Amy and I have both been sufficiently busy that we have not turned much attention to the case. We presently are scheduled to talk preliminarily about how to proceed in

processing the case next Wednesday afternoon. We wanted to wait until we heard from Don the results of this week's meeting.

David

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW, Room 4405
Washington, DC 20224
Telephone: (202) 622-3871
Fax: (202) 622-1038

From: Franklin Amy B
Sent: Tuesday, July 26, 2011 5:08 PM
To: Marshall David L; Spellmann Don R
Subject: FW: Case referred from EO

FYI. I have not yet responded. We are essentially at the beginning phase of our review.

From: Gitterman Janet E [mailto:Janet.E.Gitterman@irs.gov]
Sent: Tuesday, July 26, 2011 5:08 PM
To: Franklin Amy B
Cc: Gitterman Janet E
Subject: Case referred from EO

Hi, Amy.

I understand you have the [redacted].

Do you have an estimate on timeframe for review by your office?

Janet Gitterman
Sr. Tax Law Specialist
SE:T:EO:RA:T:4
202-283-9458

[redacted]

From: Hull Carter C
Sent: Monday, August 08, 2011 8:35 AM
To: Lowe Justin
Subject: RE: Advocacy Case Development

Justin,

My calendar is, surprisingly, clear for Wednesday, August 10. I'll be happy to meet with Don, Dave, and Amy any time on that day.

Chip

From: Lowe Justin
Sent: Friday, August 05, 2011 8:44 AM
To: Kastenberg Elizabeth C; Shoemaker Ronald J; Goehausen Hilary; Hull Carter C; Megosh Andy
Subject: RE: Advocacy Case Development

I'm free any time that day as well, so whatever works best for you guys.

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Thursday, August 04, 2011 9:21 PM
To: Kastenberg Elizabeth C; Lowe Justin; Shoemaker Ronald J; Goehausen Hilary; Hull Carter C; Megosh Andy
Cc: Marshall David L; Franklin Amy B
Subject: Advocacy Case Development

Ladies & Gents,

How is next Wednesday, August 10, for everyone to discuss further development on [redacted]

We can do any time that day. Please let us know what time(s) are convenient for you. We'll plan to come to 1750.

Please also advise if you need us to return the copies of the files you sent to us.

Thank you.

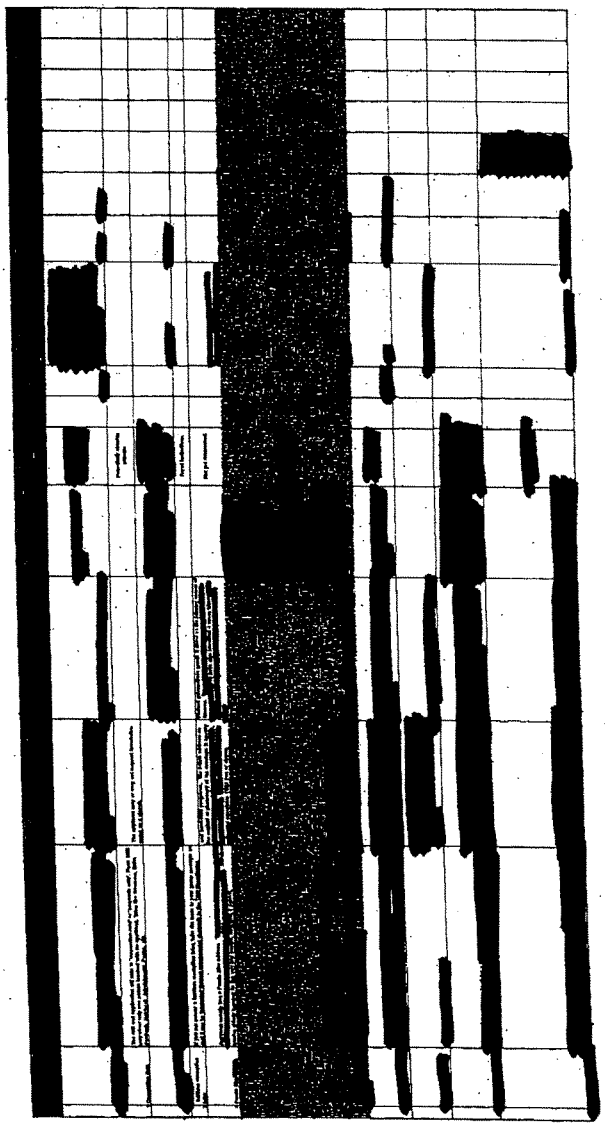
Don

Don R. Spellmann
Senior Counsel
Office of Division Counsel/
Associate Chief Counsel
(Tax Exempt and Government Entities)
1111 Constitution Avenue, NW, Room 4409
Washington, DC 20224
202-927-6799
202-622-1036 (Fax)

IRS00000001349

File 11 9 10

Tab 1 - TAG



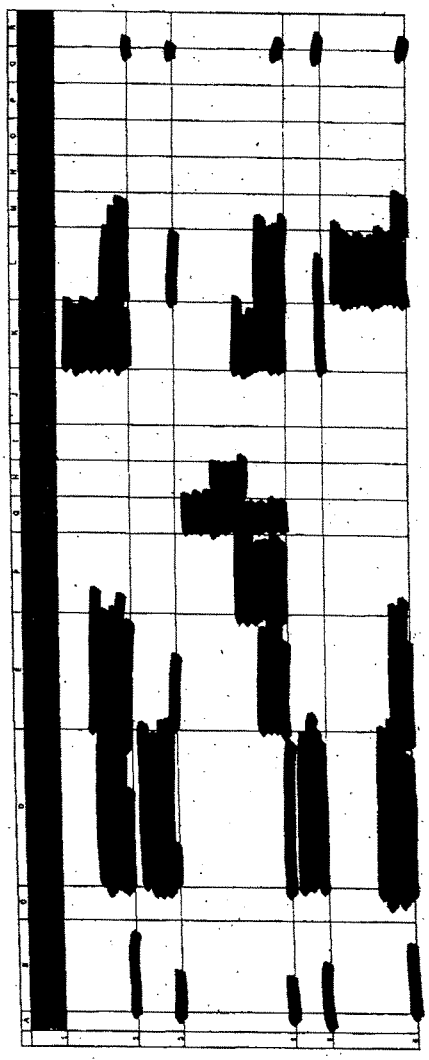
IRS00000001350

IRS00000001351

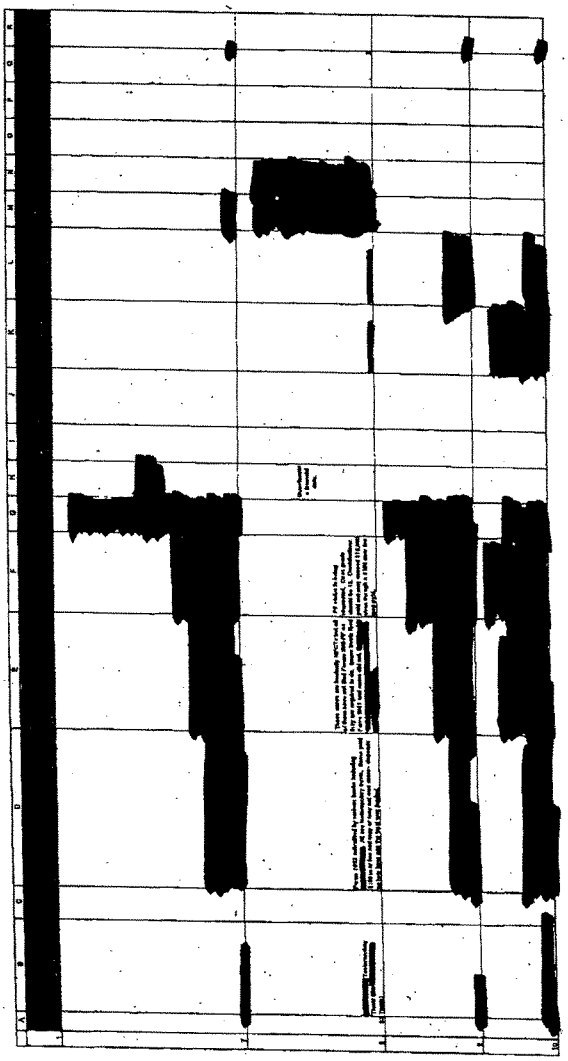
File 11 9 10

Tab 2 – TAG Historical

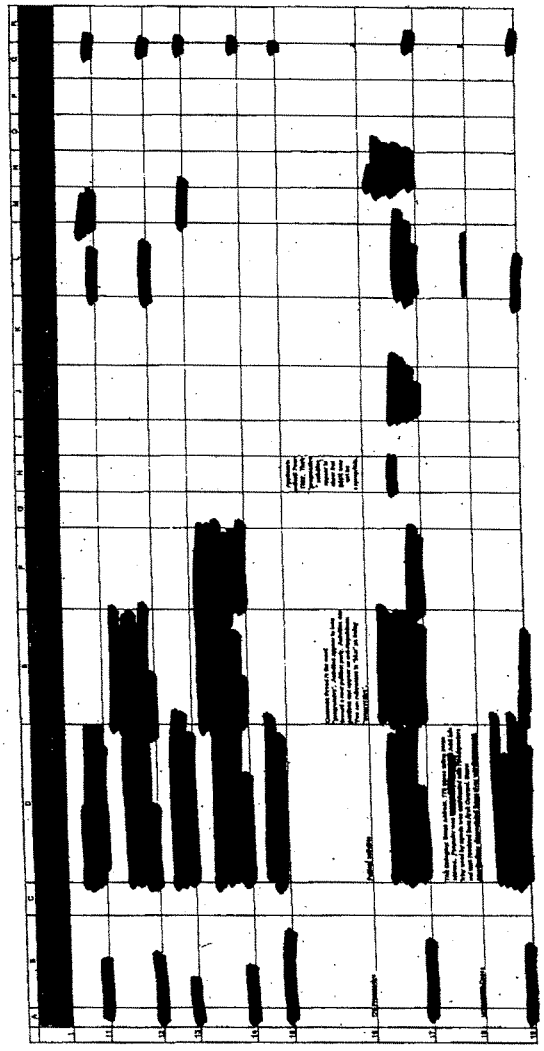
IRS00000001352



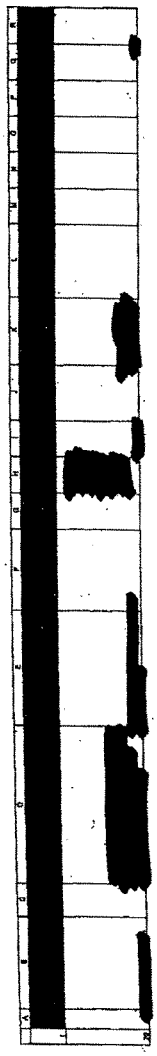
IRS00000001353



IRS00000001354



IRS00000001355



File 11 9 10

Tab 3 – Emerging Issues

	A	B	C	D	E	F	G	H
1	[redacted]							
2	501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [redacted]		x	x	Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
3	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).		EI-1	x	Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

File 11 9 10

Tab 4 – Coordinated Processing

IRS00000001359



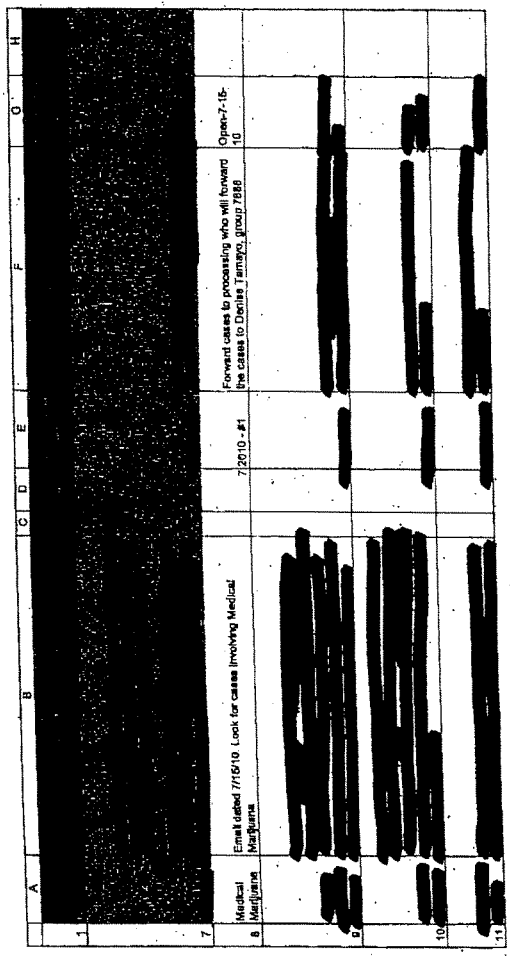
IRS00000001360

File 11 9 10

Tab 5 – Watch List

	A	B	C	D	E	F	G	H
1	[redacted]							
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.		1	x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open	
3	RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).		2	x	These cases should be transferred to EOT.	Open	
4	[redacted]	[redacted]		[redacted]		[redacted]	[redacted]	
6	Healthcare legislation	Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.		4	2010 - #1	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open-4/20/10	
6	[redacted]	[redacted]		[redacted]		[redacted]	[redacted]	

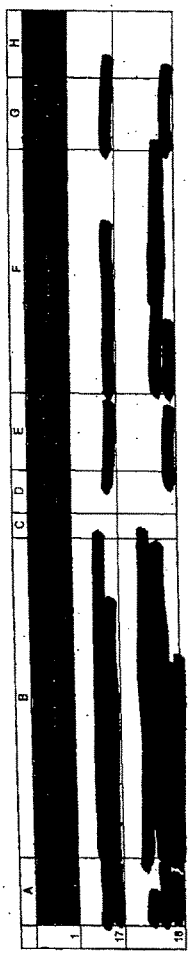
IRS00000001362



	A	B	C	D	E	F	G	H
1	[redacted]							
12	Occupied Territory Advocacy	Email dated 8/6/10. Applications deal with disputed territories in the Middle East. Examples may be organizations named or connected with [redacted] XXXX (XXXX = a particular city). [redacted] Applications may be inflammatory, advocate a one sided point of view and promotional materials may signify propaganda.		11	2010 - #1	If you see these cases, please forward to the TAG Group, 7830.	Open- 8/6/10	
13	[redacted]							
14	Accountable Care Organization (ACO)	Email dated 8/12/10. An ACO is a an entity created by the Affordable Care Act. These consist of groups of healthcare providers (hospitals and doctors) who have entered into an agreement with Medicare to have Medicare patients assigned to them. The amounts charged to Medicare for the ACO's patients are compared to certain benchmark levels set by Medicare. Medicare pays the ACO a percentage difference of the difference as incentive to cost savings. ACO's are not required to be tax exempt.		13	2010 - #1	These cases should be forwarded to Group 7821	Open- 8/12/10	
15	[redacted]							
16	[redacted]							

IRS0000001383

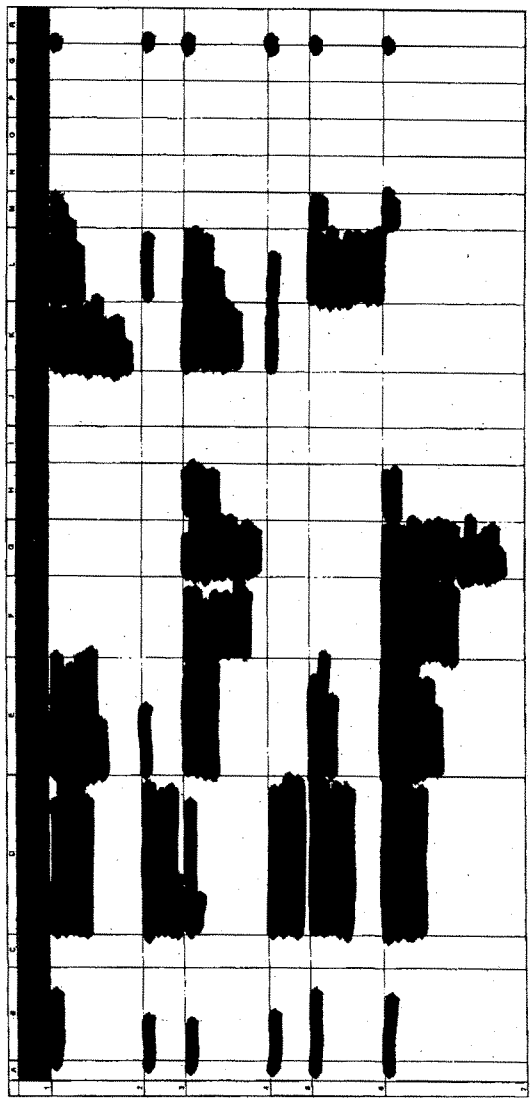
IRS00000001364



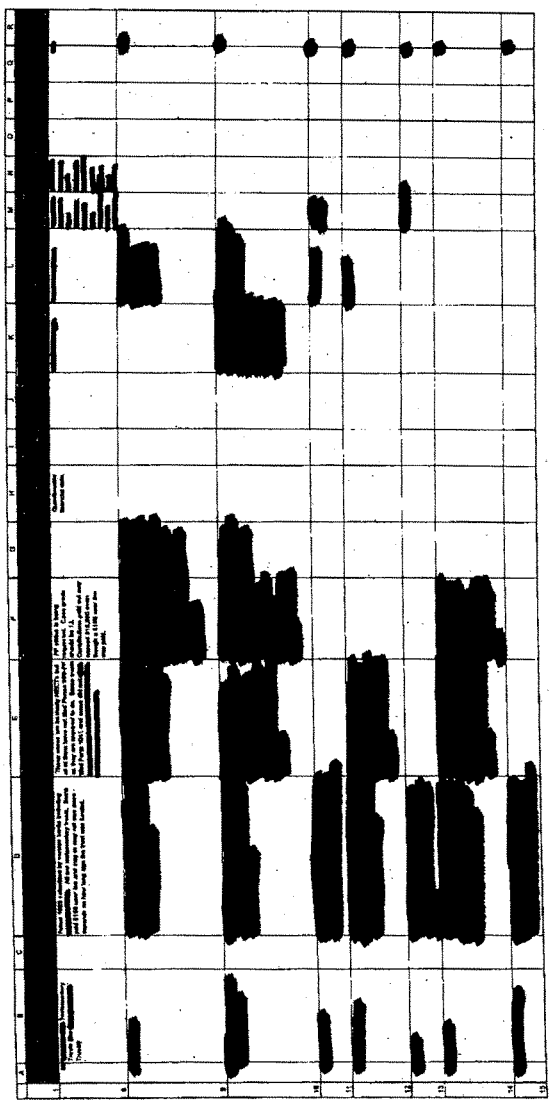
File 06162012

Tab 1 - Potential Abusive Historical

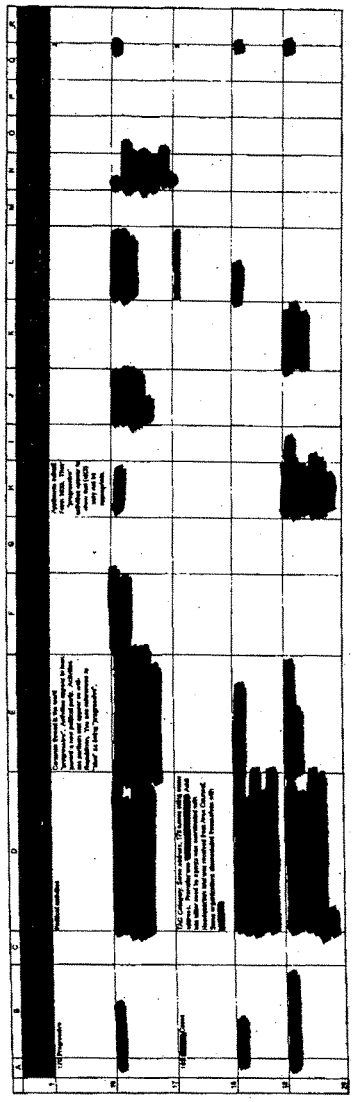
IRS00000001424



IRS00000001425



IRS00000001426

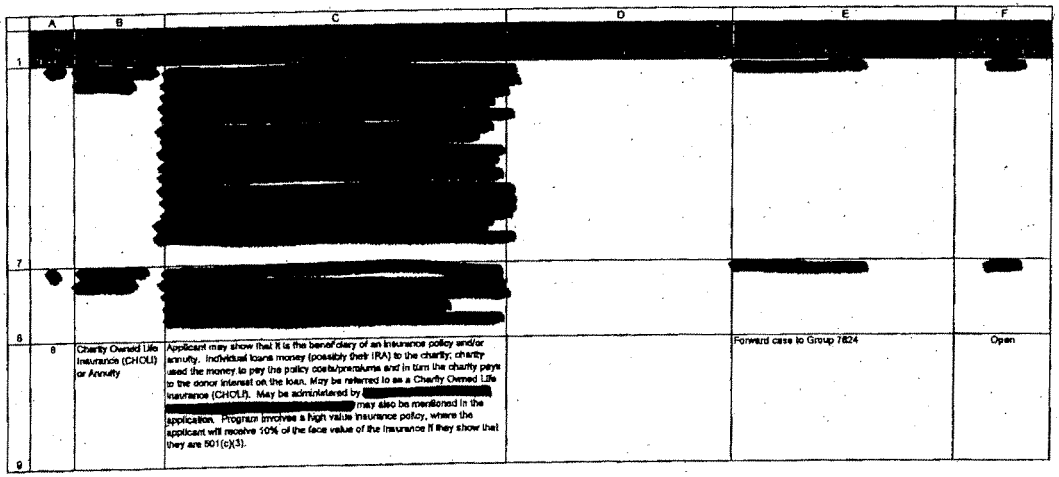


IRS00000001427

File 06162012

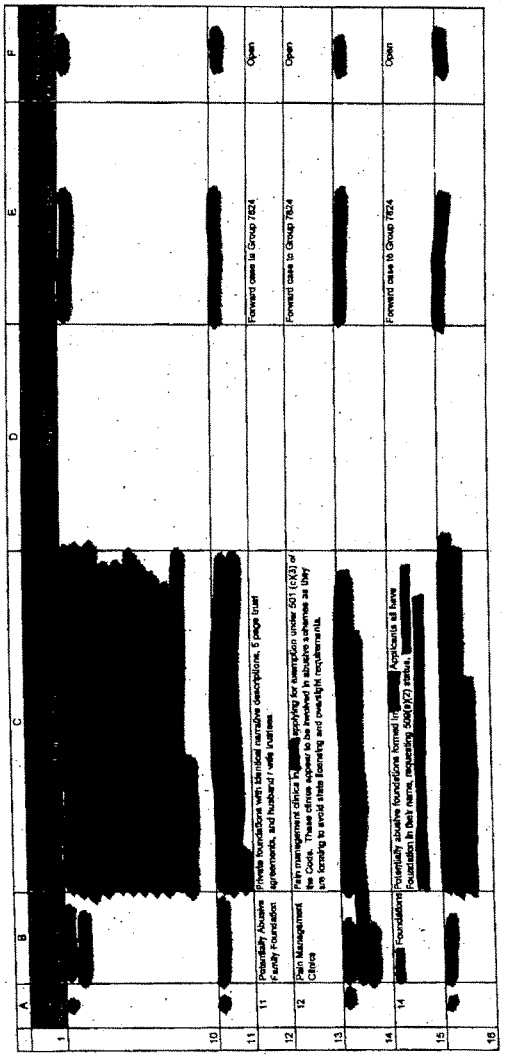
Tab 2 – Potential Abusive

	A	B	C	D	E	F
1	[redacted]					
2						
3	1	Corporation Sole	The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles like Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc. The applicant may or may not request church classification.		Forward case to Group 7824	Open
4	[redacted]					
5	3	Fictitious Exemption Letter	Determination letter submitted appears questionable. May include incorrect information or may appear invalid due to format, font, etc.		Forward case to Group 7824	Open
6	4	Puerto Rico[redacted]	Applicant usually has a Puerto Rico address. Activities involve elderly or low-income housing, operating a school, and head-start programs. The return address on the original or photocopy of the envelope may be[redacted] Federal government grants is listed as the primary source of income. Other identifying factors include intention to build a 42 unit facility, no ownership of property, application showing [redacted]	[redacted]	[redacted]	[redacted]



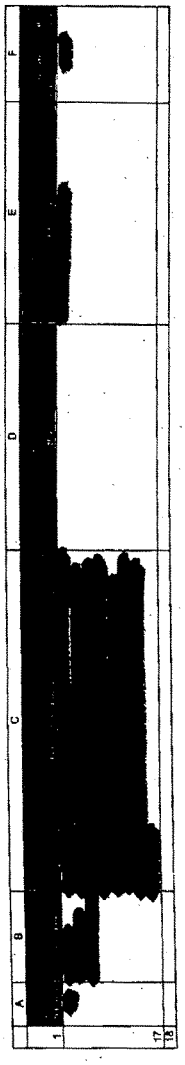
	A	B	C	D	E	F
1	[redacted]					
7	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
9	8	Charity Owned Life Insurance (CHOLI) or Annuity	Applicant may show that it is the beneficiary of an insurance policy and/or annuity. Individual loans money (possibly their IRA) to the charity; charity used the money to pay the policy costs/premiums and in turn the charity pays to the donor interest on the loan. May be referred to as a Charity Owned Life Insurance (CHOLI). May be administered by [redacted] may also be mentioned in the application. Program involves a high value insurance policy, where the applicant will receive 10% of the face value of the insurance if they show that they are 501(c)(3).		Forward case to Group 7824	Open

IRS0000001429



	A	B	C	D	E	F
1						
10						
11		Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees		Forward case to Group 7824	Open
12		Pain Management Clinics	Pain management clinics in [redacted] applying for exemption under 501 (c)(3) of the Code. These clinics appear to be involved in abusive schemes as they are operating to avoid state licensing and oversight requirements.		Forward case to Group 7824	Open
13						
14		[redacted] Foundations	Potentially abusive foundations formed by [redacted] Applicants all have [redacted] Foundation in their name, requesting 508(d)(2) status. [redacted]		Forward case to Group 7824	Open
15						
16						

IRS00000001431



File 06162012

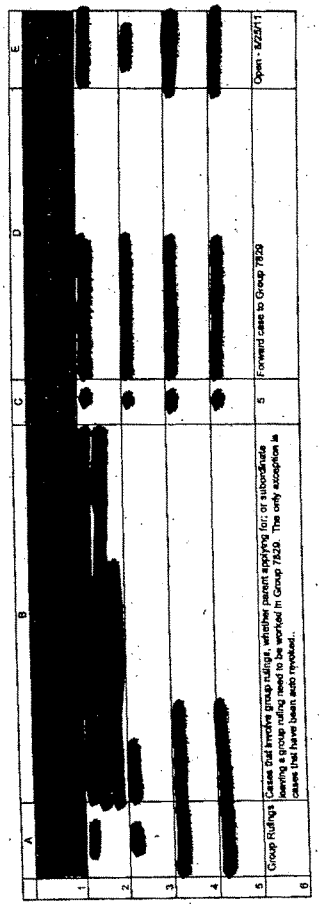
Tab 3 - Emerging Issues

Current Political Issues	501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.		EI-1	x	Forward case to Group 7822.							Open

IRS00000001433

File 06162012

Tab 4 – Coordinated Processing



	A	B	C	D	E
1	[redacted]				
2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Group Rulings	Cases that involve group rulings, whether parent applying for; or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11

IRS0000001435

IRS00000001436

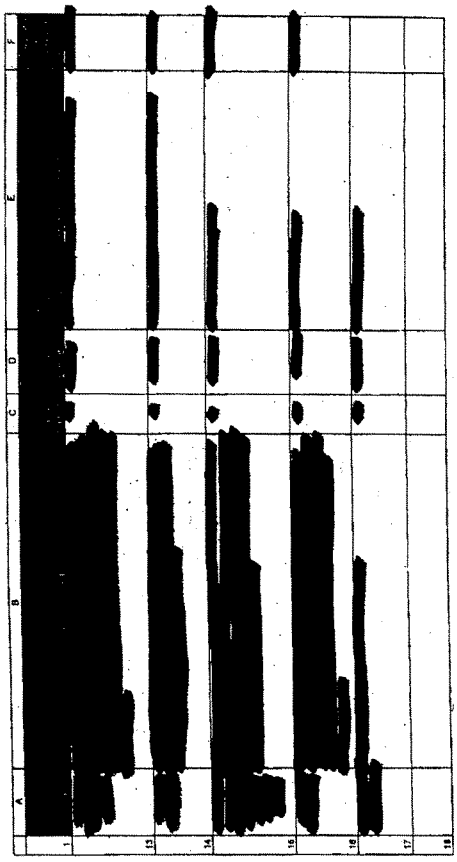
File 06162012

Tab 5 - Watch List

	A	B	C	D	E	F
1	[redacted]					
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hofel	Open,
3	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
5	Medical Marijuana	Cases involving Medical Marijuana	6	2010 - #1	Forward case to Group 7888, Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 15-10 7
6	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
7	Newspaper Entities	Newspapers requesting exemption as educational organizations.	8	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
8	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
9	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
10	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
11	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
12	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (elect/tolly/power) to other organizations	14	2014- #1	Coordinate processing with Mitch Steele, Group 7827.	Open - 7/11/11

IRS0000001437

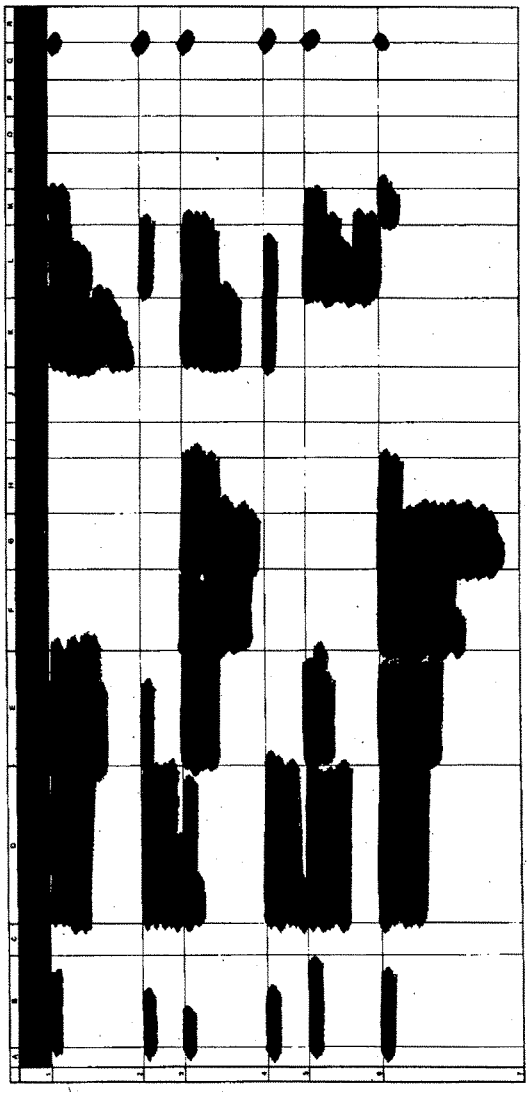
IRS00000001438



File 071112

Tab 1 – Potential Abusive Historical

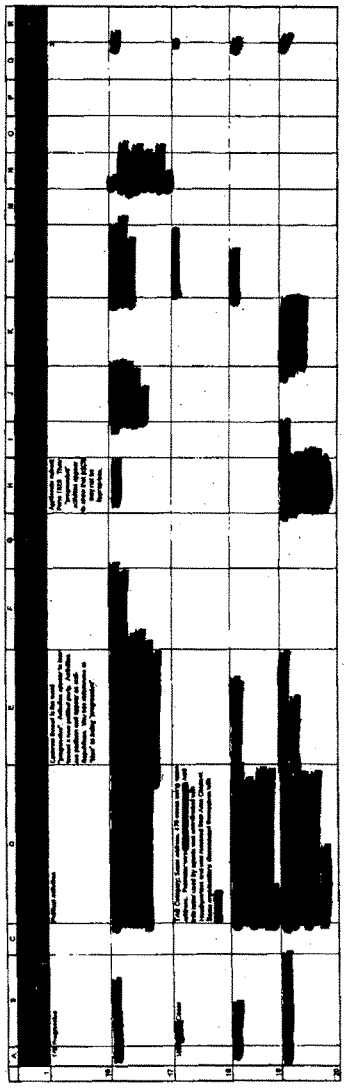
IRS0000001485



IRS00000001486



IRS00000001487



File 071112

Tab 2 – Potential Abusive

	A	B	C	D	E	F
1	[redacted]					
2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
3	1	Corporation Sole	The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles like Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc. The applicant may or may not request church classification.		Forward case to Group 7824	Open
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	3	Fictitious Exemption Letter	Determination letter submitted appears questionable. May include incorrect information or may appear invalid due to format, font, etc.		Forward case to Group 7824	Open
6	4	Puerto Rico [redacted]	Applicant usually has a Puerto Rico address. Activities involve elderly or low income housing, operating a school, and head-start programs. The return address on the original or photocopy of the envelope may be [redacted]. Federal government grants is listed as the primary source of income. Other identifying factors include intention to build a 42 unit facility, no ownership of property, application showing [redacted]	[redacted]	Forward case to Group 7824	Open

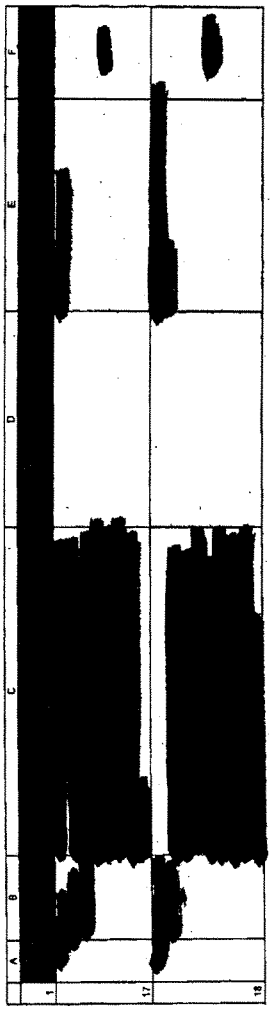
	A	B	C	D	E	F
1	[redacted]					
7	[redacted]		[redacted]		[redacted]	[redacted]
8	[redacted]		[redacted]		[redacted]	[redacted]
9	8	Charity Owned Life Insurance (CHOLI) or Annuity	Applicant may show that it is the beneficiary of an insurance policy and/or annuity. Individual loans money (possibly their IRA) to the charity; charity used the money to pay the policy costs/premiums and in turn the charity pays to the donor interest on the loan. May be referred to as a Charity Owned Life Insurance (CHOLI). May be administered by [redacted] may also be mentioned in the application. Program involves a high value insurance policy, where the applicant will receive 10% of the face value of the insurance if they show that they are 501(c)(3).		Forward case to Group 7824	Open

IRS0000001490

IRS0000001491

	A	B	C	D	E	F
1						
10						
11	11	Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees.		Forward case to Group 7824	Open
12	12	Pain Management Clinics	Pain management clinics in [redacted] applying for exemption under 501 (c)(3) of the Code. These clinics appear to be involved in abusive schemes as they are forming to avoid state licensing and oversight requirements.		Forward case to Group 7824	Open
13						
14	14	[redacted] Foundations	Potentially abusive foundations formed in [redacted]. Applicants all have Foundations, la their name, requesting 508(c)(2) status, [redacted]		Forward case to Group 7824	Open
15						
16						

IRS00000492



File 071112

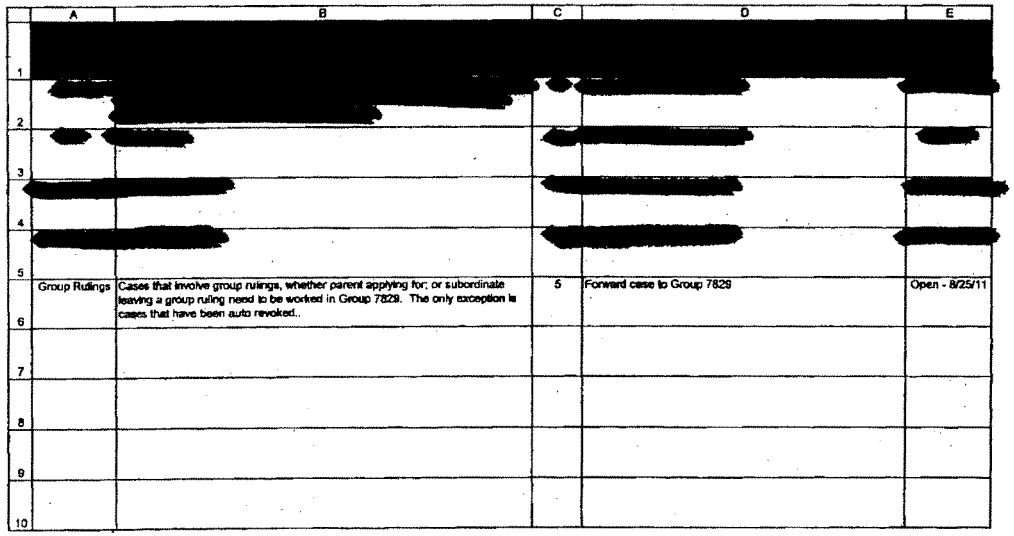
Tab 3 – Emerging Issues

	A	B	C	D	E	F
1	[redacted]					
2	Current Political Issues	501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.	EI-1	x	Forward case to Group 7822.	Open
3						
4						

IRS0000001494

File 071112

Tab 4 – Coordinated Processing



	A	B	C	D	E
1	[redacted]				
2					
3					
4					
5					
6	Group Rulings	Cases that involve group rulings, whether parent applying for; or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11
7					
8					
9					
10					

IRS00000001497

File 071112

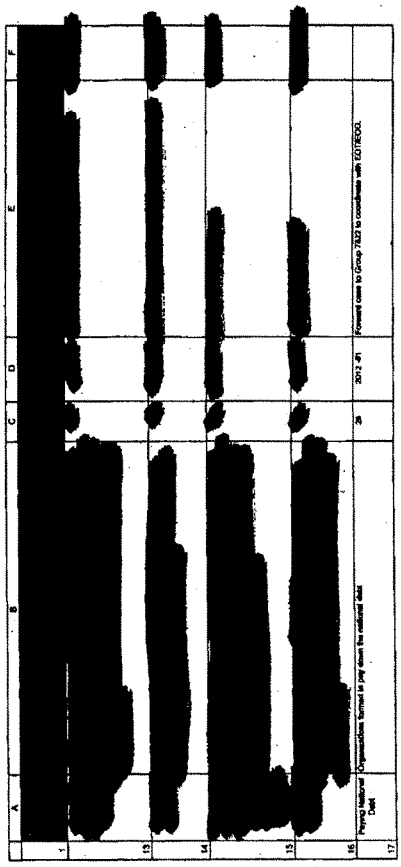
Tab 5 – Watch List

	A	B	C	D	E	F
1	[redacted]					
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(4) exemption in order to collaboratively develop non-software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hutat	Open-
3	[redacted]					
4	[redacted]					
5	Medical Marijuana	Cases involving Medical Marijuana	5	2010 - 91	Forward case to Group 7648, Denise Townsyo (coordinator). Note: this coordinator has permission to close "exclusively educational" organizations.	Open- 7 15-10
6	[redacted]					
7	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- 91	Elevate case to your manager to forward to ED Technical.	Open 12/19/10
8	[redacted]					
9	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for extensive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- 91	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindall or Sharon Light (EO Director's senior tech advisors).	Open - 3/28/11
10	[redacted]					
11	[redacted]					
12	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/wood) to other organizations	14	2011- 91	Coordinate processing with Mitch Steele, Group 7827	Open - 7/11/11

IRS0000001498

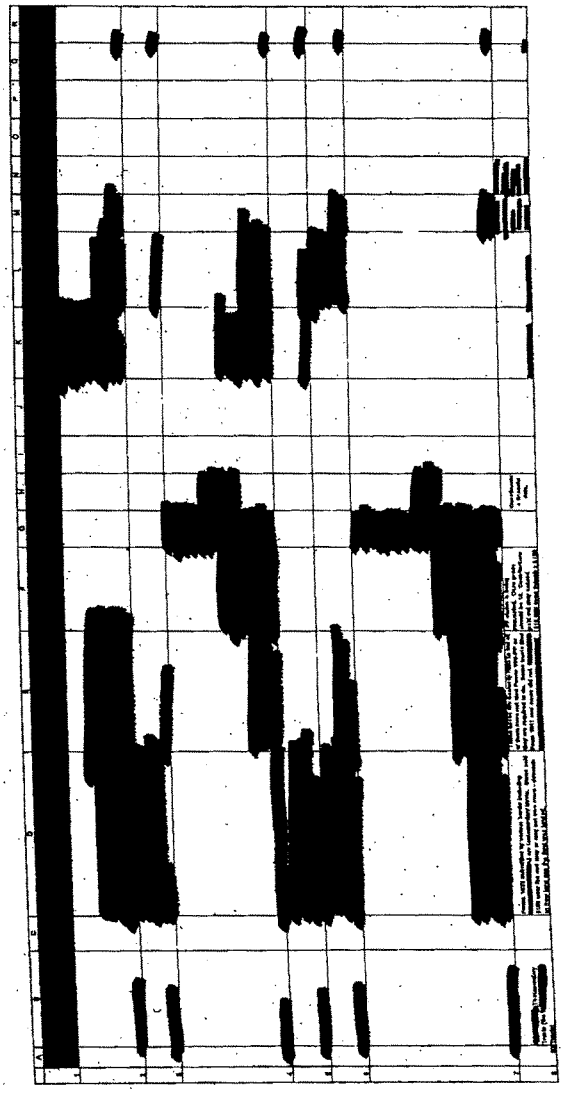
Report Exhibits - Page 000084

IRS00000001499



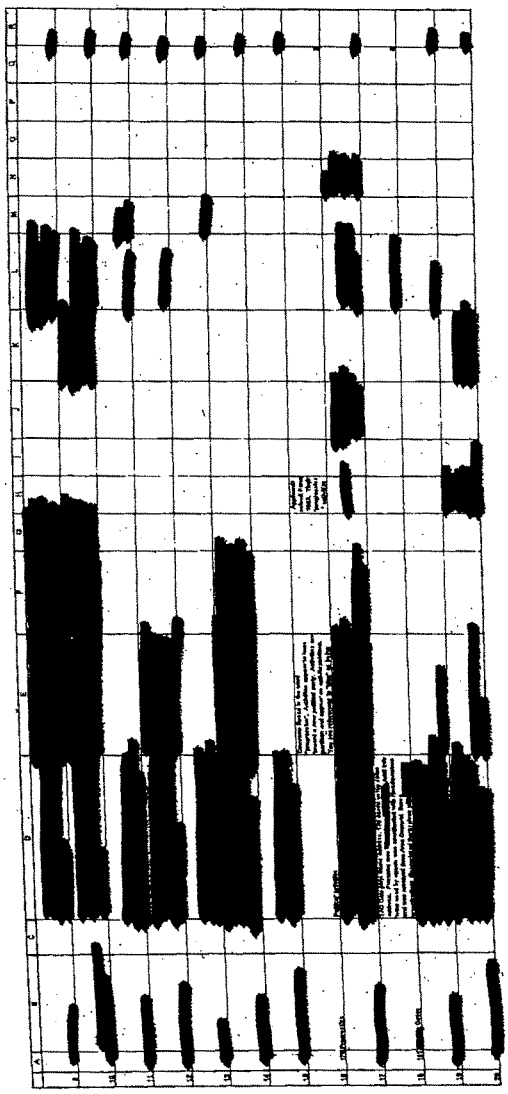
File 02082012

Tab 1 – Potential Abusive Historical



IRS00000001501

IRS00000001502



IRS00000001603

File 02082012

Tab 2 – Potential Abusive

	A	B	C	D	E	F
1	[redacted]					
2	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
3	1	Corporation Sole	The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles like Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc. The applicant may or may not request church classification.		Forward case to Group 7824	Open
4	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
5	3	Fictitious Exemption Letter	Determination letter submitted appears questionable. May include incorrect information or may appear invalid due to format, font, etc.		Forward case to Group 7824	Open
6	4	Puerto Rico[redacted]	[redacted] Federal government grants is listed as the primary source of income. Other identifying factors include intention to build a 42 unit facility, no ownership of property, application showing [redacted]	[redacted]	Forward case to Group 7824	Open
7	[redacted]		[redacted]		[redacted]	[redacted]

IRS0000001504

	A	B	C	D	E	F
8						
9		Life Insurance & Annuity				
10						
11		Boundary Adoptive Family Foundation			Forward case to Group 7824	Open
12						
13		Pain Management Clinics			Forward case to Group 7824	Open
14						
15					Forward case to Group 7824	Open
16		Foundations				
17						
18						

IRS00000001505

File 02082012

Tab 3 – Emerging Issues

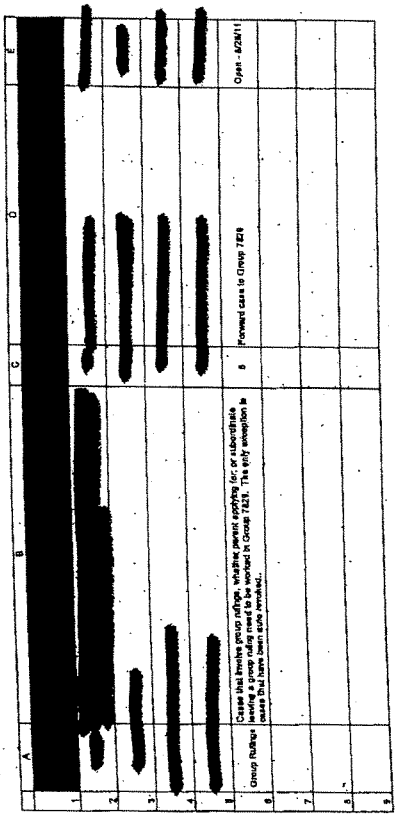
	A	B	C	D	E	F
1						
2	Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open
3						
4						
5						
6						
7						
8						
9						
10						
11						

IRS00000001606

File 02082012

Tab 4 – Coordinated Processing

IRS0000001609



IRS00000001510

File 02082012

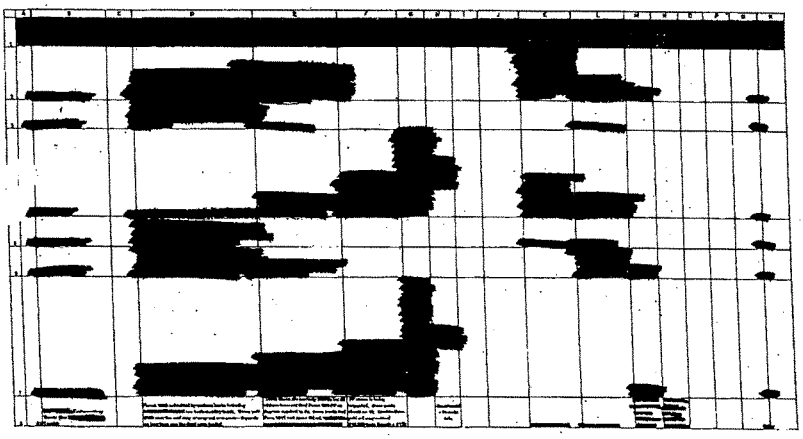
Tab 5 – Watch List

	A	B	C	D	E	F
1	[redacted]					
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(4) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hollet	Open
3	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases involving Medical Marijuana	6	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-16-10
7	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
8	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
9	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
10	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
11	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]

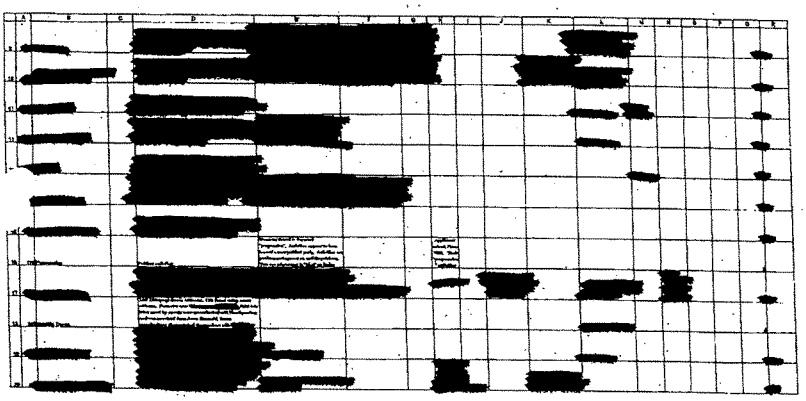
IRS0000001611

File 02082012

Tab 1 – Potential Abusive Historical



IRBR0000006706



File 02082012

Tab 5 – Watch List

20120208

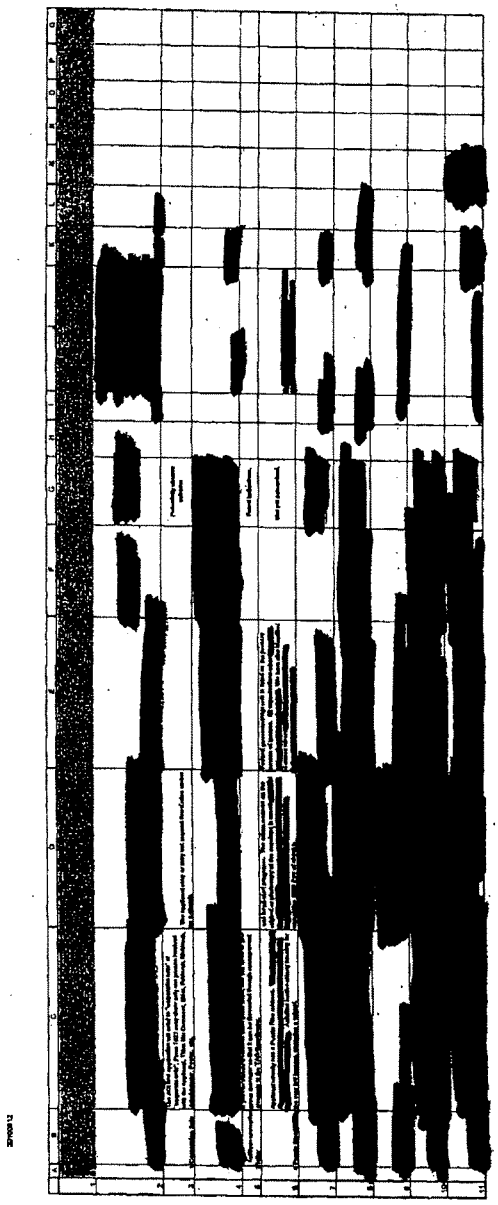
	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hoffat	Open
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases Involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888, Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open-7-16 10
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
9	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
10	Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011 - #1	Elevate cases to your manager to forward to Group 7822 for coordination with Judy Kindall or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11

20120208

	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
11	[redacted]					
12	[redacted]					
13	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011- #1	Coordinate processing with Mitch Steele, Group 7827.	Open - 7/11/11
14	[redacted]					
15	[redacted]					
16	"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claims to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward cases to Group 7872.	Open 1/25/12

IRS0000002503

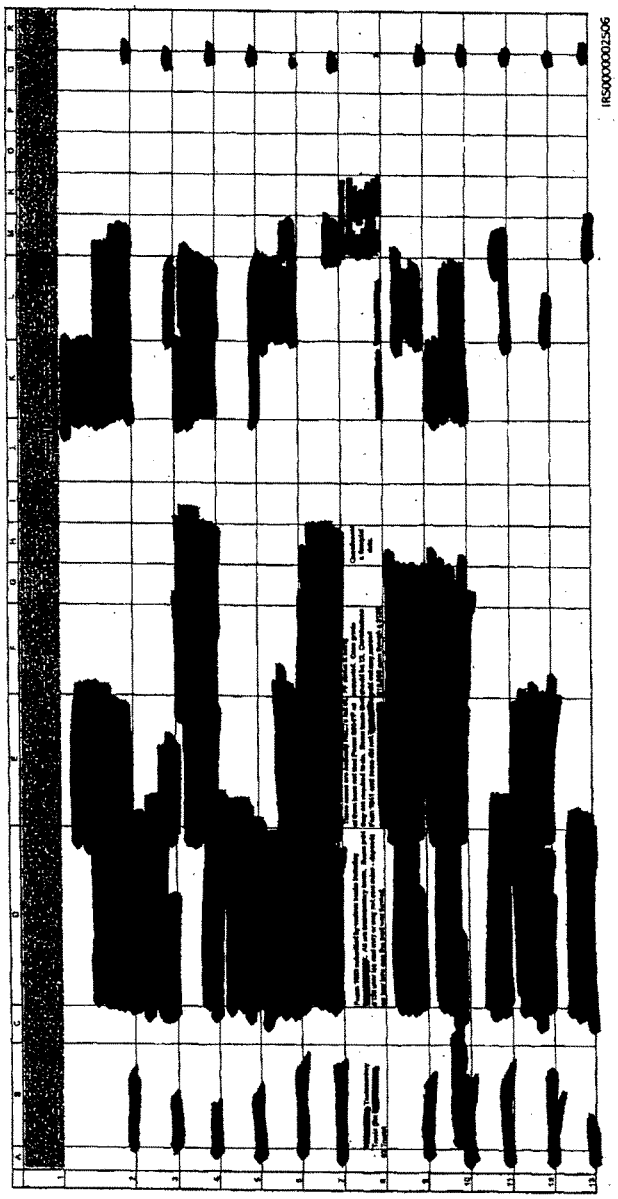
File 081210
Tab 1 - TAG

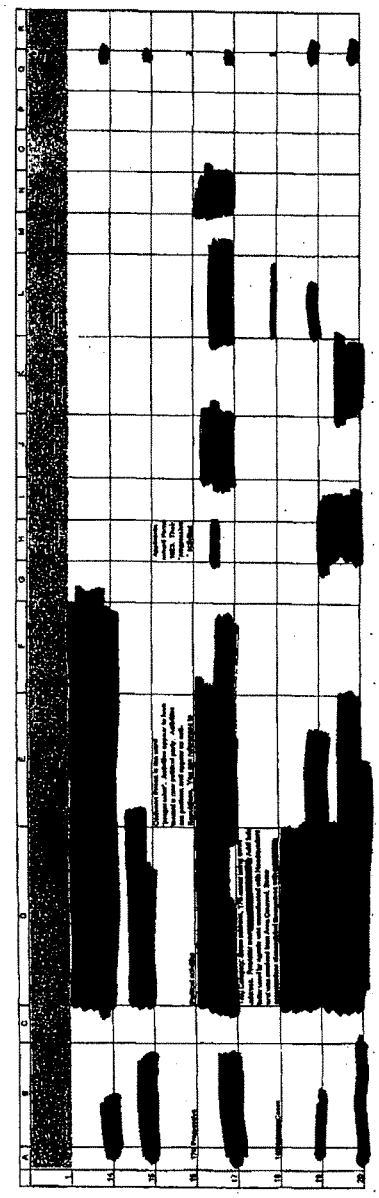


[redacted]

IRS0000002504

File 081210
Tab 2 – TAG Historical


IRS00000025O6



IRS000002507

IRS00000002508

File 081210
Tab 3 – Emerging Issues

20100812

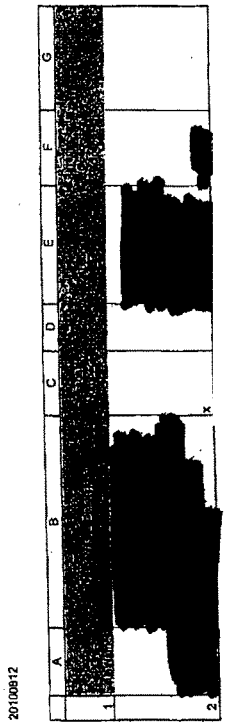
	A	B	C	D	E	F	G	H
1	[redacted]							
2	501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [redacted] bank.		x	x	Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
3	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).		EI-1	x	Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

IRS0000002509

Report Exhibits - Page 000110

File 081210
Tab 4 – Coordinated Processing

IRS0000002511



20100812

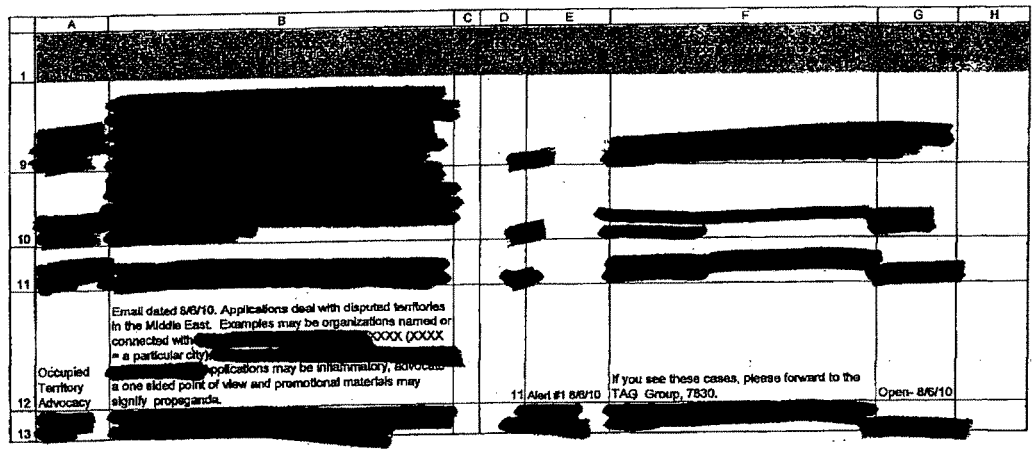
IRS00000002512

File 081210
Tab 5 – BOLO List

20100812

	A	B	C	D	E	F	G	H
1	[redacted]							
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.		1	x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open	
3	RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).		2	x	These cases should be transferred to EOT.	Open	
4	ACORN successors	Following the breakup of ACORN [redacted]		3	x	If you see these cases, they should be sent to the TAG Group.	Open	
5	Healthcare legislation	Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.		4	x	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open-4/20/10	
6	[redacted]			[redacted]		[redacted]		
7	[redacted]			[redacted]		[redacted]		
8	Medical Marijuana	Email dated 7/15/10. Look for cases involving Medical Marijuana		7	x	Forward cases to processing who will forward the cases to Denise Tamayo, group 7848.	Open-7-15-10	

20100812



	A	B	C	D	E	F	G	H
1	[redacted]							
9	[redacted]							
10	[redacted]							
11	[redacted]							
12	Occupied Territory Advocacy	Email dated 8/6/10. Applications deal with disputed territories in the Middle East. Examples may be organizations named or connected with [redacted] XXXX (XXXX = a particular city) [redacted] applications may be inflammatory, advocate a one sided point of view and promotional materials may signify propaganda.		11	Alert #1 8/6/10	If you see these cases, please forward to the TAG Group, 7830.	Open- 8/6/10	
13	[redacted]							

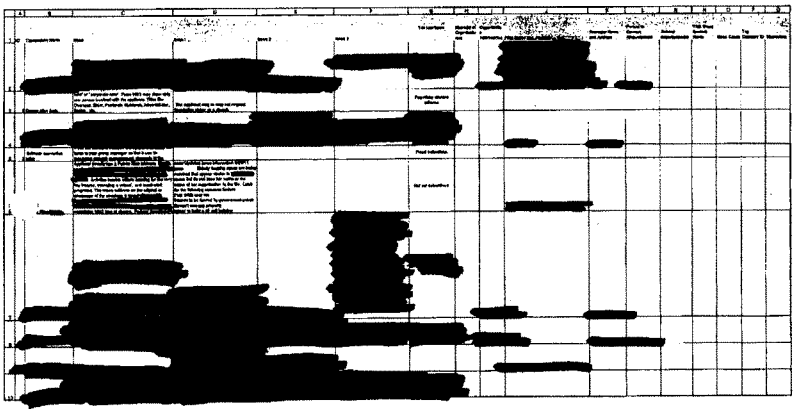
IRS0000002514

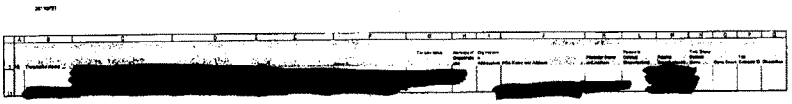
20100812

	A	B	C	D	E	F	G	H
1	[redacted]							
14	Accountable Care Organization (ACO)	Email dated 8/12/10. An ACO is a an entity created by the Affordable Care Act. These consist of groups of healthcare providers (hospitals and doctors) who have entered into an agreement with Medicare to have Medicare patients assigned to them. The amounts charged to Medicare for the ACO's patients are compared to certain benchmark levels set by Medicare. Medicare pays the ACO a percentage difference of the difference as incentive to cost savings. ACO's are not required to be tax exempt.		13	Alert #3 8/12/10	These cases should be forwarded to Group 7821	Open- 8/12/10	

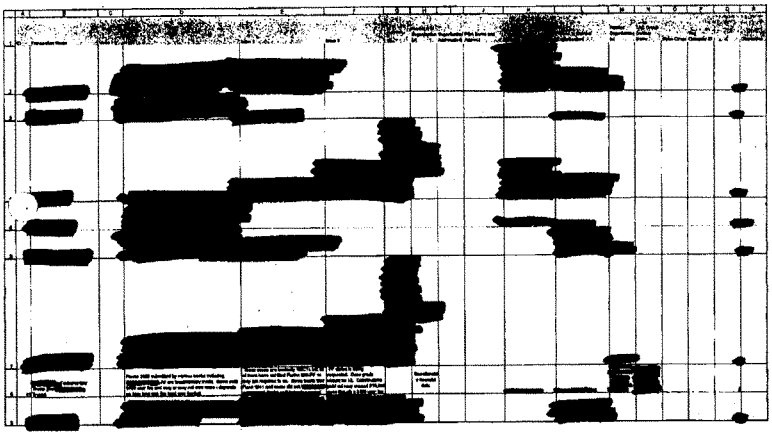
IRS0000002515

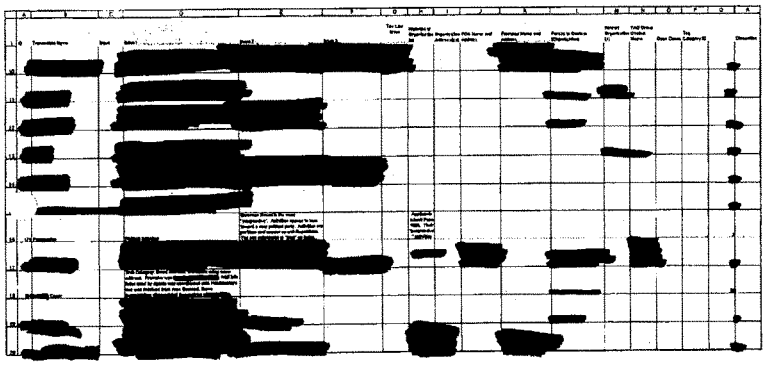
File 072711
Tab 1 - TAG





File 072711
Tab 2 – TAG Historical





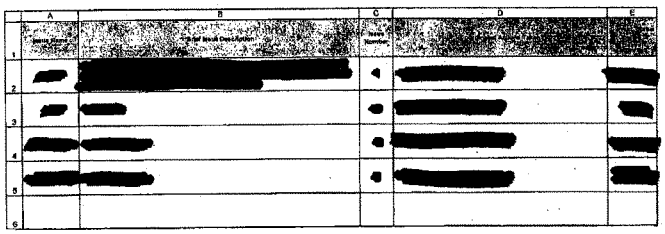
File 072711
Tab 3 – Emerging Issues

20110727

	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	Advocacy Orgs	Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. Ron Bell is coordinating cases with EO Tech- Justin Lowe.	Open
3						
4						
5						
6						
7						
8						
9						
10						
11						

File 072711
Tab 4 – Coordinated Processing

20110727



File 072711
Tab 5 – Watch List

20110727

	A	B	C	D	E	F
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are unwilly the for-profit business or for-profit support technicians of the software. The software is provided for fee, however, fees are charged for technical support by the for-profit.	1	4	Elevate case to your manager for contact with EO Tech- Peter Hobel	Open
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases involving Medical Marijuana	5	2010 - 91	Forward case to Group 7888, Denise Terreyo (coordinator; Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-18-10
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
9	Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 8 page trust agreements, and husband / wife trustees.	6	2010- 91	Forward case to Group 7830	Open 11/23/10
10	Newspaper EXODIS	Newspapers requesting exemption as educational organizations.	9	2010- 91	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
11	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
12	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for recovering reinstatement of exempt status due to the Auto-Revocation project.	11	2011- 91	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors)	Open - 9/20/11
13	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

20110727

	A	B	C	D	E	F
1	[redacted]			[redacted]		
14	[redacted]					
15	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011-91	Coordinate processing with Mitch Steele. Group 7834.	Open - 7/11/11
16	Pain Management Clinics	Pain management clinics b[redacted] applying for exemption under 501 (c)(3) of the Code. These clinics appear to be involved in abusive schemes as they are forming to avoid state licensing and oversight requirements.	15	2011-91	Forward case to Group 7830	Open 7/27/11

From: Seto Michael C
Sent: Monday, June 27, 2011 8:30 AM
To: Thomas Cindy M
Subject: FW: Briefing Paper on c3/4 Advocacy Orgs.
Attachments: June 29 C3-4 Advocacy Orgs Briefing Paper.doc

From: Lowe Justin
Sent: Monday, June 27, 2011 8:56 AM
To: Paz Holly O
Cc: Seto Michael C; Buller Siri; Hull Carter C; Kastenberg Elizabeth C; Goehausen Hilary
Subject: Briefing Paper on c3/4 Advocacy Orgs.

Holly,

Attached is the briefing paper we plan to use at the meeting with Lois on Wednesday afternoon. Please let us know if you have any questions or would like to meet beforehand.

Thanks,

Justin

Increase in (c)(3)/(c)(4) Advocacy Org. Applications

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.

- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run

- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
  - The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.
  - The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.

- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.

- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.

- Transfer cases to EOT to be worked.

- Include pattern paragraphs on the political intervention restrictions in all favorable letters.

- Refer the organizations that were granted exemption to the ROO for follow-up.

Cautions:

- These cases and issues receive significant media and congressional attention.

- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

From: Seto Michael C
Sent: Sunday, July 24, 2011 10:25 AM
To: Thomas Cindy M
Subject: FW: Drafting the list of items for EOD to look for on Political Advocacy Cases

Hi Cindy,

We will be working on the list.

Mike

From: Seto Michael C
Sent: Sunday, July 24, 2011 11:22 AM
To: Goehausen Hilary; Lowe Justin
Cc: Ghougasian Laurice A; Megosh Andy; Grodnitzky Steven
Subject: Drafting the list Contact Person for EOD Political Advocacy Cases

Hilary and Justin,

As part of that discussion, we also concluded that we should draft a list of things for EOD agents to look for when working these types of advocacy cases.

Hilary, can you work with Justin, i.e. you draft and Justin reviews. When you both are done, I like to look at it, and your managers (Andy and Laurice/Steve) should also look at it too. Thanks, Mike

---

From: Seto Michael C
Sent: Saturday, July 23, 2011 4:58 PM
To: Lowe Justin; Goehausen Hilary; Hull Carter C
Cc: Megosh Andy; Kastenberg Elizabeth C; Lieber Theodore R; Salins Mary J; Ghougasian Laurice A; Grodnitzky Steven; Shoemaker Ronald J
Subject: Contact Person for EOD Political Advocacy Cases

Hi Everyone,

Per our discussion several weeks ago, the contact person for EOT for all political advocacy cases pending in EOD is Justin Lowe. Justin will work with Hilary Goehausen and Chip Hull, who are initiators on political advocacy cases pending in EOT. I will notify Cindy. If you have any questions, let me know.

Thanks,

Mike

From: Paz Holly O
Sent: Monday, April 23, 2012 4:03 PM
To: Thomas Cindy M; Abner Donna J
Cc: Neuhart Paige
Subject: RE: Schedule for Next Two Weeks Including Tours and Action Items

Donna,

Sorry for the late notice about the visit. This came up last minute and has moved very quickly. We would like to interview all the folks who had been involved in this bucket of advocacy cases as a group to make folks feel as comfortable as possible. We are tied up tomorrow with other meetings and are leaving Thursday so we will need to get a hour or two of Liz's time on Wednesday. Liz can step out of group meetings with the BPMO for a bit and we'll move any meeting BPMO has with her alone to a different time in the day. We don't need to talk to anyone else in Quality as the focus right now is on a specific group of cases (not advocacy cases in general). We are interested in talking to Liz because she was involved with those specific cases when she was in Determs.

Holly

From: Thomas Cindy M
Sent: Monday, April 23, 2012 8:17 AM
To: Abner Donna J
Cc: Paz Holly O
Subject: RE: Schedule for Next Two Weeks Including Tours and Action Items

Donna,

The discussion and decision for D.C. folks to visit Cincinnati was last minute and plans weren't finalized until late in the week.

As indicated in the email below, Liz Hofacre was the initial coordinator for the advocacy cases and that is why everyone believes it is important that she be included in the discussion. Regarding her participation on 4/25, Holly will need to make the call as to whether it is more important for Liz to meet with the other Advocacy Team members and D.C. on 4/25 for an hour or two or for her to participate in the QA review.

It is my understanding that none of the advocacy cases that were identified as part of the BOLO bucket have been closed, and that one c3 case that is expected to be denied was recently copied and sent to QA, EOT, and EOG. If you have information to the contrary, please let me know. Thanks.

From: Abner Donna J
Sent: Monday, April 23, 2012 6:51 AM
To: Thomas Cindy M
Cc: Paz Holly O
Subject: FW: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Hi Cindy,
Thanks for passing this along. I did not know Holly and company were coming to Cincinnati. Also, the April 25th date coincides with the date of the QA review in which my folks - including Liz - will be occupied most of the day. Therefore, QA will be available and willing to meet with any of the visitors the 24th or the 26th.

It is also important to note that QA has reviewed some advocacy cases and currently has three under review in EO Technical. A denial for a advocacy/political case was recently publicly posted. It is also important to point out that Liz is not the sole QA reviewer involved in the review of advocacy cases - she has simply been the QA reviewer that has attended most (not all) of the Determ meetings on the topic.

Thanks,
Donna

From: Thomas Cindy M
Sent: Saturday, April 21, 2012 12:17 AM
To: Abner Donna J
Subject: FW: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Donna,

I apologize, I meant to cc: you on the email below. Also, the 5 folks from D.C. want Liz Hofacre to be included with those being interviewed on 4/25 since she was the initial coordinator for these cases and is the QA rep. on the Advocacy Team.

If you have questions regarding this, please let me know. Thanks.

From: Thomas Cindy M
Sent: Friday, April 20, 2012 8:50 PM
To: Haley Philip H; Shankling Lonnie; Jefferson-White Beverly J; Lahey Victoria; Lewis Jovonnie; Brinkley Lynn A; Waddell Jon M; Chumney Tyler N; Shafer John H; Bibb Kenneth B; Angner William J; Berry Daniel W; Bowling Steven F; Combs Peggy L; Esrig Bonnie A; Craig Karen K
Cc: Sheer Mary; Beason Carole Tamara
Subject: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Because of the hearings involving advocacy cases in which Steve Miller will need to testify, several folks from TEGE Headquarters will be in Cincinnati next week to take a tour of our operations, review advocacy cases, etc., in order to prep Steve for the hearings. While the folks from D.C. are in Cincinnati, they plan to review all of the advocacy cases. A separate email will be sent regarding these cases.

The following week three representatives from TIGTA, along with the Acting Director, EO R&A, will be in Cincinnati to take a tour, etc., and as a separate event the Acting Commissioner, TEGE will be visiting.

Following is a schedule by day for the next two weeks of what will be taking place, where, and who will be involved.

April 23 - Visitors and Town Hall from 2:30 to 3:00 (Room 5411)

Holly Paz will hold a short meeting for all agents/managers in Cincinnati that are in the office on this day. Please be certain to pass this information on to specialists in your group. Other folks from TEGE Headquarters will be in Room 7116-D reviewing advocacy cases. Those from TEGE Headquarters who will be in Cincinnati are:

Senior Technical Advisors to Acting Commissioner, TEGE (Rob Malone, Nan Marks, Joe Urban),
Senior Technical Advisor to Director, EO (Sharon Light),
Acting Director, EO R&A (Holly Paz)

April 24 - Tour (CSPC and Room 7106)

The folks from D.C. and I will be taking a tour of the Cincinnati Submission Processing Center (CSPC) starting at 8 a.m. I expect that we will be back to the Federal Building by approx. 10 a.m. Then, a representative from the Screening Group will be needed to conduct a demo in TEDS of the initial screening process. Also, a representative from Group 7822 will be needed to conduct a demo in TEDS of the actions that take place for cases after the initial screening (e.g., assignment of AP/IP or full development and those steps that follow) with a focus on the advocacy cases. Room 7106 has been reserved for the demos. Those who should be in attendance include Peggy Combs (optional), John Shafer, Steve Bowling, and Tyler Chumney, as well as a representative from the Screening Group who will demo the initial screening process and a representative from Group 7822 who will demo actions taken by an agent for full development cases --- I'd recommend Ron Bell since he was one of the TEDS instructors and was also the advocacy case coordinator when we reached out to EOT for coordination. We can discuss on Monday (4/23).

Following the demos, the folks from D.C. will continue reviewing the advocacy cases in Room 7116-D.

April 25 - Meeting with those involved with the Advocacy Cases from 9:00 to ? (Room 7106)

The folks from D.C. would like to have a meeting with Steve Bowling, Tyler Chumney, Ron Bell, and Stephen Seok. This meeting will begin at 9:00 a.m. in Room 7106. After this meeting takes place, the folks from D.C. would like for a few of the agents on the Advocacy Team to join the others. Those who have been identified thus far include Joseph Herr, Liz Hofacre, Mitch Steele, and Carly Young. These folks should plan to come to Room 7112 at approx. 10 a.m. Someone will come to Room 7112 to get them when ready. It is possible that other Advocacy Team members will be added. Therefore, it would be beneficial if all those agents in Cincinnati who are on the Advocacy Team made sure they were in the office and available on 4/25/2012.

Following these meetings, the folks from D.C. will continue reviewing the advocacy cases in Room 7116-D.

April 26 - Folks from D.C. will continue reviewing the advocacy cases in Room 7116-D and will depart at approx. noon.

April 30 - TIGTA visit beginning at 2:30 p.m. (Room 4503)

Holly Paz and I will meet with TIGTA beginning at 2:30 p.m. We will take them to the Processing Section to look at hard-copy cases. Also, Nick Reinhardt will conduct a TEDS demo beginning after 3 p.m. I've requested Room 7106 for the TEDS demo, but may need to have it in Room 4503.

Those from TIGTA who will be in Cincinnati are:

Michael McGovern
Cheryl Medina
Thomas Seidell

May 1 - Tour (CSPC and Room 7106 or 7108)

The folks from TIGTA, along with Holly Paz and I, will be taking a tour of the Cincinnati Submission Processing Center (CSPC) starting at 8 a.m. I expect that we will be back to the Federal Building by approx. 10 a.m. Then, a representative from the Screening Group will be needed to conduct a demo in TEDS of the initial screening process. Also, a representative from Group 7822 will be needed to conduct a demo in TEDS of the actions that take place for cases after the initial screening (e.g., assignment of AP/IP or full development and those steps that follow) with a focus on the advocacy cases. Those who should be in attendance include Peggy Combs (optional), John Shafer, Steve Bowling, and Tyler Chumney, as well as a representative from the Screening Group who will demo the initial screening process and a representative from Group 7822 who will demo actions taken by an agent for full development cases --- I'd recommend

Ron Bell since he was one of the TEDS instructors and was also the advocacy case coordinator when we reached out to EOT for coordination. We can discuss on Monday (4/23).

May 2 - Acting Commissioner, TEGE (Joseph Grant), Director, TEGE Planning (Imraan Khakoo), and Acting Commissioner, TEGE Senior Technical Advisor (Nan Marks) Visit

9:00 - 10:00	Town Hall Session 1, Room 4519
10:30 - 11:30	Town Hall Session 2, Room 4519
1:00 - 2:00	Meeting with Managers, Room 7106
2:15 - 3:00	Automation Tool Demo, Room 7106
3:00 - ?	Meeting with L&E

From: Thomas Cindy M
Sent: Tuesday, July 10, 2012 10:55 AM
To: Ng Faye H; Herr Joseph R; Estes Janine L; Young Carly; Herring Donald Grant; Garuccio Jodi L; Steele Mitchell P
Cc: Bibb Kenneth B; Lahey Victoria; Lewis Jovonnie; Brinkley Lynn A; Waddell Jon M; Berry Daniel W; Combs Peggy L; Esrig Bonnie A; Bowling Steven F; Chumney Tyler N; Bell Ronald D
Subject: Advocacy Cases - Data Needed COB Every Wednesday

Holly Paz and others in D.C. have regular meetings with Steve Miller regarding the political advocacy cases and they typically need data for these meetings because Steve wants to make sure these cases continue to move. So that we don't need to continue to scramble around at the last minute to gather data, please send information to Ron Bell by COB every Wednesday. Specifically,

1. List of cases that have been closed for the week (with all information you have currently been sending as cases are closed — no need to continue sending as cases are closed),

2. List of cases, along with bucket number, where an initial additional information letter was sent,

3. List of organizations that provided donor information, along with bucket number, where we'll need to send them a letter advising donor information will be expunged from the file (once we get the revised letter from D.C.), and

4. List of organizations, along with bucket number, where the cases need to be updated to status 97 (auto revocation) but are on hold pending decision by D.C.

Faye/Janine – we also need to know how many bucket 1 cases you still have open, and of this amount how many required development letters, how many are on hold pending decisions about auto revocation, and when you expect the bucket 1 cases to be closed.

If you have any questions/concerns, please elevate them. Thanks.

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 8:51 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST
Attachments: Phone Script favorable advocacy case (5 24 12).doc; favorable c4 ltr with educational language re political activity 5 24 12.doc

Importance: High

-----Original Message-----
From: Thomas Cindy M
Sent: Thursday, May 24, 2012 4:25 PM
To: Bibb Kenneth B
Cc: Adigun Sonya I; Day Crystal B
Subject: Advocacy Cases -- Favorable Closures
Importance: High

Ken,

The wording for the favorable determination letters is attached. Per Steve Miller's request, these cases need to be closed by COB 5/25/2012. If these cases will be taken to Processing to close, please make certain that they know the cases must be closed by COB 5/25/2012. Thanks so much!

-----Original Message-----
From: Paz Holly O
Sent: Thursday, May 24, 2012 3:24 PM
To: Thomas Cindy M
Subject: RE: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc

Yes and yes. We call all orgs that got a development letter but have not yet responded and put addendum 1 in their letters. We don't need to call orgs that responded to the development letter(s) or orgs that didn't get a development letters (the newer cases).

Thank you!

-----Original Message-----
From: Thomas Cindy M
Sent: Thursday, May 24, 2012 3:06 PM
To: Paz Holly O
Subject: FW: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc

Importance: High

To clarify....

Are we required to call the c4 applicants that received a development letter in all cases where they didn't respond and we're issuing a favorable letter (phone script)? And, we are also required to include the paragraph on the letter for these cases before issuing the letter (favorable c4 ltr with paragraph 1)?

-----Original Message-----
From: Paz Holly O
Sent: Thursday, May 24, 2012 2:50 PM
To: Thomas Cindy M
Subject: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc

Here are the approved phone script and c4 favorable letter. Thank you!

Internal Revenue Service
P.O. Box 2508
Cincinnati OH 45201

Department of the Treasury

Date:

Employer Identification Number:

Person to Contact and ID Number:

Name of Organization
Address

Toll Free Contact Number:
(877) 829-5500
Accounting Period Ending: **[8010]**
(Variable)
Form 990 Required: **[8012]**
(Variable)
Effective Date of Exemption: **[8013]**
(Variable)
Contribution Deductibility: **[8014]**
(Variable)
Addendum Applies: **[8015]**
(Variable)

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code. **Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.**

equired – Variable)

] Please see enclosed Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations), for some helpful information about your responsibilities as an exempt organization.

utomatic)

999]

Sincerely,

Automatic)
500]

Lois G. Lerner
Director, Exempt Organizations

Automatic)
8610] Enclosure: Publication 4221-NC

Automatic)

Addendum for Use in Favorable Advocacy Org C4 Cases in Which Applicant Was Sent a Development Letter But Has Not Yet Responded

Please note that we have just completed another review of your request to be recognized as tax-exempt under section 501(c)(4) of the Internal Revenue Code. Based on that review, we concluded that we do not need the additional materials previously requested because your application and materials provide sufficient information.

Addendum for Use in ALL Favorable Advocacy Org C4 Cases

Enclosed with this letter is an educational booklet about the various tax law requirements applicable to section 501(c)(4) organizations. Additional information about these various requirements is available at www.irs.gov/charities. For example, as discussed in pages 3-5 of the enclosed Pub 4221-NC, section 501(c)(4) organizations may attempt to influence the selection, nomination, election or appointment of an individual to a federal, state, or local public office (political campaign activity). However, political campaign activity does not further a section 501(c)(4) exempt purpose and, together with all other non-exempt activity, cannot be the organization's primary activity. We hope you will find this information helpful and encourage you to review it carefully.

Script – Phone Calls to Favorable Advocacy Org Cases With Outstanding Development Letter

Hello. My name is _____. I am calling about the application for recognition of tax-exempt status submitted by [insert applicant name]. The IRS previously sent you a request for additional information, and I believe we haven't yet received a response. But, we've taken another look at your application and materials, and have concluded that we have sufficient information to make a decision without the requested information. I am pleased to tell you that we have determined that [insert applicant name] qualifies for exemption under 501(c)(4). You should receive your determination letter within two weeks.

IF asked why it took so long:

I'm sorry for the difficulty you have had getting exempt status. We received an increased number of applications for 501(c)(4) status that were different from what we have seen in the past. We needed to understand the activities being conducted so we could make sure that those activities are consistent with what the tax law allows.

From: Thomas Cindy M
Sent: Tuesday, October 30, 2012 9:12 PM
To: Paz Holly O
Subject: Issue from Advocacy Team Meeting Held 10/30/2012

Holly,

I had a meeting with the advocacy team this morning to go over some general inventory information regarding #'s of cases, to discuss the QA process, and to address any of their concerns.

Regarding QA - thus far, 3 cases were returned on checksheets after QA approved the cases. I view these as "advisory" memos. Joseph Herr reviewed all 3 and indicated that it was just "picky" stuff. But, we did ask the specialists to spend a little more time documenting workpapers for these cases.

An issue that was raised that I need to elevate is regarding the bucket 4 cases. Specifically, only a handful of cases are assigned to Mitch and Joseph. They indicated that they don't know what to do when responses are received. Who is their contact? Are they supposed to send copies of responses to the contact in D.C.? If not, what action is required on their part? Also, they are concerned that with the pace that is taking place that they'll be working the bucket 4 cases until they retire (this isn't intended to be a flip comment, but rather a sincere concern). We all understand why several people are reviewing the files, but are certain folks working this exclusively to make sure these cases are moving? I explained to them that when referrals are sent to EO Exam for political type cases a team of 3 review the referral to make the decision as to whether an organization will be audited — again, they do got it. Additionally, I told them I wasn't 100% sure but believe some of the same folks reviewing the bucket 4 cases are the ones who were reviewing the copies of the c4 cases we had to send in response to the Congressional request. Anyway, it would be helpful if a POC was identified for them or if some guidance was provided specifying under which circumstances they need to contact D.C. after receiving responses from the organizations.

NOTE: Joseph is going to start making contact with all the c3 bucket 4 cases to see if they are willing to change to c4 if we determine that c4 is more appropriate.

From: Medina Cheryl J TIGTA <Cheryl.Medina@tigta.treas.gov>
Sent: Thursday, November 15, 2012 7:11 AM
To: Paz Holly O
Subject: Follow-up to Questions
Attachments: Determinations Research.v.1.xls

Hi Holly,

I am just following up on the status of a couple of requests for information. The first relates to the cases that appear to have been removed from the advocacy inventory and the second is for the missing bucket sheets for one case. (see emails below) Do you know when we will be receiving responses to these requests?

We are also waiting for just a few cases from Cincinnati. The folks there have done a great job of providing us with the case files and any follow-up requests for additional information. We really appreciate all the time and effort this has taken.

Cheryl

From: Medina Cheryl J TIGTA
Sent: Thursday, November 08, 2012 8:59 AM
To: Paz Holly O
Subject: FW: determs review

Hi Holly,

The attached document is the review completed by Judy Kindell to identify unnecessary questions being asked in the advocacy development letters. We have identified 4 cases (highlighted) that are not included on the May/June 2012 advocacy listing we are using in our review.

What happened to these cases and why would they be removed from the tracking sheet? Are there any other cases that were removed from the advocacy listing? Why and how many?

Thanks for any information you can provide.

Cheryl

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 24, 2012 7:00 AM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: determs review

From: Kindell Judith E
Sent: Wednesday, April 25, 2012 1:31 PM
To: Paz Holly O; Light Sharon P
Subject: determs review

Here is the result of Susan's and my review. We did not see any questions regarding what are book clubs reading - we did see questions regarding what books are you selling.

A. Requests Names of Donors

B. Provide a list of all issues that are important to your organization. Indicate your position regarding such issue.

C. In list of questions soliciting details about activity asked about the following: (1) the roles and activities of audience and participants other than members in the activity and (2) what type of conversations and discussions did your members and participants have during the activity

D. Asks whether officer, director, etc. has run or will run for public office

E. Requests political affiliation of officer, director, speakers, candidates supported, etc. or otherwise refers to relationship with identified political party-related organizations

F. Requests info re employment other than for org, including hours worked

G. Letter requests information regarding activities of another org -- not just relationship of other org to applicant

---

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Thursday, November 08, 2012 9:54 AM
To: Medina Cheryl J TIGTA
Subject: FW: Missing Buckets

Re: [redacted]

Here is what I know so far. I will get back to you once I have more information.

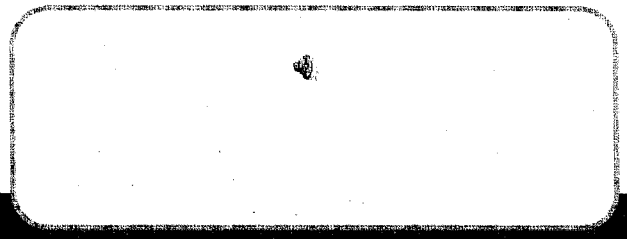
From: Thomas Cindy M
Sent: Thursday, November 08, 2012 12:31 AM
To: Paz Holly O
Subject: RE: Missing Buckets

For this organization, there are 2 cases controlled on EDS:

- one c3 case with an 11/6/2011 control date. It is in the Political Advocacy full development unassigned inventory.
- one c4 case with an 11/16/2011 control date. This case was approved through the IP process -- not by anyone on the advocacy team.

The c3 case is on the Advocacy Tracking Sheet, but doesn't show a bucket and doesn't show that it is assigned to anyone which makes me believe that it is bucket 4 case. I'll try to gather more information regarding this case and will get back with you.

Screening Workshop
July 28, 2010



Health Care

Redacted by the
Permanent Subcommittee on Investigations

IRSR0000006675

IRSR0000006676

IRSR0000006677

IRSR0000006678

IRSR0000006679

IRSR0000006680

IRSR0000006681

IRSR0000006682

27 Month Deadline Cases

- Form 1023 where organization was formed more than 27 months prior to filing for exemption
- Form 1023 Part VII, Item 2 is yes
- Form 1024 Part I, Item 6 is yes
- Except - Churches/Church Related Orgs

Form 1023

Part VII Your History

2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.
Yes No

Form 1024

6 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? **Yes No**
If "Yes," attach an explanation.

27 Month Deadline Cases

- Forward Case to Group 7822 for Secondary Screening
- Group 7822 conducts IDRS research and assigns "T" number if appropriate

Current Activities

- Politics

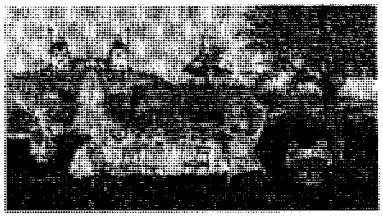


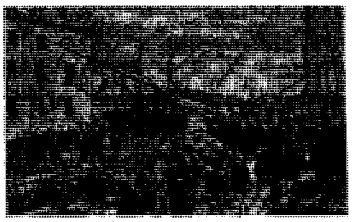


- Look for names like

Current Activities

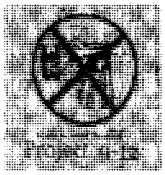
- Tea Party





Current Activities

- Patriots
- 9/12 Project
- Emerge





Current Activities

- Progressive
- We the People



Current Activities

- These organizations may file a Form 1023 or 1024
- Most will file as IRC 501(c)(4)

Current Activities

- Concerns: May be more than 50% political, possible PAC (Political Action Committee)

Disaster Relief

Redacted by the
Permanent Subcommittee on Investigations

POAs to the CAF – Cases in Teds

Redacted by the
Permanent Subcommittee on Investigations

Closing Sheet

Redacted by the
Permanent Subcommittee on Investigations

Credit Counseling

Redacted by the
Permanent Subcommittee on Investigations

Tag Cases

- New Tag List

From: Heagney Nancy L
Sent: Thursday, July 29, 2010 2:13 PM
To: Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Karl J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: RE: Screening Workshop
Attachments: Screening Workshop July 28 2010 Summary.doc

Here are the Screening Workshop meeting minutes.

Nancy

From: Heagney Nancy L
Sent: Tuesday, July 27, 2010 6:23 PM
To: Heagney Nancy L; Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Karl J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: RE: Screening Workshop

Attached is a handout for the screening workshop and the agenda.

Nancy

From: Heagney Nancy L
Sent: Tuesday, July 20, 2010 2:23 PM
To: Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown

Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Kari J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: Screening Workshop

Good afternoon,

We will have a screening workshop on Wednesday, July 28th at 10:00 a.m. in Room 4519. We do not anticipate this lasting more than a couple of hours. We would appreciate it if you could attend.

Nancy Heagney

Screening Workshop Notes - July 28, 2010 1

Participants included members of the screening group, embedded screeners from Cincinnati, west coast screeners, selected secondary screeners, TE/GE EO Quality Assurance's Staff and Area 1 & 2 Managers. The workshop agenda, PowerPoint and attachments were presented to participants via email.

Topics and Highlights

Opening Statements: John Shafer

- Welcomed participants.
- Encouraged participants to email topics for inclusion in our next Workshop.
- Current workshop is to provide an update on current issues and concerns.
- Floor was turned over to Presentators. Topics/Presentators follow:

Healthcare Reform:

-
-
-

Redacted by the Permanent Subcommittee on Investigations

-
-
-

Organization filing after 27-Month their Formation: Glenn W Collins/John Shafer

- Glenn provided a brief summary as to why a secondary screening process was created.
- Pension Protection Act of 2006 created the legal requirement for organizations not required to file Form 990* to notify the IRS within three years of exemption. Failure to do so creates Automatic Revocation of Exemption.
    - *This requirement does not include Churches or Church-Related Organizations- and are not subject to the Automatic Revocation.
    - An opportunity for a one-time relief from revocation has been presented.
    - As a result automatic revocations have been delayed until January 2011.
    - Once effective automatic revocations will reflect ST 97.
- Three characteristics were identified that mandates transfer to Group 7822 for Secondary Screening and IDRS research.

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like-regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - Emerge,
  - Progressive
  - We The People,
  - Rally Patriots, and
  - Pink-Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
  - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
  - "Progressive" applications are not considered "Tea Parties"

Disaster Relief:

-
-
-

Redacted by the Permanent Subcommittee on Investigations

Power of Attorneys:

-

Redacted by the Permanent Subcommittee on Investigations

Closing Sheets:

-
-

Redacted by the Permanent Subcommittee on Investigations

Credit Counseling (CC)

-

Redacted by the Permanent Subcommittee on Investigations

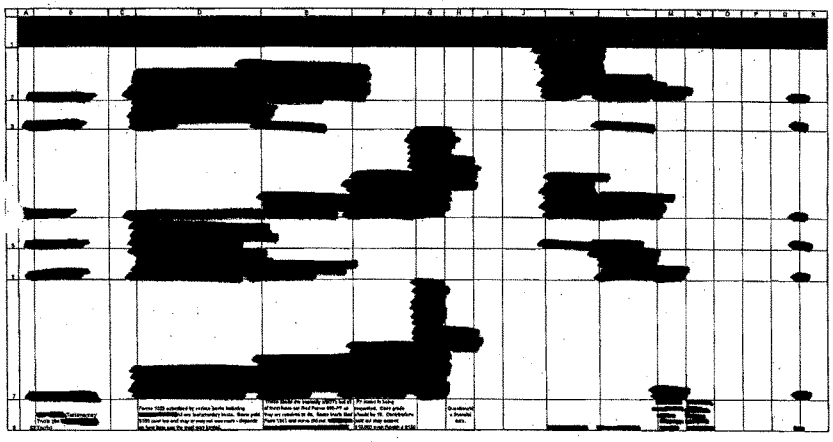
TAG
Jon Waddell

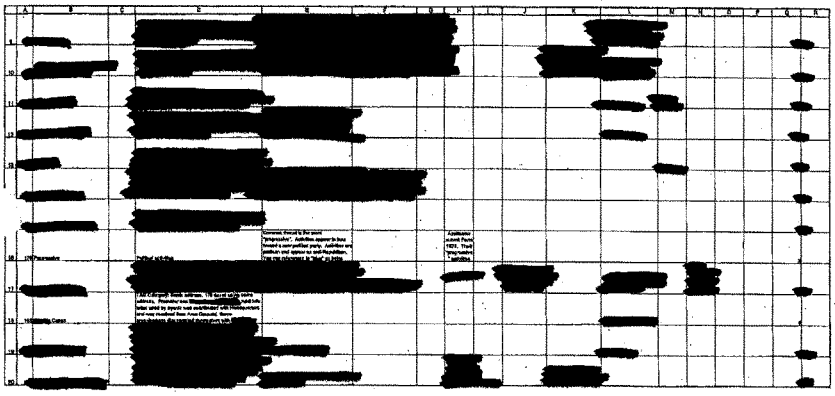
- The New List will be completed and issued this week- approximately 7/30/10.
- Sharing a Drive on the Server has created the delay/dilemma.
- Monthly Emails will restart shortly after the List's distribution.
- Listing will include the following:
  - Touch and Go, Emerging Issues and Issues to Watch For.
  - [redacted] Cases* [redacted] considered "Potential Abusive Cases".
  - [redacted] Cases [redacted] should continue to be sent to TAG Group for re-screening
  - *[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

File 02082012

Tab 1 – Potential Abusive Historical





File 02082012

Tab 5 -- Watch List

20120208

	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hoist	Open
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888, Denise Tamaye (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-16-10
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
9	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
10	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/28/11

20120208

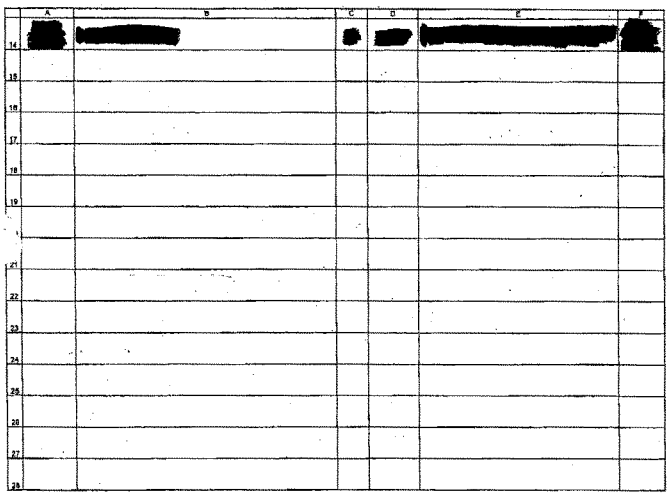
	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
11	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
12	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
13	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011 - #1	Coordinate processing with Mitch Steele, Group 7827.	Open - 7/11/11
14	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
15	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
16	"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward cases to Group 7822.	Open 1/25/12

File 05102011
Tab 5 – Watch List

20110519

	A	B	C	D	E	F
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hollet	Open
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases involving Medical Marijuana	6	2010 - #1	Forward case to Group 7688. Dadae Tamaye (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-15-10
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
9	Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 8 page trust agreements, and husband / wife trustees.	8	2010- #1	Forward case to Group 7833	Open 11/23/10
10	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
11	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
12	[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt [redacted] location project.	[redacted]	[redacted]	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
13	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

20110510



IRSR0000006713

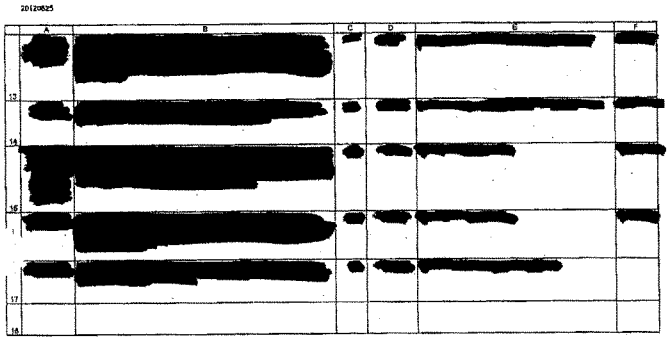
File 062512

Tab 5 – Watch List

20120825

	A	B	C	D	E	F
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(4) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support institutions of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Devote case to your manager for contact with EO Tech- Peter Hofel	Open
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5	Medical Marijuana	Cases involving Medical Marijuana	6	2010 - #1	Forward case to Group 7822, Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7 '10-10
6	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Devote case to your manager to forward to EO Technical.	Open 12/13/10
8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9	[illegible] Fire Fighter Organizations	Fire Fighter organizations located in [illegible] be filing for retroactive reinstatement of exempt status due to the Auto-Revocation protect.	11	2011- #1	Devote case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/28/11
10	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
11	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
12	Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011- #1	Coordinate processing with Mitch Steele, Group 7827.	Open - 7/11/11

IRSR0000006715



File 050611
Tab 5 – Watch List

20110505

	A	B	C	D	E	F
1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2	Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(4) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	X	Elevate case to your manager for contact with EO Tech- Peter Hollet	Open
3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
5	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
6	Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7886. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-19-10
7	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
8	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
9	Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 3 page trust agreements, and husband / wife trustees.	8	2010- #1	Forward case to Group 7830	Open 11/23/10
10	Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
11	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
12	[redacted]Fire Fighter Organizations	Approximately [redacted] Fire Fighter Organizations will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822.	Open - 3/28/11
13	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

20113006

	A	B	C	D	E	F
14	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
15						
16						
17						
18						
19						
21						
22						
23						
24						
25						
26						
27						
28						

From: Light Sharon P
Sent: Saturday, February 04, 2012 1:14 PM
To: Paz Holly O
Subject: Fw: Hello

When you get back, can you find out what's going with the advocacy org determinations? I thought I got them unstuck but I think it's not fixed.

Sent using BlackBerry

[redacted] = Redacted by the Permanent Subcommittee on Investigations

----- Original Message -----
From: Douglas Varley [mailto:dvarley@capdale.com]
Sent: Saturday, February 04, 2012 12:55 PM
To: Light Sharon P
Subject: RE: Hello

Hi Sharon: Thanks for checking on this. Did you ever hear anything?
(Hate to bug you.) I am considering contacting the Taxpayer Advocate on behalf of this client. I have never approached them about an application, but this situation seems pretty extreme. Hope all goes well. [redacted]
[redacted] Doug

-----Original Message-----
From: Light Sharon P [mailto:Sharon.P.Light@irs.gov]
Sent: Friday, January 27, 2012 7:34 PM
To: Douglas Varley
Subject: Hello

I got your voicemail. I've sent an email to check the progress on those determinations. I'm traveling on Monday and Tuesday. I'll be in touch once I get some info.

Sent using BlackBerry

<----------> To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein.

This message is for the use of the intended recipient only. It is from a law firm and may contain information that is privileged and confidential. If you are not the intended recipient any disclosure, copying, future distribution, or use of this communication is prohibited. If you have received this communication in error, please advise us by return e-mail, or if you have received this communication by fax advise us by telephone and delete/destroy the document.
<-->

From: Thomas Cindy M <Cindy.M.Thomas@irs.gov>
Sent: Tuesday, July 02, 2013 9:20 AM
To: Schiller Karen M
Subject: FW: TAG info
Attachments: Closures and Open Inventory Breakdown by Group - Draft(1).xls; BOLO Spreadsheet 02 02 11.xls

---

From: Thomas Cindy M
Sent: Wednesday, March 16, 2011 4:12 PM
To: Paz Holly O
Subject: FW: TAG info

Holly,

Information you requested regarding the TAG group and program was incorporated into the original email below.

As far as Lois' email below dated 3/11/2011, I think it may be unclear to folks that the TAG group is just 1 of 13 EO Determinations groups. The TAG group has designated cases that it works just like the other 12 groups in EO Determinations. In fact, most of the groups have more than one category of cases assigned to them. For example, one group works charter schools and farmers' co-ops, another group works foreclosure assistance/downpayment assistance/credit counseling cases, another group works potential emerging issues and potential auto revocation cases, another carbon credit cases/VEBAs/foreign organizations, and on and on. The reason we took this step was to improve quality, decrease time per case, improve customer satisfaction, and improve employee/manager satisfaction so that everyone did not need to be a technical expert in every area.

If we do away with the TAG group, then every group and every specialist who gets a potential terrorist case (for example) will be coordinating with D.C., every specialist/manager will need to spin his/her wheels figuring out how to coordinate with FIU should a potential fraudulent situation occur, etc. That doesn't seem to be a very efficient process. If we are going to take away the designated cases for that group, then why have a foreclosure assistance group, why have a charter school group, why not spread the tea party cases out to everyone, etc.? I will say, however, that I don't have a problem if a decision is made to not include the TAG group in all the coordination efforts that take place between ATAT, EO Exam, etc. We don't do that with the other types of cases we work. We simply coordinate with EOT and EODQA when we have emerging issues such as tea party cases, or other new issues such as health care, foreclosure assistance, etc.

If you have any questions/concerns regarding the information provided, please let me know. Thanks.

From: Paz Holly O
Sent: Friday, March 11, 2011 4:57 PM
To: Lerner Lois G; Thomas Cindy M
Subject: Re: TAG

We're prepping for this meeting. Cindy is pulling together a bunch of data I have requested based on conversations you and I had. We will get on your calendar as soon as we have that information ready.

Sent from my BlackBerry Wireless Device

From: Lerner Lois G
To: Paz Holly O; Thomas Cindy M
Cc: Downing Nanette M; Letourneau Diane L
Sent: Fri Mar 11 14:15:35 2011
Subject: TAG

I'm sending this so I won't lose the thought. I'd like us to schedule a status on TAG and have a seriously discussion of the pros and cons. In my overall look at processes we've designed over the last several years, I want to better understand its utility and explore whether we should maintain it as is, change it, or get rid of it altogether. No hurry--just don't want it to fall through the cracks.

Lois G. Lerner
Director, Exempt Organizations

From: Paz Holly O
Sent: Friday, February 18, 2011 4:29 PM
To: Thomas Cindy M
Subject: TAG info

The info Lois would like in advance of the meeting about the tag group you and I discussed is:

number of employees in this group:

Total 13 (9 grade 12, 3 grade 13, 1 manager). One of the grade 13 agents serves as an anti-terrorism coordinator/liaison between EO Determinations groups and the Washington Office. Another grade 13 agent serves as a potential fraud and abusive tax avoidance schemes coordinator/liaison between the FIU and EO Determinations groups.

number of cases worked by the group (see attached)*

average cycle time of cases in this group (see attached)*

*The way EDS attributes cases to groups may adversely impact what we are trying to get at here. This is because EDS tracks data by specialist number and not by group number. EDS will move all cases (open or closed) in a specialists number into and out of the TAG group as specialists move in and out. Specifically, anybody that was in the TAG group in 2009 but no longer there, will not have their cases counted for the 2009 closures. Anybody that wasn't in the TAG group then but moved there now, will have there closures from 2009 counted for the TAG group even though they weren't closed by the TAG group.

average age of cases currently open in tag (see attached)

[redacted] = Redacted by the Permanent Subcommittee on Investigations

list of categories of cases/issues that are worked in tag:

1. Foreign Conduits: These are cases typically referred to as American Friends Of Orgs. These are domestic organizations set up to provide funding to a particular named foreign organization. We typically find that the vast majority of these organizations involve monies going to [redacted] however, the same tax would apply regardless of the country involved.

2. Anti Terrorism Cases: These are domestic applicants with substantial activities in countries of higher risk stipulated by the Country Reports on Terrorism. The category includes not only actual activities but also grant making as well. This category also could include partial name matches against the OFAC List. With name match cases, these applications can also be worked outside of TAG if that is the main issue. However, in those instances, the agent is still required to

[redacted] = Redacted by the Permanent Subcommittee on Investigations

complete the Potential Terrorist Connection Checksheet to the Terrorist Coordinator ([redacted]) so the issue can be properly cleared before case closure.

3. Abusive Tax Avoidance Schemes: This category encompasses several case types such as the following:

- TAG #18 (Non Foreign Conduits): Cases involving potential tax avoidance schemes such as inurement of earnings, loans and grants made for non-exempt purposes, attempts to gain church status to avoid property taxes, requests for PF status in an attempt to shelter income (over the past 1-2 years, we have seen relatively few of these applications), etc. These case are traditionally associated with known abusive practioners currently the subject of ATAT investigations.
- Corporation Soles: These are rarely seen applications(i.e. 1 or 2 per year) but the issue is still current. These applications could be a form of tax avoidance scheme as they typically associated with pastors or religious leaders looking to self-incorporate.
- Abusive Promotions and Promoters: Examples would be [redacted], [redacted], and other types promotions where multiple applicants are provided with a plan to obtain tax exemption in order to serve their private interests. When identified and developed, many of these applications are denied such as the [redacted].
- Referrals from other specialists: Cases assigned to specialists in other determination groups who encounter a situation where the applicant appears to be involved in a potential terrorist situation, potential fraudulent activity, or potential abusive tax avoidance scheme. NOTE: These cases are rarely seen. The determination specialist assigned the case keeps the case and coordinates with the TAG group via a referral form.

4. Fraudulent Determination Letter: These letters are referred to us from the Correspondence Unit or other groups and are coordinated with Lucy Acosta of the FIU for proper coordination of referral (typically CI or SB/SE).

Based on the discussion you and I had the other day, information about how other emerging issues are worked would also be useful.

Most new emerging issues are identified by screeners through the initial screening process, for example tea party cases. When these potential emerging issue cases are identified, they are assigned to the group designated to work emerging issues. The category of cases are included on an Excel spreadsheet we refer to as "Be On the Look Out" (BOLO) under the tab "Emerging Issues." This spreadsheet is also used to identify TAG cases, TAG historical cases, Coordinated Processing cases, and "Watch For" cases. "Watch for" cases are almost always identified by EOT and brought to our attention. The BOLO spreadsheet is disseminated to managers and specialists so that they have a consolidated list to reference and don't need to keep individual emails, etc. We require screeners and specialists to review the BOLO spreadsheet as part of their case review process. The latest BOLO spreadsheet that was disseminated to EO Determinations specialists and managers is attached.

The purpose of assigning emerging issue cases to one designated group is so that: 1) we are consistent in our approach in working these cases, and 2) we can minimize time charges to cases. When we have an emerging issue category, the applications have many similarities. The cases are usually assigned to one or two specialists who can work them in batches because they don't need to spend time familiarizing themselves with the issues, law, etc., and can ask many of the same questions in developmental letters.

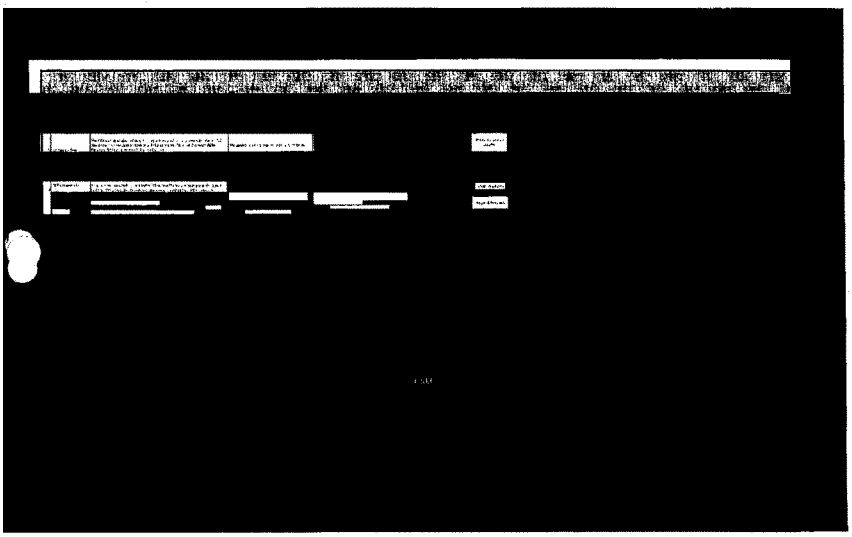
The only current open emerging issue category we have are the tea party cases. I believe we have approximately 90 of these applications assigned to one specialist who is coordinating with e TLS in EOT.

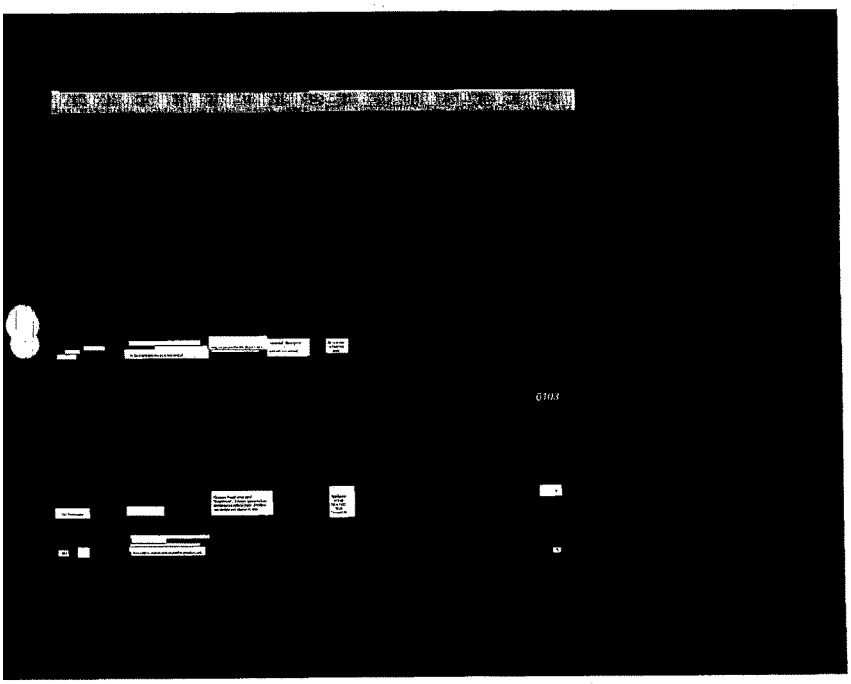
Although we verbally communicated the emerging issue process to managers and employees, we are still in the process of developing a referral form and writing formal procedures for processing these type cases so that specialists/managers have a complete understanding of the process. The intent is that when the emerging issue is closed, we will prepare an issue paper that will be maintained in our technical files available to all specialists as a way of transferring knowledge. Also, we will notify employees that the issue has been closed and provide them with the location of the issue paper.

No time yet set for the meeting. Would be great if we could get the info together by mid-March.

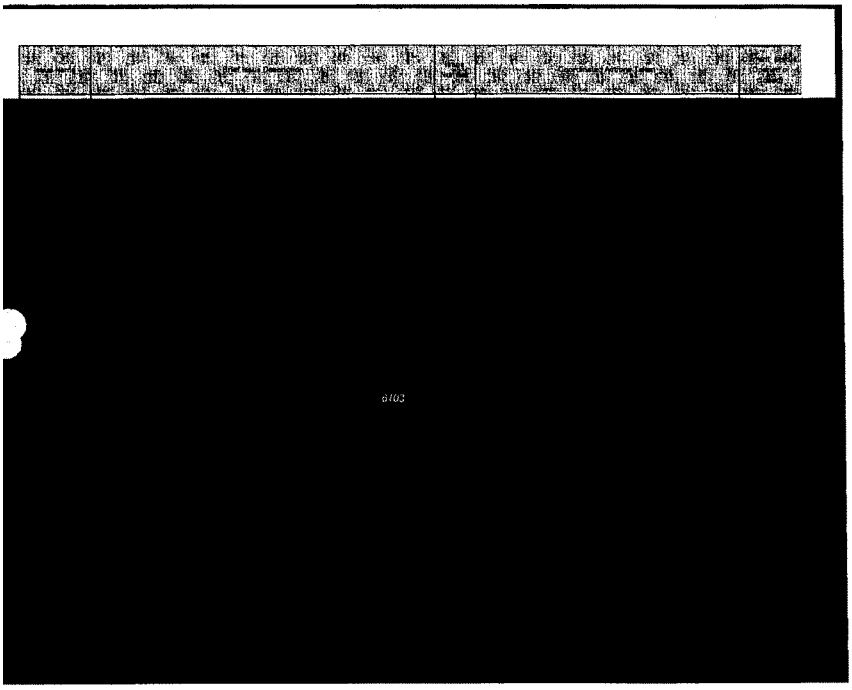
Thanks!

Holly





[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Tea Party	Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. Ron Bell (coordinator). Cases are being coordinated with EO Tech- Chip Hull.	Open



Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hollat	Open

Medical Marijuana	Cases Involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-15-10

Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees.	8	2010- #1	Forward case to Group 7830	Open 11/23/10
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10

6103

Closures and Open Inventory by Group
Group Number: 7830
Created on: 3/14/11
Created by: F5RGB
Data refreshed: 03/14/2011 00:44:54 CDT

EMPLOYEES

Total Employees in TAG Group	
Grade 12	9
Grade 13	3
Manager	1

OPEN INVENTORY

Total Open Cases	Average Age of Case
444	145.9797297

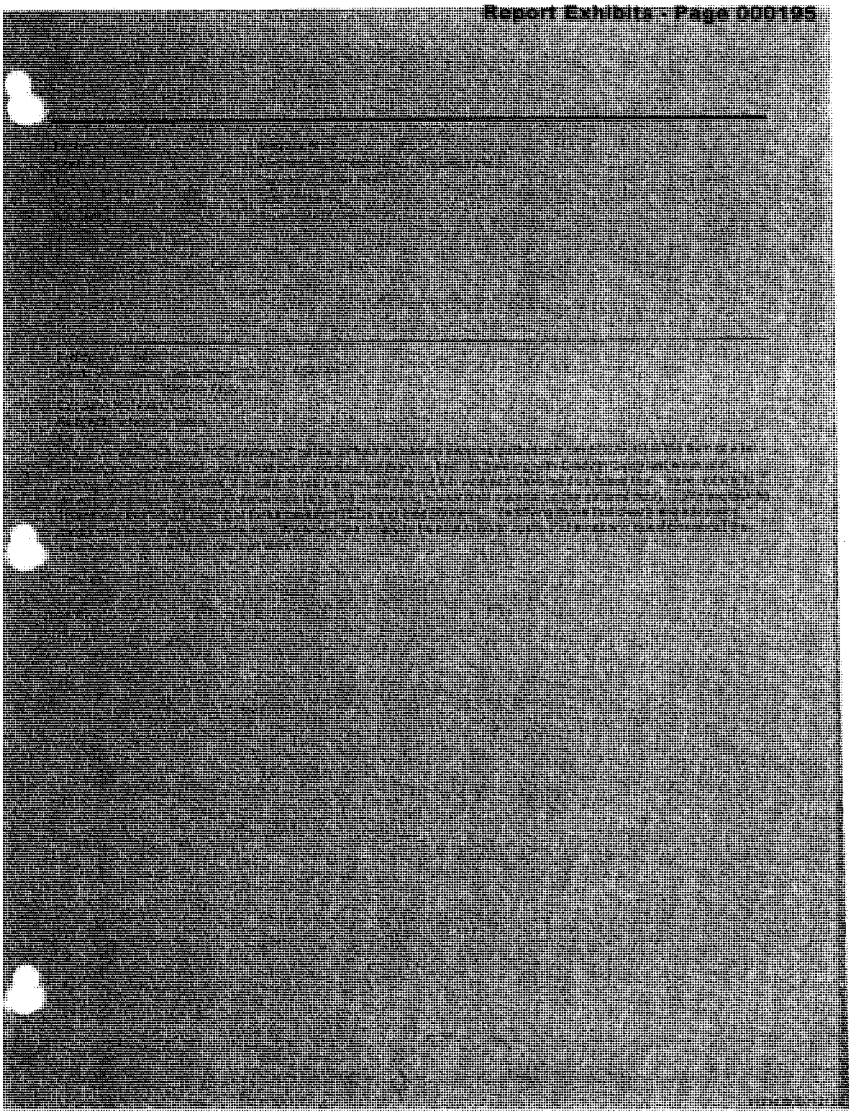
CASE CLOSURES

Fiscal Year	Total Closures	Average Cycle Time	Average Specialist Hours
2009	3354	149.9487179	4.148449612
2010	2217	156.6824538	6.038470907
2011 (thru February 18, 2011)	740	141.7675676	6.262635135

Fiscal Year	Status 06 (Merit Closures)	Average Cycle Time	Average Specialist Hours
2009	799	51.3292	0.3939
2010	370	51.7027	0.5665
2011 (thru February 18, 2011)	179	28.8268	0.5251

Fiscal Year	Status 07 (APTP Closures)	Average Cycle Time	Average Specialist Hours
[illegible]	[illegible]	[illegible]	[illegible]
2010	547	102.6489945	1.884826325
2011 (thru February 18, 2011)	85	89.57647059	2.681176471

Fiscal Year	Full Development Closures	Average Cycle Time	Average Specialist Hours
2009	1594	214.723	7.1617
2010	1300	209.297	9.3436
2011 (thru February 18, 2011)	476	193.559	9.0598



From: Lowe Justin
Sent: Thursday, February 02, 2012 11:21 AM
To: Seto Michael C; Salins Mary J; Grodnitzky Steven; Megosh Andy
Subject: FW: Advocacy team in EOD
Just keeping you guys in the loop on how the Determs folks are approaching the advocacy cases.

From: Seok Stephen D
Sent: Thursday, February 02, 2012 11:04 AM
To: Lowe Justin; Goehausen Hilary
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Thank you for your warm welcome.

I currently have 11 G-13 team members from each Group in EOD - one from EOD QA.
We will definitely need your advices, input, and guidance on these cases as these cases are sophisticated and high profile.
Our next team meeting will be held after the draft of the developmental guidance and template questions are finalized.
I am planning to invite you when the time comes.

So far about 70 BOLO Advocacy cases out of about 180 cases (and counting) have been assigned. We have sent and will send 1st or 2nd inquiry letter for the cases assigned.
I expect that we will be busy when we think the development of a case/cases is/are completed. At such time, I will send you the copies of the cases developed before the meetings.
Please feel free ask me if you need anything related to the cases now and then.

Again, I appreciate your kindness.

Stephen.

Note: Advocacy Organizations Guide Sheet and Comments on BOLO Advocacy cases from you are excellent and extremely helpful. We sincerely thank you.

From: Goehausen Hilary
Sent: Thursday, February 02, 2012 9:14 AM
To: Lowe Justin; Seok Stephen D
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Hi Stephen,

That sounds great. We'd be happy to look at the template and guidance. If you have any questions in the meantime, please feel free to call/email.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations

Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Lowe Justin
Sent: Tuesday, January 31, 2012 11:19 AM
To: Seok Stephen D; Goehausen Hilary
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Hi Stephen, good to meet you. Yes, please send us your template questions, developmental guidance, and other materials when you've developed them and we'll be happy to take a look.

Thanks,

Justin

From: Seok Stephen D
Sent: Tuesday, January 31, 2012 10:18 AM
To: Lowe Justin; Goehausen Hilary
Cc: Bowling Steven F
Subject: Advocacy team in EOD

Hello, Justin and Hilary,

My name is Stephen Seok in Group 7822 in Cincinnati. Steve graciously put me in charge of Advocacy Team recently formed in EOD.
As you are our contacts in EOT, I would like to introduce myself to you.
So far, we are in stage of developing cases and forging template questions and developmental guidance.
Once they are done, I would like to send them to you for your input and feedback. Please let me know that is ok with you.

Thank you,

Stephen
513-263-3625

From: Goehausen Hilary
Sent: Thursday, November 03, 2011 1:11 PM
To: Kindell Judith E; Miller Thomas J; Fish David L
Cc: Seto Michael C; Grodnitzky Steven; Lowe Justin; Kastenberg Elizabeth C; Hull Carter C
Subject: Advocacy Org Guidesheet Draft - updated

Attachments: Advocacy Org Guidesheet 11-3-2011.doc
Hello,

Attached is an updated version of the draft Advocacy Org Guidesheet that Cincinnati requested and has been asking us for. I received edits from Chip and have incorporated them into this draft. If anyone else has any suggestions/revisions/etc. please make them as soon as possible so that next steps can be taken. If I can get any additional edits by next Wednesday, November 9, that would be much appreciated and then next steps can be determined. I think the draft is in great shape and would be beneficial to EOD. Please let me or Justin know if you have any questions, comments or concerns.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Goehausen Hilary
Sent: Wednesday, September 21, 2011 4:30 PM
To: Kindell Judith E; Miller Thomas J; Hull Carter C; Kastenberg Elizabeth C
Cc: Seto Michael C; Fish David L; Grodnitzky Steven; Lowe Justin
Subject: Advocacy Org Guidesheet draft

Hello,

Attached please find a draft of the Advocacy Org Guidesheet that Justin and I have been putting together. Please review and provide us with any and all comments and suggestions you have.

If you have any questions, please let me know.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915

f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Herr Joseph R
Sent: Wednesday, September 24, 2008 3:32 PM
To: Abston Yvonne; Cummins Faith E; Daniels Linda D; Duvall Steve D; Hall Lynn; Hanson Michael J; Herr Joseph R; Herring Donald Grant; Hofacre Elizabeth L; Liggett Yvonne; Martin Connie M; Ranney Myron L; Tobler Deborah
Subject: FW: Policitial Case Alert

Importance: High

Group,

Please coordinate with me if you have a "politically sensitive" case described below.

Thank you,

Joseph

Joseph R. Herr
Manager - Group 7825
Exempt Organizations Determinations
550 Main Street, Room 4122
Cincinnati, OH 45202
(513) 263-3725
(513) 263-4513 fax

From: Camarillo Sharon L
Sent: Wednesday, September 24, 2008 9:38 AM
To: Angner William J; Bibb Kenneth B; Calvin Juliette; Haley Philip H; Herr Joseph R; Kowalczyk Chad A; Shankling Lonnie; Thomas Tyrone I; Waddell Jon M
Subject: FW: Policitial Case Alert
Importance: High

Heads Up --- IRM 7.20 is to be changed to require for mandatory review those cases with politically sensitive issues referenced in the memo attached. In the meantime, please make sure that if anyone has one of these cases, that they send it to EODQA. Per the memo, "politically sensitive" are those cases with some of the following activies:

- Voter Registration
- Inaugural host committies
- Pst-election transition teams
- Voter guides
- Voter Polling
- Voter Education
- Other activities that may appear to propose or oppose a specific candidate or issue.

If you have any of these cases in your inventory, please be sure to mark them for mandatory review.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Westcott Cindy M
Sent: Wednesday, September 24, 2008 5:28 AM
To: Camarillo Sharon L; Blair James H
Subject: FW: Policitial Case Alert
Importance: High

Sharon/Jim,

Please read Donna's e-mail below. A reminder probably needs to be sent to your staff that these cases are mandatory review.

From: Melahn Brenda
Sent: Wednesday, September 24, 2008 8:24 AM
To: Westcott Cindy M
Subject: FW: Policitial Case Alert
Importance: High

From: Melahn Brenda
Sent: Monday, September 08, 2008 8:26 AM
To: Shafer John H; Bowling Steven F; Brinkley Lynn A; Combs Peggy L; Jefferson-White Beverly J; Lewis Jovonnie; St Julien James A; Werner Connie M
Subject: FW: Policitial Case Alert
Importance: High

As a reminder -- any "political sensitive" case should be sent to EODQA. Memo from Rob dated 12/19/07 indicate they should be worked as full development cases (not screened out) AND they are mandatory review.

Brenda

From: Abner Donna J
Sent: Monday, September 08, 2008 7:57 AM
To: Westcott Cindy M; Camarillo Sharon L; Melahn Brenda
Cc: Bibb Kenneth B; Waddell Jon M
Subject: Policitial Case Alert

[redacted] 6103 [redacted]

Jon's Cases: 6103

Already Exempt - Emerge America - Case #606044026 - Closed Status 06 - 3/16/06
Emerge Women Leaders for a Democratic Future - Case # 604246037 - Closed status 01 - 9/2/04
Emerge Arizona Women Leaders for a Democratic Future - Case #507291023 - Closed status 01-3/12/08
Emerge New Mexico - Case # 506194109 - Closed status 01 - 5/8/07
Emerge Wisconsin - Case # 438014038 - Closed status 06 - 3/6/08

Open Case - 6103

[redacted] 6103 [redacted]

Because of the partisan nature of the cases - guidance from EO Technical is pending. Recent rulings considered include PLR 200833021 and Democratic Leadership Council, 542 F. Supp. 2d 63 (2008).

Per IRM 7.20.5 - "sensitive political issue" cases were designated as subject to mandatory review in 2007. Please note the two case above closed in 2008 that did not come through QA.

I recommend an alert be issued regarding this type of case as well as a reminder that "sensitive political issue" cases are subject to mandatory review.

Thank you,
Donna

From: Abner Donna J
Sent: Wednesday, March 13, 2013 5:45 AM
To: Tierney Michael J; Hartrick Willliam M; Manohar Ramachandran; Dragoo Daniel D; Ludwig Michael A; Hofacre Elizabeth L; Sims Rosa L
Subject: Potential Political Advocacy

The information below provides additional guidance on what is included in the "political advocacy" bucketing process. Seems the word "advocacy"
should be excluded. I still have some lingering questions - see below.
The explanation below suggests that bucketing only includes cases were "political intervention" is a significant or clear issue and excludes organizations involved only in legislative "advocacy". I'll let everyone know as I learn more. In the meantime, if you have questions about a particular political or advocacy case let me know.
Thanks,
Donna

-----Original Message-----
From: Abner Donna J
Sent: Tuesday, March 12, 2013 2:33 PM
To: Light Sharon P
Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

Hi Sharon,
I appreciate the explanation. However, I must admit that I'm now worried because I can think of several cases that upon initial review did not involve significant or clear political intervention. This includes some Tea Party cases, [redacted] 6103 - 6103, the national debt cases, the recent 6103, etc. Some of these cases claimed to be issue focused (legislative or lobbying) and it was only after identifying and developing the issue did we uncover political intervention.

Further, the case below was initially suspect for possible political intervention because of the "political" consultant under contract for $6,000 a month. It was only at the end of the process that we confirmed the primary activity legislative, not political.

I'm ok with the explanation below that this one particular case did not need to now go through bucketing because the case has been adequately developed to the point where we now know that political intervention is not a problem. However, will this treatment be consistent? If a similar case was received by specialists today and screener noted the "political consultant" issue would it/should it be bucketed? Or, would we only send to bucketing if development uncovered significant or clear political intervention? And, if so, would this be consistent?
Thanks,
Donna

-----Original Message-----
From: Light Sharon P
Sent: Tuesday, March 12, 2013 12:45 PM
To: Abner Donna J

Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

There has been confusion about this issue. Some cases that only involved lobbying got bucketed and worked as advocacy cases because it wasn't clear form screening that political intervention wasn't a problem. Cases got identified as "advocacy cases" if they mentioned lobbying and someone felt the lobbying was a sign of political intervention. And sometimes cases that vaguely mentioned "advocacy" got identified because it wasn't clear on screening whether they were talking about lobbying or political intervention. But when it's clear that lobbying, not political intervention, is the issue then they don't fit the criteria.

Joseph quotes the latest language identifying what to look for, and I think it's a good way to distinguish between the two:

From the BOLO Spreadsheet, Issue EI-1, Current Political Issues, states, "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit).
Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."

Does that help?

-----Original Message-----
From: Abner Donna J
Sent: Tuesday, March 12, 2013 12:34 PM
To: Light Sharon P
Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

Hi Sharon,
Seems QA needs to know what exactly is deemed appropriate for the "advocacy" inventory. Your write up suggests that it only includes political campaign intervention. We (QA) were under the impression that both "advocacy" - organizations supporting or opposing legislative action and "political" organizations supported or opposing a candidate were to be bucketed.

Please note that our review memo did not indicate any problems with political activities but instead noted the advocacy/legislative issues.
This is no different than other cases we have seen bucketed that supported or opposed particular legislation. Sorry - I'm confused as to what is and is not bucketed. Will you please clarify?
Thanks,
Donna

-----Original Message-----
From: Light Sharon P
Sent: Tuesday, March 12, 2013 12:18 PM
To: Thomas Cindy M; Abner Donna J
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

Cindy and Donna -I reviewed Quality's memo and disagree with Recommendation no. 1 that this be treated as an advocacy case. Issues no. 1 and 2 do not indicate that this organization is involved in significant amounts of political

campaign intervention. They show that they are primarily, overwhelmingly, focused on legislative action. That is not political intervention.

A couple of things mentioned under Issues no. 1 and 2 may involve political intervention. One is the political consultant -- but my guess is that this is a paid lobbyist, unrelated to elections. The other is meetings with candidates who support or opposed legislation favored by the organization.
These meetings could very well just involve lobbying. Organizations often meet with candidates before an election because they have an opportunity to get access they may not get after the election is over. Unless the organization goes out after the meeting and announces that they support or oppose a candidate (presumably based on the candidate's position on their issues), there is no political intervention. Furthermore, even if both of these activities did constitute political intervention, they would not warrant treating the case as a political advocacy case. A 501(c)(4) organization can engage in a significant amount of political campaign intervention, and this organization is nowhere near that line.

Let me know if you have further questions.

Thanks,
Sharon

-----Original Message-----
From: Thomas Cindy M
Sent: Tuesday, February 26, 2013 3:42 PM
To: Light Sharon P
Subject: Case Returned from EODQA - Potential Political Advocacy
Importance: High

Sharon,

We received a case back from EODQA per the email dated 1/7/2013 (refer to Attachment 1). The Reviewer's Memo is in Attachment 2, and the reasons why we disagree with the case being included in the Political Advocacy group is in Attachment 3. Please let me know how you want us to handle this.
Thanks.

[redacted] 6103
[redacted] 6103

---- Original Message ----
From: Waddell Jon M
Sent: Tue 2/19/13 3:45 PM
To: Thomas Cindy M
Subject: FW: Whether case should be considered political advocacy

Cindy

As a follow-up, Joseph Herr reviewed the case you dropped off the morning ([redacted 6103]) and he does not believe it should included in the Poltical Advocacy Bucket. Attached is Joseph's write-up explaining his position.

Note: Joseph reviewed the case as Ron Bell is not in the office today

thanks

From: Seok Stephen D
Sent: Tuesday, February 19, 2013 2:19 PM
To: Waddell Jon M
Cc: Herr Joseph R
Subject: FW: Whether case should be considered political advocacy

Good afternoon Jon,

Per Joseph's memo, which I agree completely, the case should not be in our Emerging Issue - Advocacy/Political category because there are no indication of significant political intervention.
Please see Joseph's memo attached for further detail.

I will bring the case file to you.

Thank you,
Stephen.

From: Herr Joseph R
Sent: Tuesday, February 19, 2013 1:24 PM
To: Seok Stephen D
Subject: Whether case should be considered political advocacy

Stephen,

Attached is the memorandum for the case we discussed.

Joseph

Joseph R. Herr

Revenue Agent Group 7821

Exempt Organizations Determinations

(513) 263-3725

(513) 263-4488 fax

From: Buller Siri
Sent: Tuesday, April 06, 2010 10:25 AM
To: Hull Carter C
Subject: RE: Political Issues
Attachments: 6103 Proposed Denial (3-23-2010).doc; PLR_200903080.doc

Oh, sorry about that! Here they are.

From: Hull Carter C
Sent: Tuesday, April 06, 2010 11:22 AM
To: Buller Siri
Subject: RE: Political Issues

Hi, Siri,

Apparently, the attachments didn't take. However, I'm not in too much of a rush. If you would, please, try again. I did get the 6103 transcripts from Judy.

Thanks, again.

Chip

From: Buller Siri
Sent: Tuesday, April 06, 2010 11:02 AM
To: Hull Carter C
Subject: RE: Political Issues

Hi, Chip! The 6103 1024 applications involve organizations that solely [redacted] I'm not sure how similar they are to the Tea Party applications, but I have attached the proposed denial letter for one of the organizations (I believe the letter is currently in Guidance and will later be sent to Chief Counsel). In case you find it useful, I am attaching a 2009 denial of a 1024 that I looked over while I was drafting this denial. I also looked at the documents associated with the [redacted] case, and found the attached memo helpful.

We didn't send any development letters from our office, but when I am back in the office, I can show you the development letters that were sent from Cincinnati, if you'd like.

Let me know if I can help in any other way!
Siri

From: Hull Carter C
Sent: Tuesday, April 06, 2010 10:12 AM
To: Buller Siri
Subject: Political Issues

HI Siri,

I was just assigned a couple of cases on Tea Party organizations, one seeking exemption under 501(c)(3) and one under 501(c)(4). I spoke with Justin, but he was not aware of any similar organizations. I spoke with Judy Kindell and she advised me that you had a case under consideration that may be somewhat similar (6103, or something like that). I

would be appreciative if I could see the type of questions you asked that organization, or any memoranda you might have in this regard. Apparently, Cincinnati recognized one Tea Party case as exempt under 501(c)(3), and a couple exempt under 501(c)(4). There are a number of similar cases that are open in Cincinnati that are being suspended until we come up with a solution. Hopefully, we can all end up on the same page.

Thanks for any help you can provide.

Carter "Chip" Hull
Senior Tax Law Specialist
(202) 283-8908 Phone
(202) 283-8937 Fax

From: Lowe Justin
Sent: Thursday, February 02, 2012 11:21 AM
To: Seto Michael C; Salins Mary J; Grodnitzky Steven; Megosh Andy
Subject: FW: Advocacy team in EOD
Just keeping you guys in the loop on how the Determs folks are approaching the advocacy cases.

From: Seok Stephen D
Sent: Thursday, February 02, 2012 11:04 AM
To: Lowe Justin; Goehausen Hilary
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Thank you for your warm welcome.

I currently have 11 G-13 team members from each Group in EOD - one from EOD QA.
We will definitely need your advices, input, and guidance on these cases as these cases are sophisticated and high profile.
Our next team meeting will be held after the draft of the developmental guidance and template questions are finalized.
I am planning to invite you when the time comes.

So far about 70 BOLO Advocacy cases out of about 180 cases (and counting) have been assigned. We have sent and will send 1st or 2nd inquiry letter for the cases assigned.
I expect that we will be busy when we think the development of a case/cases is/are completed. At such time, I will send you the copies of the cases developed before the meetings.
Please feel free ask me if you need anything related to the cases now and then.

Again, I appreciate your kindness.

Stephen.

Note: Advocacy Organizations Guide Sheet and Comments on BOLO Advocacy cases from you are excellent and extremely helpful. We sincerely thank you.

From: Goehausen Hilary
Sent: Thursday, February 02, 2012 9:14 AM
To: Lowe Justin; Seok Stephen D
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Hi Stephen,

That sounds great. We'd be happy to look at the template and guidance. If you have any questions in the meantime, please feel free to call/email.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations

Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Lowe Justin
Sent: Tuesday, January 31, 2012 11:19 AM
To: Seok Stephen D; Goehausen Hilary
Cc: Bowling Steven F
Subject: RE: Advocacy team in EOD

Hi Stephen, good to meet you. Yes, please send us your template questions, developmental guidance, and other materials when you've developed them and we'll be happy to take a look.

Thanks,

Justin

From: Seok Stephen D
Sent: Tuesday, January 31, 2012 10:18 AM
To: Lowe Justin; Goehausen Hilary
Cc: Bowling Steven F
Subject: Advocacy team in EOD

Hello, Justin and Hilary,

My name is Stephen Seok in Group 7822 in Cincinnati. Steve graciously put me in charge of Advocacy Team recently formed in EOD.
As you are our contacts in EOT, I would like to introduce myself to you.
So far, we are in stage of developing cases and forging template questions and developmental guidance.
Once they are done, I would like to send them to you for your input and feedback. Please let me know that is ok with you.

Thank you,

Stephen
513-263-3625

From: Paz Holly O
Sent: Tuesday, July 24, 2012 6:00 AM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Mtg on Advocacy Cases

From: Paz Holly O
Sent: Monday, April 23, 2012 5:40 PM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P
Subject: FW: Mtg on Advocacy Cases

From: Paz Holly O
Sent: Wednesday, August 03, 2011 9:49 AM
To: Spellmann Don R
Cc: Lowe Justin
Subject: FW: Mtg on Advocacy Cases

Don,

This meeting was set up at the request of David Marshall (prior to yours and my meeting with Lois, Janine and Nan last week) , so that Counsel could get a better idea of the factual situation in Determs . Because there are several moving pieces connected to this issue, my folks think it would still be helpful to have this meeting to coordinate as to:

1. The 2 cases sent to Counsel that are being sent back for further development.

2. The checksheet (not a model development letter) EOT is writing for Determs specialists working the advocacy cases. It will explain the different types of advocacy, the types permitted by different types of orgs., and questions to assist in identifying, and distinguishing between, types of advocacy.

3. A research paper on the definition of "exclusively" under (c)(4), exploring why the (c)(3) regs include both the "primarily" and the "no substantial part" language, but the (c)(4) regs only include the "primarily" language. It also includes a discussion of other IRS guidance and case law.

Given the shift in the focus of the meeting to overall coordination - ensuring that folks are on the same page at the staff level- we could probably shorten the length and hold it by phone rather than having you all come over.

Let me know what you think.

Thanks,

Holly

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Tuesday, August 02, 2011 2:15 PM
To: Paz Holly O
Subject: Mtg on Advocacy Cases

Hi Holly,

We have a meeting on Thursday afternoon (scheduled several weeks ago) with Justin Lowe and the TLS's that are working on the advocacy cases. The invited guests are: Lowe Justin; Megosh Andy; Kastenberg Elizabeth C; Hull Carter C; Goehausen Hilary; and (from counsel) Griffin Kenneth M; Marshall David L; and Franklin Amy B. The CC's were Seto Michael C; Fish David L; Shoemaker Ronald J.

I understand the original agenda was exchanging ideas and developing an overall game plan for working the advocacy cases. It was not about any particular case. We now are wondering if the agenda or purpose of this meeting has changed in light of our meeting last week with Lois, Nan, and Janine. Is this the EO group that will be working on the model development letter we talked about? Or is there another group undertaking that task? We had assumed that the two c4 cases we are sending back, with the advice to factually develop the election year of 2010, would be further worked using the model letter that is to be prepared.

We are of course always happy to come over and exchange ideas on case development, help draft the model development letter, and discuss the particular facts and issues of individual cases. We just were unclear about how this previously scheduled meeting now fits into the overall schedule and game plan. And we didn't want to come over unprepared for whatever people were expecting. So I thought I would check with you.

Thanks!

Don

Don R. Spellmann
Senior Counsel
Office of Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)
1111 Constitution Avenue, NW, Room 4409
Washington, DC 20224
202-927-5799
202-622-1036 (Fax)

From: Bowling Steven F
Sent: Wednesday, January 25, 2012 2:57 PM
To: Bell Ronald D
Subject: RE: BOLO

I think we can leave it in. Some of the orgs are pushing that other than occupy groups.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Bell Ronald D
Sent: Wednesday, January 25, 2012 1:17 PM
To: Bowling Steven F
Subject: RE: BOLO

Steve,

I thought the $ocial economic reform in the updated current political issues was our "code word" for the occupy organizations. If so, do we need that in the current political issues description since we decided to have a separate issue for the occupy orgs?

From: Bowling Steven F
Sent: Wednesday, January 25, 2012 1:11 PM
To: Bell Ronald D
Subject: BOLO

Ron,
I made changes to the emerging issues tab to remove advocacy orgs and update the issue in an effort to capture what we are looking for. I also added Occupy orgs to the Watch List. Review the changes and if you do not have any concerns send out the BOLO alert.

Thanks,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Bell Ronald D
Sent: Thursday, June 14, 2012 9:47 AM
To: Chumney Tyler N
Subject: BOLO ALERT 06/13/12
Attachments: BOLO Spreadsheet 06132012.xls

Importance: High

All,

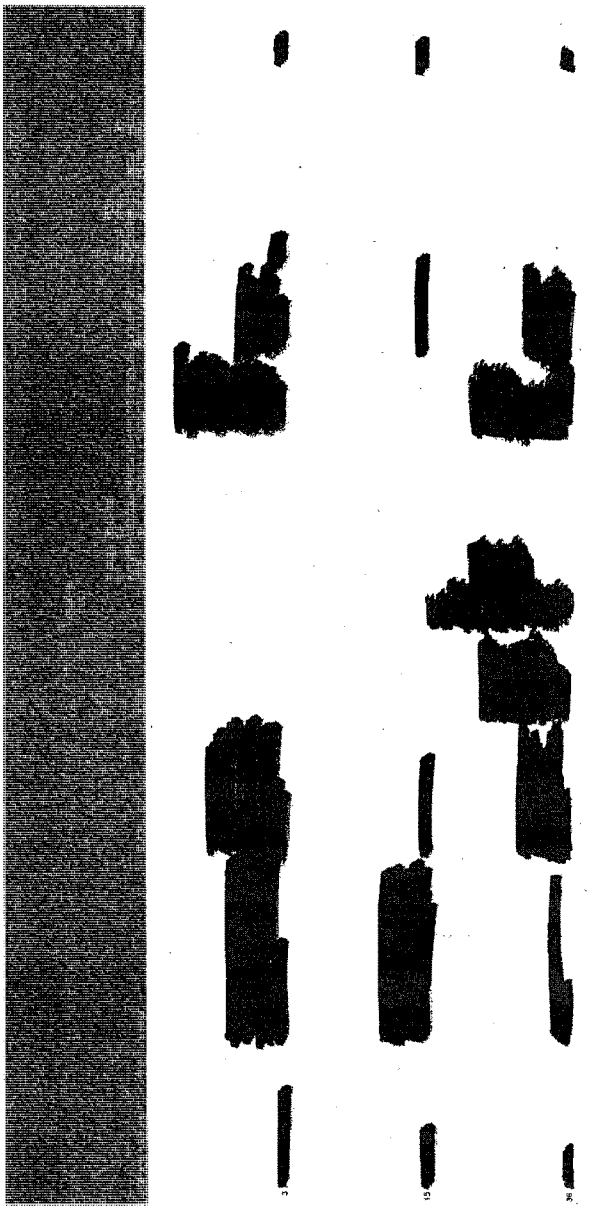
Attached is the latest BOLO updates. Issue # 24 has been added to the Watch List. Be on the lookout for an application from [redacted] 6103

The issue description for **Current Political Issues** located in the Emerging Issue Tab has been revised and the new coordinator is Sharon Light. Watch list issues #2 [redacted] 6103 and #21 "Occupy" Organizations from the last BOLO Alert dated 3-28-12 have been removed and now are to be included in the description for Current Political Issues.

Issue # 17 has been added to the **Potentially Abusive Tab**. Be on the lookout for applications from former chapters of the [redacted] 6103, a now dissolved Group Exemption Ruling (GEN 4301). Please review the issue description for more information.

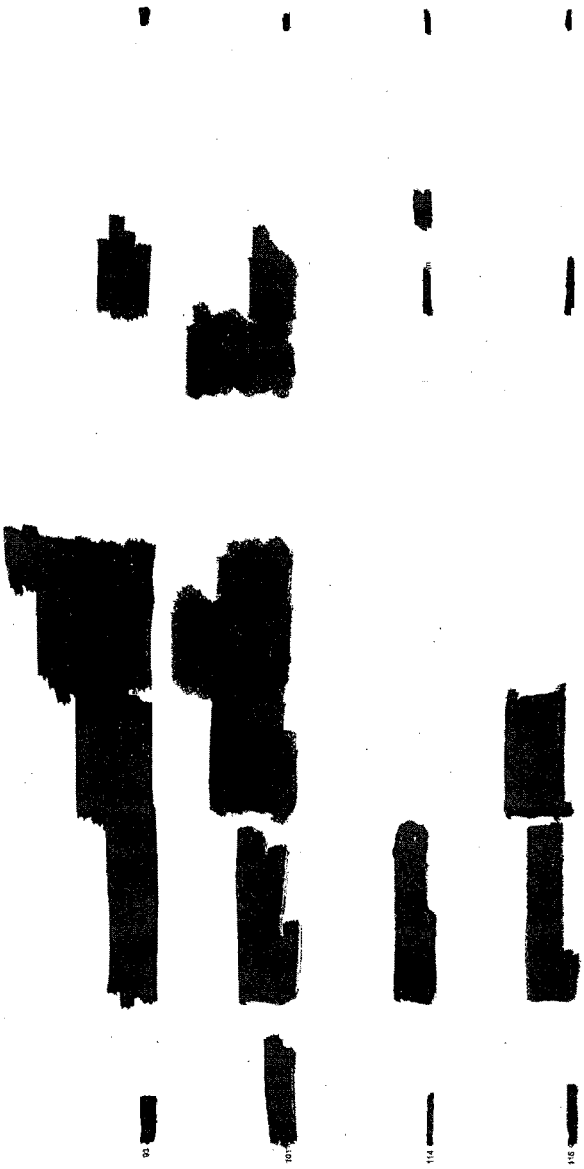
Please contact me with any questions or concerns.

Ron Bell
Emerging Issues Coordinator
513-263-3560



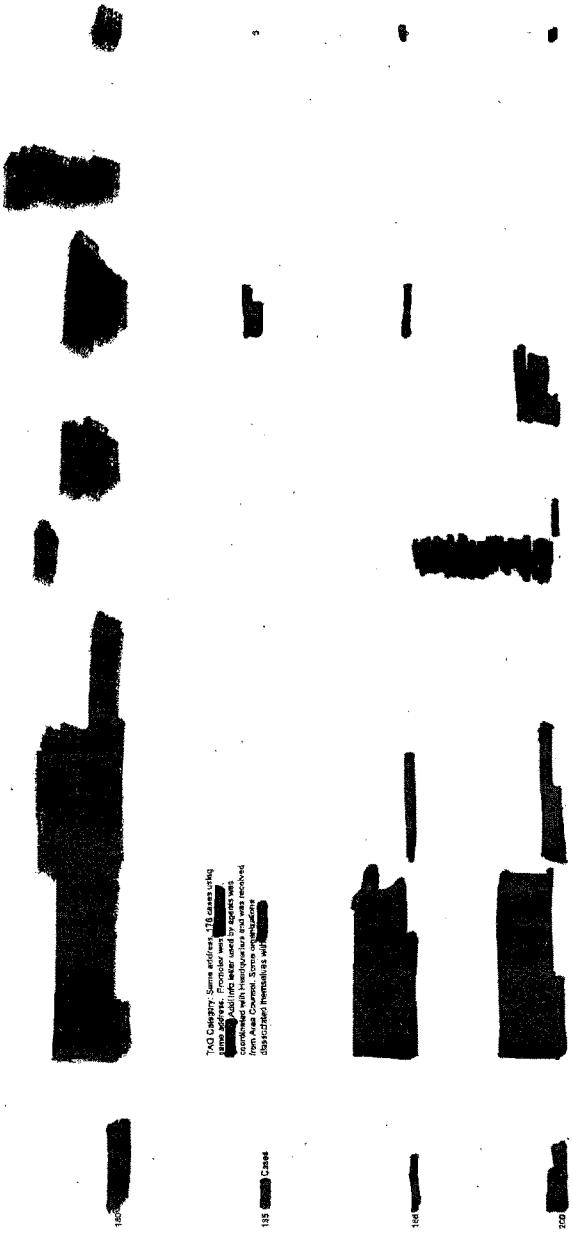
Enlarged for Legibility. Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

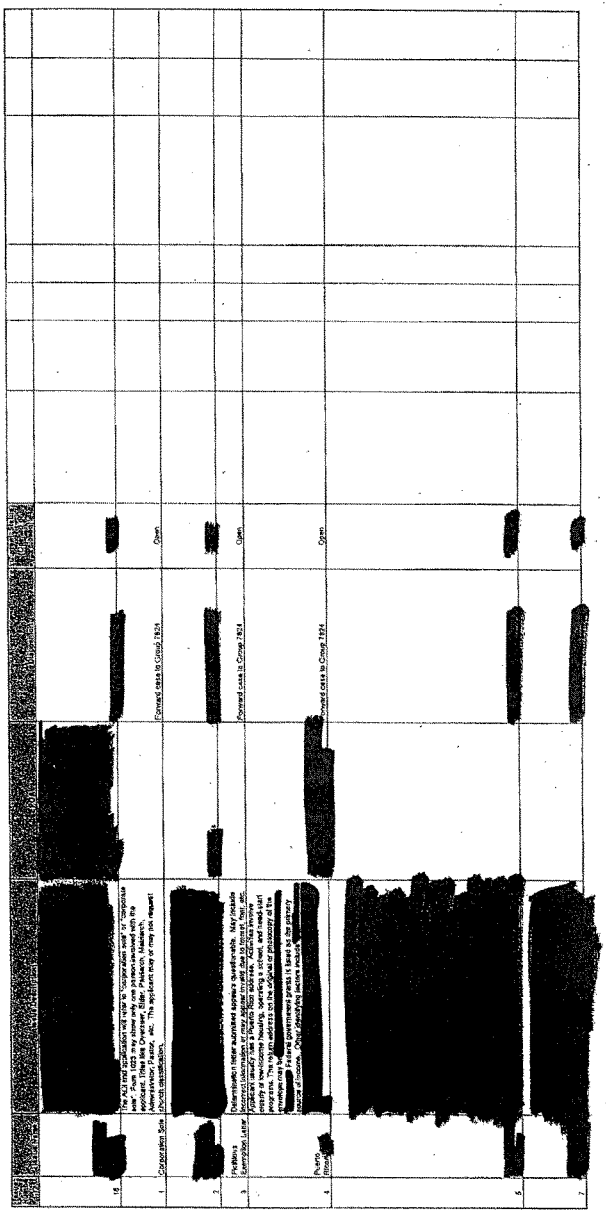


Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

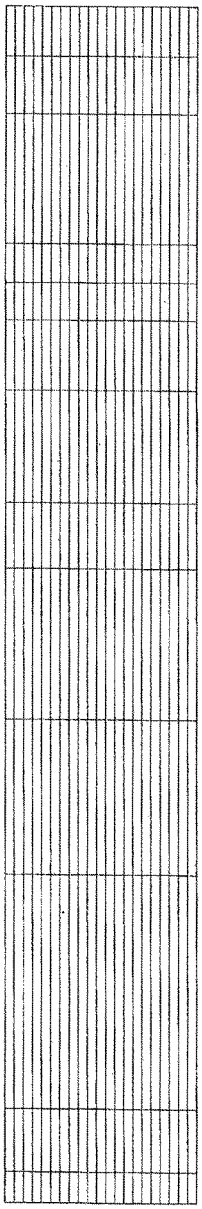


Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256



Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Enlarged for Legibility. Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256



Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Open and/or closed)
Current Political Issues	501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.	EI-1	x	Forward case to Group 7822. Sharon Light is the coordinator.	Open

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Open or Closed)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Group Rulings	Cases that involve group rulings, whether parent applying for; or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

Issue Name	Watchissue description	Issue Number	Year (Year and number)	Disposition of Watchissue	Current Status (Open/under review/closed)
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Heliat	Open
[redacted]					
[redacted]					
Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open-7-15-10
[redacted]					
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
[redacted]					
[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011-#1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
[redacted]					

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000013252 - IRSR0000013256

From: Combs Peggy L
Sent: Friday, January 20, 2012 6:13 PM
To: Thomas Cindy M; Bowling Steven F
Subject: RE: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Importance: Low

I don't... We wouldn't want to miss this one if it comes in so it needs to be pretty clear...

-----Original Message-----
From: Thomas Cindy M
Sent: Friday, January 20, 2012 1:10 PM
To: Bowling Steven F
Cc: Combs Peggy L
Subject: Re: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

The BOLO change can wait until Monday when Stephen is back.

I don't have any suggestions. After you talk with Stephen on Monday, it might be best to ask a few managers if they have any ideas.

Peggy -- do you have any suggestions for wording?

Sent using BlackBerry

------Original Message------
From: Steve Bowling
To: Cindy M Westcott
Cc: Peggy Combs
Subject: RE: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)
Sent: Jan 20, 2012 12:29 PM

Cindy,

The only email that came through is yours but I agree we should work them with the advocacy cases. I think we need to update the Issue Description to capture these as well as to try and weed out the ones that we do not want in this inventory.

Currently the spreadsheet states;

"Organizations involved with political, lobbying, or advocacy for exemption

under 501(c)(3) or 501(c)(4)."

I know we don't want to use the words "tea party" or "occupy" but I'm not sure how we could weed out a simple advocacy type organization. If the BOLO can wait, I'd like to run this by Stephen when he is back on Monday to see what we can come up with (any suggestions?).

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

-----Original Message-----
From: Thomas Cindy M
Sent: Friday, January 20, 2012 11:24 AM
To: Bowling Steven F
Cc: Combs Peggy L
Subject: FW: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Steve,

Please read emails below. We should probably say these should be referred to your group (can work them with the advocacy cases). Your thoughts?

Cindy M. Thomas
---- Original Message ----
From: Combs Peggy L
Sent: Fri 1/20/12 11:15 AM
To: Thomas Cindy M
Subject: FW: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

From: Combs Peggy L
Sent: Friday, May 25, 2012 7:23 AM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified

Importance: Low

Follow Up Flag: Follow up
Due By: Tuesday, May 29, 2012 11:00 PM
Flag Status: Flagged

Tyler,

Are these cases considered advocacy cases per the BOLO? If so, I would think that we would want to have these developed by someone who has received the recent training. If not, is there a separate description for them on the BOLO?

Did Ron screen the case already? What are the issues in the case? Are they similar to the issues in the case Stephen has? Can you have any additional information letters Stephen has sent scanned and e-mailed to me?

Thanks.

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:34 PM
To: Combs Peggy L
Subject: FW: Watch List Case Identified

Peggy,

There is one other "Occupy" case, Steve Bowling just called to let me know this. He also told me it is assigned to Stephen Seok who is developing the case.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:23 PM
To: Combs Peggy L
Subject: Watch List Case Identified

Peggy,

Re: [redacted] 6103

This is an "Occupy" organization on the watch list issue number 21.

"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward case

Please let me know any updates or concerns regarding this situation and if it should be elevated. For instance should a summary be prepared?

Let me know how this case should be handled. Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Combs Peggy L
Sent: Friday, May 25, 2012 2:19 PM
To: Chumney Tyler N
Subject: RE: Occupy Cases - Watch List Case Identified

Importance: Low

Tyler - don't feel bad... I'll fill you in... no big deal!

From: Chumney Tyler N
Sent: Friday, May 25, 2012 3:16 PM
To: Combs Peggy L
Subject: RE: Occupy Cases - Watch List Case Identified

Peggy,

I appreciate you letting me know, I was reflecting on what was coming up today, how I could just not go to the meeting. I feel so bad about that. I wish we could have discussed this earlier in the week but every day it seems like issues come up for auto revocation and we work on this and then another etc and I just run out of time. The Advocacy and Auto Revocation are often just too much at once, and it is frustrating.

On a good note I got another filing cabinet from Tim, the one that was here did not have enough dividers. Now I have more places to put cases. There are slots for Occupy, BOLO Advocacy Political, Elevate to EOT, etc, this helps with keeping these organized. One great feature of the cabinet is that it has a pull out shelf!

Have a good weekend as well, thanks

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Combs Peggy L
Sent: Friday, May 25, 2012 3:02 PM
To: Chumney Tyler N
Subject: RE: Occupy Cases - Watch List Case Identified
Importance: Low

Right?

Thanks for being so patient with me today in answering all my questions... hope my frustration wasn't unbearable - trust me, not directed at you! You are doing a great job - you are very straightforward and conscientious. I have a high appreciation for both qualities!

Have a great week-end!

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:58 PM

To: Combs Peggy L
Subject: RE: Occupy Cases - Watch List Case Identified

Peggy,

I was beginning to like this and was going with the flow! Why not?

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Combs Peggy L
Sent: Friday, May 25, 2012 2:43 PM
To: Chumney Tyler N
Subject: RE: Occupy Cases - Watch List Case Identified
Importance: Low

In red below - very funny!!! It's that darn spell check!

OK - We will get together next week to talk about these.

We "watched for" the case and found it... I think we need to take a look at both cases to determine if they do fall into the Current Political Issues. If not, is there another emerging issue and if so how do we describe what it is? I think once we take a look at Stephen's letter and maybe chat with him about it, it will be easier to answer these questions.

Thanks Tyler!

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:28 PM
To: Combs Peggy L
Subject: Occupy Cases - Watch List Case Identified

Peggy,

Re: [redacted]

Do the "occupy" cases meet the Current Political Issues description? No, these cases have not been considered to be Current Political Issues. The BOLO Watch List Tab Issue Description number 21 'Occupy Organizations' includes the text "social injustices due to "big-money" influence." Although this is similar to the Emerging Issue Tab for the BOLO Advocacy Political cases with the EI-1 Issue Description that includes the text "$ocial economic reform/movement" my understanding is that these Occupy organizations are not advocating expanding/limiting the government.

The above case was screened by Ron, he has determined it is an "Occupy" issue. I do not know who screened the other "Occupy" case that Stephen has.

As for getting these case to the bickerers or the assignment and development by someone who has gotten the May 2012 EO DC folks Advocacy training please let me know.

I do not know the specifics of the case but I will be getting this information. I will obtain and forward to you a summary that will include the following:
- the issues
- if the issues are similar to the case Stephen has
- the letter Stephen has sent

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Combs Peggy L
Sent: Friday, May 25, 2012 1:36 PM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Do the "occupy" cases meet the Current Political Issues description? Did Ron look at them? Are they politically advocating for economic reform? If so, I think we need to let the bickerers take a look at these two cases as well. If Ron hasn't looked at it, please give it to him to take a look.

If not a Current Political Issue, then please send Stephen's additional information letter to me on the one he has - I'd like to take a look at it to see what the issues are before we proceed.

Thanks.

From: Combs Peggy L
Sent: Friday, May 25, 2012 8:23 AM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Are these cases considered advocacy cases per the BOLO? If so, I would think that we would want to have these developed by someone who has received the recent training. If not, is there a separate description for them on the BOLO?

Did Ron screen the case already? What are the issues in the case? Are they similar to the issues in the case Stephen has? Can you have any additional information letters Stephen has sent scanned and e-mailed to me?

Thanks.

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:34 PM
To: Combs Peggy L
Subject: FW: Watch List Case Identified

Peggy,

There is one other "Occupy" case, Steve Bowling just called to let me know this. He also told me it is assigned to Stephen Seok who is developing the case.

Thank you,

Tyler Chumney

TE/GE EOD Manager Grp 7822
513-263-4583

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:23 PM
To: Combs Peggy L
Subject: Watch List Case Identified

Peggy,

Re: [redacted] 6103

This is an "Occupy" organization on the watch list issue number 21.

"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward case

Please let me know any updates or concerns regarding this situation and if it should be elevated. For instance should a summary be prepared?

Let me know how this case should be handled. Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Bell Ronald D
Sent: Thursday, January 26, 2012 7:44 AM
To: &TEGE:EO:RA Determ Ees
Subject: BOLO ALERT 1-25-12
Attachments: BOLO Spreadsheet 01252012.xls

Importance: High

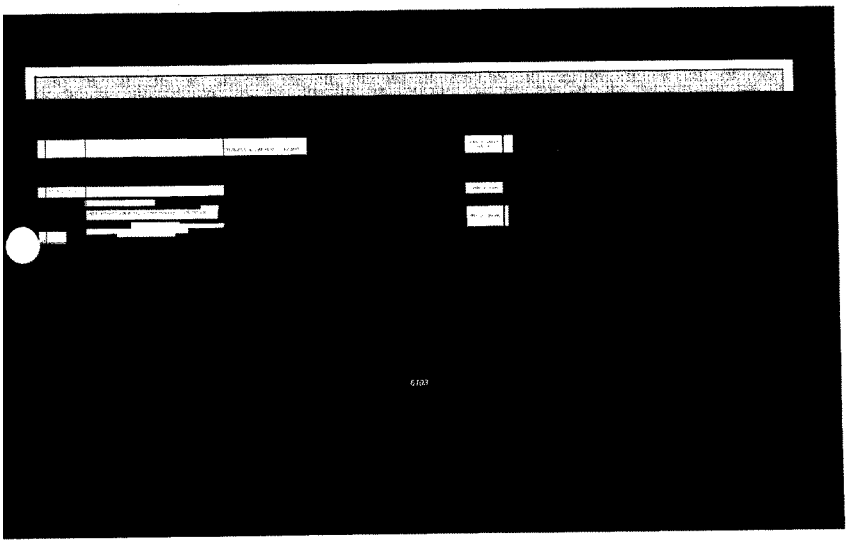
All,

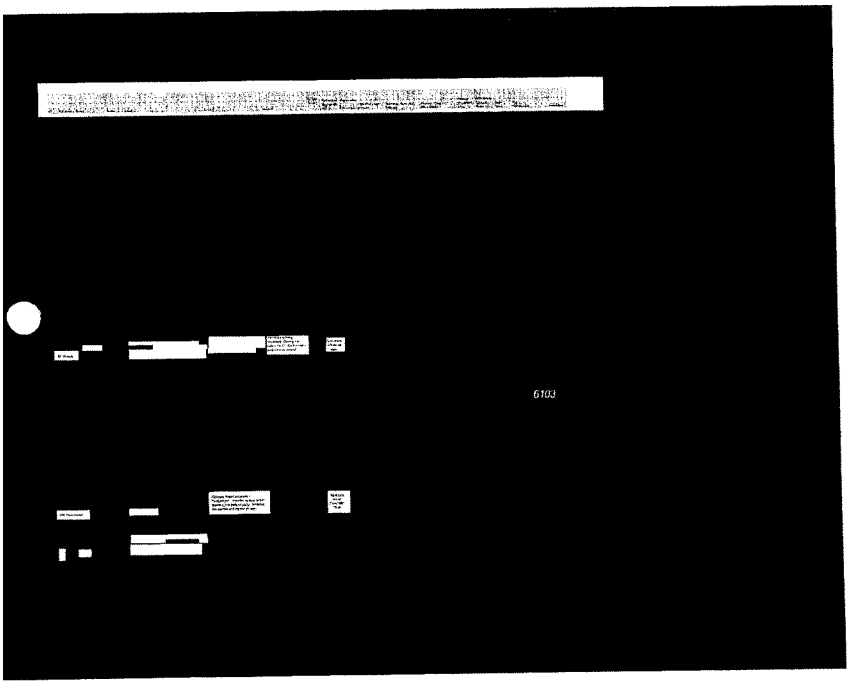
Attached is the latest BOLO update. Issue # 22 (column C) has been added to the Watch List. Be on the lookout for applications from **Occupy Organizations**.

In addition, please note that the Issue Description for **Current Political Issues** listed under the Emerging Issues tab has been revised. Do not send typical advocacy type cases to Group 7822 unless they have the characteristics listed in the Issue Description. Stephen Seok is the new coordinator for these political action type organizations.

Please contact me with any questions or concerns.

Ron Bell
BOLO Coordinator
513-263-3660




6103

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. **Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
[redacted]				
Group Rulings	Cases that involve group rulings, whether parent applying for, or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11
[redacted]				

6103

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech-Peter Hollist	Open

6103

Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7688. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open-7-15-10
Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees.	8	2010- #1	Forward case to Group 7624.	Open 11/23/10
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.				

From: Lerner Lois G
Sent: Friday, November 02, 2012 10:34 AM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: Responses
Attachments: Lerner answers TIGTA questions (advocacy) (final).doc; Long Political Advocacy Timeline HOP comments (2).doc

Attached is our redlined version of the long time line you prepared. We have made changes where we thought your folks didn't get it exactly right, and have added some comments for your consideration. Also attached are my response to your three questions. Rather than be repetitive, we have combined the response to questions 2 and 3 into one comprehensive response. I am out of the country next week, but Holly can probably answer any questions you may have in the meantime.

Lois G. Lerner
Director of Exempt Organizations

1. To the best of your knowledge, did any individual or organization outside the IRS influence the creation of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

No. To the best of my knowledge, no individual or organization outside the IRS influenced the creation of these criteria.

2. To the best of your knowledge, did IRS or Tax Exempt and Government Entities Division management sanction the use of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

3. When did you become aware the IRS was targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

In early 2010, EO Determinations witnessed an uptick in the number of applications for § 501(c)(3) or 501(c)(4) status that contained indicators of potentially significant amounts of political campaign intervention ("advocacy organizations"). EO Determinations first became of aware of this uptick in February 2010, when an EO Determinations screener identified a § 501(c)(4) applicant that planned to spend a significant amount of its budget on influencing elections, which he believed was like organizations that had been receiving media attention for purportedly seeking classification as § 501(c)(4) social welfare organizations but operating like § 527 political organizations. He alerted his manager of the potential "emerging issue."

To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The

BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

The first BOLO list contained the following entry on the Emerging Issues tab: "These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4) [sic]." That description was added to the BOLO to help specialists identify cases involving potentially significant political campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical. The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. At this time, the language was not reviewed or approved by executive management.

As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to ensure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for briefing me, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations Program Manager asked the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). The manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run."

As TIGTA's interviews with EO Determinations employees revealed, the BOLO description and the above-referenced list of criteria used by EO Determinations to determine which cases fell under the BOLO description were their shorthand way of referring to the group of advocacy cases rather than targeting any particular group. Applications that did not contain these terms, but that contained indicators of potentially significant political campaign intervention, were also referred to the group assigned to work such cases.

I first became aware that the BOLO referenced "tea party" organizations and EO Determinations was using the above criteria to determine what organizations met that description when I was briefed on these cases on June 29, 2011. I immediately directed that the BOLO be revised to eliminate the reference to "tea party" organizations and refer instead more generally to advocacy organizations. The BOLO was revised on July 11, 2011; the "issue name" was changed from "Tea Party" to "Advocacy Orgs", and the "Issue Description" was changed to "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."

Unbeknownst to me, EO Determinations further revised the BOLO issue description on January 25, 2012 to "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement." When I learned of this change, I directed that the BOLO description be revised. EO Determinations management explained that the group working the advocacy cases had made the change because they were receiving a substantial number of 501(c)(4) applications that only involved lobbying activity, which is a permissible activity, and no indication of political campaign activity. They were trying to edit the description to avoid capturing these organizations. Per my direction, the BOLO was updated on May 17, 2012. The separate entries for Occupy groups and ACORN successors were deleted and the advocacy organization description was revised to read, "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."

At the same time that I directed the BOLO be revised, I also directed the Acting Director of EO Rulings & Agreements to implement procedures for updating the BOLO that included executive-level approval. On May 17, 2012, the Acting Director of EO Rulings & Agreements issued a memorandum that set forth such procedures, which require that all additions and changes to the BOLO be approved by the manager of the emerging issues coordinator, the EO Determinations Program Manager, and the Director, Rulings & Agreements.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues
Audit # 201210022

Objective: To interview Exempt Organizations (EO) function management involved in developing the advocacy emerging issue to identify steps taken and develop a timeline of events.

Background: We interviewed EO function officials to understand how applications are processed for organizations seeking tax-exempt status. We learned that there was an increase in the number of organizations applying for Section (§) 501(c)(3) or 501(c)(4) whose applications contained indicators of potentially significant amounts of political campaign intervention.

6103
6103
6103

The screener elevated his concerns about this case through the management chain. The EO Determinations Program Manager raised the issue with the Acting Manager of EO Technical who requested that this case be transferred to EO Technical. It is EO Rulings & Agreements' standard practice with emerging issues (including credit counseling and mortgage foreclosure,, as well as these advocacy organizations) to work some of the applications in EO Technical in order to get a better sense of the issues. EO Technical is then better able to advise EO Determinations on the processing of such cases and determine the most appropriate form of advice, which may range from verbal or written advice on a particular application or applications to template development letters, template denial letters, guide sheets, etc. In addition to seeking advice from and coordinating with EO Technical, the unusual number of applications with potential political campaign intervention by organization seeking § 501(c)(3) or 501(c)(4) exempt status also prompted the EO function to isolate these types of cases as an emerging issue warranting scrutiny by a particular Determinations group to ensure consistent processing.

In order to help specialists identify cases involving potentially significant political campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical, a description was included on the Be On the Lookout (BOLO) list. To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

The first BOLO list contained the following entry on the Emerging Issues tab: "These case involve various local organizations in the Tea Party[1] movement are applying for exemption under 501(c)(3) or

501(c)(4) [sic]." The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. At this time, the language was not reviewed or approved by executive management.

In light of a significant jump in the number of advocacy cases, the Acting Director, EO Rulings & Agreements wanted to ensure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for briefing the, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations Program Manager asked the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). The manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run."

As interviews with EO Determinations employees revealed, EO Determinations indicates that it used the description "tea party" as a shorthand way of referring to the group of advocacy cases rather than to target any particular group. As a result, cases that did not have "tea party" in their name or application were included in the group of advocacy cases. In this document and the attached timeline, "tea party" is used generically to refer to this entire group of advocacy cases except where noted to refer to a specific organization

Additional information was gathered during fieldwork to develop a timeline of events that chronologically details the evolution of the advocacy emerging issue, including the officials who participated or were informed about key events. This information is summarized in the Results section table below.

Criteria: We reviewed applicable EO Internal Revenue Manuals (IRMs) and supplemental guidance to determine if there are procedures to ensure approval by appropriate management officials when the criteria is revised for emerging issues associated with applications for tax-exempt status. We did not identify any guidelines. Discussions with the EO Director, Rulings and Agreements, confirmed that no written procedures existed prior to May 17, 2012, but controls were subsequently instituted to ensure that any criterion that is established or edited is reviewed and approved at a higher level in the EO function. Moreover, we were informed that EO Determinations began revising IRM 7.20.4 (Emerging Issues) in October 2011, and we were provided with a draft of that IRM section, which contains procedures regarding the BOLO. All affected stakeholders have provided comments on the draft IRM, which are currently being incorporated, and the exhibits to the IRM are under review by the IRS Office of Taxpayer Correspondence. The new IRM section will make clear that all changes to the BOLO must be approved by the Director Rulings and Agreements.

Results: [redacted] 6103 .
The EO Determinations office requested assistance from the EO Technical office on how to process the cases. The Acting Manager EO Technical requested that this § 501(c)(4) case be transferred to EO Technical. In May 2010, EO Determinations specialists were told to coordinate "tea party" cases with a particular Determinations group. From April 2010 to October 2010, an EO Technical Tax Law Specialist, worked with a Determinations specialist to develop the cases not transferred from Determinations to EO Technical. In October 2010, the Specialist assigned the emerging issue cases stopped processing them pending guidance from the EO Technical office.. In June 2011, the EO Director was briefed on the issue, and she raised concerns about the criteria being used to identify the cases and immediately directed that they be revised. The criteria were revised in July 2011. In November 2011, the EO Technical office provided draft guidance for processing the cases to the EO Determinations office. In January 2012, additional information request letters were issued to many of the organizations. This resulted in media and Congressional attention due to the amount and types of information being requested. In May 2012, the Specialists processing the cases received additional training regarding advocacy by 501(c)(4) organizations . In addition, all cases that had been identified as advocacy cases were reviewed to determine whether they could be closed without further development or with limited further development.

Conclusion: The initial criteria developed by the EO Determinations office referred to Tea Party organizations. In addition, the EO Technical office took more than 20 months (March 2010 – November 2011) to provide written guidance on processing these cases to the EO Determinations office.

EO Comment: Although the second sentence is factually accurate-- EO Technical did not provide written guidance for 20 months-- it makes it sound as though EO Technical was not providing any guidance during this time period. That is not true. As explained in the Background section, EO Technical was providing guidance on specific cases and was working cases transferred to EO Technical. Those steps were necessary to better determine the appropriate form of advice that would be most useful to EO Determinations.

Timeline of Events for the Political Advocacy Emerging Issue

Date	Event	Additional Details
6103	6103	
March 1, 2010	Screener Manager asked one of his Specialists to search TEDS to identify other Tea Party cases or similar organizations in order to determine the scope of the issue in the determination letter program. Specialist continued to complete searches for additional cases until the precursor to the "BOLO" was issued in May 2010.	As interviews with EO Determinations employees revealed, EO Determinations indicates that it used the description "tea party" as a shorthand way of referring to the group of advocacy cases rather than to target any particular group. This is reflected in the fact that cases that did not have "tea party" in their name or application were included in the group of advocacy cases. Specialist used Tea Party, Patriot, and 9/12 as part of the criteria for these searches.
March 16-17, 2010	Ten total cases were identified. Acting Manager, EO Technical, requests two more cases be transferred to Washington, D.C. 6103 6103	Not all of the ten cases had "tea party" in their name.
	The EO Director knew there had been an uptick in the number of advocacy applications, but was not aware of the criteria being used to identify them.	EO Comment: This is incorrect and should be deleted from the timeline. Director EO was not yet aware of the uptick in the number of applications.

Date	Event	Additional Details
		She was made aware during the June 2011 briefing.
April 1-2, 2010	New Acting Manager, EO Technical, suggests the need for a Sensitive Case Report on the Tea Party cases. EO Determinations Manager agrees.	
April 5, 2010	6103	
April 5, 2010	EO Determinations Screener developed list of 18 identified "Tea Party cases" during search of the TEDS. Three had already been approved as tax-exempt.	While the heading of the document listing these 18 cases referred to "Tea Party" cases, not all of the organizations listed had "tea party" in their name.
April 19, 2010	First Sensitive Case Report prepared by EO Technical.	Sensitive Case Reports are shared with the Director, EO Rulings & Agreements and a chart summarizing all Sensitive Case Reports is provided to the EO Director
April 25-26, 2010	Determinations Program Manager requests EO Technical contact for Specialist assigned to work other Tea Party cases. Received contacts. 6103 6103	
May 6, 2010	Prior to the BOLO development, an instruction to coordinate with a particular group all "Tea Party" applications was sent via email.	
May 17, 2010	Determinations Specialist will send development letters to EO Technical Specialist for review prior to issuance as part of EO Technical's attempt to provide guidance to assist EO Determinations. .	
May 26, 2010	6103	

Date	Event	Additional Details
	6103	
May 27, 2010	EO Technical Specialist began reviewing development letters of EO Determinations Specialist.	
June 14, 2010	6103	
June 30, 2010	6103	6103
July 2, 2010	6103	EO Comment: Why is this in the timeline?—We are unsure of the significance of the event.
July 27, 2010	Prior to the BOLO development, an email was sent updating the description of advocacy applications and providing a coordinator contact for the advocacy cases. Description changed to read, "These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4)."	
August 12, 2010	The Be On the Lookout (BOLO) listing was developed by a Determinations Specialist tasked to create it in order to replace the existing practice of sending separate emails to all Determinations employees as to cases to watch for, potentially abusive cases, cases requiring coordinated processing and emerging issues. The political advocacy emerging issue was included on the BOLO. The same description used in the July 2010 email for the advocacy emerging issue was used for this initial BOLO listing.	The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. This language was not reviewed or approved by executive management.
August 2010	The responsibility for the advocacy emerging issue was moved to a different Determinations group as part of a global group realignment within EO Determinations.	
October 2010	The advocacy cases were transferred to another Determinations Specialist. He did not work on the	Determinations Specialist not sure who told him not

Date	Event	Additional Details
	cases while waiting for guidance from EO Technical. He received an advocacy tracking sheet from the previous Determinations Specialist responsible for the cases.	to continue working on the cases while waiting for guidance. Per Director, Rulings and Agreements, there was a miscommunication about not working the cases while waiting for guidance. She does not know who told the Specialist not to work the cases.
October 19, 2010	An EO Technical group manager forwarded a memo to the Acting Manager, EO Technical, describing the work completed on the Tea Party cases by EO Technical. Included is a listing of the cases the EO Technical Specialist assisted the Determinations Specialist with.	The listing includes 40 cases – 18 of which do not have "tea party" in their names.
October 26, 2010	EO Determinations Program Manager raises concern to the Manager, EO Technical, with the approach being used to develop the Tea Party cases. Why does the EO Technical Specialist need to review every development letter when a template letter could be approved and used on all the cases?	
November 16, 2010	New coordinator contact for advocacy cases announced.	
November 16-17, 2010	A Determinations group manager raises concern to Determinations Area Manager that they are still waiting for a development letter template from EO Technical for the Tea Party cases. The coordinator has received calls from taxpayers checking on the status of their applications.	
November 17, 2010	EO Determinations Program Manager discussed Tea Party cases with Manager, EO Technical. Review of the cases by the EO Technical Specialist found that not all the cases have the same issues, so a template letter has not been developed.	
December 13, 2010	EO Determinations Program Manager asks Manager, EO Technical, for a status on the tea party cases. The	

Date	Event	Additional Details
	Manager EO Technical, responds that they are going to discuss the cases with the Senior Technical Advisor to the EO Director shortly.	
January 28, 2011	EO Determinations Program Manager requests an update on the Tea Party cases from the Acting Manager, EO Technical.	
January 2011	A new person took over the Acting Manager, EO Technical role.	
February 3, 2011	Acting Manager, EO Technical, provides an update to the EO Determinations Program Manager on the cases being worked by the EO Technical Specialist; letters are being developed and will be reviewed shortly.	
March 2, 2011	A Determinations group manager reminds EO Determinations Program Manager to follow up with EO Technical on the status of the Tea Party cases.	
March 30, 2011	[redacted] 6103	
March 31, 2011	EO Determinations Program Manager states that while waiting for guidance from EO Technical, Determinations Office still needs to work Tea Party cases to the extent possible.	This contradicts the Specialist's statement about not working the cases until guidance received from EO Technical and supports the statement of the Director EO Rulings & Agreements that there was a miscommunication about not working the cases while awaiting guidance.
April 13, 2011	[redacted] 6103	
June 1-2, 2011	Acting Director, Rulings and Agreements, requested criteria used to identify "Tea Party" cases from EO Determinations Manager. EO Determinations Manager requested criteria from Screener Manager.	
June 1-6, 2011	As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to make	

Date	Event	Additional Details
	sure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "Tea Party case" label (e.g., some had "tea party" in their name but others did not, some stated in their activities that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for the briefing with the EO Director, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine if a case was a "Tea Party case." Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)", the EO Determinations Program Manager asked Screener Manager what criteria were being used to label these cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Program Manager ("The following are issues that could indicate a case to be considered a potential 'tea party' case"). Information forwarded to Acting Director, Rulings and Agreements.	
June 6, 2011	[redacted] 6103	
June 6, 2011	Determinations Program Manager mentions that her office needs guidance from EO Technical to ensure consistency.	
June 29, 2011	A briefing was held with the EO Director. The briefing paper noted that EO Determinations was sending cases meeting any of the criteria below to a	The briefing paper for the EO Director was prepared by Tax Law

Date	Event	Additional Details
	designated group to be worked: • "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file. • Issues include government spending, government debt, or taxes. • Education of the public via advocacy / lobbying to "make America a better place to live." • Statements in the case file criticize how the country is being run. There were over 100 advocacy cases identified by this time. It was decided to develop a guide sheet for processing advocacy cases.	Specialists in EO Technical and EO Guidance, and was reviewed by the Acting Manager, EO Technical. The EO Guidance Specialist was the primary author of the briefing paper. During the briefing, the EO Director raised concerns over the language of the BOLO criteria for advocacy cases. The EO Director directed that the criteria immediately be revised to better reflect rules on advocacy.
July 5, 2011	Conference call held with EO Technical, EO Director, and EO Determinations Program Manager. They developed new criteria for identifying the cases at issue. Determinations Program Manager made changes to the BOLO. The "issue name" on the BOLO was changed to "advocacy orgs". The "issue description" was changed to "organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."	
July 5, 2011	Washington, D.C. Office will be putting a document together with recommended actions for advocacy cases.	
July 23, 2011	EO Technical assigned new person to coordinate with EO Determinations Office.	
July 24, 2011	Work commences on the guide sheet when the Acting Manager, EO Technical, asks Tax Law Specialists to draft list of things for EO Determinations Specialists to look for when working advocacy cases.	
August 4, 2011	EO Rulings and Agreements holds meeting with Chief Counsel so everyone has the latest information on the advocacy issue.	

Date	Event	Additional Details
August 4, 2011	EO Guidance Specialist asks if Counsel will review the check sheet for the advocacy organizations prior to issuance to EO Determinations. Acting Director, Rulings and Agreements, responds that Counsel will review prior to issuance.	
August 10, 2011	[redacted] 6103	
September 15, 2011	EO Determinations Program Manager sends a listing of all identified advocacy cases to Acting Director, Rulings and Agreements, so EO Technical can complete a "triage" of the cases on the TEDS. The utility of this triage was limited because the review was conducted through TEDS so the EO Technical specialist did not necessarily have the full application file. An EO Technical Specialist reviews the listing to determine if any could be closed on merit or closed with an adverse determination letter. This "triage" was considered a third screening.	
September 21, 2011	Draft guide sheet sent for review and comment to various EO employees in Washington, D.C.	
October 2011	New person took over as Acting Director, Rulings and Agreements.	
October 24, 2011	An EO Technical frontline manager forwarded initial "triage" results of advocacy cases to EO Determinations Office.	
October 25, 2011	Based on the categories and terminology used in the spreadsheet, EO Determinations Program Manager is unclear what Determinations should do with the triage results – close cases, develop further, etc. Also requests status of guidance from EO Technical.	
October 26, 2011	EO Technical Specialist provided further explanation of the triage results in an email to EO Determinations Program Manager.	
October 30, 2011	EO Determinations Program Manager contacts the Acting Manager, EO Technical, asking additional questions regarding the triage results and requesting a status update on the EO Technical guidance for the advocacy cases. [redacted] 6103 6103	

Date	Event	Additional Details
	6103	
November 3, 2011	An updated draft version of the guide sheet is sent to EO employees for comment.	
November 6, 2011	Acting Manager, EO Technical, will have EO Technical Specialist provide more details on triage results. He also informed the EO Determinations Program Manager that the guidance is being reviewed prior to issuance.	
November 6, 2011	Acting Director, Rulings and Agreements, informs Acting Manager, EO Technical, and EO Determinations Program Manager that, based on the feedback he has received, the guidance developed will not work in its present form because it was written in technical terms that may not help Revenue Agents. Need EO Determinations Office input.	
November 15, 2011	EO Determinations Program Manager forwards EO Technical Specialist's triage results to the EO Director's Senior Technical Advisor per the EO Director's request.	
November 22, 2011	Acting Manager, EO Technical, forwards the clarified triage results to the EO Determinations Program Manager.	
November 23-30, 2011	A new EO Determinations coordinator is assigned oversight of the advocacy cases by the group manager. The draft EO Technical guidance is provided to the coordinator (*Advocacy Organizations Guide Sheet*). The coordinator began working advocacy cases after receiving the draft EO Technical guidance in anticipation of a team being assembled to work the cases.	
December 7-9, 2011	An advocacy team of Determinations Specialists was set up to review all the identified advocacy cases; one Grade 13 from each Determinations group. An employee from Quality Assurance was also part of the team. EO Technical provided contacts for them.	
December 16, 2011	The first advocacy team meeting was held.	

Date	Event	Additional Details
January 2012	The first batch of letters requesting additional information for applications containing incomplete or missing information were issued by Determinations Specialists based, in part, on their reading of the draft *Advocacy Organizations Guide Sheet* issued by EO Technical.	
January 2012	Determinations Specialist tasked with performing a secondary screening of identified "advocacy" cases to ensure they were political advocacy, and not just general or lobbying advocacy.	
January 25, 2012	The BOLO criteria was again updated to focus specifically on political advocacy. The criterion was revised as "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement." Coordinator contact changed as well.	
February 27, 2012	Advocacy team member asks when he can start issuing development letters on advocacy cases to applicants again.	
February 27, 2012	EO Determinations Program Manager questions why advocacy team members are not issuing development letters. Advocacy team group manager had told team coordinator to stop developing template questions, not development letters. Miscommunication corrected on February 29, 2012.	
February 29, 2012	EO Director requests the Acting Director, Rulings and Agreements, develop a letter to clearly inform advocacy applicants what is going to happen if they don't respond to the development letters, and giving them more time for their responses.	
February 29, 2012	EO Director stops any more development letters from being issued on advocacy cases until new guidance is provided to EO Determinations. Acting Director, Rulings and Agreements, discussed with EO Determinations Program Manager, having specialists print out web site information and asking the organizations to verify the information instead of asking for applicants to print out the web sites.	
February-March 2012	Numerous news articles begin to be published with	

Date	Event	Additional Details
	complaints from Tea Party organizations about the IRS's unfair treatment. Congress also begins to show interest in the IRS's treatment of Tea Party organizations.	
March 2012	A new person becomes Acting Group Manager of the advocacy team.	
March 1, 2012	Draft list of template questions prepared by members of advocacy team forwarded to EO Guidance.	Questions include asking for donor information.
March 5, 2012	Acting Manager, EO Technical, established procedures for reviewing first favorable determination letter for an advocacy case drafted by EO Determinations.	
March 6, 2012	[redacted] 6103	
March 8, 2012	Commissioner, Services and Enforcement, requests that if a taxpayer calls about having to provide donor information, that EO Determinations will allow them not to send donor names, but inform them that we may need it later.	
March 8, 2012	Acting Director, Rulings and Agreements, sends a draft letter on giving advocacy applicants additional time to respond to the additional information letters to EO Determinations Program Manager for comment. The EO Determinations Program Manager raises a concern of giving organizations that are not compliant with standard response timelines special treatment.	
March 15, 2012	EO Determinations received guidance on how to handle different scenarios, based upon the status of their advocacy cases. Those § 501(c)(4) organizations that have not responded to a development letter were issued another letter giving them an additional 60 days to respond. These letters were to be issued by March 16, 2012. This additional time letter was a one-time occurrence.	
March 23, 2012 and March 27, 2012	Technical Advisor to the TE/GE Commissioner and the Deputy Commissioner, Services and Enforcement, discussed concerns with the media attention the Tea Party applications were receiving. The Commissioner	

Date	Event	Additional Details
	asked Technical Advisor to look into what was going on in EO Determinations and make recommendations.	
April 2012	Acting Director, Rulings and Agreements, learned that the BOLO criteria for the advocacy cases had been changed on January 25, 2012 and informed the EO Director.	
April 4, 2012	EO Determinations received the extension letter for issuance to § 501(c)(3) organizations that had not responded to a previous development letter.	
April 17, 2012	Employees of the EO Director and the TE/GE Commissioner received the EO Technical triage results and the EO Technical Guide Sheet provided to EO Determinations. Template questions developed by the advocacy team were also provided.	
April 23, 2012	Technical Advisor to the TE/GE Commissioner visited Determinations office in Cincinnati, OH with a group of EO employees, and reviewed around half of the identified advocacy cases.	
April 24, 2012	Acting Director, Rulings and Agreements, requests that the EO Director's Senior Technical Advisor review all the development letters issued for the advocacy cases and identify troubling questions, which organizations received them, and which Specialists asked them.	
April 25, 2012	Senior Technical Advisor to the EO Director provided results of development letter review, including list of troubling questions.	Results included names of donors as a troubling question.
April 25, 2012	Chief Counsel's Office provides additional comments on draft advocacy guide sheet to EO.	
May 8, 2012	Determinations Program Manager informed that EO employees from Washington, D.C., plan to visit Cincinnati, OH to provide training on the advocacy cases and perform a review of the cases to determine the appropriate action.	
May 9, 2012	Director, Rulings and Agreements, asks about the process for updating the BOLO.	
May 14, 2012	Director, Rulings and Agreements, requests feedback on whether statements she considers "propaganda"	Concluded, in light of case law on what is educational, that

Date	Event	Additional Details
	affect the approval of tax-exempt status.	"propaganda" activities should be considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare.
May 14-15, 2012	Training held in Cincinnati, OH on how to process the advocacy cases. An EO Director's Technical Advisor took over from EO Determinations coordination of the advocacy team.	
May 16, 2012	Review of all advocacy cases begins in Cincinnati, OH. Cases divided into four groups: favorable determination, favorable with limited development, significant development, and probable adverse. This took around three weeks to complete. A worksheet is used to document the reviews.	
May 17, 2012	The Director, Rulings and Agreements, issues memorandum outlining new procedures for updating the BOLO listing. The BOLO criteria was updated again. New criteria reads: "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."	Suggested additions and changes must be approved by the Group Manager of the emerging issues coordinator, the EO Determinations Program Manager, and the Director, Rulings and Agreements.
May 21, 2012	Counsel determines that requested donor information can be destroyed or returned to the applicant if not used to make the final determination of tax-exempt status. It does not need to be kept in the administrative record. A letter will be issued to the organizations informing them that the donor information was destroyed.	
May 24, ,2012	A phone call script was developed to inform some organizations that have not responded to additional information requests that it is not necessary to send the requested information and that their applications have been approved. Also, an additional paragraph was	

Date	Event	Additional Details
	developed for the determination letter.	
May 2012	After the review of the advocacy cases was completed, each Determinations Specialist working advocacy cases was assigned an EO Technical employee to work with on the cases. The EO Technical employee is reviewing all proposed determination letters prior to issuance. Quality Assurance begins reviewing 100 percent of the cases in each bucket prior to closure. Quality Assurance review shifts from 100% review to sample review once a comfort level with the results of the quality review of each bucket is achieved.	
May 2012	A decision was made to refer cases to the Review of Operations Unit for follow-up if there are indications of political activity, but not enough to prevent approval of tax-exempt status.	
June 4, 2012	Draft letter developed to send to organizations that provided donor information. Letter will inform the organizations that the information was destroyed.	
June 7, 2012	The Director, Rulings and Agreements, provides guidance on how to process the advocacy cases now that they have been reviewed and divided into categories. Any new cases received will go through the same review process prior to assignment.	
July 15, 2012	A new Acting Group Manager is overseeing the advocacy team.	

From: Thomas Cindy M
Sent: Wednesday, February 22, 2012 9:35 PM
To: Paz Holly O
Subject: RE: Advocacy Cases
Attachments: EO Advocacy Cases - 02152012.doc; BOLO Spreadsheet 02212012.xls; SIDN430259035-1312.doc

Holly,

1. # advocacy cases -- Refer to Attachment 1 with numbers I sent to you on 2/15/2012. Is this acceptable or do you need numbers as of tomorrow morning?

2. All cases meeting BOLO criteria are supposed to go to full development. One of the California cases I referenced in an email sent to you a few minutes ago involving a TAS inquiry was inadvertently in status 62 (screening). This is an error and will be corrected on 2/23.

3. BOLO - Refer to Emerging Issues tab on attached BOLO spreadsheet (refer to Attachment 2).

Regarding another issue --- do you still need a timeline for [redacted] The actions taken for all of the advocacy cases is virtually the same as what Peggy provided to you for the [redacted]) --- see below in blue. The only difference is the control date, date screened, date assigned to specialist and date Letter 1312 issued. Following are dates for [redacted]:

9/13/2010 - Postmark Date of Application
9/29/2010 - Case assigned to screener
10/5/2010 - Case assigned to specialist (issues identified and elevated)

Case held pending guidance

2/6/2012 - Case assigned to specialist
2/7/2012 - Letter 1312, request for additional information sent to applicant with a response due date of 2/28/2012 (refer to Attachment 3).

I spoke to the advocacy project coordinator who indicated that he reviewed the letter with the specialist prior to it being sent to the applicant. He indicated that the questions posed were within the auspices of the Advocacy Organizations Guide Sheet provided by EO Technical. I reviewed the additional information and compared it to the guide. I agree the questions related to advocacy fall within the guide. There are a few general questions asking for a board member to sign application, for hardcopy prints of webpages, and for hardcopy prints of any social media. The other questions are regarding the specific details about the activities of the organization; the role of the members with the organization; details on public events; and contents of materials, speeches, forums, etc. The letter also asks whether candidate forums are conducted, whether they attempt to influence legislation, and whether they communicate with legislative bodies.

-----Original Message-----
From: Paz Holly O
Sent: Wednesday, February 22, 2012 10:04 PM
To: Thomas Cindy M
Subject: Fw:
Importance: High

Please see below. Can you get me number of advocacy cases by 11 tomorrow? Also I think all meeting bolo criteria go to full development. Is that right? How do we currently have this described on the bolo? Sorry for the rush. Steve Miller now wants to meet with Lois tomorrow at 1.
------Original Message------
From: Lerner Lois G
To: Zarin Roberta B
To: Paz Holly O
To: Urban Joseph J
To: Kindell Judith E
Cc: Marx Dawn R
Cc: Light Sharon P
Subject: RE: Tea Party appliation
Sent: Feb 22, 2012 7:05 PM

OK--so for my afternoon meeting, I think I will also need to have numbers in the pipeline of all advocacy matters and status--that is, are any getting screened or all going to full development? Also, is there any history on similarly situated organizations? Rather than email--let's talk at the 10:30 meeting in the morning--

Judy, not sure you are here tomorrow-if you have info to share and need a call in number, let Dawn know.
Lois G. Lerner
Director of Exempt Organizations

From: Zarin Roberta B
Sent: Wednesday, February 22, 2012 3:51 PM
To: Lerner Lois G; Paz Holly O; Urban Joseph J
Cc: Marx Dawn R
Subject: Tea Party appliation

Application for exempt status (Note this article has links to two letters written by EPEO staffers)

<http://news.yahoo.com/congressional-investigations-sought-over-irs-assault-tea-party-065323989.html> Congressional investigations sought over IRS 'assault' on tea party groups

The Daily Caller via Yahoo! News On Tuesday Jamie Radtke, a Republican U.S. Senate candidate from Virginia, asked California Republican Rep. Darrell Issa to investigate what she said was unfair treatment of tea party groups by the Internal Revenue Service. Issa chairs the House Committee on Oversight and Government Reform.

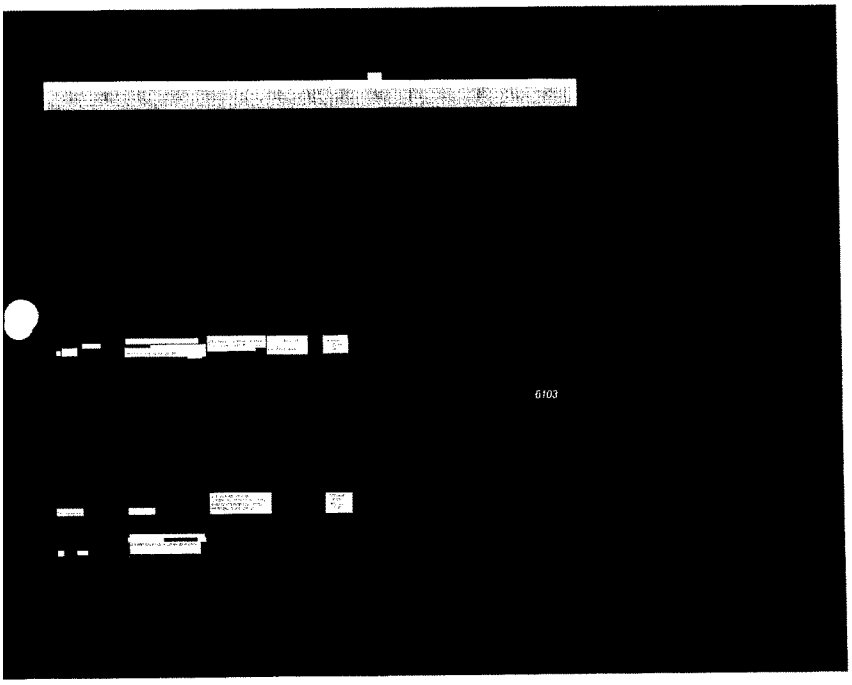
http://news.yahoo.com/congressional-investigations-sought-over-irs-assault-tea-party-065323989.html

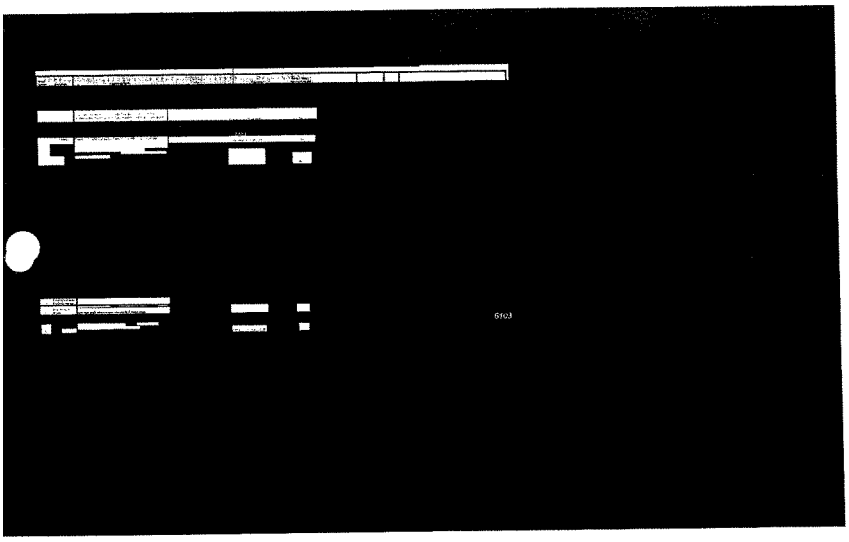
http://israelpeatzav.blogspot.com/2012/02/z-street-wins-one-against-obamas-ir
s.html

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and G

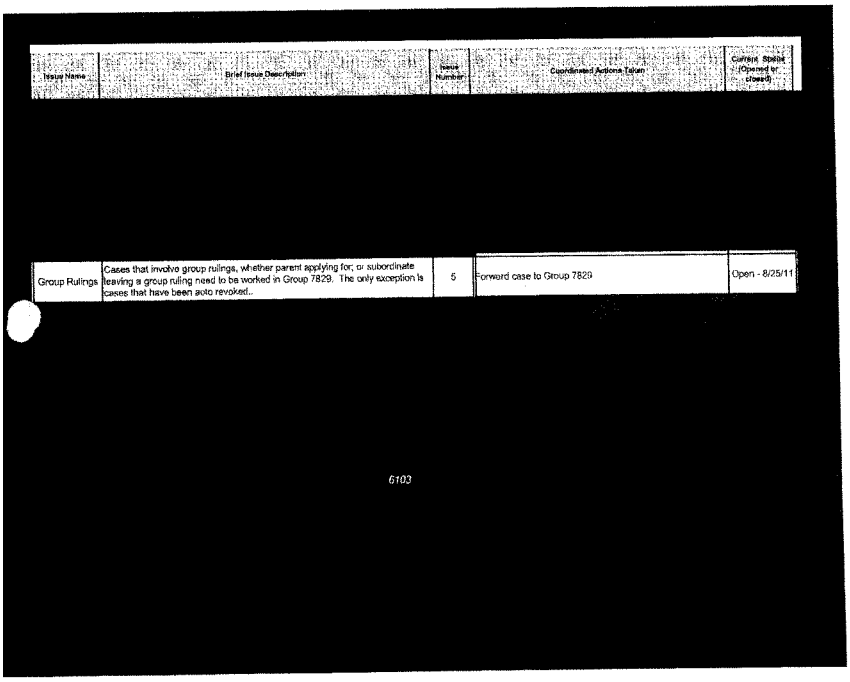
------Original Message Truncated------

Sent from my BlackBerry Wireless Device


6103

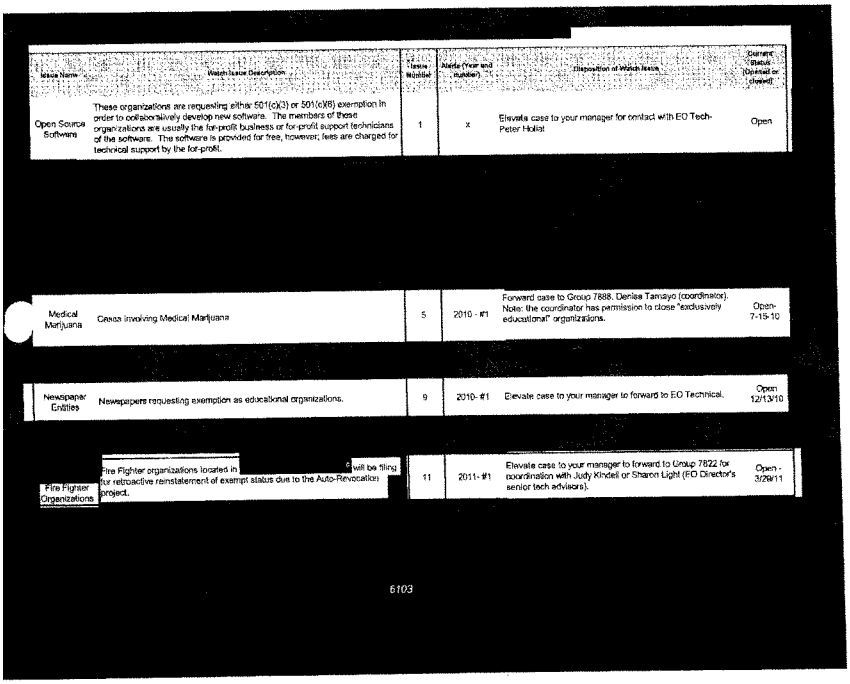


Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. **Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open



Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
Group Rulings	Cases that involve group rulings, whether parent applying for, or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11

6103



Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or Closed)
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however, fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Holist	Open
Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7808, Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open-7-15-10
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/28/11

6103

EO Advocacy Cases
Status Report

Cases:

Number of cases as of 12/16/2011:	165 (127 - 501(c)(4) and 38 501(c)(3))
Number of cases added since 12/16:	46 (13 – 501(c)(4) and 33 501(c)(3))
Number of cases assigned thus far:	119
Number of cases closed:	3 (withdrawals)
Responses received and outstanding as of 2/15/2012:	3

Control date of oldest case to be assigned: April 2011

Actions Taken:

Prior to 9/15/2011:
Coordination with EOT, Chip Hull, and EOD, Ron Bell, to determine actions necessary, etc. Two cases (1 501(c)(3), 1 501(c)(4)) sent to EOT to be worked.

09/15/2011 Excel spreadsheet with list of 162 cases identified as advocacy was sent to EOT to triage.

11/22/2011 Spreadsheet (Attachment 1) returned with comments and suggested actions, along with guidesheet (Attachment 2).

Subsequent to 11/22/2011:
New cases received in the group were re-screened to make sure they should be added to this category of cases.

11/30/2011 EOD Program Manager (Cindy Thomas) met with manager (Steve Bowling) and agent overseeing the project (Stephen Seok) to discuss steps to be taken to address this group of cases.

11/30/2011 – 12/9/2012 Team formed with representatives from each EOD group, as well as EODQA and EOT.

12/16/2011 Team meeting held to explain roles and responsibilities, case assignment process, initial case development, review, dissemination of template questions to be used as a starting point, etc.

Subsequent to 12/16/2011:
Team members requested cases, reviewed them, and sent development questions to Stephen, who reviewed for consistency, prior to issuance. Also, he maintained a file with all development questions.

2/6/2012 Team members started sending development letters without review by Stephen.

Next Steps:

2/23/2012 Meeting scheduled with subgroup to review all questions asked in development letters and to develop a complete list of template questions.

2/29/2012 Meeting scheduled to have a round table discussion with all team members to go over issues noted in case files, responses received, get input regarding list of template questions, ensure coordination with EODQA and EOT, etc.

Subsequent to 2/29/2012:
Stephen will be reviewing proposed case closures and having periodic round table discussions with team members.

OARs:

All but 1 case with an OAR has been assigned. Developmental letters for these cases were issued and copies provided to TAS. Follow up dates on the OARs were established with TAS. Team members were instructed to provide Stephen with all TAS-related correspondence.

Prepared: 2/15/2012

From: Paz Holly O
Sent: Monday, July 23, 2012 2:05 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Attachments: [redacted]doc; [redacted]c3.doc; Political Cases -- Status? (29.1 KB)

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 4:01 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Wednesday, April 13, 2011 3:46 PM
To: Bowling Steven F
Cc: Combs Peggy L; Melahn Brenda; Brandes James A
Subject: FW: Tea Party Cases - DUE 5/31/2011

I spoke with Mike Seto today regarding the tea party cases. He indicated that EOT met with the EO Director's Senior Technical Advisor, Judy Kindell. Judy requested that EOT beef up the c3 denial. She also asked EOT to gather more information regarding the c4 application --- specifically % of time devoted to various activities to ensure the organization was below the 50% level for political activities.

Judy also recommended that all tea party cases be sent to EOT (tell Ron Bell not to get too excited!), but Mike Seto does not believe this should happen. He thinks EOT should give us a template letter for the c3 denials and share developmental questions, etc., for the c4's. Holly will be meeting with Lois to discuss this.

Stay tuned.....

From: Thomas Cindy M
Sent: Thursday, March 31, 2011 7:22 PM
To: Bowling Steven F; Combs Peggy L
Cc: Brinkley Lynn A; Melahn Brenda; Brandes James A
Subject: FW: Tea Party - DUE 5/31/2011

Steve/Peggy,

The email below from Mike Seto provides an update on the tea party cases. As he indicates, the information is being provided so that we can see the direction in which EOT is headed. We still need to continue to work cases to the extent we can and then wait to issue the approval or denial letter. EOT needs to meet with Judy Kindell, senior technical advisor to EO Director, and then with Lois Lerner before they can finalize the guidance for us. I would not expect to receive anything until sometime in May 2011.

Let me know if you have questions/concerns, or any issues with getting the OARs extended until the end of May 2011. Thanks.

From: Seto Michael C
Sent: Thursday, March 31, 2011 5:19 PM
To: Thomas Cindy M
Cc: Paz Holly O
Subject: RE: Tea Party OARs -- STATUS and ESTIMATED COMPLETION DATE

Hi Cindy,

Sorry for the belated response. Here is the status of the two cases:

1. [redacted]6103 - (c)(4) application. The TLS and reviewer recommend a favorable ruling.

2. [redacted]6103 - (c)(3) application. The TLS and reviewer recommends a denial ruling.

The TLS and reviewer are meeting with Judy Kindell to get her views/approval on both applications, and the meeting is scheduled in Mid-April. I think Lois would want to be briefed before we issue either rulings.

Attached are the memorandum outlining the rationale for the favorable (c)(4) application and the proposed denial ruling on the (c)(3) application. The memo and proposed denial ruling will give you an idea of where we are heading on the two cases. Please note both HAVE NOT BEEN REVIEWED BEYOND THE GROUP level. It is therefore doubtful that either document will remain the same through the various levels of review.

I agree with you ideas and would like to discuss. I also have a suggestion. I like to meet once every two weeks to discuss any issues/matters that you or I may have. This will give me an idea on areas that impact you that I am not aware of. We can meet the second and fourth Wed of the month?

Mike

From: Thomas Cindy M
Sent: Wednesday, March 30, 2011 4:04 PM
To: Seto Michael C; Paz Holly O
Subject: FW: Tea Party OARs -- STATUS and ESTIMATED COMPLETION DATE
Importance: High

Holly/Mike,

We are now getting OARs (Congressional inquiries) on the tea party cases (refer to emails below). Also, please refer to the attached email for previous status inquiry requests regarding these cases, and let me know the estimated completion date for getting these cases resolved so that we can be responsive to TAS.

My recommendation is that an action plan be prepared specifying what steps need to be completed, who needs to complete them, estimated completion date of action, etc., and that one person be put in charge of this so that individual can make sure actions are being timely completed so that we can make sure these cases get resolved before the OARs turn into TAOs.

If you would like to discuss, please let me know. Thanks.

From: Combs Peggy L
Sent: Wednesday, March 30, 2011 3:47 PM
To: Thomas Cindy M
Subject: FW: Tea Party OARs

Cindy,

This is a follow-up to our conversation. See e-mail below regarding the open OARS on the tea party cases.

Peggy

From: Slaughter David L
Sent: Tuesday, March 29, 2011 3:14 PM
To: Combs Peggy L
Subject: Tea Party OARs

Peggy, this is a follow-up from our earlier meeting today.

OAR# 1597920 for CF#4944956 [redacted] 6103

We have received two OARs that relates to the Tea Party group. The first was received on February 8, 2011. On February 10, 2011 the OAR was e-mailed to the assigned specialist. On March 17, 2011 we were informed by the specialist assigned that the application was being reassigned to group 7822 to Ron Bell. On March 24, 2011 an e-mail was sent to group manager requesting case assignment. I called the case advocate to request an extension to 3/30/2011 to get the OAR reassigned and at that time confirmed by phone that this was a congressional inquiry. On March 25, 2011 I was informed of the application assignment and the OAR was sent to the specialist and contact was made with TAS.

OAR# 1634434 for CF#4978504 [redacted] 6103

This OAR was received on March 25, 2011. At that time, the application was already assigned to Ron Bell. On March 29, 2011 the OAR was e-mailed to the assigned specialist. Because the OAR came from outside of Cincinnati, it should be a congressional inquiry. However at the time of e-mail I was not certain that this was a congressional inquiry and so stated in the e-mail. However on subsequent review of the OAR, on page 41 of the 72 pages, I found a congressional privacy act release form for Congressman Wally Herger from California.

Therefore, both the OARs are in fact congressional inquiries.

David Slaughter
David Slaughter, Group 7846
TE/GE Liaison Room 4024
Phone: 513-263-4621
Fax: 513-263-5900

MEMORANDUM FOR FILE

Re:

The organization applied for recognition of exemption from federal income tax as a social welfare organization described in IRC 501(c)(4) on

6103

From: Paz Holly O
Sent: Monday, July 23, 2012 2:07 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Attachments: Advocacy Org Guidesheet 11-3-2011 (2).doc

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 5:25 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Sunday, November 06, 2011 11:58 PM
To: Seto Michael C
Cc: Fish David L
Subject: FW: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Thanks -- I'm going to speak with manager with oversight of these cases and will get back with you.

From: Seto Michael C
Sent: Sunday, November 06, 2011 8:05 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Cindy,

I am attaching the draft document for you/staff to look at. When you are ready to give us feedback, let me know and I will set-up a meeting.

From: Fish David L
Sent: Sunday, November 06, 2011 7:31 PM
To: Seto Michael C; Thomas Cindy M
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

Based on feedback received, the document won't work in its present form. I think we need to work with Determs to make it a usable document.

Mike will check with Hilary on clarifying the cases that can be approved, etc.

From: Seto Michael C
Sent: Sunday, November 06, 2011 7:18 PM

To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS

This is the follow-up on my e-mail I sent to you a few minutes ago. I read through the list, and I like to have Hilary to make the list a bit more clear on which cases need to be developed, the type of development needed, whether a particular case can be approved without further development and whether the organization is not an advocacy organization (therefore not needed to be included on the list).

The check/guide sheet is with David, Tom Miller and Judy Kindell for review. I can send you a draft copy. Let me know. I think we may have to clear the check/guide sheet with Lois, but I will check with David.

From: Thomas Cindy M
Sent: Sunday, October 30, 2011 2:23 PM
To: Seto Michael C
Cc: Fish David L
Subject: FW: Advocacy Orgs - Congressionals Coming! WE NEED TO MOVE ON THIS
Importance: High

Mike,

It was my understanding from Holly that the cases were going to be put into buckets, i.e., those that can be approved as is, those that require additional development, and those that appear to be denials. Based on the email below from Hilary, it sounds as though all of those with "General Advocacy" only can be approved as is. Is this your understanding? If so, we can go ahead and get those cases approved right away.

I'm not sure what the hold is on the document/guidance EOT is supposed to be providing for us, but I've received a phone call from an individual who was previously an EO Determinations specialist. He is working with one of these organizations ([redacted 6103]) and is threatening to go to his Congressional Office regarding this organization and others. That is only going to create even more work for us and we need to get letters out to these organizations ASAP.

Please let me know when we can expect to get the document from EOT. Thanks.

From: Goehausen Hilary
Sent: Wednesday, October 26, 2011 1:20 PM
To: Thomas Cindy M
Cc: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs - Where Do We Stand?
Importance: High

Hi Cindy,

Below are comments that I made explaining some of my notations on the cases in Excel. My understanding from speaking with Mike was that I was to review the cases to determine whether the cases were clearly lobbying or engaging in political campaign activities, or if an organization was not engaged in either and therefore was simply engaging in general advocacy (educational/issue advocacy activities etc). Where I had concerns about whether the c3s and c4s were actually engaging in good c3/c4 activities – and not just making inflammatory, emotionally charged statements without any factual support or educational aspect to their activities -- I made notes reflecting such. Where it simply states "general advocacy" or "general advocacy/legislative advocacy" (or lobbying), without comments, those organizations appeared to be fine (no development).

If you would like me to provide a definitive answer on what organizations can go Favorable, I can do that (these would be the cases where I noted "general advocacy." However, many appear to need more information (as noted in the comments in Excel).

-- I have marked asterisked (*) c3's that based on their Form 1023 and/or website are engaging in prohibited political campaign activities.

-- I use political activities/political campaign intervention/candidate election activities interchangeably to denote political activities.
-- While many of the c4 organizations appear to be engaging in general advocacy (issue advocacy/educational activities), many of these "social welfare activities" may need further development because their websites include substantial inflammatory/strong emotional rhetoric, articles, etc. that really do not appear to be educational in most or any aspect, provide any factual background for the viewpoints expressed, and therefore may not qualify as good c4 activities (promotion of social welfare, common good, etc.). Where there are questions relating to this and concerns about the activities (ie development would be needed), I have made comments.
-- Where I commented that a website needs to be verified means that the org didn't provide their website address on their Form 1023/1024 but I located it during a web search and it would need to be confirmed by the taxpayer.
-- Where I denoted the activity of the org as "general advocacy," this means I didn't find any indication the org was engaging in political activities or lobbying at all. However, as mentioned above in #3, I made additional notations on such organizations and whether they were even educational, issue advocacy, etc., or whether the activities appear to be propaganda, based on personal emotions, inflammatory, and without any or little factual basis for statements made (ie generally bad c3/c4 activities).

If there are any questions, please let me know. Also, we are in the process of drafting the Advocacy Org Guidesheet and it is circulating for review among our group currently. I don't have a date on when we can get that to you, but will speak with Mike and Justin.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

From: Thomas Cindy M
Sent: Tuesday, October 25, 2011 7:17 PM
To: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs - Where Do We Stand?
Importance: High

Ted/Mike,

Not sure where this leaves us and I'm unclear as to what action is being suggested for some of these cases. Specifically, if the comment indicates "general advocacy," what does that mean --- additional development or what?

Also, where do we stand with the document Justin Lowe or others from D.C. were putting together with lessons learned, suggested developmental questions for those applying under c3 and for those applying under c4, sample denial letter, etc.? We're starting to get a lot of heat from the public on these cases sitting idle and now have Congressionals on some of these. What is the plan of action and estimated completion date? Thanks.

From: Lieber Theodore R
Sent: Monday, October 24, 2011 1:08 PM
To: Thomas Cindy M
Cc: Seto Michael C
Subject: Advocacy Orgs_Cincinnati.xls

Attached are Hillary comments from the screened cases.

Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) **Political Campaign Intervention:**

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) **Lobbying:**

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) **General Advocacy:**

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) **IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) **IRC 501(c)(4) organizations:**

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) **IRC 501(c)(5) organizations:**

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) IRC 501(c)(6) organizations:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) IRC 527 organizations:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including 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.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; **Must Not Constitute Primary Activity Of Organization**	YES
Engage in lobbying	LIMITED;	YES;	LIMITED

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
    - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
    - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
    - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
    - What is the location, date and time of the events.
    - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
    - How many resources (funds/employees/volunteers) are devoted to the activity?
    - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
    - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
    - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
    - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office? Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.		
B.	Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.		
	Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	**Personal Endorsements:** Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one		

	candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.) • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert, or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • Does the communication to the public include a "call to action" such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

From: Paz Holly O
Sent: Tuesday, July 24, 2012 12:54 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: potential revised BOLO language

From: Light Sharon P
Sent: Thursday, May 17, 2012 5:54 PM
To: Marks Nancy J; Kindell Judith E; Lerner Lois G; Paz Holly O; Thomas Cindy M
Subject: RE: potential revised BOLO language

Agreed. For screening, I would think you would look for significant amounts of any non-exempt activity. Seems like you'd have to dig in to figure out whether it all amounts to being primary or not.

From: Marks Nancy J
Sent: Thursday, May 17, 2012 5:46 PM
To: Kindell Judith E; Lerner Lois G; Light Sharon P; Paz Holly O; Thomas Cindy M
Subject: RE: potential revised BOLO language

that was my thinking as well

From: Kindell Judith E
Sent: Thursday, May 17, 2012 5:43 PM
To: Lerner Lois G; Marks Nancy J; Light Sharon P; Paz Holly O; Thomas Cindy M
Subject: RE: potential revised BOLO language

I see the rationale for both - but we could argue that we are looking at those that appear to have significant private benefit to determine whether it is excess

---

From: Lerner Lois G
Sent: Thursday, May 17, 2012 5:41 PM
To: Marks Nancy J; Light Sharon P; Kindell Judith E; Paz Holly O; Thomas Cindy M
Subject: RE: potential revised BOLO language

I made the same comment but Holly pointed out that for private benefit--the standard is excess. So, whereas we can say you need significant political activity to look because we are looking at what the primary activity is--I'm not sure we can use other than the standard to describe the private benefit--thoughts?

Lois G. Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Thursday, May 17, 2012 5:23 PM
To: Light Sharon P; Kindell Judith E; Paz Holly O; Lerner Lois G; Thomas Cindy M
Subject: RE: potential revised BOLO language

I think Sharon is right significant is a more helpful guideline although excess is not wrong.

From: Light Sharon P
Sent: Thursday, May 17, 2012 5:11 PM
To: Kindell Judith E; Paz Holly O; Lerner Lois G; Marks Nancy J; Thomas Cindy M
Subject: RE: potential revised BOLO language

I might drop out "excess." I think a significant amount of private benefit makes more sense.

From: Kindell Judith E
Sent: Thursday, May 17, 2012 5:01 PM
To: Paz Holly O; Lerner Lois G; Marks Nancy J; Light Sharon P; Thomas Cindy M
Subject: RE: potential revised BOLO language

Looks fine to me

From: Paz Holly O
Sent: Thursday, May 17, 2012 4:59 PM
To: Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M
Subject: RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to [redacted] and Occupy groups.

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention or excess private benefit to organizations or individuals. Note: typical advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

From: Paz Holly O
Sent: Wednesday, August 08, 2012 3:52 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Watch List ALerts
Attachments: Copy of Combined Spreadsheet TAG 8.10.10.xls

Importance: Low

From: Bell Ronald D
Sent: Wednesday, August 08, 2012 3:38 PM
To: Paz Holly O
Subject: FW: Watch List ALerts
Importance: Low

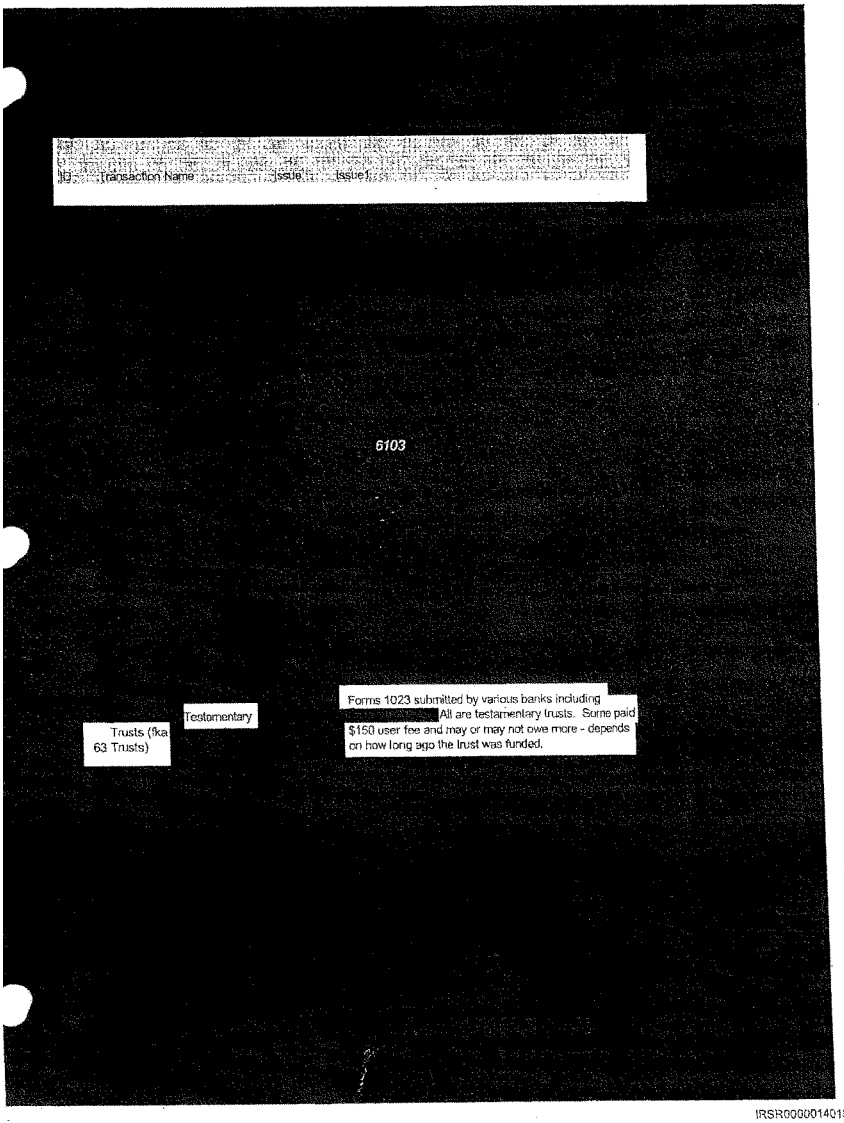
From: Hofacre Elizabeth L
Sent: Tuesday, August 10, 2010 8:07 AM
To: Allen Karen J; &TEGE:EO:RA Determ:Area1; &TEGE:EO:RA Determ:Area2; Abner Donna J; Brinkley Lynn A; Camarillo Sharon L; Melahn Brenda; Thomas Cindy M
Subject: Watch List ALerts
Importance: Low

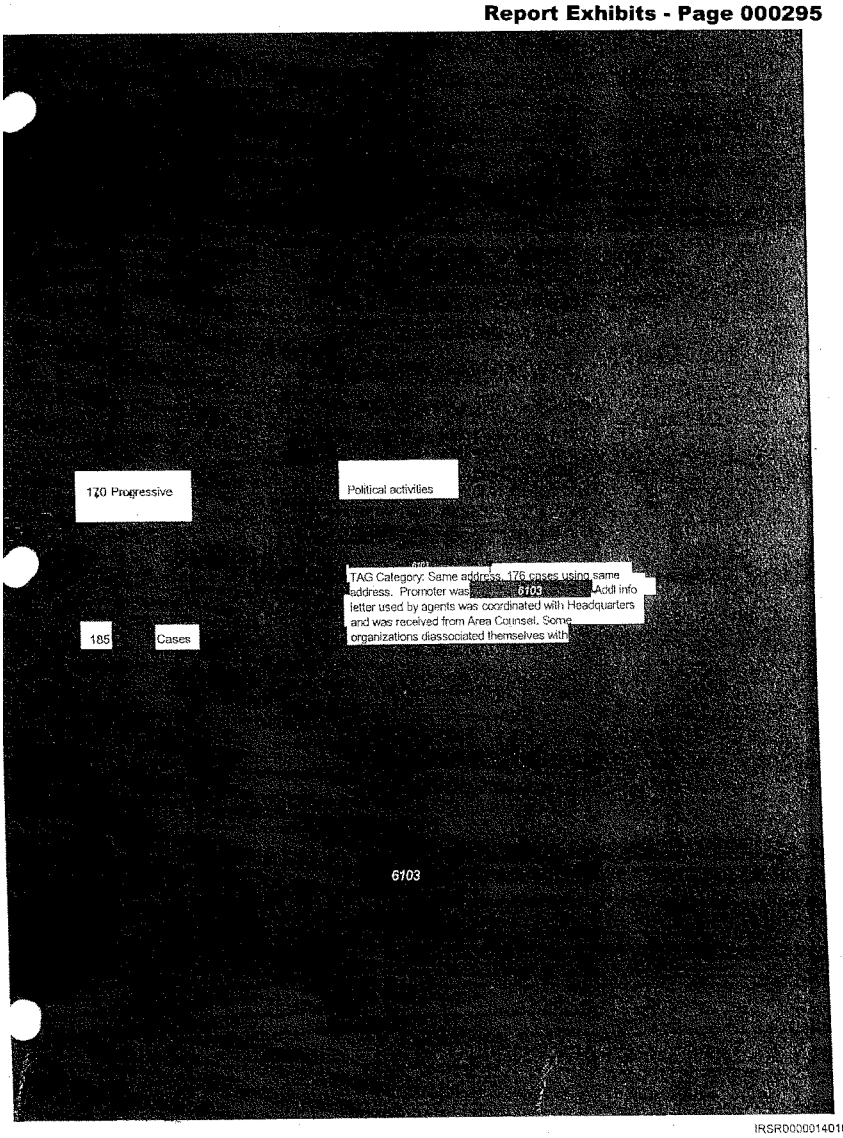
All,

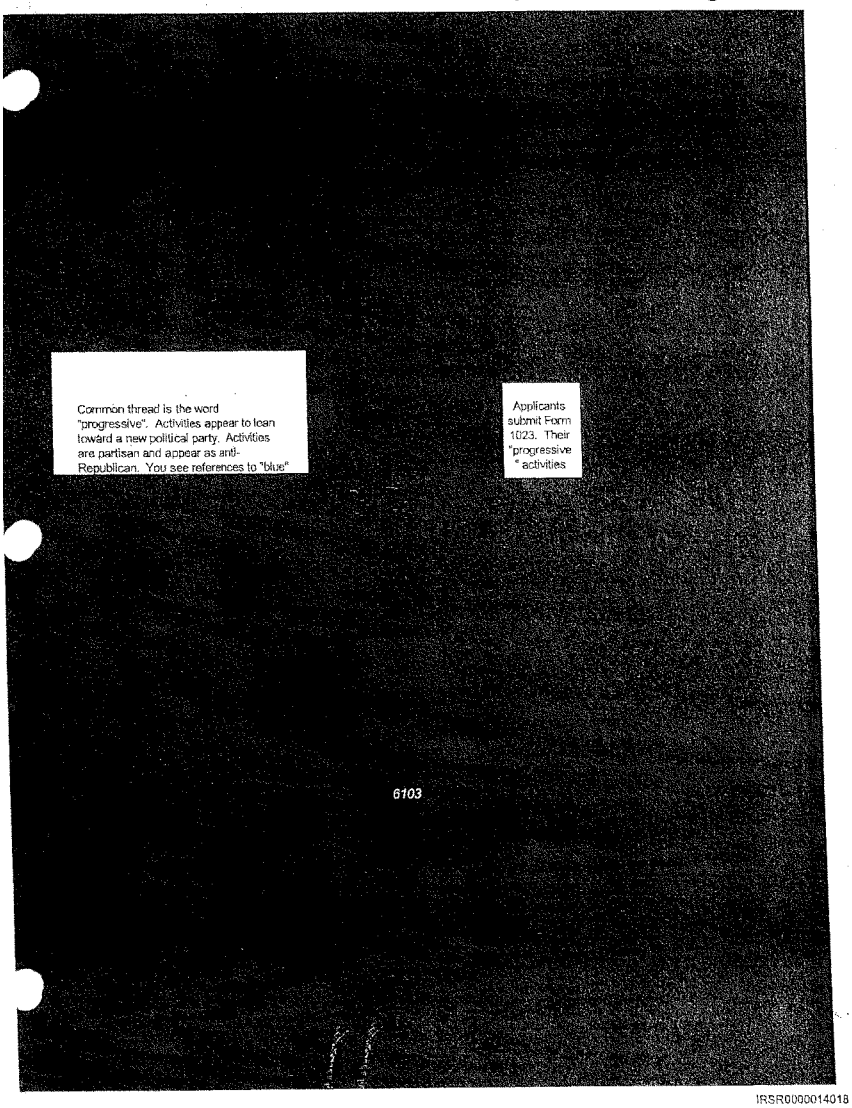
Enclosed is the combined spreadsheet with additional issues 11, and 12 under the Watch list tab. In addition, the new name for these alerts will be BOLO (Be on the look out).

Thanks,
Liz Hofacre

TEGE EOD Emerging Issues Coordinator
513-263-3605


Transaction Name
Issue
Issue
6103
Trusts (fka 63 Trusts)
Testamentary
Forms 1023 submitted by various banks including
All are testamentary trusts. Some paid $150 user fee and may or may not owe more - depends on how long ago the trust was funded.


170 Progressive
Political activities
TAG Category: Same address. 176 cases using same address. Promoter was 6103 Addl info letter used by agents was coordinated with Headquarters and was received from Area Counsel. Some organizations diassociated themselves with
185
Cases
6103


Common thread is the word "progressive". Activities appear to lean toward a new political party. Activities are partisan and appear as anti-Republican. You see references to "blue"
Applicants submit Form 1023. Their "progressive " activities
6103

Issue Name	Issue Description	Issue Number	Alerts (Year and number)
[redacted]	6103		
Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x

Disposition of Emerging Issue	Current Status (Opened or Closed)	
[redacted] 6103		
Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

Issue Name	Watch Issue Description		Issue Number	Alerts (Year and Number)	Disposition of Watch Issue
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.	1	x		The is no specific guidance at this point. If you see a case, elevate it to your manager.
RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).	2	x		These cases should be transferred to EOT.
Healthcare legislation	Per Rob Choi memo dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.	4	x		New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.
Medical Marijuana	Memo dated 7/15/10. Look for cases involving Medical Marijuana	7	x		Forward cases to processing who will forwar the cases to Denise Tamayo, group 7888

6103

From: Thomas Cindy M
Sent: Wednesday, September 05, 2012 8:37 PM
To: Medina Cheryl J TIGTA
Cc: Paz Holly O
Subject: Advocacy Cases - Status Request

From: Bowling Steven F
Sent: Friday, January 28, 2011 1:25 PM
To: Thomas Cindy M
Cc: Brinkley Lynn A
Subject: RE: Political Cases -- Information
Importance: Low

Just a reminder about following up on the tea party cases. Also, Ron has been contacted by TAS on one case.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Monday, December 13, 2010 8:17 PM
To: Camarillo Sharon L; Bowling Steven F
Subject: FW: Political Cases -- Information

Refer to Holly's email directly below for a status update re: tea party cases. I'll put in follow up for the end of January.

From: Paz Holly O
Sent: Monday, December 13, 2010 4:54 PM
To: Thomas Cindy M
Cc: Trilli Darla J
Subject: RE: Political Cases -- Status?

We will be going to Judy shortly with the proposal to grant exemption to the c4 applicant we have here; the memo recommending approval of c4 is being finalized this week. The c3 application is not yet ready for discussion with Judy - TP's response to development letter is under review. We expect to move that to Judy sometime in January.

From: Thomas Cindy M
Sent: Monday, December 13, 2010 11:33 AM
To: Paz Holly O
Cc: Trilli Darla J
Subject: FW: Political Cases -- Status?

Holly,

Has there been any update regarding the tea party cases as far as the discussion with Judy Kindell?

From: Thomas Cindy M
Sent: Saturday, November 20, 2010 9:59 AM
To: Camarillo Sharon L; Bowling Steven F
Subject: FW: Political Cases -- Information
Importance: High

Sharon/Steve,

I had a discussion with Holly Paz on Wednesday (11/17) afternoon to again discuss the tea party cases. She advised me that we were sending applicable parts of the application package to EOT along with the additional information letter and that based on this information they are finding that not all of the tea party cases have the same issues. This is why they have not been able to prepare a template letter with additional information questions. EOT is putting together a briefing paper and going to discuss the various issues in these cases with Judy Kindell (Senior Technical Advisor to EO Director). If Judy does not believe they have a basis for denial for the egregious situations, then they will most likely recommend all cases be approved.

In the meantime, the specialist(s) need to continue working the applications as they have and will need to advise applicants that the cases are still under review. If this has not been finalized by 12/13/2010, please follow up with me and I will ask for a status report from Holly. Also, if we are not sending applicable parts of the application package to EOT and are just sending the additional information letter, I need to know so that I can get back with Holly to find out what basis they are using to determine cases are different.

If you have questions/concerns regarding this, please let me know. Thanks.

From: Thomas Cindy M
Sent: Tuesday, October 26, 2010 3:57 PM
To: Paz Holly O
Subject: Political Cases -- Need to Discuss
Importance: High

Holly,

This is a follow up to my voice message. I have a concern with the approach being used to develop the tea party cases we have here in Cincinnati. Apparently, an additional information letter is prepared for each case and the letter is faxed to Chip Hull for him to review. After he reviews, we send out the letter. In some instances, the organizations have responded and we are just "sitting" on these cases. Personally, I don't know why Chip needs to look at each and every additional information letter. It seems to me that if he reviewed a template letter and approved it, we should be good to go. Then, when we get responses, we need to coordinate these cases as a group and not try to work them one by one. Right now, I believe we have approximately 45 or more of these cases.

Should these cases be transferred to EOT? If not, could we schedule some time to discuss the approach that is being used and come up with a process so we can get these cases moving? Thanks.

From: Bowling Steven F
Sent: Monday, March 05, 2012 7:38 AM
To: Seok Stephen D
Subject: FW: BOLO case

Stehen,

Go ahead and develop this case.

Thanks,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Monday, March 05, 2012 8:04 AM
To: Bowling Steven F
Subject: RE: BOLO case

I'd recommend that Stephen go ahead and send an additional information letter to this organization. It sounds as though they're claiming to be educational and we'll need to figure out whether it meets the requirements under Rev. Proc. 96-23 (or whatever that Rev Proc number is).

From: Bowling Steven F
Sent: Friday, March 02, 2012 11:27 AM
To: Thomas Cindy M
Subject: FW: BOLO case

Cindy,

Please read below. Stephen completed his review of the BOLO case. Also, I'm not so sure these cases would present a media problem as they do not seem to be that sophisticated. But we can't tell until we start working them.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Seok Stephen D
Sent: Friday, March 02, 2012 9:13 AM
To: Bowling Steven F
Subject: RE: BOLO case

Steve,

I agree wholly. It certainly is in the BOLO category. I think we need to do full development. So far, it looks like denial due to its strong advocacy intension.
However, I think the focus of development questions should be somewhat different from ones that may conduct political campaigns (the organizations we had developed so far) as the likelihood this organization will do direct political campaigns is slim. My opinion is:

1) We focus whether it is educational or not (too much advocacy and protest activities).
2) We still want to make sure there is no direct or indirect political intervention in the activities - maybe one or two questions?

Thank you,
Stephen.

From: Bowling Steven F
Sent: Thursday, March 01, 2012 4:35 PM
To: Seok Stephen D
Subject: RE: BOLO case

Thanks Stephen. I quickly looked at their supporting documents and the purpose clause in their AOI seem to mirror the description on the BOLO.

[redacted] 6103

How do you think we should handle this? It looks like there could be quite a bit of development.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Seok Stephen D
Sent: Thursday, March 01, 2012 3:23 PM
To: Bowling Steven F
Subject: FW: BOLO case

Steve,

I've finished reviewing this case. It did not provide any activity details in its application. However, according to its AOI and Schedule B narrative, their:

Purposes:
1) [redacted]
2)
3)
4)

Activities:
It will achieve its goals by educating people and conducting non-violent civil demonstrations and citizens action protests.

As a whole,it seems that this Org. does not quite fit in "[redacted]" category, but similar.

Please let me know if I need further development.

Thank you.
Stephen.

From: Seok Stephen D
Sent: Thursday, March 01, 2012 12:11 PM
To: Bowling Steven F
Subject: RE: BOLO case

Ok, Steve, I will start it right away and let you know the issues of the case.

Thank you,
Stephen.

From: Bowling Steven F
Sent: Thursday, March 01, 2012 12:08 PM
To: Seok Stephen D
Subject: RE: BOLO case

Stephen,

If you have time, could you go ahead and work this one. We want to see what we are dealing with since it is the first one. Once you complete your review, please let me know what the issues are.

Thanks,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Bowling Steven F
Sent: Wednesday, February 29, 2012 1:47 PM
To: Seok Stephen D
Subject: BOLO case

Stephen,

We have our first "occupy" type organization. We were thinking that these could be worked by the same agents working the political type cases. I went ahead and assigned it to your inventory with the case category BOLO.

6103

Thanks,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Seok Stephen D
Sent: Sunday, May 27, 2012 10:51 AM
To: Chumney Tyler N; Bell Ronald D
Subject: RE: Occupy Cases - Watch List Case Identified
Attachments: TEDS_6103_2nd_Not Sent Yet.doc; TEDS_6103_1312.doc; 6103_Summary.doc

Tyler & Ron,

Attached please find a summary of the activities and issues and letters of the Occupy case. The case file is on Tyler's desk and the case application and my letter are available via TEDS, if you need. I am on leave next Tuesday. However, I am planning to be in office on Wednesday May 30. I will be happy to discuss this further when I come back to office, if you still need a discussion.

Thank you,
Stephen.

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:33 PM
To: Seok Stephen D; Bell Ronald D
Subject: FW: Occupy Cases - Watch List Case Identified

Stephen & Ron,

Re: 6103

Stephen - Provide to Ron a summary of the activities and issues in the Occupy case you have, also provide Ron a copy of the letter(s) you have sent
Ron - Please prepare a summary of the above Occupy case and what is similar with the cases

Come see me Tuesday May 29 so we can discuss this briefly.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:28 PM
To: Combs Peggy L
Subject: Occupy Cases - Watch List Case Identified

Peggy,

Re: 6103

Do the "occupy" cases meet the Current Political Issues description? No, these cases have not been considered to be Current Political Issues. The BOLO Watch List Tab Issue Description number 21 'Occupy Organizations' includes the text

"social injustices due to "big-money" influence." Although this is similar to the Emerging Issue Tab for the BOLO Advocacy Political cases with the EI-1 Issue Description that includes the text "Social economic reform/movement" my understanding is that these Occupy organizations are not advocating expanding/limiting the government.

The above case was screened by Ron, he has determined it is an "Occupy" issue. I do not know who screened the other "Occupy" case that Stephen has.

As for getting these case to the bickerers or the assignment and development by someone who has gotten the May 2012 EO DC folks Advocacy training please let me know.

I do not know the specifics of the case but I will be getting this information. I will obtain and forward to you a summary that will include the following:
- the issues
- if the issues are similar to the case Stephen has
- the letter Stephen has sent

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Combs Peggy L
Sent: Friday, May 25, 2012 1:36 PM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Do the "occupy" cases meet the Current Political Issues description? Did Ron look at them? Are they politically advocating for economic reform? If so, I think we need to let the bickerers take a look at these two cases as well. If Ron hasn't looked at it, please give it to him to take a look.

If not a Current Political Issue, then please send Stephen's additional information letter to me on the one he has - I'd like to take a look at it to see what the issues are before we proceed.

Thanks.

From: Combs Peggy L
Sent: Friday, May 25, 2012 8:23 AM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Are these cases considered advocacy cases per the BOLO? If so, I would think that we would want to have these developed by someone who has received the recent training. If not, is there a separate description for them on the BOLO?

Did Ron screen the case already? What are the issues in the case? Are they similar to the issues in the case Stephen has? Can you have any additional information letters Stephen has sent scanned and e-mailed to me?

Thanks.

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:34 PM
To: Combs Peggy L
Subject: FW: Watch List Case Identified

Peggy,

There is one other "Occupy" case, Steve Bowling just called to let me know this. He also told me it is assigned to Stephen Seok who is developing the case.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:23 PM
To: Combs Peggy L
Subject: Watch List Case Identified

Peggy,

Re: [redacted] 6703

This is an "Occupy" organization on the watch list issue number 21.

"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward case

Please let me know any updates or concerns regarding this situation and if it should be elevated. For instance should a summary be prepared?

Let me know how this case should be handled. Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

6103

, EIN: 6103

Activities:

6103

Issue:

Applicant applied for c3 exemption. Is its advocacy exclusively educational?

THESE PAGES REDACTED BY IRS

From: Seok Stephen D
Sent: Thursday, May 31, 2012 12:15 PM
To: Chumney Tyler N
Subject: RE: Occupy Case

Tyler,

I do not have any of BOLO Advocacy Political cases including Occupy kinds and screening cases.

Thank you,
Stephen.

From: Seok Stephen D
Sent: Wednesday, May 30, 2012 7:03 AM
To: Chumney Tyler N
Subject: RE: BOLO Advocacy Political Cases

Good morning Tyler,

I do not have any BOLO Advocacy Political case files including secondary screening.

Stephen.

From: Chumney Tyler N
Sent: Tuesday, May 29, 2012 7:47 AM
To: Seok Stephen D
Subject: RE: BOLO Advocacy Political Cases

Stephen,

I got the cases, thank you.

Are there any other cases that you have that are BOLO Advocacy Political?

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

From: Chumney Tyler N
Sent: Thursday, May 31, 2012 11:34 AM
To: Seok Stephen D
Subject: Occupy Case

Stephen,

You indicated you had an Occupy case. This cases needs to go to the bucketing team today. Would you let me know where it is so I can get it to them, thanks.

Tyler Chumney
TE/GE EOD Manager Grp 7822
513-263-4583

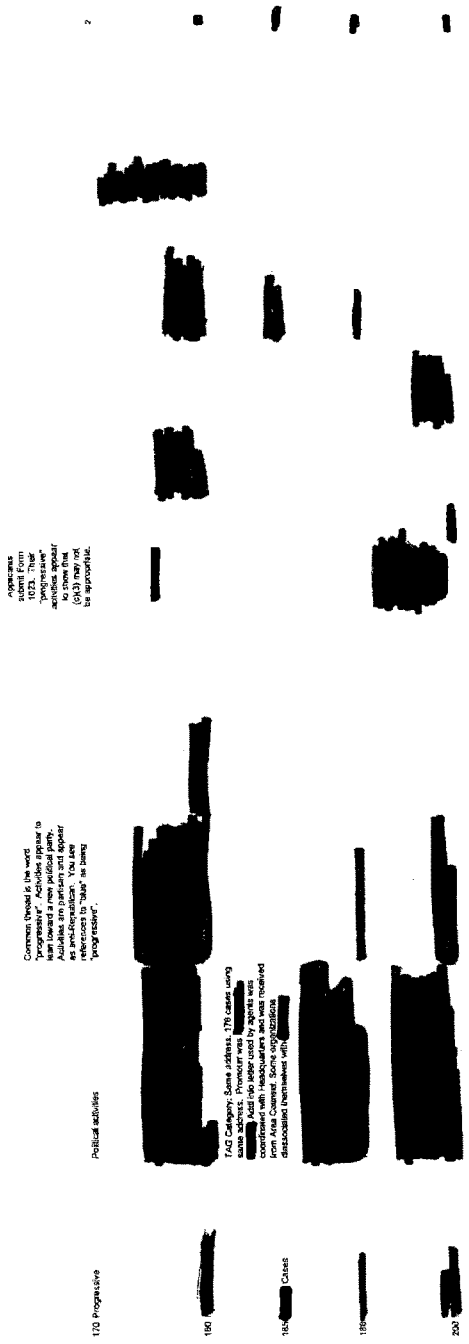
From: Paz Holly O
Sent: Friday, May 04, 2012 2:28 PM
To: Medina Cheryl J TIGTA; Seidell Thomas F TIGTA; McGovern Michael A TIGTA
Cc: Thomas Cindy M
Subject: FW: BOLO Alert
Attachments: BOLO Spreadsheet 03262012.xls

Importance: High

Attached is the BOLO list.

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258



Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

Issue Number	Issue Name	Issue Description	ROA	Disposition	Current Status (Opened or closed)							
18	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]							
1	Corporation Sole	The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles like Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc. The applicant may or may not request church classification.		Forward case to Group 7824	Open							
2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]							
3	Fictitious Exemption Letter	Determination letter submitted appears questionable. May include incorrect information or may appear invalid due to format, font, etc.		Forward case to Group 7824	Open							
4	Puerto Rico[redacted]	Applicant usually has a Puerto Rico address. Activities involve elderly or low-income housing, operating a school, and head-start programs. The return address on the original or photocopy of the envelope may be [redacted] Federal government grants is listed as the primary source of income. Other identifying factors include [redacted]	[redacted]	Forward case to Group 7824	Open							
5	[redacted]	[redacted]		[redacted]	[redacted]							
7	[redacted]	[redacted]		[redacted]	[redacted]							

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

9	Charity Owned Life Insurance (CHOLI) or Annuity	Applicant may show that it is the beneficiary of an insurance policy and/or annuity. Individual loans money (possibly their IRA) to the charity; charity uses the money to pay the policy costs/premiums and in turn the charity pays to the donor interest on the loan. May be referred to as a Charity Owned Life Insurance (CHOLI). May be administered by [redacted] may also be mentioned in the application. Programs involves a high value insurance policy, where the applicant will receive 10% of the face value of the insurance if they show that they are 501(c)(3)		Forward case to Group 7824	Open								
9	[redacted]	[redacted]		[redacted]	[redacted]								
10	[redacted]	[redacted]		[redacted]	[redacted]								
11	Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees.		Forward case to Group 7824	Open								
12	Pain Management Clinics	Pain management clinics in [redacted] applying for exemption under 501 (c)(3) of the Code. These clinics appear to be involved in abusive schemes as they are forming to avoid state licensing and oversight requirements		Forward case to Group 7824	Open								
13	[redacted]	[redacted]		[redacted]	[redacted]								
14	[redacted] Foundations	Potentially abusive foundations formed in [redacted] Applicants all have Foundation in their name, requesting 509(a)(2) status, 31-page bylaws, and reported projected revenues of $2,000, $5,000, $7,000 and $10,000		Forward case to Group 7824	Open								
15	[redacted]	[redacted]		[redacted]	[redacted]								
16	[redacted]	[redacted]		[redacted]	[redacted]								

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform / movement. **Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014256

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Group Rulings	Cases that involve group rulings, whether parent applying for; or subordinate leaving a group ruling need to be worked in Group 7829, unless the type of case is reserved for another group. For those cases that are reserved for other groups, coordination with Group 7829 is required before the case is closed.	5	Forward case to Group 7829	Open - 8/25/1

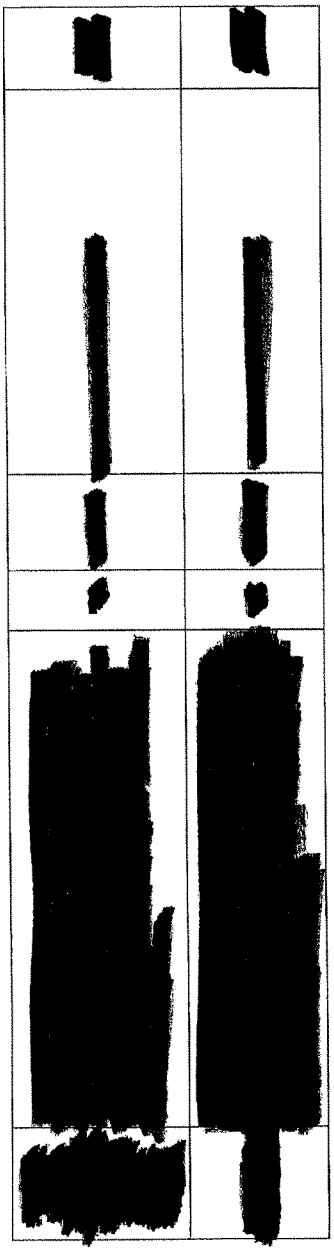
Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Holiat	Open
ACORN successors	Local chapters of the former ACORN organization have [redacted] Succession indicators include [redacted] and [redacted] in the name and/or throughout the application.	2	x	Elevate case to your manager for contact with EO Tech - Chip Hull.	Open
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open-7-15-10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011- #1	Coordinate processing with Mitch Steele, Group 7827.	Open - 7/11/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 - #1	Forward cases to Group 7822.	Open 1/25/12

Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258



Enlarged for Legibility; Produced on August 14, 2013, as Bates IRSR0000014254 - IRSR0000014258

From: Spellmann Don R
Sent: Tuesday, February 28, 2012 8:44 AM
To: Cook Janine; Judson Victoria A
Cc: Brown Susan D
Subject: RE: Advocacy Org Guide Sheet

Lois told me the Hill gripes include the applications are taking too long to process, the requests for information are too burdensome, and some types of organizations (like Tea Party) are being singled out for greater scrutiny.

From: Cook Janine
Sent: Tuesday, February 28, 2012 9:29 AM
To: Spellmann Don R; Judson Victoria A
Cc: Brown Susan D
Subject: Re: Advocacy Org Guide Sheet

Vicki, one other background piece is that Lois (and others from the client, I assume, but don't know who) went to the Hill last week to discuss the topic
Sent by my Blackberry

From: Spellmann Don R
To: Judson Victoria A
Cc: Cook Janine; Brown Susan D
Sent: Tue Feb 28 09:13:58 2012
Subject: Advocacy Org Guide Sheet

Hi Vicki,

We wanted you to be aware that the EO client asked us for an accelerated review of a guide sheet they drafted for organizations that engage in lobbying, political intervention and general issue advocacy. It summarizes the law for applicable organizations (social welfare, labor, business leagues and political organizations), explains how to distinguish politics from issue advocacy, and provides comprehensive case development questions. EO will use the guide to process exemption applications and provide general guidance to the public on irs.gov. The turnaround time is very quick (under 2 weeks). EO is under a lot of pressure from the Hill to share it with them and publicly distribute it. The guide sheet is good, but needs a fair amount of work throughout. Susan and I are the primaries on the project.

Please let us know if you have any questions.

Don

From: Stemer Christopher B
Sent: Monday, April 29, 2013 3:41 PM
To: Wilkins William J
Cc: Stemer Christopher B
Subject: TIGTA Draft (c)(4) Report
Attachments: SecureZIP Attachments.zip

As discussed.

From: Flax Nikole C [mailto:Nikole.C.Flax@irs.gov]
Sent: Tuesday, April 16, 2013 10:37 AM
To: Stemer Christopher B
Subject: FW: TIGTA on (c)(4)s, etc. - 201210022-Draft Report

Here is the c4 report.

From: Daly Richard M
Sent: Friday, April 12, 2013 3:08 PM
To: Flax Nikole C
Subject: TIGTA on (c)(4)s, etc. - 201210022-Draft Report

Hello, Nikole,

FYI. It just arrived. I'm looking into why the response time is short (two weeks rather than 30 days).

Mike

From: Rutstein Joel S
Sent: Friday, April 12, 2013 2:43 PM
To: Daly Richard M
Cc: Landes Scott S
Subject: FW: 201210022-Draft Report

Hi Mike. TIGTA just issued the draft report, the discussion draft report for which we discussed last week. I've opened e-trak case #2013-41614. The response is due to TIGTA by April 30, 2013. Do you know why they're giving you less than the customary 30 days? Thanks, Joel

Joel S. Rutstein, Esq.
Program Manager, GAO/TIGTA Audits
Legislation and Reports Branch
Office of Legislative Affairs
(202) 622-4133
(202) 622-5247 (fax)
Email: joel.s.rutstein@irs.gov
Web: http://inweb.irs.gov/AboutIRS/bu/ci/la/lact/default.aspx

---

From: Stephens Dorothy A TIGTA [mailto:Dot.Stephens@tigta.treas.gov]
Sent: Friday, April 12, 2013 2:19 PM

IRSR0000014719

To: Landes Scott S; Rutstein Joel S
Subject: 201210022-Draft Report

Fyi, the attached Draft Audit Report – *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* has been signed and is ready for issuance. Thanks

Dorothy Stephens
Staff Assistant to the DIGA
IG for Tax Administration
Office of Audit (OA)
(202) 927-7161 (office)
(202) 622-6515 (fax)

IRSR0000014720

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

DRAFT

This report remains the property of the Treasury Inspector General for Tax Administration (TIGTA) and may not be disseminated beyond the Internal Revenue Service without the permission of the TIGTA. This report may contain confidential return information protected from disclosure pursuant to I.R.C. § 6103(a). Such information may be disclosed only to Department of the Treasury employees who have a need to know this information in connection with their official tax administration duties.

Phone Number / ***202-622-6500***
E-mail Address / ***TIGTACommunications@tigta.treas.gov***
Website / ***http://www.treasury.gov/tigta***

IRSR0000014721

HIGHLIGHTS

INAPPROPRIATE CRITERIA WERE USED TO IDENTIFY TAX-EXEMPT APPLICATIONS FOR REVIEW

Highlights

Draft Report Issued on April 12, 2013

Highlights of Audit Number: 201210022 to the Internal Revenue Service Acting Commissioner, Tax Exempt and Government Entities Division.

IMPACT ON TAXPAYERS

Early in Calendar Year 2010, the IRS began using inappropriate criteria to identify organizations applying for tax-exempt status to review for indications of significant political campaign intervention. Although the IRS has taken some action, it will need to do more so that the public has reasonable assurance that applications are processed without unreasonable delay in a fair and impartial manner in the future.

WHY TIGTA DID THE AUDIT

TIGTA initiated this audit based on concerns expressed by members of Congress. The overall objective of this audit was to determine whether allegations were founded that the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups.

WHAT TIGTA FOUND

The IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based upon their names or policy positions instead of indications of potential political campaign intervention. Ineffective management: 1) allowed inappropriate criteria to be developed and stay in place for more than 18 months, 2) resulted in substantial delays in processing certain applications, and 3) allowed unnecessary information requests to be issued.

Although the processing of some applications with potential significant political campaign intervention was started soon after receipt, no work was completed on the majority of these applications for 13 months. This was due to delays in receiving assistance from the Exempt Organizations function Headquarters office. For the 296 total political campaign intervention applications we reviewed, as of December 17, 2012, 108 had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 were open from 206 to 1,138 calendar days (some for more than three years and crossing two election cycles).

More than 20 months after the initial case was identified, processing the cases began in earnest. Many organizations received requests for additional information from the IRS that included unnecessary, burdensome questions (e.g., lists of past and future donors). The IRS later informed some organizations that they did not need to provide the information that was previously requested. IRS officials stated that any donor information received in response to a request from its Determinations Unit was later destroyed.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Exempt Organizations, finalize the interim actions taken, better document the reasons why applications potentially involving political campaign intervention are chosen for review, develop a process to track requests for assistance, finalize and publish guidance, develop and provide training to employees before each election cycle, and expeditiously resolve remaining political campaign intervention cases, some of which have been in process for three years. In addition, TIGTA recommended that the Acting Commissioner, Tax Exempt and Government Entities Division, request that social welfare activity guidance be developed by the Department of the Treasury.

IRSR0000014722

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

April 12, 2013

Response Date
April 30, 2013

MEMORANDUM FOR ACTING COMMISSIONER, TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

FROM: Michael McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Draft Audit Report – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review (Audit # 201210022)

Attached for your review and comments is the subject draft audit report. The overall objective of this review was to determine whether allegations were founded that the Internal Revenue Service (IRS): 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications for tax-exempt status, and 3) requested unnecessary information from targeted groups. This audit was initiated based on concerns expressed by members of Congress and reported in the media regarding the IRS's treatment of organizations applying for tax-exempt status. This review was included in our Fiscal Year 2013 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

We would appreciate receiving the IRS's response to the findings and recommendations in this draft report within 15 calendar days from the date of this memorandum. We are also providing the Director, Office of Legislative Affairs, copies of the report for appropriate distribution within the IRS.

Our recommendations will provide the following measurable benefits on tax administration: actual improved reliability of information for nine taxpayer case files that were either incomplete or could not be located for us to review; potential improved reliability of information for 185 organizations that filed tax-exempt applications which were not appropriately identified as having significant potential campaign intervention; potential reduced taxpayer burden for 158 organizations that waited longer than average for the IRS to make a decision regarding their tax-exempt status; and potential reduced taxpayer burden for 98 organizations that received additional information request letters with questions that were later deemed unnecessary by the

Exempt Organizations function. Appendix IV of this report provides a detailed description of these benefits, which will be included in our Semiannual Report to Congress. Please include in your response your concurrence o r nonconcurrence with the described benefits. If you do not concur, the response should specify the amount at issue as well as the reason for nonconcurrence.

It is our policy to make all Inspector General audit reports available to the public. Accordingl y, we are also asking you to review the draft report from a disclosure perspective. If you identify any information in the report that would warrant protection under the Freedom of Information Act, the Internal Revenue Code, the Privacy Act, or any other applicable laws, please advise us as to the specific material needing protection and the justification for requesting that the information be withheld. It is important that you articulate how the release of this information could impair tax administration. You should respond to the disclosure review separately so that any discussion of sensitive information is not included in your response to the findings and recommendations that will be included in the final report. We will consider your proposed restrictions before releasing the report to the public.

If you have any questions, please contact me or Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations), at (202) 622-6510.

Attachment

IRSR0000014724

Table of Contents

Background ..... Page 1

Results of Review ..... Page 5

The Determinations Unit Used Inappropriate Criteria to Identify Potential Political Cases ..... Page 5

Recommendations 1 through 3: ..... Page 11

Potential Political Cases Experienced Significant Processing Delays ..... Page 11

Recommendations 4 through 7: ..... Page 16

Recommendation 8: ..... Page 17

The Determinations Unit Requested Unnecessary Information for Many Potential Political Cases ..... Page 17

Recommendation 9: ..... Page 20

Appendices

Appendix I – Detailed Objective, Scope, and Methodology ..... Page 21

Appendix II – Major Contributors to This Report ..... Page 25

Appendix III – Report Distribution List ..... Page 26

Appendix IV – Outcome Measures ..... Page 27

Appendix V – High-Level Organizational Chart of Offices Referenced in This Report ..... Page 29

Appendix VI – Timeline of Written Criteria for Identifying Potential Political Cases ..... Page 30

Appendix VII – Comprehensive Timeline of Events ..... Page 31

IRSR0000014725

Abbreviations

BOLO	Be On the Look Out
EO	Exempt Organizations
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service

IRSR0000014726

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Background

Organizations, such as charities, seeking Federal tax exemption are required to file an application with the Internal Revenue Service (IRS). Other organizations, such as social welfare organizations, may file an application but are not required to do so. The IRS's Exempt Organizations (EO) function, Rulings and Agreements office, which is headquartered in Washington, D.C., is responsible for processing applications for tax exemption. Within the Rulings and Agreements office, the Determinations Unit in Cincinnati, Ohio, is responsible for reviewing applications as they are received to determine whether the organization qualifies for tax-exempt status.

In Fiscal Year 2012, 70 percent of all closed applications for tax-exempt status were approved during an initial review with little or no additional information from the organizations. If substantial additional information is needed, the application is placed in unassigned inventory until it can be assigned to a specialist in the Determinations Unit for further processing. The specialist develops a letter(s) requesting the additional information and issues it to the organization. Once the specialist receives all the necessary information to determine whether an organization should be afforded tax-exempt status, a final determination letter is issued to the organization either approving or denying the request for tax-exempt status.

If the Determinations Unit needs technical assistance processing applications, it may call upon the Technical Unit in the Rulings and Agreements office in Washington, D.C.[1] The IRS's goal for processing all types of applications for tax-exempt status was 121 days in Fiscal Year 2012; however, some cases may take substantially longer. For example, the EO function states in its *Fiscal Year 2013 Work Plan* that applications requiring additional information are not assigned for review until an average of five months after they are received.

Most organizations requesting tax-exempt status must submit either a Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, or Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, depending on the type of tax-exempt organization it desires to be. For example, a charitable organization would request exemption under Internal Revenue Code (I.R.C.) Section (§) 501(c)(3),[2] whereas a social welfare organization would request exemption under I.R.C. § 501(c)(4).[3]

The I.R.C. section and subsection an organization is granted tax exemption under affects the activities it may undertake. For example, I.R.C. § 501(c)(3) charitable organizations are

[1] For a high-level organizational chart of offices referenced in this report, see Appendix V.
[2] I.R.C. § 501(c)(3) (2012).
[3] I.R.C. § 501(c)(4) (2012).

IRSR0000014727

prohibited from directly or indirectly participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office (hereafter referred to as political campaign intervention).[4] However, I.R.C. § 501(c)(4) social welfare organizations, I.R.C. § 501(c)(5)[5] agricultural and labor organizations, and I.R.C. § 501(c)(6)[6] business leagues may engage in limited political campaign intervention. Figure 1 highlights certain characteristics of common types of tax-exempt organizations.

Figure 1: Characteristics of Certain Common Types of Tax-Exempt Organizations

Characteristic	I.R.C. § 501(c)(3)	I.R.C. §§ 501(c)(4), (c)(5), and (c)(6)
May receive tax deductible charitable contributions.	Yes	No
May engage in political campaign intervention.	No	Limited (must not constitute primary activity of organization)
Must publically disclose the identity of its donors.	No	No
May engage in lobbying[7] (i.e., legislative activity).	Limited (must not be substantial)	Yes (unlimited amount if in furtherance of tax-exempt purposes)
May engage in general advocacy[8] not related to legislation or the election of candidates.	Yes (permitted as an educational activity)	Yes (unlimited amount if in furtherance of tax-exempt purposes)
Must apply with the IRS.	Yes	No

Source: Draft Advocacy Guide Sheet and Internal Revenue Manual.

[4] Political campaign intervention is the term used in Treasury Regulations §§ 1.501(c)(3)-1, 1.501(c)(4)-1, 1.501(c)(5)-1, and 1.501(c)(6)-1.
[5] I.R.C. § 501(c)(5) (2012).
[6] I.R.C. § 501(c)(6) (2012).
[7] An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (Federal, State, or local) or encouraging the public to contact those members regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.
[8] An organization engages in general advocacy when it attempts to 1) influence public opinion on issues germane to the organization's tax-exempt purposes, 2) influence non-legislative governing bodies (*e.g.*, the executive branch or regulatory agencies), or 3) encourage voter participation through "get out the vote" drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy basically includes all other types of advocacy other than political campaign intervention and lobbying.

IRSR0000014728

During the 2012 election cycle, the activities of tax-exempt organizations received media coverage concerning the amount of money spent on influencing elections. According to the Center for Responsive Politics, tax-exempt groups, such as I.R.C. § 501(c)(4), I.R.C. § 501(c)(5), and I.R.C. § 501(c)(6) organizations, spent $133 million in Calendar Year 2010 on Federal candidate-oriented expenditures. In Calendar Year 2012, this figure increased to $315 million.[9] In addition, as shown in Figure 2, the number of applications for tax-exempt status has increased over the past four fiscal years.[10]

Figure 2: Number of Applications for I.R.C. §§ 501(c)(3)–(6) Tax-Exempt Status Received by the IRS

Fiscal Year	I.R.C. Subsection			
	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)
2009	65,179	1,751	543	1,828
2010	59,486	1,735	290	1,637
2011	58,712	2,265	409	1,836
2012	66,543	3,357	1,081	2,338

Source: This data was provided by the EO function as background and was not validated for accuracy or reliability.

During the 2012 election cycle, some members of Congress raised concerns to the IRS about selective enforcement and the duty to treat similarly situated organizations consistently. In addition, several organizations applying for I.R.C. § 501(c)(4) tax-exempt status made allegations that the IRS 1) targeted specific groups applying for tax-exempt status, 2) delayed the processing of targeted groups' applications for tax-exempt status, and 3) requested unnecessary information from targeted organizations. Lastly, several members of Congress requested that the IRS investigate whether existing social welfare organizations are improperly engaged in a substantial, or even predominant, amount of campaign activity.

This audit focused on allegations that the IRS targeted specific groups applying for tax-exempt status, delayed the processing of targeted groups' applications, and requested unnecessary information from targeted organizations.

We initiated this audit based on concerns expressed by Congress and reported in the media regarding the IRS's treatment of organizations applying for tax-exempt status. We focused our

[9] The Center for Responsive Politics obtained its information from the Federal Election Commission. We only included expenditures reported to the Federal Election Commission specifically for advocating the election or defeat of clearly-identified Federal candidates.

[10] Some of this increase may be due to the reapplication of those organizations whose tax-exempt status was revoked as a result of not filing information returns for three consecutive years.

IRSR0000014729

efforts on reviewing the processing of applications for tax-exempt status and determining whether allegations made against the IRS were founded.[11] Tax-exempt application case files were selected for review in June 2012 and were reviewed as provided by the EO function between July and November 2012. We did not review whether specific applications for tax-exempt status should be approved or denied.

This review was performed at the EO function Headquarters office in Washington, D.C., and the Determinations Unit in Cincinnati, Ohio, during the period June 2012 through February 2013. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

[11] A future audit is being considered to assess how the EO function monitors I.R.C. §§ 501(c)(4)–(6) organizations to ensure that political campaign intervention does not constitute their primary activity.

Results of Review

The Determinations Unit Used Inappropriate Criteria to Identify Potential Political Cases

The Determinations Unit developed and used inappropriate criteria to identify applications from organizations with the words Tea Party in their names. These applications (hereafter referred to as potential political cases)[12] were forwarded to a team of specialists[13] for review. Subsequently, the Determinations Unit expanded the criteria to inappropriately include organizations with other specific names (Patriots and 9/12) or policy positions. While the criteria used by the Determinations Unit specified particular organization names, the team of specialists was also processing applications from groups with names other than those identified in the criteria. The inappropriate and changing criteria may have led to inconsistent treatment of organizations applying for tax-exempt status. For example, we identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention. All applications that were forwarded to the team of specialists experienced substantial delays in processing. Although the IRS has taken some action, it will need to do more so that the public has reasonable assurance that applications are processed without unreasonable delay in a fair and impartial manner in the future.

Criteria for selecting applications inappropriately identified organizations based on their names and policy positions

The Determinations Unit developed and began using criteria to identify potential political cases for review that inappropriately identified specific groups applying for tax-exempt status based on their names or policy positions, instead of developing criteria based on tax-exempt laws and Treasury Regulations.

6103

6103 According to media reports, some organizations were classified as § 501(c)(4) social welfare organizations but operated like political organizations. 6103

[12] Until July 2011, the Rulings and Agreements office referred to these cases as Tea Party cases. Afterwards, the EO function referred to these cases as advocacy cases.

[13] Initially, the team consisted of one specialist, but it was expanded to several specialists in December 2011. The EO function referred to this team as the advocacy team.

IRSR0000014731

6103 Soon thereafter, according to the IRS, a Determinations Unit specialist was asked to search for applications with Tea Party, Patriots, or 9/12 in the organization's name as well as other "political-sounding" names. EO function officials stated that, in May 2010, the Determinations Unit began developing a spreadsheet th at would become known as the "Be On the Look Out" listing (hereafter referred to as the BOLO listing) ,[14] which included the emerging issue of Tea Party applications.[15] In June 2010, the Determinations Unit began training its specialists on issues to be aware of, including Tea Party Cases. By July 2010, Determinations Unit management stated that it had requested its specialists to be on the lookout for Tea Party applications.

In August 2010, the Determinations Unit distributed the first formal BOLO listing. The criteria in the BOLO listing were Tea Party organizations applying for I .R.C. § 501(c)(3) or I.R.C. § 501(c)(4) status. Based on our review of other BOLO listing criteria, the use of organization names on the BOLO listing is not unique to potential p olitical cases.[16] EO function officials stated that Determinations Unit specialists interpreted the general criteria in the BOLO listing and developed expanded criteria for identifying potential political cases.[17] Figure 3 shows that, by June 2011, the exp anded criteria included additional names (Patriots and 9/12 Project), as well as policy positions espoused by organizations in their applications.

Figure 3: Criteria for Potential Political Cases (June 2011)



Source: EO function briefing dated June 2011.

[14] The BOLO listing includes a consolidated list of emerging issues the EO function identifie s for dissemination to Determinations Unit specialists.

[15] Initially, EO function officials stated that the Determinations Unit sent out an informal e -mail to all Determinations Unit specialists in May 2010 instructing them to forward all Tea Party applications to another specialist. Since EO function officials could not locate a copy of this e -mail, we requested assistance from our Office of Investigations in the matter. EO function officials later determined that an e -mail was not distributed to Determinations Unit specialists in May 2010.

[16] We did not review the use of other named organizations on the BOLO listing to determine if using them was appropriate.

[17] During interviews with Determinations Unit specialists and managers, we could not specifically determine who had been involved in creating the criteria. EO function officials later clarified that the expanded criteria were a compilation of various D eterminations Unit specialist response s on how they were identifying Tea Party cases. Since we could not determine specifically who was involved in creating the expanded criteria, we re ferred this matter to our Office of Investigations.

IRSR0000014732

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

The mission of the IRS is to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all. According to IRS Policy Statement 1-1, IRS employees accomplish this mission by being impartial and handling tax matters in a manner that will promote public confidence. However, the criteria developed by the Determinations Unit gives the appearance that the IRS is not impartial in conducting its mission. The criteria focused narrowly on the names and policy positions of organizations instead of tax-exempt laws and Treasury Regulations. Criteria for selecting applications for the team of specialists should focus on the activities of the organizations and whether they fulfill the requirements of the law. Using the names or policy positions of organizations is not an appropriate basis for identifying applications for review by the team of specialists.

We asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Director, EO; and Determinations Unit personnel if the criteria were influenced by any individual or organization outside the IRS. All of these officials stated that the criteria were not influenced by any individual or organization outside the IRS. Instead, the Determinations Unit developed and implemented inappropriate criteria in part due to insufficient oversight provided by management. Specifically, only first-line management approved references to the Tea Party in the BOLO listing criteria before it was implemented. As a result, inappropriate criteria remained in place for more than 18 months. Determinations Unit employees also did not consider the public perception of using politically sensitive criteria when identifying these cases. Lastly, the criteria developed showed a lack of knowledge in the Determinations Unit of what activities are allowed by I.R.C. § 501(c)(3) and I.R.C. § 501(c)(4) organizations.

Determinations Unit employees stated that they considered the Tea Party criterion as a shorthand term for all potential political cases. Whether the inappropriate criterion was shorthand for all potential political cases or not, developing and using criteria that focuses on organization names and policy positions instead of the activities permitted under the Treasury Regulations does not promote public confidence that tax-exempt laws are being adhered to impartially. In addition, the applications for those organizations that were identified for processing by the team of specialists experienced significant delays and requests for unnecessary information that is detailed later in this report.

After being briefed on the expanded criteria in June 2011, the Director, EO, immediately directed that the criteria be changed. In July 2011, the criteria were changed to focus on the potential "political, lobbying, or [general] advocacy" activities of the organization. These criteria were an improvement over using organization names and policy positions. However, the team of specialists subsequently changed the criteria in January 2012 without executive approval because they believed the July 2011 criteria were too broad. The January 2012 criteria again focused on the policy positions of organizations, instead of tax-exempt laws and Treasury Regulations. After three months, the Director, Rulings and Agreements, learned the criteria had been changed by the team of specialists and subsequently revised the criteria again in May 2012.

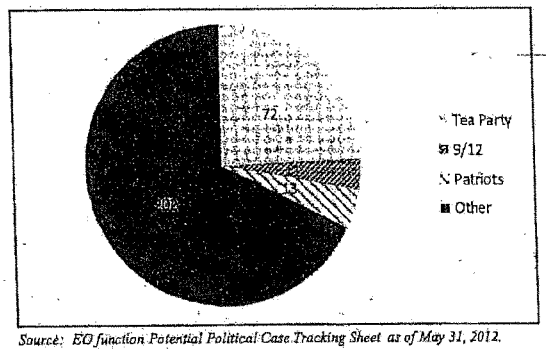
IRSR0000014733

(See Appendix VI for a complete timeline of criteria used to identify potential political cases). The May 2012 criteria more clearly focus on activities permitted under the Treasury Regulations. As a result of changes made to the criteria without management knowledge, the Director, Rulings and Agreements, issued a memorandum requiring all original entries and changes to criteria included on the BOLO listing be approved at the executive level prior to implementation.

The team of specialists processed applications by organizations with names other than Tea Party, Patriots, and 9/12

To determine if organizations other than those specifically identified in the inappropriate criteria were processed by the team of specialists, we reviewed the names on all applications identified as potential political cases.[18] Figure 4 shows that approximately one-third of the applications identified for processing by the team of specialists included Tea Party, Patriots, or 9/12 in their names, while the remainder did not. According to the Director, Rulings and Agreements, the fact that the team of specialists worked applications that did not involve the Tea Party, Patriots, or 9/12 groups demonstrated that the IRS was not politically biased in its identification of applications for processing by the team of specialists.

Figure 4: Breakdown of Potential Political Cases by Organization Name



Source: EO function Potential Political Case Tracking Sheet as of May 31, 2012.

While the team of specialists reviewed applications from a variety of organizations, we determined during our reviews of statistical samples of I.R.C. § 501(c)(4) tax-exempt

[18] We could not determine which potential political cases may have been identified based on an organization's policy positions.

IRSR0000014734

applications that all cases with Tea Party, Patriots , or 9/12 in their names were forwarded to the team of specialists.[19]

Some applications with indications of significant political campaign intervention were not identified for review by the team of specialists

In May 2012, the Director, Rulings and Agreements, approved the current criteria for identifying potential political cases. The criteria are "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention…" To determine if all cases with indications of significant political campaign intervention were sent to the team of specialists, we reviewed two statistical samples of I.R.C. § 501(c)(4) applications.

- **Applications That the IRS Determined Required Minimal or No Additional Information for Processing** – We reviewed a statistical sample of 94 I.R.C. § 501(c)(4) cases closed from May 2010[20] through May 2012 from a universe of 2,051 applications that the IRS determined required minimal or no additional information from the organizations (also referred to by the EO function as merit closures) . We determined that two (2 percent) of 94 approved applications had indications of significant political campaign intervention and should have been forwarded to the team of specialists.[21] Based on our statistical sample, we project an estimated 44 merit closure applications were not appropriately identified as potential political cases during this time period.[22]
- **Applications Identified by the IRS That Required Additional Information for Processing** – We reviewed a statistical sample of 244 I.R.C. § 501(c)(4) cases closed from May 2010 through May 2012 or open as of May 31, 2012, from a universe of 2,459 applications that the IRS determined required additional information from the organizations applying for tax-exempt status (also referred to by the EO function as full development applications), but were not forwarded to the team of specialists. For the applications that were available for our review, we found that 14 (6 percent)[23] of 237 applications[24] included indications of significant political campaign intervention and

[19] We determined this through two statistical samples of 338 (7.5 percent) from a universe of 4,510 I.R.C. § 501(c)(4) tax-exempt applications filed during May 2010 through May 2012 that were not forwarded to the team of specialists. See Appendix I for details on our sampling methodology.
[20] May 2010 was chosen because it is the first date that we were informed that the Determinations Unit was using criteria which identified specific organizations by name.
[21] Neither of the two cases involved a Tea Party, Patriots, or 9/12 organization.
[22] See Appendix IV.
[23] None of the 14 cases involved a Tea Party, Patriots, or 9/12 organization.
[24] We could not analyze seven sampled application case files because of incomplete documentation in the case files (six applications) or the case file could not be located (one application). See Appendix IV.

IRSR0000014735

should have been processed by the team of specialists.[25] We project an estimated 141 full development applications were not appropriately identified as potential political cases during this time period.[26]

To determine if cases without indications of significant political campaign intervention were sent to the team of specialists, we reviewed all of the applications identified as potential political cases as of May 31, 2012.

- **Applications That the IRS Determined Should Be Processed by the Team of Specialists** – We reviewed all 298 applications that had been identified as potential political cases as of May 31, 2012. In the majority of cases, we agreed that the applications submitted included indications of significant political campaign intervention. However, we did not identify any indications of significant political campaign intervention for 91 (31 percent) of the 296 applications[27] that had complete documentation.[28]

  We discussed our results with EO function officials, who disagreed with our findings. Although EO function officials provided explanations about why the applications should have been identified as potential political cases, the case files did not include the specific reason(s) the applications were selected. EO function officials also stated that applications may not literally include statements indicating significant political campaign intervention.[29] According to EO function officials, organizations may not understand what constitutes political campaign intervention or may provide vague descriptions of certain activities that the EO function knows from past experience potentially involve political campaign intervention. In these cases, the EO function believes it is important to review the applications to ensure that political campaign intervention is not the organizations' primary activity. To provide further assurance that Determinations Unit employees are handling tax matters in an impartial manner, it would be helpful to document specifically why applications are chosen for further review.

[25] We determined eight applications were appropriately forwarded to the team of specialists. Five of the eight application case files involved Tea Party, Patriots, or 9/12 organizations.
[26] See Appendix IV.
[27] We could not complete our review of two cases due to inadequate documentation in the case files. See Appendix IV.
[28] Seventeen (19 percent) of the 91 applications involved Tea Party, Patriots, or 9/12 organizations.
[29] It should also be noted that, in some cases, specialists obtained additional information after the application was received that indicated the organizations were involved in political campaign intervention which was not available in the initial application documentation we reviewed.

IRSR0000014736

Recommendations

The Director, EO, should:

Recommendation 1: Ensure that the memorandum requiring the Director, Rulings and Agreements, to approve all original entries and changes to criteria included on the BOLO listing prior to implementation be formalized in the appropriate Internal Rev enue Manual.

Recommendation 2: Develop procedures to better document the reason(s) applications are chosen for review by the team of specialists (*e.g.*, evidence of specific political campaign intervention in the application file or specific reasons the EO function may have for choosing to review the application further based on past experience).

Recommendation 3: Develop training or workshops to be held before each election cycle including, but not limited to , the proper ways to identify applications that require review of political campaign intervention activities .

Potential Political Cases Experienced Significant Processing Delays

Organizations that applied for tax -exempt status and had their applications forwarded to the team of specialists experienced substantial delays. As of December 17, 2012, many organizations had not received an approval or denial letter for more than two years after they submitted their applications. Some cases have been open during two election cycles (2010 and 2012) . The *IRS Strategic Plan 2009–2013* has several goals and objectives that involve timely interacting with taxpayers, including enforcement of the tax law in a timely manner while minimizing taxpayer burden. The EO function does not have specific timeliness goals for processing applications, such as potential political cases, that require significant follow -up with the organizations.[30] The time it takes to process an application depends upon the facts and circumstances of the case.

Potential political cases took significantly longer than average to process due to ineffective management oversight. Once cases were initially identified for processing by the team of specialists, the Determinations Unit Program Manager requested assistance via e -mail from the Technical Unit to ensure consistency in processing the cases. However, EO function management did not ensure that there was a formal process in place for initiating, tracking, or monitoring requests for assistance. In addition, there were several changes in Rulings and Agreements management responsible for overseeing the fulfillment of requests for assistance from the Determinations Unit during this time period. This contributed to the lengthy delays in processing potential political cases . As a result, the Determinations Unit waited more than

[30] The EO function, however, had an overall goal to process merit and full development tax -exempt applications in 121 days for Fiscal Year 2012.

IRSR0000014737

20 months (February 2010 to November 2011) to receive draft written guidance from the Technical Unit for processing potential political cases.

As a result, the IRS delayed the issuance of letters to organizations approving their tax-exempt status. For I.R.C. § 501(c)(3) organizations, this means that potential donors and grantors could be reluctant to provide donations or grants.[31] In addition, some organizations withdrew their applications and others may not have begun conducting planned charitable or social welfare work. The delays may have also prevented some organizations from receiving certain benefits of the tax-exempt status. For example, if organizations are approved for tax-exempt status, they may receive exemption from certain State taxes and reduced postal rates. For organizations that may eventually be denied tax-exempt status but have been operating while their applications are pending, the organizations will be required to retroactively file income tax returns and may be liable to pay income taxes for, in some cases, more than two years.

To analyze the delays, we: 1) reviewed the events that led to delays in processing potential political cases, 2) compared the amount of time cases assigned to the team of specialists were open to applications that were not assigned to the team of specialists, and 3) determined if organizations were eligible to sue the IRS due to delays in processing certain applications.

Potential political cases experienced long processing delays

The team of specialists stopped working on potential political cases from October 2010 through November 2011, resulting in a 13-month delay, while they waited for assistance from the Technical Unit. Figure 5 illustrates significant events and delays concerning potential political cases. For a comprehensive timeline of events related to potential political cases, see Appendix VII.

[31] Of 298 cases reviewed, 89 were I.R.C. § 501(c)(3) organizations.

IRSR0000014738

Figure 5: Timeline of Events and Delays Involving the Processing of Potential Political Cases (February 2010 Through May 2012)

Date	Events and Delays
	6103
April 2010	The team of specialists is formed with one specialist who is assigned potential political cases and begins working on them with the assistance of a Technical Unit employee.
October 2010	The team of specialists stops processing potential political cases while waiting for assistance from the Technical Unit.
July 2011	The EO function decides to develop written guidance for the Determinations Unit to process the potential political cases.
November 2011	Draft written guidance is provided to the Determinations Unit.
December 2011	Additional specialists are added to the team of specialists.
January 2012	Specialists begin issuing additional information request letters to organizations applying for tax-exempt status, requesting that the information be provided in two to three weeks. These time periods are standard response times given for any information request and are included in the Internal Revenue Manual.
February 2012	Concerns are raised in the media regarding requests for significant amounts of information from organizations applying for tax-exempt status. The Director, EO, stops specialists from issuing any more letters requesting information. Instead, letters allowing extensions of 60 days to respond to previous additional information letters were developed and issued in March and April 2012. These letters also noted that applicants should contact the IRS if they needed longer than 60 days to respond.
May 2012	A workshop is given to Determinations Unit specialists assigned to potential political cases. Afterwards, a review of all the open cases is completed to recommend whether additional processing is necessary or whether the cases can be closed (as of December 17, 2012, 160 applications were still being processed).

Source: Interviews of EO function employees and our review of EO function e-mails.

Ineffective oversight by management led to significant delays in processing potential political cases. 6103 In April 2010, the Determinations Unit Program Manager requested via e-mail a contact in the Technical Unit to provide assistance with

IRSR0000014739

processing the applications. A Technical Unit specialist was assigned this task and began working with the team of specialists. The team of specialists stopped processing cases in October 2010 without closing any of the 40 cases that were begun. However, the Determinations Unit Program Manager thought the cases were being processed. Later, we were informed by the Director, Rulings and Agreements, that there was a miscommunication about processing the cases. The Determinations Unit waited for assistance from the Technical Unit instead of continuing to process the cases. The Determinations Unit Program Manager requested status updates on the request for assistance several times via e-mail. Draft written guidance was not received from the Technical Unit until November 2011, 13 months after the Determinations Unit stopped processing the cases. As of the end of our audit work in February 2013, the guidance had not been finalized because the EO function decided to provide training instead.[32]

Many organizations waited much longer than 13 months for a decision while others have yet to receive a decision from the IRS. For example, as of December 17, 2012, the IRS had been processing several potential political cases for more than 1,000 calendar days. Some of these organizations received requests for additional information in Calendar Year 2010 and then did not hear from the IRS again for more than a year while the Determinations Unit waited for assistance from the Technical Unit. For the 296 potential political cases we reviewed,[33] as of December 17, 2012, 108 applications had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 cases were open from 206 to 1,138 calendar days (some crossing two election cycles).

In March 2012, the Deputy Commissioner, Services and Enforcement, asked the Senior Technical Advisor to the Acting Commissioner, Tax Exempt and Government Entities Division, to look into concerns raised by the media about delays in processing applications for tax-exempt status from Tea Party groups and the nature of the questions being asked related to the applications. In April 2012, the Senior Technical Advisor to the Acting Commissioner, Tax Exempt and Government Entities Division, along with a team of EO function Headquarters office employees, reviewed many of the potential political cases and determined that there appeared to be some confusion by Determinations Unit specialists and applicants on what activities are allowed by I.R.C. § 501(c)(4) organizations. We believe this could be due to the lack of specific guidance on how to determine the "primary activity" of an I.R.C. § 501(c)(4) organization. Treasury Regulations state that I.R.C. § 501(c)(4) organizations should have social welfare as their "primary activity"; however, the regulations do not define how to measure whether social welfare is an organization's "primary activity."

As a result of this confusion, the EO function Headquarters employees provided a two-day workshop to the team of specialists in May 2012 to train them on what activities are allowable by

[32] In response to the National Taxpayer Advocate's *2007 Annual Report to Congress*, the IRS commented that putting guide sheets for processing applications for tax-exempt status on its Internet site would result in fewer delays.

[33] [redacted] 6103

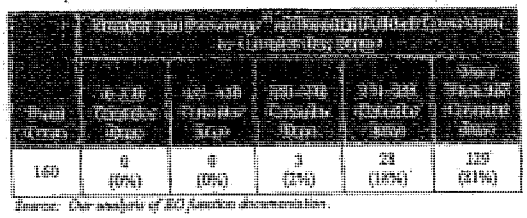
IRSR0000014740

I.R.C. § 501(c)(4) organizations, including lobbying and political campaign intervention. After this workshop, potential political cases were independently reviewed by two people to determine what, if any, additional work needed to be completed prior to making a decision to approve or deny the applications for tax-exempt status. This review continued on any newly identified potential political cases. Prior to the hands-on training and independent reviews, the team of specialists had only approved six (2 percent) of 298 applications. After the hands-on training and independent reviews began, the Determinations Unit approved an additional 102 applications by December 2012.[34] In addition, it was decided that applications could be approved, but a referral for follow-up could be sent to another unit,[35] which could review the activities of an organization at a later date to determine if they were consistent with the organizations tax-exempt status.

Potential political cases were open much longer than similar cases that were not identified for processing by the team of specialists

For Fiscal Year 2012, the average time it took the Determinations Unit to complete processing applications requiring additional information from organizations applying for tax-exempt status (also referred to by the EO function as full development cases) was 238 calendar days according to IRS data. In comparison, the average time a potential political case was open as of December 17, 2012, was 574 days (with 158 potential political cases being open longer than the average calendar days it took to close other full development cases).[36] Figure 6 shows that more than 80 percent of the potential political cases have been open more than one year.

Figure 6: Number of Calendar Days Potential Political Cases Were Open (as of December 17, 2012)



160	0 (0%)	0 (0%)	3 (2%)	28 (18%)	129 (81%)

Source: [illegible]

[34] Of the 102 applications, 29 (28 percent) involved Tea Party, Patriots, or 9/12 organizations.
[35] The Review of Operations Unit completes compliance reviews on tax-exempt organizations to determine whether they are operating in accordance with their tax-exempt purposes and are current with their filing requirements. Unit personnel review information available on the IRS systems, filed returns, applications for tax exemption, and the Internet to assess the organizations' operations and make recommendations for further actions.
[36] See Appendix IV.
[37] Percentages may not equal 100 percent due to rounding.

IRSR0000014741

Some charitable organizations were eligible to sue the IRS for declaratory judgment due to the delays in processing applications

The Determinations Unit did not always timely approve or deny the applications for I.R.C. § 501(c)(3) tax-exempt status for potential political cases. However, the tax law provides organizations with the ability to sue the IRS to force a decision on their applications if the IRS does not approve or deny their applications within 270 calendar days. [38]

As of May 31, 2012,[39] 32 (36 percent) of 89 I.R.C. § 501(c)(3) potential political cases were open more than 270 calendar days, and the organizations had responded timely to all requests for additional information, as required. As of the end of our fieldwork, none of these organizations had sued the IRS, even though they had the legal right. In another 38 open cases, organizations were timely in their responses to additional information requests, but the 270-calendar-day threshold had not been reached as of May 31, 2012. These 38 organizations may have the right to sue the IRS in the future if determinations are not made within the 270-calendar-day period.

Recommendations

The Director, EO, should:

Recommendation 4: Develop a process for the Determinations Unit to formally request assistance from the Technical Unit and the Guidance Unit.[40] The process should include actions to initiate, track, and monitor requests for assistance to ensure that requests are responded to timely.

Recommendation 5: Develop guidance for specialists on how to process requests for tax-exempt status involving potentially significant political campaign intervention. This guidance should also be posted to the Internet to provide transparency to organizations on the application process.

Recommendation 6: Develop training or workshops to be held before each election cycle including, but not limited to: a) what constitutes political campaign intervention versus general advocacy (including case examples) and b) the ability to refer for follow-up those organizations that may conduct activities in a future year which may cause them to lose their tax-exempt status.

Recommendation 7: Provide oversight to ensure that potential political cases, some of which have been in process for three years, are approved or denied expeditiously.

---

[38] Revenue Procedure 2012-09 provides further guidance on the implementation of this right.
[39] Tax-exempt application case files were selected for review in June 2012 based on a May 31, 2012 listing of applications being processed by the team of specialists.
[40] The Guidance Unit provides formal and informal guidance that explains how certain laws, such as regulations, revenue rulings, revenue procedures, notices and announcements, may apply to exempt organizations.

IRSR0000014742

The Acting Commissioner, Tax Exempt and Government Entities Division, should:

Recommendation 8: Recommend to IRS Chief Counsel and the Department of the Treasury that guidance on how to measure the "primary activity" of I.R.C. § 501(c)(4) social welfare organizations be included for consideration in the Department of the Treasury Priority Guidance Plan.[41]

The Determinations Unit Requested Unnecessary Information for Many Potential Political Cases

The Determinations Unit sent requests for information that we later (in whole or in part) determined to be unnecessary for 98 (58 percent) of 170 organizations that received additional information request letters.[42] According to the Internal Revenue Manual, these requests should be thorough, complete, and relevant. However, the Determinations Unit requested irrelevant (unnecessary) information because of a lack of managerial review, at all levels, of questions before they were sent to organizations seeking tax-exempt status. We also believe that Determinations Unit specialists lacked knowledge of what activities are allowed by I.R.C. § 501(c)(3) and I.R.C. § 501(c)(4) tax-exempt organizations. This created burden on the organizations that were required to gather and forward information that was not needed by the Determinations Unit and led to delays in processing the applications. These delays could result in potential donors and grantors being reluctant to provide donations or grants to organizations applying for I.R.C. § 501(c)(3) tax-exempt status. In addition, some organizations may not have begun conducting planned charitable or social welfare work.

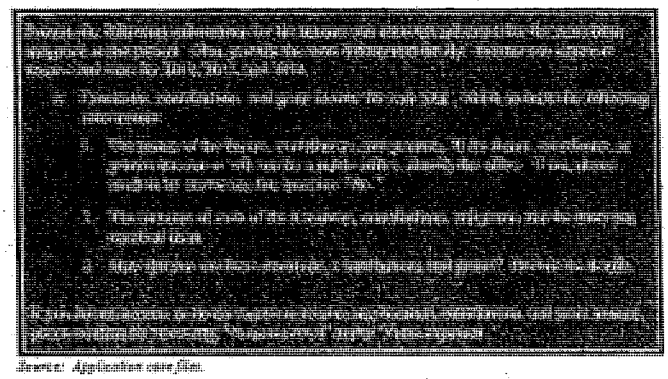
After receiving draft guidance in November 2011, the team of specialists began sending requests for additional information in January 2012 to organizations that were applying for tax-exempt status. For some organizations, this was the second letter received from the IRS requesting additional information, the first of which had been received more than a year before this date. These letters requested that the information be provided in two or three weeks (as is customary in these letters) despite the fact that the IRS had done nothing with some of the applications for more than one year. After the letters were received, organizations seeking tax-exempt status, as well as members of Congress, expressed concerns about the type and extent of questions being asked. For example, the Determinations Unit requested donor information from 27 organizations[43] that it would be required to make public if the application was approved, even though this information could not be disclosed by the IRS when provided by organizations.

[41] The Department of the Treasury issues a Priority Guidance Plan each year to identify and prioritize the tax issues that should be addressed through regulations, revenue rulings, revenue procedures, notices, and other published administrative guidance.
[42] See Appendix IV.
[43] Of the 27 organizations, 13 had Tea Party, Patriots, or 9/12 in their names.

IRSR0000014743

whose tax-exempt status had been approved. Figure 7 shows an example of requests sent to organizations applying for tax-exempt status regarding donors.

Figure 7: Example of Requests for Information Regarding Past and Future Donors in Letters Sent in January/February 2012



After media attention, the Director, EO, stopped issuance of additional information request letters and provided an extension of time to respond to previously issued letters. The Deputy Commissioner for Services and Enforcement then asked the Senior Technical Advisor to the Acting Commissioner, Tax Exempt and Government Entities Division, to find out how applications were being processed and make recommendations. The Senior Technical Advisor and a team of specialists visited the Determinations Unit in Cincinnati, Ohio, and began reviewing cases. As part of this effort, EO function Headquarters office employees reviewed the additional information request letters prepared by the team of specialists and identified seven questions that they deemed unnecessary. Subsequently, the EO function instituted the practice that all additional information request letters for potential political cases be reviewed by the EO function Headquarters office before they are sent to organizations seeking tax-exempt status. In addition, EO function officials informed us that they decided to destroy all donor lists that were sent in for potential political cases which the IRS determined it should not have requested. Figure 8 lists the seven questions identified as being unnecessary.

IRSR0000014744

Figure 8: Seven Questions Identified As Unnecessary by the EO Function

Number	Question
1	Requests the names of donors.
2	Requests a list of all issues that are important to the organization and asks that the organization indicate its position regarding such issues.
3	Requests 1) the roles and activities of the audience and participants other than members in the activity and 2) the type of conversations and discussions members and participants had during the activity.
4	Asks whether the officer, director, *etc.*, has run or will run for public office.
5	Requests the political affiliation of the officer, director, speakers, candidates supported, *etc.*, or otherwise refers to the relationship with identified political party-related organizations.
6	Requests information regarding employment, other than for the organization, including hours worked.
7	Requests information regarding activities of another organization – not just the relationship of the other organization to the applicant.

Source: EO function review of additional information request letters.

We reviewed case file information for all 170 organizations that received additional information request letters and determined that 98 (58 percent) had received requests for information that was later deemed unnecessary by the EO function. Of the 98 organizations:

- 15 were informed that they did not need to respond to previous requests for information and, instead, received a revised request for information.
- 12 either received a letter or a telephone call stating their application was approved and they no longer needed to respond to information requests they had received from the IRS.

Figure 9 shows excerpts from a letter to one of these organizations.

IRSR0000014745

Figure 9: Excerpts From an Example Approval Letter, Which Includes a Statement That Previously Requested Information Is No Longer Needed

Dear Applicant:

We are pleased to inform you that upon review of your application for tax-exempt status we have determined that you are exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

[redacted]

Please note that we have just completed another review of your request to be recognized as tax-exempt under section 501(c)(4) of the Internal Revenue Code. Based on that review, we concluded that we do not need the additional materials previously requested because your application and materials provide sufficient information.

Source: IRS approval letter in an application case file.

Recommendation

Recommendation 9: The Director, EO, should develop training or workshops to be held before each election cycle including, but not limited to, how to word questions in additional information request letters and what additional information should be requested.

IRSR0000014746

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective was to determine whether allegations were founded that the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing targeted groups' applications for tax-exempt status, and 3) requested unnecessary information from targeted groups. To accomplish our objective, we:

I. Assessed the actions taken by the EO function in response to the increase in applications for tax-exempt status from organizations potentially involved in political campaign intervention.

A. Interviewed EO function management to identify steps taken and who authorized them. We also developed a timeline of events.

B. Obtained a list identifying applications that were identified for processing by the team of specialists and determined the status of the identified cases (open, approved, denied, *etc.*) through May 31, 2012. We also received an updated list of identified cases through December 17, 2012 to determine the status's of the initial cases as of this date.

C. Determined whether procedures and controls in place since May 2010 resulted in inconsistent treatment of applications potentially involving political campaign intervention.

II. Determined whether changes to procedures and controls since May 2010 affected the timeliness of reviewing applications potentially involving political campaign intervention.

A. Interviewed EO function personnel to determine whether there were any outside influences that affected the timeliness of reviewing potential political cases.

B. Reviewed all 89 I.R.C. § 501(c)(3) potential political cases to determine whether they were processed within the 270-day standard required by law.

III. Determined whether the actions taken by the EO function to identify applications for tax-exempt status of organizations potentially involved in political campaign intervention were consistent.

A. Selected a statistical sample of 244 open and closed I.R.C. § 501(c)(4) application cases from a universe of 2,459 that the IRS determined needed significant additional information (full development) on the Employee Plans/Exempt Organizations Determination System from May 2010 through May 2012 to determine whether they

IRSR0000014747

should have been identified for processing by the team of specialists. We selected our statistical sample using the following criteria: 90 percent confidence level, 50 percent error rate,[1] and ± 5 percent precision rate. We used a random sample to ensure that each application case had an equal chance of being selected, which enabled us to obtain sufficient evidence to support our results. A contracted statistician reviewed our projections.

1. Obtained the universe of 2,459 cases from the Employee Plans/Exempt Organizations Determination System and performed validity checks to ensure that the data were accurate. We found the data could be relied on for this review.
2. Obtained a statistical sample of open and closed application cases.
3. Determined whether application cases with potential political campaign intervention issues were identified for processing by the team of specialists.
4. Interviewed EO function personnel to obtain their perspective on any application cases we identified that should have been identified for processing by the team of specialists but were not.

B. Selected a statistical sample of 94 closed I.R.C. § 501(c)(4) application cases from a universe of 2,051 that the IRS determined did not need significant additional information (merit cases) on the Employee Plans/Exempt Organizations Determination System from May 2010 through May 2012 to determine whether they should have been identified for processing by the team of specialists. We selected our statistical sample using the following criteria: 90 percent confidence level, 10 percent error rate,[2] and ± 5 percent precision rate. We used a random sample to ensure that each application case had an equal chance of being selected, which enabled us to obtain sufficient evidence to support our results. A contracted statistician reviewed our projections.

1. Obtained the universe of 2,051 cases from the Employee Plans/Exempt Organizations Determination System and performed validity checks to ensure that the data were accurate. We found the data could be relied on for this review.
2. Obtained a statistical sample of closed application cases.
3. Determined whether application cases with potential political campaign intervention issues were not identified for processing by the team of specialists.

[1] An expected error rate of 50 percent was chosen because we determined that cases needing significant additional information had criteria that included the names of specific groups.
[2] An expected error rate of 10 percent was chosen because procedures require that cases with political issues generally need significant additional information.

IRSR0000014748

4. Interviewed EO function personnel to obtain their perspective on any applications we identified that should have been identified for processing by the team of specialists but were not.

C. Obtained and reviewed all 298 application cases identified for processing by the team of specialists as of May 31, 2012, to determine whether they were correctly identified.

1. Determined whether application cases were correctly identified for processing by the team of specialists.

2. Interviewed EO function personnel to obtain their perspective on any cases we identified that should not have been identified for processing by the team of specialists.

D. Computed the average cycle time of processing potential political cases and compared it to the average cycle time for processing similar cases that were not processed by the team of specialists.

E. Determined the number of organizations that may have been adversely affected by inconsistent treatment.

IV. Determined whether the EO function consistently had a reasonable basis for requesting information from organizations seeking tax-exempt status that were potentially involved in political campaign intervention.

A. Reviewed all 170 potential political cases that were issued additional information request letters to determine whether the letters included questions deemed unnecessary by the EO function.

B. Interviewed EO function personnel to obtain their perspective on additional information that was requested that may not have been necessary to help make a determination decision.

C. Determined the number of taxpayers that may have been adversely affected.

IRSR0000014749

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal cont rols include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined the following internal controls were relevant to our audit objective: EO function policies, procedures, and practices for identifying and processing applications for tax -exempt status with indications of political campaign intervention. We evaluated these controls by interviewing personnel, reviewing available documentation, reviewing statistical samples of applications for tax-exempt status, and reviewing applications identified as involving potential political campaign intervention.

IRSR0000014750

Appendix II

Major Contributors to This Report

Gregory D. Kutz, Assistant Inspector General for Audit (Management Services and Exempt Organizations)
Russell P. Martin, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations)
Troy D. Paterson, Director
Thomas F. Seidell, Audit Manager
Cheryl J. Medina, Lead Auditor
Julia Moore, Senior Auditor
Michael A. McGovern, Auditor
Evan A. Close, Audit Evaluator

IRSR0000014751

Appendix III

Report Distribution List

Deputy Commissioner for Services and Enforcement SE
Acting Deputy Commissioner, Tax Exempt and Government Entities Division SE:T
Director, Exempt Organizations, Tax Exempt and Government Entities Division SE:T:EO
Director, Office of Legislative Affairs CL:LA
Audit Liaison: Director, Communications and Liaison, Tax Exempt and Government Entities Division SE:T:CL
Deputy Inspector General for Inspections and Evaluations IG:IE

IRSR0000014752

Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Reliability of Information – Actual; nine application case files that were either incomplete or could not be located for us to review (see page 5).

Methodology Used to Measure the Reported Benefit:

During our review of applications for tax-exempt status that were not identified for the team of specialists, we were unable to review seven case files because of incomplete documentation in the files (six cases) or the case file could not be located (one case). In addition, during our review of all identified potential political cases through May 31, 2012, we were unable to analyze two case files because of incomplete documentation.

Type and Value of Outcome Measure:

- Reliability of Information – Potential; 44 organizations whose tax-exempt applications were not appropriately identified as having significant potential political campaign intervention (see page 5).

Methodology Used to Measure the Reported Benefit:

We selected a simple random sample of 94 I.R.C. § 501(c)(4) cases closed from May 2010 through May 2012 from a universe of 2,051 applications that the IRS determined required minimal or no additional information from organizations applying for tax-exempt status. During our case reviews, we determined that two cases were not appropriately identified as having significant potential political campaign intervention. We projected, with 90 percent confidence, an actual error rate of between 0.38 percent and 6.55 percent[1] and that between eight and 134 applications[2] were not properly identified for processing by the team of specialists.

[1] The point estimate error rate for the sample is 2.13 percent. The 90 percent confidence interval was calculated using the Exact Binomial Method.
[2] The point estimate number of error applications is 44. The 90 percent confidence interval was calculated using the Exact Binomial Method.

IRSR0000014753

Type and Value of Outcome Measure:

- Reliability of Information – Potential; 141 organizations whose tax-exempt applications were not appropriately identified as having significant potential political campaign intervention (see page 5).

Methodology Used to Measure the Reported Benefit:

We selected a simple random sample of 244 I.R.C. § 501(c)(4) cases closed from May 2010 through May 2012 or open as of May 31, 2012, from a universe of 2,459 applications that the IRS determined required additional information from organizations applying for tax-exempt status.[3] During our case reviews, we determined that 14 cases were not appropriately identified as having significant potential political campaign intervention. We projected, with 90 percent confidence, an actual error rate of between 3.38 percent and 8.43 percent [4] and that between 84 and 198 applications[5] were not properly identified for processing by the team of specialists.

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential 158 organizations that waited longer than average for the IRS to make a decision regarding their tax-exempt status (see page 10).

Methodology Used to Measure the Reported Benefit:

We obtained data from the EO function on the average number of days it took to determine whether an application for tax-exempt status was approved or denied. In Fiscal Year 2012, it took on average 238 days to close a case that needed additional information from the organization prior to approving or denying the application. As of December 17, 2012, there were 158 potential political cases that were open more than 238 calendar days.

Type and Value of Outcome Measure:

- Taxpayer Burden – Potential; 98 organizations that received additional information request letters with questions that were later deemed unnecessary by the EO function (see page 16).

Methodology Used to Measure the Reported Benefit:

We reviewed 170 potential political cases that had received additional information request letters from the Determinations Unit. Using a list of seven questions/topics that the EO function categorized as unnecessary, we identified 98 potential political cases that included additional information request letters asking questions deemed unnecessary by the EO function.

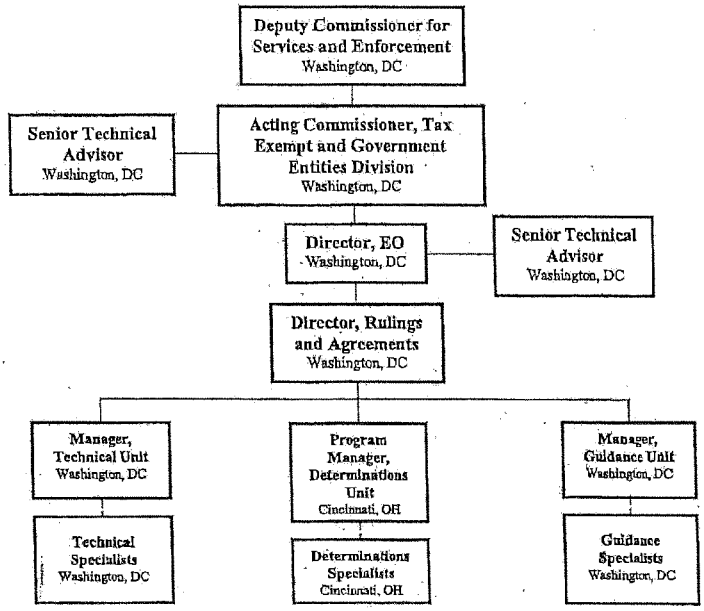
[3] We found that seven cases from the sample of 244 were not reviewable because of incomplete documentation.
[4] The point estimate error rate for the sample is 5.91 percent with a precision of ± 2.52 percent.
[5] The point estimate number of error applications is 141 with a precision of ± 57 applications.

IRSR0000014754

Appendix V

High-Level Organizational Chart of Offices Referenced in This Report

The following is a high-level organizational chart of offices we discuss in this report, starting with the Deputy Commissioner for Services and Enforcement, who reports to the IRS Commissioner.



IRSR0000014755

Appendix VI

Timeline of Written Criteria for Identifying Potential Political Cases

The following illustrates the changes to the written criteria provided to Determinations Unit employees for identifying applications for the team of specialists.

Date	Criteria Development or Actions Taken
	6103
March–April 2010	The Determinations Unit began searching for other requests for tax exemption involving the Tea Party, Patriots, 9/12 and I.R.C. § 501(c)(4) applications involving political sounding names, *e.g.*, "We the People" or "Take Back the Country."
July 2010	Determinations Unit management requested its specialists to be on the lookout for Tea Party applications.
August 2010	First BOLO listing issued with criteria listed as "...various local organizations in the Tea Party movement...applying for exemption under 501(c)(3) or 501(c)(4)."
July 2011	Criteria changed to "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)" based on the concerns the Director, EO, raised in June 2011.
January 2012	Criteria changed to "Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, social economic reform/movement" based on Determinations Unit concerns that the July 2011 criteria was too generic.
May 2012	Criteria changed to "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/ or excess private benefit)."

IRSR0000014756

Appendix VII

Comprehensive Timeline of Events

The following chart illustrates a timeline of events from February 2010 through July 2012 involving the identification and processing of potential political cases. It shows that there was confusion about how to process the applications, delays in the processing of the applications, and a lack of management oversight and guidance. The timeline was developed using documentation provided by the EO function as well as numerous interviews with EO function personnel.

Date	Event	Additional Details	Source
[redacted]	6103		E-Mail
Around March 1, 2010	The Determinations Unit Group Manager asked a specialist to search for other Tea Party or similar organizations' applications in order to determine the scope of the issue. The specialist continued to complete searches for additional cases until the precursor to the BOLO listing was issued in May 2010.	Determinations Unit personnel indicated that they used the description Tea Party as a shorthand way of referring to the group of cases involving political campaign intervention rather than to target any particular group. The specialist used Tea Party, Patriots, and 9/12 as part of the criteria for these searches.	Interview
March 16–17, 2010	Ten Tea Party cases were identified. The Acting Manager, Technical Unit, requested two more cases be transferred to Washington, D.C. 6103	Not all of the ten cases had Tea Party in their names.	E-Mail

IRSR0000014757

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
April 1–2, 2010	The new Acting Manager, Technical Unit, suggested the need for a Sensitive Case Report on the Tea Party cases. The Determinations Unit Program Manager agreed.		E-Mail
April 5, 2010	6103		E-Mail
April 5, 2010	A Determinations Unit specialist developed a list of 18 identified Tea Party cases during a search of applications. Three had already been approved as tax-exempt.	While the heading of the document listing these 18 cases referred to Tea Party cases, not all of the organizations listed had Tea Party in their names.	E-Mail
April 19, 2010	The first Sensitive Case Report was prepared by the Technical Unit.	Sensitive Case Reports are shared with the Director, Rulings and Agreements, and a chart summarizing all Sensitive Case Reports is provided to the Director, EO.	Documentation
April 25–26, 2010	The Determinations Unit Program Manager requested Technical Unit contacts for the specia list assigned to work other Tea Party cases. Contacts were received. 6103		E-Mail
May 17, 2010	The Determinations Unit speciali st will send additional information request letters to the Technical Unit for review prior to issuance as part of the Technical Unit's attempt to provide assistance to the Determinations Unit.		E-Mail
May 26, 2010	6103		E-Mail
May 27, 2010	The Technical Unit began reviewing additional information request letters prepared by the Determinations Unit.		Interview and E-Mail
June 7, 2010	Determinations Unit began training its specialists on emerging issues to watch for, including an emerging issue referred to as Tea Party Cases.		Documentation
June 14, 2010	6103		E-Mail

IRSR0000014758

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
June 30, 2010	6103		E-Mail
July 2010	Determinations Unit management requested its specialists to be on the lookout for Tea Party applications.		E-Mail
July 2, 2010	6103		E-Mail
July 27, 2010	Prior to the BOLO listing development, an e-mail was sent updating the description of applications involving potential political campaign intervention and providing a coordinator contact for the cases. The description was changed to read, "These cases involve various local organizations in the Tea Party movement [that] are applying for exemption under 501(c)(3) or 501(c)(4)."		Interview and Documentation
August 12, 2010	The BOLO listing was developed by the Determinations Unit in order to replace the existing practice of sending separate e-mails to all Determinations Unit employees as to cases to watch for, potentially abusive cases, cases requiring processing by the team of specialists, and emerging issues. The description of applications involving potential political campaign interven tion on the BOLO listing was the same description used in the July 27, 2010, e-mail.		Interview and Documentation
August 2010	The responsibility for applications involving potential political campaign intervention was moved to a different team of specialists as part of a group realignment within the Determinations Unit.		Interview and Documentation
October 2010	Applications involving potential political campaign intervention were transferred to another Determinations Unit specialist. The specialist did not work on the cases while waiting for guidance from the Technical Unit.	Per the Director, Rulings and Agreements, there was a miscommunication about not working the cases while waiting for guidance.	Interviews
October 19, 2010	Technical Unit personnel forwarded a memorandum to their Acting Manager describing the work completed on the Tea Party cases by the Technical Unit. Included was a list of the cases the Technical Unit had assisted the Determinations Unit with.	The list included 40 cases, 18 of which did not have Tea Party in their names.	E-Mail

IRSR0000014759

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
October 26, 2010	Determinations Unit personnel raised concerns to the Technical Unit with the approach being used to develop the Tea Party cases: Why does the Technical Unit need to review every additional information request letter when a template letter could be approved and used on all the cases?		E-Mail
November 16, 2010	A new coordinator contact for potential political cases was announced.		Interview and Documentation
November 16-17, 2010	A Determinations Unit Group Manager raised concern to the Determinations Unit Area Manager that they are still waiting for an additional information request letter template from the Technical Unit for the Tea Party cases. The coordinator had received calls from taxpayers checking on the status of their applications.		E-Mail
November 17, 2010	The Determinations Unit Program Manager discussed Tea Party cases with the Technical Unit manager. Review of the cases by the Technical Unit found that not all the cases had the same issues so a template letter had not been developed.		E-Mail
December 13, 2010	The Determinations Unit Program Manager asked the Technical Unit manager for a status on the Tea Party cases. The Technical Unit manager responded that they were going to discuss the cases with the Senior Technical Advisor to the Director, EO, shortly.		E-Mail
January 28, 2011	The Determinations Unit Program Manager requested an update on the Tea Party cases from the Technical Unit Acting Manager.		E-Mail
January 2011	A new person took over the Technical Unit Acting Manager role.		Interview
February 3, 2011	The Technical Unit Acting Manager provided an update to the Determinations Unit Program Manager on the cases being worked by the Technical Unit. Letters were being developed and would be reviewed shortly.		E-Mail

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
March 2, 2011	A Determinations Unit Group Manager reminded the Determinations Unit Program Manager to follow up with the Technical Unit on the status of the Tea Party cases.		E-Mail
March 30, 2011	6103		E-Mail
March 31, 2011	The Determinations Unit Program Manager stated that, while waiting for assistance from the Technical Unit, the Determinations Unit still needed to work Tea Party cases to the extent possible.	This contradicts the October 2010 decision not to work cases until assistance is received from the Technical Unit and supports the statement of the Director, Rulings and Agreements, that there was a miscommunication about not working the cases while awaiting assistance.	E-Mail
April 13, 2011	6103		E-Mail
June 1-2, 2011	The Acting Director, Rulings and Agreements, requested criteria used to identify Tea Party cases from the Determinations Unit Program Manager. The Determinations Unit Program Manager requested criteria from a Determinations Unit Group Manager.		E-Mail
June 2, 2011	A Determinations Unit Group Manager provided criteria for identifying potential Tea Party cases to the Determinations Unit Program Manager. Information was then forwarded to the Acting Director, Rulings and Agreements.	These criteria are very different than the BOLO listing criteria available at the time.	E-Mail
June 6, 2011	6103		E-Mail

[1] The Taxpayer Advocate Service is an independent organization within the IRS that provides assistance to taxpayers whose tax problems have not been resolved through normal IRS channels. Taxpayer Advocate Service employees must, at times, rely on assistance from employees assigned to other IRS functions. To request assistance, the Taxpayer Advocate Service issues an Operations Assistance Request specifying the actions needed to help resolve the taxpayer's problem.

IRSR0000014761

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
June 6, 2011	The Acting Director, Rulings and Agreements, commented that the criteria being used to identify Tea Party cases may have resulted in over -inclusion. 6103 6103		E-Mail
June 6, 2011	The Determinations Unit Program Manager mentioned that the Determinations Unit needed assistance from the Technical Unit to ensure consist ency.		E-Mail
June 29, 2011	A briefing was held with the Director , EO. The briefing paper noted that the Determinations Unit sent cases that met any of the criteria below to a designated team of specialists to be worked: • "Tea Party," "Patriots," or "9/12 Project" is referenced in the case file. • Issues include Government spending, Government debt, or taxes. • Education of the public via advocacy/lobbying to "make America a better place to live." • Statements in the case file criticize how the country is being run. Over 100 applications were identified by this time. It was decided to develop a guide sheet for processing these cases.	The briefing paper for the Director, EO, was prepared by Tax Law Specialists in the Technical Unit and the Guidance Unit and was reviewed by the Acting Manager, Technical Unit. A Guidance Unit specialist was the primary author of the briefing paper. During the briefing, the Director, EO, raised concerns over the language of the BOLO listing criteria. The Director, EO, instructed that the criteria be immediately revised.	Documentation and E-Mail
July 5, 2011	A conference call was held with the Technical Unit, the Director, EO; and the Determinations Unit Program Manager. They developed new criteria for identifying cases. The Determinations Unit Program Manager made changes to the BOLO listing. The criteria were changed to "organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."		E-Mail
July 5, 2011	The EO function Headquarters office would be putting a document together with recommended actions for identified cases.		E-Mail
July 23, 2011	The Technical Unit was assigned a new person to coordinate with the Determinations Unit.		E-Mail
July 24, 2011	Work commenced on the guide sheet when the Acting Manager, Technical Unit, asked tax law specialists to draft a list of things for Determinations Unit specialists to look for when working these cases.		E-Mail

IRSR0000014762

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
August 4, 2011	Rulings and Agreements office personnel held a meeting with Chief Counsel so that everyone would have the latest information on the issue.		E-Mail
August 4, 2011	A Guidance Unit specialist asked if Counsel would review a check sheet prior to issuance to the Determinations Unit. The Acting Director, Rulings and Agreements, responded that Counsel would review it prior to issuance.		E-Mail
August 10, 2011	6103		Documentation
September 15, 2011	The Determinations Unit Program Manager sent a list of all identified cases to the Acting Director, Rulings and Agreements, so that the Technical Unit could complete a limited "triage" of the cases using available information from the electronic case files. A Technical Unit specialist reviewed the list to determine if any cases could be closed on merit or closed with an adverse determination letter. This "triage" was considered a third screening.		E-Mail
September 21, 2011	The draft guide sheet was sent for review and comment to various EO function Headquarters office employees.		E-Mail
October 2011	A new person took over as the Acting Director, Rulings and Agreements.		Interview
October 24, 2011	A Technical Unit manager forwarded initi al "triage" results to the Determinations Unit.		E-Mail
October 25, 2011	Based on the categories and terminology used in the triage results spreadsheet, the Determinations Unit Program Manager was unclear what the Determinations Unit should do with the triage results – close cases, develop further, *etc.* – and requested the status on the guidance from the Technical Unit.		E-Mail
October 26, 2011	A Technical Unit specialist provided further explanation of the triage results in an e-mail to the Determinations Unit Program Manager.		E-Mail

IRSR0000014763

Date	Event	Additional Details	Source
October 30, 2011	The Determinations Unit Program Manager contacted the Acting Manager, Technical Unit, asking additional questions regarding the triage results and requesting a status update on the Technical Unit guidance. 6103 6103		E-Mail
November 3, 2011	An updated draft version of the guide sheet was sent to EO function employees for comment.		E-Mail
November 6, 2011	The Acting Manager, Technical Unit, had a Technical Unit specialist provide more details on the triage results, and informed the Determinations Unit Program Manager that the guidance was being reviewed prior to issuance.		E-Mail
November 6, 2011	The Acting Director, Rulings and Agreements, informed the Acting Manager, Technical Unit, and the Determinations Unit Program Manager that, based on feedback received, the guidance developed would not work in its present form – it was "too lawyerly" to be useful and needed the Determinations Unit input.		Interview and E-Mail
November 15, 2011	The Determinations Unit Program Manager forwarded the Technical Unit specialist's triage results to the Senior Technical Advisor to the Director, EO, per the Director's request.		E-Mail
November 22, 2011	The Acting Manager, Technical Unit, forwarded the clarified triage results to the Determinations Unit Program Manager.		E-Mail
November 23 – 30, 2011	A new Determinations Unit coordinator was assigned oversight of the cases by a Determinations Unit Group Manager. The draft Technical Unit guidance was provided to the Group Manager. The coordinator began working cases after receiving the guidance in anticipation of a team being assembled to work the cases.		Interview and E-Mail
November 2011	The Determinations Unit specialist assigned the cases began working them after receiving the draft Technical Unit guidance.		Interview
December 7–9, 2011	A team of Determinations Unit specialists was created to review all the identified cases. An employee from Quality Assurance was also part of the team. The Technical Unit provided contacts for them.		E-Mail

IRSR0000014764

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
December 16, 2011	The first meeting was held by the team of specialists.		Interview and E-Mail
January 2012	The first batch of letters requesting additional information for applications containing incomplete or missing information was issued by Determinations Unit specialists based, in part, on their reading of the draft guidance issued by the Technical Unit.		Interview and E-Mail
January 2012	A Determinations Unit specialist was tasked with performing a secondary screening of identified potential political cases to ensure that they involved political activities and not just general or lobbying advocacy.		Interviews
January 25, 2012	The BOLO listing criteria were again updated. The criteria was revised as "political action type organizations involved in limiting/expanding Government, educating on the Constitution and Bill of Rights, social economic reform/movement." The coordinator contact was changed as well.		Interview and Documentation
February 27, 2012	A member of the team of specialists asked when to start issuing additional information request letters to applicants again.		E-Mail
February 27, 2012	The Determinations Unit Program Manager questioned why the team of specialists was not issuing additional information request letters. The Determinations Unit Group Manager for the team of specialists had told the team coordinator to stop developing template questions, not to stop issuing additional information request letters. The miscommunication was corrected on February 29, 2012.		E-Mail
February 29, 2012	The Director, EO, requested that the Acting Director, Rulings and Agreements, develop a letter to clearly inform applicants what was going to happen if they did not respond to the additional information request letters and giving them more time for their responses.		E-Mail
February 29, 2012	The Director, EO, stopped any more additional information request letters from being issued on advocacy cases until new guidance was provided to the Determinations Unit. In addition, the Actin g Director, Rulings and Agreements, discussed with the Determinations Unit Program Manager, about having specialists print out website information and asking the organizations to verify the information instead of asking for applicants to print out the webs ite information.		E-Mail

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
February–March 2012	Numerous news articles began to be published with complaints from Tea Party organizations about the IRS's unfair treatment. Congress also began to show interest in the IRS's treatment of Tea Party organization s.		Documentation
March 2012	A new person became Acting Group Manager of the team of specialists.		Interview
March 1, 2012	A draft list of template questions was prepared by the team of specialists and forwarded to the Guidance Unit.	Questions included asking for donor information.	E-Mail
March 5, 2012	The Acting Manager, Technical Unit, established procedures for reviewing the first favorable determination letter drafted by the Determinations Unit.		E-Mail
March 6, 2012	6103		E-Mail
March 8, 2012	The Deputy Commissioner for Services and Enforcement requested that, if a taxpayer called about having to provide donor information, the Determinations Unit would allow them to not send the donor names but would inform them that the IRS may need it later.		E-Mail
March 8, 2012	The Acting Director, Rulings and Agreements, sent to the Determinations Unit Program Manager for comment a draft letter on giving applican ts additional time to respond to the additional information request letters. The Determinations Unit Program Manager raised a concern of giving organizations that were not compliant with standard response timelines special treatment.		E-Mail
March 15, 2012	The Determinations Unit received guidance on how to handle different scenarios, based upon the status of their cases. Those I.R.C. § 501(c)(4) organizations that had not responded to an additional information request letter were issued another letter giving them an additional 60 days to respond. Those letters were to be issued by March 16, 2012. This additional time letter was a one-time occurrence.		Interview and E-Mail
March 23, 2012, and March 27, 2012	The Senior Technical Advisor to the Acting Commissioner, Tax Exempt and Government Entities Division, and the Deputy Commissioner for Services and Enforcement discussed concerns with the media attention the Tea Party applications were receiving. The Deputy Commissioner for Services and Enforcement asked the Senior Technical Advisor to look into what was going on in the Determinations Unit and make recommendations.		Interview

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
April 2012	The Acting Director, Rulings and Agreements, learned that the BOLO listing criteria had been changed on January 25, 2012, and informed the Director, EO.		Interview
April 4, 2012	The Determinations Unit received the extension letter for issuance to I.R.C. § 501(c)(3) organizations that had not responded to a previous additional information request letter.		E-Mail
April 17, 2012	Tax Exempt and Government Entities Division Headquarters office employees received the Technical Unit triage results and the draft guidance provided by the Technical Unit. Template questions developed by the team of specialists were also provided.		E-Mail
April 23, 2012	Senior Technical Advisor to the Acting Tax Exempt and Government Entities Division Commissioner visited the Determinations Unit in Cincinnati, Ohio, with a group of EO function employees, and reviewed about half of the identified cases.		Interview
April 24, 2012	The Acting Director, Rulings and Agreements, requested that the Senior Technical Advisor to the Director, EO, review all the additional information request letters issued and identify troubling questions, which organizations received them, and which members of the team of specialists asked them.		E-Mail
April 25, 2012	The Senior Technical Advisor to the Director, EO, provided results of the additional information request letter review, including a list of troubling questions.	The results included the names of donors as a troubling question.	E-Mail
April 25, 2012	Chief Counsel's office provided additional comments on the draft guidance developed for the Determinations Unit.		E-Mail
May 8, 2012	The Determinations Unit Program Manager was informed that EO function Headquarters office employees planned to visit Cincinnati, Ohio, to provide training on cases and perform a review of the cases to recommend what additional actions, if any, were needed to make a determination.		E-Mail
May 9, 2012	The Director, Rulings and Agreements, asked about the process for updating the BOLO listing.		E-Mail

IRSR0000014767

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
May 14–15, 2012	Training was held in Cincinnati, Ohio, on how to process identified potential political cases. The Senior Technical Advisor to the Director, EO, took over coordination of the team of specialists from the Determinations Unit.		E-Mail
May 16, 2012	A joint team of Determinations Unit specialists and EO function Headquarters office employees began reviewing all potential political cases began in Cincinnati, Ohio. Cases were divided into four groups with recommendations for how to proceed: favorable determination, favorable with limited development, significant development, and probably adverse. This took around three weeks to complete. A worksheet was used to document the reviews.		E-Mail
May 17, 2012	The Director, Rulings and Agreements, issued a memorandum outlining new procedures for updating the BOLO listing. The BOLO listing criteria were updated again. New criteria reads: "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit)."	Suggested additions and changes must be approved by a Determinations Unit coordinator, the Determinations Unit Program Manager, and the Director, Rulings and Agreements.	Interview and E-Mail
May 21, 2012	The EO function determined that the requested donor information could be destroyed or returned to the applicant if not used to make the final determination of tax-exempt status. It does not need to be kept in the administrative file. A letter would be issued to the organizations informing them that the donor information was destroyed.		Interview and E-Mail
May 24, 2012	A telephone call script was developed to inform some organizations that had not responded to the additional information requests that it was not necessary to send the requested information and that their applications had been approved. Also, an additional paragraph was developed for the determination letter.		E-Mail

IRSR0000014768

DRAFT – Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review

Date	Event	Additional Details	Source
May 2012	After the review of identified cases was completed, each Determinations Unit specialist working cases was assigned a Technical Unit employee to work with on the cases. The Technical Unit employee reviewed all additional information request letters prior to issuance. The Quality Assurance Unit began reviewing 100 percent of the cases prior to closure. The Quality Assurance Unit review will shift from 100 percent review to a sample review once a comfort level with the results of the quality review was achieved.		Interview
May 2012	A decision was made to refer cases to the Review of Operations Unit for follow-up if there were indications of political campaign intervention but not enough to prevent approval of tax-exempt status.		Interview and E-Mail
June 4, 2012	A draft letter was developed to send to organizations that provided donor information. The letter would inform the organizations that the information was destroyed.		E-Mail
June 7, 2012	The Director, Rulings and Agreements, provided guidance on how to process cases now that they had been reviewed and divided into categories. Any new cases received would go through the same review process prior to assignment.		E-Mail
July 15, 2012	A new Acting Determinations Unit Group Manager was overseeing the team of specialists.		Interview

IRSR0000014769

From: Spellmann Don R
Sent: Monday, August 08, 2011 11:53 AM
To: Marshall David L; Franklin Amy B
Subject: Wednesday Mtg

Importance: Low

Hi David & Amy.

If you both have time, I think it would be helpful at Wednesday's meeting if you could provide a brief sketch of your organizations and what they do (and plan to do). Most of the attendees are not likely to be familiar with the specifics of your cases. Highlight things you think warrant further development or explanation, particularly their political activities (both what they label as political and what we think could be political). You also may have questions about what their underlying social welfare purpose is and how its activities would advance them. Note anything that concerns you or raises questions. I think this will provide a good backdrop and lead in for why we are recommending development for the 2010 election year. As you have time, be thinking of the types of information you'd like to have specific to your entity (like copies of 2010 ads and other distributed materials, when broadcast or distributed, the audience it reaches, what criteria they used to select a particular market, allocation of costs between social and political activities (and the method they used to make that allocation). Depending on how the discussion goes, I suppose we should be prepared to offer to provide them a detailed list of development questions (at a later date).

Thank you. I'll be around tomorrow if there's anything we need to discuss.

Don

From: Lerner Lois G
Sent: Thursday, April 04, 2013 9:49 AM
To: Cook Janine
Cc: Paz Holly O
Subject: RE: EO Enforcement Guidance Priority

They know my thoughts--you can leave it. We need guidance on c4, we need guidance on c4, we need guidance on c4... IRS is getting hammered!

Lois G. Lerner
Director of Exempt Organizations

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]
Sent: Thursday, April 04, 2013 10:47 AM
To: Lerner Lois G
Subject: RE: EO Enforcement Guidance Priority

ok. or we can move if you'd like. If I don't hear back from you, I'll assume we stick as planned.

-----Original Appointment-----
From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Thursday, April 04, 2013 10:45 AM
To: Cook Janine
Subject: Declined: EO Enforcement Guidance Priority
When: Monday, April 08, 2013 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4308 or 888-331-8226[redacted]

I have to meet with CI about their testimony re c4--Holly and David can take the lead on this--thanks

[redacted] = Redacted by the Permanent Subcommittee on Investigations

---

From: Williams Grant
Sent: Tuesday, April 16, 2013 10:13 AM
To: Eldridge Michelle L; Zarin Roberta B
Cc: Lerner Lois G; Patterson Dean J
Subject: Follow-up - Chronicle of Philanthropy: # IRS staff members "responsible for policing/enforcing regulations for tax-exempt groups" - says deadline before Noon Tuesday

Hi everyone,

After I pointed the Chronicle reporter to Page 2 of the latest Workplan for the EO staffing numbers, she replied with two messages that I've copied in below.

One option: I could make sure she has seen the Workplan's Glossary on Pages 3 and 4 (http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf), where she would see the following descriptions, among others:

Rulings and Agreements (R&A)
Composed of Determinations, Determinations Quality Assurance, EO Technical and EO Guidance. R&A processes applications for tax exemption and provides direction through private letter rulings, technical advice memoranda and formal and informal guidance; responds to taxpayer and Congressional correspondence, and supports EO Examinations initiatives with technical advice and the development of questionnaires, checksheets and reports.

Examinations
Analyzes the operation and finances of exempt organizations through examinations (audits). Exam agents propose tax assessments or changes to exempt status when necessary, as well as advise organizations about how to comply with the law in the future.

Customer Education and Outreach (CE&O)
Develops and delivers programs and products designed to help exempt organizations understand their tax responsibilities. Supports the development of internal and external communications, forms and publications and external education and outreach efforts.

Would you think pointing her to the above would be an appropriate response?

Grant Williams
IRS National Media Relations
(202) 622-4000

From: Sarah Frostenson [mailto:Sarah.Frostenson@philanthropy.com]
Sent: Tuesday, April 16, 2013 10:02 AM
To: Williams Grant
Subject: RE: 4.15_Chronicle of Philanthropy Media Request
Also, to clarify—the two functional areas: Ruling and Agreements and Examinations. Are they both responsible for policing and enforcing regulations for tax-exempt groups? Or is it just Ruling and Agreements? Or just Examinations?

-Sarah

From: Sarah Frostenson [mailto:Sarah.Frostenson@philanthropy.com]
Sent: Tuesday, April 16, 2013 9:48 AM
To: Williams Grant
Subject: RE: 4.15_Chronicle of Philanthropy Media Request

Hi, Grant,

Thank you. I'm glad we fact-checked this as our columnist appears to have been off significantly. For 2012, I have the IRS employing 876 staff members for tax exempt organizations. If I interpreted this incorrectly, please let me know.

Thanks again for your assistance. I appreciate it.

-Sarah

From: Eldridge Michelle L
Sent: Monday, April 15, 2013 3:22 PM
To: Zarin Roberta B; Williams Grant
Cc: Lerner Lois G
Subject: RE: Chronicle of Philanthropy: Q: # IRS staff members "responsible for policing/enforcing regulations for tax-exempt groups" - says deadline before Noon Tuesday

Agreed. Pointing her to the numbers that are in the publicly available report makes sense to me too. Thanks. --Michelle

From: Zarin Roberta B
Sent: Monday, April 15, 2013 3:19 PM
To: Williams Grant; Eldridge Michelle L
Cc: Lerner Lois G
Subject: RE: Chronicle of Philanthropy: Q: # IRS staff members "responsible for policing/enforcing regulations for tax-exempt groups" - says deadline before Noon Tuesday

That makes sense to me. Those figures are public and were correct as of the date of the Workplan.

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities
202-283-8868

From: Williams Grant
Sent: Monday, April 15, 2013 2:58 PM
To: Zarin Roberta B; Eldridge Michelle L
Subject: Chronicle of Philanthropy: Q: # IRS staff members "responsible for policing/enforcing regulations for tax-exempt groups" - says deadline before Noon Tuesday

Hi Michelle and Bobby,

The Chronicle of Philanthropy reporter said on the phone she was asked to fact-check the statement and figures (on down in her e-mail message to us below) that are in the draft of an opinion piece she said someone else is writing for her newspaper -- she did not explain further.

I believe the last time The Chronicle referred to IRS EO employee numbers was in an op-ed piece in October of 2010 -- the writer was long-time columnist Pablo Eisenberg and his piece, "State and Federal Regulators Must Do More to Police Nonprofits," contained the following sentence: *The government agencies that oversee charities, both federal and state, have too few staff members and too little money. The Internal Revenue Service's tax-exempt division has about 850 employees, fewer than half of whom are charged with overseeing the operations of about 1.2 million charities.*

The figure she is checking below seems wrong -- would an option be to point her to Page 2 of the latest IRS EO Workplan (http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf) that has the following table (and also an organizational chart that I won't copy in):

Exempt Organizations Staffing

Exempt Organizations (EO) is organized by three functional areas: Rulings and Agreements, Examinations, and Customer Education and Outreach. *Figure A: Employees over a 3-year period*

	Rulings and Agreements	Examinations	Customer Education and Outreach	Director's Office/Program Management	Total
2010	337	538	13	12	900
2011	332	531	12	14	889
2012	335	516	12	13	876

Grant Williams
IRS National Media Relations
(202) 622-4000

Deadline: Tuesday before noon
Fact checking for an opinion piece

"The IRS currently has no more than 450 staff members responsible for policing and enforcing regulations for the nation's tax-exempt groups."

Is this accurate? More than 450? Less than 450?

Thanks
-Sarah

Sarah E. Frostenson
Editorial Research Assistant
The Chronicle of Philanthropy
1255 Twenty-Third Street, NW
Washington, DC 20037
(202) 466-1201

June Briefing Notes

Group 7830

July 2, 2010

A. **Leadership**:

We held a group meeting on June 7th and the following was discussed:

1. Revalidated everyone's flexiplace agreements.
2. Covered examples of clear written communcations in our work
3. Tyler Chumney provided a presentation on his trip to Brooklyn concerning the TAG Promoter Investigations.

B. **Employee Satisfaction**:

1. Personnel Issues:

PRIVACY

With the exception of one IP case, all of his work has been obtained and reassigned. I hope to locate the remaining case next week and likely approve as we have the related response.

PRIVACY The following are the highlights:

1. I approved him for FMLA-LWOP to account for the time he needs to miss work for medical reasons. Over the past month, PRIVA has been at work aproximately 60-65% of the time. Most of the missed time has been accounted for using the FMLA option.

2. PRIVACY work has been pretty good. The gaps in time have been eliminated and his work is fairly current with no cases exceededing 90 days from assignment.

Edwina Perkins: As noted this week, Edwina does currently have some inventory management issues with her TAG#18 work. She and I have developed a plan to eliminate her old work shortly and we intend to have weekly meetings to monitor the progress.

I wouldn't yet deem her a performance problem as technically she is above average and many of her cases are difficult. However, she could do better managing her work and I should have caught the problem sooner. Per review of her EPF, she has had good ratings, most notably a 4.6. score in 2008. However, in 2009, she was lowered to a 4.2 in part due to workload management issues--- which I think is accurate. Her mid-year still kept her at a 4.2.

Overall, I plan to move her off of TAG#18 work once her old age cases are gone and transition her to Terrorism. I feel burn out might be to blame for some of her problems.

2. Employee Feedback in June 2010:

   i. Annuals Completed= 3 (Tracy, Shawndea, and Tom)

   ii. Workload Reviews/Mid-Years= 0

   iii. Individual Case/Focused Reviews= 18

   iv. Annuals Due Next Month= 0

   v. Mid-Years Due Next Month= 1 (Tyler)

Overview: I kept Tom's and Shawndea' scores the same as last year. I raised Tracy to a 4.8 primarily due to her excellent workload management skills. Tracy, Carly, and April all do a good job in this area.

C. **Business Results**:

The following is an overview of the major statuses of the group's inventory.

Cases Older than 90 Days from Assignment

Total number of cases in Status 52 and	258
Total number of cases exceeding 90 days from assignment in Status 52 and @ 7/2/10	44
% Exceed 90 days	17%

Note: A little bit of improvement from last month when we were at 20%. Most of the group's status 52 old age work now has 2010 dates

Open Longer than 120 Days (all statuses)

Total number of cases open	415
Total number of cases exceeding 120 days from assignment in all statuses	31
% Exceed 120 days	7%

Note: I included all statuses for this category as many of these cases are status 31 and 32 going back and forth between QA.

Cases in Status 55

Total number of cases in 55 as of 7/2/2010	22
Number of cases exceeding 5 business days in 55	3

Note: Per Business Objects, 3 cases exceeded the 5 day limit. The oldest date is 6/24 and will be closed within the next few days

Cases is Status 32

Total number of cases in 32 as of 7/2/2010	14
Number of cases exceeding 45 days	6

Cases in Status 75

Total number of cases in 75 and 31994 for rescreening	16
Number of cases exceeding 60 days	1

Note: One case exceeds 60 days which is [redacted 6103] – previously identified as the Successor to Acorn. We are awaiting guidance from EO Technical on next action with this case.

Group Direct Time (Codes 130. 303. 160):

Total Time Per Web ETS	Direct Time (Determination, Screening, and Coordinator)	%
2,496	1,342.5	54%

Note: [redacted PRIVACY]

D. Group 7830 Specialized Cases:

TAG #18

Quantity: 81 (all grades)

General Date: January 2010 (approximate when all grades are considered)

Oldest Date: January 4, 2010

Note: This category is in pretty good shape and consistent with the general Grade 12 inventory.

Terrorism Cases

Quantity: 43

General Date: May-March Dates

Oldest Date: March 8, 2010

Note: This category is current.

Abusive

Quantity: 26

General Date: Mid January 2010

Oldest Date: December 17

Note: Pretty much the same as last month.

D. **Customer Satisfaction and Sensitive Cases:**

1. **Taxpayer Advocate:** We have one TAG #18 OAR's currently back to Group from Quality, Amedi Tzion. Jodi, Dale, and I are working to again revise the letter to send back to Quality.

   Note: The [redacted] 6103 [redacted], is now gone.

2. **Sensitive Cases:** The following are sensitive cases:

   We are currently still holding the Successor to Acorn application awaiting guidance from EOT.

E. **Elevated Issues/Follow-up Items:**

None

Dragoo Daniel D

rom: Abner Donna J
Sent: Wednesday, June 09, 2010 6:38 AM
To: Dragoo Daniel D
Subject: FW: High Profile orgs.
Signed By: DONNA.J.ABNER@IRS.GOV

)aniel,
See below - this was your case.

---

rom: Grodnitzky Steven
Sent: Tuesday, June 08, 2010 2:03 PM
To: Thomas Cindy M; Abner Donna J
Cc: Melahn Brenda; Grodnitzky Steven; Waddell Jon M
Subject: High Profile orgs.

Greetings,

lust want to make sure we are all on the same page as to the ACORN-related cases. We should not be developing or resolving hem at this point. I had spoken to Rob about a successor to one of the ACORN orgs. in NY and he mentioned that some activity is joing on in the TEGE Commissioner's office with respect to ACORN and to hold off.

Also, there is another case, [redacted] 6103 which is in Donna's shop for review. In that case, [redacted] 6103 s a nember of the organization, contributes money, appoints a member of the board, and the principal was a high ranking official with [redacted] 6103 in the midwest. I recommended that the case be put on hold til we hear further from Rob.

anks.

Steve

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
nternal Revenue Service
hone: (202) 283-8941
ax: (202) 283-8937

From: Waddell Jon M
Sent: Wednesday, January 19, 2011 2:10 PM
To: Bowling Steven F; Bell Ronald D
Subject: FW: ACORN Successor

From: Pomerantz Edward J
Sent: Wednesday, January 19, 2011 3:07 PM
To: Waddell Jon M
Subject: FW: ACORN Successor

From: Waddell Jon M
Sent: Friday, November 26, 2010 1:12 PM
To: Pomerantz Edward J
Subject: FW: ACORN Successor

Ed

See me on this on Monday.

thanks

From: Paz Holly O
Sent: Friday, November 26, 2010 1:09 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L; Waddell Jon M
Subject: RE: ACORN Successor

Cindy,

I apologize for the delay - I thought I had already responded but, in going through emails today, I realized I had not. Please work with Chip Hull on these cases.

Thanks,

Holly

From: Thomas Cindy M
Sent: Sunday, October 24, 2010 10:29 PM
To: Paz Holly O
Cc: Camarillo Sharon L; Waddell Jon M
Subject: FW: ACORN Successor
Importance: High

Holly.

Do you have someone who can work with Jon Waddell and specialists in his group on ACORN related cases?

From: Camarillo Sharon L
Sent: Thursday, October 14, 2010 3:45 PM
To: Thomas Cindy M
Cc: Waddell Jon M
Subject: FW: ACORN Successor
Importance: High

Cindy: Please forward this request for technical assistance to EOT. I already asked Jon to get the IDRS information needed to determine whether or not there are open exams on these taxpayers, but he still needs some help from EOT to insure that we are on the right track and asking appropriate questions on these cases.

Thank you

From: Waddell Jon M
Sent: Thursday, October 14, 2010 11:25 AM
To: Camarillo Sharon L
Subject: FW: ACORN Successor
Importance: Low

Sharon,

I'm elevating some new developments in our Acorn-related cases as a request for technical assistance from EO Technical. Below, Ed has outlined some facts from the two Acorn-Related applications currently assigned to him. Both applications are based out of [redacted] and share common officers. One applicant is applying for c(3) and the other for c(4). Both are affiliated with [redacted] that appears not to be exempt but yet currently selected for an examination.

The concerning issue regarding Ed's c(4) applicant is that is has an Asset Purchase Agreement with the [redacted]. The [redacted] is selling its membership info to the c(4) applicant and this information includes members' bank account information. There is no indication in the file that members have agreed to have their bank accounts charged by the 501(c)(4) applicant. Additionally, the membership list numbers in the thousands---- thus many individuals could be impacted.

I think it would be useful to have a TLS in EO Tech work with a few agents in TAG (notably Ed Pomerantz and Tom Kallman) concerning the development of these cases and how they would go about addressing the issue of the member bank account access. Ultimately, I think the cases can remain in Cincinnati; however, it would be constructive to have some of our ideas bounced off some folks from EO Tech. Additionally, we would also need some assistance trying to determine if the [redacted] is marked for exam. If so, there could be additional impact in making any type of ruling on these cases.

Note: Tom Kallman also has a Acorn-related case from [redacted]; however, these factors aren't present in his case. It still would be useful, however, for him to participate

thanks

From: Pomerantz Edward J
Sent: Thursday, October 14, 2010 1:52 PM
To: Waddell Jon M

Subject: ACORN Successor
Importance: Low

6103 6103 is applying for exemption under 501(c)(4).

A related organization, 6103 is applying for exemption under 501(c)(3).

6103

From: Bell Ronald D
Sent: Monday, July 11, 2011 6:03 PM
To: Bowling Steven F; Waddell Jon M
Cc: Esrig Bonnie A
Subject: FW: Elevated BOLO List Issue
Attachments: Ivy.gif

Steve,

We need a new disposition of watch issue for ACORN related orgs. I included Jon in this email because I believe he is the Mgr Chip Hull references below and he previously had ACORN orgs in the TAG group. I will wait on the update of the BOLO list until we have a new disposition/ EO Tech contact person. Thanks.

Ron

From: Esrig Bonnie A
Sent: Monday, July 11, 2011 6:38 PM
To: Bowling Steven F; Bell Ronald D
Subject: FW: Elevated BOLO List Issue

FYI

Bonnie A. Esrig
Manager, EO Determinations Area 1
Phone/vms: (513) 263-4168
Cell phone: (513) 383-6577

From: Melahn Brenda
Sent: Monday, July 11, 2011 4:29 PM
To: Esrig Bonnie A
Subject: FW: Elevated BOLO List Issue

Please pass onto Steve/Ron Bell to update the BOLO list.

From: Angner William J
Sent: Monday, July 11, 2011 3:44 PM
To: Melahn Brenda
Subject: Elevated BOLO List Issue

Please elevate issue below about BOLO list.

Bill Angner
Mgr Group 7827
SE:T:EO:RA:D:2

513-263-3717 phone
513-263-4488 fax

From: Conley Melissa A
Sent: Monday, July 11, 2011 3:36 PM
To: Angner William J
Subject: BOLO List Issue

Good afternoon, Bill:

I am working a case that has a board member who is also serving on the board of an ACORN organization. Per the instructions on the BOLO list and your instruction, I called Chip Hull in EO Technical for guidance in developing the case. Mr. Hull informed me that he should not be on a list as contact person for ACORN related organizations. While he previously provided guidance to a Determ manager re: ACORN successors, his manager informed him that he should not be doing research for our cases. Mr. Hull requested that his name be removed from the BOLO list as a contact person.

Thank you,

Melissa

Melissa A. Conley
Internal Revenue Agent
Exempt Organizations
Group 7827
(513) 263-3074

From: Thomas Cindy M
Sent: Thursday, July 15, 2010 7:21 PM
To: Choi Robert S
Cc: Neuhart Paige; Grodnitzky Steven
Subject: FW: Potential Successor to Acorn

Rob,

It appears as though we have another case that may be a potential successor to Acorn. Refer to Jon's email below. We placed the other case in suspense pending guidance from the Washington Office and are doing so with this case.

If you have questions, please let me know. Thanks.

From: Waddell Jon M
Sent: Thursday, July 15, 2010 2:41 PM
To: Camarillo Sharon L; Thomas Cindy M
Subject:
Importance: Low

Sharon and Cindy,

I'm forwarding this on as an alert on the Successor to Acorn issue. Screening has spotted another potential Successor to Acorn and has forwarded the case to me in my group's unassigned #. This particular applicant is applying as a 501(c) (3) as opposed to the previous one which applied under 501(c)(4). The following are the particulars of this new application:

1. Name: [redacted] 6103
2. POA's: [redacted] 6103
3. Address: [redacted] 6103
4. Officers: [redacted] 6103
5. Description of Activities: [redacted] 6103 [redacted]
6. Relationship to Acorn: [redacted] 6103 [redacted]

Overall, I would suggest taking the same approach as we did with the 501(c)(4) applicant and updating the case to Status 37 and keeping it in TAG to await guidance from EO Tech.

thanks

From: Bell Ronald D
Sent: Sunday, May 13, 2012 7:47 PM
To: Hull Carter C
Cc: Chumney Tyler N
Subject: ACORN Successor org's

HI Chip,

Ive got a case that I believe is an acorn successor org. I googled the name of the org and that is where several websites (such as the capital research center) indicate that it is an acorn successor. The BOLO list states to contact you.

The name of the case is : [redacted]

It is located in [redacted]

The teds case # is [redacted]

Please advise how you want to process this case. Thanks.

Ron Bell

From: Waddell Jon M
Sent: Wednesday, April 03, 2013 7:44 AM
To: Lahey Victoria
Subject: FW: Sensitive Cases

Vicki

Please see the info below as an update. Please continue to hold the one Acorn-related case until there is resolution

thanks

From: Thomas Cindy M
Sent: Wednesday, April 03, 2013 8:29 AM
To: Bowling Steven F; Waddell Jon M
Subject: FW: Sensitive Cases

Jon/Steve - Please read Holly's email directly below regarding status of:

1. [redacted] --- assigned to Ed Pomerantz, and
2. [redacted] --- assigned to April Garrett.

Jon - Holly is reaching out to Nan Downing regarding the case assigned to Vicki Lahey's group.

From: Paz Holly O
Sent: Tuesday, April 02, 2013 4:19 PM
To: Thomas Cindy M
Cc: Seto Michael C; Light Sharon P; Richardson Virginia G
Subject: FW: Sensitive Case

Cindy,

These cases are still going back and forth between the initiator and reviewer. I have asked Mike to get these cases to Virginia ASAP for a fast track review so we can reach a decision.

Holly

From: Paz Holly O
Sent: Thursday, March 28, 2013 3:34 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Sensitive Case

Yes, I have reached out to Mike about those and [redacted]. Will get back to you as soon as I hear from him.

From: Thomas Cindy M
Sent: Thursday, March 28, 2013 3:18 PM

To: Paz Holly O
Cc: Fish David L
Subject: RE: Sensitive Case

Thanks. Could you also have someone let us know the status of the 2 proposed denial letters:

1. [redacted], and
2. [redacted]

From: Paz Holly O
Sent: Thursday, March 28, 2013 2:58 PM
To: Thomas Cindy M; Fish David L
Subject: RE: Sensitive Case

I will reach out to Nan Downing about this case and get back to you. Thanks for bringing it to our attention.

From: Thomas Cindy M
Sent: Tuesday, March 26, 2013 11:54 PM
To: Fish David L; Paz Holly O
Subject: FW: Sensitive Case

Please read Jon's email below and let me know how you'd like for us to handle this. Thanks.

From: Waddell Jon M
Sent: Tuesday, March 26, 2013 4:45 PM
To: Thomas Cindy M
Subject: FW: Sensitive Case

Cindy

I'm elevating a case identified in Vicki's group related to the political advocacy area. While the development issues within Vicki's group are straightforward, any type of ruling on this case could be impactful. Below is the background on the Acorn-related cases:

1. Acorn-related cases were previously reflected on the BOLO and subsequently folded into the political advocacy category over a year ago.
2. Currently, we have two proposed denials under review in D.C. involving Acorn-related cases. One is assigned to Ed Pomerantz and the other to April Garrett
3. These cases contain the same characteristics as other identified political advocacy cases as the applications contain instances of partisan political activity and excessive legislative and mobilization activities precluding approval under c(3).

Note: In reviewing this case with Vicki, the officers and addresses were similar to other Acorn applications I've seen in the past. The officer in this application was [redacted]. Lastly, per Vicki's research, the organization that submitted the Form 8940 also appears to be under audit which adds to the potential sensitivity. I've instructed Vicki to hold off on any further action on the case.

thanks

From: Lahey Victoria
Sent: Tuesday, March 26, 2013 3:44 PM

To: Waddell Jon M
Subject: Sensitive Case

Jon,

We received a Form 8940 requesting a determination of public charity status for the advance ruling period. The case is straight forward, but is highly sensitive. The name of the organization is [redacted]. BMFOLI has an [redacted]. I contacted Tyler and he indicated I should refer the case to you for review. Please advise is this case should be worked if there is an open audit in EO Exam?

Let me know if you have any questions.

Vicki Lahey
Manager, Group 7829
SE:T:EO:RA:D:2
513.263.3601 (Office)
513.263.4590 (Fax)
E-mail Victoria.Lahey@irs.gov

Counsel Comments
03-07-12

Guide Sheet for Political Campaign Intervention and Influencing Legislation Activities

OVERVIEW

Many different types of organizations exempt under § 501(c) engage in limited activities to intervene in political campaigns or attempt to influence legislation, in compliance with the applicable tax laws. Identifying and distinguishing political campaign intervention and attempts to influence legislation and quantifying them to determine an organization's initial and continuing qualification for exemption can be difficult and complex, particularly for organizations that have multiple purposes and activities. The determination is based on all the facts and circumstances and requires extensive case development and careful legal analysis.

This guide sheet aids examination agents and determination specialists by listing specific types of activities that may be used for political campaign intervention or influencing legislation. It lists the pertinent facts to develop in the determination and examination process. It also lists published guidance (including revenue rulings) that illustrate how to analyze these facts to determine whether an activity's purpose is political campaign intervention or influencing legislation. Finally, it contains an appendix of various legal limitations on an organization's political campaign and legislative activities and definitions of terms in the Code and other legal authorities.

Questions on case development and applicable law should be directed to Exempt Organizations Technical [Names, Emails, Phone Numbers]

Section I: Possible Political Campaign Intervention Activities

The following activities should be carefully developed and reviewed to determine if they are being used for political campaign intervention purposes.

		Yes	No
A.	**Voter Guides:** Determine if the organization prepares and distributes information on the positions of candidates for public office. Factual Development: • Does the document only present current elected officials (for example, U.S. Senators)? • Does the document only present the voting record of current elected officials on specific legislation? • Does the document list all candidates for the public office? • Does the document only list candidates from a particular party?		

Counsel Comments
03-07-12

	• Does the document state the candidates' position on issues? • Does the document state the position of all the listed candidates? • If not, does it only list the positions of candidates who are members of one political party? • Does the document indicate which of the listed candidates support (or oppose) the organization's position? • Does the document rank or score the candidates? • Does the document contain a wide variety of issues? • Does the document describe the issues in clear and neutral terms, without indicating a preferred or favored position? • Does the organization distribute (or otherwise make available) the document within 90 days of an election? • Does the organization limit distribution of the document to a specific group (for example, its membership)? • Does the organization make the document widely available throughout the candidates' election district? • Does the organization target the distribution of the document to a select group (e.g., registered voters of one party)? • Does the organization target the distribution of the document to a specific area within the voting district? • Does the organization distribute the document as part of a fundraising activity? • Does the document state the organization's position on the issues? • Does the organization send a questionnaire to the candidates requesting their views? • Does the organization send the questionnaire to all candidates for the public office? • Does the questionnaire describe the issues in clear and neutral terms, without indicating a preferred or favored position? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 80-282, 1980-2 C.B. 178 • Rev. Rul. 78-248, 1978-1 C.B. 154		
B.	**Candidate Forums:** Determine if the organization conducts forums in which candidates for public office appear. Factual Development • Did the organization provide an equal opportunity to participate to		

Counsel Comments
03-07-12

	political candidates seeking the same office? • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others? ? • Does the organization indicate support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views on each of the issues discussed? • Does a nonpartisan, independent panel or moderator prepare and present the questions? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that the candidates would address if elected to the office sought and that are of broad interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 86-95, 1986-2 C.B. 73 • Rev. Rul. 74-574, 1974-2 C.B. 160 • Rev. Rul. 66-256, 1966-2 C.B. 210		
C.	**Candidate Appearances:** Determine whether a candidate spoke at an official function of the organization in his or her personal capacity or as a political candidate. Factual Development • Was the candidate invited to speak at the organization's event in his or her capacity as, or because he or she is, a political candidate? • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, and any		

	materials distributed during the event)? • Did the candidate appear or speak at an organization event in a personal, business or other non-candidate capacity? • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing? • Does the organization mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as the individual's status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career? • Did any fundraising for the candidate occur at the event? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 66-256, 1966-2 C.B. 210		
D.	**Communications Activity** Determine whether the organization publishes and/or distributes statements (oral or written) that support or oppose one or more candidates for public office. Factual Development • Does the statement identify a candidate by name or by other means (e.g., showing a photograph of a candidate, or referring to a candidate's political party affiliation or other distinctive features of a candidate's platform or biography)? • Does the statement express approval or disapproval for one or more candidates' positions and/or actions? • Is the statement published or distributed in a way to target voters in a particular election? • Is the statement delivered close in time to the election? • Is the timing of the statement related to a non-electoral event (such as a scheduled vote on specific legislation, in the case of a candidate who is an office holder)? • Is the statement about an issue that has been raised as an issue distinguishing candidates for a given office?		

Counsel Comments
03-07-12

	• Is the statement part of an ongoing series of communications by the organization on the same issue? • Has the organization expressed support for or opposition to a candidate on its website or through links to another website? • Does the organization make contributions to, or solicit contributions on behalf of, a candidate or political organization? Legal References: • 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		
E.	**Endorsements by Organization Leaders** Determine whether the organization's leaders, acting in an official capacity, have made oral or written statements in support of or in opposition to a candidate for public office. Factual Development • Has a leader of the organization expressed support for or opposition to a candidate for public office? • Did the leader's statements appear in an official publication of the organization? • Did the leader make the statements at an official function of the organization? • Did the leader's statement appear in a publication that is not an official publication of the organization? • Did the organization pay the costs of the ad or publication? • Did the individual pay the costs of the ad or publication? • Did the individual state that his or her comments were personal and not intended to represent the views of the organization? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421		
F.	**Business Activities** Determine whether the organization conducts business activities that support or oppose particular political candidates. Factual Development		

Counsel Comments
03-07-12

	• Does the organization sell or rent mailing lists? • Does the organization lease office space? • Does the organization accept paid political advertising? • Is the good, service, or facility available to candidates in the same election on an equal basis? • Is the good, service, or facility available only to candidates and not to the general public? • Are the fees charged to candidates at the organization's customary and usual rates? • Is the business activity conducted only for a particular candidate? • Is the business activity an ongoing activity of the organization? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421		

Section II: Possible Influencing Legislation Activities

The following activities should be carefully developed and reviewed to determine if they constitute attempts to influence legislation.

A.	**Communications with the General Public on Legislative Issues** Determine whether the organization is attempting to influence legislation through communications with the general public. Factual Development • Does the organization refer to specific legislation in communications with the general public? • Does the communication reflect a view or position on the legislation? • Does the communication provide a factual background for the stated view or position? • Does the communication make available the results of "nonpartisan analysis, study, or research"? • Is the communication part of a series of communications? • Does the communication identify one or more legislators who will vote on the specific legislation? • Does the communication identify the legislator(s) as: o opposing the view or position reflected in the communication?		

Counsel Comments
03-07-12

	○ being undecided with respect to the legislation? ○ being the recipient's representative in the legislature? ○ being a member of the legislative committee or subcommittee that will consider the legislation? • Does the communication state that the recipient should contact a legislator or an employee of a legislative body? • Does the communication provide contact information (such as the address, telephone number, or email address) of a legislator or an employee of a legislative body? • Does the communication provide a petition, tear-off postcard, or other form for the recipient to communicate with a legislator or employee of a legislative body? • Does the communication state that the recipient should contact any other government official about the specific legislation? • Is the communication a paid advertisement that appears in the mass media (including TV and radio)? Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2		
B.	**Communications with Government Officials on Legislative Issues** Determine whether the organization is attempting to influence legislation through communications with government officials. Factual Development • Does the organization refer to specific legislation in communications with any member or employee of a legislative body? • Does the organization refer to specific legislation in communications with any other government official or employee who may participate in the formulation of legislation? • Does the communication reflect a view on the legislation? • Does the communication provide a factual background for the stated view or position? • Does the communication make available the results of "nonpartisan analysis, study, or research"? • Is the communication in response to a request for technical assistance from a governmental body, committee, or a subdivision? • Does the communication relate to a possible legislative action		

Counsel Comments
03-07-12

	that might affect the organization's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions to it? Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. § 53.4945-2		

DRAFT

Counsel Comments
03-07-12

APPENDIX

I. LIMITATIONS ON POLITICAL CAMPAIGN INTERVENTION AND ATTEMPTING TO INFLUENCE LEGISLATION

A. Section 501(c)(3) Organizations

I.R.C. § 501(c)(3)

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, . . . or educational purposes, . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does 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."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

"An organization is not operated exclusively for one or more exempt purposes" if:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;"

(ii) "it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office"; or

(iii) "(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 thereof available to the public."

B. Section 501(c)(4) Social Welfare Organizations

I.R.C. § 501(c)(4)

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare."

Treas. Reg. § 1.501(c)(4)-1(a)(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. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

"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."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

An organization:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;" or

(ii) "(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 thereof available to the public,"

". . . may nevertheless qualify for exemption as a social welfare organization under § 501(c)(4) if it meets the requirements set out in paragraph (a) of § 1.501(c)(4)-1."

Rev. Rul. 81-95,1981-1 C.B. 332

"[T]he regulations do not impose a complete ban on [political campaign] activities for section 501(c)(4) organizations."

"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."

C. Section 501(c)(5) Labor, Agricultural and Horticultural Organizations

Treas. Reg. § 1.501(c)(5)-1

"Have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations."

D. Section 501(c)(6) Business Leagues and Chambers of Commerce

Treas. Reg. § 1.501(c)(6)-1

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade."

E. Certain Other Limitations and Special Rules Applicable to Certain Exempt Organizations

I.R.C. § 527(f) Tax on Exempt Organizations

Imposes a tax on organizations that are exempt under § 501(c) and that expend amounts for an "exempt function," which is defined in § 527(e)(2) to mean "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."

Rev. Rul. 2004-6, 2004-1 C.B. 328

Presents a number of factual situations to illustrate when organizations exempt under §§ 501(c)(4), (5) and (6) are subject to tax under § 527(f) on their expenditures for § 527(e)(2) exempt (political organization) function activities. Discusses factors that tend to show whether an advocacy communication on public policy issues for a § 527(e)(2) (political organization) is an exempt function.

I.R.C. § 162(e) Lobbying and Political Expenditures

Generally denies a deduction for amounts paid or incurred to influence legislation, intervene in political campaigns, and conduct certain lobbying activities.

I.R.C. § 6033(e) Reporting of Lobbying and Political Expenditures

Requires organizations exempt from tax under § 501, other than § 501(c)(3) organizations, to report their total expenditures for lobbying or political expenses for which § 162(e)(1) denies a deduction.

II. DEFINITIONS

A. POLITICAL CAMPAIGN INTERVENTION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii)

"Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate."

"The term candidate for public office means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local."

Rev. Rul. 67-71, 1967-1 C.B. 125

"[T]he organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constitutes participation in a political campaign on behalf of particular candidates, even though its process of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates."

Rev Rul. 67-368, 1967-2 C.B. 194

"Comparative rating of candidates, even though on a nonpartisan basis, is participation or intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated."

Rev. Rul. 74-574, 1974-2 C.B. 160

"The broadcasting station, by reason of its disclaimers [about individual candidates and their positions] and the presentation of equal opportunities for all bona fide legally qualified candidates for the same elective public office to express their views, is not participating or intervening on behalf of or in opposition to any candidate for public office."

Rev. Rul. 86-95, 1986-2 C.B. 73

Organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums.

B. ATTEMPTING TO INFLUENCE LEGISLATION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)

"[A]n organization will be regarded as attempting to influence legislation if the organization: (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) Advocates the adoption or rejection of legislation."

"The term legislation . . . includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure."

Haswell v. United States, 500 F.2d 1133, 1144 (Cl. Ct. 1974)

"The part of [organization's] operations involved in the advocacy of the interests of railroad passenger consumers on legislative matters does not consist of activities which qualify as nonpartisan analysis, study, or research. . . [It] was partisan on this issue, and

the materials submitted in support of its position were not the full and fair objective expositions that would enable the public or an individual to reach an independent conclusion."

Treas. Reg. § 56.4911-2(c)(1)

Generally excludes from the definition of lobbying communications "nonpartisan analysis, study, or research," which is defined in Treas. Reg. § 56.4911-2(c)(1)(ii) to mean "an independent and objective exposition of a particular subject matter, including any activity that is 'educational' within the meaning of § 1.501(c)(3)-1(d)(3). Thus, 'nonpartisan analysis, study, or research' may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. The mere presentation of unsupported opinion, however, does not qualify as 'nonpartisan analysis, study, or research.'" See Treas. Reg. § 1.501(c)(3)-1(c)(iv).

III. DETERMINING WHETHER POLITICAL CAMPAIGN INTERVENTION OR INFLUENCING LEGISLATION ACTIVITIES FURTHER SUBSTANTIAL NON-EXEMPT PURPOSES

Haswell v. United States, 500 F.2d 1133, 1142, 1147 (Cl. Ct. 1974)

"The political efforts of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a substantial part of its activities is to influence, or is an attempt to influence, legislation. A percentage test to determine whether the activities are substantial 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."

"Distribution of expenditures is only one measure of the substantiality of [organization's] political activities."

Seasongood v. Commissioner, 227 F.2d 907, 909, 912 (6th Cir. 1955)

"[T]he so-called 'political activities' of the [organization] were not in relation to all of its other activities substantial, within the meaning of the section," where it involved no expenditures, employed no individuals for this work, and dedicated less than 5% of its time and effort.

Rev Rul. 68-45, 1968-1 C.B. 259

"The fact that the organization's principal source of income is from the conduct of bingo games with the general public does not mean that the games are also its primary activity. All facts and circumstances are taken into account in determining an organization's primary activity." (social welfare organization)

Better Business Bureau v. United States, 326 U.S. 279, 283 (1945)

"[T]he presence of a single non-[exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes."

Courts have applied this holding to the meaning of exclusively under § 501(c)(3) (*e.g., IHC Health Plans, Inc. v. Commissioner*, 325 F.3d 1188, 1194 (10th Cir. 2003); *St. David's Health Care System v. United States*, 349 F.3d 232, 237 (5th Cir. 2003)); and § 501(c)(4) (*e.g., Commissioner v. Lake Forest*, 305 F.2d 814, 820 (4th Cir. 1962); *Contracting Plumbers v. United States*, 488 F.2d 684, 686 (2d Cir. 1973)).

I.R.C. § 501(h)

Provides an election for certain § 501(c)(3) organizations described in § 170(b)(1)(A) or § 509(a)(2)-(3) to apply an expenditure test to determine whether a substantial part of their activities are attempting to influence legislation.

DRAFT

From: Spellmann Don R
Sent: Monday, March 26, 2012 9:09 AM
To: Cook Janine
Cc: Brown Susan D
Subject: RE: Do you have original draft guidesheet that you can send me.

Thank you Janine for this report. The only documents I sent you are the ones we all exchanged. We have not given EO written comments on their 3/21 draft. We'll see how much caveat-type language we can draw from existing sources to add to their draft. Else we'll end up with even more verbiage the public (and Treasury) never has seen before. The checksheets are tough; if we follow 2007-41, we lose the indicator breakdown of 2004-6. But, adding indicators for all types of activities goes broader than both 2004 and 2007. It's super tricky.

From: Cook Janine
Sent: Monday, March 26, 2012 9:50 AM
To: Spellmann Don R
Cc: Brown Susan D
Subject: RE: Do you have original draft guidesheet that you can send me.

Thank you Don.

Vicki and I spoke with Lois and Nan on Friday. They are not convinced that the latest draft is breaking much new ground and feel it's needed for her folks to know what to do. Vicki shared her view that it would be a helpful tool but don't see how we can do it now b/c we'd need to involve Treasury. We all agreed that this needed to go up to Nikole, and Nan was going to let us know about having that conversation.

In the meantime, I said our team can continue to work together to fine-tune this to be as accurate as possible. Lois said she was fine with adding more caveats, including something on where we are providing some discussion beyond what is directly in published guidance. For example, we can note that the definitions of political campaign intervention and attempts to influence legis are drawn from c3 arena, but are consistent with approaches used in c4/5/6 or something like that. We could also put more lead-in language to checksheets to mitigate likelihood that agents approach yes/nos as pure mathematical tabulation.

So, while we don't know where for certain this is headed, we'll keep working with client in good faith to get as grounded a document as possible, but Vicki will be clear up the chain that we see significant risks in this approach without involving Treasury. In this regard, is the document dated 3/21 the one with the annotations?

By the way, I read 2007-41 and 2004-6. They are very helpful and cover a good bit of ground. I can see where it's helpful to pull all these pieces together in one doc with a list of questions to ask. But it's also clear that some facts don't seem to fit into the categories of tends to show or tends not to show, which is why you pulled some out into "neutral category". On the other hand, since 2004-6 categorized them, to go back solely to list of questions without categorizing even those already categorized in 2004-6, is actually giving the agents less than what is out there.

From: Spellmann Don R
Sent: Monday, March 26, 2012 9:07 AM
To: Cook Janine
Cc: Brown Susan D
Subject: RE: Do you have original draft guidesheet that you can send me.

Here you go Janine.

Please let us know what work we should be doing on this project. We have annotated EO's 3/21 draft to note language that has not appeared in published guidance before, but we have not made any revisions.

Don

EO's Original Draft (Sent 2/24)

<< File: Advocacy Org Guidesheet 11-3-2011.doc >>

Counsel Draft (Sent 3/07)

<< File: Guide Sheet Counsel Comments 03-07-12.doc >>

Current EO Draft (Sent 3/21)

<< File: Guide Sheet 3-21-12 clean.doc >>

From: Cook Janine
Sent: Friday, March 23, 2012 4:43 PM
To: Spellmann Don R; Brown Susan D
Subject: Do you have original draft guidesheet that you can send me.

Want to give Vicki the key drafts to see what is out there now, to what we sent back to client, to where it is today.

Vicki and I talked with Lois and Nan today and we are going to talk with Nikole.

From: Cook Janine
Sent: Wednesday, April 04, 2012 3:15 PM
To: Brown Susan D; Spellmann Don R
Subject: RE: Advocacy guide

I think Lois will react very strongly against that, particularly on the theory that this is fact gathering focused. I think we need to leave them in if at all possible; she is already pushing back a lot on 5/8s deletion and if we take out lobbying, I'm concerned we'll lose any remaining credibility in their eyes in giving them something they can conceivably use. Can we put caveat at the top that facts and circumstances surrounding something designated as lobbying may turn out to be political campaign activity.

From: Brown Susan D
Sent: Wednesday, April 04, 2012 4:11 PM
To: Spellmann Don R; Cook Janine
Subject: RE: Advocacy guide

Just to let you know Don and I are struggling with lobbying questions because we're concerned that agents that put a communication in the "lobbying" bucket might think their job is done and not look further at whether the lobbying is disguised campaign activity. Could be a problem if the lobbying is "Stop the wrongheaded legislation (sponsored by Candidate X)!"

For that reason we plan to delete the lobbying guide sheets (which applied to (c)(3)s only anyway).

These issues don't get easier!

From: Spellmann Don R
Sent: Wednesday, April 04, 2012 4:06 PM
To: Cook Janine; Brown Susan D
Subject: RE: Advocacy guide

Ok. Do you want to see it first?

From: Cook Janine
Sent: Wednesday, April 04, 2012 4:05 PM
To: Spellmann Don R; Brown Susan D
Subject: RE: Advocacy guide

I think I'd rather send tonight even if we have to say we need to do a final scrubbing. She is very anxious to see what we've got.

From: Spellmann Don R
Sent: Wednesday, April 04, 2012 4:04 PM
To: Cook Janine; Brown Susan D
Subject: RE: Advocacy guide

We're trying, but not sure we will make it. We're imagining you would want to see this before we send it across to EO? I am here tomorrow (Susan's not) and fully expect to be able to finish then. Or we might be able to scramble and get it done tonight. Just let us know.

From: Cook Janine
Sent: Wednesday, April 04, 2012 2:57 PM
To: Spellmann Don R; Brown Susan D
Subject: Advocacy guide

Are we on target today to get our version of guide sheet to EO by COB?

From: Cook Janine
Sent: Friday, April 20, 2012 9:58 PM
To: Lerner Lois G; Marks Nancy J
Cc: Judson Victoria A
Subject: Re: Retooled Advocacy Guide Sheet

Lois and Nan, let us know next step for getting this before Nikole and if you need anything else from us to accomplish that. Erik would like us to keep him in the loop as well so he is aware of where things are headed. Thanks.
Sent by my Blackberry

From: Spellmann Don R
To: Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary
Cc: Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L
Sent: Fri Apr 20 22:14:14 2012
Subject: Retooled Advocacy Guide Sheet

The name and general headings are the same, but the looks are very different under the hood,. We have worked to make the advocacy document a multi-purpose tool kit for the determination agents, with specific usage instructions, in response to your requested needs.

This document has three principal objectives: To help agents (1) screen applications for possible political campaign intervention or lobbying, (2) decide which cases require further development and which facts to develop, and (3) make a determination whether a particular activity is political campaign intervention or lobbying.

We thought a quick orientation would be helpful. The new structure of each guide sheet has 3 parts. Following the general overview of each activity (from before), first it screens out those applicants that do not engage in the precise type of activity that presents possible campaign intervention or lobbying, and sends the agent on to the next guide sheet.

The second section presents a specific set of facts for each type of activity (voter guides for example) which generally are campaign intervention (or lobbying) and a specific set which generally are not. These are based on specific examples in the published guidance and are specifically cited. This part can serve both a secondary and broader screening function and a decision function.

The third part presents the broader list of possible facts to consider. These facts now are grouped by those that tend to show campaign intervention (or lobbying), and facts that do not. There are no neutral facts. In many cases, we have combined a series of facts into a single factor to make them clearer markers of campaigning or lobbying. Each factor contains citations to the published guidance and applicable examples for the agents' quick reference. In many cases, we went beyond the guidance to derive specific (and often countervailing) factors based upon the published rulings, but which were not specifically the subject or basis of the rulings. These are noted in the citations as derived from the guidance. This we hope will expand the utility of the indicators, reduce ambiguities, and make them more balanced and comprehensive on both the aye and nay side. There are some exposed toes here, but we tried very much to minimize and protect them.

Finally, each guide sheet contains a full list of all of the cited published guidance (and associated examples) for reference.

EO Technical remains the back-up resource under this document, but now as more of a final resort. This document gives the agents many tools (with instructions) to work more thoroughly and completely through the cases and needed development on their own, all within the confines of a single document, before requiring assistance.

This is not a completely polished product from head to toe, so please excuse anything that you may find amiss. We have some final polishing and cleanup operations to complete.

Last, we attach the safe and conservative counsel draft from before, which does not go beyond the boundaries of the existing published guidance, a toe-safe zone. This document now has been revised, as we discussed, to include specific citations for each individual factor listed in the guide sheet.

Please let us know of your questions, comments and reactions to the retooled guide sheet.

Don

Don R. Spellmann
Senior Counsel
Office of Division Counsel/
Associate Chief Counsel
(Tax Exempt and Government Entities)
1111 Constitution Avenue, NW, Room 4409
Washington, DC 20224
202-927-6799
202-622-1036 (Fax)

New Counsel Guide Sheet Draft

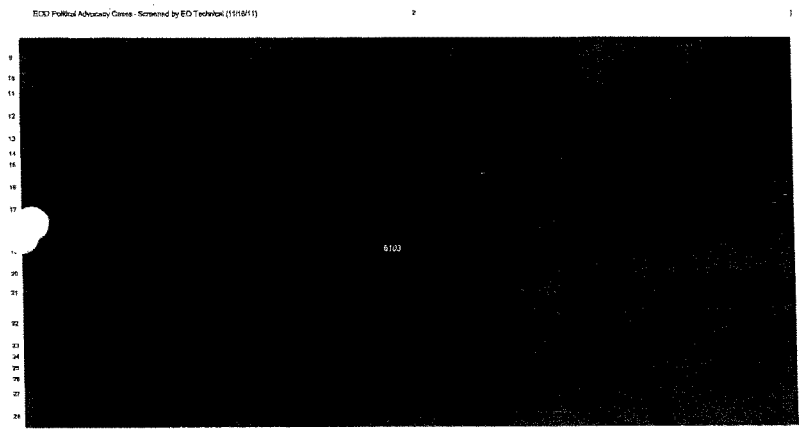
<<guide sheet master 04-20-12 (Counsel).doc>>

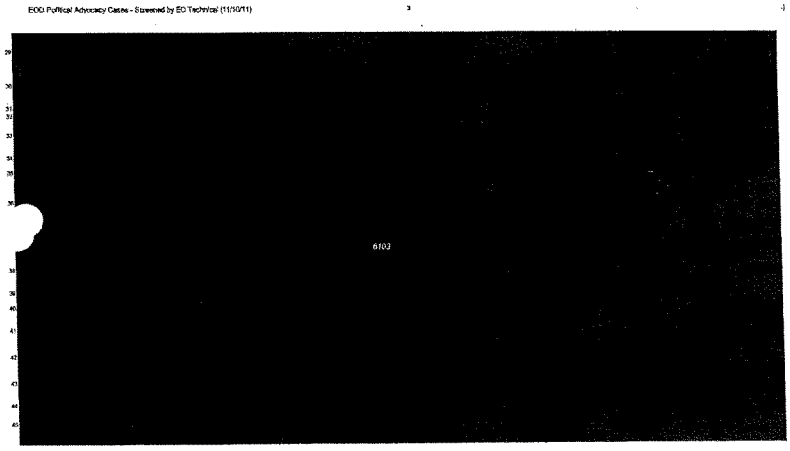
Prior Annotated Counsel Draft

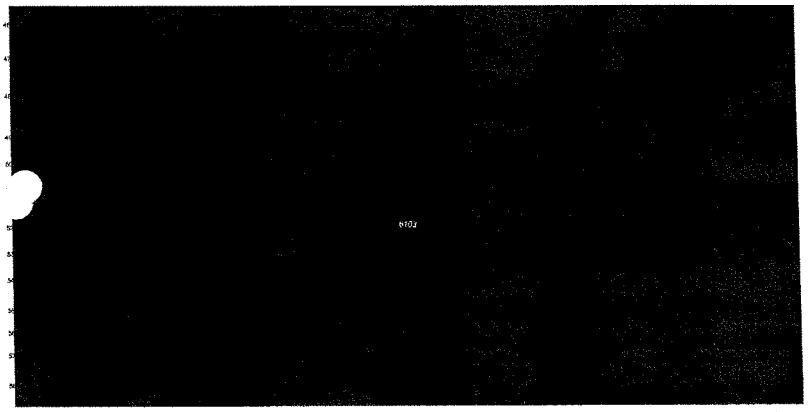
<<guide sheet 04-16-12 annotated (2)(checked).doc>>

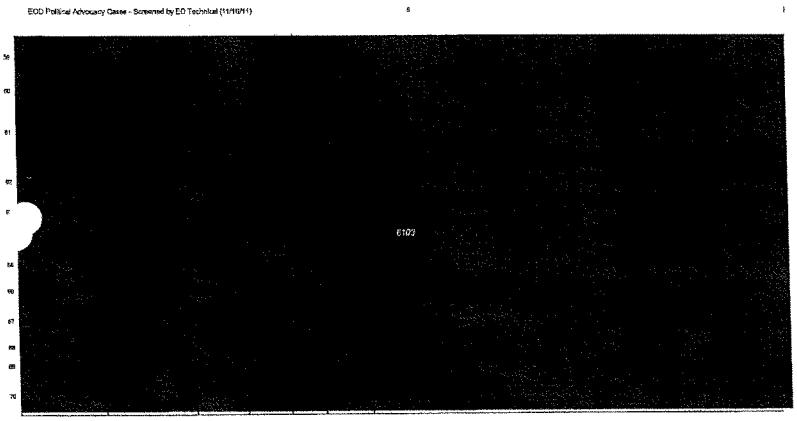
BOD Political Advocacy Cases - Screened by EO Technical (11/18/11) 1

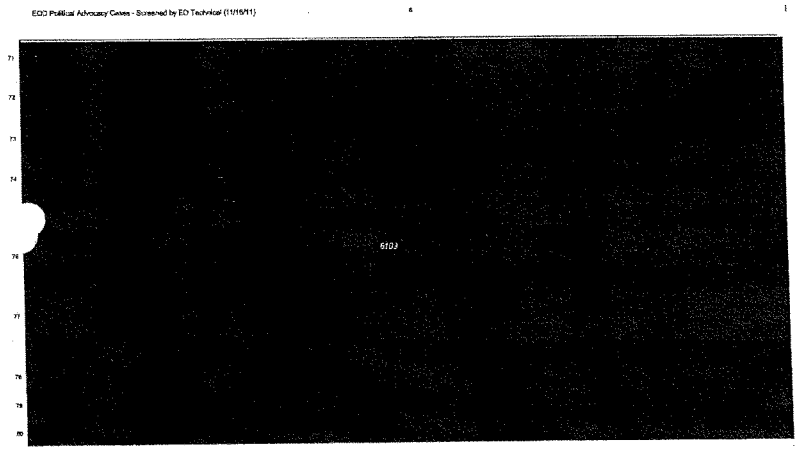
		Control			Current	Lobbying	General Advocacy (i.e. issue advocacy and/or educational)	Propaganda/Inflammatory (title is an educational aspect)	Political Activities	Develop cond	Comments	Suggested Action(s)
	Organization Name	Date	EIN	Subsection	EOS Status							Suggestions are based on initial screening of cases to TEDS, not on a full review and development of the cases. * indicates that development may not needed. Suggest that EOD may want to review the case to make final determinations whether to or not to develop the case.
1	[redacted]											
2												
3												
5												
6												
7												
8												

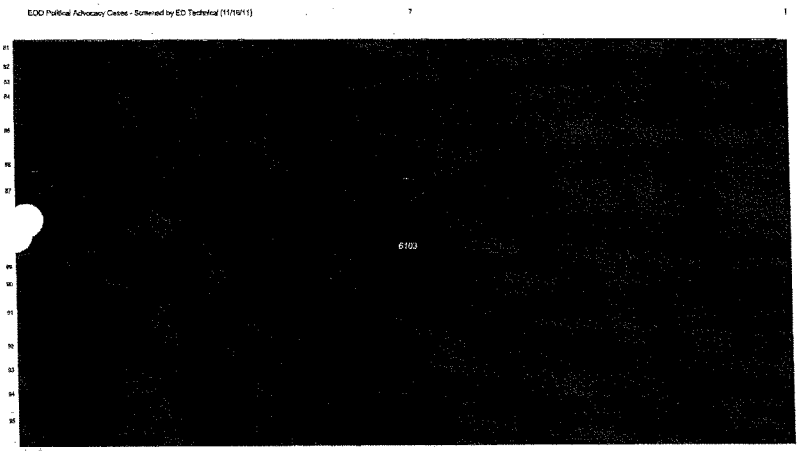

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
6103

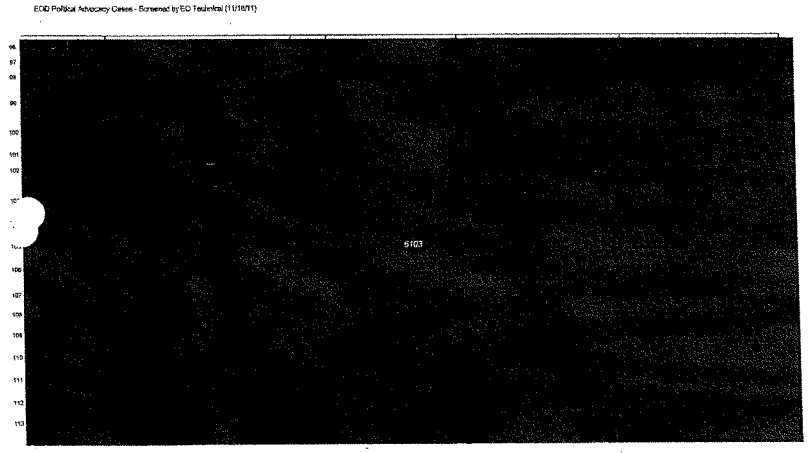

EOD Political Advocacy Cases - Screened by EO Technical (11/10/11)
6103

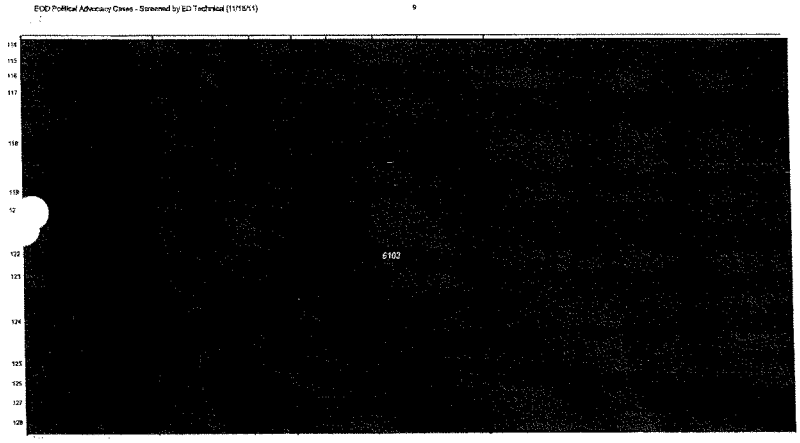


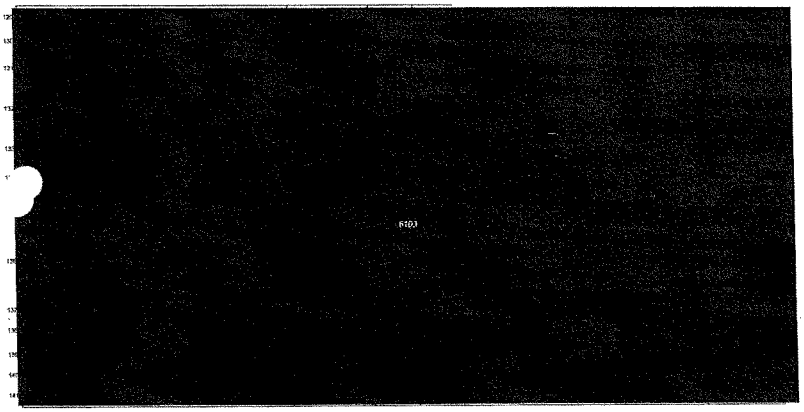

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
6103

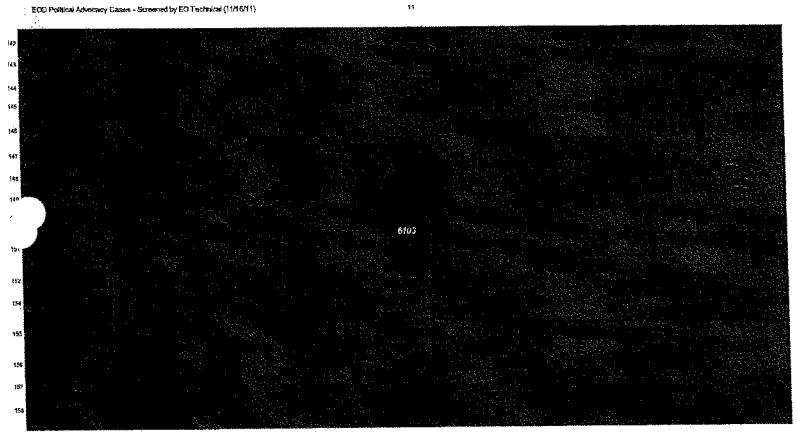

EOD Political Advocacy Cases - Screened by ED Technical (11/16/11)
71
72
73
74
76
77
78
79
80
6103

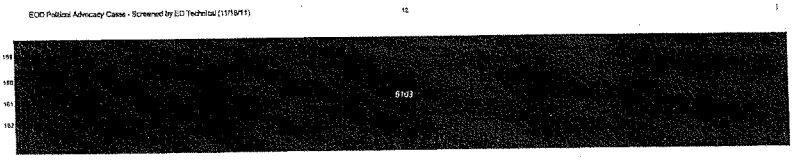

EOD Political Advocacy Cases - Screened by ED Technical (11/16/11)
7
1
6103


EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)
5103


EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)
9
6102


6703


EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
11
6103


EOD Politics Advocacy Cases - Screened by ED Technical (11/16/11)
61d3

Current MF Status	TOTAL
01	#REF!
02	#REF!
21	#REF!
23	#REF!
24	#REF!
25	#REF!
31	#REF!
32	#REF!
36	#REF!
97	#REF!
Total Number of 27 Month Cases	#REF!

Current EDS Status	
52	161
37 (ready to close)	0

From: Paz Holly O
Sent: Monday, July 23, 2012 2:08 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Attachments: EO Advocacy Cases - 02152012.doc; BOLO Spreadsheet 02212012.xls; SIDN430259035-1312.doc

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 5:42 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST
Importance: High

From: Thomas Cindy M
Sent: Thursday, February 23, 2012 9:01 AM
To: Bowling Steven F
Subject: FW: Advocacy Cases ---NUMBERS NEEDED
Importance: High

Let's not change anything yet. I agree with you that we don't want everything under the sun, e.g., typical abortion rights, activists coming together to advocate for better education, etc. I'm going to add this to my list for the managers' meeting so that we can clarify for managers.

Lois Lerner is meeting with Steve Miller at 1:00 p.m. today. If they want anything changed, they'll let us know.

Also, Holly just replied and indicated that the numbers from 2/15 are fine and that she doesn't need other numbers.

I spoke with Peggy earlier in the week about getting an EDS # for Emerging Issue cases so that we can put all of these cases in status 51 in that number. It won't matter how many Emerging Issues we have, they will all go in that number. This process will be similar to the Potential Abusive cases. In that category, there are about 10 to 15 different types of cases, but they're all controlled under one EDS number.

I like your analogy and am going to talk about these analogies during the managers' meeting in an attempt to get everyone on the team focused.

I know it is a stressful time, but hang in there. Things will get better.

From: Bowling Steven F
Sent: Thursday, February 23, 2012 8:23 AM

To: Thomas Cindy M
Subject: FW: Advocacy Cases ---NUMBERS NEEDED
Importance: High

Cindy,

The BOLO is supposed to capture those political sensitive issues where precedent is missing or not obvious or novel type issues or a change in law, etc. If we want to capture something more, please let me know. My understanding is and/or my belief is; we don't need to capture everything under the sun. We were getting everything from the typical abortion rights activists to a community coming together to advocate for better education in their school district (typical c(4)).

Now that the media has ruffled our feathers; If we want to capture everything, no problem, but I would suggest we set up another secondary screening process or stick them all in 51.

I can relate to your baseball analogy you shared yesterday. Here is another; I can't compete in the Kentucky Derby unless I have thoroughbreds.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Wednesday, February 22, 2012 10:39 PM
To: Bowling Steven F
Subject: FW: Advocacy Cases ---NUMBERS NEEDED
Importance: High

Just giving you a heads up that we may need updated numbers for advocacy cases to be submitted to D.C. before 11 a.m. on 2/23. Refer to my email directly below to Holly

Also, I sure hope that it isn't just tea party cases that are going into the bucket referenced on the BOLO.

From: Thomas Cindy M
Sent: Wednesday, February 22, 2012 10:34 PM
To: Paz Holly O
Subject: RE: Advocacy Cases

Holly,

1. # advocacy cases -- Refer to Attachment 1 with numbers I sent to you on 2/15/2012. Is this acceptable or do you need numbers as of tomorrow morning?

2. All cases meeting BOLO criteria are supposed to go to full development. One of the California cases I referenced in an email sent to you a few minutes ago involving a TAS inquiry was inadvertently in status 62 (screening). This is an error and will be corrected on 2/23.

3. BOLO - Refer to Emerging Issues tab on attached BOLO spreadsheet (refer to Attachment 2).

Regarding another issue --- do you still need a timeline for [redacted]? The actions taken for all of the advocacy cases is virtually the same as what Peggy provided to you for the [redacted] --- see below in blue. The only difference is the control date, date screened, date assigned to specialist and date Letter 1312 issued. Following are dates for [redacted]

[redacted]- Postmark Date of Application
9/29/2010 - Case assigned to screener
10/5/2010 - Case assigned to specialist (issues identified and elevated)

Case held pending guidance

2/6/2012 - Case assigned to specialist
[redacted]- Letter 1312, request for additional information sent to applicant with a response due date of [redacted] (refer to Attachment 3).

I spoke to the advocacy project coordinator who indicated that he reviewed the letter with the specialist prior to it being sent to the applicant. He indicated that the questions posed were within the auspices of the Advocacy Organizations Guide Sheet provided by EO Technical. I reviewed the additional information and compared it to the guide. I agree the questions related to advocacy fall within the guide. There are a few general questions asking for a board member to sign application, for hardcopy prints of webpages, and for hardcopy prints of any social media. The other questions are regarding the specific details about the activities of the organization; the role of the members with the organization; details on public events; and contents of materials, speeches, forums, etc. The letter also asks whether candidate forums are conducted, whether they attempt to influence legislation, and whether they communicate with legislative bodies.

-----Original Message-----
From: Paz Holly O
Sent: Wednesday, February 22, 2012 10:04 PM
To: Thomas Cindy M
Subject: Fw:
Importance: High

Please see below. Can you get me number of advocacy cases by 11 tomorrow? Also I think all meeting bolo criteria go to full development. Is that right? How do we currently have this described on the bolo? Sorry for the rush. Steve Miller now wants to meet with Lois tomorrow at 1.
-----Original Message-----
From: Lerner Lois G
To: Zarin Roberta B
To: Paz Holly O
To: Urban Joseph J
To: Kindell Judith E
Cc: Marx Dawn R
Cc: Light Sharon P
Subject: RE: Tea Party appliation
Sent: Feb 22, 2012 7:05 PM

OK--so for my afternoon meeting, I think I will also need to have numbers in the pipeline of all advocacy matters and status--that is, are any getting screened or all going to full development? Also, is there any history on similarly situated organizations? Rather than email--let's talk at the 10:30 meeting in the morning--

Judy, not sure you are here tomorrow-if you have info to share and need a call in number, let Dawn know.
Lois G. Lerner
Director of Exempt Organizations

From: Zarin Roberta B
Sent: Wednesday, February 22, 2012 3:51 PM
To: Lerner Lois G; Paz Holly O; Urban Joseph J
Cc: Marx Dawn R
Subject: Tea Party appliation

Application for exempt status (Note this article has links to two letters written by EPEO staffers)

<http://news.yahoo.com/congressional-investigations-sought-over-irs-assault-tea-party-065323989.html> Congressional investigations sought over IRS 'assault' on tea party groups

The Daily Caller via Yahoo! News On Tuesday Jamie Radtke, a Republican U.S. Senate candidate from Virginia, asked California Republican Rep. Darrell Issa to investigate what she said was unfair treatment of tea party groups by the Internal Revenue Service. Issa chairs the House Committee on Oversight and Government Reform.

http://news.yahoo.com/congressional-investigations-sought-over-irs-assault-tea-party-065323989.html

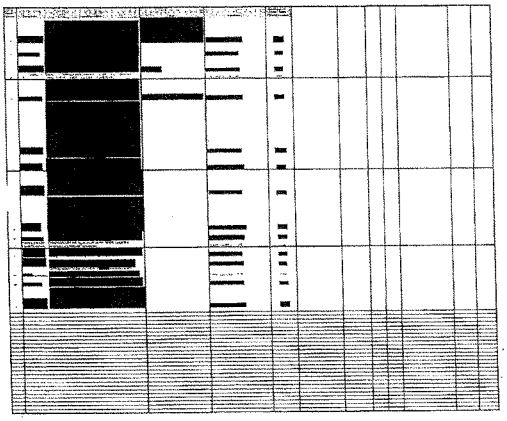
http://israelmatzav.blogspot.com/2012/02/z-street-wing-one-against-obamas-irs.html

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and G

------Original Message Truncated------

Sent from my BlackBerry Wireless Device





Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Group Rulings	Cases that involve group rulings, whether parent applying for, or subordinate leaving a group ruling need to be worked in Group 7825. The only exception is cases that have been auto revoked..	5	Forward case to Group 7829	Open - 8/25/11

Issue Name	Watch/Issue Description	Issue Number	Quarter (Year and Number)	Description of Watch Issue	Current Status (Opened or Closed)
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hollat	Open
ACORN successors	Local chapters of the former ACORN organization have reformed under new names and are requesting exemption under section 501(c)(3). Succession indicators include ACORN and Communities for Change in the name and/or throughout the application.	2	x	Elevate case to your manager for contact with EO Tech - Chip Hull.	Open
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888, Denise Tameyo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-15-10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted] Fire Fighter Organizations	Fire Fighter organizations located in [redacted] will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/28/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

From: Seok Stephen D
Sent: Monday, December 12, 2011 2:11 PM
To: Bell Ronald D; Estes Janine L; Garuccio Jodi L; Herr Joseph R; Herring Donald Grant; Hofacre Elizabeth L; Marquez Elizabeth J; Morris Annetta R; Steele Mitchell P; Seok Stephen D; Woo Gregory; Young Carly
Cc: Bowling Steven F
Subject: Advocacy Org. Guide Sheet (Draft)
Attachments: Advocacy Org Guidesheet 11-3-2011 (2).doc

Attached find Advocacy Org. Guide Sheet (Draft) from EO Tech. Please review before the meeting.

Thank you,
Stephen.

Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) Political Campaign Intervention:

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) Lobbying:

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) General Advocacy:

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) **IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) **IRC 501(c)(4) organizations:**

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) **IRC 501(c)(5) organizations:**

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) IRC 501(c)(6) organizations:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) IRC 527 organizations:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including 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.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; **Must Not Constitute Primary Activity Of Organization**	YES
Engage in lobbying	LIMITED;	YES;	LIMITED

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	**YES; Permitted As An Educational Activity**	**YES; Unlimited Amount If In Furtherance of Exempt Purposes**	**LIMITED**

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
    - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
    - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
    - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
    - What is the location, date and time of the events.
    - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
    - How many resources (funds/employees/volunteers) are devoted to the activity?
    - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
    - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
    - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
    - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office? Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.		
B.	Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.		
	Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	**Personal Endorsements:** Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one		

	candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.) • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert, or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • Does the communication to the public include a "call to action" such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

From: Lerner Lois G
Sent: Thursday, January 31, 2013 1:07 PM
To: Wagner Christopher (Chief Appeals)
Subject: A Couple Items

I just got off our quarterly meeting with Appeals and wanted to raise a couple issues to make sure we are all on the same page. I'm raising with you because I am not familiar enough with your organization to know where I should be going, and at least with the second item, I think you do need to be aware.

1.

Redacted by the
Permanent Subcommittee on Investigations

2. During the meeting I gave them a heads up that, in the next few months we believe they will get a lot of business from our TPs regarding denials on 501 (c)(4) applications. I explained the issue is whether they are primarily involved in social welfare activities and whether their political intervention activities, along with other non-social welfare activities mean they don't meet the c4 requirements. I explained the issue was very sensitive and visible and there is a lot of interest--Congress, press, political groups, you name it. I personally heve been up to the Hill at least 8 times this past year to explain the complexities of the rules--they are not black and white and they are not always intuitive. I offered a general tutorial session (non-case-related)on the law and the complexities because--as I pointed out--this is a new issue driven by a recent Supreme Court case expanding spending in elections to corporations, and a desire of some to make the expenditures without having their names show up on Federal Election Reports. The fact that these orgs can do some of this activity and still be a c4 further complicates the issue. I told them this is a place where we have worked very hard to be consistent and have all our cases worked by one group, and suggested they might want to do something similar. (PS we are under audit by TIGTA because of allegations of political bias on these cases) If I were you, this is definitely something I'd want to be aware of and have a high level person overseeing and reporting regularly to me. You were in TEGE long enough to understand how dangerous what we do can be.

From the call, I could tell you have a lot of acting folks who will be coming and going over the next year--I feel that pain. But, from my perspective, that only makes high level involvement more imperative. If you think it would be useful to have a meeting on this--let me know.

Hope this doesn't should like I'm trying to run your shop--have enough trouble with my own. (-:

Lois G. Lerner
Director of Exempt Organizations

From: Grodnitzky Steven
Sent: Wednesday, April 28, 2010 5:23 PM
To: Lerner Lois G; Choi Robert S
Cc: Letourneau Diane L; Grodnitzky Steven
Subject: SCR Chart
Attachments: SCR report Table 2010 Final.doc

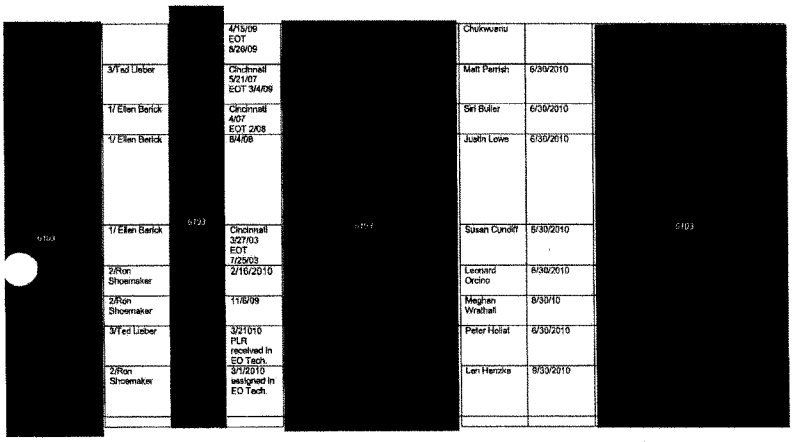
Please find attached a copy of the SCR chart for cases in EO Technical for the period ending April 28, 2010.

Of note, we added one new SCR concerning 2 Tea Party cases that are being worked here in DC. Currently, there are 13 Tea Party cases out in EO Determinations and we are coordinating with them to provide direction as to how to develop those cases based on our development of the ones in DC. We also closed one significant case last month – 6103 6701 -- 6103.

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
phone: (202) 283-8941
fax: (202) 283-8937

EO Technical
Significant Case Report
(April 28, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action
[redacted]	2/Ron Shoemaker	[redacted]	6/2/2010	[redacted]	Chip Hull	6/30/2010	[redacted]
	2/Ron Shoemaker		Cincinnati 10/7/09 EOT 10/22/09		Jackie Manasterli	CLOSED	
	1/Ellen Berick		9/08		Justin Lowe	6/30/2010	
	2/Ron Shoemaker		Cincinnati 9/28/07 EOT 1/8/08		Meghan Wathall	5/30/2010	
	1/ Ellen Berick		Cincinnati 9/22/06 EOT 1/8/06		Justin Lowe	6/30/2010	
	1/ Ellen Berick		Cincinnati 9/11/08 EOT 10/9/08		Siri Buller	6/30/2010	
	2/Ron Shoemaker		Cincinnati 7/16/09 EOT 12/1/09		Andy Streika	6/30/2010	
	3/Ted Lieber		Cincinnati 11/26/08 EOT 7/29/09		Peter Hollat	6/30/2010	
	3/Ted Lieber		Cincinnati		Qbl	Unknown	



[redacted]		[redacted]	4/15/09 EOT 8/28/09	[redacted]	Chukwuenu	[redacted]
	3/Fred Lieber		Cincinnati 5/21/07 EOT 3/4/09		Matt Parrish	6/30/2010
	1/ Ellen Berick		Cincinnati 4/07 EOT 2/08		Siri Buller	6/30/2010
	1/ Ellen Berick		8/4/08		Justin Lows	6/30/2010
	1/ Ellen Berick		Cincinnati 3/27/03 EOT 7/25/03		Susan Cundiff	6/30/2010
	2/Ron Shoemaker		2/16/2010		Leonard Orcino	6/30/2010
	2/Ron Shoemaker		11/6/09		Meghan Wrathall	6/30/10
	3/Fred Lieber		3/2/1010 PLR received in EO Tech.		Peter Hollat	6/30/2010
	2/Ron Shoemaker		3/1/2010 assigned in EO Tech.		Len Herzka	6/30/2010

From: Ghougasian Laurice A
Sent: Tuesday, August 16, 2011 12:03 PM
To: Trilli Darla J; Seto Michael C
Subject: RE: July SCRs due 07/22/11

OK, I wasn't certain that Hilary was updating it, based on a recent conversation with Mike. Mike, can you confirm that you want Hilary to update the SCR from now on or should Chip continue to update it with her help? Thanks.

Laurice

From: Trilli Darla J
Sent: Tuesday, August 16, 2011 1:00 PM
To: Ghougasian Laurice A; Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

No, since it is with Hilary now. I will do it on our chart and update the file name.

Thanks for the reminder.

Darla

From: Ghougasian Laurice A
Sent: Tuesday, August 16, 2011 11:57 AM
To: Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

Just a reminder: do you want to ask Ron/Chip to change the name of the "Tea Party" SCR? Thanks.

From: Seto Michael C
Sent: Sunday, July 24, 2011 5:47 PM
To: Ghougasian Laurice A
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

Yes. We should call it "political advocacy organization" henceforth.

From: Ghougasian Laurice A
Sent: Friday, July 15, 2011 1:05 PM
To: Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11
Importance: High

Should we reassign the "Tea Party" SCR to Hilary (and change its name)? Thank you.

From: Trilli Darla J
Sent: Thursday, July 14, 2011 2:51 PM
To: Ghougasian Laurice A; Shoemaker Ronald J; Lieber Theodore R; Salins Mary J; Thomas Cindy M; Megosh Andy
Cc: Trilli Darla J
Subject: July SCRs due 07/22/11
Importance: High

Attached are the June SCRs for July updates. Please send to me by COB July 22nd.

Send with track changes and update the estimated closure date if necessary.

Thanks, Darla

EO Technical Significant Case Report (January 31, 2013)

Summary: 38 SCR's

2 Political Advocacy, *5* Medical Marijuana, *15* HMO's and PPO's, *2* Foreign Activity, *1* 6103, *3* Disability Pooled, *1* Polygamy, *1* Carbon Credits, ... *1* Group Ruling, *2* Newspaper, *1* UBIT, *1* Business Activities, *1* Church, *1* Open Source,

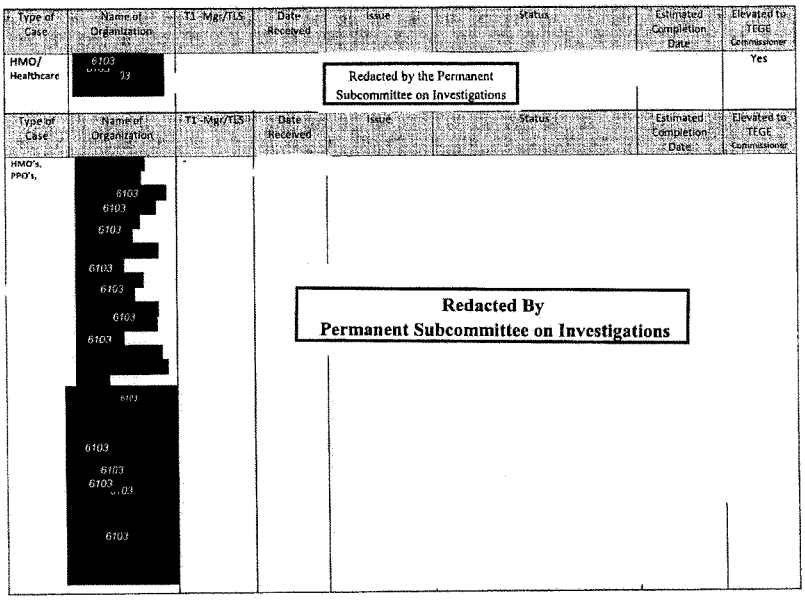
Type of Case	Name of Organization	TL-Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Political Advocacy	(1) 6103 6103 (c)(4) Application (2) 6103 6103	Steve Grodnitzky / Hilary Goehausen	4/2/2010	Whether an organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section (c)(4).	**Past Action:** (1) 6103 6103 and (2) 6103 6103 proposed denials with Judy and Sharon for review. **Next Action:** (1) 6103 6103 and (2) 6103 6103 is being reviewed by Sharon and Judy.	(org.) 3/31/2011 (rev.) 5/31/2013	No

Type of Case	Name of Organization	TL-Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Medical Marijuana	(1) 6103 (2) 6103 (3) 6103 (4) 6103 6103 (5) 6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	P2 Mgr/TL's	Date Received	Issue	Status	Estimated Completion Date	Elevated to TIGE Commissioner
HMO / Healthcare	6103 [redacted]						

Redacted by the Permanent Subcommittee on Investigations



Type of Case	Name of Organization	T1 Mgr/TL	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
HMO/ Healthcare	6103			Redacted by the Permanent Subcommittee on Investigations			Yes

Type of Case	Name of Organization	T1 Mgr/TL	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
HMO's, PPO's,	6103			Redacted By Permanent Subcommittee on Investigations			

Type of Case	Name of Organization	T2 - Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Foreign Activity	6103						

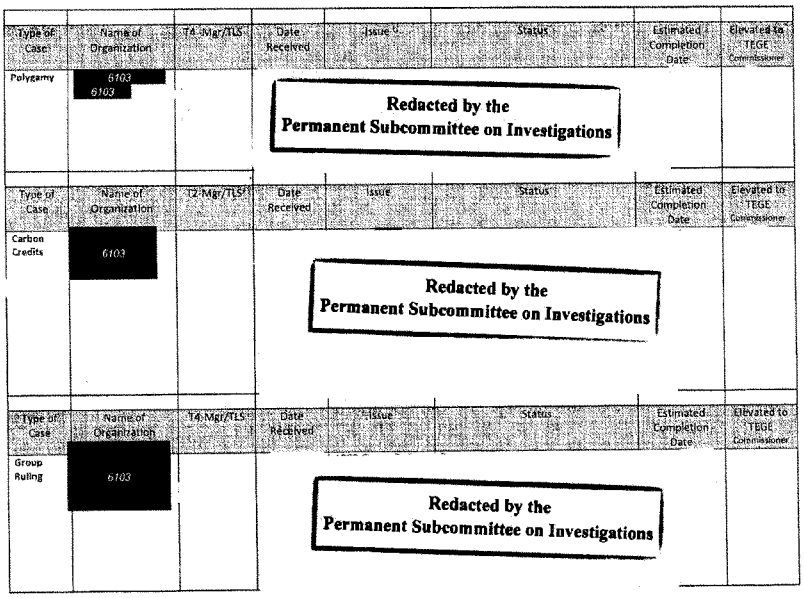
Redacted By
Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T2 - Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
6103	6103						

Redacted By
Permanent Subcommittee on Investigations

Type of Case	Name of Organization	TI - Mgr/ITS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Disability Pooled Trust Cases	(1) 6103 (declaratory judgment suit) (2) 6103 6103 6103 (3) 6103						

Redacted By
Permanent Subcommittee on Investigations



Type of Case	Name of Organization	T4 Mgr/TL's	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Polygamy	6103 6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T2 Mgr/TL's	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Carbon Credits	6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T4 Mgr/TL's	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Group Ruling	6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T4-Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Foreign Activity	6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commission er
Group Ruling (?)	6103 6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T3-Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commission er
Newspaper Political Interest	6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
UBIT/ Processing Student Loan	6103			Redacted by the Permanent Subcommittee on Investigations			

Type of Case	Name of Organization	Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Newspaper	Newspaper 1023 applications - 20 pending Applications			Redacted by the Permanent Subcommittee on Investigations			

Type of Case	Name of Organization	Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Business Activities	6103						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T1 - ME/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Church	6703						

Redacted by the Permanent Subcommittee on Investigations

Type of Case	Name of Organization	T3 - Mgr/TLS	Date Received	Issue	Status	Estimated Completion Date	Elevated to TEGE Commissioner
Open Source (Providing Anti-Censorship Technical)	6103						

Redacted by the Permanent Subcommittee on Investigations

CASE NAME: A. Cases Pending in EOT: (1) [redacted] (501(c)(3) applicant), Closed FTE. (2) [redacted]. (501)(c)(4) applicant) (EIN: 90-0513502) Open (3) [redacted] applicant) Closed FTE B. TAs Pending in EOT: (4) [redacted] – TA returned to EOD for processing (5) [redacted] - Open **TIN/EIN:** **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)	
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis and have also become the subject of congressional inquiries. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.	

CURRENT SIGNIFICANT ACTIONS ON CASE:

A. Applications Pending in EO Technical:

(1) 6103 - Closed FTE on 05/26/10 for failure to respond to a development letter.

(2) 6103 501(c)(4) – Open

EOT met with Counsel on August 10, 2011 to discuss further development of the case, and Counsel returned the case to EOT for additional development. The applicant submitted a response to the second development letter. The organization notified EOT that it has retained counsel who requested additional time to supplement its response to the second development letter. EOT granted the request and the new deadline to supplement its response to the development letter is May 15, 2012. After not receiving a response, the POA told the TLS assigned to the case that the organization was satisfied with the information previously submitted and would not be providing any supplemental materials and will wait for the Service's determination. EOT Group 1 forwarded a draft proposed denial to Sharon Light (technical advisor to the EO Director) for review. The draft proposed denial is still in review.

(3) 6103 – Closed FTE on 04/04/12 for failure to respond to a development letter.

Coordination between HQ and Cincinnati is continuing regarding information letters to applicants seeking exemption under §§ 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities in which these organizations may be engaging. EOT continues to assist EOD with development of these cases.

B. Technical Assistance Requests (TA) from EO Determinations Pending in EO Technical–

(5) 6103 – Closed

EOD sent EOT the case file for a section 501(c)(4) applicant 6103 to review its proposed favorable determination. EOT and EOG reviewed the file to assist EOD with the determination. EOT returned the case to EOD to be developed as part of the bucketing process established in Cincinnati.

(5) 6103 - Open

After meeting with Judy Kindell (technical advisor to the EO Director), it was determined that EOT would draft a new proposed denial. The case is being handled in EOT as a technical assistance to EOD.

- EOT is working approximately 9 other advocacy application cases in the office.

SIGNIFICANT NEXT STEPS, IF ANY:	**ESTIMATED CLOSURE DATE:**
Organization (2): 6103 – 501(c)(4) - Complete review of proposed denial with Sharon/Judy.	December 31, 2012

BARRIERS TO RESOLUTION, IF ANY:
Concerns are whether the organizations are primarily involved in political activities and whether

substantial private benefit exists.
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1 — **MANAGER:** STEVE GRODNITZKY, SE:T:EO:RA:T:2
DATE: November 19, 2012

From: Goehausen Hilary
Sent: Wednesday, August 17, 2011 1:16 PM
To: Hull Carter C
Subject: SCR August 2011
Attachments: SCR August 2011 Tea Party.doc

Attached for review, thanks!

Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p: 202.283.8915
f: 202.283.8937
Hilary.Goehausen@irs.gov

CASE NAME: (1) [redacted] (501(c)(3) applicant), (2) [redacted]. (501(c)(4) applicant), (3) [redacted] (501(c)(3) applicant) **TIN/EIN:** [redacted] **POA:** None	**TAX PERIODS:** [redacted] and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Met with Chief Council on August 10, 2011 to discuss further development of Organization (2). Case returned to EOT for
Additional development.
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – case returned to EOT for additional information; preparing another development letter.
Organization (3) – additional information was received. Proposed denial was revised and forwarded for review 07/19/2011.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3) Await the results of review on the revised proposed denial. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: August 17, 2011	

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) [redacted], and (2) [redacted] **TIN/EIN:** [redacted] and [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☒ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**

SENSITIVE CASE CRITERIA:

☒ Likely to attract media or Congressional attention
☐ Unique or novel issue
☐ Affects large number of taxpayers
☐ Potentially involves large dollars ($10M or greater)
☐ Other (explain in Case Summary)

FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M): Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national politically convervative movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a daily basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and ten applications from organizations which have applied for recognition of exemption under section 501c)(4) as social welfare organizations. Two organizations that might be "tea party" organizations already have been recognized as exempt under section 501(c)(4), and one as a (c)(3) also may be a tea party case, but EOT is checking the case file in Cincy. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:
A development letter has been sent to the 501(c)(3) applicant in EOT, and a development letter to the 501(c)(4) applicant in EOT is being prepared. We will coordinate with Cincinnati regarding the development of the cases in that office.

SIGNIFICANT NEXT STEPS, IF ANY: Review the organizations' responses to the development letters and finish a determination on whether the organizations may be recognized as exempt.	**ESTIMATED CLOSURE DATE:** September 30, 2010

BARRIERS TO RESOLUTION, IF ANY:
Concerns whether the organizations are involved in political activities.

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

TEGE Division Sensitive Case Report
(revised January 2007)

DATE: April 19, 2010	

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

From: Paz Holly O
Sent: Monday, July 23, 2012 2:05 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:56 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Grodnitzky Steven
Sent: Monday, April 26, 2010 11:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H; Shoemaker Ronald J; Hull Carter C
Subject: RE: Tea Party Cases

Please have her contact Ron Shoemaker. Thanks.

From: Thomas Cindy M
Sent: Sunday, April 25, 2010 1:00 PM
To: Grodnitzky Steven
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H
Subject: FW: Tea Party Cases

Steve,

We are going to have these cases assigned to Liz Hofacre. Liz reports to Joseph Herr in Brenda Melahn's area. After she gets the cases, who in EOT should she contact to coordinate development?

From: Thomas Cindy M
Sent: Saturday, April 24, 2010 6:21 PM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J
Subject: RE: SCR

Steve,

None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT. I will discuss with Area Managers to find out who we will have work these cases and will get back with you. Thanks.

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 4:37 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven; Shoemaker Ronald J
Subject: FW: SCR

We are working on the 2 Tea Party cases here in EOT. One development letter has already been issued to the (c)(3) applicant and a development letter is being prepared for the (c)(4) applicant. I understand that you have a number of these cases in Cincy. It may not be a bad idea to coordinate with the individual(s) who have the cases in Cincy so that you can start developing them.

If you have the names of the agents and manager with these cases, please let me know. We should at least have a call and see how we can work together.

From: Shoemaker Ronald J
Sent: Friday, April 23, 2010 3:28 PM
To: Grodnitzky Steven
Subject: RE: SCR

Sorry, I forgot about this one. See the attached document.

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 3:13 PM
To: Shoemaker Ronald J
Subject: SCR

What about the SCR for the Tea Party cases? I believe that Chip has the cases. Can you or Chip make up the SCR, and confer with Cincy to include their information in the SCR? They have a few cases, and I believe that some have even been granted exemption. Thanks.

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
phone: (202) 283-8941
fax: (202) 283-8937

CASE NAME: (1) [redacted] (501(c)(3) applicant), (2) [redacted], inc. (501(c)(4) applicant), (3) [redacted] (501(c)(3) applicant) **TIN/EIN:** [redacted] **POA:** None	**TAX PERIODS:** [redacted] and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023, (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M): Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities, then forward to Chief Council.

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – proposed favorable 501(c)(4) ruling forwarded to Chief Council for comment on 05/04/2011.
Organization (3) – additional development letter dated [redacted] sent to organization re: activities. Information due [redacted].
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) – Wait on comments from Counsel. Organization (3) Wait on response to information letter due on [redacted]. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** July 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: May 17, 2011	

Jon Waddell
Area 1 Monthly Briefing
October 2012

FY 12 Responsibilities

Redacted by the
Permanent Subcommittee on Investigations

Redacted by the
Permanent Subcommittee on Investigations

Redacted by the
Permanent Subcommittee on Investigations

FY12 Commitments

Redacted by the
Permanent Subcommittee on Investigations

Case Updates and Issues (can be an attachment)

Redacted by the
Permanent Subcommittee on Investigations

- Sensitive/Special case-related issues **(Same Cases as Last Briefing as Resolution hasn't been reached):**

1. [redacted] 6103

2. **ACORN**: These are advocacy cases (similar to Tea Parties) where we have proposed denial and QA has agreed. There are two cases that are involved and both currently reside in EO Tech for review of the denial letters---cases have been in EO Tech for at least six months. At some point (months from now), the cases will ultimately return to the group to issue the denial letters and communicate with the applicants. When the denial letters are ultimately issued, media attention will almost certainly follow.

Support Needed, Suggestions, and Miscellaneous

Redacted by the Permanent Subcommittee on Investigations

Paz Holly O

From: Seto Michael C
Sent: Wednesday, February 02, 2011 11:23 AM
To: Paz Holly O; Lerner Lois G
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011
Follow Up Flag: Follow up
Flag Status: Yellow

ok

From: Paz Holly O
Sent: Wednesday, February 02, 2011 11:22 AM
To: Seto Michael C; Lerner Lois G
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

We can also modify the heading re: Commissioner elevation to be more clear - what it is intended to capture is whether it is being elevated in the current month.

From: Seto Michael C
Sent: Wednesday, February 02, 2011 11:21 AM
To: Lerner Lois G; Paz Holly O
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

We can modify the report to include a running history of the item.

From: Lerner Lois G
Sent: Wednesday, February 02, 2011 11:17 AM
To: Paz Holly O; Seto Michael C
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

Thanks--even if we go with a 4 on the Tea Party cases, they may want to argue they should be 3s, so it would be great if we can get there without saying the only reason they don't get a 3 is political activity.

I'll get with Nan Marks on the [redacted] piece.

Redacted by the
Permanent Subcommittee on Investigations

Redacted by the
Permanent Subcommittee on Investigations

I've added Sharon so she can see what kinds of things I'm interested in.

Lois G. Lerner
Director, Exempt Organizations

From: Paz Holly O
Sent: Wednesday, February 02, 2011 11:02 AM
To: Lerner Lois G; Seto Michael C
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Tea Party - Cases in Determs are being supervised by Chip Hull at each step - he reviews info from TPs, correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon.

Redacted by the
Permanent Subcommittee on Investigations

From: Lerner Lois G
Sent: Tuesday, February 01, 2011 6:28 PM
To: Seto Michael C
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in this. Cincy should probably NOT have these cases--Holly please see what exactly they have please.

Redacted by the
Permanent Subcommittee on Investigations

Also, please make sure estimated due dates and next step dates are after the date you send these. On a couple of these I can't tell whether stuff happened recently or not.

Question--if you have an estimated due date and the person doesn't make it, how is that reflected? My concern is that when Exam first did these, they just changed the date so we always looked current, rather than providing a history of what occurred. perhaps it would help to sit down with me and Sue Lehman--she helped develop the report they now use.

From: Seto Michael C
Sent: Tuesday, February 01, 2011 5:33 PM
To: Lerner Lois G
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L
Subject: SCR Table for Jan. 2011

Here is the Jan. SCR summary.

* more cases for TIGTA
* Ron tracking sheet
* Lum - (C4)
* print Chip memos/ timelines
* latest bolo ✓
* Tom Miller ✓

7/30/12 TIGTA

Chip Hull

role - asked by Steve G. to be coordinator
Determs sent letters to him for review
originally sent first ltrs
then he asked for files too in reviewing ltrs
worked w/ Liz Hofacre
Steve G reviewed first few w/ them, then said he didn't need to

what was issue - political activity
activity test, not money where comes from
never asked for donors on 1024
he described his C4 experience
explained standard - 50% political activity

bolo - people would call him w/ questions b/c his name was on bolo

HP5

he said to work like normal case

he did not work on bolo cases he says

he knew orgs a lot called tea party - so many cases in career that name did not match what they did

he did not help develop bolo criteria - evolved

Liz modified ltrs based on his comments

originally called tea party cases until Lois mtg said call them advocacy

he worked on these cases for about a year

transferred cases - we requested 1 c3, 1 c4,

he worked ~~them~~

sent development ltrs

1 responded

c3 - 1 closed fte - embezzlement

org said would reapply under c4

requested another c3, believes also closed fte

open case w/ Hilary Goehausen

why didn't Liz close any cases?

why didn't Ron send cases here

Chip raised donor question asked here recently

HP 6

he thinks you can't ask that for a C4 org
b/c would that question

Mike Seto

his role - started Jan. 2011
learned of them when he started
w/ Chip Thar
not moving fast enough so put Hilary on
160 bucketed - Hilary, Justin - Nov. 2011

issue - qual. under (c)(4) - activities test

bolo - no involvement in creating it

lots questions re bolo & how people referred to the cases

HP 8

Justin Lowe

role: first involved last summer

reviewed guidesheet, so did Judy

revising guidesheet

folo: criteria came to his attention around briefing
no involvement in developing criteria

understanding of the emerging issue: getting citizens involved & holding reps accountable

developing briefing: contact w/ Cindy, maybe Ron Bell too
*he is to search email for how he found out criteria

triage - Hilary primary
Justin reviewed some, not all

HP

Steve Grodnitzky

* Steve's excel spreadsheet case tracking

10/11 - coordinator advocacy cases in EOP, not just Cinergy advocacy cases

no real other involvement - tangential

issue - political activity, "advocating specific position"

Ron Rosenzweig - screening

never saw Lobo

called advocacy cases

little if any interaction w/ Cinergy re: these cases

very interested in work on cases stopping

HP 11

Sharon Light

described bucketing & training in detail

Bolo list - 1st became aware @ Lois briefing
recently involved in language change - private benefit

Low referred to cases - advocacy when she got involved

HP

Judy Kindell
early 2011
1st contacted by Judy/Liz Kastenberg re: cases in DC - she thought they needed more development - pointed them to DLC briefs for facts to challenge C4 status

back & forth re: bringing cases up here

reviewed draft guidesheet Hilary did

concerns not a roadmap - too lawerly

after media reports sent guidesheet to Counsel - back & forth w/ Counsel early 2012

never finalized

reviewed development ltrs to analyze what sent out
ea. agent appeared to have set of questions of his her own that they asked uniformly

May 2012 - training, bucketing

issues - campaign intervention

bolo - became aware this year

how cases referred to - didn't know

understood cases suspended pending guidesheet but not sure who told them

HP1

Ron Shoemaker

cases assigned to employee in his group (Chip Hull)
Chip also coordinating w/ Determs

issues in the cases - C3 and C4 - political activity to some extent - too much, not sufficient C4 social welfare activity?

SCIS he has stop mid 2011

transferred cases to Hilary

criteria Determs using - not sure he was ever aware

His involvement ended 9/11

he did not talk to anyone in Cincy

originally referred to as tea party cases later advocacy

Dan Marks

role - met w/ Steve 3/23/12
he was concerned about (1) whether we were or
track in handling inventory - delay, nature questions, (2)
hearing prep

sr tech advisor to tege commish
not been involved

take a fresh look

first became involved just on guidesheet back & forth

incy trip - April 23
pre-look @ ltrs - one agent - Stephen Seok - longer
than others

tps saying no to 5 & 15 (related orgs, political activity)
but other evidence says they're doing it

got thru about half the files

no files w/ evidence of bias

tps not trying to misrepresent - confusion on all sides

every request for add'l time granted

why guidesheet so hard? - lack published guidance,
very fact oriented

HPI

options to address inventory
bring all cases to DC - not emp people, not
long-term solution
bucketing

~~70 unassigned cases - test bucketing ; prep for training~~

HPI

Hilary Dohausen

role: about a year ago pulled into work cases w/ indicia of political activity (April/May 2011)
cases transferred to her from Chip

tools: did not see tools criteria

guidesheet: took checksheets from other areas plus guidance on this topic to draft this tool

not aware Cincy told to wait/hold cases while this developed

language used by Cincy: nothing in particular focus was on worksheet C3 and C4 requirements

HP17

8/6/12 TIGTA interviews Determinations

John Shaefer

role: manager of screening group

2/25/10 - email from employee - issues seen in newspaper, "high profile"

consistency is his big issue

he forwarded to Cindy (thru Sharon Camarillo)

not first one he had but first one brought to his attention

issue in paper - political
527

he holds regular group meetings to discuss issues to ensure consistency
spotted by Jack Koester

screening group - can be rotated out 120 & 130
can elect to be reassigned or manager if unhappy
can move employee

all volunteer, higher graded

not assigned based on expertise; don't specialize

HP.

searching for additional cases on teds? he wasn't involved

he has paper on first one but not later ones

3 grade 1?= he relies on to review

his review process not as in-depth because higher graded

bolo: convenience
not sure of date first became aware of
wasn't involved in revising criteria or developing initial criteria

used bolo & experience to determine what goes to advocacy group

didn't just look for "tea party" looked at connotation - also legislative vs. campaign - title was not criteria

read thru activities & supporting docs to decide - not title test

bolo updates: as updated, distributed out via email
Things goes to all agents

high profile b/c of climate we are in; activities in narrative - how he would describe case
↳ or lack there of - some only tease of info so questions to verify

HP1

how cases get from screeners to certain group? - worksheets, multiple specialty groups

concerns about the process? no not from his standpoint

how cases referred to? advocacy cases

* what boxes checked off on screening checksheet?

HP19

Liz Nofocre

Her role: April 2010 became involved
managed by Joseph Herr, identified as emerging issue b/c # of cases they were seeing if met criteria for advocacy - at that time identifying tea party, 9/12, patriots

says some screeners did word searches for these words

Lois - just evolving at that time

she sent out first pre summer 2010

she was primarily responsible for constructing it

worked from top project

went back & forth w/ Steve Bowling on Lois

for Woodell consolidate top 5 emerging issues

approval process - somewhat informal
Steve, for, Cindy to some extent

usually came from above

left for Quality Oct. 2010 & her involvement ended

how refer to cases - advocacy, tea party - 2 primary ways referred to because # of cases identified w/ that name

HP2

got a "glut" of them 400 to 50 when she left
media attention, high profile

worked w/ Steve G & Chip Hall to send out ltrs
email development ltr & fax file
she implemented & then changed letter & sent out

process did not work well - turnaround too slow

did not send out 2nd letter or any of those cases

sent responses to Chip

she is not sure what happened - no further development - she left

she estimates working about 30 cases w/ Chip - all open when
she left for QA; not closed

she was still getting phone calls from tps until about 6 months ago

never told to stop working cases

HP 21

Joseph Herr

his role: initially as manager
uptick around same time as creating emerging issues groups - focus on consistency when new things come up
new issues - foreclosure assistance
"seeing advocacy cases come in at this volume was different"

started in 2010, not sure of month

his group kind of triage group - what was applicable law? what were the issues?; make recommendations - who should work, etc.
not sure who made decision to create that group & give it advocacy case

usually advocacy cases focused on one issue - these different w/ focus on wide variety of issues

searching for addl cases that already went through - he was not involved

no tracking sheet then, just Liz Hofacre working the cases

bolo criteria: only criteria used to id. the cases?

Liz developed bolo, he made suggestions, he worked closely w/ Brenda Melahn

bolo work in progress when this came up

after party list told screeners to send this group

HP22

secondary screening - when did it start?

template emerging issues & procedures

then groups realigned 9/2010 & this went to Steve Bowling group, Liz followed him

concerns about process to work the cases? - no, influx of stuff, have to figure out what's going on

timeliness of assistance from EOT? normal experience re: time-frame, lots of work & limited resources

how refer to cases? initially teaparty, then advocacy

referred to as tea party? identifier
"party" usually refer to political party in tax law circles (527) (John Salso emphasized 527s)

why group realigned? other management reasons - he had ees in 6 pods; wanted these cases in one location so cases did not stay w/

HF 23

8/7/12 ~~IGTA~~ interviews

Jack Koester - screening group

got 1st advocacy case, c4, appeared to be significant amount of political activity - thought development needed - "527 implications"

"ensure consistency"

political environment highly charged, high profile

alerted his manager - John Shafer via email

3/20.10

Case sent to DC

found several other cases coming in

he was not involved in search for other cases

bolo - he has seen it

bolo changes come through email

when he sees case w/ political implications he is going to look at that.

other guidance used irm, code

bolo "primary guidance" or where case goes

HP24

if get case not tea party in name but has political he would pass for further development or talk to manager if further implications

screening checksheet
check other - write in Tea advocacy
or could check "political issues - sensitive issues"

how does case get from screening to correct group? -
depends on case in category intends

Carl Beckbridge - admin in screening - he gets it to next step

out of 62 5 into 72 he thinks

referred to cases as politically sensitive

he was not involved in develop or revise criteria

HP 25

IRSR0000168044

Steve Bowling

manager of group Aug 2010

inherited maintenance of Lois list @ that time

get updates, send to coordinator to send out to everyone

updates from upper management

he did not develop the criteria for Lois

cases got transferred to his group w/ coordinator

Liz Hofacre initially, Ron Bell then took over 10/2010

cases on hold then - upper management - Sharon Cornelius

awaiting further guidance

can't remember when told to start working them

tracking sheet - he doesn't know when it started

after he left

end 2011, begin 2012 - rejected suggestion of having

cases where there was precedent

be part of Lois emerging issue -

language added to make that

clear

secondary screening - one of his folks did that

should be documented in case file, go back to these

HP26

Criteria we said were being used when briefed Lois
he does not recognize

Gov. "template guidance + questions" – group came together
to come up w/ these questions – used to help w/ development
letters

guidesheet – he believes they referred to it

EO's review fall 2011 – he doesn't recall that at all

decision to hold cases early 2012 – thinks came from EOT

group managers usually don't review before sent

"270 day rule – tps informed? he does not think so

b/f case closed he reviews everything

how do managers monitor age of cases? various reports
group level, individual agents

AI status once dev. ltr sent

no special training for advocacy team

support by EO Technical – he recalls waiting for guidance –
timelines could have been better – took too long to get guidance

he left group on detail April/May 2012

[illegible] these cases HP2

Ron Bell

June 2010 - promotion & moved to emerging issues group
was doing auto rev.

took over for Liz Hofacre (10/10)

told EOT had enough cases

he held them - waiting guidance from EOT
told by Liz & Steve - verbally he thinks, not email

started moving again 11/11 when guidesheet came in
Stephen Seok took lead right before Xmas

bolo - initial wording was already established when he came
on
changed a couple times
he was involved in talking about verbiage
he sent to Steve
Ron was "scribe"

he, Steve, Stephen involved in Jan. change
they were getting too many things eg. advocating
against puppy mill

* Ron to search email for all bolo updates emails & send
to me

briefing description - "these were the cases we'd get"

HP 28

IRSR0000168047

secondary screening - screeners sent to him if they thought they saw advocacy
he tried to follow what was on Bolo
he read apps & looked at websites
public policy issues - close call a lot of times
tried to screen things out of advocacy case bucket
documented w/ chronology entry
started March 2012
Steve's decision he thinks
checksheet if not kept in group & sent to full development

tracking sheet - had been started when he took over
Liz may have created it
he updated it as he screened or as he was sent paper cases from field

interaction w/ DD - his was limited
did not work like Liz did w/ Chip - DD had enough cases; he'd ask for updates on guidance

concerns - he likes what we're doing now
new creature law from 600
make sure get it right, consistent
felt bad for customers

he did think guidance took too long - he was getting lots of calls

referred to as tea party initially, then changed to be more sensitive to labels

HP29

Stephen Seok

his role - Dec 2011 he went to group 7822 & was asked to lead group

he assigned cases to team members, held mtgs. of team, clarifying issues & questions to manager

reviewed development ltrs & gave feedback

also developed his own cases

team to develop questions

Tas went out previous to effort to develop qs - used prior ltrs, guidesheet from EO's, came up w/ own questions - goal was to come up w/ template ltr but or Stop but never went out - those went up to Steve Bowling & he sent to Cindy (Sebor March 2012)

☆ email w/ template questions that went up

tracking sheet already existed when he came to group cases added by secondary screener w/ approval of manager that it was a advocacy case - Stephen got folders out of sheet

CCR documents secondary screening - if not one of these cases goes back to normal inventory

HP 36

advocacy status report done by Stephen
he did whenever there was need - only a few done

2 team mtgs. - reports

☆ Stephen to send to me

he took over to start moving cases, had guidance from eot

concerns w/ working of cases? no

referred to? advocacy cases

Tolo - had input on last update (pre DC revision)
list evolving
more cases being included, different types of orgs
coming in w/ possible political advocacy - early on was tea
party, later occupy groups

no longer working on cases, when Washington became
involved

Alois - status briefing - want to be included

HP31

Tyler Chumney

March 2012 became acting manager of emerging issues group

Nov 11 - Mar 12 staff assistant to Cindy Thomas - so aware of issue thru mtgs but not directly involved

role w/ advocacy cases - Stephen coordinating when Tyler came on as manager, worked w/ him

secondary screening - Ron Bell - came to Tyler if he had questions

how document review?
"53 sheet" - fill out & give to agent if needs further work
workload review for evaluative [redacted] purposes -
if manager agrees w/ agent - goes to processing to close - closing sheet given to processing - sign off paper case, change status in teds
(8670)
only manager can put in status 37

how monitor aging cases? BOBJ report - broken down by agent can see control date
plus
unassigned inventory report - can see special case categories & control date

training - he can't think of any except for pre-bucketing

bolo - he was involved in criteria - June; not editing but as things sent too from Ron

HP32

IRSR0000168051

John Shafer part 2

senior grade 13 has a lot of responsibility - Gary Muthert asked him about email he sent to Cindy w/ what they were looking for (briefing paper long) 6/11 email

he doesn't know why more specific than bold language

~~2~~ 2/10 - now monthly mtg minutes - old, not just advocacy

HP 33

IRSR0000168052

Cindy Thomas

when 1st alerted eot? cases sent April 2010 but email earlier (Feb. 2010)

initially nothing back from eot
Liz - Chip working together
EOD looking for template

precursor to bolo - just emails on specific cases, not centralized

tag group - had fraud, abuse and consistency
took consistency out & put w/ Joseph Herr group

consistency became emerging issues
(CR) cases w/ pension plan issues

moved emerging issue to Steve's groups

cpe - excel spreadsheet concept
Liz won contest to name bolo

don't know who or why work stopped when went from Liz to Steve

no periodic briefings but she put on monthly follow up

teds search for cases - she thinks it may have been Gary Muthert

HP 3

not exactly sure when secondary screening started

July 2011 bolo revision post Lois briefing
who drafted? she thinks DC told them to do it but
they drafted it

diff btwn briefing language & bolo - she thinks briefing list
just what they were seeing

triage - back & forth over what eot comments meant
qualifier b/c only had teds info
guidesheet

she met w/ Steve & Stephen in Nov. 2011

team mtg in Dec.

were any cases closed as a result of triage? she doesn't
know, maybe some by Stephen

concerns about handling? - she didn't elevate to him (Bob Ed)
shouldn't have called Tea Party; she didn't review bolo unless
disagreement

she did not develop bolo definitions
Jan. 2012 - Steve, Stephen, Jon Waddell she thinks

270 day - orgs informed? no except annual rev proc

cycle time is calendar days - postmark to closure

HP 35

IRSR0000168054

Paz Holly O

From: Paz Holly O
Sent: Monday, May 13, 2013 10:56 AM
To: Flax Nikole C; Marks Nancy J; Best Jennifer L; Vozne Jennifer L
Cc: Light Sharon P
Subject: Be on the Lookout List (BOLO) description of advocacy cases over time (including phrases and issues treated as falling within the BOLO description)

6/2012-present Current Political Issues - 501(c)(3), 501(c)(4), 501(c)(5), and 501 (c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.

01/2012-6/2012 Current Political Issues - Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $ocial economic reform / movement. Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.

7/2011-1/2012 Advocacy Orgs - Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).

2/2011-7/2011 Tea Party - Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4). [EO Determinations specialists indicated that they interpreted this as including organizations meeting any of the following criteria: 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run.]

08/2010-2/2011 Tea Party - These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4). [EO Determinations specialists indicated that they interpreted this as including organizations meeting any of the following criteria: 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run.]

Paz Holly O

From: Paz Holly O
Sent: Tuesday, July 24, 2012 4:47 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: advocacy cases - next steps - revised

From: Paz Holly O
Sent: Friday, June 08, 2012 9:14 AM
To: Thomas Cindy M
Cc: Lerner Lois G; Light Sharon P; Abner Donna J
Subject: advocacy cases - next steps - revised

Below is a slightly revised version of the next steps - I have reflected that Faye and Janine are handling bucket 1 and revised the discussion of the bucketing process going forward.

Set forth below is a summary of the bucketing results. This email outlines the next steps to be taken with regard to each bucket.

83 c/3s bucketed:

16 approval
16 limited development
23 general development
28 likely denial

199 c/4s bucketed:

65 approval
48 limited development
56 general development
30 likely denial

Bucket 1:

C4s

Faye and Janine will make calls to all c4 applicants who were sent development letters but have not yet responded before favorable determination letters are sent using the script already provided. Faye and Janine will send the favorable c4 determinations using the letter already provided.

C3s

Faye and Janine will make calls to make calls to all c3 applicants who were sent development letters but have not yet responded before favorable determination letters are sent. The phone script already provided will be modified accordingly by Faye and Janine. Faye and Janine will send the favorable c3 determinations. Addendum 1 to the c4 letter will be added to our standard favorable c3 letter. The second addendum to the c4 letter referencing the section of the pub re: political activity is not necessary.

Donor information

C3s and c4s that provided names of their donors in response to an additional information request from the IRS will be sent a letter (to be sent in a separate email) indicating that the request was made in error and we have destroyed that information. This applies to applicants that provided the information in response to a development request specifically requesting a list of all donors, a development request to detail all sources of revenue or any other additional development request by the IRS. It does not apply to organizations that provided this information in their application. In cases meeting this criteria, this letter must be sent before the favorable determination is sent.

Quality Review

In light of the small number of disagreed cases, Quality will now shift from 100% mandatory review of c4s to reviewing one of every 10 c4 cases in bucket 1. All c3s will be sent to Quality, but this will be reduced to a sampling based on the results of the review. Disagreed cases will be discussed by QA, the individuals who completed the bucketing worksheets and/or reconciliation sheet, and Sharon to reach a mutual decision re: the appropriate action on the case. The Determs bucketer will get the complete file back from Donna so they can discuss with the DC bucketer. If a mutual decision cannot be reached, the case will be elevated to me for decision.

Bucket 2:

Jodi, Faye, Grant, Janine, and Carly will draft the development letters consisting of the questions listed by the bucketers on the bucketing worksheets. Each letter is to be reviewed by Hilary, Matthew or Andy before it is sent based on the following partnering:

Andy -- Faye (all c/3 cases)

Matthew -- Carly and Grant (c/4 cases)

Hilary -- Jodi and Janine (c/4 cases)

Hilary and Matthew should consult with Andy if they have any questions.

Caveat: In light of the size of the files and the time it would take to get another specialist familiar with the files, 6103 and 6103 will remain assigned to Joseph. He will send the development letters for those two cases to Andy for review.

The DC reviewer will provide any comments or a response indicating no comments within 2 business days. If a response is not received within two business days, the drafter of the development letter should notify Sharon.

If an applicant was previously sent a development letter but has not yet responded, the individual assigned to write the development letter will first call the applicant to direct them to disregard the prior development letter and that a new letter will be coming (modifying phone script provided for bucket 1 cases). The new development letter should also contain such a statement (language can be pulled from first addendum to favorable c4 letter).

The assigned Determinations specialist should email the assigned DC reviewer the development letter. In reviewing the letter, the DC reviewer will look at the application on TEDS , the bucketing worksheets (and reconciliation worksheet, if applicable) and the organization's website (if available).

Quality will review the the cases once a response has been received and the Determinations specialist has reached a decision on the case - just like a regular mandatory review case. Initially, all bucket 2 cases will be sent to Quality, but this will be reduced to a sampling based on the results of the review. I will send a message to the team when we are ready to shift to a sampling review.

Bucket 3:

Same as bucket 2 except the individual assigned the case will have to draft the questions. Bucket 2 cases should be started before bucket 3 cases. Given the number of c3s in this bucket, c3 cases may have to be assigned to more then one person.

Bucket 4:

Cindy will send me the 10 oldest c4 cases. Judy and Justin will draft a development letter for each case. Tom Miller will review the development letter. Judy and Justin will send the development letter to Ron Bell who will assign the case to either Mitch or Joseph -whichever is available at that time. Mitch and Joseph will send the development letters and coordinate with Judy/Justin on reviewing the responses.

Joseph is in the process of determining whether c3s in this bucket could qualify under c4 and, if so, is contacting the applicant to inform them that we do not believe they qualify under c3 but may under c4 and instruct them to submit 1024 if they are interested in pursuing c4 status.

Bucketing Going Forward:

Mitch and Joseph will each review and bucket all new receipts that meet the definition of advocacy case on the BOLO using the bucketing worksheets. Mitch and Joseph will hold a reconciliation discussion regarding any cases they place in different buckets. If they cannot reach agreement about the appropriate bucket for a case, they will elevate that case to Sharon and the three of them will have a reconciliation meeting.

Tracking Going Forward:

Ron Bell will be responsible for tracking the advocacy cases going forward. He will use a spreadsheet that combines the original tracking sheet created by Determinations and the spreadsheet created by Sharon and may modify it to add new columns as cases move through the process. Everyone should notify Ron when a case is sent to their manager for closing.

Paz Holly O

From: Paz Holly O
Sent: Monday, May 13, 2013 10:49 AM
To: Flax Nikole C; Marks Nancy J; Best Jennifer L; Vozne Jennifer L
Cc: Light Sharon P
Subject: FW: Review of determinations development letters

Please see below.

From: Kindell Judith E
Sent: Monday, May 13, 2013 10:38 AM
To: Paz Holly O; Light Sharon P; Marks Nancy J
Subject: Review of determinations development letters

These were the issues that Susan and I highlighted when reviewing the development letters. Overall, there were 59 letters that had one or more of these questions, of which 25 did not have either "Tea Party," "Patriots" or "9/12" in their name. I have provided the same breakdown for each question:

A. Requests Names of Donors (29 total , 15 did not have either "Tea Party," "Patriots" or "9/12" in their name)

B. Provide a list of all issues that are important to your organization. Indicate your position regarding such issue. (11 total , 2 did not have either "Tea Party," "Patriots" or "9/12" in their name)

C. In list of questions soliciting details about activity asked about the following: (1) the roles and activities of audience and participants other than members in the activity and (2) what type of conversations and discussions did your members and participants have during the activity. (1 total , 0 did not have either "Tea Party," "Patriots" or "9/12" in their name)

D. Asks whether officer, director, etc. has run or will run for public office (44 total , 19 did not have either "Tea Party," "Patriots" or "9/12" in their name)

E. Requests political affiliation of officer, director, speakers, candidates supported, etc. or otherwise refers to relationship with identified political party-related organizations (7 total , 2 did not have either "Tea Party," "Patriots" or "9/12" in their name)

F. Requests info re employment other than for org, including hours worked (11 total , 4 did not have either "Tea Party," "Patriots" or "9/12" in their name)

G. Letter requests information regarding activities of another org – not just relationship of other org to applicant (4 total , 2 did not have either "Tea Party," "Patriots" or "9/12" in their name)

Paz Holly O

From: Paz Holly O
Sent: Tuesday, July 24, 2012 7:03 AM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Coordinating Tea Party Cases Update Memorandum
Attachments: COORDINATINGTEAPARTYUpdateMemo.doc; COORDINATING TEA PARTY CASES.doc

---

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Friday, April 20, 2012 4:04 PM
To: Marks Nancy J; Urban Joseph J; Malone Robert; Light Sharon P
Subject: FW: Coordinating Tea Party Cases Update Memorandum

FYI

From: Shoemaker Ronald J
Sent: Tuesday, October 19, 2010 9:27 AM
To: Paz Holly O
Cc: Hull Carter C
Subject: FW: Coordinating Tea Party Cases Update Memorandum

Holly, I am sending you a memo describing what Chip is doing with the Tea Party cases. This discusses in more detail than found in the SCR of what is going on in these cases. This information is for your information only. We have not reached any decision on the cases yet.

From: Hull Carter C
Sent: Monday, October 18, 2010 4:03 PM
To: Shoemaker Ronald J
Subject: Coordinating Tea Party Cases Update Memorandum

FYI

COORDINATING TEA PARTY CASES Update Memorandum

This memorandum is to bring the file up to date concerning Tea Party Cases in Cincinnati. Exempt Organizations (HQ) is working Tea Party applications in coordination with Cincinnati. The bulk of the cases are under the jurisdiction of Cincinnati. However, HQ is also working a few applications in the Washington, D.C. office. Currently, HQ is working one IRC 501(c)(3) application and one IRC 501(c)(4) application. A development letter was sent to both organizations and replies have been received. The replies are being evaluated. These two Tea Party cases are the subject of an SCR, updated monthly.

Cincinnati is supplying HQ with copies of the Tea Party files they have identified, along with proposed development letters. The letters are reviewed and comments are made by telephone to the agent in Cincinnati, which then mails out the development letters. Mr. Grodnitzky, Acting Manager EO Technical, and the undersigned looked at the first proposed letter and discussed possible comments. The undersigned telephoned Mrs.Hofacre in Cincinnati and passed along the suggested changes. Mrs. Hofacre has continued to fax copies of the administrative files to the undersigned and has emailed copies of proposed development letters. She also mails the revised development letters to the organizations. Mr. Grodnitzy advised that he did not need to review further development letters. The undersigned continues to review Tea Party administrative files and the proposed development letters, and provide Mrs. Hofacre with suggestions.

There have been three cases assigned to me, with control numbers, here at HQ. They are (1) 6103 (an IRC 501(c)(3) application), (2) 6103 6103 an IRC 501(c)(4) application), and (3) 6103 (an IRC 501(c)(3) application. The 6103 case was closed as failure to respond to the development letter. 6103 and 6103 have both responded to first development letters, and second development letters may have to be sent to both organizations. Another case in HQ, 6103 assigned to Janet Gitterman in Group 2, is similar to the other cases in HQ, but not initially identified as a "Tea Party" case. A proposed exemption letter under IRC 501(c)(4) is currently being reviewed by Siri Buller, the PACI expert in Group 1.

The attached list shows the names of the Tea Party cases currently being worked in Cincinnati, with development letters being reviewed by the undersigned before being sent out. The cases marked with an asterisk (*) are applications under IRC 501(c)(3). All others are applications under IRC 501(c)(4).

(1) The column entitled Cinn. Info. Ltr. Date shows the date on the proposed development letters, usually the date the letter was sent to HQ.

(2) The column entitled Ltr.&File Reviewed indicates that the proposed development letter and the file was reviewed in HQ.

(3) The column entitled Ltr.&File Discussed indicates that the HQ comments were passed along to Cincinnati.

HP 69

Re: COORDINATING TEA PARTY CASES Update Memorandum

(4) The column entitled Reply Reviewed indicates that the applicant has replied to the development letter, and that the reply was evaluated in HQ. Three organizations have replied to the development letters, and the responses are being evaluated.

(5) The column entitled Reply Discussed indicates that the reply was discussed with Cincinnati.

Carter C. Hull
SE:T:EO:RA:T:2
October 18, 2010

HP 76

COORDINATING TEA PARTY CASES

Cinn. Info. Ltr. Date 10/14/2010	Ltr. & File Reviewed	Ltr. & File Discussed	Reply Reviewed	Reply Discussed
[redacted] 6103				
08/06/2010	x			
06/21/2010	x	x		
08/15/2010	x	x		
10/09/2010				
10/14/2010				
10/14/2010				
07/02/2010	x	x		
08/06/2010	x	x		
09/28/2010	x			
09/20/2010	x			
07/26/2010	x	x		
08/03/2010	x	x		
09/16/2010	x			
10/15/2010				
07/28/2010	x	x		
07/06/2010	x	x		
09/20/2010	x			
06/21/2010	x	x		
09/28/ 2010				
10/14/2010				
10/13/2010				
10/07/2010				
09/27/2010				
09/27/2010				
05/28/2010	x	x		

HP 71

[redacted]	07/02/2010	x	x
	09/27/2010		
	08/06/2010	x	x
	07/26/2010	x	x
	09/27/2010		
6103	06/01/2010	x	x
	09/24/2010		
	07/26/2010	x	x
	10/06/2010		
	09/24/2010		

HP 72

Paz Holly O

From: Daly Richard M
Sent: Wednesday, May 23, 2012 1:56 PM
To: Lerner Lois G; Marx Dawn R; Paz Holly O; Thomas Cindy M; Downing Nanette M
Subject: Audit number for TIGTA review of Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

FYI

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Wednesday, May 23, 2012 1:41 PM
To: Rutstein Joel S
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: RE: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Joel,

As promised, we now have an audit number for our research into the IRS's process for reviewing application for tax exemption by potential 501(c)(4)-(6) organizations. The audit number is 201210022. If you have any questions, please let me know.

Troy Paterson
Audit Director
Phone: 404-338-7476
e-mail: troy.paterson@tigta.treas.gov

From: Paterson Troy D TIGTA
Sent: Thursday, March 29, 2012 1:55 PM
To: Rutstein Joel S
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; McGovern Michael A TIGTA; Lerner Lois G
Subject: Planning/Research Activities: Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations

Joel,

This e-mail is to inform you of an audit we plan to conduct of the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations, which will be included in our Fiscal Year 2013 Annual Audit Plan. Currently, we do not have an associated audit number. Once we receive a number, I will provide it to you.

To develop an understanding of the controls in the area, we will be conducting a limited amount of planning to develop the appropriate scope for this audit. We will follow the established process of coordinating interviews and requests through the appropriate points of contact within the Tax Exempt and Government Entities Division's Exempt Organizations function. Once we have completed our planning, we will prepare and issue an engagement letter. If you have any questions or comments, please feel free to contact me or the research team mentioned below.

Troy Paterson
Audit Director
Phone: 404-338-7476

HP 96

e-mail: troy.paterson@tigta.treas.gov

Tom Seidell
Audit Manager
Phone: 781-835-4286
e-mail: thomas.seidell@tigta.treas.gov

Cheryl Medina
Lead Auditor
Phone: 781-835-4278
e-mail: cheryl.medina@tigta.treas.gov

Mike McGovern
Auditor
Phone: 781-835-4274
e-mail: mike.mcgovern@tigta.treas.gov

Minutes of Group Meeting – Group 7838
April 14, 2010

Attendees:

John Shafer	Gary Muthert
Ron Bell - Minutes	Renee Norton-Railey
Nancy Heagney	Jack Koester
Joan Kiser	Roger Vance
Del Trimble	Glenn Collins
Kim Kitchens	Jeffrey Cullen

Absent:

Karl Beckerich
Rochelle Monford

[redacted] = Redacted by the Permanent Subcommittee on Investigations

John opened the meeting and:

- Reminded everyone to take the Survey 2010.
- Karl will give out inventory reports weekly from the EDS EO NOCLR system.
- John discussed and the attendees reviewed the inventory reports generated from EDS EO NOCLR.
- John discussed control dates on [redacted] Give back the case to John if the case is assigned in error with the original submission date.
- John reminded everyone that correct grades of cases effects promotions to GS-12 and GS 13 per the business objects.
- Close TEDS cases via status 74 and notify Karl if you receive a case that has only pages 1 and 12 in the file. He will notify Sonya A. in processing.
- John suggested everyone add LINUS to their repertoire.
- Apprise John of the case when you send a case to AP to have page 12 signed when IRS has prepared page 12.
- John handed out and discussed the screening totals for March of 2010.

- John discussed the focus of our next screening workshop scheduled for Wednesday, April 28, 2010. We will focus on a couple of issues. They are:

  "03" closures and what constitutes an "03" closure.

  Processing IP cases and reiterate the IP rules.

  Joan, Jack and Nancy found numerous cases that should have been placed in the IP inventory, but were sent to the 51 inventory in error. They also found that cases were being sent by IP agents to the 51 inventory in error.

  John stated to also emphasize to leave the AP/IP worksheets in the case file during the workshop and to assemble cases correctly on FTE cases.

- John stated the control date as of today was 3/23/10. We had 1309 cases to be assigned and that overtime was helping in getting the dates in line with our goals.

Gary Muthert gave a presentation on "Tea Party Cases." He stated that 3 cases have been approved including one as a 501(c)(3). We are waiting guidance from HQ on these cases. John Shafer is houlding these cases in his office if you identify one. Give case information to Gary Muthert as well.

Renee gave an update on expedite cases.

John asked the group if there was anything else. No other issues raised.

Meeting Adjourned.

From: Paz Holly O
Sent: Thursday, May 17, 2012 10:00 PM
To: Thomas Cindy M
Cc: Lerner Lois G
Subject: BOLO
Attachments: bolo memo.doc

Cindy,

Please see the attached memo setting forth procedures regarding the BOLO list. The procedures provide that any new entries and updates to the BOLO list must first be approved by the Emerging Issues group manager, then the EO Determinations manager and finally the EO R&A director. Please share this information with your staff.

Thanks,

Holly



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

May 17, 2012

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Holly Paz /s/ *Holly Paz*
Director, EO Rulings and Agreements

SUBJECT: Be On the Look Out (BOLO) Spreadsheet

The purpose of this memorandum is to set forth the procedures to be used with regard to the Be On the Look Out (BOLO) spreadsheet.

Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing[1] cases will all be tracked on a single combined Be On the Look Out (BOLO) spreadsheet.

(a) The spreadsheet is maintained to enable EO Determinations specialists to be informed about the current status of abusive transactions and fraud issues, emerging issues, coordination, and watch issues, and to process cases in a consistent manner.

(b) Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing will each occupy a separate tab of the spreadsheet.

(c) A fourth tab, the "Watch List" will list recent developments such as changes in the law, current events, or specific issues that EO Determinations management believes has the potential to impact the filing of applications.

The Emerging Issues coordinator will maintain the combined spreadsheet including:

(a) Creating original entries for new emerging issues and entering them on the appropriate tab of the spreadsheet.

(b) Creating original entries for new coordinated processing cases and entering them on the appropriate tab of the spreadsheet.

(c) Receiving issue updates from the abusive transaction and fraud group and entering them on the appropriate tab of the spreadsheet.

[1] Coordinated Processing cases are cases that present similar issues and thus are to be handled by a single team or group in order to facilitate consistency.

(d) Receiving "Watch List" updates from senior management and entering them on the appropriate tab of the spreadsheet.

(e) Updating the spreadsheet as necessary.

All original entries and updates to the BOLO must be approved by the group manager of the Emerging Issues Coordinator. The group manager of the Emerging Issues Coordinator must obtain the approval of the Manager, EO Determinations to all original entries and updates to the BOLO. The Manager, EO Determinations must obtain the approval of the Director, EO Rulings & Agreements to all original entries and updates to the BOLO.

Only after the approval of the group manager of the Emerging Issues Coordinator, the Manager, EO Determinations and Director, EO Rulings & Agreements have been obtained will EO Determinations groups be notified of new or updated Watch List items, Potential Abusive Transaction and Fraud Issues, Emerging Issues, and Coordinated Processing cases through single e-mail alerts. The Emerging Issues coordinator is responsible for issuing all e-mail alerts after all of the required approvals have been obtained.

The most recent updated copy of the spreadsheet will be posted on the EO Determinations shared drive folder.

The content of this memorandum will be incorporated in IRM 7.20.4.

From: Lerner Lois G
Sent: Thursday, June 28, 2012 3:10 PM
To: Kindell Judith E; Light Sharon P; Miller Thomas J; Downing Nanette M
Cc: Urban Joseph J; Marks Nancy J
Subject: RE: Hearing prep

Importance: High

By the way--although I still want what Sharon is doing, I just got clarification from Nikole that Miller was talking about getting a briefing on how the referral process works, what issues TIGTA raised in its audit and what we have done to meet the concerns.

For that part--Nan you're it!

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Kindell Judith E
Sent: Thursday, June 28, 2012 3:05 PM
To: Light Sharon P; Lerner Lois G; Miller Thomas J
Cc: Downing Nanette M
Subject: RE: Hearing prep

As part of the dual track training Jason and I discussed the need to be clear, concise and sensitive to how others could read the write-up when explaining the rationale for selecting or non-selecting cases for exam.

-----Original Message-----
From: Light Sharon P
Sent: Thursday, June 28, 2012 3:00 PM
To: Lerner Lois G; Miller Thomas J; Kindell Judith E
Cc: Downing Nanette M
Subject: Re: Hearing prep

Sidetracked is correct. I'll take the lead on consulting with Tom and Judy to get you an overview by Tuesday.

Sent using BlackBerry

------Original Message------
From: Lois Lerner
To: Light Sharon P
To: Miller Thomas J
To: Judy Kindell
Cc: Downing Nanette M
Subject: Hearing prep
Sent: Jun 28, 2012 2:55 PM

Miller has asked for a briefing on our "review" of the referral process and any follow-up we have done. I believe he is referring to the review you guys were doing of the referral write-ups. I'm guessing doing anything about them has been side-tracked while you all work on c4 political activity? In any event, can someone put together a short paper explaining the issue, how it came to our attention, what we've done to see the depth and breadth and what our plans/actions are for making better? I'd want to know how many files you've looked at and what trends you see. I'd like by Tuesday if possible--let me know who is taking it and if that date works.
Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Monday, March 25, 2013 12:36 PM
To: Paz Holly O
Cc: Biss Meghan R
Subject: RE: TIGTA

Fine. He took lots of notes and said we'd have several other opportunities to talk. I asked Greg and troy to stay on afterwards. I told them flat out the report felt politically motivated with some of the inflammatory descriptions. As to "political" team--he made the point that that is what the criteria now says. I suggested perhaps they use a longer sentence to describe what the team is doing and then just short hand"the team"--we'll see. As to them not seeing eye to eye with us about the orgs getting put into the buckets, I told him we couldn't win. From our perspective we couldn't just ignore information we had from other experiences regarding words or phrases, and that was born out by them saying there was political intervention in some cases they thought should have been screened. Troy then said if we had documented why the org went to full development, they would have known our reason. I then explained the assembly line aspect of screening--if we stopped to document, it would slow things down and we'd have more of a backlog, so I didn't think we'd agree to that recommendation. Greg and I had a longer conversation in general, and I think he gets what's been going on and where this sits in the middle of things. Not sure he can do a whole lot, but I did feel like he was going to go back and think about this. All we can ask for. As to referring us, I asked that they flesh out what we had done to try and get the information they asked for--email and who developed criteria. He said he didn't think he had anything on that. So, I told him when you get back, you would put a paragraph together about what we had done to try and find the email and get who developed the criteria.

Lois G Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Monday, March 25, 2013 12:02 PM
To: Lerner Lois G
Subject: Re: TIGTA

How did it go? I will call you later to check in. Nearly missed flight but on it now.

Sent from my BlackBerry Wireless Device

From: Lerner Lois G
Sent: Monday, March 25, 2013 10:13 AM Eastern Standard Time
To: Paz Holly O
Cc: Marx Dawn R
Subject: RE: TIGTA

Thanks--I have been thinking about this and may get a little "testier" than we discussed--nice, but get into the slanted a bit more--especially with the referrals. No one here but me

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Monday, March 25, 2013 8:20 AM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: TIGTA

I am planning to leave for the airport around 9:30. That way, I hope to be through security and able to join the 11 by phone until I have to board. You asked me to shoot you an email reminding you of the two major points you wanted to make with TIGTA:

1. The report lacks any reference to or information regarding the broader context (such as how difficult it is to determine what constitutes political activity and whether political activity is a c4's primary activity). Without this broader context, the report could appear slanted in one direction.

2. The report contains several instances of speculation lacking any support (i.e. speculation that the wait for a determination adversely impacted org's fundraising, speculation that orgs did not file required 990s while awaiting a determination because they had not engaged in any activity).

Holly

From: Thomas Cindy M
Sent: Saturday, March 30, 2013 2:45 PM
To: Paz Holly O
Subject: FW: TIGTA DOCUMENT REQUEST

Email indicating that the cases were being held in the Screening Group.

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:51 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 4:14 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It

Sounds good. Thanks John.

From: Shafer John H
Sent: Wednesday, March 17, 2010 1:48 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It
Importance: Low

I will sent 2 of these cases to EO Technical , one 501(c)(4) & one 501(c)(3). I can hold the remaining cases in my group "75" number unless you want them held some other place.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 1:21 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case --- EO Technical Would Like It

John,

Per Holly's e-mail directly below, EOT does not want all of the tea party cases. They only want 2 of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, March 17, 2010 12:40 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven
Subject: RE: High Profile Case --- EO Technical Would Like It

Cindy,

Thanks for the heads up. We have one Tea Party case up here - that was sent up from Determs just a few weeks ago - but had not yet heard that there were more. I think we should take a few more cases (I'd say 2) and would ask that you hold the rest until we get a sense of what the issues may be. Then when we will work with Determs in working the other cases.

FYI - I will be on maternity leave starting tomorrow. Steve will be acting as head of EO Tech.

Holly

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 12:10 AM
To: Paz Holly O
Subject: FW: High Profile Case --- EO Technical Would Like It
Importance: High

Holly,

Did you know about these additional 10 tea party cases? Do you want all of them or do you only want a few and then give us advice as to what to do with the remaining?

From: Shafer John H
Sent: Tuesday, March 16, 2010 9:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It
Importance: Low

Cindy,

We have identified a total of 10 Tea Party cases. Three case have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward them to EO Technical.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Friday, February 26, 2010 8:36 AM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case --- EO Technical Would Like It

EO Technical would like the case. Please thank Jack for identifying the issue and elevating it. Thanks.

From: Paz Holly O
Sent: Friday, February 26, 2010 8:23 AM
To: Thomas Cindy M
Subject: RE: High Profile Case --- Does EO Technical Want It?

I think sending it up here is a good idea given the potential for media interest. Thanks.

From: Thomas Cindy M
Sent: Thursday, February 25, 2010 10:00 PM
To: Paz Holly O
Subject: High Profile Case --- Does EO Technical Want It?

Holly,

We have a Form 1024 for [redacted] 6103

We're wondering whether EO Technical wants this case because of recent media attention. More specifics about activities is in the original e-mail below. Let me know your thoughts. Thanks.

From: Camarillo Sharon L
Sent: Thursday, February 25, 2010 5:19 PM
To: Thomas Cindy M
Subject: FW: Case # [redacted] 6103
Importance: Low

Cindy: Please let 'Washington' know about this potentially politically embarassing case involving a 'Tea Party' organization. Recent media attention to this type of organization indicates to me that this is a "high profile" case. [redacted]

[redacted] 6103

[redacted] Shown below are excerpts from the application describing its legislative and possible future political activities.

The case is currently being held in the Screening group, pending a response from EOT.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Shafer John H
Sent: Thursday, February 25, 2010 10:14 AM
To: Camarillo Sharon L
Cc: Koester John J
Subject: FW: Case # [redacted] 6103
Importance: Low

Sharon, this case will be sent to inventory for further development. Political campaigns on behalf or or in opposition to any political candidate do not promote social welfare, but an exempt 501(c)(4) may intervene in political campaigns as long as its primary activity is the promotion of social welfare and would be subject to the tax imposed by IRC 527. I will hold this case for a decision concerning this type of organization may be considered a "High Profile Case".

Thanks,

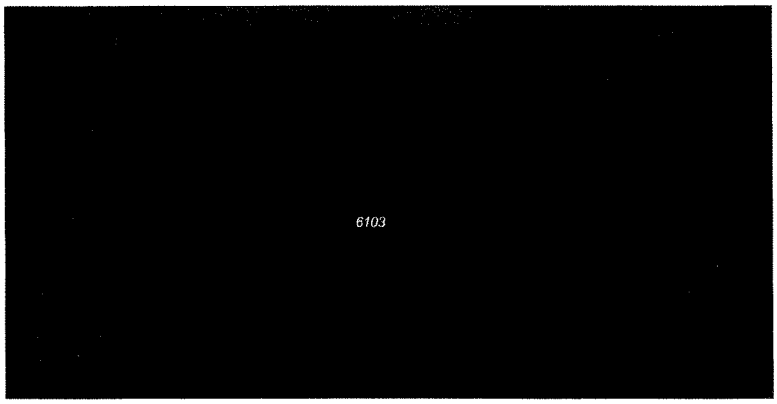
John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Koester John J
Sent: Thursday, February 25, 2010 12:51 PM
To: Shafer John H
Subject: Case # [redacted] 6102
Importance: Low

John
Here is the case number for the "Tea Party" application for 501(c)(4) exemption that we discussed this morning. Recent media attention to this type of organization indicates to me that this is a "high profile" case. [redacted] 6103 6103 6103 Shown below are excerpts from the application describing its legislative and possible future political activities.
Thanks
Jack

Part II. Activities and Operational Information (Must be completed by all applicants)

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.



15

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'?,.

6103

If "Yes," explain in detail and list the amounts spent or to be spent in each case.

6103

From: Lerner Lois G
Sent: Tuesday, March 26, 2013 11:07 AM
To: Flax Nikole C
Cc: Grant Joseph H
Subject: RE: TIGTA

That is what we said, but they find it hard to believe--I'll send the draft--don't freak out because we had a good talk and I believe there will be another draft to comment on--we had a higher up guy this time. I told him that there were several areas where the way they had provided information made the report look political. He said it isn't political. I said, I didn't think it was, but they may want to take another look because it was coming across that way. We talked a bit about the larger context of what was going on in the world--I think he got it, but we'll have to see.

As to information we can't provide--I'd rather they do the IT route--the investigatory route means they'd go out and question staff, who are already freaked. Anymore info on our referral to TIGTA that I can provide?

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Flax Nikole C
Sent: Monday, March 25, 2013 4:31 PM
To: Lerner Lois G
Cc: Grant Joseph H
Subject: RE: TIGTA

Can you send the draft? Are you saying that no one in Cincinnati has the email? That seems more efficient than the IT route.

-----Original Message-----
From: Lerner Lois G
Sent: Monday, March 25, 2013 4:18 PM
To: Flax Nikole C
Cc: Grant Joseph H
Subject: RE: TIGTA

Yes we have a copy of the draft--but it isn't the "real" draft. It is a preliminary draft so we could start talking. That was the reason for today's conversation. Based on today, they will be revising before they send the real draft. If the email exists, we could still have IT folks check and give it to TIGTA. Holly is back Wed. She has the details. I'll get them and then perhaps you can intercede with the folks who do this work?
I had no clue until getting the draft report that no one had responded back to them. Am on my way out of here for [redacted] back tomorrow.

Lois G. Lerner
Director of Exempt Organizations

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

-----Original Message-----

From: Flax Nikole C
Sent: Monday, March 25, 2013 3:03 PM
To: Lerner Lois G
Cc: Grant Joseph H
Subject: RE: TIGTA

Can we get the email now? Do we have a copy of the draft report?

-----Original Message-----
From: Lerner Lois G
Sent: Monday, March 25, 2013 2:57 PM
To: Flax Nikole C
Cc: Grant Joseph H
Subject: RE: TIGTA

In our response, based on what we were able to find out from staff, we told them that in 2010, someone in Determs sent out an informal email to all Determs folks asking them to forward all "Tea Party" applications to another specialist. TIGTA asked for a copy of the email. We asked everyone in Determs to check their email to find it--no one could find a copy. So we told TIGTA that. Then Troy asked me if IRS could check records of emails to see if they could find it. I knew we could do some checking because it had been done in response to the Congressional re: gift tax. So, I checked around to find out what office would be responsible for that type review and referred him there. I didn't think it was my job to say no as I don't have responsibility for that office. Ina any event, apparently, no one responded to Troy's request. That translated into the TIGTA report saying TIGTA asked--IRS did not respond--so we are referring IRS to TIGTA Office of Investigation--pretty tough stuff, which might have been avoided if we had checked to see if the email exists anywhere.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Flax Nikole C
Sent: Monday, March 25, 2013 2:47 PM
To: Lerner Lois G
Cc: Grant Joseph H
Subject: Re: TIGTA

I am confused - what email?
-------Original Message-------
From: Lerner Lois G
To: Flax Nikole C
Cc: Grant Joseph H
Subject: TIGTA
Sent: Mar 25, 2013 2:38 PM

Another issue. I asked them to include that we had looked for the email they asked for and had provided them with a contact in IT to assist them with trying to get the emails from IT archives. He said they contacted the person, but no one ever responded. I will get the contact we gave him from Holly. I personally reached out to them to tell them TIGTA was coming and asked for the right person to help. Once I get the name, perhaps someone can ask them to respond to TIGTA? We shoot ourselves in our own foot!

Lois G. Lerner
Director of Exempt Organizations

From: Lowe Justin
Sent: Wednesday, September 19, 2012 11:42 AM
To: Lerner Lois G; Kindell Judith E
Subject: RE: c4

There is nothing public about why the regs say primarily instead of exclusively.

In the old drafting files from when the regs were written, both (c)(3) and (c)(4) regs originally said primarily. During the editing process, a reviewer commented on the (c)(3) regs that the primarily language was overbroad and should be restricted, so the insubstantial wording was added. There were no similar comments or changes made to the (c)(4) regs, so we don't know what the thinking was there.

For reference, 1.501(c)(3)-1(c)(1) reads: *Primary Activities.* An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

1.501(c)(4)-1(a)(2) reads: *Promotion of Social*

Welfare. (i) In general. 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.

(ii) Political or social activities. 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. ...

From: Lerner Lois G
Sent: Wednesday,

September 19, 2012 12:24 PM
To: Lowe Justin; Kindell Judith

E
Subject: c4
Importance: High

I am going up on the Hill today--I know both of you have given me insight about why the Reg say primarily instead of exclusively--like the statute, but I have no recollection of the reasons. Can you remind me ASP please!?

Thanks

Director of Exempt Organizations

From: Paz Holly O
Sent: Monday, April 01, 2013 4:15 PM
To: Lerner Lois G
Cc: Marks Nancy J
Subject: FW: Responses

Importance: High

Reading the discussion draft again, I think they are focused specifically on who developed the criteria noted in the June 2011 briefing paper, rather than the other iterations of the BOLO criteria (which is how I had first read the draft report). So in the draft email, I have attempted to address both issues. The June 2011 briefing paper "criteria" has been the subject of much discussion (see below) as it differed from what was on the BOLO at that time. We explained that in November when we gave comments on the timeline - Cindy asked screening manager and he asked his employees how they were interpreting/applying the BOLO's brief reference to "organizations involved with the Tea Party movement." TIGTA even interviewed one of those screening group employees who responded to the screening manager's question.

From: Paz Holly O
Sent: Monday, November 19, 2012 4:39 PM
To: Paterson Troy D TIGTA
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G
Subject: RE: Responses

Troy,

Your reading of our response to question #1 is correct. The EO Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request in June 2011. No one in the EO management chain sanctioned the use of the four criteria listed in your question #1 below.

Holly

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Wednesday, November 14, 2012 10:01 AM
To: Paz Holly O
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G
Subject: RE: Responses

Holly,

Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria.

Troy
770-932-2429

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Friday, November 09, 2012 2:14 PM
To: Paterson Troy D TIGTA
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G
Subject: RE: Responses

Troy,

Please see answers to your follow-up questions below. Please let me know if you have any further questions or if you think a discussion would be helpful.

Holly

1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria.

EO executive management did not sanction use of 1-4 above as criteria for identifying advocacy cases. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, I, as Acting Director of EO Rulings & Agreements, sought clarification as to the criteria being used to identify these cases in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.). My inquiry prompted the EO Determinations Program Manager to ask the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?"). We understand that the screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party" and was told by his employees that they included organizations meeting any of criteria 1-4 above as falling within the BOLO's reference to "tea party" organizations.

2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities should be [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities should not be [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?

I am afraid that the wording of my question to Tom has contributed to the confusion. You can see I said we were seeing inflammatory talk, which I characterized as propaganda. "Propaganda," however, is a term with legal significance. So, Tom's email went on to discuss what constitutes "propaganda" versus what is "educational," for purposes of characterizing the inflammatory talk. He says that, "Posting of some questionable or snarky articles will not undue otherwise OK material . . . . the bar [for whether material is educational] is quite low." The example in his second paragraph about the Institute for Historical Review shows just how difficult it is to conclude that inflammatory talk is actually "propaganda" rather than "educational." Senior members of the team bucketing the advocacy cases discussed Tom's email in light of the inflammatory talk we were seeing and concluded that it would be considered educational under existing precedents.

3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

EO Technical employees are reviewing all development letters to organizations in buckets 2 and 3 prior to issuance. Designated EO Technical employees are also available to answer questions the Determinations specialists may have after receiving responses to those development letters. While EO Technical employees are reviewing all development letters, typically on favorables, EO Technical does not review the closing letter itself because these are essentially form approval letters . All denial letters, however, are being closely coordinated between EO Technical and EO Determinations.

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, November 06, 2012 3:00 PM
To: Paz Holly O
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Responses

Holly,

Thank you again for taking the time to review and provide feedback on the 3 questions we submitted and the long timeline. We have a few follow-up questions.

1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria.
2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities **should be** [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities **should not be** [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?
3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

As always, we appreciate the assistance and we look forward to your response.

Troy

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, November 02, 2012 11:34 AM
To: Paterson Troy D TIGTA

Cc: Paz Holly O
Subject: Responses

Attached is our redlined version of the long time line you prepared. We have made changes where we thought your folks didn't get it exactly right, and have added some comments for your consideration. Also attached are my response to your three questions. Rather than be repetitive, we have combined the response to questions 2 and 3 into one comprehensive response. I am out of the country next week, but Holly can probably answer any questions you may have in the meantime.

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Monday, July 23, 2012 3:04 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:51 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 4:14 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It

Sounds good. Thanks John.

From: Shafer John H
Sent: Wednesday, March 17, 2010 1:48 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It
Importance: Low

I will sent 2 of these cases to EO Technical , one 501(c)(4) & one 501(c)(3). I can hold the remaining cases in my group "75" number unless you want them held some other place.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 1:21 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case --- EO Technical Would Like It

John,

Per Holly's e-mail directly below, EOT does not want all of the tea party cases. They only want 2 of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, March 17, 2010 12:40 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven
Subject: RE: High Profile Case --- EO Technical Would Like It

Cindy,

Thanks for the heads up. We have one Tea Party case up here - that was sent up from Determs just a few weeks ago - but had not yet heard that there were more. I think we should take a few more cases (I'd say 2) and would ask that you hold the rest until we get a sense of what the issues may be. Then when we will work with Determs in working the other cases.

FYI - I will be on maternity leave starting tomorrow. Steve will be acting as head of EO Tech.

Holly

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 12:10 AM
To: Paz Holly O
Subject: FW: High Profile Case --- EO Technical Would Like It
Importance: High

Holly,

Did you know about these additional 10 tea party cases? Do you want all of them or do you only want a few and then give us advice as to what to do with the remaining?

From: Shafer John H
Sent: Tuesday, March 16, 2010 9:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case --- EO Technical Would Like It
Importance: Low

Cindy,

We have identified a total of 10 Tea Party cases. Three case have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward them to EO Technical.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Friday, February 26, 2010 8:36 AM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case --- EO Technical Would Like It

EO Technical would like the case. Please thank Jack for identifying the issue and elevating it. Thanks.

From: Paz Holly O
Sent: Friday, February 26, 2010 8:23 AM
To: Thomas Cindy M
Subject: RE: High Profile Case --- Does EO Technical Want It?

I think sending it up here is a good idea given the potential for media interest. Thanks.

From: Thomas Cindy M
Sent: Thursday, February 25, 2010 10:00 PM
To: Paz Holly O
Subject: High Profile Case --- Does EO Technical Want It?

Holly,

We have a Form 1024 for: 6103 6103

We're wondering whether EO Technical wants this case because of recent media attention. More specifics about activities is in the original e-mail below. Let me know your thoughts. Thanks.

From: Camarillo Sharon L
Sent: Thursday, February 25, 2010 5:19 PM
To: Thomas Cindy M
Subject: FW: Case # 6103
Importance: Low

Cindy: Please let 'Washington' know about this potentially politically embarassing case involving a 'Tea Party' organization. Recent media attention to this type of organization indicates to me that this is a "high profile" case. In addition to 501(c)(4) typical legislative activities,

[redacted] 6103

Shown below are excerpts from the application describing its legislative and possible future political activities.

The case is currently being held in the Screening group, pending a response from EOT.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Shafer John H
Sent: Thursday, February 25, 2010 10:14 AM
To: Camarillo Sharon L
Cc: Koester John J
Subject: FW: Case # [redacted] 6103
Importance: Low

Sharon, this case will be sent to inventory for further development. Political campaigns on behalf or or in opposition to any political candidate do not promote social welfare, but an exempt 501(c)(4) may intervene in political campaigns as long as its primary activity is the promotion of social welfare and would be subject to the tax imposed by IRC 527. I will hold this case for a decision concerning this type of organization may be considered a "High Profile Case".

Thanks,

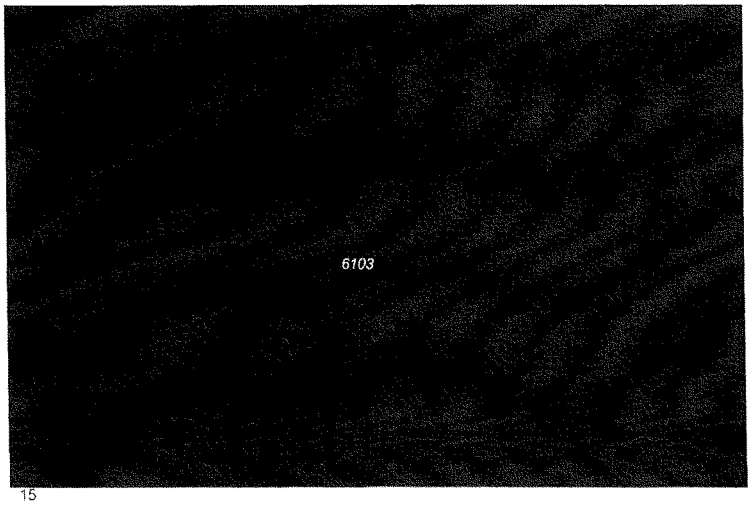
John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Koester John J
Sent: Thursday, February 25, 2010 12:51 PM
To: Shafer John H
Subject: Case # [redacted] 6103
Importance: Low

John
Here is the case number for the "Tea Party" application for 501(c)(4) exemption that we discussed this morning. Recent media attention to this type of organization indicates to me that this is a "high profile" case. In addition to 501(c)(4) typical legisslative activities, the applicant, in answer to Part II, item 15 of the of the 1024 application indicates possible future political candidate support. Shown below are excerpts from the application describing its legislative and possible future political activities.
Thanks
Jack

Part II. Activities and Operational Information (Must be completed by all applicants)

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.

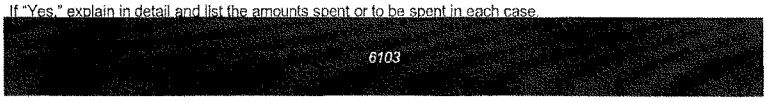


15
Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election,

or appointment of any pnrson to any Federal, state, or local public office or to an office in a political organization"?,.

6103

If "Yes," explain in detail and list the amounts spent or to be spent in each case.



From: Lerner Lois G
Sent: Tuesday, April 02, 2013 12:29 PM
To: Kutz Gregory D TIGTA; Paterson Troy D TIGTA
Cc: Paz Holly O; Grant Joseph H; Daly Richard M
Subject: FW: TIGTA report - draft email
Attachments: FW TIGTA DOCUMENT REQUEST1.htm; Heightened Awareness Issues.ppt; CPE Room Locations.htm; FW Spreadsheet.htm; FW TIGTA DOCUMENT REQUEST3.txt; FW TIGTA DOCUMENT REQUEST2.htm

Importance: High

We are looking at the latest draft and hope to have comments on the draft to you COB today or tomorrow morning. We appreciate you taking many of our discussed concerns into account with the new draft. As you know, we are a bit concerned about the 2 referrals for investigation in the draft report, and want to do all we can to clear up your concerns.

So, following our conversation last week, we again searched our records and spoke to EO Rulings & Agreements employees about the May 2010 e-mail regarding the pre-BOLO criteria, and the issue of who approved the criteria. We now believe that there was not a May 2010 e-mail sent to all Determinations personnel directing them to coordinate these cases with group 7825. Rather, Liz Hofacre, a Determinations specialist, and her group manager, Joseph Herr, were developing the concept and a sample for sharing emerging issues, which what would be called the BOLO. They exchanged drafts with each other via e-mail during this time period (see attached email dated May 6, 2010). The concept was then introduced to Determinations specialists at their CPE sessions held in June/July 2010 (see attached CPE schedule and materials from a session on heightened awareness issues - slide 7 discusses these cases). As reflected in the attached e-mails (which we provided to TIGTA in July 2012), these cases were initially held in the screening group until the cases were assigned to Liz Hofacre. The screeners had been alerted to lookout for these applications (see 7/2/10 email from Sharon Camarillo included in the attached e-mail chain) so there was no need to alert all of EO Determinations through an email.

In regard to who developed the criteria used to identify cases sent to the advocacy group, EO made 10 individuals from EO Determinations available for interview by TIGTA. Liz Hofacre and Joseph Herr both indicated that they were involved in the initial development of the BOLO criteria. Ron Bell indicated that he, Steve Bowling, and Stephen Seok were involved in the January 2012 revision to the BOLO. Cindy Thomas, the manager of EO Determinations, indicated in her interview with TIGTA that she was not involved in the development or revision of the BOLO criteria. All individuals interviewed indicated that the process of developing and revising items on the BOLO was very informal. In regard to the criteria described in the June 2011 briefing memo, as we explained in our Nov. 2012 comments on TIGTA's timeline and emails with TIGTA regarding those comments, and as reflected in the emails previously provided to TIGTA and TIGTA's interview of Gary Muthert (a specialist in the screening group), the Acting Director, EO Rulings & Agreements asked the EO Determinations manager in June 2011 what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations manager asked the manager of the screening group, John Shafer, what criteria were being used to label cases as "tea party" cases. ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?") The screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party." His employees responded that they were including organizations meeting any of the following criteria as falling within the BOLO's reference to "tea party" organizations: "1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4.

Statements in the case file that are critical of the how the country is being run." Gary Muthert indicated in his interview with TIGTA that he believed he provided some of this information to John Shafer, his manager.

So, we believe we have provided information that shows that no one in EO "developed" the criteria. Rather, staff used their own interpretations of the brief reference to "organizations involved with the Tea Party movement," which was what was on the BOLO list. The list is a compilation of the various staff responses to John Schafer's inquiry to staff.

Please let us know if there is any additional information you need regarding clearing up these issues.

Lois G. Lerner
Director of Exempt Organizations

Heightened Awareness Issues

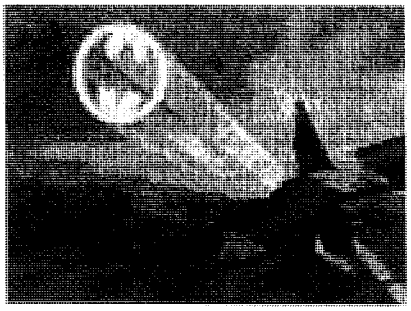


OBJECTIVES

- What Are The Heightened Awareness Issues
- Definition and Examples of Each
- Issue Tracking and Notification
- What Happens When You See One?

What are Heightened Awareness Issues?

- TAG
- Emerging Issues
- Coordinated Issues
- Watch For Issues



Your Role

- Per IRM 1.54.1.6.1, a Front Line Employee Should Elevate the Following Matters Concerning Their Work:

  1. Unusual Issues that Prevent them from Completing Their Work.

  2. Issues Beyond Their Current Level of Training.

  3. Issues that Require Elevation in Accordance with Statute, Revenue Procedure, or Field Directive.

What are TAG Issues ?:

- Involves Abusive Tax Avoidance Transactions:
  1. Abusive Promoters
  2. Fake Determination Letters

- Activities are Fraudulent In Nature:
  1. Materially Misrepresented Operations or Finances.
  2. Conducting Activities Contrary to Tax Law (e.g. Foreign Conduits).

- Issues Involving Applicants with Potential Terrorist Connections:
  1. Cases with Direct Hits on OFAC
  2. Substantial Foreign Operations in Sanctioned Countries

- Processing is Governed by IRM 7.20.6

What Are Emerging Issues?

- Groups of Cases where No Established Tax Law or Precedent has been Established.
- Issues Arising from Significant Current Events (Doesn't Include Disaster Relief)
- Issues Arising from Changes to Tax Law
- Other Significant World Events

Emerging Issue Examples

- Tea Party Cases:
  1. High Profile Applicants
  2. Relevant Subject in Today's Media
  3. Inconsistent Requests for 501(c)(3) and 501(c)(4).
  4. Potential for Political/Legislative Activity
  5. Rulings Could be Impactful

Emerging Issue Examples Continued:

- Pension Trust 501(c)(2):
  1. Cases Involved the Same Law Firm
  2. High Dollar Amounts
  3. Presence of an Unusual Note Receivable



Emerging Issues Examples Continued

- Historical Examples:
  1. Foreclosure Assistance
  2. Carbon Credits
  3. Pension Protection Act
  4. Credit Counseling
  5. Partnership/Tax Credits
  6. Hedge Funds

What Are Coordinated Processing Issues?

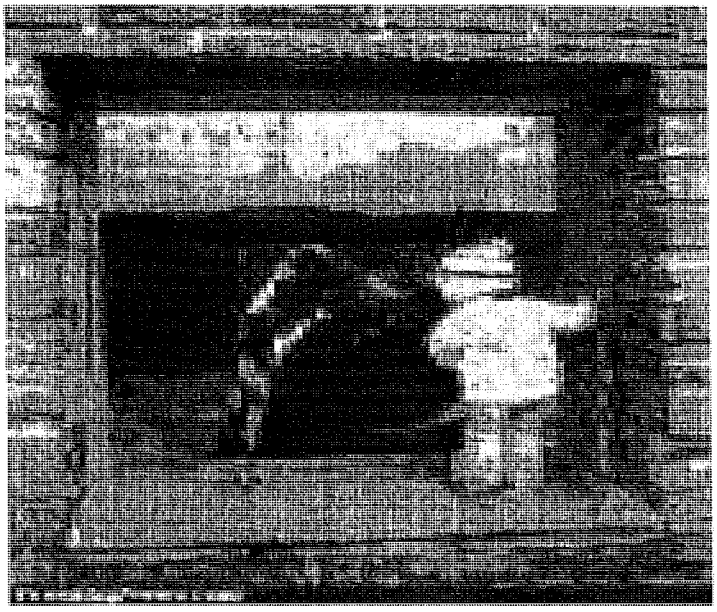
- Cases with Issues Organized for Uniform Handling
- Involves Multiple Cases
- Existing Precedent or Guidance Does Exist



Coordinated Examples

- Break-up of a Large Group Ruling Where Subordinates are Seeking Individual Exemption.
- Multiple Entities Related Through a Complex Business Structure (e.g. Housing and Management Companies)
- Current Specialized Inventories

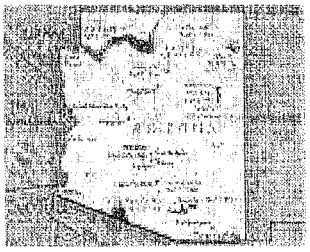
What is a Watch For Issue?

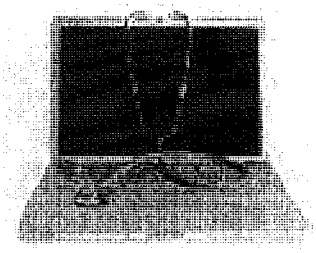


Watch For Issues:

- Typically Applications Not Yet Received
- Issues are the Result of Significant Changes in Tax Law
- Issues are the Result of Significant World Events
- Special Handling is Required when Applications are Received

Watch For Examples







Watch For Examples Continued

- Successors to Acorn
- Electronic Medical Records
- Regional Health Information Organizations
- Organizations Formed as a Result of Controversy---- Arizona Immigration Law
- Other World Events that ***Could*** Result in an Influx of Applications

Tracking and Notification



Combined Excel Workbook

- Will Include Tabs for TAG, TAG Historical, Emerging Issues, Coordinated, and Watch For
- Tabs Will Include the Various Issues, Descriptions, and Guidance.
- A Designated Coordinator Will Maintain the Workbook and Disseminate Alerts in One Standard E-Mail.
- Mailbox: *TE/GE-EO-Determinations Questions

When You Spot Heightened Awareness Issues

- If a TAG Issue, follow IRM 7.20.6.
- If an Emerging Issue or Coordinated Processing Case, Complete the Required Referral Form and Submit to your Manager
- Watch For Issue Cases are Referred to your Manager

From: Paterson Troy D TIGTA <Troy.Paterson@tigta.treas.gov>
Sent: Wednesday, April 03, 2013 8:25 AM
To: Lerner Lois G; Paz Holly O; Marx Dawn R
Subject: RE: TIGTA report - draft email
Attachments: FW Spreadsheet.htm

Lois and Holly,

Do you happen to have the spreadsheet that was attached to the May 6, 2010 e-mail from Liz Hofacre? If so, could you please send it to us? If not, was that something you searched for but were not able to locate?

Troy
770-932-2429

-----Original Message-----
From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, April 02, 2013 1:29 PM
To: Kutz Gregory D TIGTA; Paterson Troy D TIGTA
Cc: Paz Holly O; Grant Joseph H; Daly Richard M
Subject: FW: TIGTA report - draft email
Importance: High

We are looking at the latest draft and hope to have comments on the draft to you COB today or tomorrow morning. We appreciate you taking many of our discussed concerns into account with the new draft. As you know, we are a bit concerned about the 2 referrals for investigation in the draft report, and want to do all we can to clear up your concerns.

So, following our conversation last week, we again searched our records and spoke to EO Rulings & Agreements employees about the May 2010 e-mail regarding the pre-BOLO criteria, and the issue of who approved the criteria. We now believe that there was not a May 2010 e-mail sent to all Determinations personnel directing them to coordinate these cases with group 7825. Rather, Liz Hofacre, a Determinations specialist, and her group manager, Joseph Herr, were developing the concept and a sample for sharing emerging issues, which what would be called the BOLO. They exchanged drafts with each other via e-mail during this time period (see attached email dated May 6, 2010). The concept was then introduced to Determinations specialists at their CPE sessions held in June/July 2010 (see attached CPE schedule and materials from a session on heightened awareness issues - slide 7 discusses these cases). As reflected in the attached e-mails (which we provided to TIGTA in July 2012), these cases were initially held in the screening group until the cases were assigned to Liz Hofacre. The screeners had been alerted to lookout for these applications (see 7/2/10 email from Sharon Camarillo included in the attached e-mail chain) so there was no need to alert all of EO Determinations through an email.

In regard to who developed the criteria used to identify cases sent to the advocacy group, EO made 10 individuals from EO Determinations available for interview by TIGTA. Liz Hofacre and Joseph Herr both indicated that they were involved in the initial development of the BOLO criteria. Ron Bell indicated that he, Steve Bowling, and Stephen Seok were involved in the January 2012 revision to the BOLO. Cindy Thomas, the manager of EO Determinations, indicated in her interview with TIGTA that she was not involved in the development or revision of the BOLO criteria. All individuals interviewed indicated that the process of developing and revising items on the BOLO was very informal. In regard to the criteria described in the June 2011 briefing memo, as we explained in our Nov. 2012 comments on TIGTA's timeline and emails with TIGTA regarding those comments, and as reflected in the emails previously provided to TIGTA and TIGTA's interview of Gary Muthert (a specialist in the screening group), the Acting Director, EO Rulings & Agreements asked the

EO Determinations manager in June 2011 what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations manager asked the manager of the screening group, John Shafer, what criteria were being used to label cases as "tea party" cases. ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?") The screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party." His employees responded that they were including organizations meeting any of the following criteria as falling within the BOLO's reference to "tea party" organizations: "1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Gary Muthert indicated in his interview with TIGTA that he believed he provided some of this information to John Shafer, his manager.

So, we believe we have provided information that shows that no one in EO "developed" the criteria. Rather, staff used their own interpretations of the brief reference to "organizations involved with the Tea Party movement," which was what was on the BOLO list. The list is a compilation of the various staff responses to John Schafer's inquiry to staff.

Please let us know if there is any additional information you need regarding clearing up these issues.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Wednesday, July 20, 2011 3:07 PM
To: Paz Holly O
Subject: FW: website info

How in the world did this get screened in Cincy? Isn't there an "other" category

Lois G Lerner
Director of Exempt Organizations

From: Eldridge Michelle L
Sent: Wednesday, July 20, 2011 3:58 PM
To: Keith Frank; Lerner Lois G
Cc: Lemons Terry L
Subject: website info

From websites of two identified by Stephanie as granted 501c4s:

6103 is a political candidate training program for Democratic women in the state. 6103 is part of 6103, a national movement to address the under-representation of women in office at the local, state, and federal level. Click here to find out more about 6103

The 6103 mission is to identify, educate, and inspire Democratic women who want to pursue a career in politics at the local and state level in [redacted].

We are dedicated to making a long-term investment in these future leaders by developing their political and media skills, expanding their knowledge of local issues, and connecting them with mentors.

The Emerge model was originally founded in 2002 by a group of [redacted] Democratic women who passionately believe that we need a larger representation of women in public office at every level. Currently, 6103 is the only organization in the state and one of only two in the country that provides Democratic women with the comprehensive training they need to achieve their political aspirations.

6103 was founded to fill this vacuum, not just in the state, but across the country, and to create a legion of Democratic women leaders for generations to come.



Crit Luallen, Kentucky State Auditor

[redacted] **is the premier training program for Democratic women. We inspire women to run and we hone their skills to win. Our goal is clear: to increase the number of Democratic women in public office.**

What Is [redacted]

[redacted] is a political leadership training program for Democratic women in the state. [redacted] is part of [redacted], a national movement to address the under-representation of women in office at the local, state, and federal level. Click here to find out more about [redacted]

The [redacted] mission is to identify, educate, and inspire Democratic women who want to pursue a career in politics at the local and state level in Kentucky.

We are dedicated to making a long-term investment in these future leaders by developing their political and media skills, expanding their knowledge of local issues, and connecting them with mentors.

The [redacted] model was originally founded in 2002 by a group of Bay Area Democratic women who passionately believe that we need a larger representation of women in public office at every level. Currently, [redacted] is the only organization in the state and one of only two in the country that provides Democratic women with the comprehensive training they need to achieve their political aspirations.

[redacted] was founded to fill this vacuum, not just in the state, but across the country, and to create a legion of Democratic women leaders for generations to come.

From: Paz Holly O
Sent: Thursday, July 21, 2011 9:13 AM
To: Lerner Lois G; Kindell Judith E
Subject: FW: referrals
Attachments: 1128035.pdf; 1128032.pdf; 1128034.pdf

Importance: High

FYI

From: Paz Holly O
Sent: Thursday, July 21, 2011 10:00 AM
To: Downing Nanette M
Subject: referrals
Importance: High

Nan,

The five organizations listed below were mistakenly referred to the ROO when they should have been sent to Classification. These five organizations are substantially similar to three organizations whose applications for 501(c)(4) status were recently denied by EO Technical. I have attached the three denials letters so Exam can see the rationale for the three denials. I would appreciate it if you could ensure that the administrative files on these five organizations that we mistakenly sent to the ROO get to Classification. I apologize for the inconvenience. I will remind the EO Technical staff of the correct process for referring matters to Exam.

Thank you for your assistance,

Holly

From: Buller Siri
Sent: Thursday, May 26, 2011 3:43 PM
To: Kall Jason C
Cc: Cowen Debra F; Smith Danny D
Subject: Referral to ROO

Hi Jason,

I hope you're well. I'm writing you to refer a number of organizations to Review of Operations. I hope this is the correct protocol, but please let me know if I should write someone else or follow a different procedure.

Recently, we denied the 1024 applications of three state chapters of [redacted] 6103, a Democratic candidate training school for women. We denied the applications on the basis that their primary activity confers a private benefit to a political party. In the course of reviewing these applications, we learned that Determinations had already approved the 1024 applications of several other state chapters and the national organization. These are the organizations that we are referring. I have attached the proposed denial letters, which later became final. The organizations did not protest. The names and EINs of the referred organizations are below.

[redacted] 6103

[redacted] 6103

I also have the administrative files from some of the organizations, which I will fax or email if you think they would be helpful.

Thank you so much! Please let me know if you need anything else.
Siri

Siri Buller
Tax Law Specialist
Technical Group 1
Exempt Organizations
T: 202.283.9483
F: 202.283.9462

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: [redacted] 6103
Release Date: 7/15/2011

Date: April 4, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Date: January 13, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Code:
501.04-00

Legend:
State =
Party =

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("the Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on August 16, 2006 as a nonprofit corporation under the laws of State. Your Articles of Incorporation and Bylaws state that your purpose is to

Your Bylaws provide that your properties and assets are dedicated to social welfare purposes, upon dissolution or otherwise, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program for who are members of Party, including sessions covering

Your potential trainees must apply, remit a application fee, and be interviewed to be admitted to your program. To enroll, trainees must pay tuition of You state that you may provide partial or full financial aid following admission to the program.

Your website contains various materials related to your training program. Your homepage states,

Your webpage states that you select students for your training program based on evidence of

This webpage also states that applicants must be Party members and

Your 2011 Program Application contains a section which asks the potential trainee, and, If an applicant did not is then asked to explain why.

Your 2011 Program Application also contains a which requires the applicant to affirm the following:

Your webpage notes the success of which includes

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the regulations states that 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, such as bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described

in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real Estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an

organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles and Bylaws, your primary activity is to train and recruit who are members of the Party to run for political office. Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have run for, or won, elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of the Party and that is conducted with the partisan objective of increasing the number of the Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney,

Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
*****
1111 Constitution Ave. N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois Lerner
Director, Exempt Organizations
Rulings & Agreements

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: 6103
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: January 14, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

UIL Code:
501.04-00

Legend:
State =
Party =

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("the Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on December 21, 2007 as a nonprofit corporation under the laws of State. Your Articles of Organization and Bylaws state that your purpose is

and 4. To operate exclusively to promote the social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code . . . .

Your Articles of Organization and Bylaws provide that upon dissolution, your assets shall be dedicated to social welfare purposes, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of for who are members of Party. The program includes sessions covering

Your recruitment of students began in and training began in

You charge in tuition for your training program. You provide scholarships for tuition expenses and make payment plans available. You select up to participants each year.

Your website contains a number of materials related to your training program. Your homepage states that you are You describe your curriculum as follows:

Your website states that you select students for your training program based on evidence of

Your 2010 Program Application shows that one of your training dates coincides with the [Party]'s State Convention and contains a and, If an applicant did not is then asked to explain why.

Your 2010 Program Application also contains a which requires the applicant to affirm the following:

On your page you state you are,

On the same page, you state,

In answering the question "What makes [you] unique?" you state that you are

You also state that you are

In materials you provide to potential donors, you note your program's success by stating that the

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations states that 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if

it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to train and recruit who are members of Party to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
*****
1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements

From: Lerner Lois G
Sent: Tuesday, March 06, 2012 8:55 AM
To: Flax Nikole C
Cc: Paz Holly O; Grant Joseph H
Subject: FW: Cinc. template questions
Attachments: Advocacy Delvelopment Questions 022812.doc

here are the "template" questions Cincy developed--as mentioned Friday, I'm having the R & A folks take a look at them. Cincy is on hold for the time being on sending anymore questions out in these cases

Lois G. Lerner
Director of Exempt Organizations

From: Megosh Andy
Sent: Tuesday, March 06, 2012 9:28 AM
To: Lerner Lois G; Paz Holly O
Subject: Cinc. template questions

Lois,

Here is a copy of the Cinc. questions we are looking at.

Andy

From: Thomas Cindy M
Sent: Thursday, March 01, 2012 8:16 AM
To: Megosh Andy; Lowe Justin
Cc: Paz Holly O
Subject: FW: updated timeline - template questions

A subteam from those working the advocacy cases in Cincinnati put together a draft list of template questions. Holly mentioned that you are working on revising questions and asked that I send these to you. You may or may not find them helpful.

-----Original Message-----

From: Paz Holly O

Sent: Thursday, March 01, 2012 5:51 AM

To: Thomas Cindy M

Subject: Re: updated timeline - template questions

Thanks for verifying re: development letters. Please do send the letter to Andy/Justin. Not sure I can do from bb.

From: Thomas Cindy M
Sent: Wednesday, February 29, 2012 10:29 PM
To: Paz Holly O
Subject: updated timeline - template questions

Holly,

I just read the email below. A subteam from those working the advocacy cases put together a draft list of template questions. Andy and Justin may find this helpful. I know you're not available on 3/1 and 3/2 and not sure you're still on computer. If I don't hear back from you by 3/1 in the a.m., I'll pass the attachment off to Andy and Justin.

Also, based on information in the attached document, I believe it is clear that our folks were instructed not to ask questions if information is in the case file. But, I'm still going to verify with Steve Bowling that this was accurate for prior cases and will let you know what he says.

From: Bowling Steven F
Sent: Wednesday, February 29, 2012 8:22 AM
To: Thomas Cindy M
Subject: FW: Advocacy template questions

Cindy,

Attached are some template questions the team has developed. I told Stephen to hold off on sending them to our EOT contacts (Justin Lowe and Hilary Goehausen) as I'm not sure who all is involved now. I didn't want to duplicate our efforts.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Seok Stephen D
Sent: Tuesday, February 28, 2012 4:56 PM
To: Bowling Steven F
Subject: Advocacy template questions

Steve,

Attached please find the template questions we drafted and talked about this afternoon.

Thank you,
Stephen.

The questions that appear in regular text are standard template questions that need to be asked of every organization. The questions in italics highlighted in yellow are supplemental questions that may be asked in this letter or subsequent letter depending on the facts and circumstances.

Note: If the answer to a template question is in the case file, then do not ask the question.

1) Please provide the following information for your board of directors and officers:

   a) Provide all copies of your minutes from inception to the present.

   b) Provide the titles, duties, work hours, and compensation amounts of your board members and officers. If they only work for a certain time yearly, bi-yearly, or quad-yearly, please provide the periods they had (have) worked and will work. Please identify your volunteers.

   c) If you have a board member or officer who has run or will run for a public office in the near future, please describe fully. If none, please confirm by answering "None" to this question.

   d) Describe the qualifications of your board of directors and officers. Your response may include resumes.

2) Describe your donation, contribution, and grant expenses for each year of existence and near future years which includes the information below. If no such activity, please confirm by answering this question "None to be provided."

   a) The names of the donees, recipients, and grantees. If the donee, recipient, or grantee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No."

   b) The amount of each of the donations, contributions, and grants and the dates you donated, contributed, or granted them.

   c) State how your donations, contributions, and grants fulfill your exempt purpose.

3) Provide the following for your fundraising activities:

   a) Copies of all solicitations including pamphlets, flyers and brochures your organization has made regarding fundraising.

   b) State your fundraising expenses and income for each year of existence and near future years.

   c) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

4) Provide the following information for all the events and programs (which may include meetings, forums, rallies, etc.) you have conducted and participated in from your inception to now (other than the events and programs that are questioned below separately). Please answer the following for each event:

   a) The time, location, and detailed description of each event or program.

   b) What was the purpose of each event or program?

   c) Who was invited to speak at the event and why were they invited? Of the invitees, who actually spoke at the event?

   d) Provide copies of handouts you provided to the audience, participants, and the public.

   e) Provide a copy of the transcript for each speaker (you may provide in written form or electronic media format).

   f) Indicate the percentage of time and resources you spent on all the events and programs in relation to 100% of all your activities.

   g) Will your near future events and programs remain similar to those you have been conducting recently? If not, explain the changes in your events and programs for the near future in terms of content, time, and resources.

5) Provide the following for your publishing activities including books, CD's, DVD's, newsletters, literature, flyers, brochures, pamphlets, voter guides, and class handouts from your inception to now:

   a) Copies of all the publications and/or advertising materials that you have distributed.

   b) Expense amounts incurred for your publishing activities from your inception to now.

   c) If you are distributing materials prepared by another organization or person, please identify.

   d) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

   e) Will your near future publishing activities remain similar to those you have been conducting recently? If not, explain the changes in your publishing activities for the near future in terms of content, time, and resources.

6) Enclosed is a copy of information we downloaded from your website. Because we have provided a copy of this information to you, it is available for public inspection as part of your exemption application. If you have any questions regarding this information, please let us know.

7) Have you attempted or will you attempt to influence the outcome of specific legislation? If so, provide the following:

   a) Provide a list of the legislation and how you influenced the legislation.

b) Provide copies of all communications, pamphlets, advertisements, and other materials distributed by your organization regarding the legislation.

c) Provide copies of any radio, television, or internet advertisements relating to your lobbying activities.

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

8) Have you or will you directly or indirectly communicate with members of legislative bodies? If so, provide copies of the written communications and the content of other forms of communications. Please include the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

9) Have you or will you directly or indirectly participate(d) or intervene(d) in any political campaign on behalf of (or opposition to) any candidate for public office including attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate. If so, provide the following details for each of your political campaigns and interventions:

a) Please describe the nature of the political campaign or intervention in detail which may include candidate ratings or endorsements. Provide your endorsement criteria in your description.

b) Names and party affiliations of the candidates you support or oppose.

c) Date and time of the political campaign or intervention.

d) Copies of all handouts, media advertisements, pages of internet advertisements and other means (to be) provided and distributed for the political campaign or intervention.

Please provide your copies in tangible format such as CDs, DVDs, tapes, and paper. Please do not substitute them with web links.

e) If you provided or will provide funds to the candidates or the organizations that support them, provide the name of the recipient, the amount and time of the donation, and the source of the funds. Please provide this information for each of your donations.

f) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

10) Are you associated with any candidates for public office or any other entities such as IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, provide the following:

a) Provide the name, employer identification number, and address of the organization(s).

b) Describe in detail the nature of the relationship(s).

c) Do you work with those organization(s) regularly? Describe the nature of the contacts.

d) List shared employees, volunteers, resources, office space, etc. with the organization(s).

e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

[redacted]

a) What does the activity/service entail?

b) Who conducts the activity/service?

c) Where and when is the activity/service conducted?

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

12) Please identify any advocacy communications prepared and financed by your organization. For each of those communications, provide the following information:

a) Provide a copy of the print communication or a transcript of the broadcast communication.

[redacted]

b) Describe the geographic area where the communication was disseminated to the public.

[redacted]

c) State whether the communication identifies specific legislation, or a specific event outside your organization's control, that your organization hopes to influence.

f) Describe any considerations that influenced the timing of the communication and whether those considerations were tied to events outside the control of your consideration.

g) State the total expenses used to prepare and disseminate the communication.

13) Will you or have you conducted voter education activities, including voter registration drives, get-out-to-vote drives, or publish or distribute voter guides (in the near future)? If so, provide the following:

a) What is or will be the location, date and time of the events?

b) Who on the organization's behalf has conducted or will conduct the voter registration or get-out-to-vote drives?

c) Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

14)

a) The descriptions of your research and surveys.

b) Copies of your research and survey results.

c) The details on your research and survey result distributions – please include all distributions.

d) Expense amounts incurred for your research and survey related activities both your inception to now.

e) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

15) Are you a membership organization? If so, provide the following for your membership:

a) How many members do you have currently?

b) What does your membership consist of? Are they mostly individuals? What is the percentage of the organizational members as they are part of the whole membership?

c) Provide member application/registration form.

d) Provide membership agreement and rules that governs members.

e) Provide a membership roster, if applicable.

f) What are the membership requirements?

g) What services and benefits do you provide especially for members only?

h) What are the roles and duties of your members?

16) Describe your organization's employees, paid consultants, and any volunteers in further detail.

a) How many paid consultants has your organization hired? Describe the dates which they were hired and the activities in which the consultants worked.

c) Has your organization used volunteers? If so, describe the number of volunteers used, the dates for which they were used, and the activities on which the volunteers worked.

17) Please provide updated financial data for page 5 of Form 1024 or [redacted] enclosed.

18) Upon review of the organization's website at www.[redacted].org, it shows that a section of the website is accessible to members only. In order to get a better understanding of the organization's activities through its website, please provide a temporary login and password.

From: Lerner Lois G
Sent: Monday, April 30, 2012 10:00 AM
To: Marks Nancy J; Light Sharon P; Urban Joseph J
Cc: Paz Holly O
Subject: RE: Revised Guide Sheet

Counsel has been very uncomfortable about applying c3 stuff even to c4 and wasn't willing to include the c5 and 6s. They also were unwilling to use the c4,5,and 6, rev rule because it was designed to talk about 527 political activity, which has a slightly different articulation. I find that silly since the entire regulated community has been relying on that guidance as a look at how the irs might think about specific factual scenarios. Nikole asked me whether I thought this would actually help our guys practically--for example does it provide direction in how the determine which activity is primary. I told her I think it is cumbersome and not the best practical tool, but--with some discussion about where to focus--could work. I would like the c4,5,6, stuff included and would like this expanded as the dual track piece has some 5 and 6 orgs--what's my training for that?! As to the weighing piece--I think they need to coordinate with DC in any close cases--not sure we can articulate completely how to parse. Perhaps could add language that reminds them its a look at all the facts and circumstances including, but not limited to, expenditures, volunteer activity, communications, etc

Lois G Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Monday, April 30, 2012 10:21 AM
To: Light Sharon P; Urban Joseph J
Cc: Paz Holly O; Lerner Lois G
Subject: Fw: Revised Guide Sheet

Sent using BlackBerry

From: Lerner Lois G
Sent: Thursday, April 26, 2012 06:28 PM
To: Paz Holly O
Cc: Marks Nancy J
Subject: FW: Revised Guide Sheet

FYI--Nikole,Vickie,me,Janine and Erik had a call on this today. Vickie gave her caution and hopefully, all are comfortable.

Lois G Lerner
Director of Exempt Organizations

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]
Sent: Thursday, April 26, 2012 6:18 PM
To: Flax Nikole C
Cc: Lerner Lois G; Judson Victoria A; Corwin Erik H
Subject: Revised Guide Sheet

Nikole,

Here is the revised guidesheet we sent to Lois' shop yesterday. It reflects some fine-tuning on the 4/20 version. The changes were predominantly clean-up, more consistency in language, added precision and clarity, and better conformity to the published ruling examples (resulting in more "derived from" notations). We also removed, combined, or massaged a number of factors that were neutral (or unnecessary).

Let us know if you have any specific questions. (Erik, you already have this version)
Janine

<<guide sheet master 04-25-12 (counsel).doc>>

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 9:32 AM
To: Grant Joseph H; Marks Nancy J
Cc: Flax Nikole C; Paz Holly O
Subject: FW: Follow-Up

We have met with TIGTA on this several times. From our perspective, they are taking a very narrow view of the program and how we ran it. They also seem to be focused on the initial articulation of the BOLO list as a "bad" thing without looking at the entire program. I think we have a basic difference in our view of their audit. We thought it was to determine whether IRS had a biased program, which would include looking at every aspect. they seem to think the question is narrower--did we "target based on the articulation of the BOLO?" We will continue to keep you apprised as we see their written document.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 10:27 AM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

Thanks Troy--It probably makes sense to see what you put together and react to it rather than continuing the discussion in the abstract. We will begin to put together a reply. As I'm sure you would guess, if you don't include the whole picture, we will include a detailed version in our response. Keep us appraised of progress on the report.

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, February 05, 2013 7:54 AM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Follow-Up

Lois,

After the discussion last week, the team went over some cases on Friday afternoon and Monday morning. We then met yesterday afternoon to discuss the cases and our thoughts on moving forward.

As far as the cases go, the team has reconsidered some cases based on input from Holly, Hillary, and Judy last week. In addition, I think we have one case that is still up in the air awaiting some additional documentation. After that, I believe we will have approximately 90 cases that we could not resolve. For these cases, I'm not sure there is much more we can

discuss because most involve our literal view of the application package versus the EO function's interpretation of the application package based on experience. For example, in our literal view, we may not pick up on code words or know based on past experience that certain activities or sets of activities could actually be significant political campaign intervention, whereas the EO function may. On our side, we'll have to determine how we present both sides in the report.

As far as moving forward, I began working yesterday morning on a very rough version of the report that I had asked the team to prepare while we were awaiting your feedback. There is a lot of information currently in the report and a lot of information that is currently not in the report. On our side, we have a lot of difficult decisions coming up on what is relevant to include and what our interpretation is regarding, not only the allegations that led to us initiating this review, but the actions the EO function has taken since that time. At this point, we have not determined what will or will not be included in the report and how we will present everything.

If you would like to meet to discuss your concerns, I am available. If you would rather wait until I have a clearer view of what are considering for the report, we can do that also. How would you like to proceed?

Troy
404-338-7476

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Thursday, January 31, 2013 2:34 PM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: Follow-Up

We were disappointed that you couldn't attend the meeting today. I think it would be useful for you, your group, and mine to have another conversation about approach. We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect, and illustrates "targeting." I think they remain confused about the purpose of screening vs.. bucketing--and we have tried to explain several time. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

We understand why the criteria might raise questions. In fact we refined it to more accurately reflect what we are doing. I met with the group today and asked your folks what they thought the TIGTA audit was all about. The response was that they were here because there were allegations that the IRS was "targeting." When asked, they didn't seem able to provide me with a clear definition of what they meant by targeting, and they confused me when they said it wasn't necessarily political. I told them my understanding is that the audit was to determine whether the IRS was acting in a politically motivated manner--not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because

that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases.

So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting.They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment. I am willing to take the blame for not having provided sufficient direction initially, which may have resulted in front line staff doing things that appeared to be politically motivated, but I am not on board that anything that occurred here shows that the IRS was politically motivated in the actions taken.

So, I suggested to the group that we all get together after they have had a chance to talk to you. I asked both sides to think about the main points they wanted to make or better understand, so the meeting can be most fruitful. This is the toughest one you and I have worked on together. But, I'm hoping the meeting will get us all to an improved understanding so that your report can better reflect what occurred and why.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Friday, February 08, 2013 8:36 AM
To: Flax Nikole C
Subject: FW: Follow-Up

Not sure I sent this to you--but thought you'd want to know that is looking like it won't go as smoothly as we'd hoped. As you can see at the bottom, I had some serious conversations about the purpose of the audit. Rather than taking the broad view of whether IRS program shows bias, they appear to be taking a narrow view as to whether the BOLO list and cases selected show targeting. They are unwilling to consider anything, but what is on the applications--that is, we told them that we send these to an experienced group so we can be consistent and because those folks have broad experience with the applications so the know that certain descriptions that may not use political turn out to be political activity. With that background, we believe it is appropriate to put the case in advocacy bucket and ask the question to make sure we have a clear record of what we are approving. Apparently--they disagree. So, I'm guessing our response will be lengthy.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 3:10 PM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, February 05, 2013 1:28 PM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Follow-Up

Lois,

As requested, here is a listing of 93 application cases. There is one case that we are working on with Holly (case #142). This one may or may not stay on the list.

Troy
404-338-7476

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, February 05, 2013 11:01 AM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

Thank you

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, February 05, 2013 10:50 AM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Follow-Up

Lois,

That is no problem. I'll ask the team to put together a listing and I'll send it to you and Holly this afternoon.

Troy
404-338-7476

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, February 05, 2013 10:33 AM
To: Lerner Lois G; Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

One more thing--can we get the names of the 90 cases please?

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 10:27 AM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

Thanks Troy--It probably makes sense to see what you put together and react to it rather than continuing the discussion in the abstract. We will begin to put together a reply. As I'm sure you would guess, if you don't include the whole picture, we will include a detailed version in our response. Keep us appraised of progress on the report.

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, February 05, 2013 7:54 AM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Follow-Up

Lois,

After the discussion last week, the team went over some cases on Friday afternoon and Monday morning. We then met yesterday afternoon to discuss the cases and our thoughts on moving forward.

As far as the cases go, the team has reconsidered some cases based on input from Holly, Hillary, and Judy last week. In addition, I think we have one case that is still up in the air awaiting some additional documentation. After that, I believe we will have approximately 90 cases that we could not resolve. For these cases, I'm not sure there is much more we can discuss because most involve our literal view of the application package versus the EO function's interpretation of the application package based on experience. For example, in our literal view, we may not pick up on code words or know based on past experience that certain activities or sets of activities could actually be significant political campaign intervention, whereas the EO function may. On our side, we'll have to determine how we present both sides in the report.

As far as moving forward, I began working yesterday morning on a very rough version of the report that I had asked the team to prepare while we were awaiting your feedback. There is a lot of information currently in the report and a lot of information that is currently not in the report. On our side, we have a lot of difficult decisions coming up on what is relevant to include and what our interpretation is regarding, not only the allegations that led to us initiating this review, but the actions the EO function has taken since that time. At this point, we have not determined what will or will not be included in the report and how we will present everything.

If you would like to meet to discuss your concerns, I am available. If you would rather wait until I have a clearer view of what are considering for the report, we can do that also. How would you like to proceed?

Troy
404-338-7476

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Thursday, January 31, 2013 2:34 PM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: Follow-Up

We were disappointed that you couldn't attend the meeting today. I think it would be useful for you, your group, and mine to have another conversation about approach. We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect, and illustrates "targeting." I think they remain confused about the purpose of screening vs.. bucketing--and we have tried to explain several time. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they

understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

We understand why the criteria might raise questions. In fact we refined it to more accurately reflect what we are doing. I met with the group today and asked your folks what they thought the TIGTA audit was all about. The response was that they were here because there were allegations that the IRS was "targeting." When asked, they didn't seem able to provide me with a clear definition of what they meant by targeting, and they confused me when they said it wasn't necessarily political. I told them my understanding is that the audit was to determine whether the IRS was acting in a politically motivated manner--not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases.

So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting.They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment. I am willing to take the blame for not having provided sufficient direction initially, which may have resulted in front line staff doing things that appeared to be politically motivated, but I am not on board that anything that occurred here shows that the IRS was politically motivated in the actions taken.

So, I suggested to the group that we all get together after they have had a chance to talk to you. I asked both sides to think about the main points they wanted to make or better understand, so the meeting can be most fruitful. This is the toughest one you and I have worked on together. But, I'm hoping the meeting will get us all to an improved understanding so that your report can better reflect what occurred and why.

Lois G. Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Wednesday, May 23, 2012 2:02 PM
To: Lerner Lois G; Kindell Judith E; Paz Holly O; Light Sharon P
Subject: RE: Documents for review

I'd say the primary reason for the first letter was to create a public side of the file bridge that explains how a favorable emerged when there was a substantial information request that was never responded to. It was also to reassure the taxpayer that when the favorable shows up it is not a mistake (given that the taxpayer is aware that they never responded to an outstanding request).

The alternative of trying to build that into the boiler plate approval letter seemed awkward. I suppose another approach would be to have a second caveat on the boiler plate approval letter for those taxpayers who had received a developmental letter and that caveat could contain the you can ignore our earlier developmental request because we found on rereview that we had adequate information.

-----Original Message-----
From: Lerner Lois G
Sent: Wednesday, May 23, 2012 1:11 PM
To: Kindell Judith E; Marks Nancy J; Paz Holly O; Light Sharon P
Subject: RE: Documents for review

Agree that it's better, but what is the point--we need to get the approvals out there ASAP. If we know when we reach out that we are approving, why not send the approval right away

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Kindell Judith E
Sent: Wednesday, May 23, 2012 1:02 PM
To: Marks Nancy J; Lerner Lois G; Paz Holly O; Light Sharon P
Subject: RE: Documents for review

That sounds good to me

-----Original Message-----
From: Marks Nancy J
Sent: Wednesday, May 23, 2012 12:59 PM
To: Lerner Lois G; Paz Holly O; Light Sharon P; Kindell Judith E
Subject: RE: Documents for review

What if the first letter, instead of saying they'd be getting a favorable, said that we'd be back in touch if we had any further questions or concerns but that otherwise they should get a ruling within a couple of weeks. That is fairly reassuring without being explicit?

-----Original Message-----
From: Lerner Lois G
Sent: Wednesday, May 23, 2012 12:56 PM
To: Paz Holly O; Marks Nancy J; Light Sharon P; Kindell Judith E
Subject: RE: Documents for review

Well--I'm not sure

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, May 22, 2012 8:22 PM
To: Lerner Lois G; Marks Nancy J; Light Sharon P; Kindell Judith E
Subject: Re: Documents for review

I think we need two letters. We already being criticized for treating these orgs differently. We don't want their determination letters to look different than regular c4 letters. A determ letter that mentions disregarding a development letter will look a little squirrley to the public. I don't think there will be a large time gap between the phone call letter and the determ letter so maybe we leave the bit about favorable out of that letter. Seems a little weird that we'd tell them on the phone that it is favorable but not say the same in a letter. I guess I don't see what the harm is.

On the determ ltr, only change is very last paragraph of last page under heading addendum. The optional pattern paragraphs are for all determs-just disregard those. Some are c4 (vol fire dept can get deductible contrib even if c4).

Sent from my BlackBerry Wireless Device

----- Original Message -----
From: Lerner Lois G
Sent: Tuesday, May 22, 2012 07:29 PM
To: Paz Holly O; Marks Nancy J; Light Sharon P; Kindell Judith E
Subject: FW: Documents for review

Sorry guys--don't think we're quite there yet.

I have to agree with Judy. I don't believe we need to tell them they are approved. How long after they get this will the approval letter go out? I guess what I thought was going to happen was that this letter would be there determ letter with additional info--not 2 letters--will that work?

I have comments on the script that I've added to the doc. --really need to make it plain language enough that the agents don't feel stilted following the script.

As to the determ letter, I can't really tell how, if at all it is different than the one we usually use--As noted, I think we should collapse the after call letter into the regular letter. I assume the choice paragraphs relate to all determs as there is a bunch of info re contribution deductions?

Push back if you think I'm off base

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, May 22, 2012 3:34 PM
To: Lerner Lois G
Subject: Documents for review

Attached are revised versions of the phone script, letter confirming phone call and favorable letter with reference to section of pub re: political activity (see very last page of letter) to be used in the favorable advocacy cases. These versions incorporate Nan's and Judy's comments.

From: Lerner Lois G
Sent: Wednesday, May 23, 2012 3:54 PM
To: Paz Holly O; Marks Nancy J; Light Sharon P; Kindell Judith E
Subject: Phone Script favorable advocacy case.doc
Attachments: Phone Script favorable advocacy case.doc

Combined ideas on the script

Script – Phone Calls to Favorable Advocacy Org Cases With Outstanding Development Letter
Question—is the person calling them that same RA that sent them the initial development letter? If so, he/she should just say

Hello. My name is _____. I am calling about the application for recognition of tax-exempt status submitted by _____. The IRS previously sent you a request for additional information, and I know you haven't yet responded. But, we've taken another look at your application materials, and have concluded that we have sufficient information to make a decision without the requested information. We'll be back in touch if we need anything more, but right now it looks like you should receive your ruling within two weeks.

IF asked why it took so long:

I'm sorry for the difficulty you have had getting exempt status. We received an increased number of applications for 501(c)(4) status that were different form what we have seen in the past. We needed to understand the activities being conducted so we could make sure that those activities are consistent with what the tax law allows.

If it is a different person calling, then it can get adjusted to say so and so sent you a request.....The case has been reassigned to me and I have taken another look.....

Using the "royal" we doesn't make sense to me unless we are trying to make the point that a new set of eyes has looked at it—if so we should just so

have just taken another look at your application file. Based on your application and materials, we have concluded that we have sufficient information to make a decision. We realize you received a request for additional information and have not yet responded to that request, but we have concluded that we are able to make a decision without that additional information.

From: Miller Steven T
Sent: Wednesday, March 07, 2012 11:55 AM
To: Barre Catherine M
Subject: FW: In the News - March 7, 2012
Attachments: 030712.doc

[redacted] = Redacted by the Permanent Subcommittee on Investigations

odd sort of spin....

From: *IRS Media Relations
Sent: Wednesday, March 07, 2012 12:46 PM
To: &C&L-COMM-FMR Ees; Meeks Adraine C; Schroeder Aidan H; Berger Alton L; Amato Amy; Guzman Ana M; Andrew Stroot (Andrew.M.Stroot@irscounsel.treas.gov); Kraus Angela D; Morris Angela; Burke Anthony; Dresden Anthony V; Preston Arlene; Gilliard Artealia A; Gill Barbara A; Brown Barlo; Smith Belinda (MITS); Tzeng Bertrand J; Tucker Beth; Daniels Betti; Bob Wenzel [redacted]; Ouellette Brittany; Friedland Bruce I; Tavenner Carolyn A; Cromling Candice V; Saucedo Carlos G; Campbell Carol A; Grant Caryl S; Barre Catherine M; Barre Catherine M; Chagami Cathy E; Franchina Cathy M; Zittle Cathy J; Jones Cecille M; Houston Chamille; Charles Lacijan (Charles.Lacijan@treasury.gov); Wagner Christopher (Chief Appeals); D'Amico Christina A; Johnson Christopher (LB&I); Clarisa Coelho (Clarisa.Coelho@do.treas.gov); Clarisa Rodrigues-Coelho (Clarisa.rodrigues-coelho@do.treas.gov); Master Constance M; Onorato Corina R; Grice-Winston Cozet; Freeman Curtis L; Rueter Curtis W; Vanderpool Cynthia A; Dallara Danielle C; Aten David Michael; Barnes David J TIGTA; Varley J D; Williams David R; Patterson Dean J; Silverman Dean R; Blahut Deborah T; Chew Debra; Schnabel Dennis; Diamond Deborah A; Bahr Diana L; Grant Dianne; Cobb-Byrd Dee Dee; Moore Dionna M; Palmer Don W; Hoffman Donald W.; Barry-Elliot Dorothy A; Shulman Doug; Pailen Edward N; Hunt Elizabeth A; Semien Emily; Smith Eric L; Beltz Emie A; Fink Faris R; Williams Floyd L; Keith Frank; Spiegelberg Frank J; Cresson Frederick L; Ellis Gail E; George J Russell TIGTA; Bryant Gloria; Henning Gloria G; Williams Grant; Bayder Helene B; Holmes Henry B; Brooks Howard D; Dupill Iona I; Stinson Jackie; Falcone James P; Glenn James E; Glenn James E; Kinsey James R; Wallace James B; Deneroff Jan S; Dunn Jan; Howell Janene G; Mack Jeanne L; Ross Jeanne F; Cooper Jeffrey L; Wallbaum Jeffrey S; Best Jennifer L; Vozne Jennifer L; Williams Jennifer M; Herman Jessica L; Orquina Jessica; Southwell James E; Pryde Joan A; Patterson Jodi L; Joelle Jordan (joellejordan@jordandresden.com); John Klotsche [redacted]; Lipold John A; Davis Jonathan M (Wash DC); Castro Jorge E; Oleska Joe; Brennan Joy F; Peneau Joyce H; Thornell Judy A; Breitbeil Julianne F; Thompson Julie A (CC-Ogden); Davis Karen N; Hawkins Karen L; Kraushaar Karen G TIGTA; Schiller Karen M; Mayr Karen R; Tober Karen; Willard Karen T; Rice Karin M; Walters Kathleen E; Gregg Kathryn L; Davis Kathy D; Spinner Kathy S; Drexler Kenneth J; Nesbit Sr Kenneth W; Kevin Brown (kevin.brown@us.pwc.com); Morehead Kevin M; Newman Kimberly M; Hudson Larry D; Rauk Lauren; Ruf Leann; Oursler Leonard T; Dinh Leuyen D; Kroening Linda M; Riess Linda J (ECC); Linda Stiff (linda.stiff@us.pwc.com); Valentine Lisa M; Evans Liz E; Lerner Lois G; Peterson Lorene C; Hoffmann Lucy M; Zine Marc J; Corcoran Marcia A; Margaret Richardson [redacted] Bluestone Maria B; D'Ambrosio Mario P; Everett Mark H; Mark Matthews (mmatthews@capdale.com); Mazur Mark J; Pursley Mark E; Ruffin Marthea P; Manton Mary L; Mary Turville (mary.turville@do.treas.gov); Mathis Maxine M; Underwood Merritt L; Hull Michael; McDonald Michael L; Eldridge Michelle L; Lamishaw Michelle D; Mike Murphy [redacted] Roscoe Michael H; Farrow Monica L.; LeBlanc Nancy M; Mathis Nancy; Downing Nanette M; Flax Nikole C; Olson Nina E; Reid Patricia S; Mamo Paul J; Ray Paula; Bogadi Peggy A; Hueston Peggy; Castellani Perry J; Davila Peter J; Grimes Phyllis T; Scott Phyllis R; Mathur Rajive K; Mathur Rajive K; Bish Rebecca M; Johnson Rebecca Mack; Girinakis Rena C; Byrd Richard E; Raven Rick A; Buggs Robert B; Hunt Bobby L (EXEC); Mahaffie Robert F; Tallman Robert H; Zarin Roberta B; Schultz Ronald J; Rosalind Kincaid (Kincaid.J.Rosalind@irs.gov); Marcuss Rosemary D; Russell Geiman (russell.geiman@do.treas.gov); Davidson Ruth R; Perez Ruth; Ryan Hurley (Ryan.Hurley@tigta.treas.gov); Farrow Samuel M; Sandra Salstrom (Sandra.Salstrom@do.treas.gov); Eguren Sara L; Allen Sarah; Ingram Sarah H; Ferguson Scott D; Kay Sheldon M; Brown Sherri L (Wash DC); Newman Simone D; Smith Amber (Washington DC); Burch Stephanie C; Whitlock Stephen A; Blum Steven H; Miller Steven T; Keough Susan P; Latham Susan L; Vega Susan K; Susanne Sachsman (susanne.e.sachsman@ci.irs.gov); Sinno Suzanne; Ward Tamara E; Dixon Teri J; Sincox Terri; Fink Terry A; Lemons Terry L; Branscome Theresa D; Vidano Thomas A; Harms Tim; Attanaro Thomas; McMahon Tony H (EXEC); Miller Tracy J; Fairley Vickie D
Subject: In the News - March 7, 2012

In the News

March 7, 2012

NATIONAL MEDIA RELATIONS BRANCH 202-622-4000 IRS.Media.Relations@irs.gov

1. Scrutiny of Political Nonprofits Sets Off Claim of Harassment * New York Times
2. Onus Falls on Industry to Shape Final FATCA Regime, Official Says * Tax Notes Today
3. Small Business: Tips Offered for Small Business Health Care Credit * BNA Daily Tax Report
4. Tax Refund Scam Targets Seniors, Poor * Pittsburgh Post-Gazette
5. Tax Administration: IRS Practitioner Phone Line Highlights Declining Service for All Strata of Taxpayers * BNA Daily Tax Report
6. Exam Project for Section 401(K) Safe Harbor Plans Underway * Tax Notes Today
7. IRS: Barre to Replace Williams in IRS Legislative Affairs * BNA Daily Tax Report
8. Freddie Mitchell Faces IRS Charges * MyFox Philadelphia.com
9. Man Says He Sold Fake Tax Forms * New Orleans Times Picayune
10. South Bay Tax Evasion Scam Lands Luxury Car Buyer in Prison * San Jose Mercury News
11. FEDERAL DIARY: Florida Congressman Ross Discusses Federal Workforce Issues * Washington Post

New York Times

March 6, 2012

Scrutiny of Political Nonprofits Sets Off Claim of Harassment
By JONATHAN WEISMAN

WASHINGTON — The **Internal Revenue Service** is caught in an election-year struggle between Democratic lawmakers pressing for a crackdown on nonprofit political groups and conservative organizations accusing the tax agency of conducting a politically charged witch hunt.

In recent weeks, the **I.R.S.** has sent dozens of detailed questionnaires to Tea Party organizations applying for nonprofit tax status, demanding to know their political leanings and activities. The agency plans this year to press existing nonprofits like American Crossroads, on the Republican side, and Priorities USA, on the Democratic side, to justify their tax-protected status as "social welfare" organizations, a status that many tax professionals believe is being badly abused.

Senate Democrats are readying a fresh legislative push to demand that such groups disclose their donors and attach disclaimers to their political advertising identifying the advertisement's primary funders. Tax experts are also raising concerns that corporate donors to "super PACs" may be deducting their contributions as business expenses.

"The shadowy attack ads we see every day should be brought into the light," said Senator Michael Bennet, Democrat of Colorado. "The largest contributors should stand by the ads they've paid for, the voters should know who's behind these ads, and these super PACs should not be allowed to abuse our tax code by masquerading as nonprofit charities."

The pushback is likely to be just as fierce. Jay Sekulow, a conservative lawyer known more for his stands on religious freedom than for his tax work, said he is representing 16 Tea Party groups that are claiming harassment by the **I.R.S.**, and the number is growing. He said he intended to demand an explanation from the Treasury Department on Wednesday for what he called "McCarthyism" tactics and that he would contact Republican lawmakers this week.

"This is obviously a coordinated effort by the **I.R.S.** to stifle these Tea Party and Tea Party-affiliated groups, and to stifle free speech activities," Mr. Sekulow said. "It's as onerous as what they did to the N.A.A.C.P. in the 1950s, and I plan to make that point."

With independent political groups already dominating the 2012 campaign cycle, their treatment under tax and campaign finance law is likely to be a recurring theme in the coming months. Senate Democrats have formed a task force behind Mr. Bennet to plan hearings and a legislative response. Republicans suspect political motivations.

Into that charged atmosphere, the **I.R.S.** is heightening its own push to ensure that nonprofits are sticking to their primary role as social welfare groups, an effort that began gingerly in 2011.

At issue are groups large and small formed as 501(c)(4)s under the tax code, a designation created for social welfare groups but which include such overtly political organizations as American Crossroads — co-founded by Karl Rove, the former political adviser to President George W. Bush, to help elect Republicans — and Priorities USA, founded by former Obama White House aides and overtly backed by President Obama.

"To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare," **I.R.S.** officials said in a statement e-mailed in response to inquiries about the **I.R.S.**'s activities. "The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office."

But, the service added, such organizations can engage in some political activity "so long as, in the aggregate, these nonexempt activities are not its primary activities." Nobody is quite sure how that is measured.

"This is really the last loophole," said James P. Joseph, a tax lawyer in Washington at Arnold & Porter, and it has made way for a profusion of political activities and questionable tax issues.

For instance, individual donations to groups like American Crossroads are not tax deductible as charitable contributions, and most tax lawyers would say company donations should not be deducted either. But in some circumstances, companies could try to justify donations to political nonprofits as a "necessary" business expense, said Frances R. Hill, a tax law professor at the University of Miami.

Tax professionals suspect — but cannot prove — that some donors are tucking their contributions to the groups into their marketing or advertising budgets and deducting them from their taxes, she said.

Recent Supreme Court rulings have heightened concern about the issue, since companies can now give unlimited amounts to so-called super PACs as long as those political action committees do not coordinate directly with candidates. Outfits like Crossroads and Priorities USA run both tax-exempt 501(c)(4)s and more overtly political arms, known as 527 organizations. Under current law, there is little or no way to tell whether contributions are being deducted, especially because many of the most political companies are privately held.

"I think the story here is that we have a system in which we think this is happening, and there's absolutely no way we can find out legally," Professor Hill said.

The Democratic group Priorities USA uses a blanket disclaimer on its Web site that says, "Contributions to Priorities USA are not deductible for federal income tax purposes." American Crossroads leaves unaddressed the business tax deductibility issue, stating, "Contributions to American Crossroads are not deductible as charitable contributions for federal income tax purposes."

Officials at the organization say they tell their donors, including companies and individuals, that they should contact their financial advisers and tax counsels to determine the ramifications of their contributions.

Democrats, whose 501(c)(4)s have been outraised significantly by their Republican counterparts, have been pressing the **I.R.S.** for a response on the tax questions, and the agency responded earlier this year. The **I.R.S.** noted that under existing tax law, new 501(c)(4)s simply declare themselves to be social welfare organizations, but they are supposed to justify that status each year with their tax returns' Form 990s. The agency promised that it "will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules."

The questionnaire being sent to agencies was identified as one way to check compliance. **I.R.S.** officials would not say whether that effort had gotten off the ground with the big groups that Democrats want examined. But what the **I.R.S.** called "a companion process" with new applicants was begun in recent weeks.

Small Tea Party-aligned groups say they have become collateral damage.

Eric Wilson, director of the Kentucky 9/12 Project, which spun out of an effort by the television and radio personality Glenn Beck, said his group applied for tax-exempt status in December 2010, and a month later was informed by the **I.R.S.** that it would get a response in 90 days. In February it got a response, a seven-page questionnaire with 30 multi-part questions, 88 inquiries in all.

Back to top

Tax Notes Today

MARCH 07, 2012

ONUS FALLS ON INDUSTRY TO SHAPE FINAL FATCA REGIME, OFFICIAL SAYS
AUTHOR: Stewart, David D.

Now that the **IRS** and Treasury have released proposed FATCA regulations, it is up to the financial industry, through the comment process, to guide the final outcome of the rules, Steven Musher, **IRS** associate chief counsel (international), said March 6.

Speaking at a session of the Institute of International Bankers annual conference in Washington, Musher said the onus has shifted to the financial industry, which needs to suggest specific improvements to the proposed regs to make implementation easier on institutions while still achieving the intended compliance gains under FATCA. (For prior coverage, see Doc 2012-2586 or 2012 TNT 27-1. For REG-121647-10, see Doc 2012-2485 or 2012 TNT 27-7.)

Laurie Hatten-Boyd of KPMG LLP praised the government for including industry concerns in the proposed regs but said there is "still some room for tweaking."

Musher said outside stakeholders have a "fair skepticism" of the government's ability to present a full picture of the obligations created by the statute in the proposed regs.

"I think we met the initial burden on us to take into account your initial comments on the notices, and I think that is our deposit of good faith," Musher said. He urged financial institutions to "follow through now on your obligation to help us with concrete input so that we can reach that goldilocks balance between compliance goals of the statute and what is feasible for the outside stakeholders."

Musher said the government has been responsive to comments on identification and due diligence requirements and that industry participants should submit comments about issues that remain problematic. He suggested that the comments include practical solutions, rather than just identifying the problems, so the government can meet its summer deadline for finalization of the FATCA rules.

Michael Caballero, Treasury international tax counsel, discussed what he envisions for the information sharing agreements outlined in the joint statement issued by the United States, France, Germany, Italy, Spain, and the United Kingdom. He noted that the European countries that joined in the statement are not the only countries that have been discussing information sharing agreements with the United States, but that "someone has to be first" and that the European countries have the ability to "build on what they are already doing within the EU Savings Directive." (For the statement, see Doc 2012-2510 or 2012 TNT 27-28.)

While the agreements will be made on a country-by-country basis, Caballero said the intent is not to have agreements that are analogous to tax treaties, where every aspect is subject to negotiation. He explained that financial institutions and governments will benefit from consistency among the agreements, to the extent that consistency is possible.

"The central theme of this is simply an agreement to allow reporting to go from the financial institution to the government and then to the **IRS** rather than to the **IRS** directly," Caballero said.

The panel's moderator, Yaron Z. Reich of Cleary Gottlieb Steen & Hamilton LLP, raised the issue of the separate provision of the Hiring Incentives to Restore Employment Act that repealed rules

allowing the issuance of bearer bonds to foreign investors. Reich noted that the provision takes effect on March 18 but that the **IRS** and Treasury have not yet issued guidance on questions raised by the change.

Musher and Caballero said the guidance is in its final stages and will be issued soon. "It is extremely imminent," Caballero said.

Back to top

BNA Daily Tax Report

March 7, 2012

Small Business: Tips Offered for Small Business Health Care Credit

Small businesses and tax-exempt organizations should look into the Small Business Health Care Tax Credit, which was designed to help such entities provide insurance coverage for employees, the **Internal Revenue Service** said March 6.

The agency spotlighted the credit in its latest e-newsletter (**IRS** Tax Tip 2012-44) by offering key tips on form filing for tax-exempt organizations and qualifying businesses.

Those not qualifying in 2011 may be eligible in the future. Eligible small employers can claim the credit for 2010 through 2013 and for two additional years beginning in 2014, **IRS** said.

The maximum credit for eligible business employers for tax years 2010 to 2013 is 35 percent of premiums paid. The maximum credit for the same time frame for eligible tax-exempt organizations is 25 percent of premiums paid.

Back to top

Pittsburgh Post-Gazette (PA)

March 7, 2012

TAX REFUND SCAM TARGETS SENIORS, POOR
By Patricia Sabatini

The **Internal Revenue Service** is warning people about a new tax scam that tricks low-income and elderly people into filing for fraudulent refunds.

Under the scheme, people are told they are entitled to a tax refund based on the American Opportunity Tax Credit, which is worth up to $2,500 for reimbursement of college expenses.

The scammers claim they can obtain refunds for the victims even if those individuals were not enrolled in or paying for college. Some victims are duped into believing that the credit is available to compensate them for paying taxes on groceries, the **IRS** said.

"This is a disgraceful effort by scam artists to take advantage of people by giving them false hopes of a nonexistent refund," **IRS Commissioner Doug Shulman** said. "We want to warn innocent taxpayers about this new scheme before more people get trapped."

Besides seniors and low-income households, other frequent targets include church congregations, the **IRS** said.

Victims may be charged exorbitant upfront fees to file the claims. By the time they discover they've been cheated, the thieves are long gone.

The agency said it has identified and stopped thousands of these fraudulent claims in recent weeks.

"The **IRS** is actively investigating the sources of the scheme, and its promoters may be subject to criminal prosecution," the agency said.

Besides being fooled into paying bogus filing fees, taxpayers are on the hook for repaying any fraudulent refunds they receive since they are legally responsible for the accuracy of their returns.

Taxpayers should choose tax preparers carefully, the **IRS** said.

Typical warning signs of a tax fraud include:

* Refunds based on false statements about tax credits.

* Unfamiliar for-profit tax services promising refunds to local church members.

* Internet ads that direct people to toll-free numbers and then ask for Social Security numbers.

* Homemade flyers and brochures advertising refunds without proof of eligibility.

* Promises of refunds with no documentation required.

* Unsolicited offers to prepare a return and split the refund.

* Claims for the expired Economic Recovery Credit Program or for economic stimulus payments.

Back to top

BNA Daily Tax Report

March 7, 2012

Tax Administration: IRS Practitioner Phone Line Highlights Declining Service for All Strata of Taxpayers
By Diane Freda

Taxpayer Advocate Nina Olson said March 2 that the **Internal Revenue Service**'s practitioner phone line is a good example of how cutbacks in personal service are affecting not just low-income taxpayers, but higher-income taxpayers as well.

While the taxpayer advocate is best known for defending the rights of low-income taxpayers, Olson told a Federal Bar Association annual meeting that all segments of the tax world are suffering from less personal contact with **IRS** and a drive toward automation.

From Jan. 1 to March 1, the level of service on **IRS**'s practitioner priority telephone line was 69.9 percent, Olson said, with an average wait time of 26 minutes. "I would say bring your knitting to the phone," she quipped to an audience of attorneys who represent many taxpayers with sizable means.

Her concerns about reductions in **IRS** service were backed up by numerous practitioners who told Bloomberg BNA March 6 that wait times on the practitioner phone line have increase significantly in recently years. The reports varied on how successful **IRS** was in resolving problems once the calls were answered.

Olson largely blamed the cutbacks in service on cutbacks in **IRS** funding.

"There is simply too much work and not enough employees to do the work," she said. While Congress' reduction in funding from 2010 to 2011 was 0.2 percent, in 2012 the drop will be 2.5 percent, she said. That represents an increase for enforcement efforts and a continued decrease for taxpayer services, Olson said.

Unreasonable Wait Times.

The practitioner priority line is a phone line **IRS** has dedicated for practitioners—as opposed to taxpayers—to call **IRS** about return-related issues. It is their **first** line of direct communication with **IRS**.

Many practitioners said they understand the predicament **IRS** is in, with fewer employees to shoulder an increasing workload, but said wait times have become unreasonable.

"This is a national phone line and I don't expect that they are just sitting around waiting for me to call," Evan Golar, a certified public accountant and enrolled agent from Airmont, N.Y., said. "A 10- or 15-minute wait would be acceptable, but I don't expect to be extended indefinitely. It's very rude for anybody to have to wait that long when it's a number especially designed for practitioners."

Worse yet, Golar said that after waiting 45 minutes recently for his call to be answered, he was transferred to another line where the wait was an additional 20 minutes. In the end the problem was not resolved by either of the people he spoke to, and he hung up, being forced to write a letter to **IRS**.

Golar said the voice prompts provide every possible explanation for a problem, except the one a practitioner needs. "According to the **IRS** voice prompts it's all your fault that the problem developed," he said.

"The wait times seem to have increased quite a bit over the past three years, from four- to seven-minute waits to more than 30 minutes," depending on which option of help the practitioner is choosing, BDO USA partner Todd Simmens said.

Practitioners are often making many calls to the line in a week related to many cases. "It can be quite a disruption in your day, especially in the busy season," he said. "Even 15 minutes is too long."

Once the call is answered, Simmens said **IRS** personnel are generally able to help, although willingness and ability to help can also depend on whether it is a business call being answered from **IRS** offices in Cincinnati and Ogden, Utah, for instance, or an individual question being answered in Memphis, Tenn.; Long Island, N.Y.; and Philadelphia.

Simmens said **IRS** also needs to address additional areas on the phone line, such as international and entity classification issues, which would cut down on calls made to other divisions of **IRS**.

Adding to the Problem.

If the lines are designed to address inadequate staffing because of budget constraints, they are adding to the problem rather than fixing it, according to Claudia Hill, an enrolled agent with TaxMam Inc. of Cupertino, Calif.

"The **IRS** needs all the help it can get, in a confined budget situation, and when they don't service the practitioner hotlines in such a way that we can get through and resolve problems it creates additional problems that take additional time, that falls on the **IRS**."

Practitioners have learned to do other things while they wait for the phones to be answered, but that also is a problem for some.

"It ties up my telephone, which is a huge problem for me," said Mary Lou Gervie, with CPA firm Watkins Meegan in Bethesda, Md. "I pride myself on my services to my clients and I want to be available when they call me, " said the former **IRS** revenue agent. While the business line is answered much more quickly than the collection line, for instance, the wait is too long, she said. However, once she gets on, she said she is usually able to resolve her problem.

While **IRS** itself, apart from Olson, has laid the blame for less personal contact, in areas such as phone lines and increasing audits conducted through correspondence, on the budget, Lonnie Gary, an enrolled agent and partner with Young, Craig + Co. in Mountain View, Calif., said the drive toward less human contact at **IRS** might be that **IRS** is making a choice between taxpayer service and enforcement.

"I think the **IRS** is torn," Gary said. "They have this party line where people are staffing the phone, and I think they might be saying that while it provides good customer service, it doesn't bring in dollars," he said. "They often decide to move resources into other activities. The **IRS** won't tell you that, but I think that kind of trade-off must be going on."

Taxpayer Services at Issue.

IRS declined to comment March 6.

However, during 2011 budget negotiations, **IRS Commissioner Douglas Shulman** warned lawmakers that budget shortfalls would lead to dramatic cuts in the level of support for taxpayers.

Approximately half of the nation's taxpayers attempting to call **IRS** "would either be unable to get through or hang up in frustration," he said. He promised to "try hard" to minimize the degradation of services (201 DTR G-1, 10/18/11).

He reminded lawmakers that taxpayer service needs would be competing against other critically important, but unfunded activities, such as combating growing identity theft fraud, cracking down on offshore tax evasion, processing thousands of offshore asset disclosures, and meeting new legislative requirements such as merchant card information reporting and securities basis reporting.

Back to top

Tax Notes Today

MARCH 07, 2012

EXAM PROJECT FOR SECTION 401(K) SAFE HARBOR PLANS UNDERWAY
AUTHOR: Trivedi, Shamik

The interim findings of a nearly three-year-long employee plans research project have led the **IRS** to undertake an examination project on safe harbor section 401(k) plans, an **IRS** official said March 6.

"We have begun an exam project as a follow-up where we're looking at plans that identify themselves as safe harbor plans, but [for which] there were no contributions made," Janice Gore, **IRS** employee plans team audit manager for the Great Lakes area, said on an **IRS**-sponsored phone forum.

For those plans that suspended safe harbor contributions, the examination project seeks to make sure that they did so properly, with the proper notice, and that when they were no longer under the safe harbor, they complied with nondiscrimination testing, Gore said.

A safe harbor section 401(k) plan is similar to a traditional section 401(k) plan, but it must provide for some employer contributions that are fully vested when made, among other requirements. Sponsors of safe harbor plans must notify eligible employees with a written notice of the employee's rights and obligations under the plan, and the notice must comply with content and timing requirements, according to an **IRS** resource guide.

The follow-up exam project stems from information gleaned from the section 401(k) compliance check questionnaire that the **IRS** Tax-Exempt and Government Entities Division developed in 2009 and 2010. The questionnaire was administered to approximately 1,200 section 401(k) plan sponsors in 2010 by the Employee Plans Compliance Unit, with data analyzed in 2011, according to Monika Templeman, director of employee plan examinations at TE/GE. A final report is expected later this year.

The interim report on the questionnaire's findings, which was released February 3, shows that nearly 43 percent of the section 401(k) plans reported that they were safe harbor 401(k) plans, Gore said, adding, "We were surprised by that." (For the interim report, see Doc 2012-2241 or 2012 TNT 24-52. For prior coverage, see Doc 2011-17839 or 2011 TNT 161-2.)

Templeman said that the next steps for TE/GE, based on the results of the questionnaire's findings, are to improve compliance and outreach and then encourage plan sponsors to use the **IRS**'s Employee Plans Compliance Resolution System (EPCRS). She said practitioners should also expect "both hard and soft guidance" based on the findings.

Anticipated guidance in the form of an updated revenue procedure that will expand the EPCRS to include section 403(b) plans is expected within the next few weeks, according to comments made by an **IRS** official in February.

Back to top

BNA Daily Tax Report

March 7, 2012

IRS: Barre to Replace Williams in IRS Legislative Affairs

Cathy Barre will replace the retiring Floyd Williams as the **Internal Revenue Service** legislative affairs director, effective this summer, **IRS** said March 6.

Barre joined **IRS** in 2011 as senior technical adviser to the deputy commissioner for services and enforcement. She previously worked as a tax counsel on the Senate Finance Committee, drafting legislative proposals on various financial products and tax issues, **IRS** said.

After the transition, Williams will work as a special assistant to Frank Keith, chief of communications and liaison, **IRS** said.

Back to top

MyFox Philadelphia.com

March 6, 2012

Freddie Mitchell Faces IRS Charges

PHILADELPHIA - Former Philadelphia Eagles player Freddie Mitchell faces federal tax fraud charges for allegedly recruiting professional athletes in a scheme to get false tax returns.

Mitchell and two other people, Jamie Russ-Walls and Richard Walls, face federal charges in the case in Florida, in an indictment obtained by Fox 29.

The indictment filed by the U.S. attorney in Orlando, Fla., says a company set up by Mitchell, Chameleon Enterprises, was involved in the alleged scam.

The target of a scheme was a professional athlete with the initials A.G., who investigators said had no knowledge of the scheme, but paid for a firm connected with Mitchell to do his taxes.

According to the indictment, the plan was to file for false federal tax returns electronically.

Jamie Russ-Walls and Richard Walls allegedly filed the tax returns, claiming refunds ranging from $170,000 to $1.9 million. The two men also attached false documents to support the refund claims, the indictment says.

The men enlisted Mitchell to recruit professional athletes as tax-return customers.

A meeting was set up with the professional athlete, where Jamie Russ-Walls claimed she was a trained tax preparer who dealt with professional athletes.

Mitchell then took a $100,000 down payment for tax preparations from A.G., and the defendants who file three tax returns to get a $1.2 million refund.

Then, either Jamie Russ-Walls and Richard Walls filed false tax returns without A.G.'s knowledge.

Jamie Russ-Walls was to get $600,000 and Mitchell about $280,000 from the false refund.

In addition, Jamie Russ-Walls or Richard Walls filed false returns for Mitchell's company, Chameleon Enterprises, claiming more than $2 million in refunds.

A second count in the indictment pertains to the filing of false tax returns in the name of A.G.

A Bensalem, Pa., police report on the Web site Patch.com said that Richard A. Walls, 41 and Jamie Russ-Walls, 37, of the 3600 block of Red Lion Road, Philadelphia, were picked up on Sunday on outstanding Federal Fugitive from Justice warrants, and turned over to the Feds.

Back to top

New Orleans Times Picayune

March 7, 2012

Man Says He Sold Fake Tax Forms
Documents used to defraud IRS

Mary Sparacello East Jefferson bureau

A Honduran man illegally in the United States was held without bond Tuesday after confessing to selling fake tax forms to undocumented foreigners, who used them to defraud the **Internal Revenue Service**, Kenner Police Chief Steve Caraway said Tuesday.

Marvin Baca, 28, who lives in LaPlace, was arrested Friday, and police found $20,000 in his vehicle. He sold bogus W-2 forms, and possibly more, Caraway said: "The information we got is that he was the guy people would call when they were looking for forged documents."

Baca's arrest shows how lucrative the business of fabricating official papers for illegal immigrants is, Caraway said.

"It's a sign that it obviously is widespread, and there's a lot of money involved in this," he said.

Officers Brad Boyd and Ethan Hales encountered Baca when they responded to a disturbance in the 3000 block of Loyola Drive in Kenner. He was arguing with a man upset that the fake W-2 forms Baca had previously sold didn't work, Caraway said. "The other individual was trying to get his money back."

Baca was picked up on 2006 attachments from Jefferson Parish for cocaine possession and battery on a police officer.

He confessed to detective George Hoffman about fake W-2 forms, saying he had been selling fictitious forms for $1,500 to Hispanic people who also are in the U.S. illegally. Police said the scam worked like this:

Undocumented foreigners work in the U.S. but don't file tax returns in their own names for fear of being arrested and deported. So they buy phony W-2 forms and file returns under others' names and receive refund checks, normally cashed using a fake identification card. Baca told Hoffman he had two envelopes in his vehicle containing a total of $20,000, cash police think he obtained by selling fake documents, Caraway said. The money was seized as evidence.

Police booked Baca with identity theft and two counts of forgery concerning two W-2 forms. One of those forms contained the Social Security number of a Virginia resident, police said.

Kenner police notified the **IRS** and Immigration and Customs Enforcement officials, who detained Baca because of his immigration status, Caraway said. Kenner is working with both federal agencies on the case. "The investigation is ongoing," Caraway said.

Baca remained Tuesday in the Jefferson Parish Correctional Center in Gretna.

Back to top

San Jose Mercury News

March 6, 2012

South Bay Tax Evasion Scam Lands Luxury Car Buyer in Prison
By Mike Rosenberg

A South Bay white collar criminal will spend 30 months in prison after pleading guilty to tax evasion, authorities said Tuesday.

The U.S. Attorney's Office said Gary Linn Packer, 51, did not report $8.8 million in stock earnings to the **IRS** after liquidating shares from his former company, Sunnyvale-based Network Appliance, in 2000. He was supposed to pay the **IRS** $1.8 million in taxes from the stock earnings, but concealed the profits in trusts and by using false identification numbers.

That year, Packer moved from San Jose and bought a $1.2 million home in Morgan Hill using a trust that was not registered with the **IRS**. He also used cash to buy an Audi TT, BMW X5 and Volkswagen Cabriolet, and a condo in Nashville, Tenn.

Most recently living in Wyoming, Packer pleaded guilty to one count of tax evasion in a San Jose court in November. On Monday, he was sentenced to 30 months on prison, followed by three years of supervised release, and ordered to pay $1.8 million in restitution.

Back to top

WASHINGTON POST

March 7, 2012

FEDERAL DIARY: Florida Congressman Ross Discusses Federal Workforce Issues
By Joe Davidson

Lining the walls of many Capitol Hill offices are politicians' photos showing them with fellow politicians and other famous folks.

In Dennis Ross's office, visitors are greeted by the wall-mounted heads of two wild boars and a deer. Nearby sits a stuffed turkey.

The trophies mark Ross, a Republican congressman from Florida, as an avid hunter. He can kill creatures with a rifle or a shotgun, but he prefers the bow and arrow. "I'd much rather archery hunt," Ross said. "It's just a relaxing challenge."

As chairman of the House federal workforce subcommittee, Ross also presents a challenge, though not a relaxing one, for federal workers who feel like prey these days. They are the target of more than 20 bills sponsored by Republicans, including Ross, that would hit their pay or benefits or reduce their number in the name of deficit reduction.

Ross talked with the Federal Diary on Tuesday about hunting, the Detroit Tigers (another passion) and federal workforce issues. Here is a transcript of that conversation, just the workforce part, that has been edited for clarity and length:

Federal Diary: Federal employees, their unions and Democrats say federal employees have sacrificed enough, through the two-year freeze on basic pay rates that will cost them $60 billion over 10 years and increased pension contributions for new workers that will save another $15 billion.

Ross: I understand their feelings. None of this is personal. Obviously, it would never be personal. But when we look at a workforce that's larger than it's ever been [actually government figures indicate it was larger 20 years ago and under President Ronald Reagan] ... in order to make sure there is a legacy benefit for them in the future, we've got to make these changes now.

I will point out that my pension bill [which would among other things increase employee contributions toward retirement] — the only reason I pushed that is because it applied to members of Congress and brought us into parity with federal workers. I have a very difficult time believing that we should change the federal workforce without changing congressional pensions the same way. ...

I'm never going to be popular, anything but popular, with them, but it's an issue [the government's financial situation] that we can't ignore, that we have to address. ...

If I had my druthers, I'd reshape the federal workforce to go after the GS, the General Schedule, because I think that's not adequately paying those who are performing well in the federal workforce. ... I think we hamstring the managers and supervisors because of the GS schedule.

How would you change the schedule?

I believe there should be some performance-based reward. ...

I think federal workers provide an incredibly valuable service to us. There is no question about it. I want to see us recruit and retain the best that we possibly can. ... To get the most out of employees who want to perform well, I think an incentive-based, a performance-based program is a good idea. We're not going to see that happen in this Congress. But it's a discussion. I would love to bring the federal employees to the table and get their input on it. They're the ones that know better.

President Obama's budget says there was one federal employee for every 92 residents in the 1950s and 1960s, and in 2011 it was one for every 145 residents. Do you feel the workforce needs to be cut even more?

There are a couple of things we need to look at, and one of them is contracting. We need to put just as much scrutiny on private contracting as we do on the federal workforce.

While ratio-wise we have reduced the size of the federal workforce, I think what we have to do is to start to fundamentally determine what are essential government functions. And then anything on top of that, if it is a private-sector function, then we shouldn't contract it, we should let the private sector handle it.

You favor cutting the federal workforce by attrition. What services are you willing to cut?

The GAO [Government Accountability Office] did an assessment of duplication of services. That's our starting point. We look at their report and find out what duplications we have and what we can consolidate. That might be more than enough to bring things in line. That data is available to us. It would be good to act on that.

Back to top

From: Thomas Cindy M
Sent: Friday, May 10, 2013 1:48 PM
To: Lerner Lois G
Subject: RE: Low-Level Workers thrown under the Bus

[redacted] = Redacted by the Permanent Subcommittee on Investigation

I am working from home. My number is: [redacted]

From: Lerner Lois G
Sent: Friday, May 10, 2013 2:43 PM
To: Thomas Cindy M
Subject: Re: Low-Level Workers thrown under the Bus

I will be back shortly and will give you a call.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Thomas Cindy M
Sent: Friday, May 10, 2013 01:58 PM Eastern Standard Time
To: Lerner Lois G
Cc: Paz Holly O
Subject: Low-Level Workers thrown under the Bus

As you can imagine, employees and managers in EO Determinations are furious. I've been receiving comments about the use of your words from all parts of TEGE and from IRS employees outside of TEGE (as far away as Seattle, WA).

I wasn't at the conference and obviously don't know what was stated and what wasn't. I realize that sometimes words are taken out of context. However, based on what is in print in the articles, it appears as though all the blame is being placed on Cincinnati. Joseph Grant and others who came to Cincinnati last year specially told the **low-level workers** in Cincinnati that no one would be "thrown under the bus." Based on the articles, Cincinnati wasn't publicly "thrown under the bus" instead was hit by a convoy of mack trucks.

Was it also communicated at that conference in Washington that the **low-level workers** in Cincinnati asked the Washington Office for assistance and the Washington Office took no action to provide guidance to the **low-level workers?**

One of the **low-level workers** in Cincinnati received a voice mail message this morning from the POA for one of his advocacy cases asking if the status would be changing per "Lois Lerner's comments." What would you like for us to tell the POA?

How am I supposed to keep the **low-level workers** motivated when the public believes they are nothing more than **low-level** and now will have no respect for how they are working cases? The attitude/morale of employees is the lowest it has ever been. We have employees leaving for the day and making comments to managers that "this low-level worker is leaving for the day." Other employees are making sarcastic comments about not being thrown under the bus. And still other employees are upset about how their family and friends are going to react to these comments and how it portrays the quality of their work.

The past year and a half has been miserable enough because of all of the auto revocation issues and the lack of insight from Executives to see a need for strategic planning that included having anyone from EO Determinations involved in the upfront planning of this work. Now, our leader is publicly referring to employees who are the ones producing all of this work with fewer resources than ever as **low-level workers!**

If reference to **low-level workers** wasn't made and/or blame wasn't placed on Cincinnati, please let me know ASAP and indicate what exactly was stated so that I can communicate that message to employees.

http://www.washingtonpost.com/business/irs-apologizes-for-inappropriately-targeting-conservative-political-groups-in-2012-election/2013/05/10/5afcf7b8-b980-11e2-b568-6917f6ac6d9d_story.html?wpisrc=al_comboPNE_p

http://www.usatoday.com/story/news/politics/2013/05/10/irs-apology-conservative-groups-2012-election/2149939/

http://www.wlwt.com/news/local-news/cincinnati/irs-cincinnati-workers-singled-out-conservative-groups-for-review/-/13549970/20096270/-/xcuiae/-/index.html

From: Marks Nancy J
Sent: Tuesday, March 27, 2012 4:26 PM
To: Grant Joseph H
Subject: RE: :: Referral to TIGTA on (c)(4)

call is probably not on but I can try to reach her on this. If I miss her tonight we will both be with Steve on Thursday and can work this on the side--Steve will defer to our best judgement--I think we can make the call on your return on friday.

From: Grant Joseph H
Sent: Tuesday, March 27, 2012 2:59 PM
To: Marks Nancy J
Subject: Re: :: Referral to TIGTA on (c)(4)

Nan,

This may already have been decided by now, but, for my part, I think it would be a good idea to have TIGTA review this. I, of course, would want to have Sarah's input. If it is still an open question we could take it up on our evening call today. Is the call on?

I hope all is well.

Thanks - Joseph

Sent from my BlackBerry Wireless Handheld

From: Marks Nancy J
Sent: Monday, March 26, 2012 10:17 AM
To: Grant Joseph H
Subject: FW: :: Referral to TIGTA on (c)(4)

this may be just as well what do you think? I'm wondering if we might want to call TIGTA to say we'd welcome this. Nikole is planning to chat with Steve this morning don't know what they plan to cover but I suspect this is part of us she is planning to call us after that chat

---

From: Urban Joseph J
Sent: Monday, March 26, 2012 10:03 AM
To: Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Zarin Roberta B; Lerner Lois G; Marx Dawn R
Cc: Fish David L; Paz Holly O; Lowe Justin; Megosh Andy; Kindell Judith E; Light Sharon P
Subject: :: Referral to TIGTA on (c)(4)

This letter was published today in Paul streckfus ' EO Tax Journal 2012-53 . The letter is also on the organizations' web site. FYI, Landmark Legal was the organization that brought, and lost, a FOIA suit against IRS seeking disclosure of third party requests to investigate tax-exempt status of various politically active entities.

Conservative Legal Foundation Calls for Investigation of EO Division

March 23, 2012

Treasury Inspector General for Tax Administration
P.O. Box 589
Ben Franklin Station
Washington, DC 20044-0589

Re: REQUEST FOR INVESTIGATION INTO IRS AGENCY MISCONDUCT

To Whom It May Concern:

Landmark Legal Foundation ("Landmark") requests an immediate investigation into possible misconduct by the Internal Revenue Service's Exempt Organization (EO) Division that calls into question the integrity of federal tax administration and IRS programs.

Recent media reports indicate that the EO Division is using inappropriate and intimidating investigation tactics in the administration of applications for exempt status submitted by organizations associated with the Tea Party movement. (Exhibit A, Perry Chiaramonte, "Numerous Tea Party chapters claim IRS attempts to sabotage nonprofit status," FoxNews.com, http://www.foxnews.com/politics/2012/02/28/numerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/print/ (February 28, 2012)). Reports indicate that as many as 20 groups are being targeting for improper treatment. (Exhibit B, "IRS Accused of 'Intimidation Campaign' Against Tea Party," CNSNews.com, http://cnsnews.com/news/article/irs-accused-intimidation-campaign-against-tea-party-groups (March 7, 2012)).

The information demanded in many cases goes far beyond the appropriate level of inquiry regarding the religious, charitable and/or educational activities of a tax-exempt entity. The inquiries are not relevant to these permitted activities. Inquiries extend to organizational policy positions and priorities, personal and political affiliations, and associations of staff, board members and even family members of staff and board members. (Exhibit A). In at least one reported incident, the IRS requested an organization's relationship with a private individual who does not have any relationship with the applicant or with any political candidate or organization. (Exhibit C, Justin Binik-Thomas, "Why is the IRS asking Tea Party groups if they know me?", Washington Examiner, (http://washingtonexaminer.com/2012/03/why-irs-asking-tea-party-groups-if-they-know-me/377566) (March 16, 2012)).

Specific examples of improper inquiries from one IRS investigation include, but are not limited to, questions seeking:

5. List each past or present board member, officer, key employee and members of their families who:
a) Has served on the board of another organization.
b) Was, is or plans to be a candidate for public office. Indicate the nature of each candidacy.
c) Has previously conducted similar activities for another entity.
d) Has previously submitted an application for tax-exempt status.

8. Please provide the following regarding your merchandise sales:
a) A vendor list. Indicate if the vendor is a related party.
b) A list of items sold.
c) Your cost for each item.
d) The selling price of each item.

13. Fully describe your youth outreach program with the local school district.

14. Provide information regarding the Butler County Teen Age Republicans and your relationship.

16. Provide a list of all issues that are important to your organization. Indicate your position regarding each issue.

25. It appears you have received training (EmpowerU). Provide the following for all persons or organizations that have provided educational services to you:
a) The name of the person or organization.
b) A full description of the services provided.
c) The political affiliation of the person or organization.
d) A copy of the educational material used.

26. Provide details regarding your relationship with Justin Bink-Thomas (sic).

34. Has your organization engaged in any activities with the news media? If so, please describe those activities in further detail and, if available, provide copies of articles printed or transcripts of items aired because of that activity. News media activity may include the following:
a) Newspaper advertisements
b) Press releases
c) Interviews with news media
d) Letters to the editor
e) Op-ed pieces

(Exhibit D, March 1, 2012 IRS Letter, http://binkthomas.com/sunshine/IRS_Redact.pdf).

This level of inquiry goes well beyond the scope of the Form 1023 application for exempt status and appears to be improper. As you are aware, to qualify as a tax-exempt organization under 501(c)(3), the organization must prove that it is both organized and operated exclusively for tax-exempt purposes. Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(i)(a). To meet the organizational test, it must show that its Articles of Incorporation do not authorize it to undertake any non-exempt activity. 26 U.S.C. Sec. 501(c)(3)-1(b)(i)(iii). To meet the operational text, the organization must show that it operates exclusively for exempt purposes, that it has no substantial non-exempt purpose, and that no benefits inure from it to private individuals. Treas. Reg. Sec. 1.501(c)(3)-1(c). Any inquiry by the Service should be limited to determining whether an applicant satisfies both the "organizational" and "operation" tests. The questions presented herein go well beyond making such a determination.

Moreover, inquiries about personal associations and political viewpoints are not only inappropriate, but impinge upon constitutionally-protected freedoms of speech and association. Although the Internal Revenue Code has limited the tax exemption subsidy of 501(c)(3) organizations to groups that do not participate in political activity, the Service must still tread lightly when dealing with fundamental constitutional rights. Inquiring about the positions a prospective organization adopts on various policy issues serves no valid purpose if the organization does not engage in political activity. Such inquiries appear to be designed only to intimidate the applicants. As it has been upheld repeatedly by the Supreme Court, the government cannot regulate political speech with laws that chill permissible speech. Finally, reports that Tea Party-related organizations are being singled out for the IRS's intrusive inquires raises serious questions about the propriety of the personnel involved in the evaluation of tax exemption applications.

Landmark Legal Foundation respectfully requests an immediate and thorough investigation to determine whether IRS employees are acting improperly in the evaluation of exempt status applications. This investigation also must determine whether the relevant IRS employees are acting at the direction of politically motivated

superiors.

Sincerely,

/s/ Mark R. Levin
Landmark Legal Foundation
The Ronald Reagan Legal Center
3100 Broadway - Suite 1210
Kansas City, Missouri 64111

From: Lerner Lois G
Sent: Friday, August 17, 2012 10:35 AM
To: Light Sharon P
Cc: Paz Holly O
Subject: RE: Lungren (2012-30473)

Nothing is ever sure under IRS rules (-:

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Light Sharon P
Sent: Friday, August 17, 2012 8:48 AM
To: Lerner Lois G
Cc: Paz Holly O
Subject: Re: Lungren (2012-30473)

Yes, but Ron Bell already suggested that to them back in 2011. In their letter to Lungren, they wrote that they had carefully considered it and under IRS rules they are sure they are a c3.

-------Original Message-------
From: Lois Lerner
To: Light Sharon P
Cc: Holly Paz
Subject: Re: Lungren (2012-30473)
Sent: Aug 17, 2012 8:34 AM

So, do we think they can qualify for c4?
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

-------Original Message-------
From: Sharon Light
To: Lois Call in Number
Cc: Holly Paz
Subject: Re: Lungren (2012-30473)
Sent: Aug 16, 2012 11:24 PM

Justin and I went over this one today. We are writing them an educational development letter. They do a lot of lobbying and haven't made the 501(h) election. That's their big problem. They don't have a lawyer and think that they qualify for c/3 as long as they don't endorse or give money to candidates . They also have some ubit issues (offering Tea Party stuff for a "donation"), some political intervention (again, it seems like they don't know the rules), and their website links to lots of orgs which could cause them attribution problems.

At this point, they haven't demonstrated they qualify for c/3. I'm not sure they can, but we figured one more development letter that educated them (in the absence of having their own counsel) would be more appropriate (and understandable) than a denial.

-----Original Message-----
From: Lois Lerner
To: Light Sharon P
Cc: Holly Paz
Subject: FW: Lungren (2012-30473)
Sent: Aug 16, 2012 7:00 PM

Can you find out where this one is in the process please.

Lois G. Lerner
Director of Exempt Organizations

From: Flax Nikole C
Sent: Tuesday, August 14, 2012 3:58 PM
To: Lerner Lois G; Barre Catherine M
Subject: FW: Lungren (2012-30473)

Given that the incoming is from March and we aren't giving them any info with respect to the case (except we do imply they could be denied), not sure it is worth sending a general letter which won't satisfy them. Cathy, what do you think? Have we heard anything?

From: Lerner Lois G
Sent: Thursday, August 09, 2012 11:27 AM
To: Flax Nikole C
Subject: FW: Lungren (2012-30473)

Another one --this time a c3--part of the bucketing process and may be there for a longer period because we need to see if they will accept c4. Need your written OK to send this letter to Congressperson--thanks

Lois G. Lerner
Director of Exempt Organizations

From: Megosh Andy
Sent: Thursday, August 02, 2012 12:02 PM
To: Lerner Lois G
Cc: Williams Melinda G; Fish David L
Subject: Lungren (2012-30473)

Lois,

Attached is the incoming and draft response to the Lungren letter. You had seen this earlier but I updated the letter with the Nikole's language from Marchant with a sentence or two from Bousanty and Levin - the comments indicate where the language was taken from.

The organization referred to in the correspondence is a c3 applicant that we bucketed in Cincinnati. The reviewers recommended a proposed denial. The response to Rep. Lungren does not mention that the applicant may be receiving a denial.

The file does contain a privacy release.

I'll walk down paper copies for you if you would like .

Thanks,
Andy

From: Lerner Lois G
Sent: Friday, March 08, 2013 2:15 PM
To: Paz Holly O
Cc: Marks Nancy J; Light Sharon P
Subject: Re: 501(c)(4) Draft Denial

Interesting. Got a call from Vickie today saying she'd heard from Wilkins that a draft denial was going to Counsel this week. I said I hadn't yet seen anything so didn't think so. Is the plan to share this now or after we are OK with it?
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Holly Paz
To: Lois Call in Number
Cc: Nancy Marks
Cc: Sharon Light
Subject: FW: 501(c)(4) Draft Denial
Sent: Mar 8, 2013 5:49 AM

Lois,

Attached for your review and transmission to Counsel is the first draft advocacy case denial. [redacted] attachment to the letter and this case is not a close call, I would recommend that we ask Counsel to limit its review to the letter and not plunge into its own review of this sizeable file. As we discussed a few weeks ago, we have roughly 70 cases in bucket 4 (many of which date back to 2010) so we really do need to move this letter that we think will serve as somewhat of a template for other denials. I realize Counsel has many other things on its plate so I'm not asking for them to turn this around in a few weeks but I think we can help speed their review by limiting what we are asking them to review.

Holly

From: Paz Holly O
Sent: Friday, May 27, 2011 9:18 AM
To: Seto Michael C
Subject: FW: C 4

Importance: High

Can you please get with Chip and Ron and find out status of [redacted] related entity app ASAP? Then let's you and me talk and develop plan re: briefing Lois. Thanks!

From: Lerner Lois G
Sent: Thursday, May 26, 2011 6:18 PM
To: Paz Holly O; Fish David L
Subject: FW: C 4
Importance: High

I'm told Chip Hull is heading up the up--scaring me--can I get a briefing?

Lois G. Lerner
Director, Exempt Organizations

From: Lerner Lois G
Sent: Thursday, May 26, 2011 5:45 PM
To: Downing Nanette M; Grant Joseph H
Cc: Urban Joseph J; Fish David L; Paz Holly O
Subject: RE: C 4

Looks to me like [redacted] is simply an acronym for [redacted] (-: Joseph, Cindy also believes there is an application in Cincy on this as part of a larger look--it is being coordinated with EO Tech.

Lois G. Lerner
Director, Exempt Organizations

From: Downing Nanette M
Sent: Thursday, May 26, 2011 3:55 PM
To: Lerner Lois G; Grant Joseph H

Cc: Urban Joseph J; Fish David L
Subject: C 4

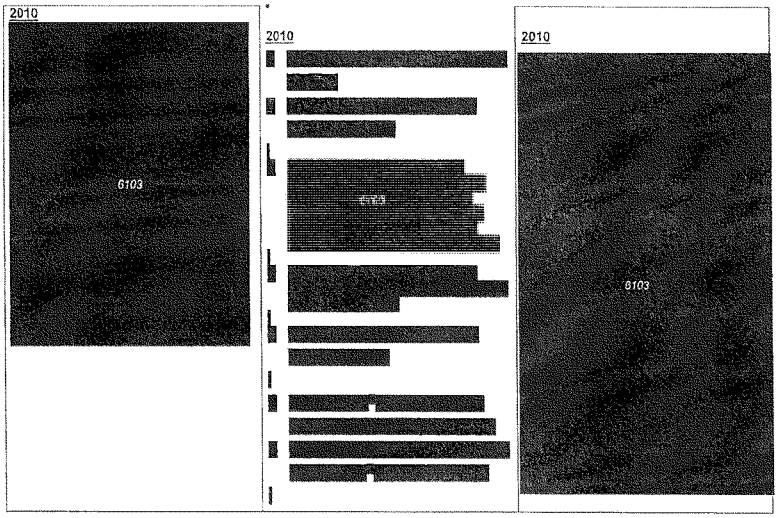
We have received 2 referrals and tracking sheets for both are attached. [redacted] This referral has been sent to committee for review.

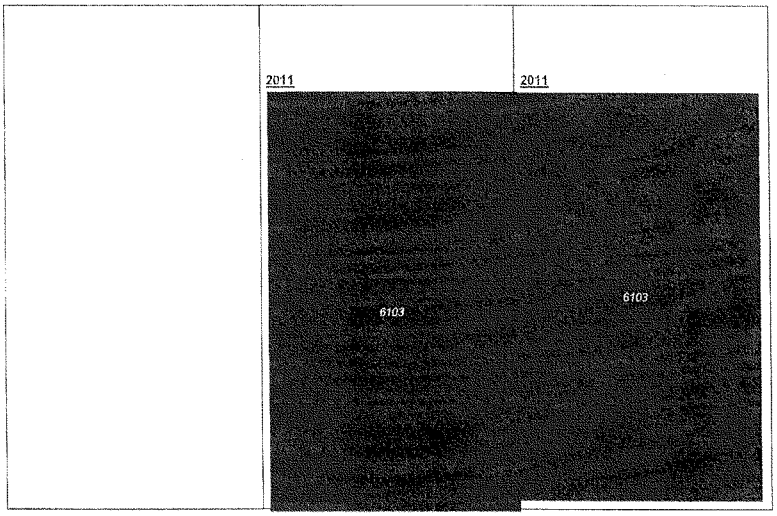
Nan

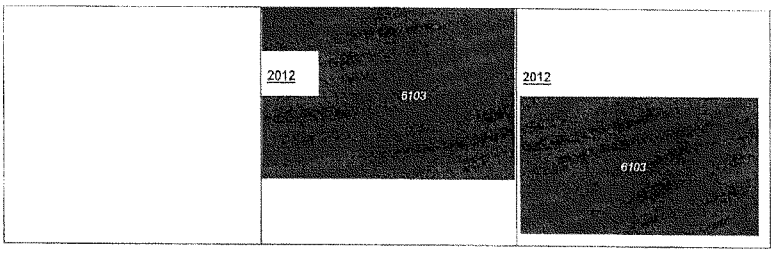
A. Timeline for the 3 exemption applications that were referred to EOT from EOD[1]

1. [redacted] ((c)(3) application – 6103	2. [redacted] ((c)(3) application – 6103	3. [redacted] ((c)(4) application – 6103
6103		6103
Timeline: 2009 6103	Timeline:	Timeline:

[1] There are two other (c)(4) applications, [redacted] (filed with EOD on 6103 and [redacted] (filed with EOD on 6103, pending in EOT. These two cases are not on the SCR. They are being developed.


2010
6103
2010
2010
6103


2011
2011
6103
6103



B. Timeline for informal technical assistance which was provided by EOT Personnel to EOD between May 2010 to October 2010

- 4/25/2010 → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on "advocacy organization" cases being held in screening.
- 5/17/2010 → EOD personnel (Liz Hofacre) contacted and referred 2 proposed development letters to an EOT personnel (Chip Hull) for informal review.
- Between May, 2010 to October 2010, EOT personnel (Chip Hull) informally reviewed approximately 26 case exemption applications and development letters on behalf of EOD. Mr. Hull provided feedback on most of the 26 exemption applications.
- From early October to late November, 2011, EOT personnel screened 162 exemption applications (via TEDS) pending in EOD to determine whether the organizations are in fact advocacy organizations, and whether the applications needed to be developed.

C. Timeline for preparation of the Guide sheet

- Late July 2011 - started drafting the guide sheet to help EOD personnel working political advocacy cases in differentiating between the different types of advocacy and explaining the advocacy rules pertaining to various exempt organizations.
- Early November 2011 - forwarded to EOD for comments. No comments were received.

From: Spellmann Don R <Don.R.Spellmann@irscounsel.treas.gov>
Sent: Wednesday, March 07, 2012 9:42 AM
To: Lerner Lois G; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy
Cc: Cook Janine; Brown Susan D; Marshall David L
Subject: RE: Corrections to Draft Guide Sheet

Thank you very much Lois for the initial feedback.

We welcome the opportunity to collaborate with your team to get this document to meet your needs and objectives. It might be helpful for us to have a call/meeting where we can walk through what we were trying to accomplish and why we took out some things. We often were trying to streamline and avoid duplication, but also wanted to deliver something we were completely comfortable with (even if incomplete). We're happy to discuss needed additions/changes. The chart was tough for us, as we found it somewhat misleading and not completely accurate in its brevity; we'll think about ways to revive it.

Please let us know when it might be helpful to talk/meet.

Don

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Wednesday, March 07, 2012 10:23 AM
To: Spellmann Don R; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy
Cc: Cook Janine; Brown Susan D; Marshall David L
Subject: RE: Corrections to Draft Guide Sheet

Thanks--we are all looking and will probably have comments. I looked quickly last night and overall like the approach. I do think, however, that we need more upfront text explaining why this is a difficult determination. You paper is great for lawyers who understand the facts and circumstances grayness, but I think we need to add a more "practical" piece in the introduction, as well. Also, I noticed you took out the chart on different types of orgs and what they can do--I'd like that added back in--I think it clearly illustrates to the non-expert that this isn't even once size fits all for the requirements--we have given it to the press with good results in the past.

Lois G. Lerner
Director of Exempt Organizations

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Wednesday, March 07, 2012 10:17 AM
To: Lerner Lois G; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy
Cc: Cook Janine; Brown Susan D; Marshall David L
Subject: Corrections to Draft Guide Sheet

We made some corrections throughout to address Janine's initial review and comments (changes are marked).

Please let us know if there are other comments or questions.

Thank you.

Don

<< File: Guide Sheet Counsel Comments 03-07-12.doc >>

From: Paz Holly O
Sent: Thursday, April 07, 2011 10:37 AM
To: Kindell Judith E; Lerner Lois G
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige
Subject: RE: sensitive (c)(3) and (c)(4) applications

Correction - I just checked with Cindy and we now have 102 Tea Party cases in Determs.

From: Paz Holly O
Sent: Thursday, April 07, 2011 10:26 AM
To: Kindell Judith E; Lerner Lois G
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige
Subject: RE: sensitive (c)(3) and (c)(4) applications

The last information I have is that there are approx. 40 Tea Party cases in Determs. With so many EOT and Guidance folks tied up with ACA (cases and Guidance) and the possibility looming that we may have to work reinstatement cases up here to prevent a backlog in Determs, I have serious reservations about our ability to work all of the Tea Party cases out of this office.

From: Kindell Judith E
Sent: Thursday, April 07, 2011 10:16 AM
To: Lerner Lois G; Paz Holly O
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige
Subject: sensitive (c)(3) and (c)(4) applications

I just spoke with Chip Hull and Elizabeth Kastenberg about 6103 cases they have that are related to the Tea Party - 6103 a (c)(3) application and the 6103 a (c)(4) application. I recommended that they develop the private benefit argument further and that they coordinate with Counsel. They also mentioned that there are a number of other (c)(3) and (c)(4) applications of orgs related to the Tea Party that are currently in Cincinnati. Apparently the plan had been to send one of each to DC to develop a position to be applied to the others. Given the sensitivity of the issue and the need (I believe) to coordinate with Counsel, I think it would be beneficial to have the other cases worked in DC as well. I understand that there may be TAS inquiries on some of the cases.

From: Paz Holly O
Sent: Thursday, April 07, 2011 2:02 PM
To: Lerner Lois G; Kindell Judith E
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige
Subject: Re: sensitive (c)(3) and (c)(4) applications

They are currently being assigned to one group. They consult with Chip on all development. They have been told not to issue determs until we work through the test cases we have here.
-----Original Message-----
From: Lerner Lois G
To: Paz Holly O
To: Kindell Judith E
Cc: Light Sharon P
Cc: Letourneau Diane L
Cc: Neuhart Paige
Subject: RE: sensitive (c)(3) and (c)(4) applications
Sent: Apr 7, 2011 1:47 PM

yes but these could blow up like crazy if the Determs folks let one out incorrectly--think [redacted]. Can Cindy have all of them assigned to one or two folks who don't make a move without Counsel/Judy involvement?

Lois G. Lerner
Director, Exempt Organizations

From: Paz Holly O
Sent: Thursday, April 07, 2011 10:26 AM
To: Kindell Judith E; Lerner Lois G
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige
Subject: RE: sensitive (c)(3) and (c)(4) applications

The last information I have is that there are approx. 40 Tea Party cases in Determs. With so many EOT and Guidance folks tied up with ACA (cases and Guidance) and the possibility looming that we may have to work reinstatement cases up here to prevent a backlog in Determs, I have serious reservations about our ability to work all of the Tea Party cases out of this office.

From: Kindell Judith E
Sent: Thursday, April 07, 2011 10:16 AM
To: Lerner Lois G; Paz Holly O
Cc: Light Sharon P; Letourneau Diane L; Neuhart Paige

Subject: sensitive (c)(3) and (c)(4) applications

I just spoke with Chip Hull and Elizabeth Kastenberg about [redacted] cases they have that are related to the Tea Party - [redacted] a (c)(3) application and the [redacted] a (c)(4) application. I recommended that they develop the private benefit argument further and that they coordinate with Counsel. They also mentioned that there are a number of other (c)(3) and (c)(4) applications of orgs related to the Tea Party that are currently in Cincinnati. Apparently the p

------Original Message Truncated------

Sent from my BlackBerry Wireless Device

From: Lerner Lois G
Sent: Friday, July 22, 2011 5:52 PM
To: Paz Holly O
Cc: Downing Nanette M
Subject: RE: New York Times -- 501(c)(4)s

I don't think they need the unredacted for these purposes

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Thursday, July 21, 2011 10:05 AM
To: Lerner Lois G
Cc: Downing Nanette M
Subject: RE: New York Times -- 501(c)(4)s

I just sent Nan the email we discussed a few minutes ago. I will forward to you as well. [redacted] was referred by someone outside but it was also in our list of referred orgs that we mistakenly sent to the ROO. I have kept that in our list of referrals for completeness even though Exam already has that one. For expediency sake, I sent the redacted versions of the denial letters. Do you think we need to send the unredacted versions? I will need to get my hands on those.

I have tracked down the pending [redacted] app. It was in EOT. We issued a proposed denial and TP did not protest. Case is now closed as protest time has elapsed.

From: Lerner Lois G
Sent: Thursday, July 21, 2011 9:59 AM
To: Downing Nanette M
Cc: Paz Holly O
Subject: FW: New York Times -- 501(c)(4)s
Importance: High

I'm thinking we need to include this in the referrals we discussed yesterday and, perhaps the one that is already in Classification needs this and the denial letters included to be consistent please.

Lois G. Lerner
Director of Exempt Organizations

From: Burke Anthony
Sent: Thursday, July 21, 2011 6:45 AM
To: Eldridge Michelle L
Cc: Lemons Terry L; Keith Frank; Zarin Roberta B; Lerner Lois G; Williams Grant; Dinh Leuyen D
Subject: New York Times -- 501(c)(4)s

Michelle, here is today's New York Times article about the 501(c)(4) organizations denied exempt status. The article suggests that organizations applying for exempt status may receive disparate treatment based on the location of the IRS office reviewing the application.

The New York Times

July 20, 2011

3 Groups Denied Break By I.R.S. Are Named

By STEPHANIE STROM

Three nonprofit advocacy groups that were denied tax exemption by the Internal Revenue Service were all units of Emerge America, an organization devoted to cultivating female political leaders for local, state and federal government.

The I.R.S. denied tax exemption to the groups — Emerge Nevada, Emerge Maine and Emerge Massachusetts — because, the agency wrote in denial letters, they were set up specifically to cultivate Democratic candidates. Their Web sites ask for evidence that participants in their training programs are Democrats.

News of the I.R.S. decision, which surfaced in heavily redacted denial letters to the groups that were posted to the agency's Web site last Thursday, raised concerns among advocacy groups, known as 501(c)(4) organizations after the section of the tax code that governs them, at large.

Crossroads GPS, a conservative advocacy organization with ties to Karl Rove, the Republican strategist, sent an e-mail to supporters on Tuesday, assuring them that it was not one of the three groups denied exemption.

Karen Middleton, president of Emerge America, acknowledged on Wednesday that the three state organizations had been denied an exemption. She said the groups were in the process of converting into 527 organizations, which are also tax-exempt but disclose their donors, unlike 501(c)(4) groups.

"We're all small organizations," Ms. Middleton said. "We train about 25 Democratic women each year in each state where we work, and we don't engage in any work that involved candidates or campaigns."

The I.R.S. has approved five other state Emerge organizations — in California, Arizona, New Mexico, Wisconsin and Kentucky — as advocacy groups.

"It's just bizarre," said Kimberly Ellis, executive director of Emerge California. "Nevada has been around and waiting for approval for the last five years, and in the interim, Oregon and Kentucky are established and file for their approval — and Kentucky gets it but Nevada, Maine and Massachusetts don't."

Michelle Eldridge, an I.R.S. spokeswoman, said the agency could not comment on individual taxpayers.

Paul Streckfus, a former I.R.S. official, said such inconsistency was not unusual. In part, it is because the office that handles approval of tax-exempt groups, he said, receives hundreds if not thousands of applications a day at its office in Cincinnati. Some of the applications are then sent for processing at field offices around the country, and, in some cases, to headquarters in Washington.

"My guess is that the one that recently got approved went to a different office than the ones that were denied, which seem to have been handled in Washington," Mr. Streckfus said.

Ms. Ellis said Kentucky's application was processed in an I.R.S. office in the Western United States. She did not know where the still-pending application of Emerge Oregon ended up.

From: Paterson Troy D TIGTA <Troy.Paterson@tigta.treas.gov>
Sent: Tuesday, January 15, 2013 1:29 PM
To: Lerner Lois G
Cc: Marx Dawn R; Paz Holly O; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: TIGTA Case Review Criteria

Lois,

In preparation for the meeting this afternoon, I asked the team to forward the criteria we used during our review of case files. I believe this may shed some light on the basis of our opinions as to whether cases should have been sent to the advocacy group or not. Since the IRS criteria changed several times over the years, we first asked Holly what should be in the advocacy group and then followed up later in the review to ensure that we were using the correct criteria. Holly stated that "the screeners are looking for cases with indicators of significant amounts of political campaign intervention, not lobbying or issue advocacy." Therefore, our criteria focuses upon political campaign intervention similar to the IRS criteria that is in effect today: "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit)".

Below is the specific criteria we used to determine if cases should go to the advocacy group:

- Any candidate forums/debates or candidate speakers which do not specifically state they are non-partisan.
- Any voter registration, voter education, voter guides, or get-out-the-vote drives which do not specifically state they are non-partisan.
- Any activity or relationship with an elected official or candidate for office.
- Any relationship with a Political Action Committee (PAC) that shows possible co-mingling of funds or activities.
- Response to Form 1024, Part II, Question 15, is Yes with no statement about the current amount of activity (percentage) being planned or performed. (Statements about possible future activity were not considered political campaign intervention.)
- Response to Form 1024, Part II, Question 15, is blank
- Response to Form 1023, Part VIII, Question 1, is Yes with no statement about the current amount of activity (percentage) being planned or performed. (Statements about possible future activity were not considered political campaign intervention.)
- Response to Form 1023, Part VIII, Question 1, is blank
- Any political campaign activity that totals 35 percent or more. (We considered 35 percent a significant amount of activity warranting follow-up to ensure it is not the primary activity of the organization.)

I'm looking forward to our discussion.

Troy
404-338-7476

Draft January 24, 2008 9 pm

TO: Lois G. Lerner
Director, Exempt Organizations

FROM: Steven T. Miller
Commissioner, Tax Exempt and Government Entities

SUBJECT: 2008 Political Campaign Season

This outlines what I believe TE/GE should accomplish in the Political Activities Campaign Initiative for the 2008 election cycle.

As you know, this is the ~~fourth~~third election year in which we have used ~~of~~ our focused approach to this area. Our goals for 2008 include those we have established in the past, including a continued emphasis on PACI's education and compliance components. As described below, I also believe it is an appropriate time to shift the program's focus in two key areas:

- ~~The~~ Which cases we pursue for examination.
- ~~Additional~~ Targeted guidance in ~~targeted~~ specific areas of concern.

Education.

Our first goal has been, and continues to be, ~~is to~~ educating the community. I continue to believe that the ~~vast~~ majority of individuals and organizations will comply with the rules that Congress has established in this area if they have sufficient notice of those rules and guidance concerning them.

To meet that goal, Wwe ~~therefore~~ need to use the knowledge we have gained through two previous elections, and redouble our outreach efforts ~~to reach out~~ to the tax-exempt community, ~~and to continue our very real efforts to educate~~ in this ~~area~~. In this regard, I ~~ask you to consider the following~~believe we need to pursue ~~steps~~:

- ~~Targeted~~ Communications ~~to reach the right~~targeted at the various (the most vulnerable? Not sure where we're going) segments of the tax-exempt community.
- More widespread use of our new outreach methods (e.g., EO Update, phone forums).

Please put together an educational plan that we can discuss later this month.

Continued enforcement presence

Administrative Tolerances. While, Although I believe most taxpayers will comply with the law, once they know what it is understand the rules, it is also is clear that some will seek to approach the outer boundaries of what is permissible, and others will test the waters beyond.

As we know, In addition, experience has shown that some well intentioned people will take these actions of concern as a matter of faith or conviction. We need to be attuned to the sensitivity of this area, and the presence of various rights and responsibilities that at times may seem difficult to reconcile.

Even recognizing this sensitivity, however, our second goal this year is to maintain a credible enforcement presence that will both promote voluntary compliance and confront instances of meaningful noncompliance.

Due to the vagaries of the budget process we will not have the resources in 2008 we originally expected. Moreover, PACI is but one of a large number of competing priorities within TE/GE. Therefore, I ask you to consider some shifts in approach for this year's PACI program and focus on the more egregious cases of political intervention.

- In cases in which the allegation indicates an apparent minor violation of the campaign intervention violation of the campaign intervention rules appears minor, I ask that you not open an examination, but rather design an alternative approach that would, but address the situation by educational contacts and follow-up as appropriate with the organization. By "minor" violation, I mean one that is unlikely to lead to revocation because it involves a single discrete event, or the imposition of section 4955 excise taxes because it does not involve significant expenditures.
- In the case of churches, section 7611 procedures will have to be followed, but it may be possible to close these case at the inquiry stage rather than opening an examination.
- By "minor" violation, I mean one that is unlikely to lead to revocation or the imposition of section 4955 excise taxes. Generally, this would involve an allegation of a single discrete event that does not call the organization's tax exemption into question, or appear to involve significant expenditures.

[Do we put walk away from no identification cases here?]

[Consider walking away from fuzzy law areas—such as?]

[Other areas of retreat?]

Formatted: Bullets and Numbering

Comment [MSOffice3]: I believe this is directing me to do this? AM I wrong? If so, why don't we say so. Either that or ask me to come back with an alternative approach. This sounds odd.

Formatted: Font color: Black, Not Hidden, Highlight

Formatted: Font color: Black, Highlight

Formatted: Indent: Left: 0.25", Hanging: 0.25", No bullets or numbering

Comment [MSOffice4]: That's the rule now so not sure this is necessary.

Formatted: Font color: Black, Not Hidden, Highlight

Formatted: Font color: Black, Highlight

Formatted: Bullets and Numbering

~~While~~ Although this will result in fewer cases being pursued through traditional examinations, this does not mean we will not pursue all cases ~~it is not my intent to remove ourselves from~~ in this area.

Instead, I ask that you to continue to work with Counsel to pursue -- and litigate as necessary -- ~~those particular~~ cases that are ~~either~~ the more egregious, have widespread impact, or ~~that~~ raise core issues of law we ~~feel~~ believe must be pursued.

Focus areas for 2008. There are several areas, which have raised particular challenges for PACI, which ~~that~~ I believe are ripe for focus in 2008. ~~These are among the areas that have raised particular challenges for us in PACI.~~ These focus areas ~~upon which we will focus~~ are intended to illustrate and reinforce the boundaries of the political intervention prohibition, thereby advancing. ~~This will advance~~ the ability of the well-intentioned to comply, as well as our ability to regulate.

We must pursue the ~~right~~ cases in these areas that will best clarify the boundaries of the prohibition. In some instances ~~these cases will need~~that will mean ~~to~~ proceeding to litigation, so it is ~~imperative~~crucial that we continue to work closely with Counsel.

The Focus Areas are:

Internet. ~~The first area I would like you to focus on is selecting the right~~ ~~c~~Cases in which the Internet is used as an issue advocacy tool, but arguably, also can be considered ~~also for political campaign purposes~~a tool for political intervention. Specifically, we need to consider:

- ~~What is~~The ~~the~~ consequence of an organization placing a link on its website a ~~link~~ that leads the visitor to objectionable campaign material?
- Whether ~~is~~ such a link more in the nature of a referral or of a distribution? That is, when is the material ~~shall we attribute the material~~ on the linked sites attributable to the charity?

~~I would pursue cases~~To best focus on these issues, you should pursue cases where the content on the (c)(3) site contains violative campaign material or where the charity site links to violative campaign material, and ~~it would be reasonable for a person seeing~~ the content on the (c)(3) site would reasonably lead the viewer to believe campaign material appears on the linked site [lets play with this]. I continue to believe that a charity has the responsibility for its decisions to link to other sites and the obligation to review such sites for objectionable material on a regular basis. That does not mean an organization is responsible for all material on the links (See, 2007-41, example --). Moreover, it

Comment [MSOffice5]: again—I think you are telling me this is what we will do—so matter, this doesn't sound like a directive.

Formatted: Font color: Black, Not Hidden, Highlight

Formatted: Font color: Black, Highlight

Comment [MSOffice6]: seems this would only be non-reliced after? If so, we need to specify

Formatted: Font color: Black, Not Hidden, Highlight

Formatted: Font color: Black, Highlight

seems to me that the proximity of the objectionable material to the (c)(3) site is quite important in the review of the facts surrounding a particular case.

Comment [MSOffice7]: Should write [illegible] what your [illegible]?

Formatted: Font color: Black, Not Hidden, Highlight

Formatted: Font color: Black, Highlight

That ~~above~~ said, however, as we select cases in this area, I believe we need to delay pursuing cases involving a link between the (c)(3) organization and its own affiliated (c)(4)'s landing page. I would reserve work on links between related organizations (at least links between the charity site and the landing page of the affiliated social welfare organization) until we have resolved, through guidance or otherwise, the constitutional implications of any restrictions. These implications are outlined in the Taxation With Representation of Washington (TWR) case (See, Mr. Justice Blackmun's concurring opinion). Although I do not believe TWR bars action by the IRS on all related links, before taking a position, we must review the area and ensure the community is on notice of our concerns in the area of links to related sites. Perhaps it is time to once again discuss the suggested project for 2009 that would review the flow of funds and other resources by and between a number of affiliated groups of organizations that include a (c)(3), a (c)(4) and a 527 organization.

~~I would reserve work in links between related organizations (at least links between the charity site and the landing page of the affiliated social welfare organization) until we have resolved, through guidance or otherwise, the constitutional implications of any restrictions. These implications are outlined in the Taxation With Representation of Washington case (See, Mr. Justice Blackmun's concurring opinion). While I do not believe TWR bars action by the IRS on all related links, we must review the area in advance of taking any position and the community may not be on notice of our concerns in the area of links to related sites. Perhaps it is time to once again discuss the suggested project for 2009 that would review the flow of funds and other resources by and between a number of affiliated groups of organizations that include a (c)(3), a (c)(4) and a 527 organization.~~

Issue Advocacy. A second focus area is the boundary between issue advocacy and campaign intervention ~~in other than~~outside the internet area. Revenue Ruling 2007-41 sets forth factors to analyze in making a determination whether an act is issue advocacy or campaign intervention or both.

There have been sufficient challenges to our position in this area involving a multitude of divergent fact patterns. It may be prudent to pursue one or more cases to allow a court to review the factors outlined in the revenue ruling. In fact, we may wish to include in those cases selected one that raises not only the validity of the factors, but some of the arguments being proffered concerning religious speech (see the RFRA discussion below).

At this time I would ~~only~~ proceed only on cases that identify, directly or otherwise, specific candidate(s) or election(s). This is not to say that ~~I wish~~we should to

follow an express advocacy standard. However, I believe that the examples given in 2007-41 indicate the need for some specificity, even if a name or other specific identifier is not present.

So, for example, a single issue voters' guide that does not focus directly or indirectly on a particular candidate or election will present unique issues. Such a guide may ~~not be an~~meet the test to be an educational voters' guide under our Revenue Rulings, but may be issue advocacy versus campaign intervention based on whether it serves to specifically identify a particular candidate or election. Of course, all the facts ~~might~~would have to be reviewed, including the method of distribution. The context in which such an issue advocacy piece is distributed must be analyzed. If such a guide is distributed with a statement or other action tying a particular candidate or election to a position, campaign intervention may occur. [Don't even remotely like the flow here…]

Political contributions. I applaud your efforts to address direct contributions made by charities to political candidates, and expect that those types of cases will remain an important examination focus during 2008.

Section 527. Due to the application of election laws, we may see some drift of political work from PACs to social welfare organizations and other non-charities. I expect your office to develop an examination project to ensure that such organizations are not exceeding permissible limits on political activity, should not in reality be taxed as section 527 organizations, and are in any event paying the appropriate tax on political expenditures as required under section 527(f). HUH? Can we at least make it clear that this won't happen this year? We can't look at their returns until next year

Guidance.

This leads to the third goal for this year: I believe we must clarify our interpretation of the law in certain areas, and act to obtain certainty with respect to several of our legal positions. We can do some of this by issuing additional guidance, or, where our guidance is challenged, by seeking confirmation of our position in the courts. But guidance is preferred. The following areas are preferred topics for guidance:

[What areas do we think? Internet? American Campaign Academy? C4/527 payments?]

I believe we ~~ourselves~~ need ~~guidance~~ to better understand ~~as to~~ the impact of the Religious Freedom Restoration Act. ~~We need to work through the possible application of the RFRA, and whether~~ Although I do not believe it presents a bar or is applicable in this area (See, wasn't it Church at Pierce Creek? Pull from counsel support memo on AS), it may make sense to resolve any debate by asking for the views of the Department of Justice. As we proceed, I ask that you

work with Counsel to raise this with the Tax Division of DOJ, and with the Office of Legal Counsel, if necessary ~~It imposes substantive and procedural constraints on our work in this area.~~

~~While I do not believe it presents a bar or is applicable in this area (See, wasn't it Church at Pierce Creek? Pull from counsel support memo on AG), it may make sense to resolve any debate by asking for the views of the Department of Justice. As we proceed, I ask that you work with Counsel to raise this with the Tax Division of DOJ, and with the Office of Legal Counsel, if necessary.~~

Conclusion

At the same time that we focus on the areas I have outlined above – education, enforcement presence, and guidance – we must continue to use our PACI experience to assess the effectiveness of the limited, and somewhat flawed, statutory tools available to us to address instances of political intervention, and to identify any trends that cause concern in this area.

The PACI initiative has given us an important insight into a variety of activities and issues in the political campaign area. As we continue our work in this area during the 2008 campaign season, we must focus our examination resources on more egregious cases, and work to identify those issues where we should enhance clarity or obtain certainty through administrative guidelines or litigation. We must continue to use education, including through the PACI referral review process and our outreach programs, to notify organizations of the political intervention rules.

~~Sincerely,~~

2008 1400
2011 2242
12 3400

1) We have seen increase in # of Applications
2) including those doing Advocacy Work
3) Front Line folks in Cinn decided to centralize the work - to group cases for consistency
4) Do this in difficult areas where we see trends credit counseling
5) Problem came in how we centralized
6) Front line folk collected based on name - Tea Party / Patriot were used
7) This ~~was not done by~~ is not how we should do things - it was a mistake
8) But not a political vendetta - it was an error in judgment efficient but not sensitive nor appropriate Our IG is looking at this
9) These cases ~~to~~ also lingered for too long and received development letters that were too broad - example donor lists
10) We took action when it was raised
   A) Fixed the process to centralize -- High level Review
   B) sorted the cases now half of the 300 c4 are done 120 approved - To W/d
   C) Gave more flexibility on responding to requests for info
   D) Improved coordination
11) So - we did make errors -- and people waited too long in some instances for which I apologize but we have fixed the issue

From: Lerner Lois G
Sent: Friday, December 21, 2012 2:22 PM
To: Marks Nancy J
Subject: RE: 501(c)(4) question in Senate Finance Committee Nomination Hearing

Just got back from lunch with my old FEC boss, Larry Noble who now works for Americans for Campaign Reform. Informed me that Congress is pretty mad at the IRS for not doing anything about the c4s--I'm shocked! But what really got me is the expectation that not only should we be revoking them, we should be prosecuting them for tax fraud! Hadn't heard that before. It was disappointing to me that Larry didn't recognize that determining what is political activity is not easy--he thought IRS should have provided "clearer" guidance--you can't win

Lois G. Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Friday, December 21, 2012 1:07 PM
To: Lerner Lois G
Subject: Re: 501(c)(4) question in Senate Finance Committee Nomination Hearing

True

Sent using BlackBerry

From: Lerner Lois G
Sent: Friday, December 21, 2012 11:20 AM
To: Marks Nancy J; Grant Joseph H; Medina Moises C
Subject: RE: 501(c)(4) question in Senate Finance Committee Nomination Hearing

I love Meade's response--I've heard it oh so many times before-(-:

Lois G. Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Thursday, December 20, 2012 7:06 PM
To: Grant Joseph H; Medina Moises C; Lerner Lois G
Subject: FW: 501(c)(4) question in Senate Finance Committee Nomination Hearing

In the Senate finance hearing for Christopher Meade's nomination for general counsel at Treasury Senator Wyden expressed his concern that the IRS had failed to list as a priority guidance project the issue of political activity conducted by Code section 501(c)(4)

organizations. He asked whether Mr. Meade thought the issue should be included in the priority guidance list and whether he personally thought it was an important problem and Mr. Meade promised to look into the issue and make us aware of the Senator's concerns. Just an FYI I think we have done our work through on the pros and cons of guidance, we know where Steve wants to be for now, and I'd say nothing to be done at this point.

From: Urban Joseph J
Sent: Friday, April 20, 2012 7:23 AM
To: Lerner Lois G; Marks Nancy J
Subject: RE: Sen. Levin--Draft Response # 4

I can live with their draft, because I am assuming Counsel wants to make the point that that there is no percentage established for any term in the regulations (not for exclusively, not for primarily, not for anything else).

That being said, the issue on the table, as the comments in the press in the last few months demonstrate, is that many practitioners, public interest types, and some members believe that "less than primary" means less than 50%. Levin seems to think that too, as his question is not about "exclusive" but instead about the "primary" standard and he seems to think is the apparent 51-49 percentage test. (Specifically, Levin asks if it is the position of the IRS that a (c)(4) can engage in what he calls nonpartisan political intervention as a secondary activity, "and that political activity can consume up to 49% of the entities expenditures and resources?"

FYI, among the questions I would ask an IRS witness at a hearing is why, after all these years, the IRS has not defined primary, or given any indication as to what facts and circumstances the IRS uses in determining whether a (c)(4)'s activities primarily benefit public or private interests. Mr/Ms Witness, don't you think vagueness might scare honest folks away from doing things they are permitted to do, but be exploited by those who want to take advantage of (c)(4) although they are not legitimate social welfare orgs? Doesn't vagueness leave the IRS open to charges of arbitrary enforcement?

From: Lerner Lois G
Sent: Thursday, April 19, 2012 5:17 PM
To: Spellmann Don R; Marks Nancy J; Urban Joseph J
Cc: Cook Janine; Brown Susan D
Subject: RE: Sen. Levin--Draft Response # 4

Nan and I are good with that

Lois G. Lerner
Director of Exempt Organizations

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Thursday, April 19, 2012 5:13 PM
To: Lerner Lois G; Marks Nancy J; Urban Joseph J
Cc: Cook Janine; Brown Susan D
Subject: RE: Sen. Levin--Draft Response # 4

Please see our suggested revision to yesterday's draft (attached).

Please let us know if you need anything else.

Don

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Thursday, April 19, 2012 2:10 PM
To: Marks Nancy J; Urban Joseph J; Cook Janine; Brown Susan D; Spellmann Don R
Subject: RE: Sen. Levin--Draft Response # 4

OK--Counsel folks--is Counsel comfortable adding the

(4) Is it the position of the IRS that an entity claiming tax-exempt status under Section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources?

below?

Section 501(c)(4) describes organizations that operate exclusively for the promotion of social welfare. The Treasury regulations provide that an organization operates exclusively for the promotion of social welfare if it primarily engages in promoting the common good and general welfare of the people of the community. The regulations also provide that 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. Treasury and the Service have stated in published guidance that an organization may carry on lawful political activities and continue to be described in section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare.

The regulations do not establish an explicit percentage test. Rather, to determine whether an organization operates primarily for the promotion of social welfare, the courts and the Service 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.

Lois G. Lerner
Director of Exempt Organizations

From: Marks Nancy J
Sent: Thursday, April 19, 2012 1:44 PM
To: Urban Joseph J; Cook Janine; Brown Susan D; Spellmann Don R
Cc: Lerner Lois G
Subject: FW: Sen. Levin--Draft Response # 4

I'm concerned that this response will meet with a fair amount of frustration on the hill because the question asks very specifically whether 49% works. I recognize the regulations don't specify a percentage and that we have not taken a position on one but I don't think we can completely ingore the percentage portion of the question but rather have to indicate that the regulations do not establish a specific percentage but rather establish a "principle" activity standard . . . .

In other words don't think the answer can pretend the word percentage is not in the question although I do understand why it is hard to engage with.

From: Urban Joseph J
Sent: Thursday, April 19, 2012 1:35 PM
To: Marks Nancy J
Subject: Fw: Sen. Levin--Draft Response # 4

Sent from Blackberry

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Wednesday, April 18, 2012 06:45 PM
To: Urban Joseph J
Cc: Cook Janine; Brown Susan D
Subject: Sen. Levin--Draft Response # 4

Hi Joe,

Attached is our suggested response to question 4 of Senator Levin's letter.

Please let us know if you have questions or need anything else.

Don

<<Levin response # 4.doc>>

From: Shafer John H
Sent: Friday, October 08, 2010 1:19 PM
To: Collins Glenn W; Cullen Jeffery A; Heagney Nancy L; Kiser Joan C; Kitchens Kimberly L; Koester John J; Muthert Gary A; Norton Renee Railey; Sanders Shawntel R; Schaber Dale T; Trimble Del L; Vance Roger W
Subject: FW: BOLO Tab Update

Importance: Low
FYI

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Camarillo Sharon L
Sent: Friday, October 08, 2010 1:09 PM
To: Shafer John H
Cc: Thomas Cindy M
Subject: FW: BOLO Tab Update
Importance: Low

John: Please ask your screeners to be on the lookout for these cases.

From: Waddell Jon M
Sent: Thursday, October 07, 2010 8:25 AM
To: Bowling Steven F; Camarillo Sharon L
Subject: BOLO Tab Update
Importance: Low

Steve and Sharon,

We have discovered some new components to the **Acorn-Related Category** listed on the **BOLO Tab as Issue #3**. Specifically, we have identified two additional Acorn-Related coming out of Pennsylvania both sharing the same address. As was the situation the currently assigned two New York cases, one is applying as a c(3) and one as a c(4). The officers of the organizations had prior affiliations with Acorn as members of boards on various chapters. The names of the applicants are as follows:

1. [redacted] 6103 = **501(c)(3) Applicant**
2. [redacted] 6103 = **501(c)(4) Applicant**

Overall, I would suggest an alert be sent informing agents/screeners that to be on the lookout for the following name an application factors associated with Acorn related cases. Additionally, during the next

spreadsheet update, add these factors to the Watch Issue Description section for this category. Name and Application Factors are as follows:

1. **The name(s) Neighborhoods for Social Justice or Communities Organizing for Change**

2. **Activities that mention Voter Mobilization of the Low-Income/Disenfranchised**

3. **Advocating for Legislation to Provide for Economic, Heathcare, and Housing Justice for the poor.**

4. **Educating Public Policy Makers (i.e Politicians) on the above subjects**

thanks

From: Lowe Justin
Sent: Wednesday, March 21, 2012 11:03 AM
To: Fish David L
Subject: c4 history
Attachments: Exclusively Standard 09-02-11.doc

This document is still very much a work in progress (various Counsel and IRS people have worked on it), but it gives some insight into the state of things and what they should be.

EXCLUSIVELY STANDARD UNDER § 501(c)(4)

Questions Considered:

1. How have courts interpreted the exclusively standard under § 501(c)(4)?
2. How has the IRS interpreted the exclusively standard under § 501(c)(4)?
3. How is the amount of activity not furthering exempt purposes measured?

Part I provides the statutory and regulatory background. Part II summarizes cases that discuss the exclusively standard under § 501(c)(4). Part III covers IRS administrative materials (Rev. Ruls., the IRM and GCMs and other memoranda). The appendix contains some sample questions that could be used as guidance for agents when measuring the amounts of activity that do and do not further exempt purposes.

I. STATUTE & REGULATIONS

The (c)(3) and (c)(4) statutes use nearly identical language in establishing the operational standard required for an organization to be described within the meaning of either section: the organization must be "operated exclusively for" the exempt purposes approved under §501(c)(3) or §501(c)(4).

§ 501(c)(4)(A)

> "Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare"

§ 501(c)(3)

> "Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes"

As shown below, the regulations under each subsection use nearly identical language in relevant parts, stating that an organization is operated exclusively for its respective purposes if it:

§1.501(c)(4)-1(a)(2)(i)	§1.501(c)(3)-1(c)(1)
"…is primarily engaged in promoting in some way the common good…"	"…engages primarily in conducting activities which accomplish its exempt purposes…"

However, the (c)(3) regulations go on to state that an organization will not be so regarded if *more than an insubstantial part* of its activities is not in furtherance of an exempt purpose.

§ 1.501(c)(4)-1(a)(2)

> "(i) 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."
>
> "(ii) Political or social activities. 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."

§ 1.501(c)(3)-1(c)(1)

> "An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose"

Notes from the Archived Files on T.D. 6391

The regulations under sections 501(c)(3) and (c)(4) above were written as part of the same T.D. A draft of the proposed (c)(3) regulations dated December 5, 1958 contains this language:

> 1.501(c)(3)-1(c) Operational Test -- (1) Primary activities. An organization is operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of the purposes specified in section 501(c)(3). An organization shall not be considered to be engaged primarily in activities which accomplish one or more exempt purposes *if a substantial part of its activities are not* in furtherance of an exempt purpose.

This draft was reviewed by Arch M. Cantrall, who in a signed memorandum to one of the drafters, Mr. Rose, dated January 12, 1959, stated:

> To me there is one particularly dangerous possibility of a variation in the meaning being ascribed to a difference in wording. This runs throughout this draft.
>
> . . . the phrase "otherwise than as an insubstantial part of its activities" [in § 1.501(c)(3)-1(b)(1)(i)(b)] is, to me, a well-stated and important test, and I think that this formula should be consistently used throughout.
>
> But, for example, [in § 1.501(c)(3)-1(c)(1)] I see the test of "primary", which implies that something is "secondary" and, if "secondary" is permissible. I doubt that proposition.
>
> And in the same paragraph, (c)(1), the test is "a substantial part" [referring to the draft language cited above].
>
> Now if these are necessary or proper, I will not argue. But I do not think so. And these variations run on in other places, to create even more confusion.
>
> The question is, I believe, how much leeway do we intend to allow. Code 501(c)(3) says that the organization shall be organized and operated "exclusively".
>
> But, for example, in [(c)(1)] we interpret "exclusively" to mean "primary" and say also that it "will not be so regarded if a substantial part of its activities is not in furtherance of an exempt purpose".
>
> I cannot read "exclusively" as "primary" or as allowing a degree of nonexempt activity up to the "substantial" level. I think we concede too much.
>
> . . . Now I agree that "exclusively" in the statute may by regulation be construed to mean "not more than an insubstantial part" under the de minimis rule, and I think it should be. But I feel strongly that when we have once done so, we should stick to it.
>
> I do not think that we have authority by regulation to construe "exclusively" as "primary" or "substantial", etc.

The language in § 1.501(c)(3)-1(c)(1) was changed two days later, in a draft dated December 7, 1958, to read "no more than an insubstantial part of its activities is not in furtherance of an exempt purpose." This phrase matches the language of the existing final regulations.

An even earlier version of § 1.501(c)(3)-1(c)(1), dated August 6, 1958, read:

> For an organization to . . . be operated exclusively for one or more of the purposes specified in section 501(c)(3), its operations must be conducted exclusively for the accomplishment of an exempt purpose that is set forth in the articles of organization, and such operations must be duly authorized in the manner prescribed by its constitution, by-laws or articles of organization, which must be in accordance with state law. In case an organization properly acts under an implied power which is necessary or appropriate to carry out its stated exempt purpose and is not forbidden by the terms of its articles of organization, such acts will ordinarily be regarded as being within the exempt purpose. However, any act of the organization not devoted to the accomplishment of its exempt purpose, or not incidental thereto, exceeds the organization's power and authority and, if substantial, constitutes a proper basis for denying or revoking an exemption.

This August 6, 1958 draft was submitted to Treasury for its views. Hand revisions made on this draft delete this language entirely without explanation.

The "primarily" language contained in current Treas. Reg. § 1.501(c)(4)-1(a)(2) was not present in the August 6, 1958 draft submitted to Treasury. Rather, the regulation provided:

> A civil league or organization is operated exclusively for the promotion of social welfare if it engages in a civic enterprise in which individuals cooperate to promote in some way the common good and general welfare of the people of the community.

This version did contain "primarily" in the next sentence, which appears in the existing, final regulation: "Organizations embraced within this section include those which are operated primarily for the purpose of bringing about civil or social changes." There were no other relevant notes or revisions to the (c)(4) regulations.

II. § 501(c)(4) CASE LAW

Many courts, when discussing the requirements for tax-exemption under § 501(c)(4), follow the Supreme Court's holding in Better Business Bureau v. United States for the proposition that the presence of a substantial non-exempt purpose will prevent exemption. 326 U.S. 279, 283-284 (1945) (interpreting a provision of the Social Security Act that "was drawn almost verbatim from" § 501(c)(3)). Courts have not differentiated between having a "substantial non-exempt purpose" and failing to be "primarily operated for exempt purposes"; sometimes they equate the two concepts. These cases post-date the issuance of the regulations under §§ 501(c)(3) and (4).

1. CIR v. Lake Forest, Inc.,

305 F.2d 814, 818, 820 (4th Cir. 1962)

In 1947, Lake Forest Inc., a nonprofit, nonstock corporation, was incorporated by World War II veterans to acquire a public housing project to provide housing to veterans of WWI and WWII. Membership in the corporation was established by purchasing a dwelling unit in the project, and membership was limited to the number of dwellings available. Each member paid a monthly operating payment to satisfy the monthly debt owed on the purchase price of the project. Upon dissolution, all assets would be distributed to the members in accordance with their respective equities.

The court held that the organization and operation of Lake Forest was not "exclusively for the promotion of social welfare" because it largely was in the nature of an economic and private cooperative undertaking.

Relevant language from CIR v. Lake Forest, Inc.:

- "At all events, taxpayer's operations are not 'exclusively' of the type the statute demands. 'Civic' pretensions and considerations of 'social welfare' aside, plainly other substantial realizations motivated and are envisioned by the corporation."
- "But we do decide that the organization and operation of Lake Forest, Inc. are not 'exclusively for the promotion of social welfare', since they partake largely of the nature of an economic and private cooperative undertaking."
- "The impact on the tax status of purposes other than those required to be 'exclusive' under such an act of Congress is bluntly stated in Better Business Bureau v. United States, 326 U.S. 279, 283, 66 S.Ct. 112, 90 L.Ed. 67 (1945) in not too different circumstances: '* * *In order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.'"

2. People's Educ. Camp Soc'y, Inc. v. CIR,
39 T.C. 756, 767, 769 (1963), aff'd 331 F.2d 923, 930-931, 932 (2d Cir. 1964)

People's Educational Camp Society (the corporation) was incorporated in 1920 and purchased 2,196 acres in the Pocono Mountains that had served as a summer camp and recreation area. The corporation named the property Tamiment. During the year in issue (1956), Tamiment was one of the most modern resorts in Pennsylvania, and it charged guests substantial amounts for access to Tamiment. The corporation also "sponsored and promoted several activities relating in general to social welfare" in New York City. From 1953 through 1957, the corporation's total revenues were more than $4.76M (approximately $4.45M from Tamiment), and its expenditures on social welfare activities were $204,969.

Relevant language from People's Educ. Camp Soc'y, Inc. v. CIR:

- The court concluded "that petitioner's activities in operating the resort at Tamiment . . . [were] not 'exclusively,' or even principally or primarily, 'for the promotion of social welfare' within the meaning of the statute."

- "The word 'exclusively' as used in the statute has not been given a strict interpretation, so as to foreclose every operation for a non-exempt purpose no matter how insubstantial, but rather has been interpreted to mean 'primarily.' Debs Memorial Radio Fund, Inc. v. Commissioner, supra, 148 F.2d at 952; see Sugarman & Pomeroy, Business Income of Exempt Organizations, 46 Va.L.Rev. 424, 425 (1960). Stated another way, 'the presence of a single * * * (non-exempt) purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly * * * (exempt) purposes.' Better Business Bureau v. United States, 326 U.S. 279, 283, 66 S.Ct. 112, 114, 90 L.Ed. 67 (1945)."

3. American Women Buyers Club, Inc. v. U.S.,
235 F. Supp. 668, 672-673 (S.D.N.Y. 1963), aff'd 338 F.2d 526, 528-529 (2d Cir. 1964)

American Women Buyers Club (the Club) was incorporated to promote the welfare of ready-to-wear buyers, conduct social engagements for members, maintain a spirit of cooperation among members, and aid members in times of distress. Membership was limited to women with at least three years experience as principal ready-to-wear buyers. The Club helped members get work when they were unemployed, held lectures that helped members in their various positions, and assisted members in locating merchandise. During the years in issue the Club's total contribution to charitable organizations totaled $1,700 and it had an accumulated surplus of $92,587.15.

The court held that the Club was not operated exclusively for the promotion of social welfare because only a limited number of women buyers were admitted to the club; the services were primarily, if not exclusively, rendered to the members; benefits solely were for members and not the public; and payments to charities were incidental to the operation of the Club. The court noted "even a cursory examination of the [Internal Revenue] rulings [the Club relied on] reveals a substantial difference in the scope and breadth of services rendered by those taxpayers compared to the present taxpayer."

Relevant language from American Women Buyers Club, Inc. v. U.S.:

- "[D]o taxpayer's other activities recited above preclude a finding that taxpayer is operated 'exclusively' for this purpose? A recent decision of this court, People's Educ. Camp Soc'y, Inc. v. Commissioner, 331 F.2d 923, 931 (2 Cir. 1964), cert. denied 85 S.Ct. 75 (U.S. Oct. 12, 1964), furnishes us with the legal standard to be applied:

- The word 'exclusively' as used in the statute has not been given a strict interpretation, so as to foreclose every operation for a non-exempt

purpose no matter how insubstantial, but rather has been interpreted to mean 'primarily.' Debs Memorial Radio Fund, Inc. v. Commissioner, supra, 148 F.2d at 952; see Sugarman & Pomeroy, Business Income of Exempt Organizations, 46 Va.L.Rev. 424, 425 (1960). Stated another way, 'the presence of a single * * * (non-exempt) purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly * * * (exempt) purposes.' Better Business Bureau v. United States, 326 U.S. 279, 283, 66 S.Ct. 112, 114, 90 L.Ed. 67 (1945)."

- "The district court's finding that taxpayer pursues substantial non-exempt purposes was supported by substantial proof."
- "Taxpayer contends that these non-exempt activities are merely ancillary to its basic purpose . . . We disagree . . . Taxpayer's statement of purposes . . . confirms our conclusion that these are not merely ancillary activities."

4. Contracting Plumbers Coop. Restoration Corp. v. U.S.,
488 F.2d 684 (2d Cir. 1974)

Plumbers formed a private, nonprofit cooperative whose sole purpose was to ensure efficient repairs of "cuts" made in streets by its members in the course of plumbing activities.

The court held that the cooperative provided substantial and different benefits to both the public and its private members. Accordingly, it was not "primarily" devoted to the common good "by even the most liberal reading of IRC § 501(c)(4)."

Relevant language from Contracting Plumbers Coop. Restoration Corp. v. U.S.:

- "[W]e adhere to the rule that the presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purposes." [Citing in part Better Business Bureau v. United States, 326 U.S. 279, 283 (1945)]
- "In applying this standard, we think at least four factors are relevant. First, we must look to the formative history of the organization (was there a substantial business interest in taxpayer's formation). . . . Second, we have the embodiment of that completely legitimate, but nevertheless private, interest in the taxpayer's bylaws. . . . while . . . it is not conclusive, we nevertheless think it is probative as to the taxpayer's non-exempt purpose . . . Third, we have the taxpayer's actual operation. Here there can be no doubt that the cooperative is of tremendous value to the private economic interests of its members – a clearly non-exempt purpose. . . . Finally, we have the fact that each member of the cooperative enjoys these economic benefits precisely to the extent that he uses, and pays for, it . . ."

5. Mutual Aid Ass'n of the Church of the Brethren v. U.S.,
578 F. Supp. 1451, 1456-1457 (D. Kan. 1983), aff'd 759 F.2d 792, 795-796 (10th Cir. 1985)

Mutual Aid Association of The Church of the Brethren (MAA) was an unincorporated church-sponsored insurance company.[1] MAA provided Church of the Brethren members with insurance protection against fire, storms, vandalism, and other casualties continuously since its inception. MAA also provided the same coverage to Church of the Brethren structures and insured some small businesses provided they were owned only by Church of the Brethren members. MAA's stated purpose, set forth in its bylaws, was to provide Church of the Brethren members with mutual protective fire and extended coverage property insurance. MAA operated primarily to provide economic and non-economic benefits to its members. MAA restricted membership to Church of the Brethren members. MAA generated income primarily through premiums and investment of surplus funds.

The court held that promotion of religion is not necessarily the promotion of social welfare, and that in view of economic benefits conferred on members by redistribution of surpluses or reduced premium rates, MAA did not qualify as a social welfare organization despite its mutual aid purposes. The court of appeals held that MAA was not dedicated exclusively or primarily to the advancement of religion.

Relevant language from Mutual Aid Ass'n of the Church of the Brethren v. U.S.:

- "We are simply not convinced that a religious purpose is, *per se*, a promotion of social welfare." Although MAA's policies and practices "appear to be largely consistent with the religious beliefs of the Church of the Brethren, these practices and policies clearly benefit a select few . . . far more than they benefit the general public or community as a whole."

- "MAA does not give succor to souls; it sells insurance coverage. . . . MAA primarily provides property insurance, an admitted economic activity. MAA treats its surplus and profit as would any mutual insurance company: '[t]he ultimate considerations of [MAA] in creating and using its surplus and profit are to provide a reasonable and adequate security margin, and to provide better protection and service to its members.' The presence of a substantial non-exempt purpose – providing property insurance for its members on the basis of assessed premiums – precludes MAA's exempt status as an organization . . . primarily engaged in the promotion of the social welfare."

6. Vision Serv. Plan v. U.S.,
96 A.F.T.R.2d 2005-7440 (E.D. Cal 2005), aff'd 265 Fed. Appx. 650 (9th Cir. 2008)

[1] This case predates the enactment of §501(m), which prohibits some insurance activities of (c)(3) and (c)(4) organizations.

VSP contracted with subscribers to arrange for the provision of vision care services and vision supplies to the subscribers' employees or members. A non-enrolled individual would not receive care. VSP provided some services to charity programs.

The court held that VSP did not operate primarily for the promotion of social welfare. VSP's primary purpose was to serve VSP's paying members. Although VSP provided vision care services to non-enrollees under VSP's charity programs, the provision of these services (free of charge to the individual) was comparatively small in relation to VSP's revenue and number of enrollees.

Relevant language from Vision Serv. Plan v. U.S.:

- "Although the words 'exclusively' and 'primarily' have different meanings, courts interpret the word 'exclusively' to mean 'primarily.' See American Women Buyers Club, Inc. v. United States, 338 F.2d 526, 528 (2nd Cir.1964) ("The word 'exclusively' as used in the statute has not been given a strict interpretation ... but rather has been interpreted to mean 'primarily.') (citing Debs Memorial Radio Fund, Inc. v. Commissioner, 148 F.2d 948, 952 (2nd Cir.1945))."
- "Moreover, it has also been held that '[t]he presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purpose.'" Contracting Plumbers, 588 F.2d at 686."
- "The test for qualification under 501(c)(4) is stringent."

7. In re Vision Serv. Plan Tax Litig.,
105 A.F.T.R2d 2010-2979 (S.D. Ohio 2010)

Same facts as VSP #.6. The court held VSP's charitable and community outreach efforts were minimal in relation to its overall operations and it was not operating "exclusively for the promotion of social welfare." VSP provided charitable and community outreach services to, at most, 0.8% of its total paying enrollment. Although VSP argued that it aspired to spend up to 40% of excess net revenue annually to provide charity care, the court looked at the actual dollar amounts expended and found those amounts to be insignificant.

Relevant language from In re Vision Serv. Plan Tax Litig.:

- "In determining whether an organization is primarily engaged in promoting the general welfare, courts typically compare or weigh an organization's purported charitable activity against its non-exempt activity, which here is plaintiffs' delivery of vision care services to paying subscribers. See, e.g., Better Business Bureau v. United States, 326 U.S. 279, 283 (1945) ('[T]he presence of a single [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes.'); Harding Hospital, Inc. v. U.S., 505 F.2d 1068, 1072 (6th Cir.1974) ("The term

'exclusively' ... means that an organization is not exempt if it has any substantial noncharitable purpose.'); Ohio Teamsters Educational and Safety Training Trust Fund v. Comm'r, 692 F.2d 432, 435 (6th Cir.1982) (same).

III. IRS RULINGS, IRM & MEMORANDA

The IRS has, in some instances, interpreted the requirement established by the §501(c)(4) regulations – that an organization be "primarily engaged" in promoting the common good and general welfare – to mean that (c)(4) organizations may engage in more non-exempt activity than (c)(3) organizations. The Service has based these interpretations on the reasoning that the §501(c)(4) regulations lack the "insubstantial part" language that is present in the §501(c)(3) regulations. However, several internal memoranda have questioned whether the "primarily" language in the regulations is an accurate interpretation of the statue.

Rev. Rul. 66-179

A garden club was held to be eligible for (c)(4) status if a substantial, but not primary, activity consisted of providing social benefits to its members. The social benefits did not further exempt purposes, but because they were less than primary did not prevent exemption under (c)(4), even though they were substantial and would therefore bar exemption under (c)(3).

IRM 7.25.4.6 – Exemption under IRC § 501(c)(3) and (4)

(1) Treas. Reg. § 1.501 (c)(3)–1(d)(2) includes the promotion of social welfare as a charitable purpose within the meaning of IRC § 501(c)(4). Accordingly, there is considerable overlap between IRC § 501(c)(3) and (4).

(2) IRC § 501(c)(4) exempt organizations generally are allowed greater latitude than IRC § 501(c)(3) exempt organizations. Because the IRC § 501(c)(4) test for exemption is one of primary activities, an IRC § 501(c)(4) exempt organization may engage in substantial non-exempt activities.

GCM 32395 (September 14, 1962)

In this GCM, the Office of Chief Counsel considered a proposal to revoke the §501(c)(4) status of a Post of the American Legion. At issue was whether the Post's operation of a staged theatrical production, from which it derived 90% of its annual income, violated section 501(c)(4)'s requirement that an organization described within that section of the Code be "operated exclusively for the promotion of social welfare." Chief Counsel postulated that a revocation of exemption would not be upheld by a court because, "the only way a court could logically uphold such an administrative action would be by saying in effect that the regulations prescribe a less restrictive test than is required by a proper reading of the statute involved."

In its review of the statute and the regulations, Chief Counsel compared the "operated exclusively" requirement of the statute with its interpretation in the regulations, specifically, that the statute's exclusivity requirement is met if the organization is "primarily engaged" in the promotion social welfare. Chief Counsel then opined that, "the cumulative effect of the cited provisions requires the interpretation that anything less than primary engagement in non-exempt activity by an otherwise qualified organization will not bar its exemption under section 501(c)(4)." In view of this reading Chief Counsel concluded that the statute would support a holding which would deny exemption under section 501(c)(4) to an organization substantially engaged in carrying on an activity for profit, but the regulations would not support such a holding. For this and other reasons, the office declined to concur in the proposed revocation of the Post's exemption.

Chief Counsel also stated that the Service should reach a policy decision as to which languaged controlled — the statute or the regulations — before any significant ruling position was adopted, particularly if the IRS sought to adopt a standard whereby any substantial non-exempt activity would defeat exemption under section 501(c)(4).

GCM 33495 (April 27, 1967)

The GCM considers the interplay between (c)(3) and (c)(4) when an organization engages in "action" activities. The GCM provides a history of the (c)(4) statutory language and states that recent court decisions (American Women Buyers Club) interpret "exclusively" to mean "primarily." The GCM also states "We do not accept the premise that once an organization participates substantially in activities of the action type, it necessarily must follow that it no longer operates "exclusively" for the promotion of social welfare."

GCM 38215 (December 31, 1979)

The GCM does not define "primary," rather it states that so long as social welfare is primary then everything else is permissible. See also GCM 32394 (Sept. 14, 1962) (no quantitative test on non-primary activities if meet primarily test); GCM 32395 (Sept. 14, 1962) (can do anything less than primary and remain exempt).

GCM 38215 notes that "the implementing regulations have remained unchanged since their issuance in 1959" (then 20 years ago). GCM 38215 states that the regulations were questioned in GCM 32395 and that regulation projects were initiated shortly thereafter, in 1963, but no further formal action was taken on them after referral to the Exempt Organizations Council.

Copies of three memoranda attached to GCM 38215 (Mar. 31, 1978, memorandum from Director, Interpretative Division to Deputy Chief Counsel (Technical); Nov. 21, 1979, memorandum from Director, Employee Plans and Exempt Organizations Division to Technical Advisor; Dec. 6, 1979, memorandum from Technical Advisor to Chief

Counsel-to Director, Interpretative Division – each discussed infra) further discuss proposed amendments to the IRC § 501(c)(4) regulations.

GCM 32394, upon which GCM 38215 relied, concluded that if the exempt organization's primary activity is social welfare then there is no quantitative test applied to nonexempt activity. GCM 32395, upon which GCM 38215 relied, concluded that anything less than "primary" will not bar exemption pursuant to IRC § 501(c)(4).

Background Information Note 75-05-04822 (March, 1975)

The Background Information Note (BIN) 75-05-04822 (Mar. 1975) cites GCM 33495 (Apr. 27, 1967) for the same proposition espoused supra: that a IRC § 501(c)(4) organization is permitted to conduct as much non-exempt activity as it wants so long as it is "short of being the organization's primary activity." See GCM 33495. The BIN also cited GCMs dealing with IRC § 501(c)(5) and (c)(6) as analogies, requiring that the exempt activity be the primary activity. See GCM 36286 (May 22, 1975) (non-exempt receipts and expenditures were 1/5 the amount of qualified IRC § 501(c)(5) exempt expenditures; if primary purpose and activities of an organization qualify pursuant to IRC § 501(c)(5) then some non-qualifying participation in activities or expenditures will not disqualify organization); GCM 34233 (Dec. 3, 1969). The BIN provides no definition of what "primary" means or how it is to be measured. However it notes:

> Shortly after our ruling letter to the organization was issued the Philadelphia Inquirer ran a story entitled 'It's Active Politics N.O.W.' indicating that the I.R.S. had officially permitted the organization to engage in up to 49 percent of its activities in politics. This story generated numerous Congressional and public inquiries concerning the Service's position on the political activities of exempt organizations.

In the markup of the ruling attached to the BIN, the proposed ruling states (strikeouts in ~~strikeout~~, additions in *double underline italics*):

> In order to qualify for exemption under 501(c)(4) of the Code, an organization must be primarily engaged in activities that promote social welfare. . . Thus, am organization that is exempt under section 501(c)(4) may carry on some political activities so long as the organization's primary activities ~~remain those~~ *are activities* that ~~constitute the~~ promot~~ion of~~ social welfare.

Interpretative Division Memorandum (March 31, 1978)

The March 31, 1978, memorandum from Director, Interpretative Division to Deputy Chief Counsel (Technical) begins by noting that the proposed revenue ruling "prompted a reexamination of a perennially troublesome question: Should the Regulations implementing 501(c)(4) be changed?" because the regulatory language ("primarily") differs from the statutory language ("exclusively"). The memorandum states "it has long

been recognized that they [the IRC § 501(c)(4) regulations] are an unduly broad interpretation of the statute."

The March 1978 memorandum cites GCM 32394, GCM 32395, and GCM 33495 and interprets, as discussed supra, these GCMs concluding that the rule for an IRC § 501(c)(4) organization is that it can engage in any non-exempt activity so long as it is less than primary. "[I]f an organization is primarily engaged in activities promoting the social welfare, there is no additional quantitative test to be applied to it activities that are not promoting social welfare. . . ."

In light of all of this, EO suggested recommending to Treasury that the "primary activities" test be eliminated from the regulations and inserting an "exclusive" test permitting no more than an insubstantial amount of activities not in promotion of social welfare. The Director, Interpretative Division, however, recommended against amending the regulations at that time. The Director believed that it was highly unlikely that an IRC § 501(c)(4) reg. project would be approved at the time even though there was "substantial agreement that the current Regulations are deficient." The Director noted that,

> The big difference between the "primary" tests of the respective Regulations as finally adopted is . . . [the] 501(c)(3) Regulations . . . [have more stringent language requiring that no] more than an insubstantial part of its activities is in furtherance of an (c)(3) purpose. Thus, at least, no 51% - 49% dichotomy between the quantum of qualifying and nonqualifying activities will be tolerated under the section 501(c)(3) Regulations, as it seems to be under the section 501(c)(4) Regulations.

He went on to state: "While we believe the test in Treas. Reg. § 1.501(c)(3)-1(c)(1) is wrong as applied to section 501(c)(3) organizations . . . we are inclined to think it might be a reasonable test under section 501(c)(4)." He further stated that extensive and protracted efforts from 1975 to 1977 were made, without success, to amend the IRC § 501(c)(3) regulations. Additionally, the impact of recent legislation (UBIT and IRC § 527) which have "diluted" the IRC 501(c)(4) exclusively/primarily problem.

Memorandum from Director EP/EO (November 21, 1979)

The November 21, 1979, memorandum from Director, Employee Plans and Exempt Organizations Division to Technical Advisor concurred with the recommendation of Interpretive Division "that any proposal to amend the Regulations under section 501(c)(4) be dropped at this time, and the position reflected in Rev. Rul. 67-368" continue to be followed regarding a "quantitative test" for non-qualifying activities of an IRC § 501(c)(4) organization.[2] The Director also concurred that the "most serious problems emanating from the 'primary' test have been eliminated by the extension of the unrelated business income tax to section 501(c)(4) organizations if the non-qualifying,

[2] Rev. Rul. 67-368 states that political intervention does not further social welfare and that an organization whose primary purpose is political intervention therefore does not qualify under § 501(c)(4).

but less than primary, activity of a social welfare organization is business activity." He also agreed with the assessment regarding the impact of IRC § 527.

The December 6, 1979, Memorandum

The December 6, 1979, memorandum from Technical Advisor to Chief Counsel to Director, Interpretative Division concurred with the recommendation that no project to amend the regulations be taken at that time. The Technical Advisor was of the opinion that "the problems with the § 501(c)(4) 'primary activities' test are clearly lessened by § 527 and the extension of the unrelated business income tax.

Measurement of activities not in furtherance of exempt purposes

The IRS has not published a precise method of measuring exempt activities or purposes in any of its published guidance, though three revenue rulings have stated that all of the organization's activities must be considered and that there is no pure expenditure test. See Rev. Ruls. 68-45, 68-46, 2004-6.

Internal training materials have stated that time, financial resources, and number of employees are factors that must be considered in a determination of whether a certain activity constitutes a primary activity of an organization.

DRAFT

Appendix: List Of Questions Used to Evaluate "Primarily"

- How was the Organization formed and what is its history? *[Contracting Plumbers Coop. Restoration Corp. v. U.S.]*
- Is admission to the Organization limited or is it open to all? *[American Women Buyers Club, Inc. v. U.S.]*
  - On what basis is admission limited?
- What benefits did the Organization confer on non-exempt persons and/or entities? *[American Campaign Academy v. CIR]*
- Does the Organization have more than one activity (*e.g.*, 1 EO and 1 for profit)? (if it does:) *[People's Educ. Camp Soc'y, Inc. v. CIR]*
- What civic betterments and social improvements do you provide to the people of the community (what effect does the Organization's operations have on the public)? *[Rev. Rul. 74-17, 80-205, People's Educ. Camp Soc'y, Inc. v. CIR]*
- Does the organization provide substantially different benefits to the public than to its members? *[Vision Serv. Plan v. U.S.]*
- What portion of the community benefits on account of the Organization's activities? *[Rev. Rul. 80-205]*
- What activities did/does the Organization engage in for the benefit, pleasure, or recreation of its members? *[Rev. Rul. 61-158, 66-179]*
- Is the Organization involved in political activities? If so, what are those activities? *[Rev. Rul. 67-368]*
- What non-exempt businesses did/does the Organization engage in? (if carrying on a business with the general public similar to businesses that operates for profit not exempt) *[Rev. Rul. 61-158, 68-46, 78-89]*
  - What is/are the source(s) of the Organization's income? *[Rev. Rul. 68-45, 68-46]*
- What did the Organization "primarily" use its income for (break down of these expenses)? *[Rev. Rul. 68-45, Form 990-EZ, People's Educ. Camp Soc'y, Inc. v. CIR]*
- Does the Organization own real property? (if so) *[Santa Cruz Bldg. Ass'n v. U.S.]*
  - Does the Organization rent the property to others?
  - Is rental limited to members of the Organization or the entire community?

_. What does the Organization consider its exempt purpose(s)? *[Form 990-EZ]*

_. In what order does the Organization consider its exempt purpose(s) (starting with most important to least)? *[Form 990-EZ]*

_. How many people benefited from the Organization's exempt purposes? *[Form 990-EZ]*

_. How much time was devoted to each activity? *[Internal PowerPoint]*

_. How much financial resources were devoted to each activity? *[Internal PowerPoint]*

_. What social welfare activities was/is the Organization engaged in (or what services did/does it provide)? *[Rev. Rul. 68-46, Form 990-EZ]*

_. What did the Organization achieve in carrying out its exempt purposes? *[990-EZ]*

_. Where are the Organization's fixed assets located?

_. What is the amount of assets at each location by price and percent of assets?

_. Where are the Organization's personnel located?

_. Where are the personnel located by amount of people and percent of people?

_. How did/does the Organization determine whether the social welfare activity is the primary activity of the Organization?

_. What is the exempt purpose of the Organization's service expenses? *[Form 990]*

_. How many employees does the Organization have? *[Form 990]*

_. Are they full-time, part time, or seasonal?
_. If they are part-time, when did/do they work?
_. If they are seasonal, during what season (months) did/do they work?

_. How many volunteers does the Organization have? *[Form 990]*

_. Are they full-time, part time, or seasonal?
_. If they are part-time, when did/do they work?
_. If they are seasonal, during what season (months) did/do they work?

_. How many employees and volunteers were devoted to each activity of the Organization? *[Internal PowerPoint]*

DRAFT

From: Lerner Lois G
Sent: Monday, March 26, 2012 9:38 AM
To: Judson Victoria A
Subject: Thanks

for the call--I appreciate it--you and I just have very different styles--I express my frustrations openly and I'm guessing you are a bit more close to the vest. Having said that, I also think we live in 2 different worlds. I live in a more "real" world than yours where my staff can't wait for formal guidance to do their jobs. Cases come in and we need to work them with the information we have. When the c4, 5, and 6 guidance on political intervention came out, folks wanted to know where the 3c guidance was. We said loud and clear, while the guidance is about c4,5, and 6, it gives you information about how the IRS would view the activity that will be helpful to you in thinking about where activity c3s contemplate. That is the kind of practical information we need to provide to agents. These are live cases and if all we can give them is published guidance on the extreme ends of the spectrum, they will get themselves in trouble. That is why said I don't care if we have to caveat--we need to provide direction. In any event, we'll keep plugging away. (-:

Lois G Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Friday, April 20, 2012 2:35 PM
To: Park Nalee

First,

Organizations seeking IRS recognition under section 501(c)(4) file a Form 1024 application, which instructs the applicant to provide a detailed description of each of its activities, including the purpose of the activity, how it furthers the organization's exempt purpose, when the activity is initiated, and where and by whom the activity will be conducted.

Whether an organization meets the statutory and regulatory requirements of section 501(c)(4) depends on all of the facts and circumstances, and no one factor is determinative. So, if the applicant organization does not provide sufficient detail to make a determination, or the information provided raises additional issues, such as political intervention or other non-exempt activity, the IRS contacts the organization and solicits the additional information needed to determine whether the organization meets the statutory and regulatory requirements for section 501(c)(4) status.

Lois G.

Lerner

Director of Exempt Organizations

From: Lerner Lois G
Sent: Friday, May 10, 2013 3:21 PM
To: Flax Nikole C; Eldridge Michelle L; Lemons Terry L; Marks Nancy J
Subject: RE: Proposed answers: Washington Post Editorial Board

It isn't the balance I am focused on--it's the idea that we know--that sounds like we track it and we don't. Doesn't look good if it looks like we check to see what side of the aisle an org is on.

Lois G. Lerner
Director of Exempt Organizations

From: Flax Nikole C
Sent: Friday, May 10, 2013 4:17 PM
To: Lerner Lois G; Eldridge Michelle L; Lemons Terry L; Marks Nancy J
Subject: RE: Proposed answers: Washington Post Editorial Board

We know the balance may be off, but we had been told earlier there are a few and this is an important point.

From: Lerner Lois G
Sent: Friday, May 10, 2013 4:09 PM
To: Flax Nikole C; Eldridge Michelle L; Lemons Terry L
Subject: RE: Proposed answers: Washington Post Editorial Board

I can't confirm that there was anyone on the other side of the political spectrum--I think that sentence presumes we keep track of which side of the aisle an or falls--we don't. The one with names used were only know because that have been very loud in the press. I think that line is dangerous

Lois G. Lerner
Director of Exempt Organizations

From: Flax Nikole C
Sent: Friday, May 10, 2013 3:44 PM
To: Lerner Lois G; Eldridge Michelle L; Lemons Terry L
Subject: FW: Proposed answers: Washington Post Editorial Board

Know the numbers are not even, but want to add the following – can you live with it?

From: Flax Nikole C
Sent: Friday, May 10, 2013 3:35 PM
To: Eldridge Michelle L; Vozne Jennifer L; Lemons Terry L; Miller Steven T
Cc: Patterson Dean J
Subject: RE: Proposed answers: Washington Post Editorial Board

Can we add the CAP language?

From: Eldridge Michelle L
Sent: Friday, May 10, 2013 3:15 PM
To: Flax Nikole C; Vozne Jennifer L; Lemons Terry L
Cc: Patterson Dean J
Subject: Proposed answers: Washington Post Editorial Board

Here is the proposed answer based on our discussion. Comments or concerns?

Proposed answer:

Here is our full statement. I have also answered your questions below.

IRS Statement

Between 2010 and 2012, the IRS saw the number of applications for section 501(c)(4) status double. As a result, local career employees in Cincinnati sought to centralize work and assign cases to designated employees in an effort to promote consistency and quality. This approach has worked in other areas. However, the IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we initially centralized them did not. Mistakes were made initially, but they were in no way due to any political or partisan rationale. We fixed the situation last year and have made significant progress in moving the centralized cases through our system. To date, more than half of the cases have been approved or withdrawn. It is important to recognize that all centralized applications WHICH INCLUDE ORGANIZATIONS FROM ALL PARTS OF THE POLITICAL SPECTRUM received the same, even-handed treatment, and the majority of cases centralized were not based on a specific name. In addition, new procedures also were implemented last year to ensure that these mistakes won't be made in the future. The IRS also stresses that our employees - all career civil servants -- will continue to be guided by tax law and not partisan issues.

From: Stromberg, Stephen W [mailto:stephen.stromberg@wpost.com]
Sent: Friday, May 10, 2013 1:46 PM
To: Burke Anthony
Subject: From Washington Post Editorial Board

Hi –

I am writing an on-deadline editorial on the Tea Party/IRS issue, filing by 4:30 p.m. at the latest. At the moment, I have three questions:

Why weren't there protections in place to ensure that selecting out groups of a particular political stripe was not possible? What procedures are in place now to prevent this, both in the tax-exempt office and elsewhere in the IRS?

The IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we initially centralized them did not. Mistakes were made initially, but they were in no way due to any political or partisan rationale. We fixed the situation last year and have made significant progress in moving the centralized cases through our system. To date, more than half of the cases have been approved or withdrawn.

It is important to recognize that all centralized applications received the same, even-handed treatment, and the majority of cases centralized were not based on a specific name.

In addition, new procedures also were implemented last year to ensure that these mistakes won't be made in the future. The IRS also stresses that our employees - all career civil servants -- will continue to be guided by tax law and not partisan issues.

Who has led the investigation into this episode? Is someone else inside or outside of the IRS going to investigate further?

The IRS has internally reviewed this matter. Additionally, this is issue is being reviewed by the Treasury Inspector General.

Thanks in advance.

Best,
Steve Stromberg

Steve Stromberg
Editorial Writer
The Washington Post
Office: 202.334.6370
[redacted]

= Redacted by the Permanent Subcommittee on Investigations

From: Lerner Lois G
Sent: Friday, May 10, 2013 5:54 PM
To: Downing Nanette M; Paz Holly O; Partner Melaney J; Marx Dawn R
Cc: Marks Nancy J
Subject: Stuff

As you both know, we are getting beaten up in the press for all the wrong reasons. Not sure there is much we can do about it--other than hang in and ride it through. When the report comes out, it will start all over again. We need to keep remembering, we did not do what they are alleging. We need to support each other and help our staff get though it too. I did send an voicemail to Cindy and Donna to distribute to impacted employees, who are feeling pretty bad. Cindy is planning on holding a town hall with EO Determinations. Not sure whether you want to do anything with others--if so, please coordinate with each other and talk to Nan Marks before you actually do it. I apologize for being gone during the aftermath, but I can't change that.

We'll touch base when I get back on the 20th. Hang in there--I couldn't ask for better folks to work with.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Sunday, May 12, 2013 12:08 PM
To: Light Sharon P
Subject: Re: Congressional Response with SHORT Turnaround

Thanks. I'm afraid I have little confidence that most folks making the stink care about what is true. They've already decided they know without regard to the facts. Thanks for trying to make things clearer--if not better.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Light Sharon P
Sent: Sunday, May 12, 2013 09:27 AM Eastern Standard Time
To: Lerner Lois G
Subject: Re: Congressional Response with SHORT Turnaround

What a whirlwind, huh? I hope being in Canada will give you some emotional distance from this, too. I'm glad to be helping set the story straight.

From: Lerner Lois G
Sent: Sunday, May 12, 2013 08:29 AM Eastern Standard Time
To: Marks Nancy J; Paz Holly O; Marx Dawn R; Light Sharon P
Subject: Re: Congressional Response with SHORT Turnaround

Everyone-- I just want to thank you for being the very best team a person could wish for and apologize for leaving you with such a huge task.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Marks Nancy J
Sent: Friday, May 10, 2013 07:06 PM Eastern Standard Time
To: Paz Holly O; Marx Dawn R; Light Sharon P; Sweetenberg LaWan A
Cc: Lerner Lois G
Subject: RE: Congressional Response with SHORT Turnaround

Dawn is working the system every which way trying to get access to the letter but she is having no luck. She is taking her lap top home and will monitor over the weekend and forward if it shows up.
LaWan the fast track Congressional you warned Dawn about (thanks for that) needs to get to her, Holly, Sharon and me as soon as possible. I know you get in early so if you could speed it on it's way it would be greatly appreciated. Thanks

From: Paz Holly O
Sent: Friday, May 10, 2013 6:53 PM
To: Marx Dawn R; Marks Nancy J; Light Sharon P
Cc: Lerner Lois G
Subject: RE: Congressional Response with SHORT Turnaround

Do we think there's a chance we'll get to see the letter today? It would be helpful to know if there are more questions beyond the request for documents and names of individuals involved noted below. If we can get the letter over the weekend, perhaps Nan, Sharon and I can talk briefly to agree on approach before we start drafting and Sharon and I could divvy up the letter and start working

---

From: Marx Dawn R
Sent: Friday, May 10, 2013 5:24 PM
To: Marks Nancy J; Paz Holly O; Light Sharon P
Cc: Lerner Lois G
Subject: Congressional Response with SHORT Turnaround
Importance: High

I am forwarding this email to you as advance notice that EO needs to prepare a response to an incoming Congressional from Boustany by Tuesday, May 14th. I do not have the incoming yet but I will forward as soon as the case is assigned to us. This will need to be signed by the Commissioner, so need to build in time for the Commissioner's office review as well.

From: Sweetenberg LaWan A
Sent: Friday, May 10, 2013 4:24 PM
To: Marx Dawn R
Cc: Lerner Lois G; Medina Moises C
Subject: Heads-up etrak case due Tuesday May 14th....

Hey Dawn, heads-up just assigned an etrak case to EO, that has a very short turnaround time on it, Tues May 14th.

Regarding "LA TRACKING - PLEASE PREPARE THE RESPONSE FOR THE COMMISSIONER'S SIGNATURE. Chairman of Committee on Ways and Means, Charles Boustany, wrote about news reports detailing a public apology from the Director, Exempt Organizations, Lois Lerner, about discriminating practices targeting conservative groups seeking tax-exempt status. He asked us to provide all communications containing the words "tea party", "patriot", or "conservative" and the names and titles of all individuals involved in this discrimation by May 15, 2013."

LaWan A. Sweetenberg
Staff Assistant to the
TE/GE Commissioner
office 202.283.2500
voice X-9972
fax X-9973
LaWan.A.Sweetenberg@irs.gov

Advocacy Feedback from QA

Three cases involved:

1. 6103 501(c)(4), Bucket 3
2. 6103 501(c)(4), Bucket 2
3. 6103 501(c)(4), Bucket 2

All three cases were worked by Determinations specialists and submitted to QA for mandatory review. QA approved the case and provided some additional feedback on the cases.

Overall Comments:
All of the cases were granted exemption. Much of the feedback involves distinctions of professional opinion. An overall theme for the feedback focuses on what type of documentation is needed for political advocacy cases.

Recommendation:
Because these political advocacy cases will receive higher scrutiny both internally from QA and likely by third-party FOIA requests, it may be worthwhile to have specialists document their opinions more thoroughly. It may be worthwhile to discuss HOW to document such a grey area. A group discussion on best practices for documentation could be beneficial.

Case 1: the feedback is as follows:
From Reviewer:
12. If you have any comments regarding the questions asked in the development letter(s) please insert them here.

Relevant prints from their web site should have been printed and sent to the org with directed questions regarding the intent and political activities, how the org is under the 51% limits, how they are not just pushing an agenda and platform rather than promoting general social welfare. While the measure of whether they are over or under accepted political amounts is difficult to gauge we never really challenged them on their purposes and activities.

From QA Manager:
Admin record does not support decision. Memo to file not substantiated. % social welfare not certain.

Comment: Disagree
There is no prohibition to having an opinion for a 501(c)(4) organization. "Just pushing an agenda and platform" can be considered social welfare. There is no absolute 51% primary activity test. Because the law is so grey, the conclusion that the organization qualifies for exemption under section 501(c)(4) is ultimately a professional assertion of the specialist.

Recommendation:
Because these political advocacy cases will receive higher scrutiny both internally from QA and likely by third-party FOIA requests, it may be worthwhile to have specialists document their opinions more thoroughly. It may be worthwhile to discuss HOW to document such a grey area. A group discussion on best practices for documentation could be beneficial.

From Reviewer:

18. If you have any comments regarding whether or not the determinations letter was properly prepared, please insert them here.

Org had new address that was not used.

Comment: Agree

Case 2: the feedback is as follows:
From Reviewer:
8. If you have any comments regarding whether the file was appropriately documented please insert them here.

Org has related board. Per research, president/chair of the board is running for state representative for the Republican Party. Research indicates unrelated individual is now the interim executive director. No documentation on this issue.

From QA Manager:
Determ Ltr already issued prior to QA review. Please ensure significant issues documented.

Comment: Agree
The private political actions of an individual are distinct from the organization. A tax law concern would be if the organization was used for the private benefit of the organization. There is no indication in the case file that the organization is being used for the private benefit of the individual. Indeed, the individual stepped back from involvement in the organization. Although there is no tax law issue with this case, the documentation would be enhanced if the specialist noted private benefit was considered and what conclusion was reached.

Recommendation:
For political advocacy case documentation is may be worthwhile for each case to have a comment on considerations of private benefit and whether any private benefit was found.

Case 3: the feedback is as follows:
From Reviewer:
6. You indicated the case was not placed in the appropriate bucket. Please explain what bucket the case was placed in, which bucket it should be placed in, and why.

Case was reconciled to the focused development bucket – should have been general development due to board issues, activity issues, potential benefit issues.

Comment: Disagree
The distinct between buckets 2 and 3 are moot. There is no affect. "Bucketing" is an administrative tool to help assign casework. "Bucketing" does not affect application of the law. (Select of buckets 1 or 4 does affect the case. Bucket 1 is not subject to mandatory review, and bucket 4 will significantly increase the cycle time on the case.)

Recommendation:
Is it worthwhile to continue to have buckets 2 and 3? Should we stop using bucket 2?

If we do rethink the buckets, is it worthwhile to create a sub-bucket to bucket 4 (bucket 4b perhaps)? Such a bucket could note the situation for which an organization does not qualify for

(c)(3) but might qualify for (c)(4). Taxpayers in this bucket could be contacted about a possible subsection switch.

8. If you have any comments regarding whether the file was appropriately documented please insert them here.

Agent cited taking the risk for allowing a two person related board, when the Bylaws state there would be at least three members, and when the initial and only board member had resigned without any indication what his future role would be. Overall the case does not have sufficient documentation for determining primary social welfare activities. Only vague and general descriptions have been provided. See further attachment.

There is a general lack of details regarding the activities and operations of this organization. Their response to the 1312 deals mainly with their board – no questions were asked of their activities.

They indicate they will educate on topics including private economic development. There is no description as to what private economic development may be, who this could be directed towards, who might benefit. The activities of economic development can qualify under multiple Code sections, and can also be adverse to exemption. We have no specifics on what economic development they are covering. Given their percentages, if they are 100% educational they could meet C3. They did not distinguish the difference between what was public economic development versus private economic development. Along with this, they provided no copies or samples of media, educational materials, results of studies, etc. They did not describe who would be producing this media, who they may be contracting with, if there was any relation with board members to these companies, etc. This also applies to the energy activities they have described – no further details were provided or requested on content, ads, media, etc. In all, the org has not fully substantiated that the activities they have proposed are for social welfare. These could be for private purposes, business purposes, or even exclusive educational purposes. Further development should have been done to request more details on how the organization was going to conduct these activities, where their expenses were going, and what they were producing to further their educational purpose.

Comment: Disagree
Organizations are allowed to apply for exemption in advance of operations. When doing so, details on operations may be limited. However, lack of detail does not prohibit a determination. Regarding the board expansion, the organization stated they would be seeking an additional board member. The specialist's risk assessment on this issue is appropriate and documented.

Regarding the economic development concerns, it should be noted the organization plans <u>to teach</u> about economic development and not <u>to conduct</u> economic development. Since the organization is teaching about economic development, concerns of private benefit associated with conducting private benefit are moot.

Regarding the subsection concern, the organization's response to Form 1024, Part II, Question 15 indicates the organization will be conducting indirect legislative activity (even though they responded "no"). They stated they would be "educating the public on… legislation to enhance" economic development. As such, (c)(4) would be more appropriate than (c)(3). For this item, as noted above, some extra effort to document conclusions may be worthwhile

12. If you have any comments regarding the questions asked in the development letter(s) please insert them here.

Org did not explain what happened to the founder once he resigned his board position – is he still involved with org? Why wasn't a third board member named? Why did the founder resign his position? Who does the org intend on hiring for consulting/media/ads? What is a govt affairs expense? Has this org created any materials yet they intend on using in their activities? How will a two person related board establish compensation in the future?

Comment: Disagree

Do answers to these questions change (c)(4) exemption? These questions appear to be "want to know" questions versus "need to know." As such, the documentation would appear to be at the discretion of the specialist's professional opinion.

Recommendation.

As noted above, we may want to come to some consensus on what constitutes sufficient documentation for political advocacy cases.

18. If you have any comments regarding whether or not the determinations letter was properly prepared, please insert them here.

A copy of the letter was not prepared for the POA. A copy for the new address of the org was not prepared. The current letter is addressed to the old board member. Also, although correct, the effective date contains a minor typo.

Comment: Agree

Notes from meeting with TIGTA on January 31, 2013

The meeting started off with an overview of the general format for the discussion as well as some comments and observations from TIGTA and our response to those observations.

- TIGTA pulled some cases that they wanted to discuss with us. They did not think that it would be productive proceed on a case-by-case basis.
- After reviewing our spreadsheet and documents, TIGTA took 13 cases off of their lists (as a note both Judy and Hilary updated the spreadsheets during the meeting to reflect these changes). They cases taken off the list are:
    - Case # 4
    - Case # 14
    - Case # 20
    - Case # 24
    - Case # 31
    - Case # 37
    - Case # 65
    - Case # 72
    - Case # 75
    - Case # 76
    - Case # 82
    - Case # 124
    - Case # 125
- According to TIGTA, their problem is not with the facts of each particular case, but rather the "criteria" used to move the cases in the first place. They are concerned that the criteria was so broad that anything involving advocacy or lobbying could ostensibly be involved
- TIGTA felt that it was odd that there were only two I.R.C. § 501(c)(6) organizations on the list. They thought there would have been more.
- TIGTA noted that the documentation related to the decision on whether to send a case is limited (only check sheet and handwritten notes of "tea party" cases). Without more, it is hard to know whether anything more went into the process, like website reviews, etc.
- In their review, TIGTA stated that they only looked at the initial identification of the case and how it was assigned to the advocacy group. They said that they did not look at the ultimate result or any factors beyond the initial identification (though they often reference the bucket lists in deciding whether the screening process was appropriate).
    - TIGTA stressed that their review was limited to the information that came with the application and anything that the screeners identified in making their determination to send something to the advocacy group.

Notes from meeting with TIGTA on January 31, 2013

- TIGTA noted that it seemed to them that more cases should have first gone to general development. They felt that some cases should have been sent over to advocacy group at a later time, after more development revealed a problem. As an example of this, they cited TIGTA case 12 (EO case 3).
    - In response, Holly stated that there is some concern that the specialists who work in general development may not understand the specialized issues that are presented with these particular cases and may not develop a case properly or even ask the appropriate questions. For example, if an organization mentions holding rallies, the specialist may not think to ask if whether they are political and how they are being conducted.
    - She added that we initially cast a broad net in order to understand the big picture of what was going on. As we learned more, we were able to narrow it down.
    - She also added that the bucketing decisions were not determinative of any final decisions. We issued a fair number of favorable determinations, and have not yet issued any adverse rulings. The impact was that the cases sat for a little longer.
    - She also noted that we have specialized groups for other types of complex cases including group rulings, supporting orgs, etc. Those cases also end up sitting a little longer. Essentially any coordinated efforts will take longer; this situation doesn't occur just in advocacy cases.
- TIGTA stated that they did not think that these cases were treated consistently with other types of organizations, particularly when looking at the evolution of the criteria.
    - Holly thought it was interesting that their list of cases that should have been treated as advocacy cases, but instead were not, was a very small number. She would have thought that if the accusations made against us were true and we were only looking at one side or the other that TIGTA's list of "should have been included" would have been longer and skewed accordingly towards other groups.
    - While she agrees that the screeners used terminology that was not always ideal, she also understood that the operated under several constraints: they only spend 15 minutes per case; they lack the luxury of time to include a lot of documentation/research, etc.
- TIGTA thought that although it was plausible that nothing negative occurred during the identification process, outside people could look at the combination of our initial criteria and the supplemental criteria to make a negative conclusion.
    - Holly agreed again that the language in the BOLO was incorrect, but adds that it was corrected. She has no problem with TIGTA saying that the language was incorrect on the BOLO, but she doesn't think that they can say that the logical extension of the language is that we had a concerted effort to target one group of organizations.
- TIGTA believes that there is documentation saying that these groups were targeted. They base this on the BOLO list, and the fact that the only rationale noted on the screening form is a "✓ tea party" notation. This is problematic for them.

Notes from meeting with TIGTA on January 31, 2013

- Holly informed them that when we have similar cases and issues, the screeners often times call them by a shorthand name, such as what is in their names. She used the newspaper cases as an example. She also added that for many when you say "party" in your name, that is a term of art and it means a § 527 organization.

- Although TIGTA plans to put in their report that a lot of these cases ultimately did have political intervention in them, they have a problem with how the cases were identified.
  - Holly wanted to know if they would acknowledge that we did not target one side or the other.
  - TIGTA responded that they did not look at it in a "right vs. left way." But they will include their results of what "should have gone."

The discussion then turned to comments on the specific cases listed on the case spreadsheet.

- Judy disagreed with the 6103 organization. She also disagreed with the medical marijuana case because it was more marijuana than anything.
- Holly agreed to send Judy and Hilary's comments on those cases to TIGTA. She said the real concern was on campaign advocacy but it was hard to make sure it was focused correctly on items such as rallies, etc.
- TIGTA said that one issue we discussed previously was when an organization stated "in the future we might, but it won't be primary . . . ." They wanted to understand how we handle developing a case when something is mentioned in that way.
  - Holly said this situation comes up regularly in a variety of area, such as international grant-making, scholarships, etc. During the development process we have to flesh all of their activities that they have brought up to us. If they mentioned that they might do an activity, then it is more of a solid idea than the things they didn't mention to us. It is important that we develop these areas because of the role it could play during the revocation process. It may make the difference between retroactive and prospective revocation. Even if the organization has no additional details, we still have to ask the follow up questions or else we are limited with regards to the revocation process under § 7805(b).
- The IRC § 501(c)(3) cases: Holly mentioned cases # 2 and # 26, and said that there were other similar cases that she did not have the numbers for. In those cases she thought it was important to note that they are § 501(c)(3) organizations, not § 501(c)(4) organizations. As such the rules are harsher/more clear cut. She felt that if there was an indication on the face of the application that there may be some political activity on the part of a (c)(3) applicant, then that should be enough to take it off of the TIGTA list.
  - TIGTA agreed to go back and look at this. They didn't make this distinction when they were looking at the cases.

Notes from meeting with TIGTA on January 31, 2013

- Case # 26: When TIGTA looked at the bucketing list, they didn't see any problem activities found during bucketing. The only non-exempt purpose listed on the bucketing sheet was publishing and no other non-exempt activities were observed at that time. If there was nothing found in bucketing, they wonder why this case was picked in screening.
    - Holly replied that bucketing is different than screening and the purposes/questions behind them are different. In screening, the questions being asked are can we get to a yes answer now and if we cannot, what needs to be done with the application.
    - There was a discussion on organizations making a § 501(h) election. TIGTA admitted that they didn't look at the election in the decision making.
    - TIGTA stated that when they see "no nonexempt activities observed" on the bucketing sheet then they have to question how it was pulled from screening.
    - Holly stated that people, even those who are experts, can disagree. She doesn't know that she would look to the ultimate bucketing outcome to determine whether we were right in pulling it from screening. When we get additional information we can narrow down the criteria. She gave an example of the newspaper cases and how we started out more broadly. She also discussed the evolution of the criteria used for the advocacy cases. In May 2012 the criteria was indicators of potential political activity. By that point we have now seen enough to know that in some of these, the issues ended up not ultimately being political activity but instead inurement and private benefit.
    - TIGTA stated again that they have a problem with the perception of the criteria and the evolution of the criteria. For example, the fact that it switched back to more objectionable language at some point is troubling.
    - Holly noted that what is being alleged to have occurred is much more serious that the classification of the cases. It is also the outcome of the cases. There are still cases coming in and the people who are working them are those who went through the specialized bucketing training. There are two people bucketing and they write up a work sheet and then when that it done it goes to Ron to be documented.
    - She agreed to follow up with Ron on the timing of when a case gets added to the spreadsheet by him.
- Case #2: § 501(c)(3) with an affiliated § 501(c)(4)
    - TIGTA thinks that this is another one where the issue was the criteria itself and not the facts of the case. They said that advocacy could lead to political intervention but that they didn't see an intervention here from a screening perspective.

Notes from meeting with TIGTA on January 31, 2013

- Holly noted that when there is a related § 501(c)(4) that can raise a red flag. For example, we must ask whether the § 501(c)(3) subsidizing the (c)(4) activity of intervention/lobbying. Additionally, the (c)(3) is giving money to the (c)(4) then it cannot be used for political intervention. Judy added that if the funds are used for lobbying then it counts towards the limit as well.
- Judy stressed that even for organizations who know these rules or should know them, that we still see a lot of issues in Exams where there is not a clear separation (e.g. shared web sites).
- TIGTA agreed to look at the (c)(3) with affiliated (c)(4) again to see if they see any of the issues we raised.

- Holly mentioned that they should also look at the cases involving leadership training (e.g. 23, 85, etc.). There they train local leaders, elected officials, etc. It could be training of candidates for one political party. Noted that #85, our quality people bucketed differently.
  - Case #23
    - TIGTA said that in bucketing, there weren't concerns of political activity but of private benefit. They thought this case should have gone to general development rather than the advocacy group.
    - Holly discussed examples of political officials on boards and how we need to ask questions about that.
    - Judy reiterated the earlier concerns about general development and explained how it can be problematic later during an examination.
  - TIGTA inquired into the training prior to the May 2012 training. They also wanted additional information about the change in the criteria.
    - Holly mentioned that Judy and Justin did training in 2011. She said they did a CPE CENTRA session in the summer/early fall 2012. She also thinks there may have even been an earlier session with Justin and Siri teaching it. This was training for everyone.
    - As for the criteria, the criteria were broadened again because agents were raising so many cases. Many of which had detailed apps with organizations who were just doing legislative activities.
  - TIGTA wanted to know if the screeners were part of the training in Mary 2012.
    - Holly responded that she believes it was just the agents. The screeners have new BOLO language, but she doesn't think they had a training session on this.

- Case #5 ([redacted] – brought up by Hilary)
  - TIGTA said they didn't see the language in the original application that we said was there.
  - Judy went into TEDS to pull up the application. There are 2 files and one is 908 pages so she couldn't open it. She didn't find the language in the smaller file, but saw that the participants were encouraged to be involved in local, state and federal government by communicating with elected officials.

- Hilary agreed to go back through the file to locate the language. TIGTA admitted that it didn't read all 908 pages to see what was in the application.
  - Hilary sent an email on 2/1 with the language attached. It was on page 3 of their Form 1024, page 3. under their "Community Involvement Program, Ongoing" heading, bullets (1) and (2).

- Case # 7 6103
  - Holly stated that low voter participation was listed as a reason. Anytime someone talks about raising voter participation it can raise a red flag because there is a right way and a wrong way to do voter participation activities.
- Case # 8 – 6103
  - Holly said that the organization talks about organizing around Congressional districts.
  - TIGTA says they couldn't find that language.
  - Judy pulled up the application on TEDS. She informed them that it was in their attachment to the Form 1023, organizational structure. There it says they are organized by Congressional District.
  - TIGTA agreed to go back and look at this.
- Case # 10 – 6103
  - TIGTA said that in their narrative that they hold forums for people of both parties so they aren't sure why we would flag it.
  - Judy said that we have to look into how they are doing it. Inviting both sides isn't enough. They have to ask non-biased questions. It is incumbent upon us to explore how they are conducting the activity.
- Case # 11 6103
  - Holly says that they discuss voter education on a particular political platform. Again this could be one where they are talking about a lot more than just advocacy.
  - Judy said there has to be a weighing were we look and see how much is (c)(4) and how much is other. Sometimes it went to ROO later.
  - Holly added that if you are a screener you are asking if this case is ok now or whether it needs another look. She said that you can't compare that to the bucketing. The bucketing was done by the best of Cincinnati and the best of DC who really looked at it and weighed out everything. That is a very different analysis than the up-front screening.
  - TIGTA wanted to know if we are saying that the criteria are any indicators of advocacy or only significant indicators of advocacy.
    - Holly responded that the criteria mentions significant. But if someone says they are going to do rallies, the question is how much are they really doing. You can't always tell if it is going to be significant at the beginning. If it is a recurring activity, it is impossible for the screeners to make that judgment. If it was a one off event, then no it probably should be sent. But that is different than a recurring activity.

Notes from meeting with TIGTA on January 31, 2013

- Case # 21 6103
  - Holly said there was a line in the app at that needed an additional look. They talk about responsive government, accountability, urging leaders to be responsive, educating citizens about where officials stood on the issues. Maybe this is lobbying but it seems like a lot of direct leaning on the legislators.
  - TIGTA noted that this was one where someone wrote tea party even though that terms wasn't in its name or contained elsewhere.
- Case # 49 6103
  - Holly said they mentioned billboards in their application
  - TIGTA thought that it was only a small percentage of what they were doing.
  - Holly informed them that there isn't an exact percentage that tips it over.
  - Judy added that when you are engaged in other types of advocacy you have to add it all up. People think that if they don't say to vote for or against something than it isn't advocacy but that isn't true for us.
  - Holly added in that there is vague information on the billboards, like the expenses they list for it that makes it seem like they may be spending more around the election on billboards for candidates.
- Case # 55 6103
  - Holly mentioned that they are affiliated with a PAC
  - TIGTA said that they looked at the file and they didn't see this relationship identified until after screening. They don't think it came up until bucketing.
  - Judy pulled up the application on TEDS and showed them where the PAC information was contained on the application.
  - TIGTA agreed to go back and reread the application.

Once cases were discussed, more general issues were discussed again such as the timeline for the report.

- TIGTA added that we are probably going to have to agree to disagree on many of these. Not on the actual facts of the cases, but on the framework used in screening.
- Holly said that to the extent possible, it would be helpful if they could acknowledge our perspective.
- TIGTA wanted to know if we had gotten through the timeliness list and the list of inappropriate questions.
- Holly wanted to know how much time we have to look at it. If we have until March, then we will get through as much as we can.
- TIGTA said in theory they hope to have a discussion draft by the beginning of March. But that if we have concerns about the other spreadsheets to give them a call.
- TIGTA asked about the inappropriate questions list.
  - Holly said that Judy made that original list herself and it was not vetted. We can potentially see how/why some of them were asked, so we may have questions for TIGTA on that list or one items we no longer agree with.

Notes from meeting with TIGTA on January 31, 2013

- TIGTA discussed the 270 day issue and how many organizations could have filed in court because of the delays.

We then took a break so that Lois could speak with TIGTA

- Lois stated that she was frustrated over what appears to be confusion about the purpose of the audit.
- TIGTA said that the purpose was whether there was any targeting of organizations and of so, what were the consequences.
- Lois felt that the purposes were similar to what TIGTA said, but slightly different in important regards. She phrased the purpose as whether there was a political bias shown in our actions. In her mind, with all that has gone on, where the allegations have come from, and the allegations of political bias for one side or the other, that she thought that is what TIGTA was looking at.
- Lois agreed that the initial articulation on the Cincinnati BOLO list was bad, but said the real question was whether then made us act badly. And it did not. She also added that we have fixed the BOLO list issue. That is a very different problem than one where we say that the list created a problem that couldn't be fixed.
- Lois also felt that TIGTA did not understand the difference between screening and bucketing. She pointed out that these are different processes with different intentions.
- Lois noted that it is difficult for non-lawyers (like our exams and determs agents) who are looking for clear rules to operate in areas where there are no clear rules. In this situation you can't apply black and white rules. So, in screening, if they thought someone else should look at it, the agents erred on the side of caution. She is not unhappy with our screeners for being cautious because after looking at them, many were moved out.
- Lois felt that there is a disconnect between our thinking and TIGTA's, and would like a meeting with them, Terry, and her people to explain the process.
- She noted that our regulated community looks at the approvals to see what we are allowing organizations to do and the redacted denials to see what we denied. It is incumbent on us to err on the side of caution because of the potential impact of being wrong.
- She also discussed the bucketing process saying that in when it appeared that people were struggling, we sent down our people to help talk them through it and to give them training. We are seeing that the process put in place there really did work.
- TIGTA discussed that the period they look at was before May 2012. They looked to see three things:
    - Was there targeting?
    - Were there delays?
    - Were there unnecessary questions?
        - Noted that the delay in getting guidance from DC was 13 months. That wasn't biased, but it was delayed.

Notes from meeting with TIGTA on January 31, 2013

- Lois noted that it was important to distinguish between the actions and the motivations between the actions. There is a big difference between bad judgment and bias. She asked if they had any examples of anyone acting with bias.
    - TIGTA responded that at the beginning there was one person who pulled out information on TEDS just based upon the names of the organizations (e.g. tea party, liberty, patriot, etc.). That individual received advice to conduct the search in that manner. They think that searching for names or beliefs is targeting.
    - Lois said that may have been one individual but there was never institutional IRS bias. There was never direction from anyone in management to target anyone. She said it was less targeting than not providing them with the tools needed early on.
    - Holly added that if you look at the list of organizations, not all have those terms in their names. That was not the sole basis for an organization to be included in a list of advocacy organizations.
    - Lois asked whether the whole process was bad if it flowed from one poor choice.
- Lois thinks both sides should ask:
    - What are the things left unanswered or not explained if the IRS was indeed targeting organizations?
    - Where are the places that EO hasn't explained the process/law well enough for TIGTA to understand what we are saying?

To Do List:

1. Send Judy and Hilary's comments to TIGTA on the cases that TIGTA thought should go.
2. Send an updated list to TIGTA with the cases, buckets, statuses, etc.
3. Forward TIGTA the information Hilary and Judy found on the [redacted] 6103 [redacted], [redacted] 6103 [redacted], and the [redacted] 6103 [redacted] cases.
4. Check on how the person managing the status updates on the list checks/verifies the status.
5. Hilary will go back through the language in the [redacted] 6103 [redacted] case
6. Look at the lists sent to us by TIGTA on unnecessary questions and submit comments.
7. Look at the list sent to us by TIGTA on the timeliness issue and submit comments.

Get Greg Kutz

Lerner Lois G

From: Paz Holly O
Sent: Monday, March 25, 2013 8:20 AM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: TIGTA

I am planning to leave for the airport around 9:30. That way, I hope to be through security and able to join the 11 by phone until I have to board. You asked me to shoot you an email reminding you of the two major points you wanted to make with TIGTA:

1. The report lacks any reference to or information regarding the broader context (such as how difficult it is to determine what constitutes political activity and whether political activity is a c4's primary activity). Without this broader context, the report could appear slanted in one direction.

2. The report contains several instances of speculation lacking any support (i.e. speculation that the wait for a determination adversely impacted org's fundraising, speculation that orgs did not file required 990s while awaiting a determination because they had not engaged in any activity).

Holly

not political - advocacy
3 types advocacy

you say we intentionally only pulled orgs w specific names.

Decisions re: what had intoicators of pol intervention & what didn't - RA admitted they had not read completely the file

91 cases they disagreed w ≠ read entire file disturbing
• ≠ get law right - get and guessing our legal decisions
c4 can do c4 stuff without an application, or pending

3/25/2013

Cook Janine

From: Cook Janine
Sent: Wednesday, April 04, 2012 8:46 AM
To: Judson Victoria A
Subject: FW: Follow -up

Vicki, sharing this with you so you know what I explained to Lois since she is still pushing back. I didn't think a phone call today with her would be productive (although more information on what they are doing would be helpful overall and would have been helpful to understand earlier than these last few days). I think she needs to see the document first as she may be more satisfied than she thinks (other than the lack of categorizing factors).

I thought about copying you but instead just sprinkled your name throughout to indicate you are fully engaged with this.

From: Cook Janine
Sent: Wednesday, April 04, 2012 8:43 AM
To: Lerner Lois G
Subject: RE: Follow -up

Susan filled me in on all the helpful info from Joe on both past and pending congressionals. What also is coming into clearer focus for us based on emails and conversations these past few days is that there are different "buckets" (for lack of a better term) of work--

(1) apps that are on hold (all 3/4s to my knowledge)
(2) prospective exam activity on any kind of c org doing political activity, for which there is training on 2/23, and
(3) Prospective (?) exam activity on 4/5/6s that haven't applied.

I'm not sure about the intended scope of either (2) or(3). And I appreciate that I may still not be describing them correctly. We didn't have an initial understanding of these latter 2 or how you wanted the guidesheet to be useful for (2) as well as (1). It would help me to have a better feel for what projects (and their scope) are on your plan (written or otherwise) so I can better understand your needs, priorities, challenges, etc. If there is a way I should've had that information earlier that I missed--I looked at strategic plan but its light on details (smile)--please let me know so I can do a better job being aware of overall plans and thus be all the more ready to support you.

Having said all that, Vicki and I do have a sense of the challenges you are under here and that frankly you're being caught between a rock and a hard place. We appreciate that the IRS can make decisions to do things without our advice and in disagreement with our advice. We expect that Nikole/steve will weigh all the pieces here--admin needs and sensitivities--and make an informed decision. Our role here is to advise you and thus them on what we think is the appropriate document to put out for agent use. While much of what you do everyday falls into the highly sensitive category, I venture to say that this has got to be one of the top at this time. Accordingly, our legal advice is to follow as closely to the guidance line as possible in what is disseminated and thus publicly available--formal or not, we all know it will be scrutinized. Again, I appreciate (at least somewhat) the difficult position you are in, but Vicki's and my advice remains the same, pending a different instruction from either our bosses or if Nikole/Steve want to move a different direction. Vicki and I have discussed this very briefly with Bill Wilkins and Erik Corwin at our biweekly and they indicated agreement with our view.

As I indicated, we will be getting you the doc by COB today. The work on hold that understandably has to move forward are the apps in (1) above. (Whether there is any flexibility on timing of (2) is clearly an IRS call.) What we are sending back is a document--following the structure your team put together-- that will clearly help agents gather facts needed to move the applications forward. A "fact-gathering document" as you mention below. There will be a brief mention of application to 5/6s and we can also provide some additional foundational text on 5/6s that could be included.

The key difference is that we are ensuring everything is traceable to legal standards or positions in guidance. The main consequences are cutting back on what is said about 5/6s and not categorizing factors. If you look at it and want to put those things back in, that will be the place where IRS can decide to do more than counsel advises. Since we've not been able to discuss this together with Nikole, we are providing the doc we can support. If Steve/Nikole decide to do more, we'll

scramble to provide any final assistance you need from us.

While I'd very much appreciate more information on these matters, I'm bouncing between a number of meetings today. How about we see where we stand after you get our draft later today?

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, April 03, 2012 6:22 PM
To: Cook Janine
Subject: Follow -up

I just talked to Joe Urban who had come back from 1111 after bringing Susan up to speed on where we are on the Congressional. I'm thinking perhaps it would be useful for me and Joe Urban to sit down and explain to you the practical realities of Counsel's position that you don't want to include anything regarding c5s and 6s in the guide sheet and don't like the idea of a check sheet.

Based on what Joe tells me about his conversation with Susan, I think there may be a big disconnect between how Counsel sees our job as tax administrators and your job as advisors to the administrators. I know everyone is trying to provide us with the best advice, and I whole heartedly appreciate that. But, at the end of the day, my job is to deliver the work. I have to do that with or without your comfort and blessing. I can't send applications back or hold on to them because the IRS/Treasury have not put out formal guidance on a particular set of facts and circumstances.

Perhaps if you have a better understanding of what is on my plate and the resources and timeframes in which I have to complete the work, you will be able to get to the place we previously discussed. We are not asking you to "create" new guidance, rather in the context of the guidance we have, to help us give staff a way to think about the issues in their cases. The guide sheet is not an official IRS interpretation of the Internal Revenue Code. It does not reach a conclusion on how the IRS applies the law to a specific set of facts. Instead, it is a fact-gathering tool to assist agents in gathering facts in a consistent fashion.

I know you suggested just including c3 and c4 information in the guide sheet--that just won't work. So, if--as we initially agreed--you can tell me specifically what parts of the draft we sent give you heartburn and why, we will try to lessen the heartburn. Ignoring pieces or not speaking to them because Counsel is not comfortable is NOT an option for me. The work is here, my folks need to do it, and they will regardless of what we give them. Our job is to provide them with the best tool we can.

As we are already way behind on getting this out to staff, I'd appreciate getting your comments on the draft by Friday. Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Spellmann Don R
Sent: Tuesday, July 19, 2011 3:01 PM
To: Cook Janine
Subject: RE: Advocacy orgs

Or that the tie goes to the taxpayer, even if the law is not clear. Yet TP's don't have much leverage with contesting c4 rulings (unlike c3's). It will be an interesting discussion.

From: Cook Janine
Sent: Tuesday, July 19, 2011 3:51 PM
To: Spellmann Don R
Subject: RE: Advocacy orgs

yes. guess they are thinking they'll have suspicions about reality but the paper/reps will pass muster.

From: Spellmann Don R
Sent: Tuesday, July 19, 2011 3:35 PM
To: Cook Janine
Subject: RE: Advocacy orgs

Thank you Janine. This line in particular stood out: "We suspect we will have to approve the majority of the c4 applications." That's an interesting posture.

From: Cook Janine
Sent: Tuesday, July 19, 2011 10:35 AM
To: Spellmann Don R
Subject: FW: Advocacy orgs

for next week's meeting.

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 19, 2011 10:25 AM
To: Cook Janine
Cc: Marks Nancy J
Subject: RE: Advocacy orgs

Below is some background on what we are seeing:

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
- The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.

1 The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

Lois would like to discuss our planned approach for dealing with these cases. We suspect we will have to approve the majority of the c4 applications. Given the volume of applications and the fact that this is not a new issue (just an increase in frequency of the issue), we plan to EO Determinations work the cases. However, we plan to have EO Technical compose some informal guidance re: development of these cases (e.g., review websites, check to see whether org is registered with FEC, get representations re: the amount of political activity, etc.). EO Technical will also designate point people for Determs to consult with questions. We will also refer these organizations to the Review of operations for follow-up in a later year.

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]
Sent: Monday, July 18, 2011 3:08 PM
To: Paz Holly O
Subject: Advocacy orgs

Holly,

Do you have any additional background for meeting next week with Lois and Nan about increase in exemption requests from advocacy orgs? Thanks!

Janine

Cook Janine

From: Judson Victoria A
Sent: Thursday, March 08, 2012 11:51 AM
To: Wilkins William J; Corwin Erik H
Cc: Cook Janine
Subject: RE: Heads up on Draft Guide Sheet for advocacy organizations

In their discussion, Treasury has been focusing on items that are published in the I.R.B., so this is not what they have been talking about. However, my guess is that they would also want to be seeing items like this one. We will fill you in more during our bi-weekly. The problem here is that we did not see it till very late in the game and, I have heard third hand, there were communications problems on the Commissioner side as well.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
Phone: 202-622-6000
Fax: 202-622-3865

From: Wilkins William J
Sent: Thursday, March 08, 2012 9:56 AM
To: Corwin Erik H
Cc: Judson Victoria A
Subject: RE: Heads up on Draft Guide Sheet for advocacy organizations

Isn't this the kind of subreg guidance that Treasury is complaining about not seeing in advance?

From: Cook Janine
Sent: Wednesday, March 07, 2012 8:03 PM
To: Wilkins William J; Corwin Erik H
Cc: Judson Victoria A
Subject: Heads up on Draft Guide Sheet for advocacy organizations

Bill and Erik

Just an awareness item for you on something that Steve Miller is talking about with EO on Friday. As you may be aware, over the past year EO has received an uptick in applications for c3 or c4 status from entities that will advocating for positions/issues and in some cases candidates. General issue advocacy may be fine, but depending on which status is at issue, lobbying may need to be limited and intervention in political campaigns may be forbidden altogether or limited.

EO prepared a guide sheet that it had provided to its Determinations function for use in processing the applications, principally those requesting c4 status but also c5 (labor orgs) and c6 (business leagues) status. Last week, EO Director Lois Lerner was in a meeting on the Hill and is talking again with folks from SFC this Thursday. As I understand it, they are asking questions about how the IRS is processing these applications because the IRS folks involved are asking a lot of detailed questions, taking too long, etc. The Hill wanted to see the guide sheet that is in use and also wants it released publicly.

EO shared it with us last week to see if it was ready then to share with the Hill and our reaction was no (a good start, but it needed corrections, additions, deletions change in structure, etc). Our folks worked quickly in the limited time given to restructure it a bit, taking out a few questions that weren't supported by guidance already, adding legal authorities, etc. EO is looking at the revised version and I believe will share with Nikole and Steve to get their take. We'll be talking with them again in the next few days to further improve the document.

We'll keep you posted on general developments, but in the meantime, we've attached the latest draft in case you wanted to glance through it. But in any event, wanted you to be aware of this sensitive matter and how the IRS is approaching it. Will provide any update at our biweekly on Friday.

Janine

<< File: Guide Sheet Counsel Comments 03-07-12.doc >>

Subject:	Advocacy Orgs Meeting
Start:	Mon 7/25/2011 7:00 AM
End:	Mon 7/25/2011 7:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lowe Justin
Required Attendees:	Lowe Justin; Megosh Andy; Kastenberg Elizabeth C; Hull Carter C; Goehausen Hilary; Marshall David L; Franklin Amy B
Optional Attendees:	Seto Michael C; Fish David L; Griffin Kenneth M

When: Monday, July 25, 2011 8:00 AM-8:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

David Marshall and Amy Franklin, who are working on the advocacy organization cases in Chief Counsel, suggested that we meet so that they can gain a better understanding of the big picture surrounding these cases and so that we can discuss some of the broad legal issues together. This sounds like a good idea to me as the issue is a tricky one and the more collaboration we have, the better.

From looking at people's outlook calendars, it appears Tuesday, July 26th, is mostly open on the EO:R&A side, so I picked a time when 355 was available. David M., if this time works for you guys, great! If not, just let me know what would work better.

Thanks,

Justin

From: Spellmann Don R <Don.R.Spellmann@irscounsel.treas.gov>
Sent: Friday, August 05, 2011 8:27 AM
To: Lowe Justin
Subject: RE: Draft (c)(4) Primarily Standard Paper

That sounds fine Justin. We'll catch up (and see you) next week.

Have a great weekend.

Don

From: Lowe Justin [mailto:Justin.Lowe@irs.gov]
Sent: Friday, August 05, 2011 8:44 AM
To: Spellmann Don R
Subject: RE: Draft (c)(4) Primarily Standard Paper

Hi Don, good to see you as well!

I should clarify: the 19th date is just when the first level drafters (Amy, Dave Rifkin, and myself) plan to circulate the draft to you, David Marshall, Judy, and Joe Urban, for the conceptual comments, etc. So no need to worry about looking at it before then, we'd like to circulate it to you guys all at the same time.

Yes, Amy and I had planned to touch base on Monday. We definitely don't want to overburden her with this as I know there are a lot of other things moving at this point.

Sound good?

Thanks,

Justin

From: Spellmann Don R [mailto:Don.R.Spellmann@irscounsel.treas.gov]
Sent: Thursday, August 04, 2011 10:23 PM
To: Lowe Justin
Subject: RE: Draft (c)(4) Primarily Standard Paper

Hi Justin,

It was good to see you today. We look forward to working with you on this most interesting (and challenging) project.

As you know, Amy has pulled the 1950's reg file and is going through it for clues. I understand she will try to touch base with you on her progress on Monday. With her upcoming vacation the week after next and other pressing projects, I expect that will be the most assistance she will be able to provide to us prior to the 19th. I (and hopefully David Marshall) will be sure to give this paper a close read and get back with you before the 19th with at least some conceptual comments so that we can keep this moving.

Any questions or concerns in the meantime, please let me know.

Thank you.

Don

From: Lowe Justin [mailto:Justin.Lowe@irs.gov]
Sent: Friday, July 15, 2011 2:55 PM
To: Franklin Amy
Cc: Urban Joseph J; Rifkin Dave; Spellmann Don R
Subject: Draft (c)(4) Primarily Standard Paper

Hi Amy, attached is a draft of the paper on the (c)(4) primarily standard. The case law section needs some cleanup/tightening, but I wanted to get this over to you for your take. I'll be out next week, but back on the 25th.

Could you please take a look at the reg files for (c)(4) (and perhaps (c)(3)) to search for any clues about why (c)(3) got the insubstantial language and (c)(4) didn't? Attached is an article by Miram Galston that discusses the issue and references an internal memo from Jerome Sebastian, director, Interpretive Division. If we can track that down it could provide some interesting insights.

I've also attached the powerpoint referred to in the draft paper as an "internal training document" that cites 49/51% as the threshold.

From: Seto Michael C
Sent: Thursday, May 12, 2011 3:44 PM
To: Paz Holly O
Subject: RE: Tea Party - Email from TAS

Okay. The current status is: Judy has reviewed our proposed (c)(3) denial and (c)(4) favorable and requested the staff to ask for more information from the taxpayers. We are waiting for the information from the taxpayers. The cases have not gone to Counsel yet.

From: Paz Holly O
Sent: Thursday, May 12, 2011 4:30 PM
To: Seto Michael C
Subject: FW: Tea Party - Email from TAS
Importance: High

Let's discuss this case in the morning. What is the current status of our lost c3 tea party case? Did it go to Counsel yet?

From: Thomas Cindy M
Sent: Thursday, May 12, 2011 2:28 PM
To: Paz Holly O
Cc: Seto Michael C
Subject: Tea Party - Email from TAS
Importance: High

Holly,

This is the email I referenced in my voice message. What is the estimated completion date we should provide to TAS? If we have no date, what do you suggest we say?

Org: [redacted]
EIN: [redacted]
Control Date: 9/20/2010
Subsection: 501(c)(3)

From: Bell Ronald D
Sent: Thursday, May 12, 2011 12:50 PM
To: Thomas Cindy M
Subject: FW: exempt application

Hi Cindy,

I thought I should run this by you before responding. It is in regards to a tea party case. Thanks

Ron

From: Brantley Alesia D
Sent: Thursday, May 12, 2011 12:40 PM

To: Bell Ronald D
Subject: exempt application

Hi Ronald,

Have the National office provided you with a timeframe to let you know when a determination would be made on the case. I need to provide the congressional office with an approximate time, since TP may lose the grant, if a determination is not made on the exempt appl.

Thanks

TP: [redacted] EIN: [redacted]

Alesia D. Brantley
Case Advocate
Taxpayer Advocate Service-Houston
Phone Number - 713-209-4785
Fax Number - 713-209-4779

From: Abner Donna J
Sent: Thursday, July 21, 2011 10:16 AM
To: Paz Holly O
Subject: IRM 7.20.5
Attachments: IRM 7.20.5.doc

Hi Holly,
Attached is the section of IRM 7.20.5 that I referenced in my voice mail. Paragraph "d" includes "Impact" cases and paragraph "x" includes "sensitive political issues" including activities that appear to support or oppose candidates. In the "Emerge" cases both paragraphs support designating the cases for mandatory review.

Even though the IRM indicates these types of cases are subject to mandatory review - the actual process of getting the case to QA is mostly a manual process. The specialist and manager must first be knowledgeable of the IRM requirements, then must prepare a special handling form designating the case for QA Review, enter in the EDS closing screen an "X" to update the case to QA, and then send the case to the QA group instead of to the Records Unit.

I'm also concerned with the cases approved in screening. The screening checksheet does include "Political Activities - Sensitive Issues" among the types of cases "not" suitable for screening. Despite this, the cases were closed on merit with no contact. It might be helpful to pull the admin file to see if the applicant fully disclosed their operations - or - if the screeners/specialists need a reminder regarding political/sensitive cases.

On the positive - our research did not reveal any other cases. There's was only one in [redacted] that might be indirectly connected- [redacted]. It appears to have a broader focus - engaging young professionals in the community. The [redacted] organization was approved on merit June 2009 as a 501(c)(6).

Please let me know if I can help further.
Thanks,
Donna

(3) Mandatory review is a review of open (or "unclosed") cases that are required to be reviewed by Quality Assurance. The EO Determinations groups use Form 3198-A to forward these cases before they are closed on EDS or the applicable processing system. The following cases are subject to mandatory review:

Redacted by the
Permanent Subcommittee on Investigations

Redacted by the
Permanent Subcommittee on Investigations

s. Touch-and-Go (TAG) cases identified as abusive.

Redacted by the
Permanent Subcommittee on Investigations

- Post-election transition teams (to assist the elected official prior to officially assuming the elected position)
- Voter drives
- Voter polling
- Voter education
- Other activities that may appear to support or oppose candidates for public office

Redacted By
Permanent Subcommittee on Investigations

z. Other cases selected for review by the Manager, EO Quality Assurance.

(4) Manager's discretion cases are subject to mandatory review based on a referral by a group manager who believes that a case may have a significant impact. The manager routes the case (still open at the group level) to mandatory review with an explanation as to why the case needs to be reviewed. Quality Assurance should provide an advisory memorandum (Form 5456) on their analysis to the group manager.

From: Paz Holly O
Sent: Monday, August 01, 2011 9:51 AM
To: Lowe Justin
Cc: Kindell Judith E
Subject: RE: Sensitve Political Issues -- CENTRA Session

I'm sorry. Haven't had a chance to mention this to you yet. We did discuss you and Judy doing a centra session for determs as part of the CPE. The thought was that we would expand on the presentation you and Siri previously gave. This session would be 1 hour. Themes would include the importance of consistency in dealing with these cases as well as a reminder of the heightened sensitivity during election season (which has basically started already). The private benefit analysis of Emergs should also be discussed. We definitely want to allow time for q&a as well.

From: Lowe Justin
Sent: Monday, August 01, 2011 8:27 AM
To: Paz Holly O
Subject: FW: Sensitve Political Issues -- CENTRA Session
Importance: High

Hi Holly, I hadn't heard about this from you guys, so wanted to check in and confirm before I wrote back to Cindy. I'm pretty open in the early part of September so scheduling shouldn't be a problem.

I'm not sure how this presentation will differ from the one Siri gave a couple of months ago though? Seems like I'd be covering the same things: Types of advocacy and which types of orgs are allowed to do how much of each.

Thanks,

Justin

From: Thomas Cindy M
Sent: Sunday, July 31, 2011 11:25 PM
To: Lowe Justin
Cc: Paz Holly O
Subject: Sensitve Political Issues -- CENTRA Session
Importance: High

Justin,

During a discussion with Holly and Lois a couple of weeks ago, they indicated that you or Judy Kindell would be giving a 1 hour CENTRA session for EO Determinations employees on sensitive political issues and that the session would most likely take place in early September.

We need to send out information regarding our 4th quarter CPE sessions and would like to have the date you plan to conduct the session. Also, if you want to give the presentation only one time, it'll need to take place during the afternoon to allow for the time difference for our California employees. If you're indifferent, we would prefer to schedule two sessions (one in the morning for half of the employees and one in the afternoon for the other half of the employees).

If you could let me know in the next couple of days so we can get the agenda out to employees, that would be great. Thanks.

From: Paz Holly O
Sent: Monday, July 23, 2012 2:06 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 4:44 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Tuesday, June 14, 2011 10:25 AM
To: Bowling Steven F
Cc: Bell Ronald D
Subject: RE: FW: C3 AND C4 APPLICATIONS BRIEFING

Thanks for info. Not sure how nitty gritty this is going to be. Based on a conversation I had with Holly Paz and Mike Seto yesterday, I think it is going to be more about what action has been taken thus far and plan for moving forward to bring these cases to resolution. Discussion probably won't be about specific cases but more of a general discussion about criteria for determining the cases that are in this group, figuring out if there are like kinds that can be grouped into buckets, changing the label we have assigned to these cases, i.e., tea party cases, to something that is more descriptive for the wide net we are using to capture these cases (all cases included in the net are not tea party cases), etc.

From: Bowling Steven F
Sent: Tuesday, June 14, 2011 10:01 AM
To: Thomas Cindy M
Cc: Bell Ronald D
Subject: RE: FW: C3 AND C4 APPLICATIONS BRIEFING

Cindy,

Ron accepted this invitation and then realized that he is scheduled for leave that week. I have asked him to brief me on a few cases.

STEVEN F. BOWLING

Manager, EO Group 7822

Exempt Organizations Determinations

550 Main Street, Room 4-504

Cincinnati, OH 45202

Tel (513) 263-3704

Fax (513) 263-4540

From: Bowling Steven F

Sent: Tuesday, June 14, 2011 6:53 AM

To: Lerner Lois G

Subject: Accepted: FW: C3 AND C4 APPLICATIONS BRIEFING

When: Wednesday, June 29, 2011 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Room 351 1-866-606-4717 access code 9482833

From: Lerner Lois G
Sent: Monday, January 14, 2013 12:10 PM
To: Paterson Troy D TIGTA
Cc: Paz Holly O; Marx Dawn R
Subject: Advocacy discussion

Hi Troy—
Hope you had an enjoyable holiday. I wanted to touch base with you regarding our preliminary take on your staff's position on the application files they reviewed. I know they have asked for a meeting on the shorter list (cases that were not treated as advocacy cases but your team believes should have been) very soon and have given us a bit more time to look at the longer list (cases that were treated as advocacy cases but your team believes they should not have been). All in all, I believe they are preparing for a meeting with Congressman Issa, where they may be opining on their preliminary take on the review.

Before my staff meets with yours, I thought I'd give you a heads up on what we're seeing in the event you prefer a "smaller" meeting with Holly and me before the staff talk. In any event, I would request you be on the meeting with the staff, as I intend to attend from our end. As you know, the issues here are very sensitive and I know we both recognize that they are not as black and white as some of the issues we deal with, so I think it is important that higher levels on both sides hear the discussion to ensure the best result.

So, to give you a preview, we generally agree with your findings on the shorter list—that the cases should have been included in the group of advocacy cases. We had not yet had time to do this look, which we did have planned, so thank you for providing the information. We still plan to look to see if there are any root causes that might have led to them not being included, so we can better address the issue, and will keep your staff posted on what we find.

As to the larger list, we have not completed our review, but, we are not in agreement with your staff's findings that the cases we have looked at thus far should not have been included as advocacy cases. We think the "disconnect" may come from a misunderstanding about why cases were added to the advocacy group. Your staff's analysis seems to focus on whether the application explicitly stated that the organization participated or intervened in a political campaign. Because the legal analysis of whether specific advocacy is political intervention requires analyzing all the facts and circumstances surrounding that advocacy in light of the formal guidance provided in this area, we included all organizations indicating they were engaged in potentially problematic advocacy, so that they would be worked by specialists who have a better understanding of the facts and circumstances to be considered, and who would be able to analyze the cases in a consistent manner.

Having said that, we are concerned that your staff's analysis to come up with the two lists is not consistent. Let me cite a couple examples for you to think about. The list your staff provided indicates that "given the lack of specifics in the application about the types of activities the organization has/will conduct to establish its goals," [redacted] should have been included as an advocacy case. On the other hand, after noting that the [redacted] "had not begun activities at the time of the application, and there is not enough information about the type of activities planned, staff concluded that the organization should not have been included as an Advocacy case, but sent for general development instead. Both organizations included a general statement that their activities may involve advocacy. [redacted] stated that its purpose is "to promote social and economic justice by, among other things, eliminating racial and economic discrimination in the provision of public and private services, advocating for affordable housing, and increasing the participation of [redacted] in the political and civic life of their communities." [redacted]

[redacted] stated that they "expect to carry out a program of local 'forums' that will help sensitize the public to the need for greater involvement in public activities."

Another set of cases that puzzles us are [redacted], which your list says should have been included as an advocacy case because it did not respond to question 15 of Form 1024 (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?) and [redacted], which your list says should not have been considered an advocacy case even though the application responded yes to question 15.

While at the end of the day, there may very well continue to be disagreement on some cases, I think it would be constructive for us to discuss the apparent differences before we put further pen to paper in a more formal way. Let me know your thoughts. I am out of the office Wednesday and Thursday, but can set something up Tuesday or Friday if you'd like.

Lois G. Lerner
Director of Exempt Organizations

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 2:55 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST
Attachments: Tea Party 4-5-2010.xls

From: Shafer John H
Sent: Tuesday, April 06, 2010 10:00 AM
To: Thomas Cindy M; Camarillo Sharon L
Subject: FW: Tea Party Cases -- ACTION

Cindy & Sharon,

Gary has added a few more cases that he discovered. I have all of the status "75" cases in my office.

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Muthert Gary A
Sent: Monday, April 05, 2010 2:29 PM
Cc: Muthert Gary A; Shafer John H; Shoemaker Ronald J
Subject: RE: Tea Party Cases -- ACTION

TEA PARTY OR POSSIBLE TP CASES AS OF 4/5/2010

	Name of Organization	EIN	Status		From
1	6103	6103	52 - Assigned to 50982 (DC)	Applying under 501(c)(3)	6103
2	6103		52 - Assigned to 50982 (DC)	Applying under 501(c)(4)	
3	6103	6103 6103	Exempt	Applied under 501(c)(4)	6103
4	6103	6103	Exempt	Applied under 501(c)(4)	6103
5	6103	6103	Exempt	Applied under 501(c)(3)	6103
6	6103	6103	75	Applying under 501(c)(4)	6103
7	6103	6103	75	Applying under 501(c)(4)	6103
8	6103	6103	75	Applying under 501(c)(4)	6103
9	6103	6103	75	Applying under 501(c)(4)	6103
10	6103	6103	75	Applying under 501(c)(4)	6103
11	6103	6103	75	Applying under 501(c)(4)	6103
12	6103	6103	75	Applying under 501(c)(4)	6103
13	6103	6103	75	Applying under 501(c)(4)	6103

14	6103	6103	75	Applying under 501(c)(4)	6103
15	6103	6103	75	Applying under 501(c)(4)	
Potential Denials under IRC 501(c)(3)					
16	6103	6103	75	**Applying under 501(c)(3)**	6103
17	6103		75	**Applying under 501(c)(3)**	
18	6103		75	**Applying under 501(c)(3)**	

Cases 1 and 2 are currently assigned to T #50982, who is located in Washington D.C.

Status 75 cases are all located in Cincinnati, Ohio and awaiting guidance.

The "Exempt" cases were already granted exemption. The 501(c)(4) organizations are probably not a problem. However, the 501(c)(3) organiz 6103 may have to be researched further.

Case 16 - 6103 - a 501(c)(3) applicant, acknowledges that it is engaged in political activities.

Case 17- 6103 - a 501(c)(3) applicant, is linked to 6103, a 501(c)(4) entity.

Case 18 - 6103 applying under 501(c)(3). However, we have not determined if it's a Tea Party entity.

Gary Muthert
TE/GE, ID #1000203255
Screening Group, Group 7838
550 Main Street
Cincinnati, Ohio 45201
513-263-3639 Phone
513-263-5200 FAX

From: Thomas Cindy M
Sent: Monday, April 05, 2010 12:26 PM
To: Muthert Gary A
Cc: Shafer John H; Camarillo Sharon L; Shoemaker Ronald J; Grodnitzky Steven
Subject: Tea Party Cases -- ACTION
Importance: High

Gary,

Since you are acting for John and I believe the tea party cases are being held in your group, would you be able to gather information, as requested in the email below, and provide it to Ron Shoemaker so that EO Technical can prepare a Sensitive Case Report for these cases? Thanks in advance.

From: Grodnitzky Steven
Sent: Monday, April 05, 2010 12:14 PM
To: Thomas Cindy M
Cc: Shoemaker Ronald J; Shafer John H
Subject: RE: two cases

Cindy,

Information would be the number of cases and the code sections in which they filed under. Also, if there is anything that makes one stand out over the other, like a high profile Board member, etc.., then that would be helpful. Really thinking about possible media attention on a particular case. Just want to make sure that Lois and Rob are aware that there are other cases out there, etc.....

I think once the cases are assigned here in EOT and we have drafted a development letter, we should coordinate with you guys so that you can at least start developing them. However, we would still need to let Rob know before we resolve any of these cases as this is a potential high media area and we are including them on an SCR.

Ron-- once you assign the cases and we have drafted a development letter, please let me know so that we can coordinate with Cindy's folks.

Thanks.

Steve

From: Thomas Cindy M
Sent: Monday, April 05, 2010 11:59 AM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J; Shafer John H
Subject: RE: two cases

What information would you like? We are "holding" the cases pending guidance from EO Technical because Holly Paz didn't want all of the cases sent to D.C.

From: Grodnitzky Steven
Sent: Monday, April 05, 2010 11:56 AM
To: Shoemaker Ronald J; Thomas Cindy M
Subject: RE: two cases

Thanks. Can you assign the cases to one person and start an SCR for this month on the cases? Also, need to coordinate with Cincy as they have a number of Tea Party cases as well.

Cindy -- Could someone provide information on the Tea Party cases in Cincy to Ron so that he can include in the SCR each month? Thanks.

From: Shoemaker Ronald J
Sent: Monday, April 05, 2010 11:30 AM
To: Elliot-Moore Donna; Grodnitzky Steven
Subject: RE: two cases

One is a c4 and one is a c3.

From: Elliot-Moore Donna
Sent: Friday, April 02, 2010 8:38 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

The Tea Party movement is covered in the Post almost daily. I expect to see more applications.

From: Grodnitzky Steven
Sent: Thursday, April 01, 2010 4:04 PM
To: Elliot-Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

These are high profile cases as they deal with the Tea Party so there may be media attention. May need to do an SCR on them.

From: Elliot-Moore Donna
Sent: Thursday, April 01, 2010 7:43 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

I looked briefly and it looks more educational but with a republican slant obviously. Since they're applying under (c)(4) they may qualify.

From: Grodnitzky Steven
Sent: Wednesday, March 31, 2010 5:30 PM
To: Elliot-Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

Thanks. Just want to be clear -- what are the specific activities of these organizations? Are they engaging in political activities, education, or what?

Ron -- can you let me know who is getting these cases?

From: Elliot-Moore Donna
Sent: Wednesday, March 31, 2010 10:30 AM
To: Grodnitzky Steven
Subject: two cases

Steve:

Re: Two "tea party" cases

6103 and 6103

Cases are applying for exemption under section 501(c)(4).

Holly accepted the cases for EO Technical. Copies of email exchanges between Cindy Thomas and Holly in case files.

The concern is potential for media attention.

They will be assigned to Group 2.

FYI

Donna

From: Thomas Cindy M
Sent: Monday, March 25, 2013 9:41 PM
To: Fish David L; Seto Michael C
Cc: Light Sharon P
Subject: FW: Advocacy Case - Congressional Inquiry

Importance: High

Follow Up Flag: Follow up
Due By: Tuesday, March 26, 2013 2:30 PM
Flag Status: Flagged

Could you help to find out where this case is and what is going on with it? We owe Legislative Affairs a response. According to EDS, the case is sitting in the EO Determinations full development unassigned inventory. However, according to the email below from Sharon, QA sent it to D.C. and Liz Ardoin got this case. Does she still have it? If not, where is it; what is being done with it; what are next steps; and, what is the expected completion date?

Gloria Sutton and Eric Hall weren't satisfied with the response provided by Dave Rifkin and reached out to me. Personally, I think it would be best for one of you to respond, especially because of the sensitivity of the case. However, if you prefer that I respond, I have no problem doing that --- just need information. Thanks in advance for your help with this.

EIN - 6103
6103 INC.

From: Light Sharon P
Sent: Thursday, March 21, 2013 4:47 PM
To: Thomas Cindy M; Fish David L
Cc: Paz Holly O
Subject: RE: Advocacy Case - Congressional Inquiry

It got routed here because QA noted that it was like the Acorn successor cases. Liz worked those cases so she got this one. It has been reviewed, I know, so let me check on where it stands now.

From: Thomas Cindy M
Sent: Thursday, March 21, 2013 4:41 PM
To: Light Sharon P; Fish David L
Cc: Paz Holly O
Subject: FW: Advocacy Case - Congressional Inquiry
Importance: High

Sharon - Could you find out what is going on with this case. Legislative Affairs is asking about it and it is my understanding that a copy was sent to D.C. on 9/11/2012. Apparently, Liz Ardoin is preparing a letter.

Supposedly, it is a bucket 3 case which confuses me because I thought D.C. was only working bucket 4 cases.

I replied to Gloria and Eric and let them know that I'm checking into this.

David - I think Dave Rifkin's desk guide needs to be tweaked. I'm starting to get complaints because Legislative Affairs isn't getting enough information regarding their requests.

From: Chumney Tyler N
Sent: Thursday, March 21, 2013 4:21 PM
To: Thomas Cindy M
Cc: Bowling Steven F
Subject: RE: Advocacy Case - Congressional Inquiry

Cindy,

This is a bucket 3 case, the Note on the spreadsheet indicates 'copy sent to DC 9/11/12 wait Liz Ardoin's letter'

Tyler Chumney
TE/GE EOD Group 7823
513-263-4583

From: Thomas Cindy M
Sent: Thursday, March 21, 2013 3:22 PM
To: Chumney Tyler N
Cc: Bowling Steven F
Subject: Advocacy Case - Congressional Inquiry
Importance: High

Tyler,

What bucket is this case in? I know it is in Status 51, but what actions have been taken with it? I need to get back with the Governmental Liaison regarding the case. Thanks.

EIN - 6103
6103 INC.

From: Sutton Gloria I
Sent: Wednesday, March 20, 2013 4:21 PM
To: Thomas Cindy M
Cc: Hall Eric
Subject: Requesting your assistance once more FW: 247 - Inquiry Congressman Grayson- 6103 INC
Importance: High

Good afternoon Cindy.

I was my hope to not approach you again for assistance on an EO Congressional inquiry. However, I have another sensitive case where a congressional office,this time Congressman Grayson, continues to do follow-up with me, due to what the taxpayer describes as a long overdue response from IRS.

The organization, 6103, states they applied for exempt status in October 2011. Other than the CP 5104 received May 15, 2012, they have received no correspondence from IRS. Dave's response below confirms that the case is awaiting assignment. As stated in my original message to Dave, the organization checked our website and they understand that

we are working applications from March of 2012. The organization is expressing frustration due to the fact they applied back in 2011.

In the meantime, I just received a call from the congressman's office. He has has taken a personal interest in this application. Apparently, this organization is awaiting funding from significant foundations. That funding will enable this organization to begin hiring individuals in the Congressman's geographic area--economic impact is now a factor.

If necessary and advised, I will provide the organization with information to explain how to make a request for expedite processing. However, if there is any assistance you can provide, I would greatly appreciate it.

Gloria A. Sutton

Governmental Liaison, North Florida
400 W. Bay Street, Stop 4053
Jacksonville, FL 32202-4437
Tel 904-665-0513 /FAX 904-665-1809

gloria.sutton@irs.gov

From: Rifkin Dave
Sent: Sunday, March 10, 2013 9:55 PM
To: Sutton Gloria I
Cc: Megosh Andy
Subject: RE: 247 - Inquiry Congressman Grayson- [redacted] 6103 [redacted] INC

Gloria,

The case was unable to be screened out on merit. It appears additional information is needed. It has been forwarded to inventory awaiting assignment. The taxpayer will be contacted when the case is assigned.

For *your* info (*not* external to IRS), the cases is in a category labeled "emerging issues." I do not know what that means, but if things have taken time that could be a reason. This cannot be disclosed to the Org or the Congressional office, but at least you know what I know.

Dave

Dave Rifkin
TE/GE, Exempt Organizations

From: Sutton Gloria I
Sent: Tuesday, March 05, 2013 3:53 PM
To: Rifkin Dave
Cc: Megosh Andy
Subject: Congressman Grayson- [redacted] 6103 [redacted] INC
Importance: High

EIN - [redacted]
[redacted] INC.

Rec'd CP 5104 May 15, 2012 stating case required development. T/P has checked website --we are working March 2012. T/P states they submitted their application October 2011.

What is the the status of their application? How long before they know if they will be granted exemption status?

Thanks,

Gloria A. Sutton

Governmental Liaison, North Florida
400 W. Bay Street, Stop 4031
Jacksonville, FL 32202 4437
Tel 904-665-0513 /FAX 904-665-1809

gloria.sutton@irs.gov

From: Ingram Sarah H
Sent: Sunday, January 24, 2010 10:54 AM
To: Lerner Lois G; Marks Nancy J; Livingston Catherine E
Cc: Pyrek Steve J; Schultz Ronald J; Flax Nikole C; Ingram Sarah H; Grant Joseph H
Subject: RE: Political Activity by Corporations

Categories: NUUU

Guys -- I agree with you all -- let's prepare a FAQ that can go on the web and be given to the press office. I think we start with the press office and then work the pros/cons of putting on the web.

Here's my concern -- there are those eager to take the test of the tax-exemption issue to the courts and, if I were them, would be even more eager now. In prior meetings, my proposal that we cooperate with that desire (let's get an answer whatever it is) has not been greeted with enthusiasm at any level. I remain interested in that as one of a number of options, but we have not had the right internal conversations.

Even assuming some discussion of that option, Lois et al. are right we need a quick, plain vanilla, no-news, kinda blurb.

Lois -- I assume these guys will hit us up first thing Monday morning at coffee and in the hallways and not wait for the general session Tuesday. Can you tread water Monday and I'll be firm Tuesday at the 8:30 general session?

From: Lerner Lois G
Sent: Friday, January 22, 2010 6:12 PM
To: Marks Nancy J; Livingston Catherine E
Cc: Ingram Sarah H; Pyrek Steve J
Subject: RE: Political Activity by Corporations

Thanks Nan--Cathy is a good one to have involved. Unfortunately, Judy Kindell is at the ABA so she and I haven't had any chance to talk. What you described in the first paragraph is exactly what I had in mind, but understand that the sensitivity surrounding this issue may mean we just have that piece available in our back pockets so we wouldn't have to scramble later, but initially put the softer item on the web or to our media folks. Sarah--your thoughts?

Lois G. Lerner
Director, Exempt Organizations

From: Marks Nancy J [mailto:Nancy.J.Marks@IRSCOUNSEL.TREAS.GOV]
Sent: Friday, January 22, 2010 6:05 PM
To: Lerner Lois G; Livingston Catherine E
Cc: Ingram Sarah H; Pyrek Steve J
Subject: RE: Political Activity by Corporations

I'm pulling Cathy into this (thanks for being mindful of her unavailability Lois but she has a bit of a window right now and was brainstorming this issue herself). Are you thinking of something like--we've had some inquiries about whether the Supreme Court decision in ... applies to the laws governing political activity by charities followed by a fairly short plain english no which briefly summarizes the constraints (to remind people) distinguishes the opinion and maybe cites to the authority for concluding that these constraints do not violate first amendment rights.

I guess, and this is an issue for Steve and Sarah which I know you've served up to them, the question is whether we take it head on with a general statement or whether we come in softer maybe putting a Q&A on the web site and equiping public affairs with the same Q&A. I might be inclined to the softer approach because so far the public debate does not seem to be running too far off the mark. That is more of a PR call which I happily leave in your hands. (your section of the ACT stampeding--not a pretty thought)

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, January 22, 2010 5:53 PM
To: Marks Nancy J; Ingram Sarah H
Cc: Pyrek Steve J
Subject: RE: Political Activity by Corporations

I'm going to need them by Tuesday at the latest! Sarah--perhaps we can head off the stampede from the EO ACT by a general statement in the larger ACT meeting?

Lois G. Lerner
Director, Exempt Organizations

From: Marks Nancy J [mailto:Nancy.J.Marks@IRSCOUNSEL.TREAS.GOV]
Sent: Friday, January 22, 2010 4:01 PM
To: Lerner Lois G; Ingram Sarah H; Miller Steven T
Subject: RE: Political Activity by Corporations

Thanks Lois I was wondering along the same lines--thought a few plain english Q&A's might be helpful. I gave Bill Wilkins a bit of background and also my read that this didn't change our position on the exempts in case he got the question at the EO lunch at the ABA

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, January 22, 2010 3:16 PM
To: Ingram Sarah H; Miller Steven T; Marks Nancy J
Subject: Political Activity by Corporations

I'm sure you've heard about the S Ct.'s decision in Citizen's United that corporations have first amendment rights and the prohibitions on corporate spending in elections are unconstitutional. While I don't think that changes our legal position--that tax-exemption is a privilege and if you want the privilege you have to play by the rules, I do think we need to be prepared to respond to inquires about c3 and c4 spending in elections. Last November when the opinion was expected, EO practitioners asked if the IRS would put out a press release reminding folks of the c3 prohibition on campaign spending. They weren't arguing about whether the prohibition was legal--instead they were trying to stave off confusion in the event the court struck down the corporate prohibition. I'm sure they will be back asking soon. This also coming on the eve of our hearing on 7611 seems like much fodder for the press. I've asked Steve Pyrek to see if there have been press inquiries, but I am more concerned about folks getting questions on this at speaking opportunities. I know I have a few coming up and it is likely I'll be asked. I know this is a very sensitive issue, so thought it best to raise it with all of you to get high level direction as soon as possible. Thanks
Lois G. Lerner

Director, Exempt Organizations

From: Daly Richard M
Sent: Friday, June 22, 2012 4:10 PM
To: Ingram Sarah H; Lerner Lois G; Marx Dawn R; Urban Joseph J; Marks Nancy J
Subject: FW: 201210022 Engagement Letter
Attachments: 201210022-Engagement_Letter.doc

Importance: High

TIGTA is going to look at how we deal with the applications from (c)(4)s. Among other things they will look at our consistency, and whether we had a reasonable basis for asking for information from the applicants. The engagement letter bears a close reading. To my mind, it has a more skeptical tone than usual.

Among the documents they want to look at are the following:

- All documents and correspondence (including e-mail) concerning the Exempt Organizations function's response to and decision-making process for addressing the increase in applications for tax-exempt status from organizations involving potential political advocacy issues.

TIGTA expects to issue its report in the spring.

From: Rutstein Joel S
Sent: Friday, June 22, 2012 3:01 PM
To: Daly Richard M
Subject: FW: 201210022 Engagement Letter
Importance: High

Mike, please see below and attached. Given that TIGTA sent this to Joseph Grant and cc'ed Lois and Moises, do you still need me to circulate this under a cover memo and distribute it to all my liaisons including you? Thanks, Joel

Joel S. Rutstein, Esq.
Program Manager, GAO/TIGTA Audits
Legislation and Reports Branch
Office of Legislative Affairs
(202) 622-4133
(202) 622-5247 (fax)
Email: joel.s.rutstein@irs.gov <mailto:joel.s.rutstein@irs.gov>
Web: http://irweb.irs.gov/AboutIRS/bu/cl/la/lagt/default.aspx

---

From: Price Emma W TIGTA [mailto:Emma.Price@tigta.treas.gov]
Sent: Friday, June 22, 2012 2:56 PM
To: Grant Joseph H

Cc: Davis Jonathan M (Wash DC); Miller Steven T; Medina Moises C; Lerner Lois G; Rutstein Joel S; Holmgren R David TIGTA; Denton Murray B TIGTA; Coleman Amy L TIGTA; McKenney Michael E TIGTA; Stephens Dorothy A TIGTA
Subject: 201210022 Engagement Letter
Importance: High

FYI – Engagement Letter – Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues.

Thanks,

Emma Price

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
for TAX
ADMINISTRATION

June 22, 2012

MEMORANDUM FOR ACTING COMMISSIONER, TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

FROM: Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues (Audit # 201210022)

The Treasury Inspector General for Tax Administration is initiating a review to assess the Internal Revenue Service (IRS) Exempt Organizations function's consistency in the identification and review of applications for tax-exempt status involving political advocacy issues. We will be contacting the liaison for Tax Exempt and Government Entities Division to schedule an entrance conference with the appropriate IRS managers.

During the 2012 election cycle, the campaign activities of Internal Revenue Code (IRC) Section (§) 501(c)(4) social welfare organizations have been highlighted in many news articles. According to various reports, the IRS is requesting extensive amounts of additional information from organizations applying for IRC § 501(c)(4) tax-exempt status, including donor information, prior to approving their applications. Several accusations of inconsistent treatment towards conservative groups have been made.

The tax laws do not prohibit IRC § 501(c)(4) social welfare organizations from engaging in campaign activity. However, Treasury Regulations require IRC § 501(c)(4) organizations to operate exclusively for the promotion of social welfare. An organization is considered to be operating this way if it is primarily engaged in promoting the common good and general welfare of the people of the community and not making political activities their primary purpose.

Overall Objective and Subobjectives

Our overall objective is to assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving political advocacy issues. To accomplish our objective, we will:

- Assess the actions taken by the Exempt Organizations function in response to the increase in applications for tax-exempt status from organizations involved in political advocacy activities.
- Determine whether changes to procedures and controls since May 2010 affected the timeliness of reviewing applications involving political advocacy issues.
- Determine whether the actions taken by the Exempt Organizations function to identify applications for tax-exempt status of organizations with political advocacy issues were consistent.
- Determine whether the Exempt Organizations function had a reasonable basis for requesting information from organizations seeking tax-exempt status involved in political advocacy.

Offices Subject to Review

We will perform audit work at the Determinations Office in Cincinnati, Ohio. We may also visit Exempt Organizations function's offices in Washington, D.C.; Baltimore, Maryland; and other offices to obtain case files.

Deliverables and Estimated Completion Dates

We will be issuing an interim report after we complete our initial review of the application process. In addition, we will issue the draft report by March 2013 and the final report by April 2013.

Information Needed From Auditee

To accomplish the audit objectives, we require the following information no later than July 6, 2012:

- All documents and correspondence (including e-mail) concerning the Exempt Organizations function's response to and decision-making process for addressing the increase in applications for tax-exempt status from organizations involving potential political advocacy issues.
- Access to case files (open, closed, paper, and electronic) from the Determinations Office. After we select our sample, we will work with Determinations Office officials to obtain the cases we need.

During the course of fieldwork, additional information may be needed and we will request employees to provide responses and documentation as soon as it is practical, but not to exceed 2 weeks from the date of the request.

Special Considerations

During our on-site visits, we will need work space for three auditors, access to a telephone, a photocopier, and supplies.

Designated Treasury Inspector General for Tax Administration Executive Liaison

Russell Martin, Acting Assistant Inspector General for Audit (Management Services and Exempt Organizations) (202)-622-8500.

Responsible Inspector General Staff

Questions regarding this review may be directed to:

Troy Paterson, Director, Tax Exempt and Government Entities/Human Capital, (404)-338-7476
Thomas Seidell, Audit Manager, (781)-835-4286
Cheryl Medina, Lead Auditor (781)-835-4278

cc: Commissioner C
Office of the Commissioner – Attention: Chief of Staff C
Deputy Commissioner, Services and Enforcement SE
Acting Deputy Commissioner, Tax Exempt and Government Entities Division SE:T
Director, Exempt Organizations, Tax Exempt and Government Entities Division SE:T:EO
Director, Office of Legislative Affairs CL:LA
Deputy Inspector General for Inspections and Evaluations IG:IE
Director, Strategic Data Services IG:OI:SDS

To: Waddell Jon M
Subject: FW: Sensitive Case

Jon,

In response to Vicki's email below from 3/26/2013, please have a composed closing letter prepared that explains to the organization that we cannot rule on this matter pursuant to Rev Proc 2013-9, section 4.04, and Rev Proc 2013-4, section 6.06.

NOTE: Please ask to see the composed letter before it is issued to make sure it is accurate and professional. Also, someone will need to review the Rev Proc sections referenced. Holly provided them in her email below and

---

From: Paz Holly O
Sent: Tuesday, May 07, 2013 2:59 PM
To: Thomas Cindy M
Subject: RE: Sensitive Case

b. Rev Proc 2013-9 section 4.04 and Rev Proc 2013-4 section 6.06

From: Thomas Cindy M
Sent: Tuesday, May 07, 2013 11:16 AM
To: Paz Holly O
Subject: RE: Sensitive Case

To clarify -- are you saying that we are "holding" the case until EO Exam is finished with the audit?

a) if so:

1) is Exam notifying us when they are finished, and
2) can we place the case in suspense status

b) if not, are you suggesting that we close the case and with a no rule type letter? NOTE: I'm not aware of any procedures that indicate we will not rule on a request from an organization under exam. In your email below, you stated "we will tell the org that we cannot rule pursuant to our rev proc that provides we will generally not work applications or similar requests when an exam is pending." Is this Rev Proc. 2013-4 or another one? -- not sure where to start looking.

Thanks.

From: Paz Holly O
Sent: Tuesday, May 07, 2013 9:51 AM
To: Thomas Cindy M
Subject: FW: Sensitive Case

I talked to Lois about this case. She is comfortable with us telling the TP we cannot rule on the request in light of the fat that our procedures provide that we will not rule on a request from an organization under exam.

From: Downing Nanette M
Sent: Tuesday, April 02, 2013 4:47 PM
To: Paz Holly O
Cc: Todd Nancy M; Ta Kieu T
Subject: RE: Sensitive Case

Yes they are aware

From: Paz Holly O
Sent: Tuesday, April 02, 2013 3:21 PM
To: Downing Nanette M
Cc: Todd Nancy M; Ta Kieu T
Subject: RE: Sensitive Case

Since the Exam has been ongoing for some time, I assume the org knows it is under exam. Is that correct? Don't want to cause Exam problems if we tell the TP that we cannot rule on its request because it is under exam.

From: Downing Nanette M
Sent: Tuesday, April 02, 2013 10:04 AM
To: Paz Holly O
Cc: Todd Nancy M; Ta Kieu T
Subject: RE: Sensitive Case

Yes this organization is under exam. It has been under exam for awhile. We have been working with SBSE on several related entities. It is assigned to the FIU.

From: Paz Holly O
Sent: Thursday, March 28, 2013 2:07 PM
To: Downing Nanette M
Subject: FW: Sensitive Case

Re: [redacted] 6109

Nan,

It appears this org is currently under exam. We recently received a request for public charity status determination from this org. We do not want to take any action that would interfere with the exam. Could you please confirm that this org is under exam and has been notified that it is under exam? If both of those facts are true, we will tell the org that we cannot rule pursuant to our rev proc that provides we will generally not work applications or similar requests when an exam is pending.

Thanks,

Holly

From: Paz Holly O
Sent: Thursday, March 28, 2013 2:58 PM
To: Thomas Cindy M; Fish David L
Subject: RE: Sensitive Case

I will reach out to Nan Downing about this case and get back to you. Thanks for bringing it to our attention.

From: Thomas Cindy M
Sent: Tuesday, March 26, 2013 11:54 PM
To: Fish David L; Paz Holly O
Subject: FW: Sensitive Case

Please read Jon's email below and let me know how you'd like for us to handle this. Thanks.

From: Waddell Jon M
Sent: Tuesday, March 26, 2013 4:45 PM
To: Thomas Cindy M
Subject: FW: Sensitive Case

Cindy

I'm elevating a case identified in Vicki's group related to the political advocacy area. While the development issues within Vicki's group are straightforward, any type of ruling on this case could be impactful. Below is the background on the Acorn-related cases:

1. [redacted]-related cases were previously reflected on the BOLO and subsequently folded into the political advocacy category over a year ago.
2. Currently, we have two proposed denials under review in D.C. involving 6103-related cases. One is assigned to Ed Pomerantz and the other to April Garrett
3. These cases contain the same characteristics as other identified political advocacy cases as the applications contain instances of partisan political activity and excessive legislative and mobilization activities precluding approval under c(3).

Note: In reviewing this case with Vicki, the officers and addresses were similar to other 6103 applications I've seen in the past. The officer in this application was one of the original founders of 6103. Lastly, per Vicki's research, the organization that submitted the Form 8940 also appears to be under audit which adds to the potential sensitivity. I've instructed Vicki to hold off on any further action on the case.

thanks

From: Lahey Victoria
Sent: Tuesday, March 26, 2013 3:44 PM
To: Waddell Jon M
Subject: Sensitive Case

Jon,

We received a Form 8940 requesting a determination of public charity status for the advance ruling period. The case is straight forward, but is highly sensitive. The name of the organization is 6103 6103 BMFOLI has an AIM indicator for MFT 67, tax years 200912 and 200910. I contacted Tyler and he indicated I should refer the case to you for review. Please advise is this case should be worked if there is an open audit in EO Exam?

Let me know if you have any questions.

Vicki Lahey
Manager, Group 7828
SE:T:EO:RA:D:2

513.263.3601 (Office)
513.263.4590 (Fax)
E-mail Victoria.Lahey@irs.gov

From: Westcott Cindy M
Sent: Wednesday, November 19, 2008 8:03 PM
To: Xenos Oksana
Subject: Sensitive Case Reports for November
Attachments: Nov08 TAG-18 Bibb.doc; Nov08 Emerge (Waddell).doc; Nov08 Foreclosure Angner.doc; Nov 08 - Group Exemptions (c)(4) or (c)(6) to (c)(3) Summary (Kowalczyk).doc; Nov 08 - Group Ruling Requests (c)(19) to (c)(3) Summary (Kowalczyk).doc

Importance: High

November sensitive case reports from EO Determinations.

CASE NAME: IRC section 501(c)(4) or 501(c)(6) Group Ruling Reclassification Cases TIN/EIN: POA: 6103 – Scott Hunt 6103 – Jay Benjamin 6103 - Jay Benjamin 6103 - Jay Benjamin 6103 - None 6103 - James F. Gossett	TAX PERIODS: N/A EARLIEST STATUTE DATE: N/A
FUNCTION REPORTING: EO RA POD: Cincinnati, Ohio	☐ INITIAL REPORT ☑ FOLLOW-UP REPORT ☐ FINAL REPORT
SENSITIVE CASE CRITERIA: x Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) X Other (explain in Case Summary)
FORM TYPE(S): Forms 1023 and 1026	START DATE: 6103 6103, and 6103 - 8/29/2006 6103 - 3/23/2006 6103 – 01/08/2008 6103 - 04/17/2008
POTENTIAL DOLLARS INVOLVED (IF > $10M) : N/A	CRIMINAL REFERRAL? IF YES, WHEN? Freeze Code TC 914 (Yes or No)

CASE OR ISSUE SUMMARY:

Several organizations that have historically been tax-exempt as social welfare organizations under Code section 501(c)(4), because they engage primarily in the promotion of social welfare, have submitted requests to be reclassified under section 501(c)(3), because they are claiming that they now are organized and operated exclusively for a charitable purpose as described in section 501(c)(3). One organization that is tax-exempt under section 501(c)(6), because it primarily engages in the promotion of a common business interest, has submitted a request to be reclassified under section 501(c)(3), because it is claiming that it is now organized and operated exclusively for a charitable purpose as described in section 501(c)(3). The requests for exemption under section 501(c)(3) include either the central organization and/or the group exemption for the subordinate organizations.

CURRENT SIGNIFICANT ACTIONS ON CASE:

6103 6103 and 6103 6103 are two of the largest organizations that have submitted requests for exemption under section 501(c)(3). These organizations are requesting exemption under section 501(c)(3) because they want to emphasize their charitable and educational aspects and to obtain a charitable contribution deduction for their members' dues as a way to attract and retain members.

Our determination will potentially impact 6103 subordinate organizations (e.g. 6103 6103 has approximately 6103 subordinate organizations that will be impacted).

6103 6103
The organization submitted a Form 1023 application to request exemption under section 501(c)(3) for the central organization - it is currently exempt under section 501(c)(4). Additionally, the central organization submitted a request to have its group exemption modified from section 501(c)(4) to section 501(c)(3).

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

On September 22, 2008, EO Determinations issued a proposed denial letter to the central organization denying its request for exemption under section 501(c)(3). The group exemption request for the subordinate organizations is still in process; however, it appears that the group exemption under section 501(c)(3) will also be denied.

Note that there is uncertainty about whether a denial letter for a group exemption request under section 501(c)(3) should include declaratory judgment rights under section 7428 - this question has been raised to TE/GE Counsel and an answer is pending.

6103 6103 / 6103 6103 / 6103 6103
All of these organizations submitted Form 1023 applications to request exemption under section 501(c)(3) for the central organizations – they are all currently exempt under section 501(c)(4). Additionally, the central organizations submitted requests to have their group exemptions modified from section 501(c)(4) to section 501(c)(3).

Additional information request letters were sent to these organizations. All of the organizations requested several extensions which were granted. We are awaiting responses.

6103 6103
Per letter dated December 6, 2006, the organization was granted tax-exempt status under section 501(c)(3) effective July 25, 1960; the organization was originally tax-exempt under section 501(c)(4). The organization is also a central organization to a group of organizations exempt under section 501(c)(4). A request has been made by the central organization to change its group exemption from section 501(c)(4) to section 501(c)(3). The central organization is adamant that the subordinate organizations are exclusively charitable, and therefore, qualify for exemption under section 501(c)(3). However, based on information obtained, it does not appear that the subordinate organizations are exclusively charitable and qualify for exemption under section 501(c)(3). It is questionable whether the central organization should have be granted tax-exemption under section 501(c)(3). The central organization's request for the group exemption only includes one "test subordinate". Once exemption under section 501(c)(3) has been granted, the other subordinate organizations will be transferred over. The fact that the subordinate organizations engage in civic activities, social activities, possible gaming activities, and possible professional fundraising activities warrant a declination. This case is still in process.

6103 6103 6103 6103 (formerly known as 6103 & 6103 6103) is currently tax-exempt under section 501(c)(3). 6103 & 6103 merged into the 6103 & 6103 6103 and changed its name to 6103 6103 . The organization is stating that 6103 & 6103 was the central organization for 6103 , which is exempt under section 501(c)(6). 6103 6103 is seeking a group exemption under section 501(c)(3). If the group exemption under section 501(c)(3) is granted, the subordinate organizations under the 501(c)(6) group exemption will be transferred to the 501(c)(3) group exemption. This case is still in process.

SIGNIFICANT NEXT STEPS, IF ANY:	ESTIMATED CLOSURE DATE:
6103 - Review protest to proposed denial letter when received. 6103 - Review response when received - due November 23, 2008.	6103 – Unknown 6103 , 6103 , and 6103 – Unknown 6103 - Unknown

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

6103 and 6103 – Review responses when received - due December 8, 2008. 6103 - Issue an additional information request letter in November. 6103 - Issue an additional information request letter in November.	6103 - Unknown
BARRIERS TO RESOLUTION, IF ANY: Awaiting guidance from Counsel regarding the section 7428 issue.	
SUBMITTED BY: Chad Kowalczyk	**MANAGER:** SHARON CAMARILLO
DATE: November 18, 2008	

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: IRC section 501(c)(19) Group Ruling Reclassification Cases	**TAX PERIODS:** **EARLIEST STATUTE DATE:**

Redacted by the
Permanent Subcommittee on Investigations

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: [redacted] 6103 POA: N/A	TAX PERIODS: EARLIEST STATUTE DATE:
FUNCTION REPORTING: EO RA POD: Cincinnati, OH	☐ INITIAL REPORT ☒ FOLLOW-UP REPORT ☐ FINAL REPORT
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers ☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)	
FORM TYPE(S): :1024	START DATE: 7/28/2008
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	CRIMINAL REFERRAL? No IF YES, WHEN? Freeze Code TC 914 (Yes or No)

CASE OR ISSUE SUMMARY:

Two organizations from 2 different states applied for exemption under section 501(c)(4) for the purpose of training women to run for political office. The services are only provided to women affiliated with the Democratic Party and focus on a variety of subjects such as public speaking and press relations, as well as how to conduct fund raising activities. The applications appear to represent potential partisan political activity.

Coordination has taken place between EO Determinations, the Quality Office, and EO Technical.

CURRENT SIGNIFICANT ACTIONS ON CASE:

In August 2008, cases were referred to the Quality Office according to IRM procedures. Research completed by the Quality Office unveiled that 4 "Emerge" organizations were already approved with the oldest approval dating back to September 2004.

On October 9, 2008, after consultation with EO Technical, the two cases were transferred to them for review. The review of these 2 cases are dependent upon the resolution of the current court case between the IRS and the DLC (Democratic Party Leadership Council).

On November 13, 2008, we identified another "Emerge" case that is being transferred to EO Technical.

SIGNIFICANT NEXT STEPS, IF ANY: Cases have been transferred to EO Technical awaiting details of current DLC Court Case.	ESTIMATED CLOSURE DATE: Unknown

BARRIERS TO RESOLUTION, IF ANY:
Barriers include: Outstandanding court case between IRS and the DLC and fact that 4 "Emerge" organizations were already approved for exemption.

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Jon Waddell	MANAGER: SHARON CAMARILLO
DATE: 11/14/2008	

Please note: This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: FORECLOSURE cases	TAX PERIODS:

Redacted By The Permanent Subcommittee on Investigations

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: TAG - 18	TAX PERIODS:

Redacted By The Permanent Subcommittee on Investigations

From: Hartrick William M
Sent: Wednesday, April 06, 2011 10:56 AM
To: Hofacre Elizabeth L
Subject: FW: politically sensitive cases

Liz,

This is Donna's e-mail on politically sensitive cases.

Bill

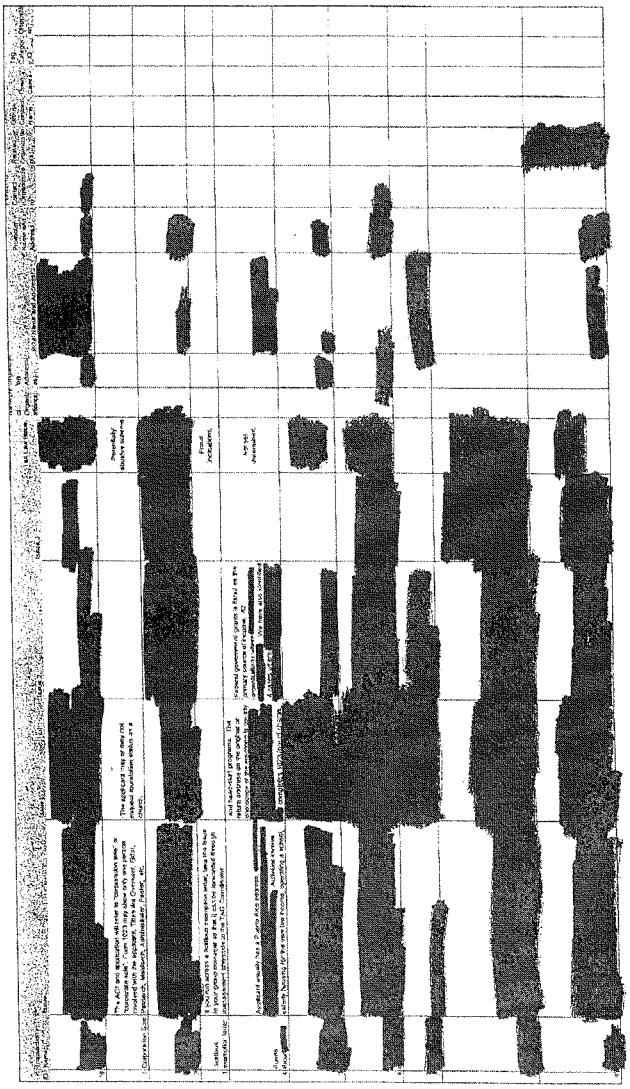
From: Abner Donna J
Sent: Tuesday, March 08, 2011 2:30 PM
To: Pepper Dale A; Tierney Michael J; Perry Lori A; Hartrick William M; Manohar Ramachandran; Dragoo Daniel D; Ludwig Michael A; Hofacre Elizabeth L
Subject: politically sensitive cases

Today I received a call from Jon Waddell regarding specifically Acorn related cases and Tea Party cases. In brief, guidance from EO Technical is pending and EO Technical has advised that no determination letters be issued - favorable or unfavorable - until guidance is received.

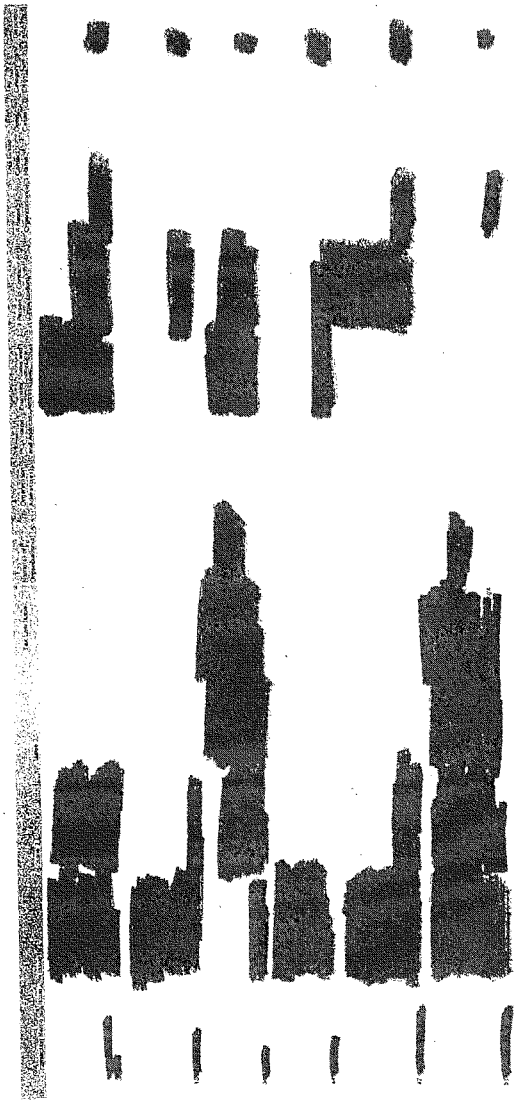
In the interim - cases can and should be developed. Therefore, if you are reviewing one of these cases - or a similar politically sensitive case, please verify the case has been fully developed. If not, please prepare an inquiry memo recommending additional development.

If you have a case that has been developed thoroughly and the determination letter is ready for issuance, please discuss with me. We will consider whether the case should be returned to the group pending guidance from EO Technical - or - whether we should contact EO Technical to solicit their agreement to closing.

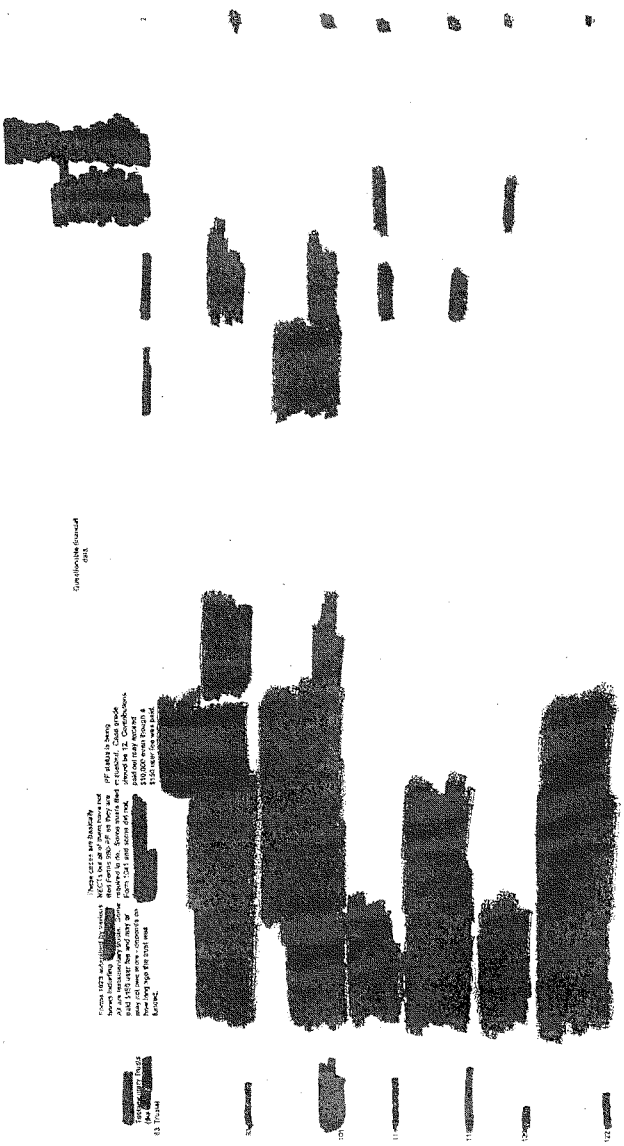
Please let me know if you have any questions.
Thanks,
Donna



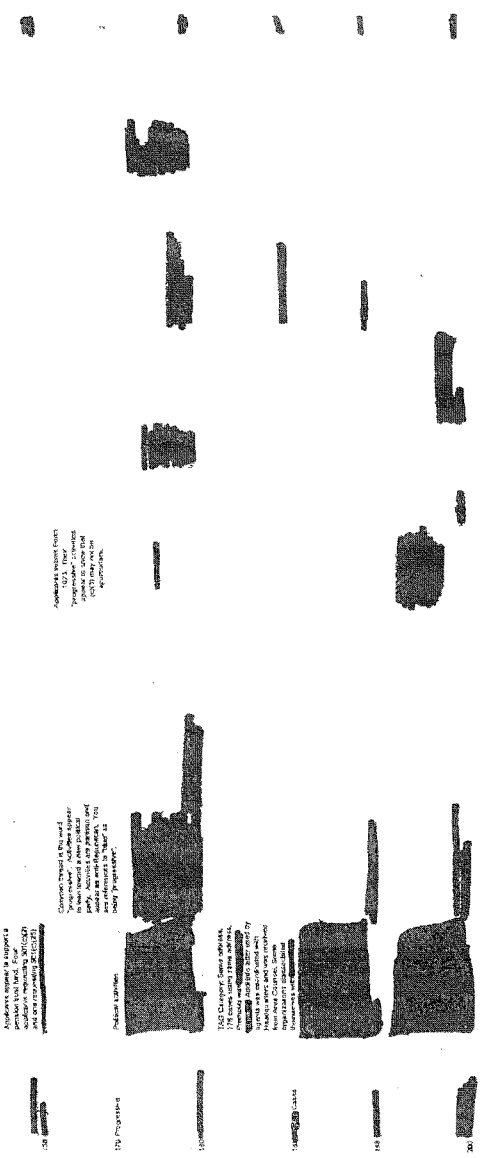
Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility, Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

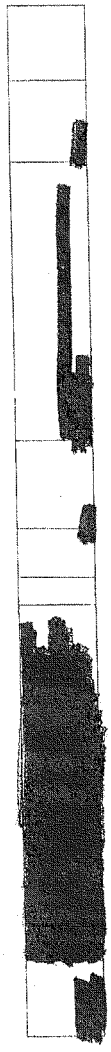
Issue Name	Issue Description		Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)	
501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [redacted]		x	x	Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).		EI-1	x	Any cases should be sent to Group 7825. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

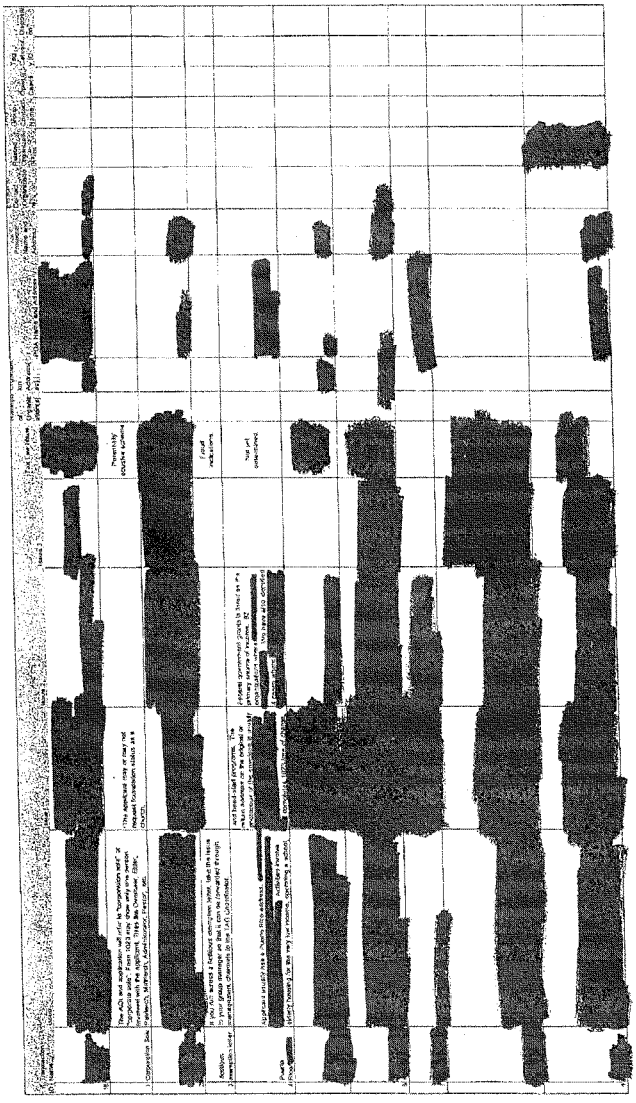
Enlarged for Legibility, Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

Issue Name	Watch Issue Description	Issue Number	Alerts Year and Number	Disposition of Watch Issue	Current Status (Opened or closed)	
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.	1	x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open	
RHIO s	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).	2	x	These cases should be transferred to EOT.	Open	
ACORN successors	Following the breakup of ACORN, [redacted]	3	x	If you see these cases, they should be sent to the TAG Group.	Open	
Healthcare legislation	Per Rob Choi memo dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.	4	x	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	
Medical Marijuana	Memo dated 7/15/10. Look for cases involving Medical Marijuana	7	x	Forward cases to processing who will forward the cases to Denise Tamayo, group 7888	Open	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	

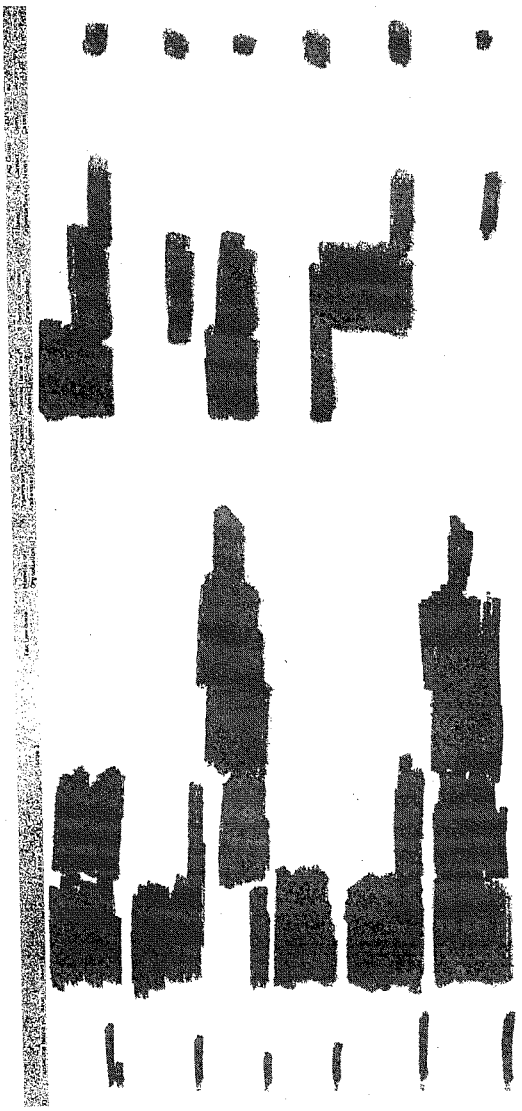
Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



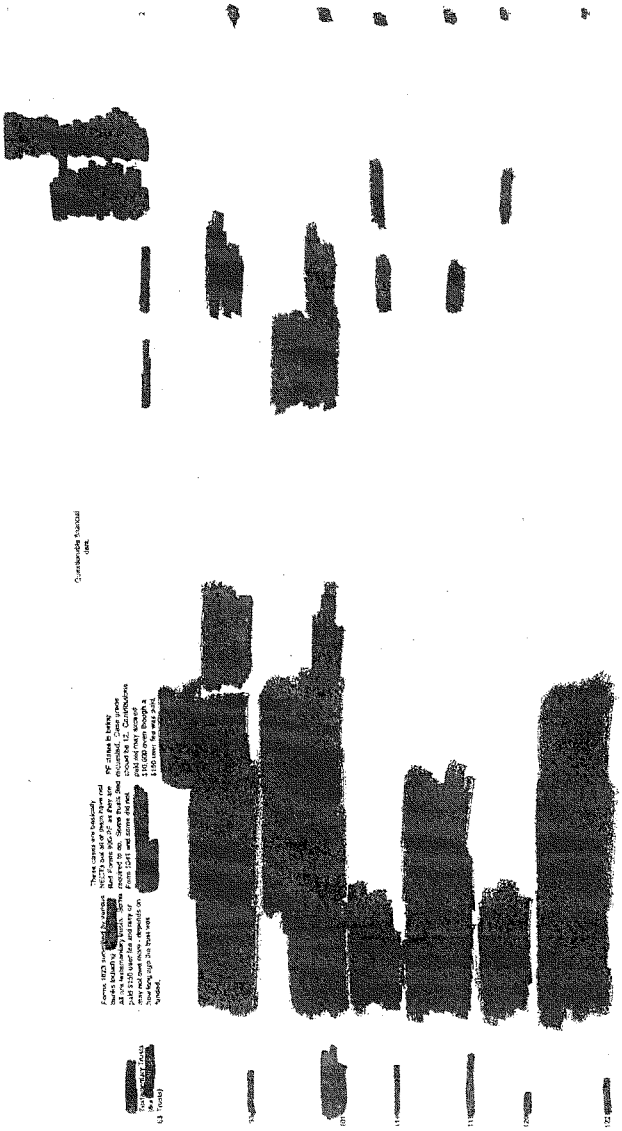
Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



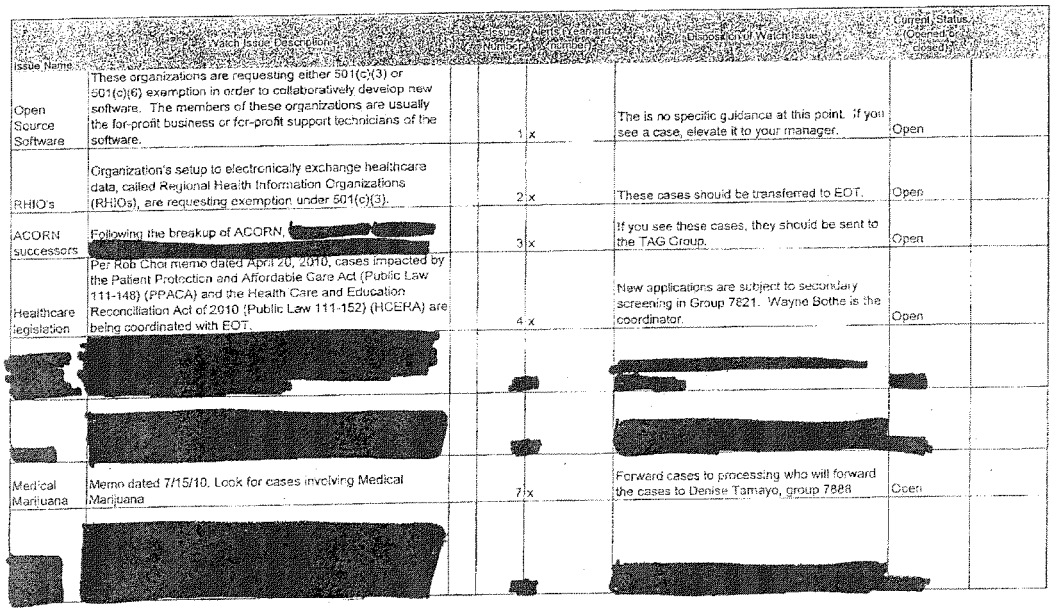
Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

Issue Name	Issue Description		Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or Closed)	
501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [redacted]		x	x	Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).		EI-1	x	Any cases should be sent to Group 7825. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)	
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software.	1	x	The is no specific guidance at this point. If you see a case, elevate it to your manager.	Open	
RHIO's	Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3).	2	x	These cases should be transferred to EOT.	Open	
ACORN successors	Following the breakup of ACORN, [redacted]	3	x	If you see these cases, they should be sent to the TAG Group.	Open	
Healthcare legislation	Per Rob Choi memo dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT.	4	x	New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator.	Open	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	
Medical Marijuana	Memo dated 7/15/10. Look for cases involving Medical Marijuana	7	x	Forward cases to processing who will forward the cases to Denise Tamayo, group 7888	Open	
[redacted]	[redacted]	[redacted]		[redacted]	[redacted]	

Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196



Enlarged for Legibility; Produced on December 17, 2013, as Bates IRSR0000455182 - IRSR0000455196

From: Abner Donna J
Sent: Monday, January 30, 2012 7:40 AM
To: Fish David L; Seto Michael C
Subject: Review requested
Attachments: [redacted] Proposed Adverse.doc

Follow Up Flag: Follow up
Flag Status: Completed

Hi David and Mike,

Attached is a proposed denial letter we've drafted for an ACORN successor. Because this is the first such letter we've prepared I'd like to have someone in EO Technical review before it is issued. (I also think that this might receive some attention). In brief, the basis of the denial is the [redacted]

Please let me know if you'd like a copy of the case or have any questions.
Thanks,
Donna

THESE PAGES REDACTED BY IRS

From: Abner Donna J
Sent: Tuesday, March 27, 2012 5:55 AM
To: Hartrick Willliam M
Cc: Seto Michael C; Fish David L
Subject: FW: Review requested

Bill,

will you please work with Sandy to get a copy of the admin file to DC?

Thanks,
Donna

From: Seto Michael C
Sent: Monday, March 26, 2012 4:43 PM
To: Abner Donna J
Cc: Fish David L
Subject: RE: Review requested

Hi Donna,

Elizabeth Ardion and Mike Repass reviewed the proposed denial. They concluded that the denial needs additional facts to support the legal conclusion that the organization doesn't qualify as a (c)(3). They need to review the administrative file.

I recommend that you send a copy of the administrative file to me so we can look at the case in-depth.

Let me know if this plan is agreeable.

Thanks, Mike

From: Abner Donna J
Sent: Wednesday, March 07, 2012 8:46 AM
To: Abner Donna J; Fish David L; Seto Michael C
Cc: Paz Holly O
Subject: RE: Review requested

Just following up on this case - thoughts??

From: Abner Donna J
Sent: Tuesday, February 07, 2012 9:16 AM
To: Fish David L; Seto Michael C
Cc: Paz Holly O
Subject: RE: Review requested

The case has a March 2010 control date. No TAS inquiry or other push by EO yet. However, due to its age - it could happen at any time. Could we set a 30 day due date?

From: Fish David L
Sent: Tuesday, February 07, 2012 9:12 AM
To: Abner Donna J; Seto Michael C
Cc: Paz Holly O
Subject: RE: Review requested

When do you need this back? The answer is yes but they don't have it yet and we want to make sure whomever we assign it to can make the timeline.

From: Abner Donna J
Sent: Tuesday, February 07, 2012 9:09 AM
To: Fish David L; Seto Michael C
Cc: Paz Holly O
Subject: RE: Review requested

Just following up - any decision or assignment to a TLS?

From: Abner Donna J
Sent: Monday, January 30, 2012 8:40 AM
To: Fish David L; Seto Michael C
Subject: Review requested

Hi David and Mike,

Attached is a proposed denial letter we've drafted for an ACORN successor. Because this is the first such letter we've prepared I'd like to have someone in EO Technical review before it is issued. (I also think that this might receive some attention). In brief, the basis of the denial is [redacted].

Please let me know if you'd like a copy of the case or have any questions.
Thanks,
Donna

From: Grodnitzky Steven
Sent: Wednesday, March 24, 2010 8:43 AM
To: Choi Robert S
Subject: FW: Investigation
Attachments: [redacted] 6103 .doc

Just a heads up that it appears that ACORN is morphing into new organizations. According to Cincy, there was one organization that came in for exemption, but they believe it was closed FTE. Will keep you updated as to new developments in this area. May cause some press attention

---

From: Thomas Cindy M
Sent: Monday, March 22, 2010 7:28 PM
To: Grodnitzky Steven
Subject: FW: Investigation

Steve,

Does EO Technical need this information?

From: Camarillo Sharon L
Sent: Monday, March 01, 2010 1:18 PM
To: Thomas Cindy M; Melahn Brenda
Cc: Shafer John H; Waddell Jon M
Subject: FW: Investigation

Cindy: Please elevate this issue to alert EOT to a potential new twist on the former ACORN organization. It appears that ACORN may have gone out of business, but has re-organized into several different organizations with the same purpose. These new organizations include:

- [redacted] 6103 ,
- [redacted] 6103 , and
- [redacted] 6103 .

I agree with Jon's recommendation that we not open a new TAG issue until we actually receive one of these applications and can make an assessment for their potential for fraud or other abuse.

John: Can you tell if we have received any of these applications in our screening unit? If so, the cases should be forwarded to the TAG group.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive

El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Waddell Jon M
Sent: Monday, March 01, 2010 6:40 AM
To: Camarillo Sharon L
Subject: FW: Investigation

Sharon,

I'm forwarding on this e-mail I rec'd from Richie in the ROO. It concerns **ACORN** and its apparent new incarnation as [redacted 6103]. Richie inquired as to how Acorn Affiliated cases are identified when they come in for exemption as well as suggesting these types of cases be worked in TAG.

I have informed Richie I would elevate his e-mail but here are my specific thoughts:

1. To date, I remember seeing only one Acorn-related application which was previously assigned to Julie Chen and was at one time, included on the Sensitive Case Report in 7821. I believe that the case was ultimately closed fle.

2. I don't think this issue should be added to TAG until we actually review a case and assess the level of potential fraud, if any.

3. Lastly, it might be a good idea to alert the screener's that if they see an ACORN related case or one referencing [redacted 6103] that they send it the TAG Group for review.

Overall, at this point, I think its premature to state anything is TAG case until we actually see and review a case.

thanks

From: Heidenreich Richie
Sent: Friday, February 26, 2010 3:58 PM
To: Todd Nancy M
Cc: Lawson Colleen C; Waddell Jon M
Subject: Investigation

Nancy,

There is a lot of internet traffic about ACORN reinventing itself. [redacted] office is now occupied by [redacted 6103]. They have formed a new corporation and will be applying for exemption under 501(c)(4). In [redacted 6103], the remnants of ACORN have become the [redacted 6103] [redacted]. In [redacted 6103], they have become [redacted 6103]. I am guessing other offices will be doing the same. These cases probably should be handled by the TAG group if they can be identified.

John,

Do we have a mechanism to recognize these cases if and when they come in for exemption.

Richie

THESE PAGES REDACTED BY IRS

From: Choi Robert S
Sent: Friday, March 26, 2010 1:11 PM
To: Thomas Cindy M; Camarillo Sharon L; Melahn Brenda; Shafer John H; Waddell Jon M; Berry Daniel W
Cc: Grodnitzky Steven; Miller Thomas J; Choi Robert S
Subject: ACTION by 12noon 3/29/10: Investigation
Attachments: [redacted] doc

I need a summary from Cincy regarding this issue of ACORN morphing into new entities. I have a meeting Monday afternoon, 3/29, to discuss this issue with HQ folks. I'm trying to get background on what we have seen so far and if there are any concerns identified on the applications that have been submitted.

What have we received to date re applications? Numbers.
Have we approved, denied, or FTE'd any? Numbers.
How do we know that these new applications are related to the predecessor organizations? In other words, how are we linking them?
Have we identified any concerns to date?
Have any of these new entities assumed the assets and liabilities of the predecessor orgs?
I see from the email thread below that this originated from Ritchie Heidenreich in ROO, EO Exam. Do you know what his role is regarding ACORN?

Need response by email to Steve, Tom and I by 12noon, Monday, 3/29/10.

Thanks.

From: Grodnitzky Steven
Sent: Wednesday, March 24, 2010 9:43 AM
To: Choi Robert S
Subject: FW: Investigation

Just a heads up that it appears that ACORN is morphing into new organizations. According to Cincy, there was one organization that came in for exemption, but they believe it was closed FTE. Will keep you updated as to new developments in this area. May cause some press attention.

From: Thomas Cindy M
Sent: Monday, March 22, 2010 7:28 PM
To: Grodnitzky Steven
Subject: FW: Investigation

Steve,

Does EO Technical need this information?

From: Camarillo Sharon L
Sent: Monday, March 01, 2010 1:18 PM
To: Thomas Cindy M; Melahn Brenda
Cc: Shafer John H; Waddell Jon M
Subject: FW: Investigation

Cindy: Please elevate this issue to alert EOT to a potential new twist on the former ACORN organization. It appears that ACORN may have gone out of business, but has re-organized into several different organizations with the same purpose. These new organizations include:

- 6103 ,
- 6103 , and
- 6103).

I agree with Jon's recommendation that we not open a new TAG issue until we actually receive one of these applications and can make an assessment for their potential for fraud or other abuse.

John: Can you tell if we have received any of these applications in our screening unit? If so, the cases should be forwarded to the TAG group.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Waddell Jon M
Sent: Monday, March 01, 2010 6:40 AM
To: Camarillo Sharon L
Subject: FW: Investigation

Sharon,

I'm forwarding on this e-mail I rec'd from Richie in the ROO. It concerns ACORN and its apparent new incarnation as 6103. Richie inquired as to how Acorn Affiliated cases are identified when they come in for exemption as well as suggesting these types of cases be worked in TAG.

I have informed Richie I would elevate his e-mail but here are my specific thoughts:

1. To date, I remember seeing only one Acorn-related application which was previously assigned to Julie Chen and was ,at one time, included on the Sensitive Case Report in 7821. I believe that the case was ultimately closed fte.

2. I don't think this issue should be added to TAG until we actually review a case and assess the level of potential fraud, if any.

3. Lastly, it might be a good idea to alert the screener's that if they see an ACORN related case or one referencing 6103 that they send it the TAG Group for review.

Overall, at this point, I think its premature to state anything is TAG case until we actually see and review a case.

thanks

From: Heidenreich Richie
Sent: Friday, February 26, 2010 3:58 PM
To: Todd Nancy M
Cc: Lawson Colleen C; Waddell Jon M
Subject: Investigation

Nancy,

There is a lot of internet traffic about ACORN reinventing itself. [redacted] office is now occupied by [redacted] 6103 [redacted]. They have formed a new corporation and will be applying for exemption under 501(c)(4). In [redacted] the remnants of ACORN have become the [redacted] 6103 [redacted]. In [redacted] 6103 [redacted], they have become [redacted] 6103 [redacted]. I am guessing other offices will be doing the same. These cases probably should be handled by the TAG group if they can be identified.

John,

Do we have a mechanism to recognize these cases if and when they come in for exemption.

Richie

THESE PAGES REDACTED BY IRS

From: Thomas Cindy M
Sent: Sunday, March 28, 2010 3:50 PM
To: Choi Robert S
Cc: Camarillo Sharon L; Waddell Jon M; Berry Daniel W; Grodnitzky Steven; Miller Thomas J
Subject: FW: ACTION by 12noon 3/29/10: Investigation
Attachments: [redacted] doc; Mar 2010 [redacted] Rev.doc

Rob,

In response to your questions, please refer to the email directly below from Jon Waddell. Also, the sensitive case report Jon references in item 1 below is attached

If you have additional questions, please let us know.

-----Original Message-----

From: Waddell Jon M

Sent: Friday, March 26, 2010 3:36 PM

To: Thomas Cindy M; Camarillo Sharon L

Subject: RE: ACTION by 12noon 3/29/10: Investigation

Importance: Low

Cindy and Sharon,

Below are my answers:

1. How many of these applications have we received to date? As far as I know, none to date under the new scenario referred to below. However, I do remember a case received in my old group (7821) called [redacted]. In that case, Acorn was specifically listed as a member of the organization. I believe a current Sensitive Case Report Exists on that case.

2. Have we approved, denied, or approved any? To my knowledge, no.

3. How are we linking the new applications with the predecessor Acorn Organizations? At this point, through elevation to the managers and screeners to be aware that Acorn has changed its name in [redacted] per the details in the e-mail screen below.

4. Have we identified any concerns to date? To my knowledge, we have yet to see any of these applications so the answer would be no.

5. Have any of these new entities assumed the assets of the predecessor

org's? Per the answer to #4 above, we have yet to see any of these

applications.

6. Richie Heidenreich's/ROO's role? Richie initially elevated the issue to me as an awareness issue. His source, I believe, was Nancy Todd who referenced internet stories describing this issue. Richie was only wondering if we (EO Determinations) have seen any applications like these.

To my knowledge, the answer would be no but I elevated the issue for awareness to management, screeners, etc.

thanks

From: Choi Robert S
Sent: Friday, March 26, 2010 11:11 AM
To: Thomas Cindy M; Camarillo Sharon L; Melahn Brenda; Shafer John H; Waddell Jon M; Berry Daniel W
Cc: Grodnitzky Steven; Miller Thomas J; Choi Robert S
Subject: ACTION by 12noon 3/29/10: Investigation

I need a summary from Cincy regarding this issue of ACORN morphing into new entities. I have a meeting Monday afternoon, 3/29, to discuss this issue with HQ folks. I'm trying to get background on what we have seen so far and if there are any concerns identified on the applications that have been submitted.

What have we received to date re applications? Numbers.
Have we approved, denied, or FTE'd any? Numbers.
How do we know that these new applications are related to the predecessor organizations? In other words, how are we linking them?
Have we identified any concerns to date?
Have any of these new entities assumed the assets and liabilities of the predecessor orgs?
I see from the email thread below that this originated from Ritchie Heidenreich in ROO, EO Exam. Do you know what his role is regarding ACORN?

Need response by email to Steve, Tom and I by 12noon, Monday, 3/29/10.

Thanks.

From: Grodnitzky Steven
Sent: Wednesday, March 24, 2010 9:43 AM
To: Choi Robert S
Subject: FW: Investigation

Just a heads up that it appears that ACORN is morphing into new organizations. According to Cincy, there was one organization that came in for exemption, but they believe it was closed FTE. Will keep you updated as to new developments in this area. May cause some press attention.

From: Thomas Cindy M
Sent: Monday, March 22, 2010 7:28 PM
To: Grodnitzky Steven
Subject: FW: Investigation

Steve,

Does EO Technical need this information?

From: Camarillo Sharon L
Sent: Monday, March 01, 2010 1:18 PM
To: Thomas Cindy M; Melahn Brenda
Cc: Shafer John H; Waddell Jon M
Subject: FW: Investigation

Cindy: Please elevate this issue to alert EOT to a potential new twist on the former ACORN organization. It appears that ACORN may have gone out of business, but has re-organized into several different organizations with the same purpose. These new organizations include:

- 6103 and
- 6103 6103 .

I agree with Jon's recommendation that we not open a new TAG issue until we actually receive one of these applications and can make an assessment for their potential for fraud or other abuse.

John: Can you tell if we have received any of these applications in our screening unit? If so, the cases should be forwarded to the TAG group.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: 626-312-3608 ext 5026
Fax: 626-312-2928

From: Waddell Jon M
Sent: Monday, March 01, 2010 6:40 AM
To: Camarillo Sharon L
Subject: FW: Investigation

Sharon,

I'm forwarding on this e-mail I rec'd from Richie in the ROO. It concerns **ACORN** and its apparent new incarnation as 6103. Richie inquired as to how Acorn Affiliated cases are identified when they come in for exemption as well as suggesting these types of cases be worked in TAG.

I have informed Richie I would elevate his e-mail but here are my specific thoughts:

1. To date, I remember seeing only one Acorn-related application which was previously assigned to Julie Chen and was (at one time, included on the Sensitive Case Report in 7821. I believe that the case was ultimately closed file.

2. I don't think this issue should be added to TAG until we actually review a case and assess the level of potential fraud, if any.

3. Lastly, it might be a good idea to alert the screener's that if they see an ACORN related case or one referencing [redacted] that they send it the TAG Group for review.

Overall, at this point, I think its premature to state anything is TAG case until we actually see and review a case.

thanks

From: Heidenreich Richie
Sent: Friday, February 26, 2010 3:58 PM
To: Todd Nancy M
Cc: Lawson Colleen C; Waddell Jon M
Subject: Investigation

Nancy,

There is a lot of internet traffic about ACORN reinventing itself. [redacted] office is now occupied by [redacted]. They have formed a new corporation and will be applying for exemption under 501(c)(4). In [redacted], the remnants of ACORN have become the [redacted]. In [redacted], they have become [redacted]. I am guessing other offices will be doing the same. These cases probably should be handled by the TAG group if they can be identified.

John,

Do we have a mechanism to recognize these cases if and when they come in for exemption.

Richie

From: Paz Holly O
Sent: Tuesday, June 05, 2012 1:37 PM
To: Thomas Cindy M
Cc: Light Sharon P; Fish David L
Subject: FW: donor info letter.doc
Attachments: donor info letter.doc

Attached is the letter to applicants that sent us donor info in response to our requests. We will need to destroy the information.

Thanks,

Holly

Dear Applicant:

On [date], we requested additional information regarding your application for recognition of tax-exempt status under section 501(c)(x). Included in this request for additional information was a request for information concerning donors to your organization.

The information regarding donors was requested in error and was not used in the consideration of your application for tax-exempt status. Accordingly, we have expunged such information and it will not become part of your application file.

If you have any questions regarding this letter, please contact the person ....

DOCUMENT SERVICE
Doc 2012-13021 (5 pgs)

Senate Committee on Finance

U.S. Senator Orrin Hatch (R-UT), Ranking Member

http://finance.senate.gov

FOR IMMEDIATE RELEASE

CONTACT: Julia Lawless, Antonia Ferrier

June 18, 2012

(202) 224-4515

SENATORS TO IRS: CONGRESS HAS MADE PRIVACY THE RULE, NOT THE EXCEPTION

In letter, Lawmakers Call on IRS Commissioner Shulman to Preserve Privacy Protections for Non-Profit Organizations

WASHINGTON – Citing concerns over privacy protections, 11 Senators today pressed the Internal Revenue Service (IRS) for additional answers on the agency's decision to request confidential donor information from organizations applying for tax exempt status. In a letter led by U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, the lawmakers said such action circumvented current statutory privacy protections and questioned the targeting of groups specifically seeking the approval or renewal of a tax-exempt designation under section 501(c)(4).

"Congress has made privacy the rule, and not the exception," wrote the Senators. "A list of donors who have given money to specific charitable organizations is something that carries great value to certain interested parties, as trading of personal information about private citizens has become common practice. Unfortunately, the public release of private donor information exposes citizens to possible harassment and intimidation by those who oppose the goals of the charitable organization."

Joining Hatch on the letter are Senators Mitch McConnell (R-Ky.), Mike Enzi (R-Wyo.), Lamar Alexander (R-Tenn.), John Cornyn (Texas), Kay Bailey Hutchison (R-Texas), Jon Kyl (R-Ariz.), Bob Corker (R-Tenn.), Pat Roberts (R-Kan.), John Thune (R-S.D.), and Rand Paul (R-Ky.)

Earlier this year, a dozen Republican Senators called on the IRS to prevent politics from playing a role in any action taken on non-profit 501(c)(4) organizations after several groups applying for the status received excessive follow-up inquiries from the agency. The IRS responded giving assurances their actions were not for political gain, however the issue of privacy protections was not addressed.

tax analysts
DOCUMENT SERVICE
Doc 2012-13021 (5 pgs)

United States Senate
WASHINGTON, DC 20510

June 18, 2012

Hon. Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20230

Dear Commissioner Shulman:

On March 14, 2012, we wrote to you with a number of questions regarding the procedures the Internal Revenue Service ("IRS") uses when evaluating organizations that apply for tax-exempt status. We appreciate the thoroughness of your response to our inquiries. However, we remain concerned that the IRS is requesting the names of donors and contributors to organizations that apply for tax exempt status. In doing so, the IRS appears to be circumventing the statutory privacy protections that Congress has long provided donors.

Prior Congresses have passed legislation with bipartisan support to ensure the privacy of donors who give to charitable organizations. While the annual tax returns of certain charitable organizations have long been required to be made available for public review, the 91st Congress denied the Secretary of the Treasury the authority to disclose the names and addresses of financial contributors from these returns.[1] In addition, the 100th Congress created a specific statutory exception for disclosure of names and addresses of financial contributors, when they expanded public inspection of certain annual returns, reports, and applications for exemption of certain tax exempt organizations.[2] In using nearly identical legislative language to create these exceptions from disclosure, both Congresses made strong legislative pronouncements that their goal was to protect the privacy of donor information. In addition, the same commitment to privacy is evident in the requirement that taxpayers be given the opportunity to obtain redaction of identifying information before related IRS private letter rulings, technical advice memoranda, and Chief Counsel Advice memoranda are made public.[3] Through these various expressions, Congress has made privacy the rule, and not the exception.

It is important to note the value that is placed on protecting the privacy of individuals and organizations that choose to donate funds to charitable organizations. The privacy interests of donors is widely recognized and valued. Various public policy initiatives have rightly encouraged donations to social welfare organizations, and these efforts are threatened when private information about donors is not adequately protected. A list of donors who have given

[1] See H.R. 13270, The Tax Reform Act of 1969, which became Public Law Number 91-172.
[2] See H.R. 3545, Omnibus Budget Reconciliation Act of 1987, which became Public Law Number 100-203.
[3] 26 USC § 6110

DOCUMENT SERVICE
Doc 2012-13021 (5 pgs)

money to specific charitable organizations is something that carries great value to certain interested parties, as trading of personal information about private citizens has become common practice. Unfortunately, the public release of private donor information exposes citizens to possible harassment and intimidation by those who oppose the goals of the charitable organization.

As we mentioned in our March 14 letter, it is our understanding that the IRS asked several organizations who applied for tax-exempt status to provide the names of individuals who had made donations (regardless of dollar amount) to those organizations, as well as the names of individuals who are expected to make donations in the future. The Form 1024 exemption application asks applicants for sources of financing but does not ask for names and addresses. It is our understanding that specific donor information — names and addresses — are not provided on Form 1024.

Yet, by requesting through correspondence, after the filing of a Form 1024, that organizations applying for tax exempt status provide names of donors, the IRS sets in motion an outcome wherein donor information that would be protected and redacted by one provision of the Internal Revenue Code ("Code") which provides an exception from disclosure, would be made available for public inspection by a separate provision of the Code relating to inspection of applications for tax exemption. Such an outcome is clearly at odds with the express intent of Congress to maintain the privacy of donors. Even if not prohibited by law, the actions of IRS are an inappropriate circumvention of the policy of donor privacy embedded in the Code.

When the IRS requests specific donor information through a follow up letter as part of the exemption application process, it ensures that this highly sensitive donor information will be included in the administrative record. This presents a serious privacy problem: if the IRS approves the organization's application for tax-exempt status, then section 6104 of the Code requires the associated administrative record – including the identity of donors if included therein — to be made available for public review at the national office of the Internal Revenue Service.[4] This is completely at odds with the treatment of the same donor information when it is viewed at the principal office of the tax-exempt organization. The Code specifically states that the names and addresses of donors are not required to be available for public inspection when viewed at this physical location.[5] Given that donor information is redacted on annual tax returns of tax-exempt organizations, redacted on denied tax-exempt applications, redacted on successful tax-exempt applications (when viewed at the organization's principal office), and not required to be provided on the Form 1024, it is disconcerting that donor information would be reviewable, or at the very least not be redacted, on successful tax-exempt applications viewed at the national office of the IRS.

[4] 26 USC § 6104(a)(1)(A)
[5] 26 USC § 6104(d)(3)(A)

DOCUMENT SERVICE
Doc 2012-13021 (5 pgs)

In order to better understand the background on these recent requests for confidential donor information and the authority of the Internal Revenue Service to make these requests, we respectfully request that you provide answers to the following questions:

1. What is the specific statutory authority giving the IRS authority to request actual donor names during reviews of applications for recognition of exemption under Section 501(c)(4)?

2. Is it customary for IRS revenue agents to request donor and contributor identifying information during review of applications for tax-exempt status under Section 501(c)(4)? Please provide the number of requests by the IRS for such information for each year from 2002 to 2011.

3. Is the Exempt Organizations technical office involved in all such information requests of exemption applicants?

4. Section 7.21.5 of the Internal Revenue Manual states that Letter 1313 should be used as a first request for additional information for cases received on Form 1024, and that Letter 2382 should be used for second and subsequent requests for information. We have attached redacted copies of an IRS 1313 Letter and 2382 Letter which were reportedly sent to applicant organizations earlier this year. Each of these letters contains passages which specifically request names of donors.[6]

    a) Which IRS employees and officials were involved in the drafting of the questions requesting donor names?
    b) Which IRS officials provided authority and approval for the questions requesting donor names?
    c) Did any IRS personnel definitively review and determine whether there would be any privacy impact by the requests for names of donors which could ultimately be made part of a publically available administrative record? Was the IRS Office of Privacy consulted, and did it play a role in any such determination?

5. What is the total number of IRS 1313 and 2382 letters sent in 2011 and 2012 (to date) which specifically request names of donors?

6. Does the IRS intend to utilize IRS 1313 and 2382 letters in the future to specifically request names of donors?

[6] Letter 1313 asks for donor names in question 3(a) on page 4. Letter 2382 asks for donor names in question 11(a) on page 6.

DOCUMENT SERVICE
Doc 2012-13021 (5 pgs)

7. Does the IRS view donor identifying information as being necessary information when reviewing applications for tax-exempt status under Section 501(c)(4)? If so, how was this finding made and what written standards are utilized by the IRS in evaluating this information? Have any IRS personnel ever recommended that IRS Form 1024 be amended to specifically require that this information be furnished?

8. Section 7.20.2.7 of the Internal Revenue Manual (relating to evaluation of organizations applying for tax-exempt status) states that requests for additional information in processing a determination should be thorough and relevant. Would a request (to an organization applying for tax-exempt status under Section 501(c)(4)) for a list of donor names, some who may have given as little as $1, meet the relevancy standard?

Thank you for your prompt attention to this matter.

Sincerely,

Enclosures

Congress of the United States
Washington, DC 20515

April 23, 2012

RECEIVED
APR 2 3 2012
CONG. CORR. BR
CL:LA

The Honorable Douglas H. Shulman
Commissioner, Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Shulman:

It has come to our attention that numerous nonprofit civic organizations across the country have experienced extensive delays and received excessively burdensome information requests in connection with their applications for tax-exempt status under 26 U.S.C. §501(c). These requests have included demands for complete records of every oral statement ever provided by any member of the organization, vague probes into tangential associations with private citizens and excessively long questionnaires all to be returned within unreasonably short time periods. These demands go well beyond good-faith due diligence and appear designed to be logistically and financially impossible to comply with.

Tax-exempt status exists to ensure that taxation does not hinder citizens' engagement in social welfare and civic activities. To wit, 26 U.S.C. §501(c)(4)(A) exempts "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare...the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes." Further, the I.R.S. has affirmed that these organizations "may carry on lawful political activities and remain exempt as long as it is primarily engaged in activities that promote social welfare." (Rev. Rule 81-95, 1981-1 C.B. 332)

These recent inquiries appear to constitute disparate treatment for no apparent reason other than the political persuasion of applicants. Such practices chill these groups' Constitutionally-guaranteed rights to civic participation, freedom of association and free speech and are better left to despotic regimes than a revenue-collection agency in a free country.

It does not appear that the missions and activities of these organizations require information beyond the scope of Form 1024 and Schedule B, which we understand to have been traditionally required. We request that you provide a response demonstrating how these recent requests by the I.R.S are consistent with precedent and supported by law. We further request that the I.R.S. refrain from any additional unwarranted and excessive information demands and other dilatory tactics.

Thank you for your attention to this matter. We look forward to your timely response.

Sincerely,

Bill Flores
Member of Congress

Tom McClintock
Member of Congress

Jim Renacci
Member of Congress

PRINTED ON RECYCLED PAPER

John Fleming
Member of Congress

Tim Huelskamp
Member of Congress

Jeff Duncan
Member of Congress

Donald Manzullo
Member of Congress

Doug Lamborn
Member of Congress

Joe Barton
Member of Congress

Louie Gohmert
Member of Congress

Joe Walsh
Member of Congress

Andy Harris
Member of Congress

Bill Posey
Member of Congress

Tim Walberg
Member of Congress

Walter Jones
Member of Congress

Roscoe Bartlett
Member of Congress

Bill Johnson
Member of Congress

Charles Boustany
Member of Congress

James Lankford
Member of Congress

Dennis Ross
Member of Congress

Gus Bilirakis
Member of Congress

Francisco "Quico" Canseco
Member of Congress

Lynn Westmoreland
Member of Congress

Trent Franks
Member of Congress

Mike Pompeo
Member of Congress

Raúl Labrador
Member of Congress

W. Todd Akin
Member of Congress

Alan Nunnelee
Member of Congress

Steve King
Member of Congress

Joe Wilson
Member of Congress

Lynn Jenkins
Member of Congress

John Kline
Member of Congress

Ted Poe
Member of Congress

Diane Black
Member of Congress

Michele Bachmann
Member of Congress

Richard Nugent
Member of Congress

Scott DesJarlais
Member of Congress

Bob Goodlatte
Member of Congress

K. Michael Conaway
Member of Congress

Jack Kingston
Member of Congress

Tom Graves
Member of Congress

Mick Mulvaney
Member of Congress

Randy Hultgren
Member of Congress

Ann Marie Buerkle
Member of Congress

Jeff Landry
Member of Congress

Sam Johnson
Member of Congress

Scott Tipton
Member of Congress

Randy Forbes
Member of Congress

Marsha Blackburn
Member of Congress

Cliff Stearns
Member of Congress

Kenny Marchant
Member of Congress

Robert Latta
Member of Congress

Trey Gowdy
Member of Congress

Thaddeus McCotter
Member of Congress

Paul Gosar
Member of Congress

Bobby Schilling
Member of Congress

Rob Woodall
Member of Congress

Aaron Schock
Member of Congress

Sandy Adams
Member of Congress

Jeff Miller
Member of Congress

Connie Mack
Member of Congress

Steve Scalise
Member of Congress

Phil Roe
Member of Congress

Flax Nikole C

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 10:32 AM
To: Grant Joseph H; Marks Nancy J
Cc: Flax Nikole C; Paz Holly O
Subject: FW: Follow-Up

We have met with TIGTA on this several times. From our perspective, they are taking a very narrow view of the program and how we ran it. They also seem to be focused on the initial articulation of the BOLO list as a "bad" thing without looking at the entire program. I think we have a basic difference in our view of their audit. We thought it was to determine whether IRS had a biased program, which would include looking at every aspect. they seem to think the question is narrower--did we "target based on the articulation of the BOLO?" We will continue to keep you apprised as we see their written document.

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Tuesday, February 05, 2013 10:27 AM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: RE: Follow-Up

Thanks Troy--It probably makes sense to see what you put together and react to it rather than continuing the discussion in the abstract. We will begin to put together a reply. As I'm sure you would guess, if you don't include the whole picture, we will include a detailed version in our response. Keep us appraised of progress on the report.

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]
Sent: Tuesday, February 05, 2013 7:54 AM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Follow-Up

Lois,

After the discussion last week, the team went over some cases on Friday afternoon and Monday morning. We then met yesterday afternoon to discuss the cases and our thoughts on moving forward.

As far as the cases go, the team has reconsidered some cases based on input from Holly, Hillary, and Judy last week. In addition, I think we have one case that is still up in the air awaiting some additional

documentation. After that, I believe we will have approximately 90 cases that we could not resolve. For these cases, I'm not sure there is much more we can discuss because most involve our literal view of the application package versus the EO function's interpretation of the application package based on experience. For example, in our literal view, we may not pick up on code words or know based on past experience that certain activities or sets of activities could actually be significant political campaign intervention, whereas the EO function may. On our side, we'll have to determine how we present both sides in the report.

As far as moving forward, I began working yesterday morning on a very rough version of the report that I had asked the team to prepare while we were awaiting your feedback. There is a lot of information currently in the report and a lot of information that is currently not in the report. On our side, we have a lot of difficult decisions coming up on what is relevant to include and what our interpretation is regarding, not only the allegations that led to us initiating this review, but the actions the EO function has taken since that time. At this point, we have not determined what will or will not be included in the report and how we will present everything.

If you would like to meet to discuss your concerns, I am available. If you would rather wait until I have a clearer view of what are considering for the report, we can do that also. How would you like to proceed?

Troy
404-338-7476

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Thursday, January 31, 2013 2:34 PM
To: Paterson Troy D TIGTA
Cc: Paz Holly O
Subject: Follow-Up

We were disappointed that you couldn't attend the meeting today. I think it would be useful for you, your group, and mine to have another conversation about approach. We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect, and illustrates "targeting." I think they remain confused about the purpose of screening vs.. bucketing--and we have tried to explain several time. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

We understand why the criteria might raise questions. In fact we refined it to more accurately reflect what we are doing. I met with the group today and asked your folks what they thought the TIGTA audit was all about. The response was that they were here because there were allegations that the IRS was "targeting." When asked, they didn't seem able to provide me with a clear definition of what they meant by targeting, and they confused me when they said it wasn't necessarily political. I told them my understanding is that the audit was to determine whether the IRS was acting in a

politically motivated manner--not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases.

So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting.They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment. I am willing to take the blame for not having provided sufficient direction initially, which may have resulted in front line staff doing things that appeared to be politically motivated, but I am not on board that anything that occurred here shows that the IRS was politically motivated in the actions taken.

So, I suggested to the group that we all get together after they have had a chance to talk to you. I asked both sides to think about the main points they wanted to make or better understand, so the meeting can be most fruitful. This is the toughest one you and I have worked on together. But, I'm hoping the meeting will get us all to an improved understanding so that your report can better reflect what occurred and why.

Lois G. Lerner
Director of Exempt Organizations

United States Senate
WASHINGTON, DC 20510

RECEIVED
By CONG. CORR. BR at 11:44 am, Mar 14, 2012

March 14, 2012

Hon. Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20230

Dear Commissioner Shulman:

We have received reports and reviewed information from nonprofit civic organizations in Kentucky, Ohio, Tennessee, and Texas concerning recent IRS inquiries perceived to be excessive. It is critical that the public have confidence that federal tax compliance efforts are pursued in a fair, even-handed, and transparent manner—without regard to politics of any kind. To that end, we write today to seek your assurance that this recent string of inquiries has a sound basis in law and is consistent with the IRS's treatment of tax-exempt organizations across the spectrum.

As you know, the designation as a tax-exempt organization under section 501(c)(4)(A) is reserved for "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, ... the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes." 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."[1] The 501(c)(4) designation has been conferred on many organizations in America that espouse political or public policy viewpoints—including Priorities USA, the sister organization of "[t]he super PAC supporting President Obama,"[2] and American Crossroads, the sister organization of a super PAC supporting Republicans.

Civic and social welfare organizations have long performed valuable roles and offered numerous benefits to our society, and tax exemptions for such organizations can be traced all the way back to the Tariff Act of 1913. It is imperative that organizations applying for tax-exempt status are able to rely on a consistent and foreseeable review structure from the IRS. Any significant changes to the IRS review process should be implemented only after appropriate notice and opportunity for comment from the public and affected parties.

A number of our constituents have raised concerns that the recent IRS inquiries sent to civic organizations exceed the scope of the typical disclosures required under IRS Form 1024 and

[1] *Federal Election Commission v. Beaumont*, 539 U.S. 146, 150 n. 1 (2003) (quoting Rev. Rul. 81-95, 1981-1 Cum. Bull. 332, 1981 WL 166125).
[2] Jeremy Peters, "'Super PACs,' Not Campaigns, Do Bulk of Ad Spending," N.Y. Times (Mar. 2, 2012).

accompanying Schedule B—the forms that all 501(c)(4) organizations must submit. Understandably, this has prompted some concerns about selective enforcement and the duty to treat similarly situated taxpayers similarly. To address these concerns, we respectfully request that you provide answers to the following questions:

1. What is the IRS's process for approval and renewal of a tax-exempt designation under section 501(c)(4)?

2. Are all 501(c)(4) applicants required to provide responses and information beyond the questions specified in Form 1024 and Schedule B? If not, when and on what basis does the IRS require an applicant to make disclosures not described in Form 1024 and Schedule B?

3. Which IRS officials develop and approve the list of questions and requests for information (beyond the questions specified in Form 1024 and Schedule B) which are sent to 501(c)(4) organizations? What are the objective standards by which the responses to such requests for information are evaluated?

4. How do additional requests for information sent by the IRS to 501(c)(4) applicant organizations (beyond the information required by IRS Form 1024 and Schedule B) relate to a specific standard of review previously established by the IRS? Has the IRS published such standards? Does the decision to approve or deny applications for tax-exempt status adhere to these standards, particularly if these standards have not been published and are not readily known?

5. Is every 501(c)(4) applicant required to provide the IRS with copies of all social media posts, speeches and panel presentations, names and qualifications of speakers and participants, and any written materials distributed for all public events conducted or planned to be conducted by the organization? If not, which 501(c)(4) applicants must meet this disclosure requirement and on the basis of what objective criteria are they selected?

6. Form 1040 does not require specific donor information, as the instructions for the form indicate that the statement of revenue need not include "amounts received from the general public…for the exercise or performance of the organization's exempt function." In addition, the annual schedule of contributors required by the IRS for 501(c)(4) organizations is limited to donors giving the organization $5,000 or more for the year, and the names and addresses of contributors are not required to be made available for public inspection (according to IRS Form 990, schedule B). However, some of the IRS letters recently sent to 501(c)(4) applicant organizations specifically ask for the names of all donors and the amounts of each of the donations, and furthermore state that this

information will in fact be made available for public inspection. These specific requests for donor information appear to contradict the published IRS policy. Given this discrepancy, please provide any correspondence (including emails, written notes, and electronic documents) generated with respect to the decision to send letters in 2012 requesting all donor information from 501(c)(4) applicant organizations, including correspondence between IRS employees, or between or among the IRS, the Department of Treasury, and the White House.

7. Many applicant organizations have stated that the IRS gave them less than 3 weeks to produce a significant volume of paperwork, including copies of virtually all internal and public communications. What is the typical deadline for responses to an IRS inquiry for additional information under section 501(c)(4)?

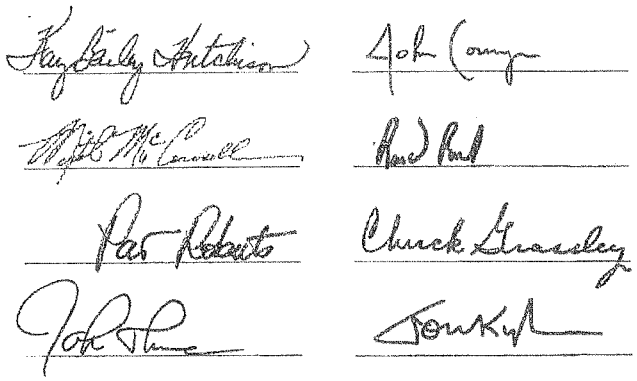
8. Form 1024 and related disclosures by 501(c)(4) organizations are generally "open for public inspection."[1] In the interest of addressing any concerns about uneven IRS enforcement of section 501(c)(4) eligibility requirements, can you please provide us with copies of all IRS inquiries sent to and responses received from Priorities USA? Those documents would provide a useful basis for comparison to other inquiries the IRS has addressed to section 501(c)(4) applicants.

Given the potentially serious implications of selective or discriminatory enforcement, we request that you hold further IRS-initiated demands for information from 501(c)(4) applicants beyond the extensive information already required of all applicants (in Form 1024 and Schedule B), until the agency provides a response demonstrating these recent IRS requests are consistent with precedent and supported by law.

Thank you for your prompt attention to this matter.

Sincerely,

[1] *See* Form 1024, Application for Recognition of Exemption OMB No. 1545-0057 Under Section 501(a).



United States Senate
WASHINGTON, DC 20510

March 9, 2012

Hon. Douglas H. Shulman
Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.

RECEIVED
MAR 21 2012
CONG. CORR. BR
CL:LA

Received by the Commissioner's Correspondence Office
MAR 21 2012

Dear Commissioner Shulman:

We write to ask the Internal Revenue Service ("IRS") to immediately change the administrative framework for enforcement of the tax code as it applies to groups designated as "social welfare" organizations. These groups receive tax and other advantages under section 501(c)(4) of the Internal Revenue Code (hereinafter, "IRC" or the "Code"), but some of them also are engaged in a substantial amount of political campaign activity. As you know, we sent a letter last month expressing concerns about the 501(c)(4) issue; an investigation this week by the *New York Times* has uncovered new, specific problems on how 501(c)(4)s conduct business. We wanted to address those new concerns in this letter.

IRS regulations have long maintained that political campaign activity by a 501(c)(4) entity must not be the "primary purpose" of the organization. These regulations are intended to implement the statute, which requires that such organizations be operated exclusively for the public welfare. But we think the existing IRS regulations run afoul of the law since they only require social welfare activities to be the "primary purpose" of a nonprofit when the Code says this must be its "exclusive" purpose. In recent years, this daylight between the law and the IRS regulations has been exploited by groups devoted chiefly to political election activities that operate behind a facade of charity work.

A related concern, raised in a March 7th *New York Times* article, concerns whether certain nonprofits may be soliciting corporate contributions that are then treated by the company as a business expense eligible for a tax deduction. The *Times* wrote: "Under current law, there is little to no way to tell whether contributions are being deducted, especially because many of the most political companies are privately held." This potential abuse distorts the objectives of vital revenue mechanisms and undermines the faith that we ask citizens to place in their electoral system.

We propose that the IRS make three administrative changes to curtail these questionable practices and bring IRS tax regulations back into alignment with the letter and spirit intended by those who crafted the Code:

- First, we urge the IRS to adopt a bright line test in applying its "primary purpose" regulation that is consistent with the Code's 501(c)(4) exclusivity language. The IRS currently only requires that the purpose of these non-profits be "primarily" related to social welfare activities, without defining what "primarily" means. This standard should

be spelled out more fully by the IRS. Some have suggested 51 percent as an appropriate threshold for establishing that a nonprofit is adhering to its mission, but even this number would seem to allow for more political election activity than should be permitted under the law. In the absence of clarity in the administration of section 501(c)(4), organizations are tempted to abuse its vagueness, or worse, to organize under section 501(c)(4) so that they may avail themselves of its advantages even though they are not legitimate social welfare organizations. If the IRS does not adopt a bright line test, or if it adopts one that is inconsistent with the Code's exclusivity language, then we plan to pursue legislation codifying such a test.

- Second, such organizations should be further obligated to document in their 990 IRS form the exact percentage of their undertakings dedicated to "social welfare." Organizations should be required to "show their math" to demonstrate that political election activities and other statutorily limited or prohibited activities do not violate the "primary purpose" regulation.

- Third, 501(c)(4) organizations should be required to state forthrightly to potential donors what percentage of a donation, if any, may be taken as a business expense deduction. As the *New York Times* reported in its March 7th article, some of these organizations do not currently inform donors whether a contribution is tax deductible as a business expense at all.

The IRS should already possess the authority to issue immediate guidance on this matter. We urge the IRS to take these steps immediately to prevent abuse of the tax code by political groups focused on federal election activities. But if the IRS is unable to issue administrative guidance in this area then we plan to introduce legislation to accomplish these important changes.

Sincerely,

Charles E. Schumer
United States Senator

Michael Bennet
United States Senator

Sheldon Whitehouse
United States Senator

Tom Udall
United States Senator

Jeanne Shaheen
United States Senator

Jeff Merkley
United States Senator

Al Franken
United States Senator

From: Miller Steven T
Sent: Thursday, April 18, 2013 7:29 AM
To: Flax Nikole C
Subject: Re: speech

We will talk at noon

Sent using BlackBerry

From: Flax Nikole C
Sent: Thursday, April 18, 2013 08:28 AM Eastern Standard Time
To: Miller Steven T
Subject: Re: speech

Maybe not a terrible idea for her to get out how many approvals we have had to date and discuss the issue a bit.

From: Miller Steven T
Sent: Thursday, April 18, 2013 08:21 AM Eastern Standard Time
To: Flax Nikole C
Subject: Re: speech

She can apologize for undermanaging.

Sent using BlackBerry

From: Flax Nikole C
Sent: Thursday, April 18, 2013 08:17 AM Eastern Standard Time
To: Miller Steven T
Subject: Re: speech

April 25 - she is begging for material to discuss

From: Miller Steven T
Sent: Thursday, April 18, 2013 08:04 AM Eastern Standard Time
To: Flax Nikole C
Subject: Re: speech

When is her speech - may want to use it to burst a bubble

Sent using BlackBerry

From: Flax Nikole C
Sent: Wednesday, April 17, 2013 08:37 PM Eastern Standard Time
To: Miller Steven T

Subject: Fw: speech

I assume you don't want lois talking [redacted] at GT? I know the answer, but she will want to know that I asked.

From: Lerner Lois G
Sent: Wednesday, April 17, 2013 08:08 PM Eastern Standard Time
To: Flax Nikole C
Subject: Re: speech

Any possibility we'd ask permission on this?
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Flax Nikole C
Sent: Wednesday, April 17, 2013 07:32 PM Eastern Standard Time
To: Lerner Lois G
Subject: Re: speech

Anything we say re [redacted] has to be cleared by omb. A new memo on it came out today.

From: Lerner Lois G
Sent: Wednesday, April 17, 2013 07:13 PM Eastern Standard Time
To: Flax Nikole C
Subject: Re: speech

Am at home so can't send until tomorrow. Got a message from Terry nixing it, which puts me in a pickle since I need to talk about something high level for 40 minutes. [redacted]
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Flax Nikole C
Sent: Wednesday, April 17, 2013 04:12 PM Eastern Standard Time
To: Lerner Lois G
Subject: speech

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

Lois - C&L said you sent a copy of your speech - can you send it? Thanks

From: Lemons Terry L
Sent: Sunday, April 21, 2013 11:46 AM
To: Miller Steven T; Flax Nikole C; Vozne Jennifer L
Subject: Fw: Emailing: draft c4 comments 4-18-13.doc
Attachments: draft c4 comments 4-18-13.doc

So it's close ... But I don't think it's quite there. For the people in the room at Georgetown, it's fine. But it's not clear enough for people who won't be there and will be combing through the speech afterward. Think current version will create a lot of questions coming in after the speech and actually amplify attention on the upcoming report. Think we need to frame up better – goal should be having a text that stands on its own for reporters and others coming in later and minimizing follow-up questions. (And perhaps goal should also be for reporters in the hearing room to be handed this and fold this into their stories.)

With that in mind, I've made some edits as a starting point – tried simplifying and making clearer at a couple of points. Biggest addition is paragraph three – that's where the reporters will go.

Thanks for listening;)

Sent from my BlackBerry Wireless Handheld

[redacted] = Redacted by the Permanent Subcommittee on Investigations

----- Original Message -----
From: Terry Lemons [redacted]
Sent: Sunday, April 21, 2013 12:40 PM Eastern Standard Time
To: Lemons Terry L
Subject: RE: Emailing: draft c4 comments 4-18-13.doc

----- Original Message -----
From: Miller Steven T
Sent: Sunday, April 21, 2013 11:30 AM Eastern Standard Time
To: Flax Nikole C; Vozne Jennifer L; Lemons Terry L
Cc: Miller Steven T
Subject: Emailing: draft c4 comments 4-18-13.doc

Take a look. This is the possible insert into Lois' Thursday speech.

Sent using BlackBerry

Recent section 501(c)(4) activity
DRAFT 4-21-13

So I think it's important to bring up a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. Some of this has been discussed publicly already. But I thought it would make sense to do just a couple of minutes on what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

I will start with a summary. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. We did not have good enough procedures in place to effectively work these cases. You also know about the level of guidance in this area -- we need more. There's also the factual difficulty we have of separating politics from education in these cases -- it's not always a clear area. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me be clear. The IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we deeply apologize. But these mistakes were in no way due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this complex area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me start again and provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. The way we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have. For that I apologize.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach this in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts((to determine the level of activity under the c4 guidelines.)) Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was

needed. You may recall the publicity around donor lists. That resulted from insufficient guidance being provided to our people working on these cases. ()

Now, we have remedied this situation --, both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent a situation like this from occurring again.

Let me walk you through the process.

Systemically, we will not allow the centralized collection of cases without greater and higher level review. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, (some have or had endorsements on their website for example)(given recent events-likely would drop parenthetical). But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?)withdrawals. And obviously some cases take longer than others depending on the issues raised. including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. And I will say it seems likely that we will see some denials out of this remaining group as well. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law – not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result on pending cases. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better

understand the state of play on political activities in today's environment, the gaps in guidance, and where we need to head into the future.

From: Miller Steven T
Sent: Thursday, May 09, 2013 12:35 PM
To: Miller Steven T (steven.t.miller@irs.gov); Flax Nikole C (Nikole.C.Flax@irs.gov); Lemons Terry L (Terry.L.Lemons@irs.gov); Vozne Jennifer L; Eldridge Michelle L (MICHELLE.L.ELDRIDGE@irs.gov)
Subject: 050613C4 talking pointsSTM version.doc
Attachments: 050613C4 talking pointsSTM version.doc

Couple of edits

Draft / Section 501(c)(4) Determination Issues
May 6, 2013

IRS Statement:

Between 2010 and 2012, the IRS saw the number of applications for section 501(c)(4) status double. As a result, local career employees in Cincinnati sought to centralize work and assign cases to designated employees in an effort to promote consistency and quality. This approach has worked in other areas. However, the IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we centralized did not. Mistakes were made, but they were in no way due to any political or partisan rationale. We have fixed the situation and worked to move the centralized cases through our system. New procedures were implemented last year to ensure that these mistakes won't be made into the future. The IRS also stresses that our employees - all career civil servants -- will continue to be guided by tax law and not partisan issues.

Key Points:

- In 2010, Exempt Organizations (EO) observed a significant increase in the number of section 501(c)(3) and section 501(c)(4) applications from organizations that appeared to be potentially engaged in political campaign activity. Between 2008 and 2012, the number of applications for section 501(c)(4) status more than doubled.
- These are difficult and sensitive cases. These are challenging cases to factually separate out political issues from those involving education or social welfare. It's not always a clear area, and there are no bright-line tests for what constitutes political campaign intervention.
- Similar to our approach in other areas (e.g., credit counseling, down payment assistance organizations, etc.), EO sought to centralize work and assign cases to designated employees in an effort to promote consistent treatment of applications.
- Centralizing advocacy cases for review in the determination letter process made sense, but some of the ways we centralized did not.
- While it is necessary to consider a variety of information in the screening process (including flags for current emerging issues), we recognize that some of the selection criteria were not appropriate for these cases.
- The IRS recognizes that the use of specific names for handling the influx of advocacy cases was an error and, over the last year, has taken a number of steps to improve the process.
- We now have a process in place where each revenue agent assigned these cases works in coordination with a specific technical expert. New procedures also have been implemented to so that decisions with respect to the centralized collection of cases must be made at the executive level.
- We have made significant improvements in this area. We are confident that we have a more appropriate path for the future that will avoid similar problems.
- EO is dedicated to reviewing applications for tax-exempt status in an impartial manner.

- The mistakes made were not due to any political or partisan reason. Exempt Organizations (EO) is comprised of career civil servants who do their work in a fair, non-partisan manner. Mistakes were made due to the absence of a set, rigorous process for working the increase in advocacy cases and insufficient sensitivity to the implications of some the decisions made.

- Of the approximately 300 section 501(c)(4) advocacy cases, more than 120 have been approved and nearly 30 have withdrawn.

Background on Legal Standard:

- Although the tax law allows section 501(c)(4) organizations to hold themselves out as tax-exempt without applying for IRS recognition of their status, once an organization does apply for recognition, EO must ensure the organization meets the applicable legal requirements before granting recognition.

- To be recognized as exempt under section 501(c)(4), an organization must be engaged primarily in the promotion of social welfare. The promotion of social welfare does not include political campaign intervention. The determination whether an organization engaged in political campaign intervention qualifies under section 501(c)(4) is a difficult legal and factual issue.

- There are no bright-line tests for what constitutes political campaign intervention or whether an organization is primarily engaged in social welfare activities. Whether an activity is political campaign intervention, and whether an organization meets the requirements of section 501(c)(4), must be decided on the specific facts of each case, and no one factor is determinative.

- Selection of an organization's application for further review and development does not dictate how the case is ultimately resolved. It simply means that the IRS needs additional information before a determination can be made.

Fact sheet—630pm

Introduction:

Law in the Area

An organization is described in section 501(c)(3) of the tax code if it is organized and operated for religious, charitable, educational and certain other specified purposes.

An organization is described in section 501(c)(4) if it is operated exclusively for the promotion of social welfare.

There are specific rules relating to exemption and political campaign intervention. Organizations described in section 501(c)(3) may not engage in such activity. Social welfare organizations described in section 501(c)(4) may engage in a limited amount of political campaign activity. Note that there are no bright-line tests for what constitutes political campaign intervention or whether an organization is primarily engaged in social welfare activities.

The applications for exemption (Form 1023 for recognition under 501(c)(3); Form 1024 for recognition under 501(c)(4)) contain questions about such activity as does the Form 990, the annual report filed by these organizations.

Determination letter process

Section 501(c)(3) organizations must apply to be recognized for tax exempt status by the IRS. Although the tax law allows section 501(c)(4) organizations to operate as tax-exempt without applying for IRS recognition of their status, most apply. Once an organization does apply for recognition, EO must ensure the organization meets the applicable legal requirements before granting recognition.

All applications for tax exempt status are sent to the IRS Exempt Organization offices in Cincinnati. A group of experienced revenue agents screens all EO Determination Letter applications before the applications are assigned to other revenue agents for review. Based on that screening, a case may be handled in one of the following ways:

(1) Cases resolved on screening—if the application clearly meets the requirements for exempt status on its face and all necessary documents are provided, the case is forwarded from screening to a closing unit which issues a favorable letter.
(2) Cases with minor omissions—if the application clearly meets the requirements for exempt status but the file lacks some required documentation (for example the articles of incorporation are not executed) then the case is forwarded to a unit which will contact the

organization by letter to complete the file. Once the file is completed, the unit will issue a favorable determination.

(3) Cases that cannot be resolved favorably without further development—if the application leaves open questions as to the adequacy and scope of the exempt purposes, the presence of private benefit, or the presence of other activities inconsistent with exempt status, then the case is forwarded for full development to a Revenue Agent who will work with the taxpayer to resolve the questions raised and to ascertain whether the organization qualifies.

(4) Cases in category 3 that present novel issues or particularly complex fact patterns are sometimes handled on a coordinated basis by a particular group of agents in order to ensure proper development of the issues and consistency in handling (e.g. credit counseling cases, down payment assistance cases, advocacy cases, etc.).

(5) In either categories 3 or 4 assistance from career specialists in the Headquarters office of Exempt Organizations may be sought.

Trend line of applications for 501(c)(4) status

The IRS has seen a steep increase in the number of applications for section 501(c)(4) status and there are indications of a large increase in political campaign activity by social welfare organizations.

Between FY2008 and 2012, the number of applications for 501(c)(4) status more than doubled.

	FY2008	FY2009	FY2010	FY2011	FY2012	% Chg
501(c)(4) applications received	1,631	1,751	1,735	2,265	3,357	+105%

Not all exempt organizations must file the annual Form 990, only those with gross receipts of more than $200,000 or total assets greater than $500,000. Within this population, IRS has seen a growth in reported political campaign activity since 2008.

	TY2008	TY2009	**TY2010**	TY2011	% Chg TY08-10
§501(c)(4) organizations filing F990	**8,962**	9,133	**11,486**	9,444	28%
Number of those returns reporting political campaign activity (PCA)	**107**	83	**196**	121	83%
Reported PCA expenditures of organizations with revenues of $10 million or more ($M)	**$17.3**	$1.1	**$46.7**	$6.0	170%

Federal electoral cycles in bold.

Based on historic filing patterns, TY11 data are ~90% complete.

Between the 2008 and 2010 electoral cycles, the number of §501(c)(4) organizations reporting political campaign activity nearly doubled, outpacing the overall growth in the §501(c)(4) population. At the same time, the value of campaign expenditures by large §501(c)(4) organizations nearly tripled..

While Tax Year 2012 Form 990 filings are due beginning this week, Federal Election Commission data from 2012 electoral cycle are available. Although the definitions of reportable spending are different, a

preliminary analysis of FEC data indicates another significant increase in spending in the most recent electoral cycle. The same large §501(c)(4) organizations that reported PCA to IRS in 2010 also doubled their levels of campaign expenditures reported to the FEC between 2010 and 2012. (Note that this reflects an increase in expenditures among the population of filers identified from 2010 F990 data. It will not reflect *additional* organizations that may have undertaken political campaign activity in 2012.)

Centralization of Advocacy Cases

Early in 2010, a 501(c)(4) application from a Tea Party organization indicated its intention to influence elections as part of its activities. This led a group manager in the Cincinnati office to take the following actions in February and March of 2010: handle this type of application as an emerging issue, and that screeners look for and identify similar cases in order to ensure appropriate and consistent handling. The Cincinnati office had people try to identify and coordinate cases raising the issue of political activity using verbal and email reminders to look for cases involving the Tea Party, Patriots, 9/12 and other 501(c)(4) applications involving names suggestive of political activity. See Appendix A for the iterations of the lists that were used, along with relevant timelines. An increasing number of cases were found. The list is adopted as a method to replace the ad hoc email approach previously used to identify cases requiring coordination. On that initial list one of the categories was listed as "various local organizations in the Tea Party movement . . . applying for exemption under 501(c)(3) or 501(c)(4). See

In June 2011, concerns about the progress, identification and handling of these cases led to conversations among senior staff culminating in a briefing of the EO Director at the end of June. The EO Director instructed that the list should be revised immediately to use criteria focused on whether (c)(4) or (c)(3) applicants were involved with political, lobbying, or advocacy activities, and that headquarters should work on facilitating the resolution of the now over 100 cases.

Late in 2011, efforts to facilitate case processing were slow. A new team was formed in Cincinnati to begin developing and resolving the cases with assistance from Headquarters specialists.

In January of 2012, without any executive knowledge, staff in Cincinnati updated the list of centralization criteria out of concern that the criteria were over broad and pulling in too many cases. The new criteria read "political action type organizations involved in limiting/expanding Government, educating on the Constitution and Bill of Rights, social economic reform/movement." Headquarters in Exempt Organizations was not informed.

In January through February 2012, the centralized team started issuing development letters to the applicants using the standard response time provided in the manual (21 days) and asking for voluminous information from some applicants, including in some cases web information and donors. Note that these letters went to organizations representing the full political spectrum.

Increasing public concern (news articles/letters from Congressional) was being expressed about the singling out of certain types of organizations, the nature of the questions in the development letters and the short turnaround time given to respond.

At the end of February the Director EO stopped the issuance of additional information letter requests pending new guidance to the Determinations unit. At the same time, in light of the public nature of the discussion of the letters, the Deputy Commissioner, Services and Enforcement became aware that cases were being centralized in this area. In early March, after consultation with the Deputy Commissioner, a letter was sent to organizations with a pending development letter giving them a sixty day extension and allowing flexibilities on what information to provide.

At the end of March, the Deputy Commissioner Services and Enforcement requested that the Senior Technical Advisor (STA) to the Acting Commissioner (TEGE) conduct a review of what had happened with respect to determination letter inventory in this area and report back on the review and on recommendations for how to address any issues. At the same time, TIGTA indicated that they were going to review this area.

The review by the STA was initiated by going to Cincinnati with a team of specialists to interview people about the process to date and to conduct a review of a broad cross section of the files and of the development letters issued.

On May 3, 2012, the STA reported back to the Deputy Commissioner, Services and Enforcement and to the Acting Commissioner TEGE identifying significant concerns in the case handling including:

(1) Use of inappropriate criteria in the emails and then the list used to identify the cases that should go to the advocacy case group;
(2) Use of development letters that included troubling questions;
(3) Delays in resolution of applications; and
(4) A failure to provide the agents with the training and the tools they needed in order to handle this inventory appropriately and on a timely basis.

The review did not identify:

(1) Any evidence of improper influence on the IRS from any party external to the Service.
(2) Any evidence of partisan motivation or behavior by any IRS employee.

Note that May 3, 2012, was the first date that the Deputy Commissioner had knowledge that a list with inappropriate names was being utilized by the Cincinnati Office. [Shortly thereafter, the Commissioner was made aware of the situation.]

Corrective Actions Taken

On May 3, 2012, the STA recommended that training be conducted for a cadre of experienced agents including quality review staff and that it be followed by having a joint team of technical specialists from headquarters and agents go through the inventory together to group the cases into four categories: (1) cases that could be closed on their merits with the information in the file; (2) cases that required focused development; (3) cases that needed significant development; and (4) cases that presented significant concerns and might well conclude as adverse determinations. This process was designed both to enhance training, experience, and consistency while also moving the inventory forward to resolution as swiftly as possible. This approach was approved and implemented.

Procedures were put in place to advise organizations that they generally did not need to provide donor information and that donor information that had been received in response to development letters was neither utilized nor retained. [when was this?]

In addition, having learned in April of 2012 that the centralization criteria had changed again in January, the Director EO Rulings & Agreements directed changes to the BOLO criteria and issued a memorandum requiring Director R&A approval for any listing to centralize determination applications. [This approach was concurred in by the Deputy Commissioner on May 3, 2012.]

The Numbers and Demographics

Through May 9, IRS identified 472 applications for exemption for review of potential advocacy issues (including 301 §501(c)(4) applications). The balance of applicants are for section 501(c)(3) status. To date, 176 applications have been approved (136 of which §501(c)(4) applications). There have been 37 withdrawals, inclusive of both §501(c)(3) and (4) organizations.

Of the cases reviewed by TIGTA, only one-third have a name listed for centralization. y of those have been approved. Moreover, while it is impossible based on name alone to determine with specificity the political alignment of all organizations, in their totality it is clear that they span the entire political spectrum.

Of the approximately 300 section 501(c)(4) advocacy cases noted in the TIGTA report, more than 120 have been approved and nearly 30 have withdrawn. The difference in numbers is due to the point in time when TIGTA did its work.

Consistent Treatment for Determination Letter cases

I need help here.
There are certain protections against any adverse action in a determination letter case. Any adverse rulings against section 501(c)(4) organizations require multiple layers of review. No single person makes the determination, and multi-person review provides further protection for the integrity of the review process.
[anything in this case—partner with specialist from dc—mandatory review for all or just adverse?]

IRS Analysis of this Matter

The Internal Revenue Service is dedicated to reviewing applications for tax-exempt status in an impartial manner.

Similar to our approach in other areas (e.g., credit counseling, down payment assistance organizations, etc.), EO sought to centralize work and assign cases to designated employees in an effort to promote consistent treatment of applications. Given what was happening in the community in terms of the number of organizations and concerns on campaign spending, centralizing advocacy cases for review in the determination letter process made sense. The way it was done did not. It was inappropriate but there has been no finding of political motivation.

It should be noted that the vast majority of entities that were centralized would still have been centralized on a less narrow, more appropriate, centralization listing. Organization names did not play a role in the

Flax Nikole C

From: Paz Holly O
Sent: Friday, February 08, 2013 9:28 AM
To: Flax Nikole C; Lerner Lois G; Marks Nancy J; Light Sharon P
Subject: Advocacy Data Request
Importance: High

Below are the latest advocacy case numbers:

429 total cases have been bucketed as follows:

- 501(c)(3).... 145
- 501(c)(4).... 281
- 501(c)(6).... 2
- 501(c)(10).. 1

The 429 total cases have been placed in the following buckets:

- bucket 1.....94
- bucket 2.....96
- bucket 3.....141
- bucket 4.....75
- misc.....1
- no bucket. 22

Note: The cases identified as "no bucket" include 6 cases that are currently in the process of being bucketed. 1 case closed status 01 and 15 cases closed status 04.

Total number of determinations processed is 156 cases:

- 501(c)(3)..... ..... 32 approvals
- 501(c)(4)..... ..... 117 approvals
- 501(c)(6)... ..... 1 approvals
- FTE status 11 closure....5
- FTE status 12 closure....1

The 156 total number of determination cases processed by bucket:

- Bucket 1 85
- Bucket 2 48

2/8/2013

- Bucket 3 21
- Bucket 4 3
- No bucket ... 1

Total number of withdrawals is 33 cases.

The total number of open cases is 240. Total number of development letters sent on open cases is 136

- Number of bucket 1 cases that are open: 8 (6 additional info letters)
- Number of bucket 2 cases that are open: 45 (23 additional info letters)
- Number of bucket 3 cases that are open: 111 (80 additional info letters)
- Number of bucket 4 cases that are open: 69 (27 additional info letters)
- Number of cases open not bucketed: 6 (no additional info letters)
- Number of cases in MISC open status: 1 (additional information letter sent)

Note: Open cases are cases in status 31, 32, 37, 51 , 52 ,55, 57, 58, 74, 74PC, and 75

from Lois

Recent section 501(c)(4) activity
Draft 7-17-12

Legal requirements:

- The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt or to apply for IRS recognition as tax-exempt.
- All section 501(c)(4) organizations must file Form 990 annual information returns.
- To qualify under section 501(c)(4), organizations 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.
- 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.
- The regulations do not impose a complete ban on political activity by section 501(c)(4) organizations. A section 501(c)(4) social welfare organization can engage in some political activities as long as it is primarily engaged in activities that promote social welfare. Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.

Background:

- Starting in 2010, EO observed an increase in the number of section 501(c)(3) and section 501(c)(4) determination applications from organizations that appeared to be potentially engaged in political advocacy activities

Increase in section 501c4 applications
2008 - 1410
2009 - 1571
2010 - 1591
2011 - 2242
2012 - 1715 (through April 1, 2012)

- EO took steps to coordinate the handling of the cases to ensure consistency. As sometimes happens, however, coordination efforts resulted in some cases being in inventory for a longer time than expected.
- In early 2012, after development letters were sent to some applicant organizations, issues with respect to these cases were brought to the attention of EO management, who requested a status of the inventory.

- After receiving the inventory status, EO management determined that a more refined approach was warranted to ensure more timely and consistent handling of the cases. EO management put together a team of highly experienced technical experts to work with the revenue agents in Cincinnati handling the cases.

- EO now has a process where each revenue agent assigned these cases works in coordination with a specific technical expert assigned to assist the agent. On section 501(c)(3) and section 501(c)(4) cases where there appears to be potential political intervention, the EO staff member processing the application consults with his or her assigned technical expert on a real-time basis as to whether the facts raise issues of significant potential political intervention, and as to what information is needed to fully develop those issues.

- We have made significant progress on these cases to date.

    - 320 total advocacy cases

        - 97 (c)(3) cases

        - **223 (c)(4) cases**

    - More than 55 approvals have been granted to date [7 c3s and **51 c4s** + 15 withdrawals]

    - There have been no denials at this time. (Emerge cases were worked in 2008. Recent activity was revoking the 5 organizations that were wrongly approved.)

    - For many cases updated information requests have been sent to focus on the specific legal issues in question. We are in process of an active back and forth with organizations in those cases where there are questions as to whether the legal requirements for tax exemption are satisfied.

Disclosure of donor names:

- There are instances in which donor names are relevant in the course of the determination process. There is no legal basis for redacting such names from the application file if the information is used in making the determination on the application.

- We informed organizations that if they could provide information requested in an alternative manner, they should contact their agent and we would work with them.

- EO Determinations staff did ask for donor names from some applicants for c4 status. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

EO Workplan

- Includes two separate projects that could be relevant here (exact language pasted below)
    - 501(c)(4), (5) and (6) self-declarers - These groups – social welfare organizations; labor, agricultural and horticultural groups; and business leagues, such as a chamber of commerce – 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. In FY 2012, EO will send a comprehensive questionnaire to organizations based on Form 990 filings to assess compliance in this area.
    - Political activity - 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. As in the past, information from outside sources about political campaign intervention will be reviewed by a committee of career civil servants. In addition, other potential violations identified through risk modeling of Form 990 data also will be sent to the committee for evaluation. The committee will focus on identifying the cases to refer for examination. EO will further refine its risk models based on the results of examinations. EO will also ensure reporting and payment compliance with section 527(f).

Other issues:

- Response times -- Normal timeline for responding to requests for additional information per IRM is 21 days. We have provided all organizations more time to respond and told them to contact us if they needed additional time.
- TIGTA – looking at consistency in identifying and reviewing applications for tax-exempt status involving political advocacy issues - opening letter June 22, 2012
- BOLO – procedures modified May 17, 2012 to require all changes to receive approval up to level of the Director, EO Determinations.

08/11/2009 13:36 53974 OGRR PAGE 01/06

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH 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) 225-5051
Minority (202) 225-5074

FACSIMILE TRANSMISSION

RECEIVED
AUG 11 2009
CONG. CORR. BR
CL:LA

Date: August 11, 2009

To: The Honorable Douglas Shulman
Commissioner
Internal Revenue Service

From: Darrell E. Issa, Ranking Member
Oversight & Government Reform Committee

Phone:

Fax: (202) 622-4733

There will be a total of 6 pages, including cover page.

Comments: _____

_____

If there are any questions or problems regarding this transmission, please call the sender at 202-225-5074

Please Note: The information on this facsimile is confidential and is intended only for the use of the person named above. If this facsimile has come to you in error, please call the sender at the number given above. Any distribution of this facsimile is strictly prohibited.

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH 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) 225-5051
Minority (202) 225-5074

August 11, 2009

RECEIVED
AUG 17 2009
CONG. CORR. BR
CL:LA

The Honorable Douglas Shulman
Commissioner
Internal Revenue Service
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Dear Commissioner Shulman:

The Committee staff has been investigating the Association of Community Organizations for Reform Now's ("ACORN") lack of compliance with various federal laws. Recently, I released a staff report entitled, "*Is ACORN Intentionally Structured As a Criminal Enterprise?*" ("ACORN Report").

The ACORN Report[1] found ACORN conspired to defraud the United States by using taxpayer funds for partisan political activities. ACORN submitted false filings to the IRS, in addition to failing to report and pay excise taxes on Dale Rathke's excess benefit transactions. Additionally, ACORN falsified and concealed facts concerning an illegal transaction between related parties in violation of the Employee Retirement Income Security Act of 1974 ("ERISA"). I am concerned ACORN has failed to comply with §§ 501(c), 527(f) of the Internal Revenue Code ("IRC") and other Internal Revenue Service ("IRS") regulations.

Our investigation has led to additional questions regarding ACORN's compliance with the Internal Revenue Code. It appears that ACORN, a taxable non-exempt corporation, has intentionally used gaps in the IRC and the Federal Election Campaign Act ("FECA") to engage in activities that would be subject to either prohibition or taxation under any reasonable contemplation of FECA and the IRC.

FECA[2] generally prohibits corporations from making a contribution or expenditure in connection with any election to any political office[3] and from using

[1] *See* Minority staff report, *Is ACORN Intentionally Structured As a Criminal Enterprise?* COMM. OVERSIGHT AND GOV'T REFORM (2009) at 3-6, *available at*: http://republicans.oversight.house.gov/media/pdfs/20090723ACORNReport.pdf.
[2] 2 U.S.C. § 431 *et seq.*

treasury funds to pay for electioneering communications.[4] However, there are several exceptions to FECA's general prohibition on corporations making contributions or expenditures. Under 2 U.S.C. § 441b(b)(2), corporations may make expenditures: (1) to communicate with stockholders and executive or administrative personnel and their families; (2) to engage in nonpartisan voter registration or get-out-the-vote campaigns aimed at stockholders and executive or administrative personnel and their families; and (3) to establish, administer, and solicit contributions to a separate segregated fund for political purposes.

I understand that § 527(f) of the IRC subjects § 501(c) organizations to tax if they make an expenditure for a § 527 "exempt function." The "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 . . . ." would constitute a § 527 "exempt function" under the IRC.[5] According to the IRC, if a § 501(c) organization sets up a separate segregated fund, the fund will be treated as a separate § 527 political organization for tax purposes.[6]

However, a § 501(c) organization cannot set up a fund to conduct activities it cannot do – e.g. a §501(c)(3) organization, which is prohibited from engaging in campaign activity under the tax laws, cannot set up a fund to engage in those types of activities.[7] Treasury Regulation § 1.527-6(b)(1) states that FECA-permitted expenditures are taxable only to the extent provided by regulation. Unfortunately, the Treasury Department has not yet promulgated a regulation stating what that extent is.[8] According to the Congressional Research Service, "[u]ntil the regulation addresses this matter, it appears a § 501(c) organization may engage in [political] activities without tax consequences under IRC § 527(f)."[9]

I understand that, for purposes of applying FECA, the FEC does not distinguish between tax-exempt nonprofit corporations like Project Vote and taxable nonprofit corporations like ACORN. However, the Congressional Research Service has informed me "for the purposes of determining whether a corporation is exempt from certain FECA

---

[3] 2 U.S.C. § 441(a).
[4] 2 U.S.C. § 441b(b)(2).
[5] IRC § 527(e)(2).
[6] IRC § 527(f)(3); Treas. Reg. § 1.527-6(f).
[7] Treas. Reg. §1.527-6(g).
[8] Treas. Reg. § 1.527-6(b)(3).
[9] Memorandum from L. Paige Whitaker, Legislative Attorney, Congressional Research Service and Erika Lunder, Legislative Attorney, Congressional Research Service to House Committee on Oversight and Government Reform, 2 (Aug. 4, 2009) (on file with author). *See* T.D. 7744, 1981-1 C.B. 360 (stating that when the matter is eventually addressed, the regulation will apply on a prospective basis); *see also* Judith E. Kindell and John Francis Reilly, Election Year Issues, IRS 2002 EO CPE TEXT, at 437 (2002), *available at* http://www.irs.gov/pub/irs-tege/eotopici02.pdf.

prohibitions, the tax-exempt status of a corporation is relevant."[10] These ambiguities create the concern that ACORN is permitted to engage in lobbying activities the IRC may wrongly believe are exempt. In addition to the difficulty my staff has faced in obtaining information concerning the IRC, the apparent gap in the rules of the IRS and the FEC signals an increased need for inter-agency communication and coordination.

To ensure that ACORN and ACORN-affiliated entities are complying with both the IRC and IRS regulations, please provide the following information and documents on or before August 20, 2009:

1. It is my understanding that the IRC or IRS regulations require political funds to be separate and segregated from tax-exempt accounts. The ACORN Report disclosed an audit by ACORN's outside counsel, finding ACORN and its affiliates lack an adequately documented delineation of 501(c)(3) from non-501(c)(3) work,[11] ACORN cannot prove that 501(c)(3) resources are not being directed to specific regions based on impermissible partisan considerations,[12] and Communities Voting Together ("CVT"), a § 527 organization, is "treated like a pot of money available to ACORN to carry out state-level political work."[13] Does ACORN's use of 501(c)(3) resources for impermissible partisan considerations and its use of § 527 funds as a "pot of money" constitute violations of the IRC?

2. Citizens Consulting Inc. ("CCI"), a taxable nonprofit, simultaneously managed the accounts of political and private donor-funded organizations.

    a. Does CCI's co-management of various tax-exempt and non-exempt affiliate accounts, many of which receive federal funds and some of which are 527s, violate § 527(f) of the IRC?
    b. If so, has the IRS taken steps to prevent CCI's co-management of affiliate accounts that are legally required to be separate and segregated?

3. It is my understanding that ACORN files Form 1120 corporate income tax with the IRS, has no tax-exempt status with the IRS, and is registered in multiple states as a nonprofit corporation.

    a. If a taxable nonprofit corporation engages in lobbying and political expenditures/contributions, even those exempt under 2 U.S.C. § 441b(b)(2), where does it report those activities?

---

[10] Memorandum from L. Paige Whitaker, Legislative Attorney, Congressional Research Service and Erika Lunder, Legislative Attorney, Congressional Research Service to House Committee on Oversight and Government Reform, 3 (Aug. 4, 2009) (on file with author).
[11] Memorandum from Harmon, Curran, Spielberg, & Eisenberg, LLP [HCSE] on Organization Review to ACORN Beneficial Association, ACORN Housing Corporation, ACORN Institute, ACORN Votes, American Institute for Social Justice, Association of Community Organizations for Reform Now, Citizens Consulting, Inc., Citizens Services Inc., Communities Voting Together, Pennsylvania Institute for Community Affairs, Inc., Project Vote/Voting for America, Inc. (June 19, 2008) at 7 (ACORN_004933).
[12] *Id.*
[13] *Id.* at 8.

b. Provide copies of ACORN's 1120's from 2004 to the present.

4. Identify the number of times the IRS has:

publication.

5. Provide all documents showing ACORN/CCI's transfer of political contributions and dues met the requirements that

a. The § 501(c) uses procedures that satisfy federal and state campaign laws;
b. The § 501(c) organization maintains adequate records to show the transferred monies and political contributions and dues (not investment income); and
c. (3) the transferred monies were not used to earn investment income for the § 501(c) organization.[14]

6. The IRS requires exempt organizations to report embezzlements on its federal tax information return (Form 990, Form W-2, or Form 1099) or on an amended federal tax information return.[15] Section 4958 of the Internal Revenue Code imposes an excise tax on excess benefit transactions between a disqualified person and an applicable tax-exempt organization.[16] A disqualified person is liable for a twenty-five percent ("25%") tax on the excess benefit.[17] An organization manager may also be liable for a ten percent ("10%") excise tax on the excess benefit transaction, if he or she "knowingly, willfully, and without reasonable cause" participated in the excess benefit transaction.[18]

a. Produce all IRS documents concerning fees assessed against Dale Rathke, Wade Rathke and the relevant ACORN-affiliated 501(c) corporations involved in the embezzlement.

---

[14] Treas. Reg. § 1.527-6(e).
[15] Economic Benefit Transactions, INTERNAL REVENUE SERVICE, *available at*: http://www.irs.gov/pub/irs-tege/eotopice04.
[16] Intermediate Sanctions, *Tax Information for Charitable Organizations*, INTERNAL REVENUE SERVICE, *available at* http://www.irs.gov/charities/charitable/article/0,,id=123298,00.html.
[17] 2007 Instructions for Form 990 and Form 990-EZ, *Tax Information for Charities & Other Non-Profits*, INTERNAL REVENUE SERVICE, *available at* http://www.irs.gov/pub/irs-pdf/i990-ez.
[18] *Id.*

b. If no fees were assessed, provide a detailed explanation and any documents explaining why such a transaction is not considered a violation of the excess benefit rule.

7. According to ACORN's outside counsel, ACORN paid its embezzlement-caused deficits through an employee sponsored health fund. Produce all IRS documents concerning penalties assessed against ACORN or any of its affiliates concerning violations of ERISA. If no penalties were assessed, provide a detailed explanation and any documents explaining why such a transaction is not considered a violation of ERISA.

For purposes of your response to this letter, ACORN and its affiliates includes but is not limited to: ACORN, Project Vote/Voting for America, Inc., CCI, Citizens Services Inc. ("CSI"), ACORN Housing Corporation ("AHC"), ACORN Community Labor Organizing Center ("ACLOC"), American Institute for Social Justice ("AISJ"), SEIU Local 100, SEIU Local 880, ACORN Institute, ACORN Votes, and Communities Voting Together ("CVT").

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X.

Thank you for your attention to this matter. If you have any questions regarding this request, please contact Daniel Epstein of the Committee staff at (202) 225-5074.

Sincerely,

Darrell Issa
Ranking Member

cc: The Honorable Edolphus Towns, Chairman

From: Shafer John H
Sent: Tuesday, March 16, 2010 9:31 AM
To: Muthert Gary A
Subject: RE: TEA PARTY
Attachments: Notebook.jpg

Importance: Low

What's the [redacted] movement?

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Muthert Gary A
Sent: Tuesday, March 16, 2010 10:27 AM
To: Shafer John H
Subject: TEA PARTY

I just looked at CNN.com. There is a major TEA Party protest in Washington D.C. today. I watched the video. It appears the TEA party is a Republican based entity. I am now a resident expert on the TEA Party. However, that being said, there is also an equal Democratic "tea party" type entity, called "Emerge". If you want more info, just ask.

Gary Muthert
TE/GE, ID #1000203255
Screening Group, Group 7838
550 Main Street
Cincinnati, Ohio 45201
513-263-3639 Phone
513-263-5200 FAX

From: Angner William J
Sent: Wednesday, April 11, 2012 3:32 PM
To: Seok Stephen D
Subject: RE: TIGTA audit 4/30-5/1/2012

pawns in chain of command are either overlooked or sacrificed....some one up the chain should take the heat for you:)

From: Seok Stephen D
Sent: Wednesday, April 11, 2012 4:29 PM
To: Angner William J
Subject: RE: TIGTA audit 4/30-5/1/2012

Boss.

You are going to save me, right?

From: Angner William J
Sent: Wednesday, April 11, 2012 4:26 PM
To: Conley Melissa A; Davenport Sally B; Fletcher Brad S; Jennewein John A; Perry Veronica E; Sutfield Casey A; Woeste Bryan C; Hanson Michael J; Kiser Joan C; McLaughlin Geraldine R; Gentry Diane M; Luk Zenia; Perry Lori A
Cc: Seok Stephen D
Subject: TIGTA audit 4/30-5/1/2012

FYI:

Holly Paz and TIGTA employees will be here in Cincy 4/30-5/1/2012 to review advocacy cases (ie.TIGTA audit).

There will also be Congressional hearings about how we handle those cases as well.

Glad those are in another group worked by other agents! Please give Stephen all the morale support you can muster:)

From: Thomas Cindy M
Sent: Monday, May 10, 2010 7:27 PM
To: Herr Joseph R
Cc: Melahn Brenda; Camarillo Sharon L; Waddell Jon M
Subject: FW: Emerging Issue follow-up
Attachments: Issue Training-05092010-2.doc; Issue Form-05102010.doc

Joseph,

Sorry I missed this in first review --- there is reference to "See Below." I'm not sure where we are directing the reader. Refer to comment incorporated into attached document.

Regarding the concern I had regarding TAG issue, the bullet you included is good. But, I think the CPE instructors are going to need to make sure they explain that clear TAG referrals go directly to the TAG group and do not pass through Emerging Issue group first.

From: Herr Joseph R
Sent: Monday, May 10, 2010 2:07 PM
To: Thomas Cindy M
Cc: Melahn Brenda; Camarillo Sharon L; Waddell Jon M
Subject: RE: Emerging Issue follow-up

Cindy,

I made some updates to address your concerns.

Joseph

Joseph R. Herr
Manager Group 7825
Exempt Organizations Determinations
(513) 263-3725
(513) 263-4513 fax

From: Thomas Cindy M
Sent: Sunday, May 09, 2010 11:15 PM
To: Herr Joseph R
Cc: Melahn Brenda; Camarillo Sharon L; Waddell Jon M
Subject: FW: Emerging Issue follow-up

Joseph,

This is so much better than the prior document.

Attachment 1 includes changes I recommend (tracked through Word).
Attachment 2 is a clean copy, with outstanding comments/questions.

From: Herr Joseph R
Sent: Friday, May 07, 2010 12:17 PM
To: Thomas Cindy M; Melahn Brenda; Camarillo Sharon L; Waddell Jon M
Subject: Emerging Issue follow-up

All,

Attached please find the re-drafted CPE training handout as discussed in our meeting yesterday.

Joseph

Joseph R. Herr
Manager Group 7825
Exempt Organizations Determinations
(513) 263-3725
(513) 263-4513 fax

EMERGING ISSUE/COORDINATED PROCESSING REFERRAL FORM

NOTE: Applications involving an issue that has been identified on the TAG list or possessing other affirmative indicators of potential fraud or abuse should follow the TAG referral procedures in IRM 7.20.6.

Date:

Specialist Name:

Entity Information

Name: EIN:

Case number: POA (if applicable):

EMERGING ISSUES ☐ COORDINATED PROCESSING ☐

Reason for Referral:

Additional Relevant Facts:

Referral Approval

Group Manager Date .

(For Coordinating Group)

Recommendation:

Disposition:

Signature Date .

TAG, Emerging Issue, Coordinated Processing, and Watch Issue Awareness

Background

As Determinations specialists, we are continually asked to be on the look out for various new issues, cases, POA's, tax law changes, or possible fraud and abuse issues. We receive multiple emails, spreadsheets, and lists and are responsible for managing this information. Without a single depository for this information, it is difficult to remember all the issues and more difficult to keep up to date on the status of them.

To assist with this, we created an Excel workbook to store all the information in one location. The workbook will be divided into five worksheets: TAG, TAG Historical Information, Emerging Issues, Coordinating Processing, and Watch Issues.

The Issues

What is a TAG issue?
Touch-and-Go (TAG) issues may involve abusive tax avoidance transactions, fraud, or terrorism. TAG procedures are described in full in IRM 7.20.6. TAG issues supersede all others. Therefore, applications involving an issue identified on the TAG list or possessing indicators of fraud or abuse should follow the TAG referral procedures.

What is an Emerging Issue?
An Emerging Issue is an issue identified in a group of cases for which no standard practice for handling has been established. Emerging Issues may arise in reaction to current events or changes to tax law, which are not addressed through existing precedent or procedures. Examples of Emerging Issues include the following:

- Tea Party cases
  - These cases were referred because of the number of applications, high profile, and inconsistent requests of 501(c)(3) and (c)(4).
- Pension trust 501(c)(2) non-traditional investment cases
  - These cases were referred because of the unusual note receivable asset, the involvement of the same law firm, high dollar amounts, and possible impact on Employee Plans (EP).

What is Coordinated Processing?
Coordinated Processing is the mechanism for promoting uniform case handling by assigning multiple related cases to a particular specialist or group when there

is existing precedent and procedures that cover the issues involved. Examples of Coordinated Processing include the following:

- A break-up of a large group ruling resulting in the subordinates seeking individual exemptions
- Multiple entities related through a complex business structure such as a senior housing management company and separate senior housing properties
- A change in state law requiring instrumentalities to change their Form 990 filing requirement

What is a Watch Issue?
A Watch Issue is a general term for issues or cases in need of special handling. Examples of a Watch Issue include the following:

- A request from Criminal Investigation to look for an application from a specific organization
- A request from EO Technical to look for applications involving certain activities such as:
    - open software cases
    - Regional Health Information Organizations (RHIOs)

Workbook and Email Alerts

The Excel workbook stores all information in one location and individual worksheets will list the various issues and provide guidance on how to handle them. Also, we are in the process of establishing an email alert system to notify EO Determinations specialists of issues. These alerts will provide notification of new issues, updates on existing issues, and resolutions on closed issues.

(1) TAG issues, Emerging Issues, Coordinated Processing and Watch Issues are tracked on a single Excel workbook.
    - Each of the issue types will have a separate worksheet.
    - Each worksheet lists the individual issues:
        - Issues are named and numbered.
        - Brief descriptions of the issues are provided.
        - Guidance on how to handle the issue is provided. (A cross reference to an email alert number will be referenced. See below.)
    - Individual issues and related cases will be assigned to different groups or different specialists.
    - A Coordinator will maintain the workbook.
        - add, update, or close issue information on the appropriate worksheet.
        - distribute the spreadsheet to EO Determinations specialists.

2) Email alerts will notify EO Determinations specialists of any additions, updates, or closures to issues in the workbook.
   - The Coordinator will compile and distribute the alerts:
     - Containing information on one or more issues.
     - Providing guidance in more specific detail than the Excel workbook.
     - Including numbers for cataloging.
     - Archiving for future reference.

Identification and Referral of Issues

(1) EO Determinations specialists identify potential issues. Routinely, issues are identified in the technical screening process. However, issues can be identified at any stage of case processing.

(2) When a potential issue is identified, the specialist will complete a referral to the appropriate coordinator.

- TAG issues are referred following the procedures in IRM 7.20.6.
- Emerging Issues or Coordinated Processing issues are referred to the Coordinator by completing the Emerging Issue/Coordinated Processing Referral Form. (See attached copy of form.)
  - The reasons for the referral must be clearly described.
  - The specialist's manager reviews and approves the referral prior to sending to the Coordinator.
    - Cases identified in technical screening are forwarded together with the approved referral sheet to the Group coordinating Emerging Issues.
    - Cases identified outside of technical screening remain with the specialists pending review of the referral form.
- Watch Issues are referred to the screener/specialist's manager.

Analyzing the Referral

Upon receipt, the Coordinator reviews, researches, and analyzes the issue. The referral will result in one of the following recommendations:

- To follow Emerging Issue procedures
- To follow Coordinated Processing procedures
- To forward the referral to the TAG Coordinator

- If the Coordinator finds indications of fraud or abuse
- To not accept the referral
  - If the referral is not accepted, the referring group manager will receive feedback explaining why.
  - Cases transferred from technical screening will follow secondary screening procedures.

Emerging Issues Procedures

(1) In the processing of an Emerging Issue Referral, the following will occur:

- The issue will be researched and developed.
  - Research will include identifying any related cases.
  - Development will include identifying the significant facts and circumstances and the appropriate tax law.
- The Coordinator will complete the following:
  - Add the issue to the Emerging Issues worksheet.
  - Issue an alert.

(2) A white paper is prepared and elevated to the appropriate authority to decide how the issue is handled.

(3) The Coordinator disseminates the decision through a follow-up email alert, and makes updates to the Emerging Issues worksheet.

Coordinated Processing Procedures

(1) In the processing of a Coordinated Processing Referral, the following will occur:

- The issue will be researched and developed.
  - Research will include identifying any related cases.
  - Development will include identifying the significant facts and circumstances and the appropriate tax law.
  - Determining what issue-specific procedures should be applied to the related cases.
- The Coordinator will complete the following:
  - Add the issue to the Emerging Issues worksheet.
  - Issue an alert.

(2) The Coordinator will disseminate follow-up information on the disposition of the issue through a follow-up email alert, and makes updates to the Coordinated Processing worksheet.

TIMELINE

Dates	Players	
2/25-26/10 email	Jack Koester to John Shafer to Sharon Camarillo to Cindy Thomas to Holly Paz	Jack sent an email to John 6103 6103 6103
2/26-4/5/2010	Gary Muthert and John Shafer	I was asked by John to query our system and find any Tea Party application and similar cases. John asked me to secure 10 Tea Party cases and transfer them to EOT for review. I conducted TEDS research and found 10 TP cases. Also had Karl Beckerich conduct EDS research to see if any TP received exemption or was being filed via paper. Had Karl Beckerich secure the paper files for me and prepared the cases for transfer.
3/16-3/17/2010 email	John Shafer/Cindy Thomas/Holly Paz	Acknowledged that we have the 10 cases secured by me and really to transfer. They wanted only two and we us to keep the rest until notified.
4/5/2010	Gary Muthert acting for John Shafer	Received email from Cindy Thomas as acting manager -
Pre-2/25/10		3 TP were received exemption per EDS/TEDS
2/25/2010		Jack indentified Case #1 – 6103
3/8/2010		Identified 7 Tea Party's and prepared for EOT transfer
4/2/2010		Identified 3 Tea Party cases

5/9/13 ABA closed door

Topic ⇒ start a discussion on whether ABA can help us in our current conundrum on C4 / Political

Ground Rules – lawsuit? – 4 walls

Set the context –

① – Gift tax issue is under discussion but we are late in going out

② We are in our usual spot – comfortable planes in some respects but not really palatable

→ ~~Rept~~ One side
– hit us hard on Gift Tax
– will hit us hard on Tea Party Applications

short outline of what happened

uptick of C4 with political aspect to operation
centralized applic (a la credit counseling)
but used names
not political vendette by lowlevel but dumb
~~they~~ We have changed the ~~to~~ centralization process and we have worked hard to clean up cases
lots of them are cleared
200 total 120 approved 70 wld

Other side ~~Left~~ is pushing on C4 regulation and whether it should be changed

Senior Levin – lots of correspondence
hearing will occur this summer

key argument is why ~~[illegible]~~ does exclusively mean primarily...

Notes ~~[illegible]~~
ABA closed door did not run thru this – may be ~~did~~ a sentence or it as context part of I think
SM
5/22/13

2

^o the question is what should be done ...
I would like to move forward on the gift tax discussion

AND I DON'T MIND A DISCUSSION ON THE C4
REG AS WELL

AND I AM WONDERING ~~WHAT~~ HOW THE ABA MIGHT HELP

On the C4 reg -- sort of interesting
I am old -- spent the 90's trying to drive
pol activity into C4's and out of C3's
This allowed us to get a bit out of the
difficult issue of ~~no~~ enforcing a
no tolerance rule AND
Out of the precise debunkered battle of education
vs campaign activity
whether its voters guides or issue ads

Then along came a wave of cash ~~or~~ -- unleased
by citizen's united
and that cash chose a favorable port
due to disclosure and under enforced gift tax rules

My little ~~no~~ hope of peace was dashed -- I can now have a
C4 - 100% of which is political + close to the line education issue ads
or grants to other orgs that are pol activists
So I would prefer a legislative fix - disclosure
~~ad~~ would be best but -

Open to looking at regulation -

But I have a series of ~~no~~ concerns
that I would want answers to

This is what questionnaire is trying to tease out

IRSR0000506548

3

All of that time driving political activity to C4
The hope that the line between education and politics
could be fuzzy in C4 →
All of that may already be at risk
But I think that risk skyrockets ~~when~~ if we change the primarily
standard
We have been anything but perfect in C3
enforcement
What happens when C4 becomes ~~just like~~ very similar to C3 - which
is what some argue for -- do I want to
expand the already inadministrable area

So I'd want to raise some questions as we proceed

A) Do we craft a brand new rule in C4?
[Greg's safe harbor comes to mind] don't think this solves anything

B) If so -- is the definition of C4 pol activity
the same? Doesn't have to be -- not statutory like C3

C) is it only C4 we'd be talking about
would 5 and 6 change -- w

D) what remains of the distinction between
C3 and C4 -- Does it come down to lobbying?

E) what else gets impacted by the reduction of permi.
amount of non social welfare activities - can't
do a politics only rule I think - nothing special
about politics versus other "bad" C4 activity
AND folks have 50 years of operational repose that
would be interrupted
~~What~~ Need to understand what is out
there -- presumably UBIT activity would be
ok but...

IRSR0000506549

8

So there are some real questions that those who want to change the reg would have to be ready to discuss

options

(B) (1) Better definitions -- more guidance
but this is hard -- education vs politics
-- level of activity - how to measure
-- grants and how they should be treated
-- concepts of private benefit application in C4 context

(A) (2) Study sponsored by ABA?

(C) (3) return to ~~good~~ administrative safeharbors 25/10/15?

(4) push for disclosure of C4's and gift tax answer in affirmative - this is legislation enough or not enough due to concepts of serial grant making and of shell corporations

(5) other?

control on C4
issues
→ residual to party staff
→

Concept / Questions

issue of excl / primary

we spent all of our time

(1) will this drive us to issue etc of education / voter turnout / ~~[illegible]~~ vs prohib campaign activity

(1A) do we craft a brand new rule?

issues

(1) what is new rule?
C3 rule of no tolerance
something else? ~~[illegible]~~

(2) Do I want ~~to adopt~~ expand the inadministrable
- pappercorn issue
- end vs politics paid

(3) What consequences of C4 / C3 distinction (lobbying)

(4) What else is impacted by tighter rules? do we know?

(5) ~~what~~ Does Cap Interest have same definition
C3 to C4

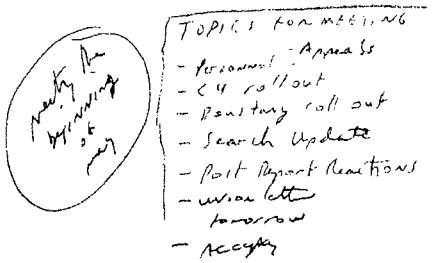
(6) Does it need to?
C4 pol actually
based on statute like C3?
based on same bad reg -
not 1

Options
(1) better definition of Ed/

(2) New test on excl.
25% 10% 15%

(3) Push for larger alternatives?
Disclosure rules
something like new proposal

Other



Meeting the beginning of May

TOPICS FOR MEETING
- Personnel - Appeals
- C4 rollout
- Dentistry roll out
- Search Update
- Post Report Reactions
- union letter tomorrow
- Accuracy

.4

① we have responded to TIGTA
basically contradiction right
[illegible] we did it wrong
we have fixed both process and cases

Driver - TIGTA
to Issa next week
May - maybe earlier
on C4!

② Planned Roll Outs
→ ~~[illegible]~~ to set meet w/ Oversight / Friday
→ Disclosure in Small group ABA Thursday Afternoon
plant Q+A
→ Friday Morning 10
Q+A at ABA

→ Friday ~~[illegible]~~
meet with Boustany Staff
[I fully briefed Lewis / OSB]

Boustany Meeting is for both? -

Can this slip to next week?

What do we ask on C4 if we break it this week?

Travel is much later - 75 days

5/12/11

501(c)(4) Examinations:

Approx. May 2009 – New PSP Analyst assigned to Non-filer Initiative. Prior to this date there was no activity in the non-filer arena

Approx. May 2010 – E&G initiated a formal Referral procedure – prior to this date no formal referral procedures exist.

Between May and November of 2010 – referral procedures initiated in SBSE Exam, LB&I, Fraud/BSA

November 2010 – E&G contacted TEGE notifying them of our referral procedures.

November 2010 – Referral from Revenue Agent Charles Walker who was examining 6103 [redacted] 501(c) (4) and 23 donors.

December 2010 – Research conducted by PSP to determine if gift tax returns were filed for 2007 and 2008. 7 of the contributors filed no gift returns.

December 2010 – 7 contributors were established as SFR non-filers.

December 2010 – PSP contacts Policy to review technical issue

January 2011 – Sent to the field for examination; 5 letters sent to Donors

January 2011 – TEGE requests E&G make a presentation at their CPE

January 2011 – Attorney Advisor contacts Chief Counsel (Jim Hogan) to review technical accuracy of course material. Contact made to the field to suspend activity pending Counsel Advice.

May 2011 - Media Relations inquiry received.

E&G had not actively pursued examination of transfers to 501(c) (4) entities in the past due to the lack of a dedicated PSP program and the lack of substantial issues involved.

This is true even though in Revenue Ruling 88-216, the IRS determined that transfers to 501(c) (4) organizations were not eligible for a charitable deduction and as such were taxable transfers from the donors.

A significant change recently occurred that resulted in a tremendous increase in the amounts transferred to 501(c) (4) organizations. Prior to 2000, many individuals seeking to make a financial impact on elections made contributions to 527 organizations whose primary purpose was to influence the selection, nomination, selection, or defeat of

Flax Nikole C

From: Urban Joseph J
Sent: Wednesday, May 11, 2011 9:00 AM
To: Flax Nikole C
Subject: Rev Rul 82-216

Rev. Rul. 82-216, 1982-2 C.B. 220

The Service will no longer contend that contributions to or on behalf of organizations described in section 527(e) of the Code are transfers subject to the gift tax, irrespective of when the transfers were made.

ISSUE

What are the gift tax consequences of contributions made before May 8, 1974, to political organizations described in section 527(e)(1) of the Internal Revenue Code?

FACTS

In 1972 D made a contribution of $10,000 in cash to a political committee to elect a particular candidate to state office. The committee met the definition of section 527(e)(1) of the Code, as now in force.

LAW AND ANALYSIS

Under section 2501(a)(5) of the Code, the federal gift tax is not imposed on the transfer of money or other property to a political organization within the meaning of section 527 (e)(1) for the use of such organization. Pub. L. No. 93-625, section 14(b), 1975-1 C.B. 510, 517, provides that section 2501(a)(5) is effective with respect to transfers made after May 7, 1974.

Section 527(e)(1) and (2) of the Code, effective for taxable years beginning after December 31, 1974, states:

(1) Political organization.--The term 'political organization' means a party committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) Exempt function.--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.

Carson v. Commissioner, 71 T.C. 252 (1978), acq. in result page 5, this Bulletin, 641 F.2d 864 (10th Cir. 1981), held that the gift tax did not apply to amounts contributed to the campaign funds of candidates for certain political offices and to amounts expended directly on their behalf in 1967 through 1971. Stern v. United States, 436 F.2d 1327 (5th Cir. 1971), reached a similar conclusion as to election campaign contributions made in 1959 through 1961. The contributions involved in both the Carson and Stern decisions were made to or on behalf of organizations of the type described in section 527(e)(1) of

the Code . In the Carson case, the courts rejected the government's contention that the Congressional enactment of section 2501(a)(5) of the Code represented a change from the law applicable to transfers made prior to the effective date of that provision.

In view of these decisions, the Service will no longer contend that contributions to or on behalf of organizations that are described in section 527(e)(1) of the Code are transfers subject to the gift tax, irrespective of when the contributions were made.

In the instant case, D's $10,000 contributions was to a committee described in section 527(e)(1) of the Code. Accordingly, gift tax liability will not be asserted.

However, the Service's acquiescence in the result in the Carson decision should not be interpreted as an acceptance of the rationale of either the Tax Court or the Court of Appeals. The Service continues to maintain that gratuitous transfers to persons other than organizations described in section 527(e) of the Code are subject to the gift tax absent any specific statute to the contrary, even though the transfers may be motivated by a desire to advance the donor's own social, political or charitable goals.

See, for example, section 2522(a) which limits the charitable gift tax deduction otherwise available for transfers to charitable organizations to only those organizations that have not been disqualified for exemption under section 501(c)(3) by reason of attempting to influence legislation and that do not participate in political campaigns

HOLDING

The Service will no longer contend that the gift tax applies to contributions made before May 8, 1974, to or on behalf of a political organization described in section 527(e)(1) of the Code.

DEPUTY COMMISSIONER

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

July 7, 2011

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION
COMMISSIONER, TAX-EXEMPT AND GOVERNMENT ENTITIES DIVISION

FROM: Steven T. Miller
Deputy Commissioner for Services and Enforcement

SUBJECT: Guidance for SB/SE Estate and Gift Tax and TE/GE Exempt Organizations

Questions have been raised regarding the application of gift tax to contributions to I.R.C. § 501(c)(4) organizations. This is a difficult area with significant legal, administrative, and policy implications with respect to which we have little enforcement history. My office will be coordinating with the Office of Chief Counsel to determine whether there is a need for further guidance in this area.

Until further notice, examination resources should not be expended on this issue. It is anticipated that any future examination activity would be after the coordination described above and would be prospective only after notice to the public. Thus, the Service should not expend examination resources initiating referrals or developing audits. Accordingly, all current examinations relating to the application of gift tax to contributions to I.R.C. § 501(c)(4) organizations should be closed. This directive reaffirms and expands the suspension on March 23, 2011, of such examinations by SB/SE Estate and Gift.

This directive has no impact on any decision to pursue, or on the scope of, any examination of I.R.C. §§ 501(c) and 527 organizations, including the correct application of the tax under I.R.C. § 527(f). Nor does this directive have any impact on other estate or gift tax examinations that do not involve the issue of whether gift tax applies to contributions to I.R.C. § 501(c)(4) organizations.

cc: Chief Counsel

Internal Revenue Service
Office of the Commissioner

C4 12/11/12

To: C4

Date: reg says primarily for 50 years

ISSUE Background

(1) money flowing in from new donors to (C)(4)

(2) C4 can do minority political activity by reg (statute says "exclusively" comm benefit)) (but can do issue ads as well)

(3) C4's need not come in for status but must file 990

C4's do not disclose donors except to us — 990 is public but donors

Both sides of aisle up in arms

(4) Gift Tax Issue — are not contrib subject to gift

We have a 1980 ish rev rule tax

Deputy Commissioner

Internal Revenue Service
Office of the Commissioner 2 of

To: Date:

Question is what response
if any to these issues

Levin / Camp / Hatch / Baucus / others
all have hand letters in
on exclusively and on
gift tax
letter from one ~~trigg~~ side
triggers response from
the other
w/o us being involved

Here's where we are
couple of for your informations
and a couple of decisions
pending

Deputy Commissioner

IRSR0000506560

Internal Revenue Service
Office of the Commissioner

3

To: FYI

Date:

① This month and next – EXAMS START

A] EO's that were referred by others for pol activity will be contacted for audit 350 plus

C3 & C4

B] EO's who marked 990 in certain fashion as well – 43 or so – in 2 categories Did you mark yes to Did you do political? or if they said they didn't but put some pol expenditures down

C3 mostly

② This month or next Questionnaires to self declared start 1000-1500 C4 who are active and didn't file 1024 with us – Part of Q'aire will look like application ⇒ up to date info on political

Deputy Commissioner

IRSR0000506561

Internal Revenue Service
Office of the Commissioner

4

To:

Date.

(3) Working on
a broader study
probably public in late
winter unless event

look at C4-C6
- trends in contributions
- trends in political/media
expenditures

(4) Putting together a legislative
proposal on
527/C4 parity
on disclosure

(5) Gift Tax issue

Deputy Commissioner

Internal Revenue Service
Office of the Commissioner

2 of 5

To: Gift Tax Issue ⇒ Date:

Issue - are Contributions to C4's subject to gift tax

c3 / 527 express exclusion

We said in PO that (PL-216) pol contrib not gifts (prior to stat effective date & 527 exclusion) but said that other gifts to orgs were subject unless expressly cut out

But no cases for 30 years -- Couple of years ago we started 5-10 cases in gift tax arena on C4 contrib They were referrals from EO All hell broke loose

I issued a directive 2 July's ago washing out the cases and saying that until we look at this - no enforcement in this area

Deputy Commissioner

6

Internal Revenue Service
Office of the Commissioner

both sides during congressional

To: Date:

Now would like to go out with an announcement of a proposed rulemaking

1 step before a proposed reg

like to say we are thinking it's a gift - and ask for comments

Deputy Commissioner

Internal Revenue Service
Office of the Commissioner

Topics

To:

Date:

① C4 → cite
→ reference
→ Q mine

② Filing Season → 5 m / per day (10 most places)
- Bank run concern
- Jan 30 looking ok - a mil week before

Software Scheduling

③ Hiring 720

④ NF?

Deputy Commissioner

IRSR0000506565

1/13/13

Draft

Recent history [redacted]

Nov 2010 → Agent doing a C4 exam
notices large donations - wonders
about gift tax aspect - sends ~~to~~
23 donors to estate + gift as
referral

E+G does check on 23 ~~7~~ - to see if
gift tax return was filed - 7 did 4 did
exam gets some - 5 letters go out
to donors JAN 2011
same time ~~to~~ E+G goes to counsel and sold
is put on pending CCA

~~Media gets wind May of 2011~~

CCA is on whether donation to C4
is a taxable gift - meaning does
it subject donor to gift tax

May 2011 Media gets wind after
ABA meeting -

Great amount of swirl including
AMP + Hatch letters
Camp ~~[illegible]~~ started 6103 investigation

July 7 2011 - ASA Dep Comm
I issue a directive

Lessons Camp / Hatch / Bauer

Convert dates / Congressionals

IRSR0000506566

Directive - said until further notice
no exam resources on this -

future action would be after coordinate
with counsel and after public notice -
said it would be prospective

closed current cases that were open.

The Law

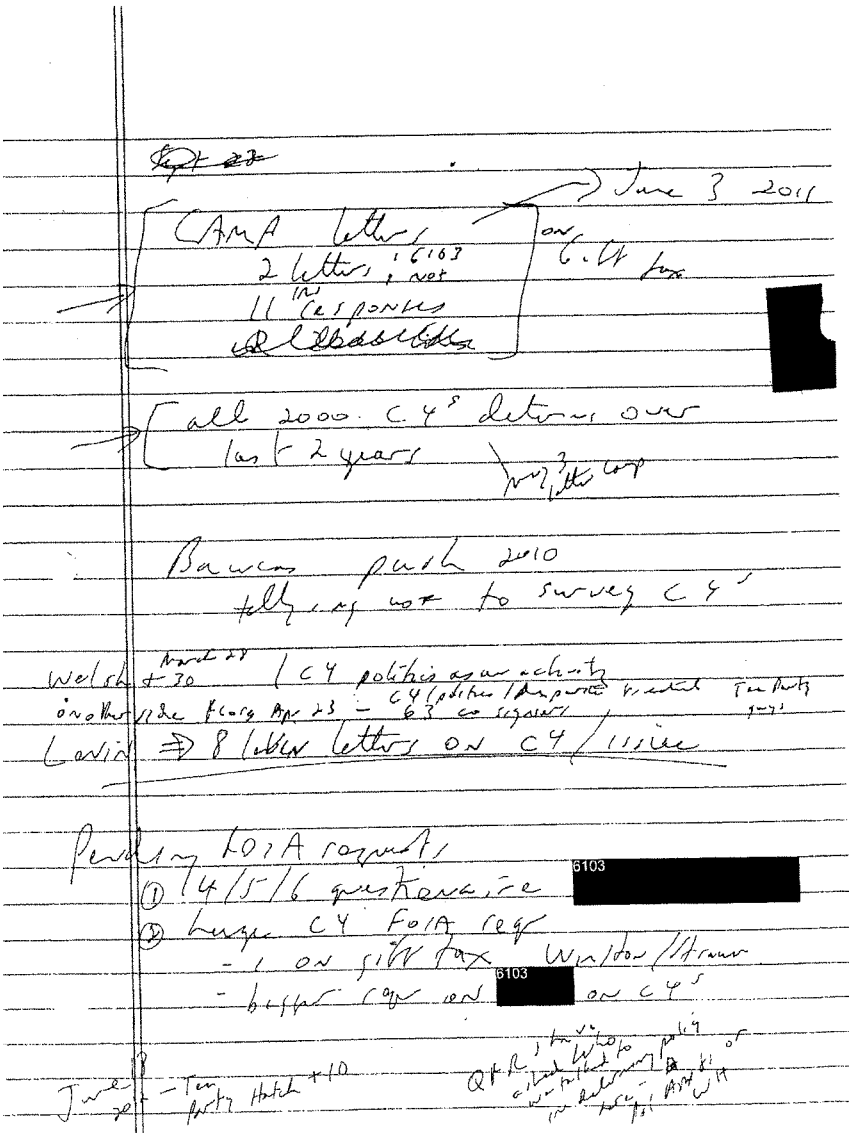
527 - 501(c)(3) - explicit exclusion
we lost a 527 case (congress
made it explicit) / Carson v Commr
now I think)

not explicit for C4, 5, 6's

in our acquiescence to Carson - we
said ok on 527
but implied that other 501's and
501C4 were subject to gift tax

1982
RR
82-216

Proposed --
ANPRM
NPRM
subject to gift tax



~~Sept 28~~

June 3 2011

CAMA letters on Gift tax
2 letters, 6103 not
11 IRS responses
~~[illegible]~~

[redacted]

all 2000 C4's determs over last 2 years

Bauman push 2010
telling not to survey C4's

Welsh March 28 + 30 / C4 politics as an activity
on other side Florg Apr 23 – C4 (politics / dispersion) treated Tea Party guys
63 co signers
Lavin ⇒ 8 letters on C4 / issue

Pending FOIA requests
① 4/5/6 questionnaire 6103 [redacted]
② Larger C4 FOIA req
- 1 on gift tax Winston / Strauss
- bigger req on 6103 [redacted] on C4's

June 18 – Tea Party Hatch + 10

QFR's have asked who watched to in determining policy for FOIA Asst Ct or WH

IRSR0000506569

Outline 1/17/13 (1)

Topic → Guidance on a piece of the issue of increased political activity by social welfare organizations (C4's)
specifically – does the gift tax apply to donations to C4 (5+6) organizations

Background / Context

legal framework

501C3 – must apply to us for exemption (except churches)
– may not do any campaign activity
(defined term – for or against a specific candidate)
– can lobby on limited basis
– education OK – nonbiased voter guides
nonbiased registration efforts
– 990 annual return is public but for donors
– ~~spec~~ donations explicitly excluded from gift tax

501C4 – social welfare orgs – do you promote social welfare i.e. benefit the community in some way – NRA, AARP traditional examples
– do not need to come to us to claim exemption (but most do)
– can do campaign work – as long as it's not their "primary" activity – it counts against exemption
primary is by 30 year old reg – statute for C3 and C4 is the same – must be "exclusively" for social welfare
– ~~[illegible]~~ No limits on lobbying and can do education
– same 990 rules – public but not for donors
– no deduc for contribution AND no explicit gift tax exclusion

527 – basically PAC's
no income tax ~~but~~ and politics is their appropriate activity
donors very much disclosed by IRS or FEC – though corporations may ~~[illegible]~~ shade who is giving

– ~~[illegible]~~ donations to 527 not deduc but are excluded/excepted from gift tax – happened in late 1970's

So - we have seen what looks like
a surge in C4 spending on politics
no way for us to tell until 990's come in -
Dec May 15 but really in Fall

Considerable interest on the Hill in this area
→ Congressionals on all sides
often responding to each other rather than us
ex Hatch responding to Baucus suggestion that
we talk to C(4) during the fourth year
for
8 Levin Congressionals →
Congressional investigations (Camp (6103
Camp now has 2000 C4 applications in our building
concerns over our treatment of Tea Party
orgs triggered a 63 member letter
there was a 30 member letter on our
primarily or exclusively in C4
Levin pushing on this as well

So much swirl exists - brings us to

So Gift tax --

Here is where we are on gift tax

Up until recently -- had not really dealt with the issue in many years

we have a 1982 Rev Rul where we agreed with a court on 527 gift tax treatment (Congress fixed this before the rev rul) we said ok on 527 but implied that all other 501c's where there wasn't an explicit statutory exclusion

remember that's c4 5 6

Fast forward to Nov 2010 -

Agent is working on a 501c4 exam - see's large donations - refers them to our gift tax people - the gift tax people

find that 7 have not filed gift tax returns

5 exam letters go out

same time gift tax asks counsel for opinion

they say hold up - let us get you some guidance

Media meeting/ABA meeting May 2010

All this is public - numerous competing Congressionals again - CAMP starts an investigation

we have responded ~~to~~ 8 times

As we talked about it -- July 7 2011 I issued a directive

said until further notice - no exams

- closed existing cases

- future action would be done after coordination with counsel, public notice and would be prospective

Which brings me to today
would like to put out ~~a~~ something
that moves the ball forward and indicates
that these ~~[illegible]~~, are taxable gifts

⇒ 2 forms
Announcement seeking comments
or
~~Notice~~ Proposed Regulation seeking comments
I prefer the former, Bill the latter

1) Examinations

Referrals – 35+ are ready 88/348 referrals ok

validate mix

if OK put into field

if not validate mix of remainder

put mix in field if possible

Question – can EO committee select mix of well known [redacted] 6103 ?

to commence simultaneously –

and via fast track – Final Unit? FIU?

Also where are we on those in application process

let some 7611 into the field if there are some

Data selections in

what are these? if useful and a mix fine –

11/24/12 Ask TM to go down and ensure balance 1st or 1 A TRANCHE of LAIRS

where done this before

② Study ⇒ Change in activities money in C4 area

but check on C5 C6

the referrals / self declarals / other samples?

use a checksheet

Silverman? Giosa?

① check level/trend of

→ media buys — covers both pol activity + issue ads

→ donation trend

over a certain amount

question

has certain election related activity increased

look for both issue ads and outright political activity → media

→ get out vote

→ publication

→ calls

has the money changed character?

has the money increased?

what else?

# of CKs etc – number of C4's created during election season

IRSR0000506574

Approach on C4 / Nonprofits generally

11/18/12
5th Notes

(1) → Open ess exams → referrals → 990
(2) → Commence multifaceted Study - C4-6
on self declareds
on political activity / issue ads trends
on donations trends

(3) → put out gift tax proposal in ANPRM

(4) → push forward on educating and how to enforce on 527(f)

(5) → propose 527/501c4-6 donor disclosure rationalization approach / legislative initiative

(6) other?

(2) Study continued

(3) Gift Tax
put out in December Gift tax.
Announcement of proposed rulemaking -
laying out our best legal argument(s) and
requesting comments

(4) 527(f) --
→ put out educational material on what notice or website
is expected in terms of 527(f) compliance
JAN
→ announce and do a notice program off the 2012 990s
seems like they would NOT get an extention
for tax due here -- if true - announce

(5) Review Disclosure rules for C4/5/6
→ is the 990 + schedule useful? Does it need modification?
→ what flexibility do we have on donor disclosure
→ what are interfacing rules from FEC
→ can we do anything administratively
for improved case selection
for public disclosure
and does this need to wait for (2)
→ If we cannot -- is there a useful
legislative proposal that will eliminate
the disclosure preference for 501C4
versus 527 ? →
Open to different dollar amounts or other dividing line
ex - if w/in 6 mo/3 mo of election - 527 style reporting etc.

I also changes to 990 [illegible]

IRSR0000506577

(5)

How to do it

via questionnaire

~~Current 1,000 questionnaires~~

Need to develop questionnaire

utilize

- in selected # of current questionnaires and other C 4 5 6
- in referral cases underway
- in other "samples"? or all in following category
  - → anyone in 4 that said they did politics in any one of last 4 years (last political campaign?)
- utilize 990 reporting? (very late)
- utilize 1120pol reporting?

Proposed Non 501c3 Political Activities 11/24/12 1
Study

(1) what is the point
(2) how should we do it
(3) how do we adjust current pieces to create the greater study
[Send out current questionnaires - and pull more detailed work from them]
[Do a random sample of newly created? those who did pol in the past 1 2 or 3 years? or do all of them]

Question - Do I want to include portion on 527 comparing donations there vs 4/5/6

What is the point

Determine Impact of recent perceived increase in money flow and activity to c4 but also look at 5 and 6

Correlate on following
1 ⇒ Donation Modification
2 ⇒ Activity Modification if any
3 ⇒ Do we see rise in election cycle organizations (coming and going)
4 ⇒ Any other changes in operations?
"linked up with party, party functionary, candidate
"issue specific" group

(1) Donations ⇒
are they up
what is trend
are the type or frequency of donations changing
large from new sources? having changed?
from indiv, corporations etc

← 527 comparison?

(2) Activity Modification ⇒
is election targeted activity up?
in what categories
I would do this w/o regard to code definitions of political
I would want to know both issue ads / educational efforts AND traditional behavior political activity
how do we get at it? media buys seems key to me - let them tell donate what part is issue ads vs education - then we can test

3

Activity Modification

So I want to focus on increase in "election centric" activity - not whether it is "good" or "bad" activity

We would need to ① determine how the taxpayer characterizes the activity (education vs. solicitation of politics) ② what the total and comparative amount of such activity

4

(3) Other Operational Changes

How many '4' are alligned with issue or specific party/candidate (party functionary

~~are these~~ are the # of 4's 5's or 6's up?

What do the new ones look like?

Who are they alligned with (not R or D, not specific party, whether alligned to a issue ~~or part~~ or the governing ~~or~~ people or funding indicative of intent to participate in election activity -- whichever would define as any election activity whether "good" c4 election activity (education, get out vote...) or "bad" c4 election activity (candidate support)

12/12

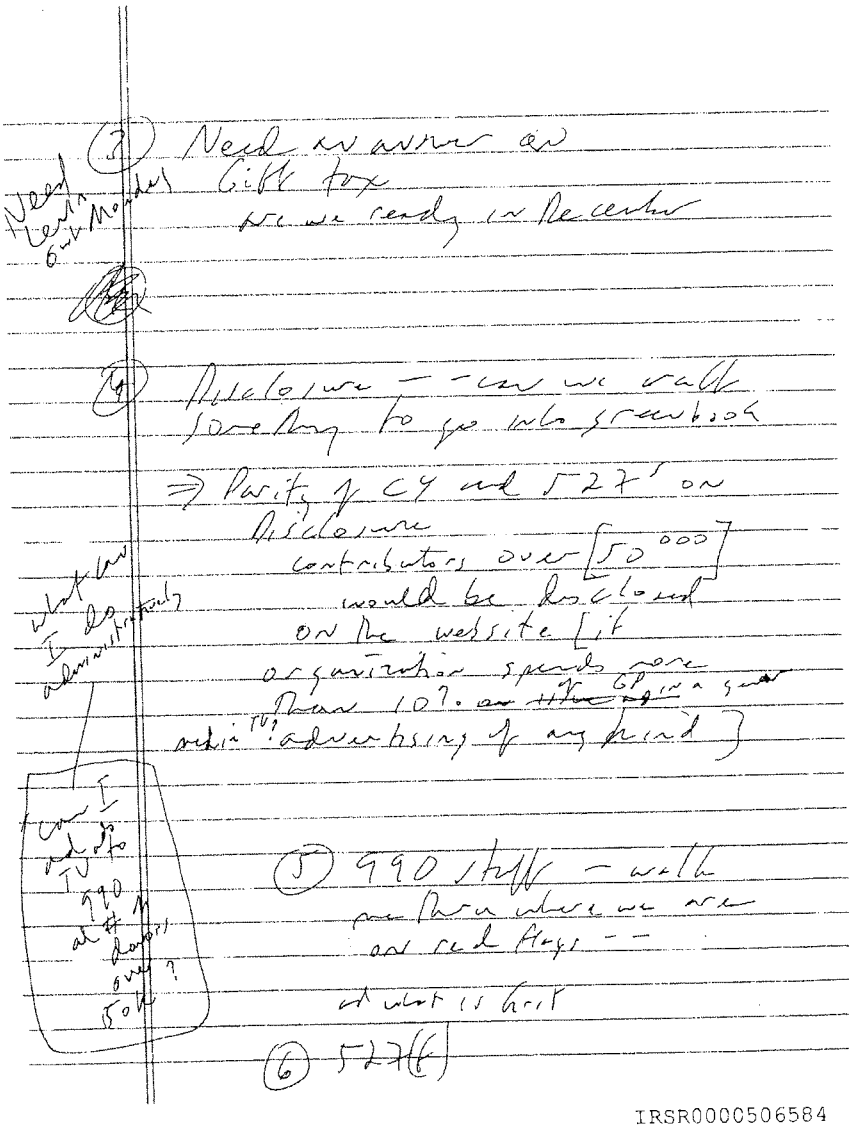
(1) Referrals
are the 58 a mix
if so go

if not - are the 300 a
mix
can we start a mix

either way - can we designate
a couple on either side
as test cases
- [redacted]
- 6103 [redacted] - convert or finalize

(2) Questionnaire & Study
Step one of analysis on dollars

level of pol activity
level of issue adds
level of contributions to C4
~~level~~ # of ~~[illegible]~~ self declared
# of election specific C4's



(3) Need an answer on Gift tax
are we ready in December

Need Lenin Gwk Monday

(4) Disclosure -- can we walk something to go into greenbook

⇒ Parity of CY and 527's on Disclosure
contributors over [50 000]
would be disclosed
on the website [if
organization spends more
than 10% ~~on~~ of GP in a year
media TV advertising of any kind]

what can I do administratively

can I add to TV 990 at # of donors over 50k?

(5) 990 stuff -- walk
me thru where we are
on red flags --

and what is Grit

(6) 527(f)

IRSR0000506584

2

EMBASSY SUITES HOTELS®

Ct saw no difference between corps and individuals in this area

Left in place requirement to disclose who financed ads etc.

HHONORS HILTON WORLDWIDE embassysuites.com 800-Embassy USA Official Sponsor

1

EMBASSY SUITES HOTELS®

CU — can't ban independent expenditures by unions/corps

financing the money = free speech

Ct's ruling eliminated any restrictions on independent expenditures by corp/unions

but left in place direct cont limits

HHONORS HILTON WORLDWIDE embassysuites.com 800-Embassy USA Official Sponsor

EMBASSY SUITES HOTELS®

C4

partisan orgs imitated Citi United

(c)(4)

No reporting of donors quarterly unlike PACs

HHONORS HILTON WORLDWIDE embassysuites.com 800-Embassy USA Official Sponsor

3

EMBASSY SUITES HOTELS®

CU paved way for Super PACs

(indy expenditures 527s) accepting unlimited contr'ts from all for purpose of making indy expenditures

subs. cts have said this is ok

11 22 donors 50% of SP money

12 196 " s 80% " "

HHONORS HILTON WORLDWIDE embassysuites.com 800-Embassy USA Official Sponsor

IRSR0000506585

Political Organizations Overview
Draft 3-13-12

Citizens United: held there is no limit on corporate (and other entity) spending of funds for communications that expressly advocate the election or defeat of candidates.

- Did not affect limits on contribution directly to candidates, but results in allowance of unlimited contributions for advocacy not connected to the candidate (independent expenditures).
- No explicit effect on tax rules, but increased contributions for independent expenditures could make nondisclosure of donors more attractive (501(c)(4) structure).

Section 501(c)(4) Organizations
Under statute, "operated exclusively for the promotion of social welfare . . ."

Regulations state that "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." (Originally promulgated in 1959)

- Political campaign activity allowed as long as that activity, along with all other non-exempt activity, is not primary activity
- No required disclosure of donors on annual filing
- Organizations not required to apply for exemption
- No limit on contributions to (c)(4)s
- Subject to tax under 527 (f) on lesser of (1) net investment income or (2) amount expended on political activity during the year.

Section 527 Organizations

- Political organizations organized and operated primarily to accept contributions and make expenditures for the purpose of influencing the "selection, nomination, election, or appointment of any individual to Federal, State, or local public office or office in a political organization, or the election of Presidential electors."
- Includes political party committees, Federal, State and local candidate committees and other political committees such as political action committees (PACs).
- Filing – some 527s must file periodic reports with IRS showing contributions and expenditures. Filing is public (since legislative changes in 2000). (Filing exceptions apply for FEC political committees (including PACs) and some state and local organizations).
- Subject to tax on investment income or trade or business income (but not on income related to political contributions, dues, or political fundraising).
- Many 527s (including PACs) are also regulated by the FEC.

- Super PACs – those limited to independent expenditures (not in connection with a candidate) are not subject to election law limits on contributions that otherwise apply to organizations that are associated with a candidate.

Deductibility of Contributions:

- 501(c)(4) –
  - Not deductible as charitable contributions
  - May be deductible as trade or business expenses if ordinary and necessary in the conduct of the taxpayer's trade or business. However, certain expenditures for lobbying and political activity are not deductible (those on connection with influencing legislation, participating in a political campaign on behalf of a candidate, attempting to influence the public with respect to elections, legislative matters or referendums, and direct communications with covered executive branch officials in an attempt to influence the person's actions)

- 527 – contributions to a 527 are not deductible

CU
also struck
down McConnell v. FEC
in part which had
upheld McCain Feingold
ban on unrestricted soft
money donations
Wisconsin Right to Life – 2007
said – issue ads outside
BCRA limits on electioneering
communications 30/60

CU → set other court suits
all unlimited pooling of
unlimited donations to
PACs so long as they are
independent of campaigns or
candidates
but CU said must disclose
so folks go to CU

4

GIFT TAX

LAW ⇒ 501c3 / 527 ⇒ exempted (or offset) [illegible] - other than 5 [illegible] no [illegible]
501c4 - 82-216 we [illegible]

ACTION: May 2011 ABA meeting - some [illegible] reported on [illegible] - determined
ultimately less than 10 - [illegible] - we looked at area - determined
& thought we should study it
July 7 ⇒ until further notice no exam activity - close existing ones
"difficult area with signif legal, admin & policy [illegible]"
"coord with CC to determine need for further guidance"

now - still looking - if we decide to do something we
will do it prospectively

[not on plan? we are still in process of [illegible] determining
need - plan not yet final as well.]

Tea Party

① 1st The IRS has only 2 political appointees - neither involved in casework
we are studiously nonpolitical - and each election season [illegible] are raised

C4 Advocacy Orgs (starting in 2010)

② We saw an increase in # of applications and application
by advocacy organizations for 501c4 - some of cases did
use the name Tea Party - some c3's also

A decision was made to group advocacy organizations -
we do this as we did with credit counseling orgs
when we want to have consistency in treatment
in early 2012 & for some development letters went out and
there was some press ...
management took another look to ensure these cases
got appropriate treatment
there are more than 300 (c4)s in this category
at this point more than 50 have been approved
as 501(c)(4) entities some with Tea Party [illegible] name the balance are
still in development - none have been
denied though some may ultimately be denied

we asked for donors [illegible] minority of cases --

Flax Nikole C

From: Paz Holly O
Sent: Thursday, October 04, 2012 1:17 PM
To: Lerner Lois G; Flax Nikole C
Cc: Light Sharon P
Subject: FW: Hearing - Updated Advocacy Data

Below are the latest numbers on the advocacy cases.

-----Original Message-----
From: Bell Ronald D
Sent: Thursday, October 04, 2012 10:40 AM
To: Thomas Cindy M
Subject: RE: URGENT - Advocacy Data Needed for Steve Miller
Importance: High

Cindy,

341 cases have been bucketed. 232 of the total cases bucketed are 501(c)(4) and 109 of the total cases bucketed are 501(c)(3).

1. Number of favorable determinations sent

   1a. Number of favorable c4s = 75
   1b. Number of favorable c3s = 8

2. Number of withdrawals = 21

3. Number of deveopment letters sent (open cases) = 70

   Number of bucket 1 cases that are open: 7 (3 outstanding additional info letters)

   Number of bucket 2 cases that are open: 32 (19 outstanding additional info letters)

   Number of bucket 3 cases that are open: 92 (26 outstanding additional info letters)

   Number of bucket 4 cases that are open: 58 (22 outstanding additional info letters)

NOTE: Open cases are cases in status 51 or status 52.

Let me know if you have any questions or need clarification. Thanks

Ron

-----Original Message-----
From: Thomas Cindy M
Sent: Thursday, October 04, 2012 9:40 AM
To: Bell Ronald D
Cc: Bowling Steven F
Subject: URGENT - Advocacy Data Needed for Steve Miller
Importance: High

Please read Holly's email below. Could you send the data to me by 3:00 p.m. or earlier, if possible? Thanks.

-----Original Message-----

From: Paz Holly O
Sent: Wednesday, October 03, 2012 4:58 PM
To: Thomas Cindy M
Subject: Fw: Hearing

Steve would like updated numbers on the advocacy cases (let's use the format below we have been using). Could we possibly have by cob tomorrow? Sorry - just got the request.

Sent from my BlackBerry Wireless Device

----- Original Message -----
From: Paz Holly O
Sent: Wednesday, September 12, 2012 11:19 AM
To: Thomas Cindy M
Subject: FW: Hearing

Cindy,

Can we get today the latest total number of advocacy cases that have been bucketed?

If possible, would also like to get updated numbers on the categories below but the total number bucketed is more urgent.

Thanks!

holly

-----Original Message-----
From: Paz Holly O
Sent: Thursday, September 06, 2012 10:29 AM
To: Flax Nikole C; Lerner Lois G
Subject: RE: Hearing

Numbers as of last Tuesday, 8/28, are below. With long holiday weekend, I do not expect numbers have changed much since then but I will request updated numbers. Sending these now though so you have a quick sense:

1. number of favorable determinations sent
   1a. number of favorable c4s = 58
   1b. number of favorable c3s = 7

2. number of withdrawals = 17

3. number of development letters sent (open cases) = 101

Number of bucket 1 cases that are open: 15 (9 have outstanding additional info letters)

Number of bucket 2 cases that are open: 56 (38 have outstanding additional info letters)

Number of Bucket 3 cases that are open: 83 (28 have outstanding additional info letters)

Number of Bucket 4 cases that are open: 62 (26 have outstanding additional info letters)

-----Original Message-----
From: Flax Nikole C
Sent: Thursday, September 06, 2012 7:41 AM
To: Paz Holly O; Lerner Lois G
Subject: Fw: Hearing

Can you send to me? Thanks

----- Original Message -----
From: Miller Steven T
Sent: Thursday, September 06, 2012 05:08 AM
To: Flax Nikole C
Subject: Hearing

Can I get updated numbers on c4 determs. Thx

Sent using BlackBerry

old not set based on [illegible] to take a look as does (c) but this is generally what they are looking to put out.

Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) Political Campaign Intervention:

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) Lobbying:

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local) or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) General Advocacy:

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

DRAFT

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) **IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) **IRC 501(c)(4) organizations:**

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) **IRC 501(c)(5) organizations:**

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

DRAFT

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) IRC 501(c)(6) organizations:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) IRC 527 organizations:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including 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.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

DRAFT

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; Must Not Constitute Primary Activity Of Organization	YES
Engage in lobbying	LIMITED;	YES;	LIMITED

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization track its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

DRAFT

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
    - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
    - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
    - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
    - What is the location, date and time of the events.
    - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
    - How many resources (funds/employees/volunteers) are devoted to the activity?
    - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
    - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
    - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
    - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

DRAFT

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office? Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.		
B.	Is the candidate seeking an office for which he or she must be elected, as opposed to be appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

DRAFT

	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.		
	Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	**Personal Endorsements:** Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

DRAFT

	indicate support by the organization?		
E.	**Candidate Forums:** The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that are of interest to the public? Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one		

DRAFT

	candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.) • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held public office, is considered an expert in a non-political field, is a celebrity, has received a distinguished military, legal or public service career. Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?		

DRAFT

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

DRAFT

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • Does the communication to the public include a "call to action" such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?		

DRAFT

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or positions made in a distorted manner? • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

DRAFT

every org did not get every question

The questions that appear in regular text are standard template questions that need to be asked of every organization. The questions in italics highlighted in yellow are supplemental questions that may be asked in this letter or subsequent letter depending on the facts and circumstances.

Note: If the answer to a template question is in the case file, then do not ask the question.

1) Please provide the following information for your board of directors and officers:

   a) Provide all copies of your minutes from inception to the present.

   b) Provide the titles, duties, work hours, and compensation amounts of your board members and officers. If they only work for a certain time yearly, bi-yearly, or quad-yearly, please provide the periods they had (have) worked and will work. Please identify your volunteers.

   c) If you have a board member or officer who has run or will run for a public office in the near future, please describe fully. If none, please confirm by answering "None" to this question.

   d) Describe the qualifications of your board of directors and officers. Your response may include resumes.

2) Describe your donation, contribution, and grant expenses for each year of existence and near future years which includes the information below. If no such activity, please confirm by answering this question "None to be provided."

   a) The names of the donees, recipients, and grantees. If the donee, recipient, or grantee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No."

   b) The amount of each of the donations, contributions, and grants and the dates you donated, contributed, or granted them.

   c) State how your donations, contributions, and grants fulfill your exempt purpose.

3) Provide the following for your fundraising activities:

   a) Copies of all solicitations including pamphlets, flyers and brochures your organization has made regarding fundraising.

   b) State your fundraising expenses and income for each year of existence and near future years.

   c) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

4) Provide the following information for all the events and programs (which may include meetings, forums, rallies, etc.) you have conducted and participated in from your inception to now (other than the events and programs that are questioned below separately). Please answer the following for each event:

   a) The time, location, and detailed description of each event or program.

   b) What was the purpose of each event or program?

   c) Who was invited to speak at the event and why were they invited? Of the invitees, who actually spoke at the event?

   d) Provide copies of handouts you provided to the audience, participants, and the public.

   e) Provide a copy of the transcript for each speaker (you may provide in written form or electronic media format).

   f) Indicate the percentage of time and resources you spent on all the events and programs in relation to 100% of all your activities.

   g) Will your near future events and programs remain similar to those you have been conducting recently? If not, explain the changes in your events and programs for the near future in terms of content, time, and resources.

5) Provide the following for your publishing activities including books, CD's, DVD's, newsletters, literature, flyers, brochures, pamphlets, voter guides, and class handouts from your inception to now:

   a) Copies of all the publications and/or advertising materials that you have distributed.

   b) Expense amounts incurred for your publishing activities from your inception to now.

   c) If you are distributing materials prepared by another organization or person, please identify.

   d) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

   e) Will your near future publishing activities remain similar to those you have been conducting recently? If not, explain the changes in your publishing activities for the near future in terms of content, time, and resources.

6) Enclosed is a copy of information we downloaded from your website. Because we have provided a copy of this information to you, it is available for public inspection as part of your exemption application. If you have any questions regarding this information, please let us know.

7) Have you attempted or will you attempt to influence the outcome of specific legislation? If so, provide the following:

   a) Provide a list of the legislation and how you influenced the legislation.

b) Provide copies of all communications, pamphlets, advertisements, and other materials distributed by your organization regarding the legislation.

c) Provide copies of any radio, television, or internet advertisements relating to your lobbying activities.

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

8) Have you or will you directly or indirectly communicate with members of legislative bodies? If so, provide copies of the written communications and the content of other forms of communications. Please include the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

9) Have you or will you directly or indirectly participate(d) or intervene(d) in any political campaign on behalf of (or opposition to) any candidate for public office including attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate. If so, provide the following details for each of your political campaigns and interventions:

a) Please describe the nature of the political campaign or intervention in detail which may include candidate ratings or endorsements. Provide your endorsement criteria in your description.

b) Names and party affiliations of the candidates you support or oppose.

c) Date and time of the political campaign or intervention.

d) Copies of all handouts, media advertisements, pages of internet advertisements and other means (to be) provided and distributed for the political campaign or intervention.

Please provide your copies in tangible format such as CDs, DVDs, tapes, and paper. Please do not substitute them with web links.

e) If you provided or will provide funds to the candidates or the organizations that support them, provide the name of the recipient, the amount and time of the donation, and the source of the funds. Please provide this information for each of your donations.

f) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

10) Are you associated with any candidates for public office or any other entities such as IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, provide the following:

a) Provide the name, employer identification number, and address of the organization(s).

b) Describe in detail the nature of the relationship(s).

c) Do you work with those organization(s) regularly? Describe the nature of the contacts.

d) List shared employees, volunteers, resources, office space, etc. with the organization(s).

e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

[redacted]

a) What does the activity/service entail?

b) Who conducts the activity/service?

c) When and where is the activity/service conducted?

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

12. Please provide a list of any communications prepared and financed by your organization. For each of those communications, provide the following information:

a) Provide a copy of the communication or a transcript of the broadcast communication.

b) Provide the date when the communication was first disseminated to the public, the period of time it was made available to the public, and the frequency the communication was printed or broadcast during that period.

c) Describe the geographical area where the communication was disseminated to the public.

d) State whether the communication was part of an ongoing series of substantially similar advocacy communications by your organization on the same issue. If so, identify the other communications in the series with the dates those communications were first disseminated to the public.

e) State whether the communication identifies specific legislation or a specific event outside your organization's control that your organization hopes to influence.

f) Describe any considerations that influenced the timing of the communication and whether those considerations were tied to events outside the control of your consideration.

v) State the total expenses used to prepare and disseminate the communication.

13) Will you, or have you conducted voter education activities, including voter registration drives, get out to vote drives, or publish or distribute voter guides (in the near future)? If so, provide the following:

a) What is or will be the location, date and time of the events?

b) Who on the organization's behalf has conducted or will conduct the voter registration or get out to vote drives?

c) Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.

d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

14) Provide the following for all of your research and survey activities including research on the public's social and political views, surveys on the public's choice of political candidates, and exit poll surveys - but not limited to (from your inception to now):

a) The descriptions of your research and surveys.

b) Copies of your research and survey results.

c) The details on your research and survey result distributions - please include all distributions.

d) Expense amounts incurred for your research and survey related activities from your inception to now.

e) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.

f) Will your near future research and survey activities remain similar to those you have been conducting recently? If not, explain the changes in your research and survey activities for the near future in terms of content, time and resources.

15) Are you a membership organization? If so, provide the following for your membership:

a) How many members do you have currently?

b) What does your membership consist of? Are they mostly individuals? What is the percentage of the organizational members as they are part of the whole membership?

c) Provide member application/registration form.

d) Provide membership agreement and rules that governs members.

e) Provide a membership fee schedule.

f) What are the membership requirements?

g) What services and benefits do you provide especially for members only?

h) What are the roles and duties of your members?

16) Describe your organization's employees, paid consultants, and any volunteers in further detail.

[redacted] If part-

a) How many paid consultants has your organization hired? Describe the dates which they were hired and the activities on which the consultants worked.

b) Has your organization used volunteers? If so, describe the number of volunteers used, the dates for which they were used, and the activities on which the volunteers worked.

17) Please provide updated financial data for page 6 of Form 1024 or [redacted] enclosed.

18) Upon review of the organization's website at www.[redacted] it shows that a section of the website is accessible to members only. In order to get a better understanding of the organization's activities through its website, please provide a temporary login and password.

C 4/6 Questionnaire some ideas

I would ask when did you ~~start~~ incorp
1 when did you start operating
2 when did you first have employees
3 sources/types of income | trade lightly the form 990
4 sources/types of expenses
5 Dive into UBIT
6 Dive into compensation (prob ok)
7 Pol (lobbying - other nonexempt activities and their proportion of above income/expense | have them fill out 990 schedule
8 Any other description of activities or what they may want to tell us
9 website
10 related org of

Look at 990 and pull pieces for this

How do you describe how much of something you do - see my notes page 4

IRSR0000506615

Form # (Date)	Department of the Treasury – Internal Revenue Service **Compliance Questionnaire** **IRC 501(c)(4), (5) and (6) Organizations**	OMB No.

This questionnaire asks for information about your organization and how it operates. Answer the questions based on your organization's 20XX tax year. Please do not submit any books or records.

ORGANIZATION INFORMATION

Name of Your Organization (Enter the complete name)	**EIN**
Full Name and Title of Contact Person	**Contact Phone Number**

1.	An organization claiming exemption under code sections 501(c)(4), (5) or (6) is not required to file an application (Form 1024) to be tax exempt. Briefly describe the reason(s) your organization chose not to apply for recognition of exemption.
2.	When did your organization begin claiming tax exempt? _____ *(Use MM/YYYY format)*

DRAFT

IRSR0000506616

3.	Did your organization receive outside professional advice regarding its qualification for exemption? ☐ Yes ☐ No If so, was the advice from an: ☐ Accountant ☐ Attorney ☐ Enrolled preparer ☐ Other - Briefly Describe: _____
4.	Is your organization claiming tax exemption as described in section 501(c)(4)? ☐ Yes ☐ No If yes, check the box that best describes your organization: *Select One Only* ☐ Ballot Measure Committee ☐ Cultural Organization ☐ Economic Development ☐ Educational Organization ☐ Financial or Credit Counseling/Debt Management ☐ Healthcare Organization ☐ Homeowner's Association ☐ Local Association of Employees ☐ Police or Firefighters' Relief Association ☐ Recreation Facility/Activities ☐ Religious Organization ☐ Veteran's Organization ☐ Other Social Welfare Organization - Briefly Describe: _____ **If yes, skip to question 7.**

DRAFT

IRSR0000506617

5.	Is your organization claiming tax exemption as described in section 501(c)(5)? ☐ Yes ☐ No If yes, check the box that best describes your organization: *Select One Only* ☐ Agricultural ☐ Horticultural ☐ Labor ☐ Other - Briefly Describe: _____ **If yes, skip to question 7.**
6.	Is your organization claiming tax exemption as described in section 501(c)(6)? ☐ Yes ☐ No If yes, check the box that best describes your organization: *Select One Only* ☐ Business League/Trade Association/Professional Association ☐ Chamber of Commerce ☐ Real Estate Board ☐ Board of Trade ☐ Professional Sports League ☐ Other - Briefly Describe: _____

DRAFT

IRSR0000506618

7. Enter the percentage of time your organization dedicates to each of the following activities. If your organization does not conduct a particular activity, enter "0" for the percentage of time.

Attempting to influence legislation ____%
Conducting Trade Shows ____%
Engaging in collective bargaining on behalf of members ____%
Conduct any gaming activities such as pull-tabs, bingo, raffles, etc. ____%
Promoting a single product brand, manufacturer, or technology ____%
Providing or maintaining community property ____%
Providing and maintaining facilities available only to members (or guests of members) ____%
Providing security, lawn or maintenance services for members' residences ____%
Providing other services to your members ____%
Publishing (in print or online) a magazine, professional journal, newsletter or membership directory ____%
Publishing (either as part of another publication or separately) a catalog of your members' products or services ____%
Sale of advertising ____%
Supporting or opposing candidates for public office ____%

DRAFT

IRSR0000506619

8.	Does your organization conduct any activities not described in question 7? ☐ Yes ☐ No If yes, list each of those activities in order of percentage of time starting with the most time devoted. Indicate the activity and the percentage of time devoted to the activity during the year.

	Activity	Percentage of Time
1		
2		
3		
4		
5		
6		

to the extent they are exempt activities

8a. In the space below provide a detailed description of the activities listed above, their purposes and how each on furthers your organization's exempt purpose.

9.	Did your organization compensate any of your officers, directors, trustees, or key employees? ☐ Yes ☐ No If no, do **NOT** complete the remainder of the questionnaire. **Refer to the instructions for returning the questionnaire.**
10.	Was the compensation for the officers, directors, trustees, and key employees approved by the Board of Directors or other authorized governing body? ☐ Yes ☐ No

DRAFT

IRSR00005066620

11.	Did the individual officers, directors, trustees, and key employees recuse themselves from discussions on their own compensation or otherwise not participate in the discussions? ☐ Yes ☐ No
12.	Did the individual officers, directors, trustees, and key employees recuse themselves from voting on their own compensation or otherwise not participate in the voting? ☐ Yes ☐ No
13.	Did your organization hire an outside compensation consultant to help determine the compensation of any of the officers, directors, trustees, or key employees? ☐ Yes ☐ No
14.	Did your organization use comparable compensation data to determine the compensation of any of the officers, directors, trustees, or key employees? ☐ Yes ☐ No If no, describe briefly how compensation was determined ____ If no, do **NOT** complete the remainder of the questionnaire. **Refer to the instructions for returning the questionnaire.**
15.	Was the person's compensation based on a percentile from comparable compensation data? ☐ Yes ☐ No What percentile from the comparable compensation data was used to determine the person's compensation? ____ Explain why that percentile was appropriate. ____

DRAFT

IRSR0000506621

16.	Select the sources used, including those used by outside compensation consultants retained by your organization, to obtain comparability data for compensation of the officers, directors, trustees, or key employees. *Check all that apply.* ☐Published surveys of compensation at similar organizations ☐Internet research on compensation at similar organizations ☐Phone surveys of compensation at similar organizations ☐Written offers of employment from similar organizations ☐Forms 990 filed by similar organizations ☐Other ____
17.	Select the factors that were included in the comparability data and used by your organization, or any outside compensation consultants retained by your organization. *Check all that apply.* ☐Compensation levels paid by similar tax-exempt organizations ☐Compensation levels paid by taxable organizations ☐Level of person's education and experience ☐Specific responsibilities of position ☐Previous salary or compensation package ☐Similar services in the same geographic or metropolitan area ☐Similar number of employees ☐Similar number of individuals served ☐Annual budget and/or gross revenue/assets ☐Other ____

DRAFT

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws.

The IRS may not conduct or sponsor data gathering efforts, and you are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 [illegible] 6103.

Redacted By
Permanent Subcommittee on Investigations

ROO Project Code & Description	Subsection			Total	Start Date (blue font denotes estimated date)	Closing Date (blue font denotes estimated date)	Number of Cases ROO Completed
	501(c)(3)	501(c)(4)	501(c) all other subsections				
1) PC 8413 – Political Activities – Part IV, Q3 = Yes and Schedule C Filed	98	81		**179**	2/23/2012	8/15/2012	**179**
2) PC 8419 – Political Activities – Schedule C, line 2 > 0 & Form 990 Part IV, Q3 = No	139			**139**	8/23/2012	11/15/2012	**81**
3) PC 8159 – Organizations not reporting political campaign activity on Form 990, but filing 1120-POL		8	114	**122**	11/30/2012	1/31/2013	
4) PC 8416 – Newly established c4 established around election cycles with high % of contributions	0	99		**99**	2/1/2013	2/28/2013	
5) PC 8420 – IRC 501(c)(4)(5)(6) Schedule C>0, No 1120-POL filed		xx	100	**100**	3/1/2013	4/15/2013	
6) PC 8415 – Political Orgs ceasing operation with a c4 established at same address within one year	0	65		**65**	4/15/2013	5/15/2013	
7) PC 8414 – Payments to Public Officials	237			**237**	5/15/2013	8/31/2013	
TOTAL CASES	**474**	**253**	**214**	**941**			**260**

*This is based upon 2009 RICs data, which will be updated for 2010 when the start date of the segment approaches.

IRSR0000507010

Working draft – for discussion only

Updated Baseline Analysis of 501(c)(4) Form 990 Filers with *Political Campaign Activities*

May 7, 2013

PARTNERSHIP BETWEEN
TE/GE AND OCA

IRS

Official Use Only – Sensitive But Unclassified

Preliminary draft – for discussion

This presentation examines the trends in 501(c)(4) Form 990 filers with *Political Campaign Activities* from TY2008 – TY2011

Agenda

- Background
- Executive summary
- Updated preliminary findings
- Next steps
- Appendix
  - Tax year definition
  - Initial focus on 501(c)(4) Form 990 filers with *Political Campaign Activities* and > $10M in revenue
  - Instructions for Schedule C *Political Campaign and Lobbying Activities* (Extract)
  - Detailed charts showing *Political Campaign Activities* expenses for TY2009 & TY2011
  - Number of 501(c)(4) Form 990 filers with *Political Campaign Activities*, both greater than and less than $10M in total revenue
  - Data Constraints

IRSR0000507011

Preliminary draft – for discussion

IRSR0000507012

Background

Background

- Since Citizens United (2010) removed the prohibition on political spending by corporations and unions, concern has arisen in the public sphere and on Capitol Hill about the potential misuse of 501(c)(4)s for political campaign activities.

Question

- Have 501(c)(4) organizations become increasingly involved in *Political Campaign Activities* (PCA) since 2010?

Potential Analytic Indicators

- Is the number of 501(c)(4)s with political campaign activity increasing?
- Is the amount of political expenditures by 501(c)(4)s increasing?
- Is the number of 501(c)(4)s engaging in political campaign activities and then ceasing activity after an election increasing?

Notes for subsequent slides:
- *Political Campaign Activities* (PCA) for Form 990 Filers are reported to the IRS on Schedule C, Parts 1-A, 1-C and IV.
- Not all Form 990s for TY2011 have been received by the IRS; TY2012 filing is largely incomplete and therefore not included
- Trends span both election years and non-election years; trends also span a significant redesign in Form 990 incl. changes in filing thresholds.

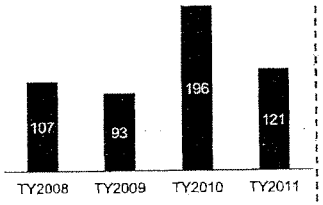
IRS20000507013

Preliminary draft – for discussion

Executive Summary

- Has there been an increase in the number of 501(c)(4) organizations engaging in *Political Campaign Activities*?

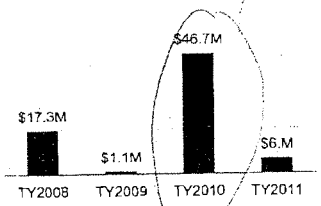
501(c)(4) Form 990 filers with PCA



- The number of 501(c)(4)s reporting PCA almost doubled from TY2008 – TY2010**

- Has there been an increase in *Political Campaign Activities* expenditures – either directly or as grants to other organizations?

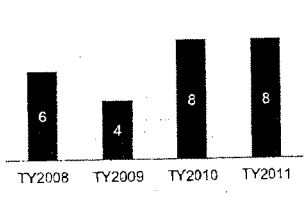
PCA expenditures for large 501(c)(4) Form 990 filers



- The amount of PCA for large filers almost tripled from TY2008 – TY2010

- Has there been an increase in "one year" 501(c)(4) organizations who are engaged in *Political Campaign Activities*?

"One year" 501(c)4 Form 990 Filers with PCA



- There is a very limited population of "one year" filers with PCA between TY2008 – TY2011

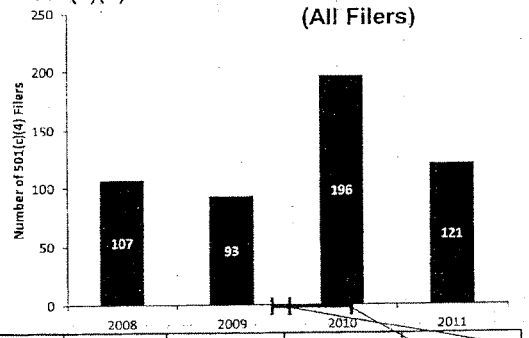
Reminder:
- *Political Campaign Activities* (PCA) for Form 990 Filers are reported to the IRS on Schedule C, Parts 1-A, 1-C and IV.
- **Not all Form 990s for TY2011 have been received by the IRS; TY2012 filing is largely incomplete and therefore not included
- **Trends span both election years and non-election years; trends also span a significant redesign in Form 990 incl. changes in filing thresholds.

IRSR0000507014

Preliminary draft – for discussion

Filers with *Political Campaign Activities* increased from 107 in TY2008 to 196 in TY2010; this outpaces the increase in overall 501(c)(4) Form 990 filers

501(c)(4) Form 990 Filers with *Political Campaign Activities* (All Filers)



Filers w/ PCA	107	93	196	121
Percent Change in Number of Filers with PCA	–	(13%)	210%	(38%)
Total Filers 990 (c)(4)	8,962	9,133	11,486	9,444
Percent Change in Number of Form 990 Filers	–	2%	26%	(18%)

Citizens United January 2010

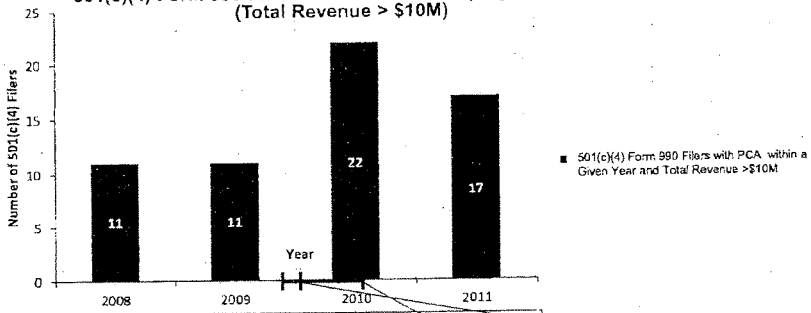
ACA Reconciliation[1] Oct 2009 – June 2010

Source: Returns Inventory and Classification System (RICS), Form 990; [1] Wikipedia

Preliminary draft – for discussion

[redacted]

For filers with *Political Campaign Activities*, those with over $10M in revenue represent 95%[1] of total expenses (by filers with PCA) and present a small universe to explore



	501(c)(4) Form 990 filers with total revenue > $10M			
Large filers with PCA	11	11	22	17
Large filers without PCA	274	269	258	221
Total large filers	285	280	280	238
Percentage with PCA	3.86%	3.93%	7.86%	7.14%

Citizens United January 2010

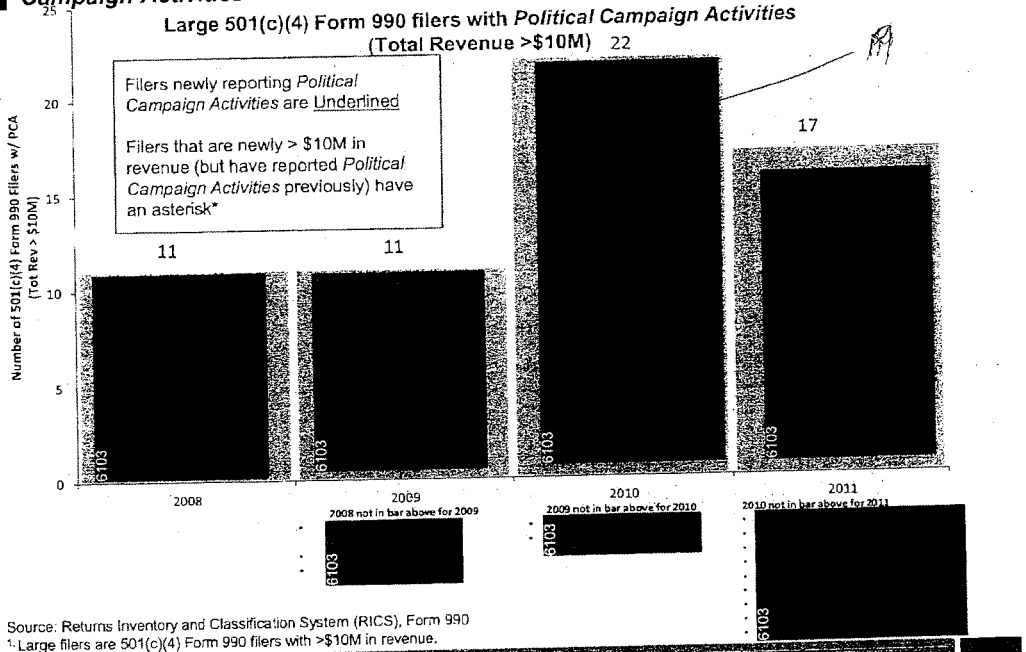
ACA Reconciliation[2] Oct 2009 – June 2010

1. See appendix for further details

Source: Returns Inventory and Classification System (RICS) , Form 990; 2. Wikipedia

Preliminary draft – for discussion

In federal election years, there is substantial "churn" in large[1] filers with *Political Campaign Activities*



Source: Returns Inventory and Classification System (RICS), Form 990

1. Large filers are 501(c)(4) Form 990 filers with >$10M in revenue.

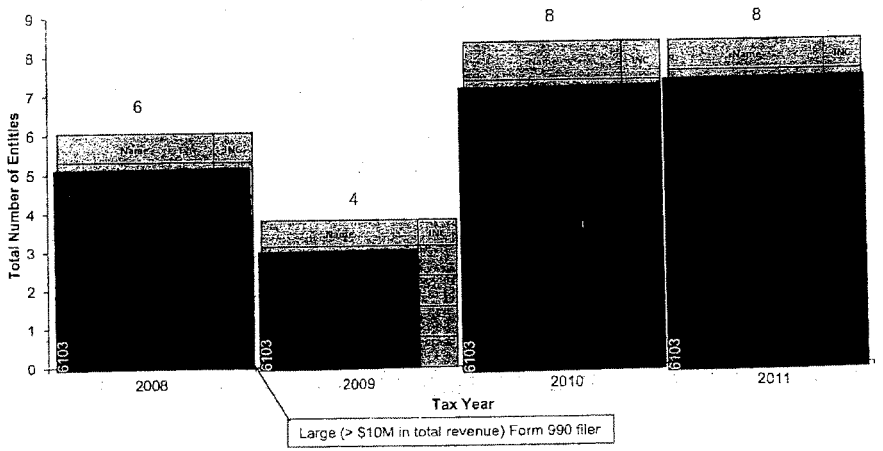
IRSR0000507016

IRSR0000507017

Preliminary draft – for discussion

In the last 4 tax years, 26 (out of 299 total unique) 501(c)(4) Form 990 filers with *Political Campaign Activities* filed only once with the IRS during that period

501(c)(4) Form 990 Filers w/ *Political Campaign Activities*
who File Form 990 One Time between TY2008 – TY2011



Source: Returns Inventory and Classification System(RICS), Form 990; GuideStar (incorporation dates)

Preliminary draft – for discussion

The definition of reportable spending is different for the IRS and FEC; our preliminary analysis shows the amounts reported to each

IRS Form 990 Data Compared to FEC Data (TY 2010)

[redacted]

6103

Source: Returns Inventory and Classification System(RICS), Form 990; FEC Electioneering Communication & Independent Expenditures Reports.

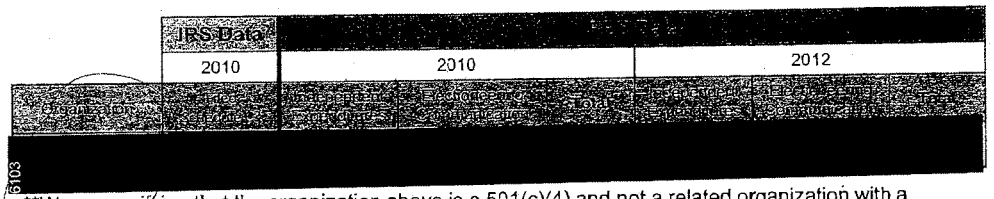
We continue to review the FEC data to ensure we have accurately distinguished in the FEC data between 501(c)4's and related organizations.

IRSR0000507019

Preliminary draft – for discussion

The definition of reportable spending is different for the IRS and FEC; our preliminary analysis shows 1 instance where there *may* have been different reporting outcomes

Amounts reported to the FEC by
large[1] 501(c)(4) Form 990 filers with no Schedule C in TY2010



**We are verifying that the organization above is a 501(c)(4) and not a related organization with a different status. Could be a 527

A more robust analysis of the reporting requirements and specific circumstances of each organization would be required to assess what may have contributed to the different reporting to the IRS and FEC.

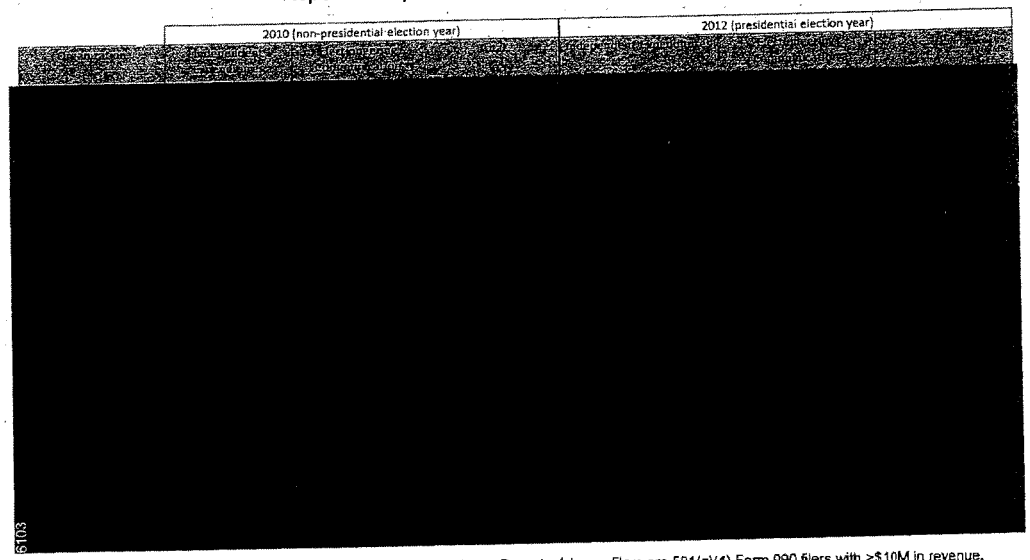
Don't Do This

Source: Returns Inventory and Classification System(RICS), Form 990; FEC Electioneering Communication & Independent Expenditures Reports; [1] Large filers have >$10M in rev.

Preliminary draft – for discussion

[redacted] While Form 990 for TY2012 is not yet due for many filers, large[1] 501(c)(4)s with *Political Campaign Activities* expenditures in TY2010 reported a large increase in spending to the FEC between 2010 and 2012

Reported Expenditures to FEC 2010 and 2012



Source: FEC Electioneering Communication & Independent Expenditures Reports. [1] Large filers are 501(c)(4) Form 990 filers with >$10M in revenue. We continue to review the FEC data to ensure we have accurately distinguished in the FEC data between 501(c)(4)s and related organizations.

IRS00000507020

[redacted]

What do you see as potential next steps?

Preliminary draft – for discussion

Potential Next Steps

- Compare preliminary analysis with results of survey

[redacted]

Appendix

Preliminary draft – for discussion

Report Exhibits - Page 000955

IRSR0000507023

[redacted] Using December of the previous year through November of the current year ensures that all the same form types are included

Definition of Tax Year

- Using January to December Calendar year will present problems because different tax year forms will be mixed in this time period. For example, here a 2012 calendar year definition

Tax Period	Accounting End Period	Accounting Beginning Period	Required Tax Form to File
January 2012	January 2012	February 2011	[redacted]
February 2012	February 2012	March 2011	[redacted]
March 2012	March 2012	April 2011	[redacted]
April 2012	April 2011	May 2011	[redacted]
June 2012	June 2012	July 2011	[redacted]
July 2012	July 2012	August 2011	[redacted]
August 2012	August 2012	September 2011	[redacted]
September 2012	September 2012	October 2011	[redacted]
October 2012	October 2012	November 2011	[redacted]
November 2012	November 2012	December 2011	[redacted]
December 2012	December 2012	January 2012	[redacted]

- A better approach is to use December of previous year through November of the current year. This will ensure all the same form type are included. For example, here is a 2012 definition

Tax Period	Accounting End Period	Accounting Beginning Period	Required Tax Form to File
December 2011	December 2011	January 2011	[redacted]
January 2012	January 2012	February 2011	[redacted]
February 2012	February 2012	March 2011	[redacted]
March 2012	March 2012	April 2011	[redacted]
April 2012	April 2011	May 2011	[redacted]
June 2012	June 2012	July 2011	[redacted]
July 2012	July 2012	August 2011	[redacted]
August 2012	August 2012	September 2011	[redacted]
September 2012	September 2012	October 2011	[redacted]
October 2012	October 2012	November 2011	[redacted]
November 2012	November 2012	December 2011	[redacted]

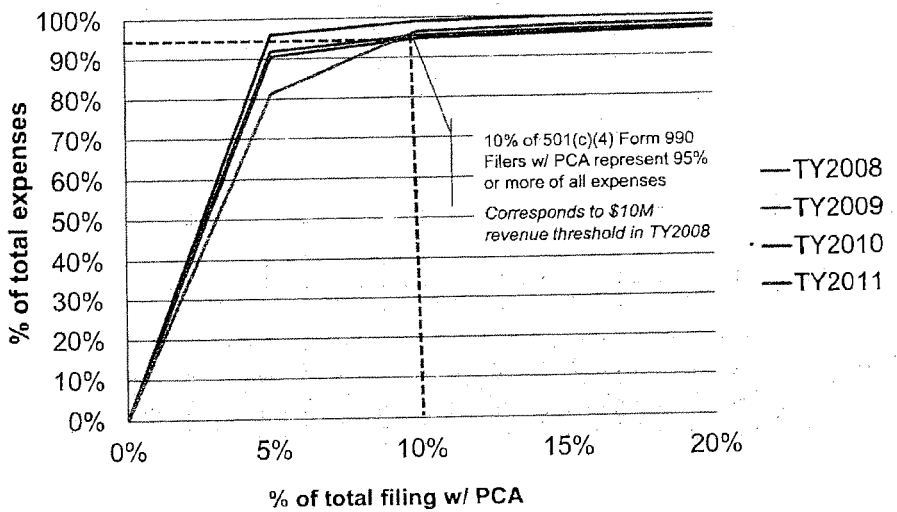
Source: Returns Inventory and Classification System (RICS), Form 990

IRSR0000507024

Preliminary draft – for discussion

We selected an initial threshold >$10M in revenue for focused review because 501(c)(4) Form 990 Filers with *Political Campaign Activities* and >$10M in revenue represent 95% or more of total expenses (by filers with PCA)

Concentration of Expenses, 501(c)(4) Form 990 Filers with Political Campaign Activities, TY2008-2011



Source: Returns Inventory and Classification System (RICS), Form 990

IRSR0000507025

Preliminary draft – for discussion

We use $10M in total revenue as a dividing line between large and small entities with *Political Campaign Activities* spending

Revenue of Largest 501(c)(4) Form 990 Filers with *Political Campaign Activities*
(values in Thousands)

Represents 95% of total expenses in TY2008

2008	2009	2010	2011
$1,144,792 (1)	$1,102,404 (1)	$1,347,927 (1)	$1,376,060 (1)
$949,343 (2)	$1,093,253 (2)	$1,287,048 (2)	$1,331,382 (2)
$898,222 (3)	$926,574 (3)	$1,176,022 (3)	$1,224,438 (3)
$491,929 (4)	$434,658 (4)	$1,033,367 (4)	$1,098,622 (4)
$398,641 (5)	$420,254 (5)	$942,474 (5)	$950,691 (5)
$58,952 (6)	$23,998 (6)	$874,430 (6)	$436,525 (6)
$38,469 (7)	$39,923 (7)	$480,120 (7)	$854,980 (7)
$34,307 (8)	$26,918 (8)	$408,907 (8)	$145,225 (8)
$32,271 (9)	$14,311 (9)	$81,424 (9)	$145,305 (9)
$11,289 (10)	$10,750 (10)	$48,405 (10)	$136,126 (10)
$10,798 (11)	$10,318 (11)	$43,528 (11)	$49,170 (11)
$9,599 (12)	$9,254 (12)	$29,245 (12)	$33,858 (12)
$9,560 (13)	$8,967 (13)	$28,718 (13)	$32,610 (13)
$9,251 (14)	$8,200 (14)	$27,479 (14)	$28,492 (14)
$8,855 (15)	$8,153 (15)	$23,205 (15)	$27,935 (15)
$8,549 (16)	$7,373 (16)	$21,312 (16)	$11,585 (16)
$7,940 (17)	$7,149 (17)	$19,483 (17)	$10,046 (17)
$7,809 (18)	$7,129 (18)	$14,366 (18)	$9,193 (18)
$7,734 (19)	$6,083 (19)	$14,154 (19)	$9,100 (19)
$7,646 (20)	$5,780 (20)	$13,434 (20)	$8,251 (20)
$7,444 (21)	$5,626 (21)	$13,174 (21)	$7,519 (21)
$7,427 (22)	$4,783 (22)	$12,393 (22)	$7,207 (22)
$5,923 (23)	$4,104 (23)	$9,914 (23)	$6,873 (23)
$5,896 (24)	$3,789 (24)	$9,566 (24)	$6,837 (24)
$5,794 (25)	$3,683 (25)	$9,491 (25)	$6,075 (25)
$5,521 (26)	$3,253 (26)	$9,069 (26)	$5,880 (26)
$5,085 (27)	$3,177 (27)	$8,894 (27)	$5,876 (27)
$4,691 (28)	$3,123 (28)	$8,630 (28)	$5,756 (28)
$4,305 (29)	$3,005 (29)	$8,364 (29)	$5,550 (29)

- A clear dividing line would be between 501(c)(4)s with several hundred million in revenue and all other entities, but the population size would be in the single digits.
- For this reason, we looked for a break point that represented a significant percentage of total expenses – and that falls at $10M in revenue for TY2008.
- We then kept the same threshold for all tax years for ease of analysis.

Preliminary draft – for discussion

IRSR0000507026

501(c)(4)s that engage in *Political Campaign Activities* must check yes on line 3, Part IV of the Form 990 and attach a Schedule C which details political expenditures

Required Schedule for Reporting *Political Campaign and Lobbying Activities*

Purpose of Schedule[1]

- Schedule C (Form 990 or 990-EZ) is used by:
  - Section 501(c) organizations, and
  - Section 527 organizations.

  These organizations must use Schedule C (Form 990 or 990-EZ) to furnish additional information on **political campaign activities** or **lobbying activities,** as those terms are defined below for the various parts of this schedule.

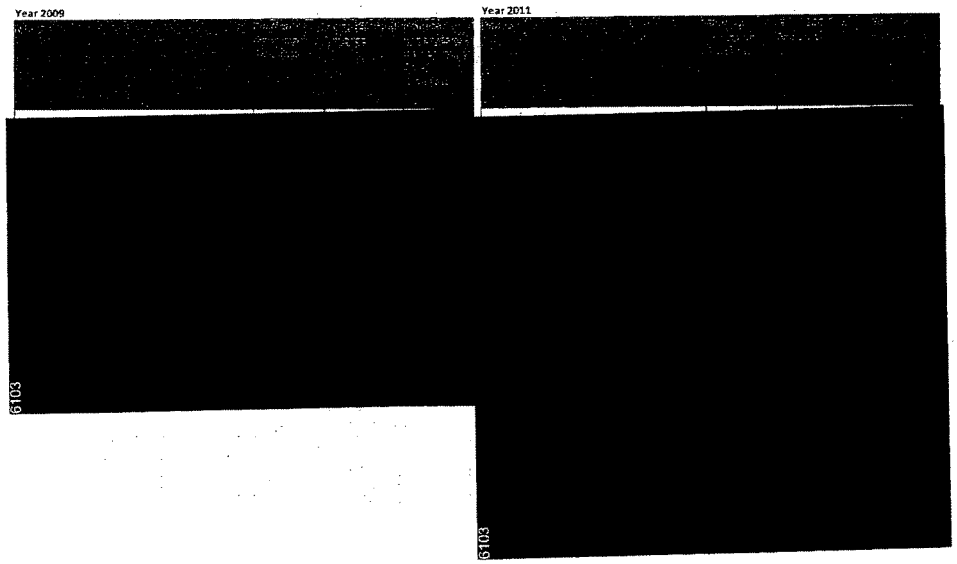
Who Must File[2]

- An organization that answered "Yes" on Form 990, Part IV, *Checklist of Required Schedules*, line 3, 4, or 5, must complete the appropriate parts of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990. An organization that answered "Yes" on Form 990-EZ, Part V, line 46 or Part VI, line 47, must complete the appropriate parts of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990-EZ. An organization that answered "Yes" to Form 990-EZ, Part V, line 35c, because it is subject to the section 6033(e) notice and reporting requirements and proxy tax, must complete Part III of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990-EZ.

IRSR00005070027

Preliminary draft – for discussion

Political Campaign Activities expenditures for 501(c)(4) Form 990 Filers with > $10M in Revenue in years without federal elections (2009 and 2011)



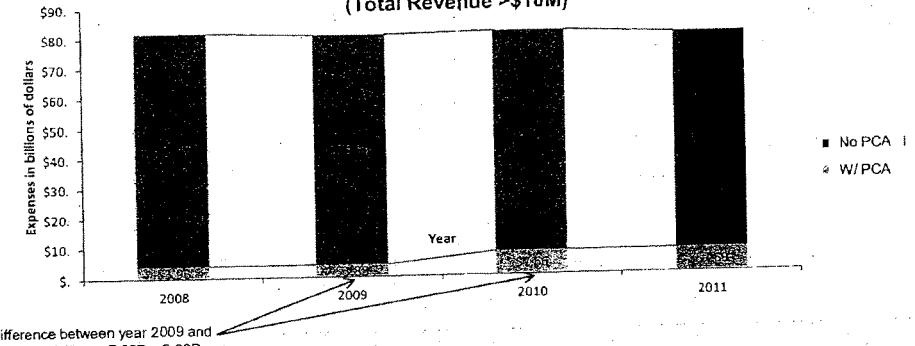
Source: Returns Inventory and Classification System (RICS), Form 990

IRSR0000507028

Preliminary draft – for discussion

[redacted] Total expenses for large[1] filers with *Political Campaign Activities* almost double from TY2009 to TY2010; however, most of the increase is attributable to 3 HMOs

Total Expenses of 501(c)(4) Form 990 Filers within a Given Year (Total Revenue >$10M)



The difference between year 2009 and 2010 is $3.78 billion = 7.66B – 3.88B

Break down of $3.8 billion dollar difference

[redacted]

$1,313
$990
$881
3 HMOs who engaged in political campaign activities in 2010 but not in 2009 are responsible for ⟹ $3.2 B

+

10 entities which entered into political campaign activities in 2010 and did not engage in political campaign activities in 2009 ⟹ $200 M

+

Remaining entities that engaged in political campaign activities in 2009 and again in 2010 increased spending by ⟹ $400 M

$3.8 B

Source: Returns Inventory and Classification System (RICS), Form 990

1. Large filers are 501(c)4 Form 990 filers with >$10M in revenue

IRSR0000507029

Preliminary draft – for discussion

After TY2009, the number of 501(c)(4) Form 990 Filers with *Political Campaign Activities* increases both for those with total revenue > $10M and for those with total revenue < $10M

Numbers of 501(c)(4) Filers with and without *Political Campaign Activities* in a Given Year Total Revenue > $10M vs Total Revenue < $10M

	501(c)(4) Form 990 filers with Total Revenue > $10M				... with Total Revenue < $10M			
	TY2008	TY2009	TY2010	TY2011	TY2008	TY2009	TY2010	TY2011
501(c)(4) Form 990 Filers, with PCA	11	11	22	17	96	82	174	104
501(c)(4) Form 990 Filers without PCA in a Given Year	274	269	258	221	8581	8771	11032	9102
Total 501(c)(4) Form 990 Filers	285	280	280	238	8677	8853	11206	9206
Percentage of 501(c)(4) Form 990 Filers w/ PCA	3.86%	3.93%	7.86%	7.14%	1.11%	1%	1.55%	1.13%
Total PCA expenditures	$17M	$1M	$47M	$6M				
Total expenditures	$3950M	$3880M	$7658M	$7690M				
Total PCA as percent of total expenditures*	0.43%**	0.03%**	0.57%**	0.08%**				

**Pls note: The percent of PCA as total expenditures for individual large 501(c)(4)s runs from 0% to 29% in TY 2008; 0% to 1% In TY2009; 0% to 40% in TY2010; and 0% to 14% in TY2011.*

*** Pls further note: The percentages displayed on Slides 14 and 21 are rounded to the nearest whole percent..*

Source: Returns Inventory and Classification System (RICS), Form 990

Preliminary draft – for discussion

IRSR0000507030

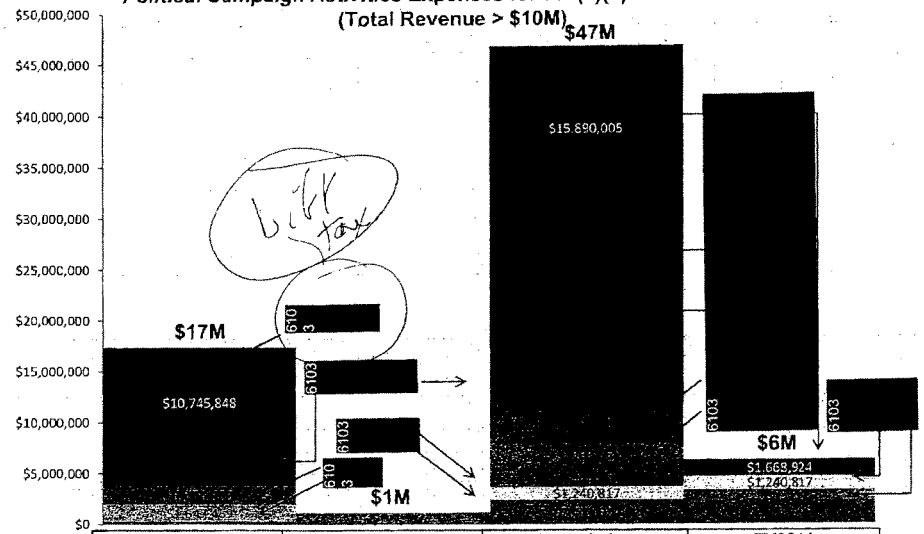
Data Constraints

- Due to the filing deadlines for Form 990, TY2011 is not yet complete; this means trend analysis including TY2011 may understate filings in that year
- There was a significant change in Form 990 in TY2008 complicating historical trend analysis that spans across that tax year
- The threshold for determining whether a 501(c)(4) should file a Form 990 or a Form 990EZ changed each year from TY2008 through TY2010
- Information on Schedule C is not transcribed; this requires a manual review of the fields for analysis. For example:
  - Schedule C *Political Campaign Activities* expenditures is not transcribed
- Information from the Form 990 detailing recipients of grants is not transcribed; this requires a manual review of the fields for analysis

IRSR00005070 31

Preliminary draft – for discussion

Total *Political Campaign Activities* expenses[1] for large[2] filers increased from $17M in TY2008 to ~$47M in TY2010 but only represented 0.61% of TY2010 total expenses



# of Filers	11	11	22	17

Source: Returns Inventory and Classification System (RICS), Form 990; GuideStar.org [1] As reported on Sched. C, Part 1-C-3; [2] Large filers have >$10M in rev.

[redacted]

Political Campaign Activities expenditures for 501(c)(4) Form 990 Filers with > $10M in Revenue in federal election years (2008 and 2010)

Preliminary draft – for discussion

Source: Returns Inventory and Classification System (RICS), Form 990

EDD - BOLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS TEDS Status	Control Date	EIN	Subsection
1					
2		37	07/12/10		3
3		37	01/07/11		4
4		37	03/15/10		4
5		01	01/18/11		4
6		11	04/05/10		4
7		01	05/20/10		4
8		04	08/31/10		4
9		01	02/14/12		3
10		52	11/04/11		4
11		52	11/13/11		3
12		32	10/24/11		4
13		01	04/26/12		3
14		51	07/05/11		4
15		01	01/19/12		4
16		51	12/28/12		4
17		51	11/02/11		4
18		51	11/02/11		3
19		37	01/02/12		4
20		01	10/26/12		3
21		52	08/18/11		4
22		52	09/11/12		3
23		59	07/30/10		4
24		59	03/05/12		3
25		01	11/21/11		4
26		01	01/31/11		4
27		52	04/30/12		3
28		52	01/31/12		4
29		52	02/24/12		4
30		01	12/22/10		4
31		01	08/13/11		4
32		04	09/18/10		3
33		01	12/28/12		3
34		51	01/16/13		4
35		01	01/02/10		4
36		37	10/25/10		4
37		01	04/22/11		4
38		52	11/08/11		3
39		52	08/07/12		4
40		51	12/20/12		4
41		52	10/05/12		4
42		52	06/02/11		3
43		52	07/05/11		4

6103

6103

EOD - BOLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS TEDS Status	Control Date	EIN	Subsection
45	[redacted]	37	11/08/11	6103	4
46		01	10/01/11		3
47		35	08/04/10		4
48		37	09/09/11		4
49		11	03/31/11		4
50		52	05/13/11		3
51		51	12/01/12		3
52		04	09/21/11		3
53		01	11/23/10		4
54		51	04/27/11		3
55		C1	10/15/10		4
56		52	07/16/12		4
57		52	03/08/12		4
58		01	09/28/11		4
59		52	05/24/12		4
60		01	09/04/12		4
61		01	11/16/11		4
62		01	09/28/11		4
63		37	12/16/11		4
64		52	11/15/12		3
65		01	10/08/11		4
66		04	04/15/11		3
67		01	01/16/12		4
68		52	04/06/12		4
69		32	05/31/12		3
70		01	03/20/12		4
71		52	01/04/12		4
72		01	03/29/12		3
73		01	07/11/11		4
74		01	11/19/09		4
75		52	01/25/12		3
76		01	02/22/11		4
77		52	10/12/12		4
78		01	01/13/12		3
79		52	12/23/11		4
80		52	02/01/11		3
81		52	02/09/12		4
82		52	09/29/11		4
83		52	03/27/12		4
84		01	05/21/12		4
85		52	10/05/11		4
86		11	08/23/11		3
87		11	02/22/11		4

EDD - BDLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS TEDS Status	Control Date	EIN	Subse cDon
89	[redacted]	04	11/12/10	[redacted]	4
89		37	02/01/12		4
90		51	08/19/11		4
91		51	09/21/12		4
92		01	08/23/11		4
93		01	07/14/10		4
94		52	04/07/11		4
95		01	05/17/12		4
96		01	01/24/11		4
97		52	04/16/12		4
98		01	10/26/10		4
99		01	04/04/11		4
100		01	10/25/10		4
101		01	10/12/11		4
102		52	05/29/12		4
103		52	10/17/11		3
104		52	01/31/11		3
105		37	01/20/12		3
106		52	01/09/12		3
107		01	03/25/11		4
108		01	12/31/11		3
109		04	05/11/10		4
110		51	09/12/11		4
111		01	05/25/12		4
112		52	02/22/12		4
113		51	09/12/11		3
114		51	08/16/11		3
115		01	08/29/11		3
116		01	02/14/11		3
117		52	04/29/11		4
118		51	07/29/11		4
119		01	09/03/10		4
120		01	08/03/10		4
121		01	07/26/10		4
122		04	05/25/11		4
123		01	02/14/11		3
124		52	11/09/11		4
125		04	11/09/11		3
126		04	12/15/11		3
127		01	05/05/11		3
128		37	11/22/11		4
129		52	03/25/12		4

IRSR0000507035

EOO - BOLO Advocacy Political Case List

	1	A	B	C	D	E
		Organization Name	EDS TEDS Status	Control Date	EIN	Subsection
131			01	03/18/11		4
132			52	09/05/12		4
133			51	11/16/12		4
134			01	12/27/11		3
135			04	03/19/10		4
136			51	11/01/12		3
137			01	03/31/11		4
138			01	06/31/10		4
139			52	12/24/11		3
140			52	03/26/12		4
141			01	01/18/12		3
142			04	07/02/12		4
143			52	01/23/13		3
144			52	06/12/11		6
145			52	03/14/12		3
146			51	06/30/11		3
147			01	06/29/11		4
148			01	06/04/11		4
149			52	03/08/12		4
150			37	03/07/11		4
151			52	05/24/12		4
152			01	11/15/11		4
153			01	04/05/12		4
154			52	01/06/12		3
155			52	04/04/11		3
156			01	02/20/12		3
157			52	05/18/12		3
158			51	11/01/12		3
159			01	05/21/10		4
160			01	04/19/12		4
161			51	07/26/12		3
162			52	04/11/11		3
163			52	01/31/12		3
164			01	03/16/12		3
165			04	12/02/11		4
166			01	7/17/12		4
167			31	01/31/12		3
168			52	11/09/11		4
169			52	01/09/11		4
170			52	01/09/11		4
171			52	10/17/11		4
172			52	04/13/11		4
173			37	05/28/10		4

IRSR0000507036

EOD - BOLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS Status	Control Date	EIN	Subsection
174	[redacted]	37	03/18/11	[redacted]	4
175		01	03/27/10		4
176		01	01/27/11		4
177		52	10/13/11		4
178		01	09/28/12		4
179		52	09/07/12		4
180		52	01/12/12		3
181		93	06/23/10		3
182		51	05/14/12		3
183		52	09/26/12		4
184		01	01/27/11		4
185		01	12/18/12		4
186		51	10/30/12		3
187		52	05/21/12		4
188		37	04/08/11		4
189		01	02/03/11		3
190		01	02/22/11		4
191		37	06/15/12		4
192		04	04/28/10		4
193		51	12/28/12		4
194		37	05/09/11		4
195		04	05/07/10		4
196		01	01/13/11		4
197		37	06/08/11		4
198		52	05/11/10		4
199		51	11/01/11		4
200		52	08/20/10		4
201		01	12/01/10		4
202		52	07/23/10		4
203		51	10/08/12		3
204		51	05/29/12		3
205		01	06/20/12		4
206		01	06/14/12		3
207		32	04/24/12		3
208		01	02/08/12		4
209		04	05/12/11		3
210		51	12/28/10		4
211		52	06/08/12		4
212		52	01/05/11		4
213		37	12/09/11		4
214		01	08/09/11		4
215		11	08/08/11		4
216	[redacted]			[redacted]	
217					
218					
219					
220					
221					

EOD - BOLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS TEDS Status	Control Date	EIN	Submission
217	[redacted]	52	10/03/12	[redacted]	3
218		01	03/30/11		4
219		04	07/19/10		4
220		01	11/30/11		4
221		01	09/11/10		4
222		51	11/13/12		3
223		01	03/06/12		4
224		51	07/13/11		3
225		C1	07/14/11		4
226		01	09/06/12		3
227		01	07/15/11		4
228		01	07/16/11		4
229		01	07/17/11		4
230		01	07/18/11		3
231		01	07/19/11		4
232		01	07/20/11		4
233		52	07/21/11		4
234		52	07/22/11		3
235		04	07/23/11		4
236		37	07/24/11		4
237		01	07/25/11		4
238		37	07/26/11		3
239		74	08/07/10		4
240		37	07/28/11		4
241		52	08/26/12		3
242		52	07/29/11		4
243		51	07/30/11		4
244		37	07/31/11		4
245		51	01/28/13		3
246		52	08/01/11		4
247		52	08/02/11		3
248		51	02/21/12		3
249		01	04/03/11		3
250		01	08/04/11		4
251		52	08/10/12		4
252		52	08/11/12		4
253		01	08/05/11		4
254		01	06/21/12		4
255		01	08/08/11		4
256		52	10/03/12		3
257		52	02/21/12		4
258		52	02/09/12		10
259		52	06/20/11		3

EOD - BOLO Advocacy Political Case List

	A	B	C	D	E
1	Organization Name	EDS TEDS Status	Control Date	EIN	Subsection
2	[redacted]	01	08/08/11	[redacted]	4
3		32	04/24/12		3
4		52	09/11/12		4
5		01	08/09/11		4
6		01	08/11/11		4
7		01	08/12/11		4
8		51	01/23/13		4
9		01	08/13/11		6
10		52	08/14/11		4
11		01	08/15/11		4
12		01	08/16/11		3
13		52	08/17/11		3
14		51	09/04/12		4
15		51	09/21/12		4
16		52	08/18/11		4
17		52	08/19/11		4
18		51	08/20/11		3
19		01	08/21/11		4
20		01	08/22/11		4
21		01	08/23/11		4
22		01	08/24/11		4
23		01	08/25/11		4
24		01	08/26/11		4
25		01	08/27/11		4
26		52	08/28/11		4
27		01	09/25/12		3
28		01	08/29/11		3
29		37	08/30/11		4
30		52	08/31/11		3
31		52	05/23/12		3
32		01	09/01/11		4
33		52	09/02/10		3
34		01	09/03/11		4
35		37	09/04/11		3
36		52	08/11/12		4
37		04	03/08/10		4
38		04	05/26/10		4
39		04	09/07/11		4
40		51	05/08/12		3
41		01	09/08/11		4
42		52	08/09/11		3
43		01	09/10/11		3

IRSR0000507039

EOD - SOLD Advocacy Political Case List

	A	B	C	D	E
1	Organization Name	EDS Status	Control Date	EIN	Subsection
303	[redacted]	01	09/01/11	[redacted]	4
304		01	09/12/11		4
305		01	09/13/11		4
306		01	09/14/11		4
307		57	09/15/11		4
308		32	09/17/11		3
309		37	09/19/11		4
310		01	05/30/12		4
311		01	09/19/11		4
312		51	07/12/11		3
313		01	05/08/12		4
314		01	09/21/11		3
315		01	09/22/11		4
316		52	09/23/11		3
317		04	08/24/11		4
318		52	02/13/12		3
319		04	09/26/11		4
320		01	09/28/11		3
321		52	09/28/11		3
322		01	09/30/11		4
323		52	12/17/10		3
324		01	10/03/11		4
325		01	10/04/11		4
326		51	04/09/11		4
327		01	10/06/11		4
328		04	10/07/11		3
329		01	10/09/11		4
330		52	04/27/12		4
331		37	04/17/12		4
332		01	10/09/11		4
333		52	04/09/12		4
334		58	09/21/12		3
335		01	10/10/11		4
336		04	10/11/11		4
337		01	10/12/11		4
338		04	10/13/11		4
339		01	10/14/11		4
340		01	10/15/11		3
341		01	10/16/11		4
342		37	09/17/11		4
343	[redacted]			[redacted]	

EOD - BDLO Advocacy Political Case List

	A	B	C	D	E
1	Organization Name	EDS TEDS Status	Control Date	EIN	Subsection
340		51	11/15/12		4
341		01	10/17/11		4
342		01	10/19/11		4
343		52	12/02/11		3
344		52	12/22/11		3
345		04	08/07/12		4
346		01	10/22/11		4
347		51	03/16/11		4
348		04	10/24/11		3
349		51	10/14/11		4
350		52	10/26/11		4
351		01	10/27/11		4
352		52	07/05/12		4
353		01	10/28/11		4
354		04	10/28/11		4
355		52	10/30/11		3
356		37	02/10/10		4
357		52	04/09/12		3
358		37	11/01/11		4
359		52	11/02/11		3
360		52	12/17/10		4
361		04	11/04/11		4
362		01	11/05/11		4
363		01	11/06/11		4
364		37	11/07/11		4
365		51	05/04/12		3
366		01	08/14/12		4
367		51	10/09/12		4
368		04	11/08/11		3
369		01	11/09/11		4
370		37	11/10/11		4
371		01	02/01/11		3
372		01	11/12/11		3
373		01	12/04/11		3
374		01	11/13/11		3
375		01	11/14/11		4
376		12	11/14/11		4
377		52	07/18/12		3
378		75	11/15/11		3
379		51	10/10/11		4
380		52	11/17/11		3

IRSR0000507041

EOD - BOLO Advocacy Political Case List

	A	B	C	D	E
	Organization Name	EDS TEDS Status	Control Date	EIN	Subse ction
1					
380	[redacted]	32	11/18/11	[redacted]	3
381		51	01/04/13		4
382		01	05/08/12		4
383		01	11/18/11		3
384		51	10/03/11		4
385		37	11/22/11		4
386		01	11/23/11		3
387		54	09/28/11		3
388		01	11/25/11		4
389		62	07/09/12		4
400		75	11/28/11		3
401		37	01/03/12		4
402		01	11/28/11		4
403		01	11/29/11		4
404		37	11/30/11		4
405		54	12/01/11		4
406		04	12/02/11		4
407		01	12/03/11		4
408		52	12/05/11		3
409		01	09/18/12		4
410		01	12/06/11		4
411		04	12/07/11		4
412		51	10/08/12		4
413		52	10/17/11		3
414		37	04/17/12		4
415		52	12/21/10		3
416		62	12/09/11		4
417		58	12/10/11		3
418		37	12/11/11		4
419		32	09/10/12		4
420		01	12/12/11		4
421		01	12/13/11		4
422		52	03/16/12		4
423		01	12/15/11		4
424		01	12/16/11		4
425		32	04/23/12		4
426		04	12/17/11		3
427		01	12/18/11		4
428		01	12/19/11		4
429		75	12/20/11		4
430		51	10/03/11		4
431		32	05/08/12		3

EOD - BOLO Advocacy Political Case List

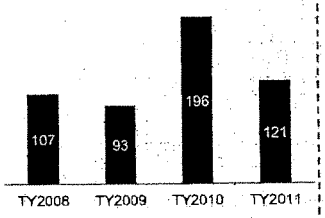
	A	B	C	D	E
1	Organization Name	EOS TEDS Status	Control Date	EIN	Subsection
42	[redacted]	52	12/22/11	[redacted]	3
43		32	12/24/11		4
44		52	09/14/12		4
45		01	08/14/12		4
46		51	12/05/12		4
47		01	12/25/11		4
48		52	11/28/11		3
49		11	12/27/11		4
50		01	12/28/11		3
51		01	12/29/11		4
52		01	05/24/12		4
53		51	12/03/12		3
54		04	12/31/11		3
55		52	01/11/13		4
56		52	01/10/12		4
57		97	01/10/12		4
58		52	01/02/12		3
59		01	01/03/12		3
60		31	01/04/12		3
61		52	11/12/10		3
62		51	01/02/13		3
63		51	01/14/13		4
64		51	01/14/13		3
65		51	08/13/12		3
66		51	07/05/12		4
67		52	03/04/13		4
68		51	01/31/13		6
69		51	01/18/13		3
70		51	02/23/12		4
71		51	08/19/12		3
72		51	12/31/12		3
73		51	12/27/12		3
74		51	02/13/13		3
75		51	02/12/13		4
76		51	02/20/13		4
77		51	02/08/13		3
78		51	03/30/12		3
79		51	11/10/11		6
80		51	02/11/13		3

Preliminary draft – for discussion

Executive Summary

- Has there been an increase in the number of 501(c)(4) organizations engaging in *Political Campaign Activities*?

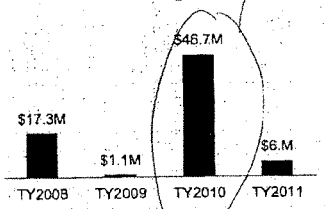
501(c)(4) Form 990 filers with PCA



- The number of 501(c)(4)s reporting PCA almost doubled from TY2008 – TY2010**

- Has there been an increase in *Political Campaign Activities* expenditures – either directly or as grants to other organizations?

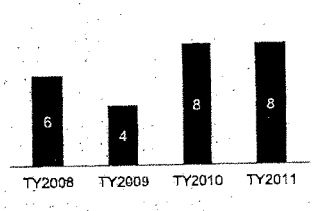
PCA expenditures for large 501(c)(4) Form 990 filers



- The amount of PCA for large filers almost tripled from TY2008 – TY2010

- Has there been an increase in "one year" 501(c)(4) organizations who are engaged in *Political Campaign Activities*?

"One year" 501(c)4 Form 990 Filers with PCA



- There is a very limited population of "one year" filers with PCA between TY2008 – TY2011

Reminder:
- *Political Campaign Activities* (PCA) for Form 990 Filers are reported to the IRS on Schedule C, Parts 1-A, 1-C and IV.
- **Not all Form 990s for TY2011 have been received by the IRS; TY2012 filing is largely incomplete and therefore not included
- **Trends span both election years and non-election years; trends also span a significant redesign in Form 990 incl. changes in filing thresholds.

IRSR0000507044

Proposals to Alter the 501(c)(4) Regulations

Internal Discussions:

The "primarily" language in the (c)(4) regulations was a topic of perennial discussion within the IRS. Despite those discussions and various attempts,[1] the language has remained unchanged.

Outside Comments:

Outside commentators have asserted that the regulations do not reflect the statutory "exclusively" language, relying in part on a series of (c)(4) court cases that cite *Better Business Bureau v. U.S.*[2] (a 1945 case, predating the current version of the Code, most often cited in 501(c)(3) cases) for the proposition that "the presence of a single substantial non-exempt purpose precludes exemption."[3] However, these cases do not criticize the regulations, nor were they decided based on any distinction between "primarily" and "substantial" because the organizations involved were engaging almost entirely in non-exempt activity. Other cases embrace the "primarily" standard or equate the two.[4]

Outside Proposals:

Commentators have also suggested the adoption of a bright line expenditures test to set the allowable amount of political campaign intervention. Different iterations propose different thresholds, ranging from the ABA/Greg Colvin proposing a safe harbor allowing 40% of a (c)(4)'s program service expenditures to be political intervention[5] to Democracy 21 proposing an absolute cap on political intervention expenditures of 5 or 10% of total expenditures.[6]

Additional Information:

The IRS has maintained that all facts and circumstances should be taken into account when determining an organization's primary activities,[7] it is not a

---

[1] GCM 32395 (September 14, 1962); GCM 33495 (April 27, 1967), GCM 38215 (December 31, 1979).
[2] 326 U.S. 279.
[3] E.g. Democracy 21's July 27, 2011 Petition for Rulemaking at ¶ 33. Cited case language includes *Contracting Plumbers Coop. Restor. Corp. v. U.S.*, 488 F.2d 684, 686 (2d. Circ. 1973); *American Ass'n of Christian Sch. Vol. Emp. v. U.S.*, 850 F.2d 1510, 1516 (11th Cir. 1988), *Mutual Aid Association v. U.S.*, 759 F.2d 792, 796 (10th Cir. 1985).
[4] E.g. *People's Education Camp Society v. Commissioner*, 331 F.2d 923, 931 (2d Cir. 1964) ("The word 'exclusively' ... has ... been interpreted to mean 'primarily...**Stated another way**, 'the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption ...") (emphasis added); *Vision Serv. Plan. v. U.S.*, 96 A.F.T.R.2d 2005-7440 (E.D. Cal 2005).
[5] American Bar Association Section on Taxation, *Comments of the Individual Members of the Exempt Organizations Committee's Task Force on Section 501(c)(4) and Politics*, May 25, 2004.
[6] Democracy 21's July 27, 2011 Petition for Rulemaking at ¶ 37
[7] Rev. Rul. 68-45, 1968-1 C.B. 259 .

Proposals to Alter the 501(c)(4) Regulations

quantitative test. Courts have also rejected a pure expenditures test in similar instances.[8]

Bright line expenditure tests have generally been avoided in the EO context, both in the definition of "primarily" and in the 501(c)(3) and unrelated business concepts of "substantial." The (statutory) elective expenditure-based test for lobbying in 501(h) is an exception, but it is of limited use to large organizations because the annual permitted lobbying amount is capped at $1 million.

Most commentator proposals focus solely on political campaign expenditures. However, a (c)(4) might conduct a variety of non-exempt activities, such as unrelated business activities. Thus, if a (c)(4) barely satisfies a bright line cap on its political intervention expenditures, but also conducts other non-exempt activity, the overall result would be in question.

Proposals have also been put forth seeking to clarify what constitutes support or opposition of candidates, which would apply in the (c)(3), (c)(4) and other contexts.[9]

---

[8] E.g. *Christian Echoes Nat'l Ministry, Inc. v. U.S.*, 470 F.2d 849, 855-56 (10th Cir. 1972)(rejecting a bright-line expenditure test for determining whether a 501(c)(3) organization's lobbying was "no substantial part" of its activities, and examining lobbying in relation to its "objectives and circumstances." This predates the 501(h) elective test for lobbying.

[9] OMB Watch, *Clarifying IRS Rules on Political Intervention: Comparing the Current Rules to the Colvin Committee Draft.*

From: Seto Michael C
Sent: Friday, April 06, 2012 12:48 PM
To: Abner Donna J
Cc: Paz Holly O; Lieber Theodore R
Subject: RE: Denial - advocacy

Yes. Sorry for the confusion. Ted [redacted] should be assigned to Obbi. Thanks, Mike

---

From: Abner Donna J
Sent: Friday, April 06, 2012 1:40 PM
To: Seto Michael C
Cc: Paz Holly O; Lieber Theodore R
Subject: RE: Denial - advocacy

Hi Mike,
Do you mean the second Acorn case or the case described in item #2 ([redacted])? Also, I assume you want a copy not the original case. Please confirm which and we can send next week.
Thanks,
Donna

Seto Michael C
Sent: Friday, April 06, 2012 12:46 PM
To: Abner Donna J
Cc: Paz Holly O; Lieber Theodore R
Subject: RE: Denial - advocacy

Hi Donna,

I got the case file; I am treating the case as an technical assistance request. Ted and I are reassigning the case from Liz Ardion to another employee, Obbi Chukwumu with Mike Repass as the reviewer. Obbi needs time to get caught on this case, so I am thinking about 2 weeks.

Concerning the second case, I think we need to look at the file too. Can you send the second case up here?

Thanks,

Mike

From: Paz Holly O
Sent: Friday, April 06, 2012 9:48 AM
To: Abner Donna J; Seto Michael C
Subject: RE: Denial - advocacy

Mike and Donna,

I would like EOT to look at this proposed denial Donna just sent.

Thanks!

Holly

From: Abner Donna J
Sent: Friday, April 06, 2012 8:43 AM
To: Seto Michael C
Cc: Paz Holly O
Subject: Denial - advocacy
Importance: Low

Hi Mike,
Two items - first I want to follow up on the status of the review of the Acorn successor denial (originally forwarded denial letter early February and copy of case March). Determs has another proposed denial for an almost identical Acorn successor. So, the decision on the first will help with the second. Any idea on when we might receive feedback?

Second - attached is another proposed denial for an advocacy case. You might want to see and consider it as well. Please note for this case we previously issued the proposed denial, received a protest which required reconsideration, and the attached is an updated proposed adverse letter that includes our consideration of the protest. Please let me know if you want us to hold off on issuing this letter until you complete your review and/or consideration.

Thanks,
Donna

From: Buller Siri
Sent: Friday, April 23, 2010 3:03 PM
To: Gitterman Janet E
Subject: RE: scr case
Attachments: [redacted]

Hi Janet,

Unfortunately, I don't have any development letters other than this one, which [redacted]. I think you already have the [redacted], which is the only additional material I have.

Siri

From: Gitterman Janet E
Sent: Friday, April 23, 2010 3:55 PM
To: Buller Siri
Cc: Gitterman Janet E
Subject: FW: scr case

Siri --

Can you email me the development letters for your Emerge cases?

Thanks.

Janet

From: Shoemaker Ronald J
Sent: Friday, April 23, 2010 3:48 PM
To: Gitterman Janet E
Subject: FW: scr case

FYI. Comment from Steve to continue with [redacted] but confer with Siri in working the case.

Thanks.

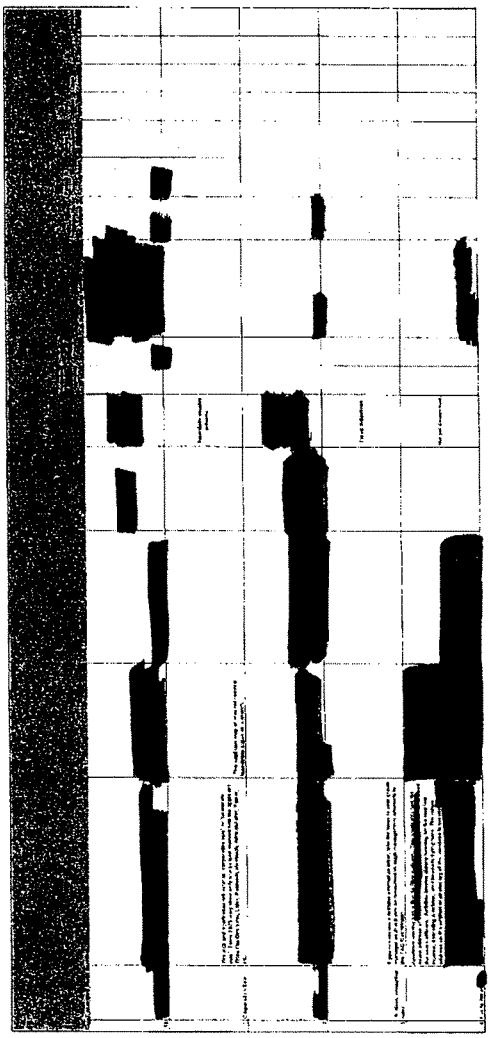
From: Grodnitzky Steven
Sent: Friday, April 23, 2010 3:40 PM
To: Shoemaker Ronald J
Subject: RE: scr case

It is fine for Janet to work this case. Although she should confer with Siri as she is working the other Emerge cases and Janet can see the development letters that were sent out and what we are looking for. The [redacted] 6103 is in EO Guidance and should be on its way for Counsel concurrence and we can use that [redacted] as a template for the others.

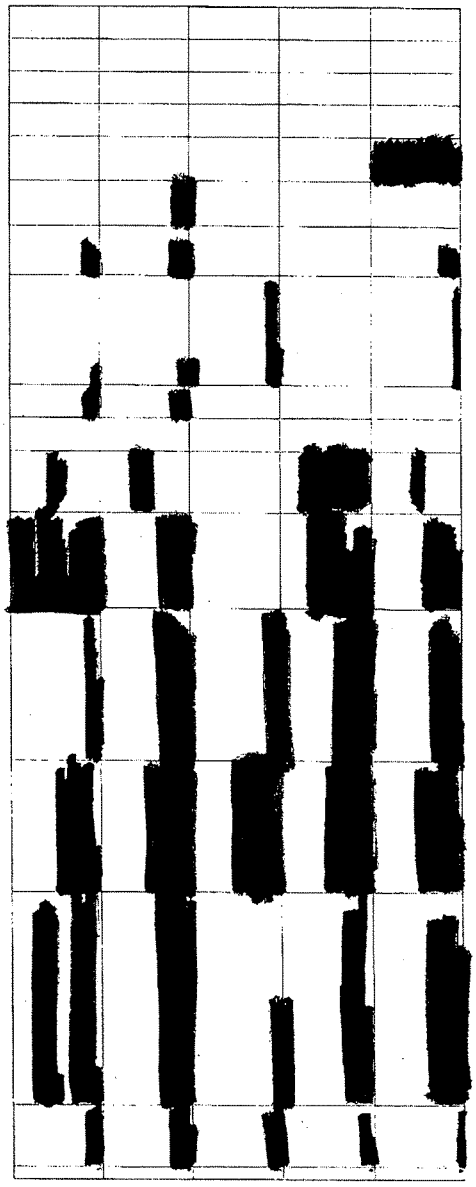
From: Shoemaker Ronald J
Sent: Friday, April 23, 2010 2:47 PM
To: Grodnitzky Steven
Subject: scr case

Janet is in today and she alerted me to the fact that a new case I assigned to her recently called "[redacted]" is similar to other cases in the office relating to political issues. The other cases are in Group 1 being handled by Siri. Janet indicates that the issue in the other cases is going or has gone to Counsel. The case in Group 1 is an SCR. When I assigned the case, I was not aware of the background to this particular case. Should Janet continue with this case or would you prefer to consolidate the cases in Group 1?

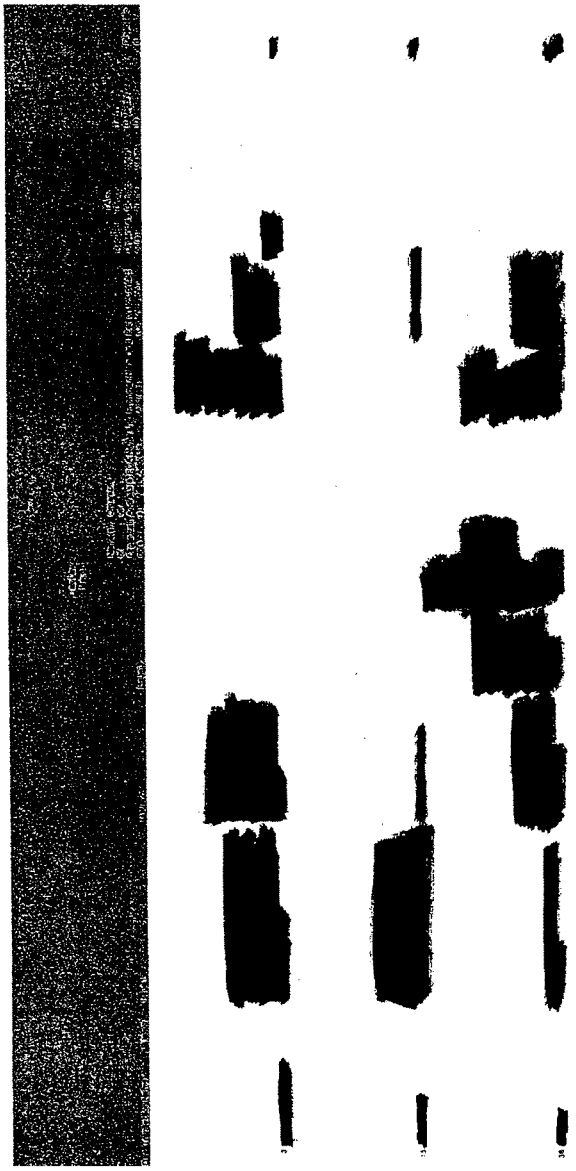
Thanks.



Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

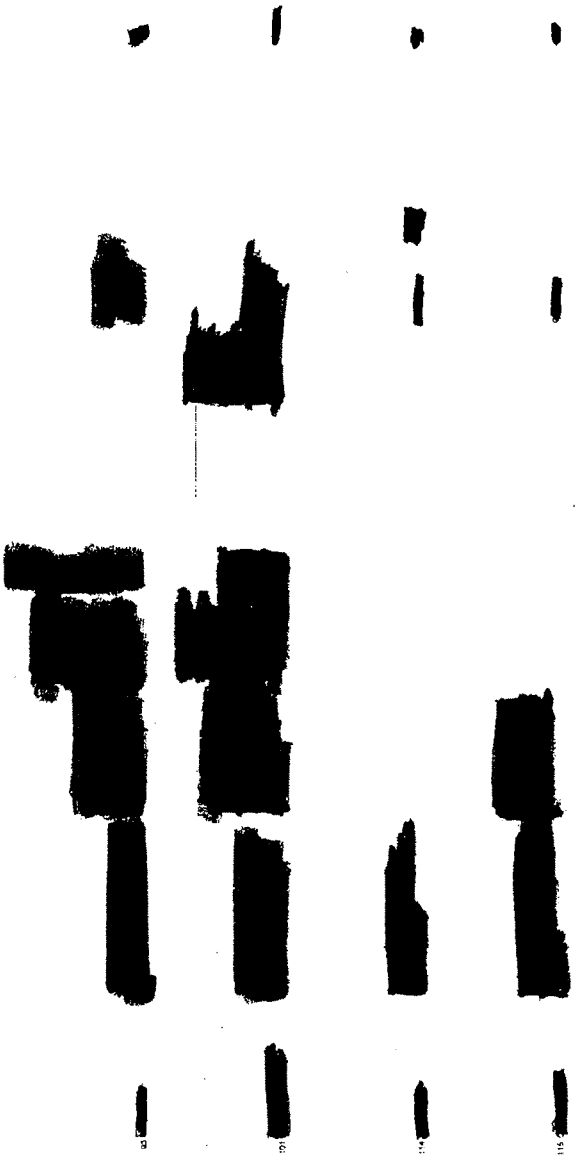


Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289



Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

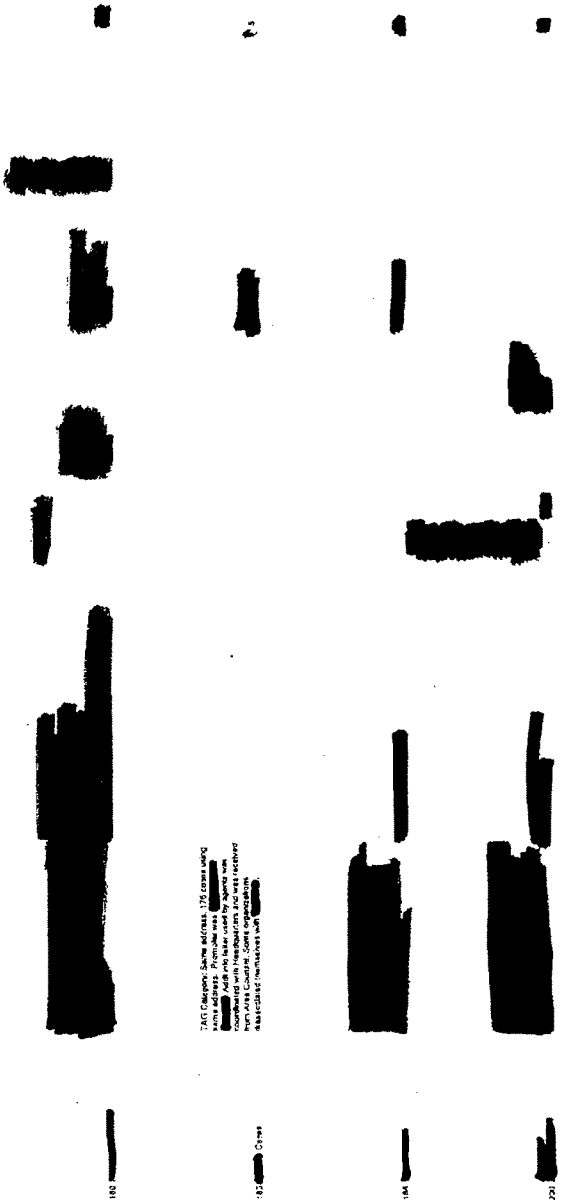
Enlarged for Legibility, Procuced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289



Enlarged for Legibility. Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

Political activities

Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289



Enlarged for Legibility, Produced on April 23, 2014 as Bates IRSR0000630285 - IRSR0000630289

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Open or Closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criterin unless they are also involved in activities described above.	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator	Open

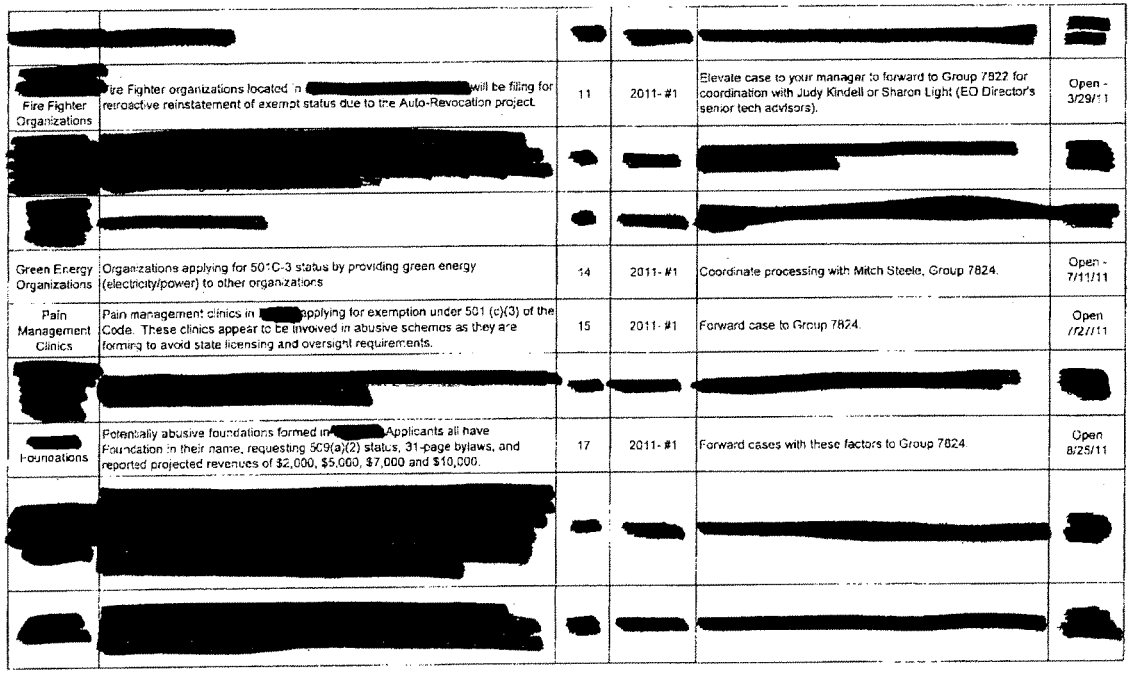
Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

Issue Name	Brit Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Group Rulings	Cases that involve group rulings, whether parent applying for, or subordinate leaving a group ruling need to be worked in Group 7829. The only exception is cases that have been auto revoked .	5	Forward case to Group 7829	Open - 8/25/11

Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

Issue Name	Watch Issue Description	Issue Number	Alerter (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
Open Source Software	These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. The software is provided for free, however; fees are charged for technical support by the for-profit.	1	x	Elevate case to your manager for contact with EO Tech- Peter Hullat	Open
ACORN successors	Local chapters of the former ACORN organization have [redacted] Succession indicators include [redacted] and [redacted] in the name and/or throughout the application.	2	x	Elevate case to your manager for contact with EO Tech - Chip Hull.	Open
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Medical Marijuana	Cases involving Medical Marijuana	5	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-15-10
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Potentially Abusive Family Foundation	Private foundations with identical narrative descriptions, 5 page trust agreements, and husband / wife trustees.	8	2010- #1	Forward case to Group 7824.	Open 11/23/10
Newspaper Entities	Newspapers requesting exemption as educational organizations.	9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10

Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289



[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Fire Fighter Organizations	[redacted]ire Fighter organizations located in [redacted]will be filing for retroactive reinstatement of exempt status due to the Auto-Revocation project.	11	2011-#1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Green Energy Organizations	Organizations applying for 501C-3 status by providing green energy (electricity/power) to other organizations	14	2011-#1	Coordinate processing with Mitch Steele, Group 7824.	Open - 7/11/11
Pain Management Clinics	Pain management clinics in [redacted]applying for exemption under 501 (c)(3) of the Code. These clinics appear to be involved in abusive schemes as they are forming to avoid state licensing and oversight requirements.	15	2011-#1	Forward case to Group 7824.	Open /12/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted] Foundations	Potentially abusive foundations formed in [redacted]Applicants all have Foundation in their name, requesting 509(a)(2) status, 31-page bylaws, and reported projected revenues of $2,000, $5,000, $7,000 and $10,000.	17	2011-#1	Forward cases with these factors to Group 7824.	Open 8/25/11
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big-money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	22	2012 - #1	Forward cases to Group 7822.	Open 1/25/12

Enlarged for Legibility; Produced on April 23, 2014, as Bates IRSR0000630285 - IRSR0000630289

From: Fish David L
Sent: Friday, October 21, 2011 2:10 PM
To: Lowe Justin; Park Nalee
Subject: FW: previously referred cases

From: Fish David L
Sent: Friday, October 21, 2011 3:06 PM
To: Downing Nanette M; Nair Vasu T; Grissom Jackie R
Cc: Paz Holly O; Kalf Jason C
Subject: previously referred cases

A few months ago we sent 5 or 6 Emerge cases, that had been approved by Determinations, for examination. After discussing it, we figured out that no exam was necessary because we were allowed to revoke our own letters based on the record in the file. (We did denials on several of the Emerge cases up here and there is no difference between those cases and the ones that had been approved earlier by Determs). We wanted to make sure those cases had not entered the exam stream, because we are sending out proposed revocations today. We can send the list of cases if you are not familiar with them.

From: Megosh Andy
Sent: Thursday, October 20, 2011 9:15 AM
To: Park Nalee
Subject: FW: [redacted] Proposed Denial.doc
Attachments: [redacted] Proposed Denial.doc

Follow Up Flag: Follow up
Flag Status: Completed

From: Fish David L
Sent: Thursday, October 20, 2011 8:31 AM
To: Megosh Andy; Repass Mike
Cc: Salins Mary J
Subject: [redacted] Proposed Denial.doc

In Justin's absence, we need someone to prepare the Emerge revocations. This is the template approved by Holly and Lois. I would prefer they be done this week and prepared for Holly's signature. If not, they should be prepared for my signature.

Someone needs to eyeball the other files to make sure they all say roughly the same thing so we can use the same letter. I think Justin did it already (and Holly too), but it can't hurt and shouldn't take long.

I would really really like for these to move today or tomorrow.

From: Grodnitzky Steven
Sent: Friday, February 06, 2009 11:39 AM
To: Waddell Jon M
Cc: Megosh Andy; Buller Siri; Paz Holly O
Subject: RE: Emerge Case Correspondence

Jon,

In place of Justin, who will be on a detail for about six months, you can consult with Siri Buller and Andy Megosh about political activity cases.

Andy and Siri -- can you please get together and call Jon about this case? Thanks.

Steve

From: Waddell Jon M
Sent: Friday, February 06, 2009 10:45 AM
To: Grodnitzky Steven
Subject: FW: Emerge Case Correspondence
Importance: Low

Good Morning Steve,

I have attempted to contact Justin, currently detailed, regarding another **Emerge Case(political Case)** currently in my group. We have been coordinating with Justin previously on two other cases (described below) and I was just wanting to coordinate the development of our current case, [redacted] with him. Overall, would you happen to have someone else we could consult with on this case

thanks

Jon Waddell
Mgr. EO Determ Group 7821
513-263-3684

From: Waddell Jon M
Sent: Friday, December 12, 2008 10:42 AM
To: Lowe Justin
Subject: RE: Emerge Case Correspondence
Importance: Low

thanks

we will send

From: Lowe Justin
Sent: Friday, December 12, 2008 10:36 AM
To: Waddell Jon M
Subject: RE: Emerge Case Correspondence

Hi Jon, yes I have the [redacted] case (along with [redacted]). My fax number is 202-283-8937.

Thanks for the info.

Justin

Justin Lowe
Tax Law Specialist
EO Technical Group 1
Rulings and Agreements, TEGE
Phone: (202)-283-9486
Fax: (202)-283-8937

From: Waddell Jon M
Sent: Friday, December 12, 2008 10:32 AM
To: Lowe Justin
Subject: Emerge Case Correspondence
Importance: Low

Good Morning Justing,

We have a piece of correspondence on the [redacted] case that we sent to D.C. a few months ago. Per EDS, it appears that you have the case and we would be glad to fax. Please give us your fax # and we will send

thanks

Jon Waddell
Mgr. EO Group 7821
513-263-3684

From: Lerner Lois G
Sent: Wednesday, July 20, 2011 2:52 PM
To: Paz Holly O
Subject: FW: Bazinga

Need to find out why these were approved and what are we doing about them. and whether it went through Quality review.

Lois G. Lerner
Director of Exempt Organizations

From: Eldridge Michelle L
Sent: Wednesday, July 20, 2011 3:33 PM
To: Lerner Lois G
Cc: Zarin Roberta B
Subject: FW: Bazinga

Heads up Lois--Frank is getting Nikolc--calling you now

From: Williams Grant
Sent: Wednesday, July 20, 2011 3:23 PM
To: Eldridge Michelle L
Subject: FW: Bazinga

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Wednesday, July 20, 2011 3:19 PM
To: Williams Grant
Subject: Bazinga

Hi, Grant,

So, as I said, I have identified and gotten confirmation that the three organizations denied exemption were Emerge Maine, Emerge Massachusetts and Emerge Nevada.

These organizations are state affiliates of Emerge America, and I believe there are six other Emerges around the country -- some of which have been granted tax exemption as c4s. Emerge California, for example, has I.R.S. approval for tax exemption.

And while Maine, Massachusetts and Nevada were waiting for approval, another Emerge, in Kentucky, which was formed two years after them, was given approval, and Oregon, which also applied a couple of years later, is still pending.

The question, obviously, is why have some of these groups been approved and others not?

I am on a tight deadline so would like to talk to someone or have an answer to the question ASAP.

Many thanks, Stephanie

Stephanie Strom
The New York Times
620 Eighth Avenue
New York, NY 10018

O: 212-556-8794
M: 646-281-1402
t: @ssstrom

From: Waddell Jon M
Sent: Tuesday, January 24, 2012 9:32 AM
To: Bowling Steven F
Subject: FW: Advocacy Cases --Clarification

Importance: Low

As an addition to the legislative political cases, I would also add the "Occupy Wall Steet" issues as ones that would fall under this category

From: Waddell Jon M
Sent: Tuesday, January 24, 2012 9:42 AM
To: Bowling Steven F
Subject: Advocacy Cases---Clarification
Importance: Low

Steve

Based upon our talk, I would suggest the following change in the way we describe advocacy issues going to your group. Specifically, I would rename the category something like" Sensitive Current Event Issues". While we currently refer to these cases as advocacy, I think what we are really seeing and addressing are organizations engaged in substantial legislation and mobilization activities that have a political point of view.

Over the past 2 years, what we have seen in this category has largely revolved around *Successor to Acorn Cases* and *Tea Parties*. While these orgs are at opposite sides of the political spectrum, the share common development factors:

1. Usually come in with a c(3) and c(4) applications that are related

2. They are designed to mobilize the public to support a particular cause such as supporting or opposing legislation----i.e healthcare, minimum wage, and supporting public education.

3. While many of the c(4) applications are approvals as the activities mentioned in item # 2 above are permissible social welfare purposes, several c(3) applications will be potential denials if they are engaging in these types of activities.

Overall, what I don't think you want, is to get the typical advocacy case going to your group that is largely unrelated to any of these issues mentioned above. In the basic sense, typical advocacy versus education organizations not related to the items above shouldn't require specialization or coordination.

thanks

From: Muthert Gary A
Sent: Thursday, June 02, 2011 7:13 AM
To: Shafer John H
Cc: Muthert Gary A
Subject: RE: Tea Party Cases - NEED CRITERIA

I myself look for cases with the names, such as "Tea Party" , "Patriots", or the "9/12 Project".

Gary Muthert
TE/GE, ID #1000203255
Screening Group, Group 7838
550 Main Street
Cincinnati, Ohio 45201
513-263-3639 Phone
513-263-5200 FAX

From: Shafer John H
Sent: Thursday, June 02, 2011 7:12 AM
To: Muthert Gary A; Vance Roger W; Schaber Dale T
Subject: FW: Tea Party Cases - NEED CRITERIA
Importance: High

Please provide me with what issues may indicate an organization is involved with the tea party movement.

Thanks,

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 12:46 AM
To: Shafer John H
Cc: Esrig Bonnie A; Bowling Steven F
Subject: Tea Party Cases - NEED CRITERIA
Importance: High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forwerd to Holly per her request below. Thanks.

From: Melahn Brenda
Sent: Wednesday, June 01, 2011 3:08 PM
To: Paz Holly O; Thomas Cindy M
Subject: RE: group of cases

Holly - we will UPS a copy of the case in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

From: Paz Holly O
Sent: Wednesday, June 01, 2011 2:21 PM
To: Thomas Cindy M
Cc: Melahn Brenda
Subject: group of cases

re: Tea Party cases

Two things re: these cases:

1. Can you please send me a copy of the [redacted] application? Lois wants Judy to take a look at it so she can summarize the issues for Lois.

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

From: Vance Roger W
Sent: Thursday, June 02, 2011 7:02 AM
To: Shafer John H
Subject: RE: Tea Party Cases - NEED CRITERIA

Some of the cases do contain references to the tea party and other cases that I have identified are organizations concerned with government spending, government debt, and taxes.

From: Shafer John H
Sent: Thursday, June 02, 2011 7:12 AM
To: Muthert Gary A; Vance Roger W; Schaber Dale T
Subject: FW: Tea Party Cases - NEED CRITERIA
Importance: High

Please provide me with what issues may indicate an organization is involved with the tea party movement.

Thanks,

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 12:46 AM
To: Shafer John H
Cc: Esrig Bonnie A; Bowling Steven F
Subject: Tea Party Cases - NEED CRITERIA
Importance: High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forward to Holly per her request below. Thanks.

From: Melahn Brenda
Sent: Wednesday, June 01, 2011 3:08 PM

To: Paz Holly O; Thomas Cindy M
Subject: RE: group of cases

Holly - we will UPS a copy of the case in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

From: Paz Holly O
Sent: Wednesday, June 01, 2011 2:21 PM
To: Thomas Cindy M
Cc: Melahn Brenda
Subject: group of cases

re: Tea Party cases

Two things re: these cases:

1. Can you plaase send me a copy of the [redacted] application? Lois wants Judy to take a look at it so she can summarize the issues for Lois.

2. What criteria are being used to label e case e "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

6275

Internal Revenue Service

Department of the Treasury 11-128

Washington, DC 20224

Person to Contact:
Michael Seto

Telephone Number:
(202) 622-6477

Refer Reply to:
CP:E:EO:T:3

Date: FEB 21 1997

National Policy Forum
229 1/2 Pennsylvania Ave., S.E.
Washington, D.C. 20003

Employer Identification Number: 52-1827887
Key District: Southeast (Baltimore, MD)

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information submitted indicates that you were incorporated on May 24, 1993 under the non-profit corporation laws of the District of Columbia. In your Articles of Incorporation, you describe your purposes as follows:

> [t]o encourage the involvement of citizens in free and open debate, the public exchange and development of ideas, discussions, dialogues, conferences, and discourses, to promote public forums, seminars and colloquia and information dissemination to the general populace, to develop a national Republican policy agenda and to serve as a clearinghouse for the collection and review of research and ideas on issues affecting foreign affairs, national security, economy, environment, energy, government lands, commerce, labor, federal budget, . . . and other issues of concern to or affecting the citizens of the United States of America [emphasis added].

As stated in your newsletter, Ideas Matter (May 1995 Issue), you are "[a] Republican Center for the Exchange of Ideas." "That exchange will be open and inclusive -- not exclusively for Republicans but an exchange that invites serious commentary from Democrats, Independents, and the heretofore apolitical as well[,]" according to your publication, Common Sense (Volume 1, Winter 1994, Number 1). You were founded, according to your brochure and prospectus, on three premises, 1) "that fundamentally, ideas make the difference in politics," 2) "that traditionally, ideas that make a difference have been associated

with political parties," 3) "that currently, workable ideas are more likely to be found at the grassroots than in Washington."

Your organization, as described in your news release of December 8, 1993, "is composed of civic, community and business leaders, Republican elected officials, former office-holders, and other prominent Americans from all walks of life." You are not a membership organization, but your bylaws permit the board of directors to create classes of "membership" - contributing membership and honorary membership. These memberships do not carry voting rights or other organizational rights.

Your bylaws provide that a board of directors governs and directs your operations. The board of directors is invested with the power to appoint or remove board members. The initial board of directors included Mr. Haley Barbour, the former chairman of the Republican National Committee, the political arm of the Republican Party. The information in our administrative files shows that your board members include Mr. Barbour and other prominent Republican Party members, including Senator Nickles of Oklahoma, former Republican Minority House Leader Bob Michel, former Secretary of Labor and former Maryland Senatorial candidate William E. Brock, Governor George V. Voinovich of Ohio, John Bolton, United States Representative John Boehner, former Republican gubernatorial candidate Jeb Bush and Teresa Lubbers (a member of an organization called Republican Professional Women's Roundtable). Mr. Bolton also serves as president of your organization.

One major activity you conduct in furtherance of the above described purposes is policy councils. The purpose of the policy councils is to "search for ideas by holding public and intensely participatory grassroots forums across the country." Each council has two co-chairs and members that include Congressional members, state legislators, and individuals from the private sectors. Each council addresses a specific policy area such as "Reforming Health Care," "Improving Schools and Education," "Reducing the Size and Scope of Government," or "Reforming the Legal and Regulatory Systems" (see page 5 of your prospectus). Each policy council holds public grassroots forums that address issues relating to that council's public policy area.

Your policy councils thus far have held several forums on topics such as education reform (December 7, 1993), violent crimes (December 8, 1993), and federal land use (December 15, 1993). The forums featured three panels, a panel of your representatives, a panel of expert witnesses and a panel of Congressmen -- whose purpose was to listen to viewpoints of other panelists and audience and provide their perspective. The forums

were conducted in question and answer format and were hosted by your officers. The forums began with opening remarks by your president and chairman, followed by testimony of your expert witnesses, and other guests and participants. Discussion with the general audience then followed. Each policy council then reported its findings and policy recommendations to your board of directors.

Many prominent Republican Party politicians served as speakers or panelists at your forums. For example, Republican Senator Hank Brown, former Republican Senator Malcolm Wallop (also served as a chairman of a policy council), Republican House of Representatives members Dan Schaefer, Joel Hefley, Wayne Allard, and former House Representative Craig Thomas participated at your February 14, 1994 forum (see NPF news release of February 8, 1994). The participants in your December 11, 1993 forum included Republican Senator Orrin Hatch, former Republican Senator Malcolm Wallop, former Commodity Futures Trading Commission Chairwoman Wendy Gramm, and Republican Congressman James Hansen (see December 7, 1993 News Media Advisory release). The panelists in your September 19, 1995 forum included Republican Senators Kay Bailey Hutchinson, Thad Cochran, Ted Stevens, Rod Grams and Republican House of Representatives member Mark Souder, Jennifer Dunn and Sue Myrick, and other individuals from private industries. The keynote speaker at this forum was former Republican House Representative and vice-presidential candidate Jack Kemp. Other forums you have had also featured prominent Republican Party politicians such as Governor Todd Whitman of New Jersey, Governor William Weld of Massachusetts (see April 12, 1994 NPF news release), House Speaker Newt Gingrich (see october 18, 1995 news release), House Majority Whip Tom DeLay (see July 24, 1995 NPF news release), Marilyn Tucker Quayle (see April 26, 1994 news media advisory release) and other well known Republican Party politicians or persons affiliated with the Republican Party.

You produce a monthly televised policy-oriented program called "Listening to America: A Neighborhood Meeting." The purpose of this program is to communicate ideas and to allow the public to participate in policy discussion. Many prominent Republican Party politicians were speakers at these monthly programs (such as Republican Senators Hank Bown and Malcolm Wallop, See February 10, 1994 news media advisory release).

You hold "mega-conferences" whose purpose is to focus on long-range policy issues (i.e. Trade and the Economy, Health Care) and to allow interested members of the public to participate in the discussion of these policy issues. Many prominent Republican Party politicians were speakers at your

mega-conferances, and they included Republican Senators Richard Lugar, Charles Grassley, Kaye Bailey Hutchinson and Republican Governor Terry Branstad of Iowa.

You publish quarterly a journal called Common Sense, and the purpose of this journal, as stated in your pamphlet, is to enhance "the policy debate by providing a source for provocative thinking and lively debate about the parties, politics, and public policy." The cover of Volume 1 Winter 1994 Number 1 of Common Sense stated that it was "a Republican Journal of Thought and Opinion." The journal was distributed to forum participants, elected officials and policy makers and all other interested persons. The authors of the articles in each edition of the journal were selected by your board of directors. The authors included politicians (e.g. Mike Leavitt, Republican Governor of Utah; Tommy G. Thompson, Republican Governor of Wisconsin), academicians (e.g. Andrew E. Busch, assistant professor, University of Denver) and individuals in the private sector (e.g. Charles J. Cooper; a law firm partner; Linda DiVall, vice-president of a survey research firm). The topics of the articles included foreign policy (e.g. "The United States and Greater China", "Nato and U.S. Interests") and domestic policy (e.g. "Unfunded Federal Mandates And The Need For a New Federalism", "Remembering The Question or, A Brief History of the Republican Party").

You have been operating with funds supplied by contributors and the Republican National Committee. The Republican National Committee, from May of 1993 to December of 1995, provided you thirty seven loans totalling $2,595,000. The interest rate on these loans ranged from 7.5 percent to 10.5 percent. There were no indications that the terms of the loans were negotiated at arms length. You have used services provided by the Republican National Committee. These services included duplicating and printing materials, office furniture, moving services, etc. You stated that you were billed for these services at fair market value. You have raised $690,000 in contributions from sources other than the Republican National Committee.

Section 501(c)(4) of the Internal Revenue Code (hereinafter "Code") provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations (hereinafter "Regulations") provides that 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.

National Policy Forum

Section 1.501(c)(4)-1(a)(2)(ii) of the Regulations provides that 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.

Rev. Rul. 60-193, 1960-1 C.B. 195, concludes that an organization created to encourage greater participation in governmental and political affairs qualifies for recognition of exemption under section 501(c)(4) of the Code. Activities of the organization included seminars and workshops held on campuses of colleges and universities. The subject matter of these seminars relates to the American political system. All lecturers, including academic political scientists and political leaders from the local and national levels, 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.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in an apartment complex did not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex is eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, and reasonable rentals. This revenue ruling concludes that this organization was operated to benefit its members and was not primarily engaged in activities that promote the common good and general welfare of the community.

In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, provides that an organization formed to promote the legal rights of all tenants in a community qualifies for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Each member paid for the cost of food ordered plus a monthly service charge which defrayed the organization's expenses. The organization was a cooperative enterprise for the economic benefit or convenience of its members. This revenue ruling states that the organization was operated primarily for the benefit of members and not to promote the common good and general welfare of the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

This revenue ruling concludes that the organization did not qualify for exemption under section 501(c)(3) of the Code but did qualify for exemption under section 501(c)(4). It states that because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). It states also states that while the organization's activities were benefiting its members there was sufficient benefit conferred upon the community as a whole. Although private benefit did exist to the members, the primary benefit was to the community. Therefore, the organization was not operated primarily for the benefit of members, but primarily to promote social welfare.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized for the purpose of purchasing a government housing project and converting it to a cooperative, nonprofit housing for its members. Membership in the corporation was established by the purchase of a corporate share which entitled the purchaser to an apartment unit. The court held that the organization was not described in section 501(c)(4) of the Code because the operation was a private self help enterprise with only incidental benefit to the community.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually. This system proved to be highly inefficient. The organization was formed as a cooperative in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their

liability and their expenses. While the court found the program to be highly beneficial, it concluded that the organization principally served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

Rev. Rul. 66-256, 1966-2 C.B. 210, describes an organization that was formed to bring about a fair and openminded consideration of social, political, and international questions by the promotion and sponsorship of a public forum at which debates and lectures were conducted. The organization invited prominent individuals to discuss varying political and social matters of national and community interest. The speakers, in addition to delivering their prepared text, answered questions of those attending. The other part of the organization's program involved the sponsorship of debates. Individuals representing opposing viewpoints were invited to debate particular topics. The debates were conducted in accordance with carefully drawn rules. Frequently, the persons invited to lecture or debate were controversial and occasionally there was opposition to their appearance. None of the programs or activities of the organization involved the participation or intervention in any political campaigns of candidates for public office.

The revenue ruling states that the presentation of public lectures, forums, or debates was a recognized method of educating the public. The fact that the presence of the invited speaker or his opinions may precipitate controversy within the community did not adversely affect the status of an organization whose primary purpose was to provide a forum for speakers. Consequently, the organization qualified for exemption under section 501(c)(3).

Rev. Rul. 76-456, 1976-2 C.B. 151, describes an organization that was formed for the purpose of elevating the standards of ethics and morality that prevail in the conduct of campaigns for election to public office at the national, state, and local levels. On a nonpartisan basis the organization collected, collated, and disseminated information concerning general campaign practices through the press, radio, television, mail, and public speeches. In addition, the organization furnished 'teaching aids' to political science and civics teachers to help stress the need for ethical conduct in political campaigns. The organization proposed a Code of fair campaign practices. Although need for the Code was extensively publicized, the organization did not solicit the signing or endorsement of the code by candidates for political office.

The revenue ruling states that the organization was instructing the public on subjects useful to the individual and

beneficial to the community within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations by encouraging voters to concern themselves with fair as well as unfair practices encountered in political campaigns. This was done, on a nonpartisan basis, so that citizens could increase their knowledge and understanding of our election processes and participate more effectively in their selection of government officials. Consequently, the organization was operated exclusively for educational purposes and thus qualified for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80-282, 1980-2 C.B. 178, describes an organization whose activities included the publication of Congressional incumbents' voting records on selected issues in a non-partisan newsletter. The revenue ruling observes that the format and content of the publication were not neutral because the publication reported each incumbent's votes and his\her views on selected legislative issues and indicated whether that incumbent supported or opposed the organization's view. However, the voting records of all incumbents were presented and candidates for reelection were not identified. No comment was made on an individual's overall qualifications for public office, no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, and no comparison of incumbents with other candidates were made. The organizations noted the inherent limitations of judging the qualifications of an incumbent on the basis of certain selected votes by stating the need to consider such unrecorded matters as performance on subcommittees and constituent services. Furthermore, the organization did not widely distribute its compilation of incumbents' voting records. The publication was distributed to the organization's normal readership, numbering only a few thousand nationwide. This resulted in a very small distribution in any particular state or Congressional district. No attempt was made to target the publication toward particular areas in which elections are occurring nor to time the date of publication to coincide with an election. The revenue ruling concludes that the organization was not engaged in prohibited political campaign activity.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), an organization was formed for charitable and educational purposes. The organization's primary activity was to operate a school. The school trained individuals for careers as political campaign professionals. The school maintained a regularly scheduled curriculum, a regular faculty and a full-time enrolled student body. Prior to the formation of the organization, the National Republican Congressional Committee (NRCC) sponsored programs designed to train candidates and to train and

subsequently place campaign professionals in Republican campaigns. The organization stated that it was an outgrowth of the programs operated by the NRCC. NRCC contributed the physical assets, such as furniture and computer hardware, to the organization. Two of the organization's six full-time faculty were previously involved in the NRCC's training program. One the of the organization's three initials directors was the executive director of the NRCC. The organization did not train candidates or participate in, or intervene in, any political campaign on behalf of any candidate. Neither did the organization engage in any activities tending to influence legislation. Applicants were required to provide the organization with professional references. While applicants were not required to formally declare their political affiliation to attend the organization's school, such affiliation could be deduced from the campaign experiences and political references contained in the applications. Graduates of the school were employed by various Republican organizations. No graduate was known to have affiliated with any domestic political party other than the Republican Party.

The Court concluded that the organization's activities benefited the private interests of Republican entities and candidates more than incidentally. The organization, thus, served a substantial nonexempt purpose. Although the school had a legitimate educational program, the Court held that the school conducted its educational activities with the partisan objective of benefiting the interests of the Republican Party as evidenced by:

1) the composition of the school's board of directors

2) the failure of the school to counterbalance the Republican party focus of its curriculum with comparable studies of the Democratic or other political parties,

3) the incorporation of the school by the General Counsel of the National Republican Congressional Committee, an unincorporated association comprised of Republican members of the House of Representatives; and,

4) a lack of showing by the school that its graduates served in Congressional and Senatorial campaigns of candidates from both major political parties in substantial numbers.

National Policy Forum

ANALYSIS

A. Promoting Social Welfare

In order to qualify for recognition of exemption under section 501(c)(4) of the Code, an organization must be primarily engaged in activities that promote social welfare. The promotion of social welfare may include activities that educate the public or lobby public officials or both. Exemption is not dependent on the point of view of the educational material or the issue being lobbied. In contrast to lobbying and educational activities, partisan political activity does not promote social welfare as defined in section 501(c)(4). Such activity promotes the interests of one political faction. An organization engaging in such activity is engaged not merely in the clash of ideas, but in a contest for power.

Based on the information you submitted, it appears that you are a partisan issues-oriented organization. Specifically, your activities are designed to promote the Republican Party and politicians affiliated with the Republican Party. This partisanship is exhibited in the key officers and personnel that founded and operate your organization. For example, an initial board member was Mr. Haley Barbour, the former chairman of the Republican National Committee. Most members of your current board of directors are affiliated or identified with the Republican Party. These members include Mr. Barbour, Republican Senator Don Nickles, former Republican Congressman Bob Michel, former Republican senatorial candidate William Brock, and Republican Governor George C. Voinovich. Although you have members -- honorary and contributing members -- they do not have an organizational voice (or voting rights) in your operations.

This partisanship is also exhibited in your operation. The speakers or participants that you invited to your forums usually were identified or affiliated with the Republican Party. For example, the speakers or participants at your February 14, 1994 and December 15, 1993 forums are former or current Republican Party public office holders (i.e. Senator Orrin Hatch, Senator Hank Brown, Wendy Gramm, Congressman James Hansen, Congressman Dan Schaefer, Congressman Joel Hefley, Congressman Wayne Allard, and so forth). Other speakers include Governor Weld of Massachusetts and Governor Whitman of New Jersey. You have not indicated whether you have invited to your forums speakers or panelists who are affiliated or identified with other political parties.

Your publications reflect a political partisanship toward the Republican Party. For example, the word "Republican" is used

in your press releases, journals and newsletters. You have published speeches of prominent Republican Party politicians such as Newt Gingrich (Speaker of the House), Richard Lugar (Republican senator), Casper Weinberger (former cabinet member in the Reagan administration), Pete du Pont and former Republican Party presidential nomination candidate Malcolm "Steve" Forbes. You also have published articles about the Republican Party (e.g. "Remembering The Question or, a Brief History of the Republican Party", Common Sense, Volume 1 Winter 1.94 Number 1).

Your financial support also reflects this Republican Party partisanship. You have received substantial financial support from the Republican National Committee. The Republican National Committee lent you more than 2.5 million dollars since your formation. You also purchased supplies and services from the Republican National Committee. Although the financial support was in the form of loans, there was no indication that the terms of the loans reflect commercial market rates.

You claim to be a nonpartisan issues-oriented organization, and we acknowledge that you are issues-oriented. However, your activities are no less partisan as demonstrated by the manner in which you operate your organization and conduct your activities. Unlike the organization described in Rev. Rul. 60-193, supra, which encouraged participation in the political process by explaining the process on a nonpartisan basis, you were created for the partisan objective of promoting a particular political party. Based on the above facts and circumstances, we conclude that, because of your partisan nature, you are not engaged in activities that promote social welfare.

B. Operating Exclusively to Benefit the Whole Community

An organization exempt under section 501(c)(4) of the Code must be promoting the common good and general welfare of the whole community. Benefitting select individuals or groups, instead of the community as a whole, is contrary to this requirement. See Rev. Rul. 75-286, supra. For example, the tenants' organization described in Rev. Rul. 73-306, supra, is distinguishable from the one described in Rev. Rul. 80-206, supra, in that its activities are directed primarily toward benefitting its member-tenants rather than all tenants in the community. See e.g. Rev. Rul. 73-349; Lake Forest, Inc.; and Contracting Plumbers Cooperative Restoration Corp., supra. Therefore, a sufficient amount of benefit to select individuals will preclude an organization that would otherwise qualify for exemption from being described in section 501(c)(4).

This private benefit standard is also demonstrated in the American Campaign Academy, supra, and is relevant here. In tha case, the court held that an organization created to serve a particular faction in the political spectrum was not exempt unde section 501(c)(3) of the Code because its activities benefited the private interest of that particular faction. The private benefit standard used in American Campaign Academy is similar under section 501(c)(4). The difference is in the weighing of the private benefits (i.e. the amount of private benefits), not the standard. See e.g. Rev. Rul. 75-286, supra.

The information you submitted clearly indicates that you, like the organization described in American Campaign Academy, are operated primarily for the benefit of a select group. This select group consists of the Republican Party and politicians affiliated with the Republican Party. Specifically, your activities benefited the Republican party and its affiliated politicians by enhancing the electoral and political fortunes of the aforementioned. These activities generated public support and enthusiasm for your policies and positions. In turn, the public support and enthusiasm could enhance the election or reelection prospects of Republican politicians (i.e. their political careers) and, thereby, the fortunes of the Republican Party. Also, political identification with the Republican Party was strengthened when individuals participated in your forums and mega-conferences. Your publications, the journals and newsletters, also served to enhance the electoral prospect of Republican politicians because they could generate party identification with and political support for the Republican Party and politicians.

This conclusion is supported by your orientation toward the Republican Party, which is demonstrated in the history, creation, control, and operation of your organization. As illustrated in your press releases, journal, newsletters, and prospectus, the word "Republican" is used throughout these publications. The speakers or participants that you invited to your forums usually were identified or affiliated with the Republican Party. For example, many speakers or participants (Senator Orrin Hatch, Senator Hank Brown, Wendy Gramm, Congressman James Hansen, Congressman Dan Schaefer, Congressman Joel Hefley, Congressman Wayne Allard, and so forth) at your forums were former or current Republican Party office holders. You have not indicated whether individuals affiliated with other political parties were invited to be speakers at your forums. Control of your organization resides with individuals who are members of or affiliated with the Republican Party.

National Policy Forum

CONCLUSION

In summary, we conclude that you are not operated primarily to promote social welfare because you are a partisan issues-oriented organization and your activities are partisan. In addition, we conclude that your activities also substantially benefitted the Republican Party and politicians affiliated with the Republican Party. Accordingly, you do not qualify for recognition of exemption under section 501(c)(4) of the Code, and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: CP:E:EO:T:3, Room 6137
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[redacted]

Edward K. Karcher
Chief, Exempt Organizations
Technical Branch 3

Shafer John H

From:	Thomas Cindy M
Sent:	Friday, February 24, 2012 4:25 PM
To:	Bowling Steven F; Shafer John H
Subject:	FW: Congressional Follow-Up - NEED INFO
Importance:	High
Follow Up Flag:	Follow up
Due By:	Tuesday, February 28, 2012 12:00 PM
Flag Status:	Flagged

Steve/John - Do either of you remember when we added the advocacy cases to the BOLO? My records show that we sent [redacted] to EOT in March 2010. Do you think that is when we started identifying them or before? If before, a rough estimate would be fine.

Steve -- I know that Ron Bell was initially working [redacted] and coordinating with Chip Hull. Did Ron FTE any of the cases or approve any? If so, can you check with him to see how many? And, if he FTE'd any, how many came back?

Thanks for info.

From: Paz Holly O
Sent: Friday, February 24, 2012 4:11 PM
To: Thomas Cindy M
Subject: FW: Congressional Follow-Up
Importance: High

Please see #2 below - When did Determs first put these on the BOLO list? Don't need answer today. Sometime next week is good. Thanks!

From: Lerner Lois G
Sent: Friday, February 24, 2012 3:46 PM
To: Spellmann Don R; Cook Janine; Paz Holly O
Cc: Kindell Judith E; Lowe Justin; Flax Nikole C; Urban Joseph J
Subject: Congressional Follow-Up
Importance: High

Just came back from the meeting and they have asked for several things.

1. Don/Janine-- The guidance provided to Cincy that Don reviewed-- I'm hoping you can let us know your concerns as soon as possible so we can finalize the draft. We will be sending it over to them and putting it out on the web with other check sheets/guide sheets.

2. Holly--a timeline relating to the uptick--that is, about when did we notice there were enough of these that we needed guidance from R & A and then when did we get cases up here to look at. If there is info regarding development and FTEs and replacement cases, give me that too.

3. Case Grading Guide--I think it is not disclosable, but please confirm and if not, let me know the basis.

MAY-30-2013 11:45 IRS 513 263 3655 P.22

Thanks to all who got me ready for today--I think it went as well as it could.

Lois G. Lerner
Director of Exempt Organizations

Thomas Cindy M

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 4:14 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: RE: [redacted] -- EO Technical Would Like[redacted]

Sounds good. Thanks John.

From: Shafer John H
Sent: Wednesday, March 17, 2010 1:48 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: [redacted] -- EO Technical Would Like[redacted]
Importance: Low

I will sent [redacted] to EO Technical , [redacted] I can hold the remaining cases in my group "75" number unless you want them held some other place.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 1:21 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: [redacted] -- EO Technical Would Like[redacted]

John,

Per Holly's e-mail directly below, EOT does not want all of the tea party cases. They only want 2 of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, March 17, 2010 12:40 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven
Subject: RE: [redacted] --- EO Technical Would Like[redacted]

Cindy,

Thanks for the heads up. [redacted] but had not yet heard that there were more. I think we should take a few more cases (I'd say 2) and would ask that you hold the rest until we get a sense of what the issues may be. Then when we will work with Determs in working the other cases.

Subject: [redacted] — Does EO Technical Want [redacted]?

Holly,

FYI - I will be on maternity leave starting tomorrow. Steve will be acting as head of EO Tech.

Holly

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 12:10 AM
To: Paz Holly O
Subject: FW: [redacted] — EO Technical Would Like [redacted]
Importance: High

Holly,

Did you know about these additional 10 tea party cases? Do you want all of them or do you only want a few and then give us advice as to what to do with the remaining?

From: Shafer John H
Sent: Tuesday, March 16, 2010 9:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: [redacted] — EO Technical Would Like [redacted]
Importance: Low

Cindy,

We have identified a total of 10 Tea Party cases. Three case have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward them to EO Technical.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Friday, February 26, 2010 8:36 AM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: [redacted] — EO Technical Would Like [redacted]

EO Technical would like [redacted]. Please thank Jack for identifying the issue and elevating it. Thanks.

From: Paz Holly O
Sent: Friday, February 26, 2010 8:23 AM
To: Thomas Cindy M
Subject: RE: [redacted] — Does EO Technical Want [redacted]?

I think sending [redacted] up here is a good idea given the potential for media interest. Thanks.

From: Thomas Cindy M
Sent: Thursday, February 25, 2010 10:00 PM
To: Paz Holly O

Gary Muthert
TE/GE, ID #1000203255
Screening Group, Group 7838
550 Main Street
Cincinnati, Ohio 45201
513-263-3639 Phone
513-263-5200 FAX

Thomas Cindy M

From: Shafer John H
Sent: Tuesday, April 06, 2010 10:00 AM
To: Thomas Cindy M; Camerlo Sharon L
Subject: FW: Tea Party Cases -- ACTION
Attachments: Tea Party 4-5-2010.xls

Cindy & Sharon,

Gary has added a few more cases that he discovered. I have all of the status "75" cases in my office.

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3405
FAX: (513)263-5200

From: Muthert Gary A
Sent: Monday, April 05, 2010 2:29 PM
Cc: Muthert Gary A; Shafer John H; Shoemaker Ronald J
Subject: RE: Tea Party Cases -- ACTION



From: Shoemaker Ronald J
Sent: Monday, April 05, 2010 11:30 AM
To: Elliot-Moore Donna; Grodnitzky Steven
Subject: RE: [redacted]

[redacted]

From: Elliot-Moore Donna
Sent: Friday, April 02, 2010 8:38 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: [redacted]

The Tea Party movement is covered in the Post almost daily; I expect to see more applications.

From: Grodnitzky Steven
Sent: Thursday, April 01, 2010 4:04 PM
To: Elliot-Moore Donna; Shoemaker Ronald J
Subject: RE: [redacted]

These are [redacted] cases as they deal with the Tea Party so there may be media attention. May need to do an SCR on them.

From: Elliot-Moore Donna
Sent: Thursday, April 01, 2010 7:43 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: [redacted]

I looked briefly and it looks [redacted]

From: Grodnitzky Steven
Sent: Wednesday, March 31, 2010 5:30 PM
To: Elliot-Moore Donna; Shoemaker Ronald J
Subject: RE: [redacted]

Thanks. Just want to be clear -- [redacted]

Ron -- can you let me know who is getting [redacted]?

From: Elliot-Moore Donna
Sent: Wednesday, March 31, 2010 10:30 AM
To: Grodnitzky Steven
Subject: [redacted]

Steve:

Re: [redacted]

[redacted]

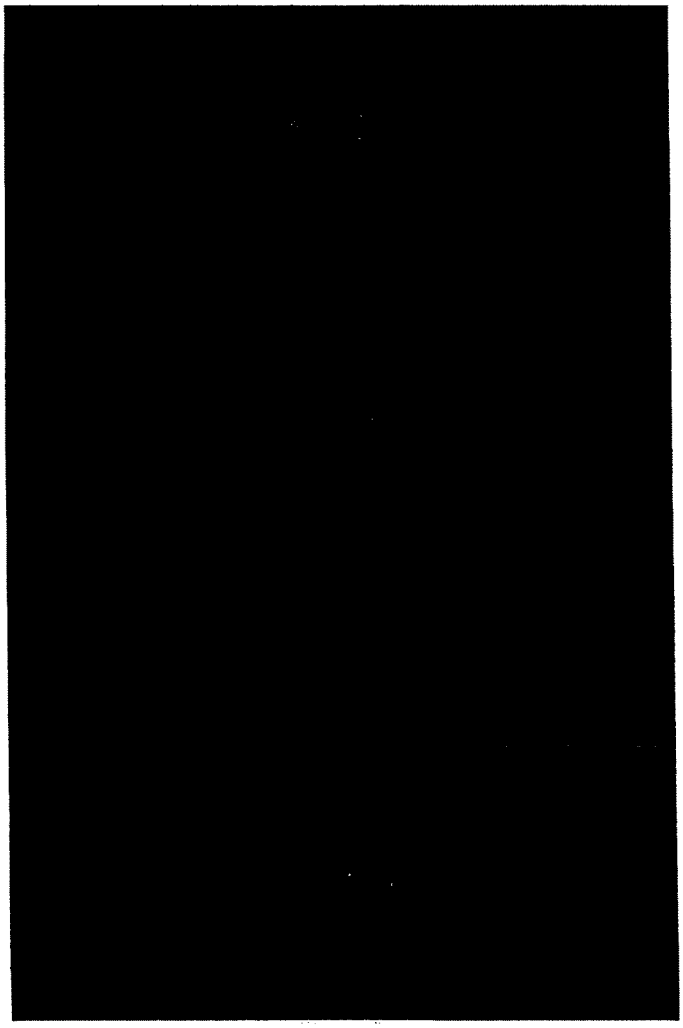
Holly accepted [redacted] for EO Technical. Copies of email exchanges between Cindy Thomas and Holly in case files.

The concern is potential for media attention.

They will be assigned to Group 2.

FYI

Donna



[redacted]

Thomas Cindy M

From: Grodnitzky Steven
Sent: Monday, April 26, 2010 11:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H; Shoemaker Ronald J; Hull Carter C
Subject: RE: Tea Party Cases
Signed By: There are problems with the signature. Click the signature button for details.

Please have her contact Ron Shoemaker. Thanks.

From: Thomas Cindy M
Sent: Sunday, April 25, 2010 1:00 PM
To: Grodnitzky Steven
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H
Subject: FW: Tea Party Cases

Steve,

We are going to have those cases assigned to Liz Hofacre. Liz reports to Joseph Herr in Brenda Melahn's area. After she gets the cases, who in EOT should she contact to coordinate development?

From: Thomas Cindy M
Sent: Saturday, April 24, 2010 6:21 PM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J
Subject: RE: SCR

Steve,

None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT. I will discuss with Area Managers to find out who we will have work these cases and will get back with you. Thanks.

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 4:37 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven; Shoemaker Ronald J
Subject: FW: SCR

[redacted] I understand that you have a number of these cases in Cincy. It may not be a bad idea to coordinate with the individual(s) who have the cases in Cincy so that you can start developing them.

If you have the names of the agents and manager with these cases, please let me know. We should at least have a call and see how we can work together.

From: Shoemaker Ronald J
Sent: Friday, April 23, 2010 3:28 PM
To: Grodnitzky Steven
Subject: RE: SCR

Sorry, I forgot about [redacted] See the attached document.

MAY-20-2013 11:39 IRS 513 263 3695 P.07

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 3:13 PM
To: Shoemaker Ronald J
Subject: SCR

What about the SCR for the Tea Party cases? I believe that Chip has the cases. Can you or Chip make up the SCR, and confer with Cincy to include their information in the SCR? They have a few cases, and I believe that some have even been granted exemption. Thanks.

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
phone: (202) 283-8941
fax: (202) 283-8937

MAY-30-2013 11:59 IRS 513 263 3655 P.08

Thomas Cindy M

From: Thomas Cindy M
Sent: Friday, June 10, 2011 5:14 PM
To: Paz Holly O; Seto Michael C
Subject: FW: Coordination Question - For meeting tentatively scheduled for 6/13

From: Thomas Cindy M
Sent: Wednesday, June 08, 2011 4:46 PM
To: Seto Michael C
Cc: Eshg Bonnie A; Bowling Steven F; Bell Ronald D; Hull Carter C; Kastenberg Elizabeth C
Subject: Coordination Question

Mike,

Ron Bell received the email directly below from Chip regarding the "tea party cases" and the criteria for identifying these cases. It appears there is some duplication of efforts because Holly already asked me for information last week. Refer to my email below dated 6/2/2011. If you would like to discuss, please feel free to call me. Thanks.

From: Hull Carter C
Sent: Wednesday, June 08, 2011 1:52 PM
To: Bell Ronald D
Cc: Bowling Steven F; Kastenberg Elizabeth C
Subject: Coordination Question
Importance: High

Hi Ron,

In order to present a balanced picture to Lois Lerner at our briefing, we have a couple of questions concerning how the cases on your list were identified to be included in your list.

The EO Determinations Screening Checksheet lists "Political Activities - Sensitive Issues" and the IRM 7.20.5.4 describes cases such as these as "impact cases." On screening, how were the cases on your list identified as political? For example, were specific identifying words used, people or location, etc.? Did any particular person within EO indicate that these types of cases should be set aside and included on the list? Or was there a memorandum of some kind requesting that EO take a closer look at these types of cases? We noted that the list contained organizations that appeared to be of a particular political ideology. Were any other political ideology cases included (e.g. liberal, conservative, well-known, particular people or identifying particular people or affiliations)?

Thank you for your assistance. Any information you can gather on this would be most helpful. If you have any questions, you can contact me or Elizabeth Kastenberg at (202) 283-9468.

Chip

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 10:35 PM
To: Paz Holly O
Subject: group of cases

The email below from John Shafer, Screening Manager, outlines the criteria the screening group is using to identify cases as "tea party cases." This is criteria the screening group came up with based on cases they were seeing. If we don't want the screening group to include all of these type issues as "tea party

cases," they would have no problem including or excluding certain cases. However, they need to be given the criteria to use. And, if we don't want certain cases included, then EOD still needs to know how the cases should be processed. I guess what I am trying to say is that it doesn't matter what the cases are called or how they are grouped, EOD needs guidance to ensure consistency.

Process: When the screening group starts seeing new type cases that have similar issues, they meet and come up with criteria to identify "emerging issue" and elevate information. "Emerging issue" cases are sent to Group 7822 (Steve Bowling's group) and we start coordinating with EOT to seek guidance.

Would you like for me to ask Bonnie Esrig, Steve Bowling, Group 7822 Manager, and Ron Bell, agent working "tea party cases" to participate in the briefing with Lois?

From: Shafer John H
Sent: Thursday, June 02, 2011 9:21 AM
To: Thomas Cindy M
Cc: Esrig Bonnie A; Bowling Steven F
Subject: RE: Tea Party Cases - NEED CRITERIA

Cindy,

The following are issues that could indicate a case to be considered a potential "tea party" case and sent to Group 7822 for secondary screening.

1. "Tea Party", "Patriots" or "9/12 Project" is referenced in the case file.
2. Issues include government spending, government debt and taxes.
3. Educate the public through advocacy/legislative activities to make America a better place to live.
4. Statements in the case file that are critical of the how the country is being run.

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 12:46 AM
To: Shafer John H
Cc: Esrig Bonnie A; Bowling Steven F
Subject: Tea Party Cases - NEED CRITERIA
Importance: High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forward to Holly per her request below. Thanks.

From: Melahn Brenda
Sent: Wednesday, June 01, 2011 3:08 PM
To: Paz Holly O; Thomas Cindy M
Subject: RE: group of cases

Holly - we will UPS a copy of [redacted] in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

From: Paz Holly O
Sent: Wednesday, June 01, 2011 2:21 PM
To: Thomas Cindy M
Cc: Melahn Brenda
Subject: group of cases

re: Tea Party cases

Two things re: these cases:

[redacted]

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

From: Thomas Cindy M
Sent: Thursday, May 10, 2012 5:45 PM
To: Lahey Victoria; Lewis Jovonnie; Brinkley Lynn A; Waddell Jon M; Bibb Kenneth B; Berry Daniel W
Cc: Haley Philip H; Shankling Lonnie; Jefferson-White Beverly J; Angner William J; Shafer John H; Muthert Gary A; Bowling Steven F; Combs Peggy L; Esrig Bonnie A; Sheer Mary; Chumney Tyler N; Abner Donna J
Subject: FW: Advocacy Cases - Next Steps - UPDATE
Importance: High

I spoke with Holly today regarding the advocacy team, training, etc. Following are the updates:

1. Training -- will be held in Room 7106 from 2:00 - 4:30 on 5/14 and 8:00 - 4:30 on 5/15

2. Participants for training:

EO Determinations

Janine Estes
Jodi Garuccio
Joseph Herr
Grant Herring
Faye Ng
Mitch Steele
Carly Young

EODQA

Daniel Dragoo
Mike Ludwig

EO Washington Office

Matthew Giuliano
Hilary Goehausen
Judy Kindell
Sharon Light
Justin Lowe
Andy Megosh

3. Holly Pezz and Nan Marks will be in Cincinnati on 5/14 and 5/15 and will be kicking off the training.

5/28/2013

513 263 3695 P.13
IRS MAY-30-2013 11:56

P.14 7012

4. Sharon Light will take over coordination of the Advocacy Team until further notice.

5. Those from the Washington Office, along with Daniel and Mike from EODQA, and Joseph, Mitch, Carly and Janine from EOD will start bucketing all of the advocacy cases on 5/16 until completed. Room 7112-B has been reserved for this. Those from the Washington Office will provide more details about the bucketing process once the team meets.

Please be certain that those folks who are scheduled for training and bucketing know where to be and when. If you have any questions regarding this, please let me know. Thanks.

From: Thomas Cindy M
Sent: Tuesday, May 08, 2012 11:41 PM
To: Essig Bonnie A; Combs Peggy L
Cc: Bowling Steven F; Sheer Mary
Subject: Advocacy Cases - Next Steps
Importance: High

I spoke with Holly late today (5/8) and she indicated that folks from D.C. plan to fly into Cincinnati on 5/14 in the a.m. and would like to have a training session for the advocacy team members physically located in Cincinnati starting at 1:00 p.m. that day. The training will go through the end of the day on 5/15. To prepare for the training, the folks from D.C. would like for Joseph Herr and Mitch Steele to be available via phone on 5/10 and 5/11; they will be receiving an email from Sharon Light regarding the planning sessions. If Joseph and/or Mitch have any cases that they believe would be good for training purposes, they may want to let us know so that we can pull them out of the pile.

Starting on 5/16, Holly would like for the training team (Joseph Herr, Mitch Steele, Judy Kindell, Justin Lowe, Sharon Light), along with Stephen Seok, Carly Young, a representative(s) from Quality, and a few additional folks from D.C. to start to put the advocacy cases into buckets:

1. Favorable (no further substantive development needed),

2. Favorable (limited development with approx. 2 or 3 questions to ask that may involve technical issues — a list of questions would be jotted down by the team),

3. Significant Development, and

4. Probable Adverse.

Most likely, we'll try to get those cases in Bucket 1 closed quickly and then move to Bucket 2. The Washington Office will prepare template denial letters for Bucket 4 and will share those letters with EO Determinations to issue.

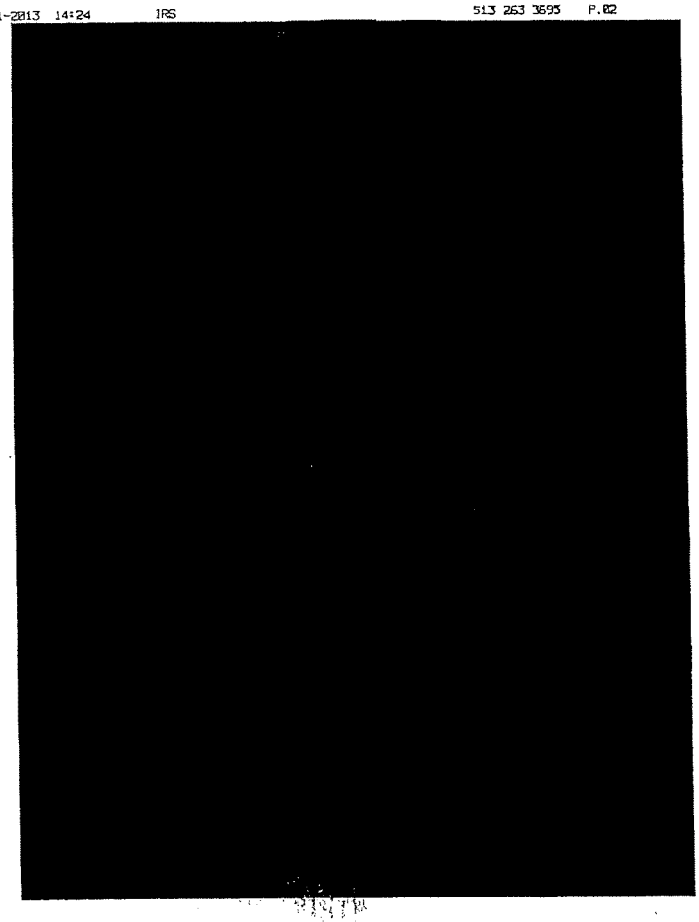
I've tentatively reserved Room 7106 for the training on 5/14 and 5/15, and have reserved Room 7112-B from 5/16 through 5/11 for those who will be identifying cases for the various buckets. Hubs are available in both of these rooms to allow for Internet connectivity.

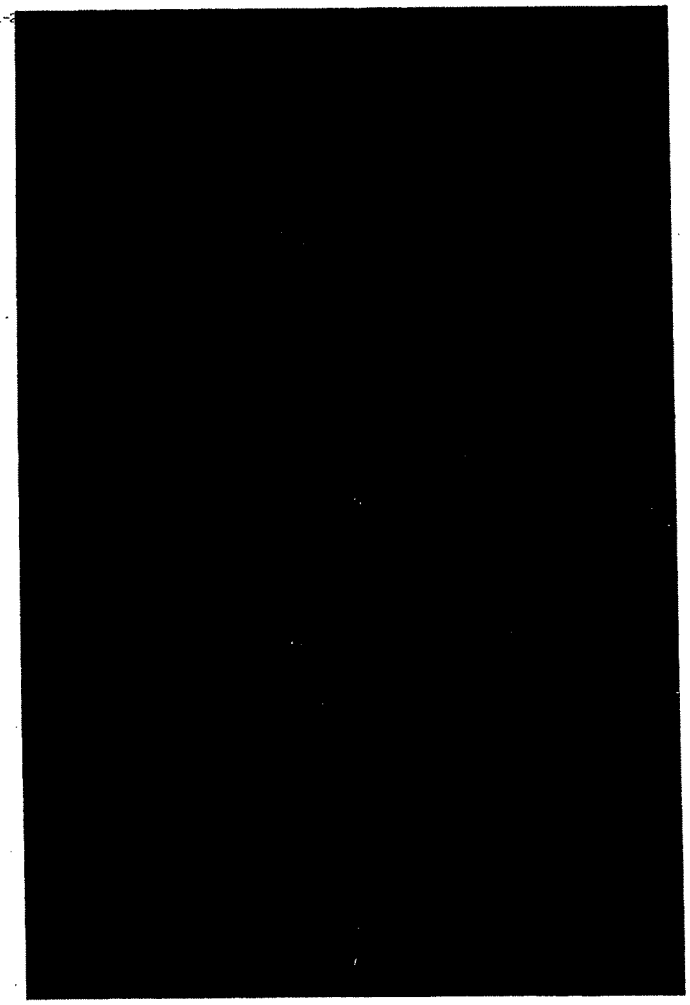
Holly indicated that those folks from D.C. who will be assisting with this project will most likely be working overtime while in Cincinnati and overtime is available for our folks who are working on this project as well, if they choose to work it.

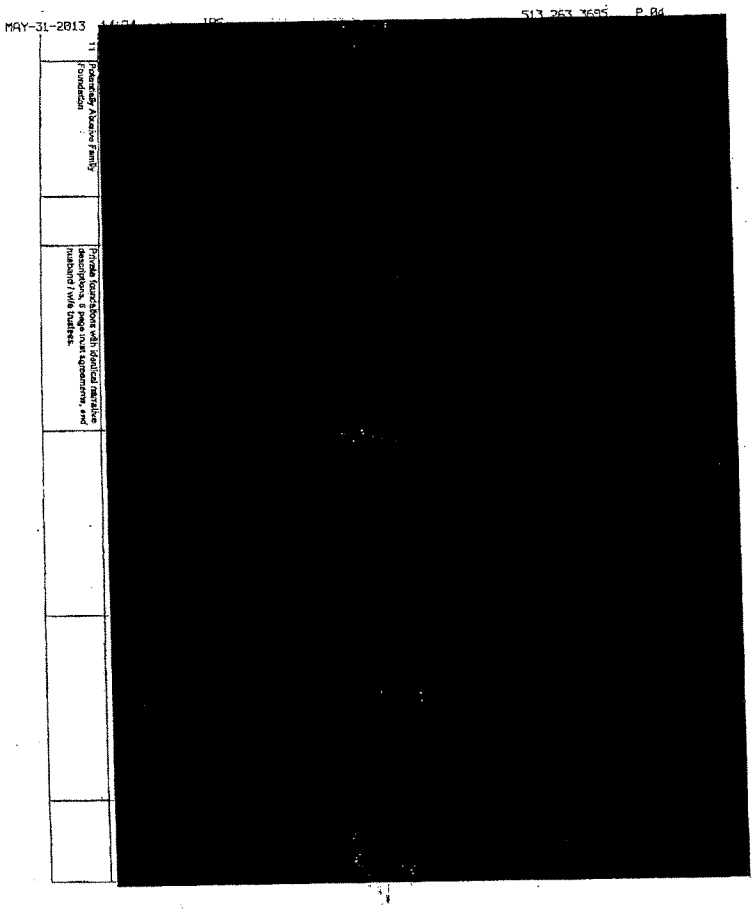
After these steps are taken, we'll figure out how to fold in those specialists from outside of Cincinnati who are currently on the Advocacy Team.

As I hear more, I'll pass on the information. In the meantime, please let me know ASAP if you have questions/concerns, or if there are concerns/conflict for anyone who will be involved in this project and/or training. Thanks.

5/28/2013 P.14 512 263 3695 IRS MAY-30-2013 11:56







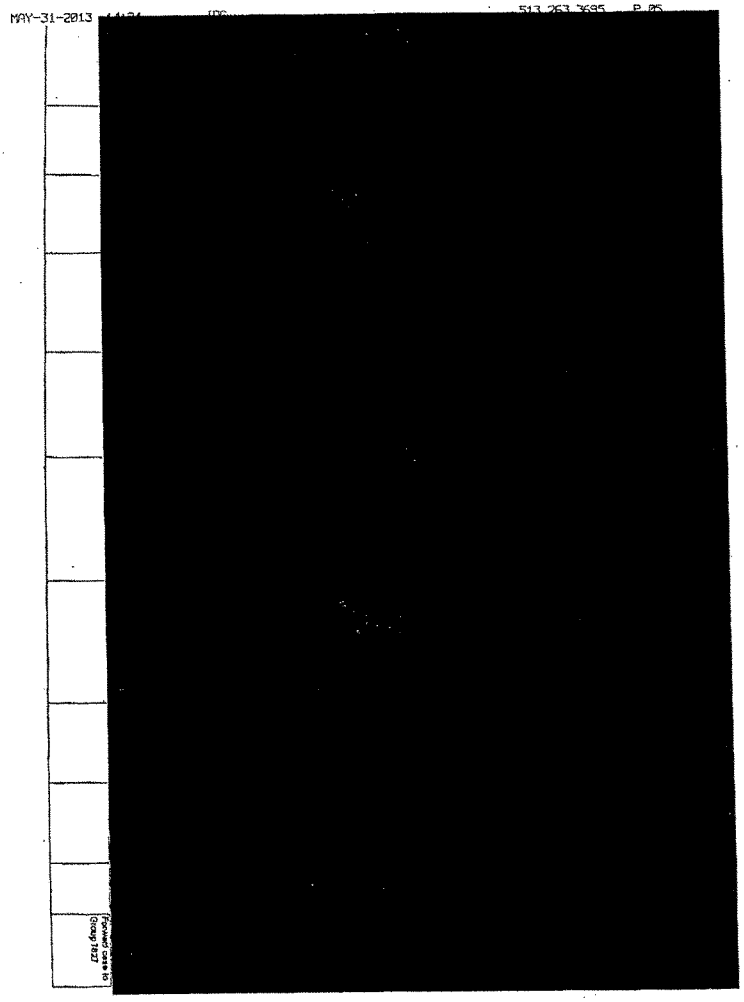
MAY-31-2013 [redacted] 513 263 3695 P.04

11	Potentially Abusive Family Foundation
	Private foundations with identical narrative descriptions, 6 page trust agreements, and husband / wife trustees.

1 of 2

71-000068

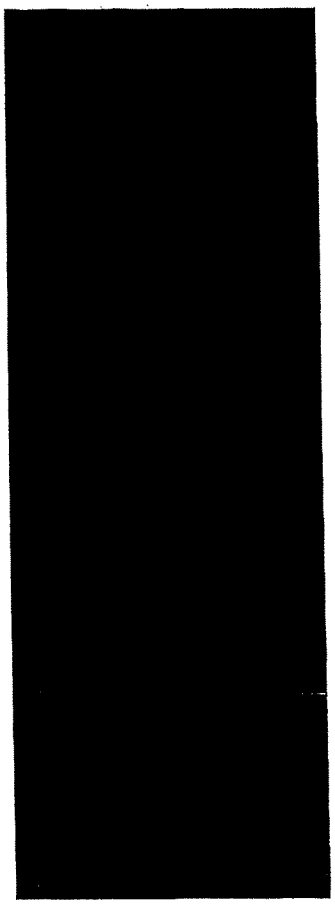
PSI-IRS-09-000068



71-000059

PSI-IRS-09-000089

MAY-31-2013 14:24 IRS



1 of 1

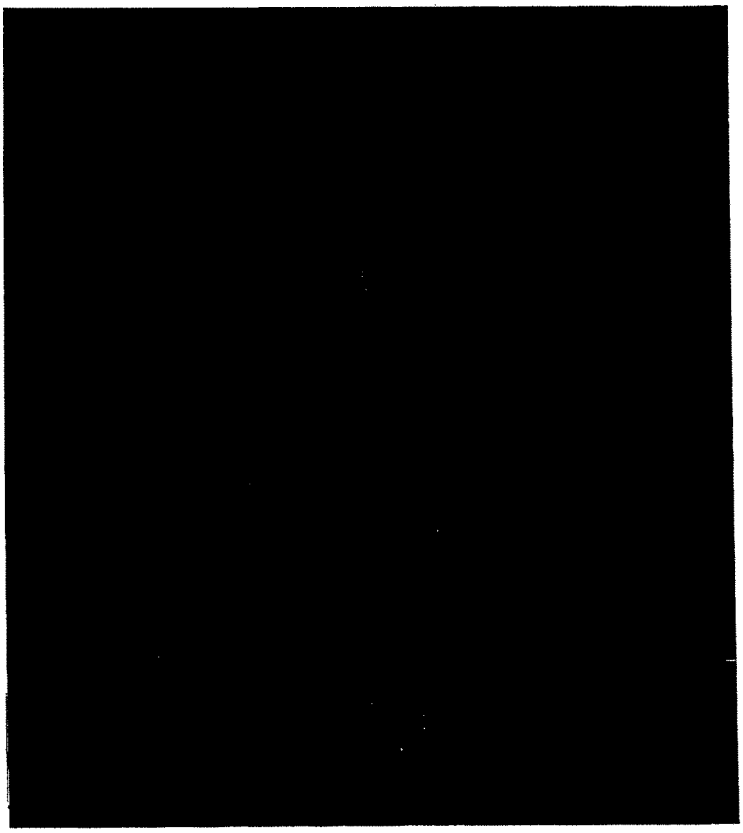
MAY-31-2013 14:25 IRS 513 263 3695 P.07

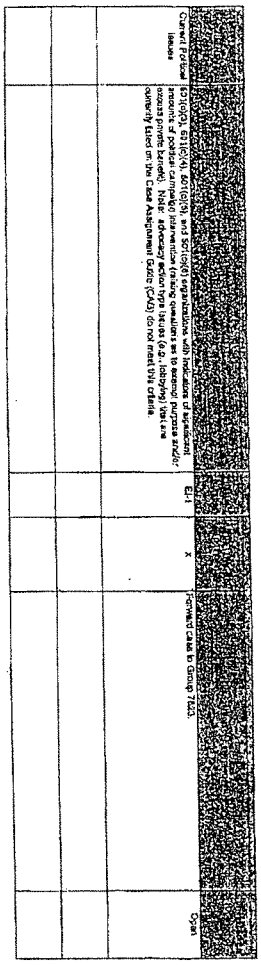
[redacted]

71-000071

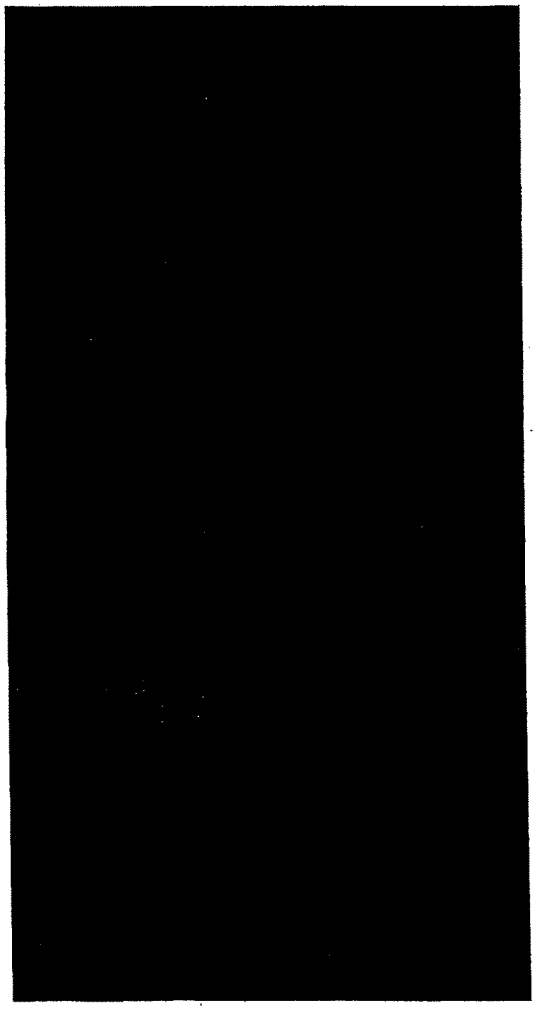
PSI-IRS-09-000071

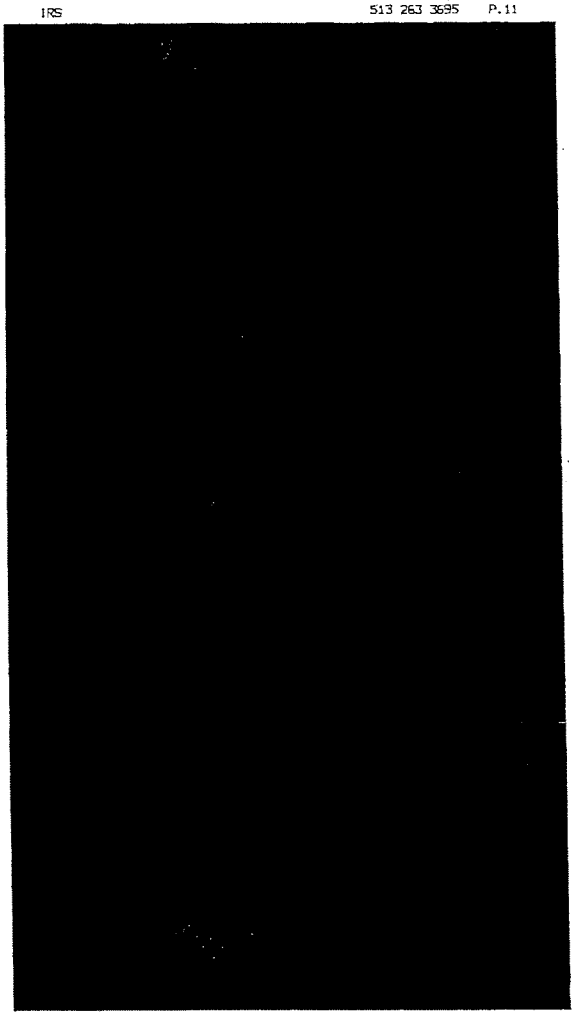
MAY-31-2013 14:25 IRS 513 263 3695 P.08





MAY-31-2013 14:25 IRS 513 263 3695 P.10





[redacted]

Supporting Organizations (SSO's) - EIN(s)	Paper Nilhoul Lead	Organizations formed to pay down the national debt	28	2012-41	Forward case to Group 7822 to coordinate with EO7/EO3	Open 3/28/12
		Forms 1023 and 8940 submitted by organizations seeking SO status as follows: (1) Type I where there is more than one unconnected supported organization (whether specified by name or not) and (2) Type II where it appears that the supported organization does not control the supporting organization.	27	2013-41	Transfer case to EO7.	Open 3/22/13

[redacted]

TOTAL P.12

Shafer John H

From: Vance Roger W
Sent: Monday, June 03, 2013 12:29 PM
To: Shafer John H
Subject: FW: Tea Party Cases - NEED CRITERIA

From: Vance Roger W
Sent: Thursday, June 02, 2011 8:02 AM
To: Shafer John H
Subject: RE: Tea Party Cases - NEED CRITERIA

Some of the cases do contain references to the tea party and other cases that I have identified are organizations concerned with government spending, government debt, and taxes.

From: Shafer John H
Sent: Thursday, June 02, 2011 7:12 AM
To: Muthert Gary A; Vance Roger W; Schaber Dale T
Subject: FW: Tea Party Cases - NEED CRITERIA
Importance: High

Please provide me with what issues may indicate an organization is involved with the tea party movement.

Thanks,

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
Telephone: (513)263-3406
FAX: (513)263-5200

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 12:46 AM
To: Shafer John H
Cc: Esrig Bonnie A; Bowling Steven F
Subject: Tea Party Cases - NEED CRITERIA
Importance: High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forward to Holly per her request below. Thanks.

From: Melahn Brenda
Sent: Wednesday, June 01, 2011 3:08 PM
To: Paz Holly O; Thomas Cindy M
Subject: RE: group of cases

Holly - we will UPS a copy of [redacted] in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

From: Paz Holly O
Sent: Wednesday, June 01, 2011 2:21 PM
To: Thomas Cindy M
Cc: Melahn Brenda
Subject: group of cases

re: Tea Party cases

Two things re: these cases:

[redacted]

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

Fisher David

From: Seidell Thomas F TIGTA
Sent: Friday, May 10, 2013 9:51 AM
To: Medina Cheryl J TIGTA
Subject: FW: Review of E-Mails

Purpose: To document results of OI search of IRS emails.

From: Kutz Gregory D TIGTA
Sent: Tuesday, May 07, 2013 8:39 AM
To: Paterson Troy D TIGTA; Seidell Thomas F TIGTA
Subject: FW: Review of E-Mails

See below. I forgot to ask, but did we remove reference to OI in the footnotes and the related referral?

From: Camus Timothy P TIGTA
Sent: Friday, May 03, 2013 3:34 PM
To: Phillips Michael R TIGTA; McKenney Michael E TIGTA; McCarthy Michael T TIGTA; Kutz Gregory D TIGTA
Cc: Silvis Randy M TIGTA; Jackson James S TIGTA
Subject: Review of E-Mails

Gentlemen,

As a result of our meeting with Russell a couple of weeks ago, we agreed to pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to "target" Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive.

Audit provided us with a list of employees in question, key word search terms and a timeframe for the e-mails. We pulled the available IRS e-mails, which resulted in 5,500 responsive e-mails.

Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated. The e-mail traffic indicated there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications so they pulled them. This is a very important nuance.

Tim

Timothy Camus
Deputy Inspector General for Investigations
Treasury Inspector General for Tax Administration
401 H St. NW, Suite 469
Washington, DC 20005

INSPECTOR GENERAL FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

February 13, 2013

MEMORANDUM FOR DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS

FROM: Gregory D. Kutz
Assistant Inspector General for Audit (Management Services and Exempt Organizations)

SUBJECT: Request for Investigation Related to Audit on Internal Revenue Service Oversight of Exempt Organizations Applications

We are currently reviewing the Exempt Organizations (EO) function's tax-exempt application review process for identifying organizations that are potentially involved in political campaign intervention. As you requested, we are providing a formal request for investigation to determine who at the Internal Revenue Service (IRS) EO function Determinations Unit in Cincinnati, Ohio originally developed and who authorized the policy to improperly target applications of certain organizations based on their names and political views. According to representations we have received, a high profile case was received in February 2010 which led to an e-mail in May 2010 stating that all "Tea Party" applications should be forwarded for additional review by a certain Determinations group. By June 2011, the policy was expanded to include other groups (9/12 and Patriots). After repeated attempts to identify who developed the policy and who authorized it, at all levels the IRS is unwilling or unable to provide us with this information, including relevant e-mails. Below are certain time periods and personnel who may have been involved in the development of the improper criteria.

Time Period	Personnel	Criteria	Reason
February 2010 through May 2010	➢ Cindy M. Thomas, Determinations Program Manager; ➢ Holly O. Paz, Director Rulings and Agreements; ➢ John H. Shafer, Determinations Group Manager; ➢ John Koester,	"Tea" or "Patriots" or "9/12" or "(c)(4)"	We have requested an email that was sent to the Determinations Unit staff that included criteria for processing applications

Time Period	Personnel	Criteria	Reason
	Determinations Specialist; ➢ Gary A. Muthert, Determinations Specialist; ➢ Carter C Hull, EO Technical Specialist; ➢ Elizabeth Hofacre, former Determinations Specialist; ➢ Sharon Camarillo, former Area Manager; ➢ Joseph Herr, Determinations Group Manager; and ➢ Steven Grodnitzky, EO Technical Manager		involving specific groups, but IRS personnel state that they cannot locate the email.
June 1-10, 2011	➢ Cindy M. Thomas, Determinations Program Manager; ➢ Holly O. Paz, Director Rulings and Agreements; ➢ John H. Shafer, Determinations Group Manager; and ➢ Gary A. Muthert, Determinations Specialist	"Tea" or "Patriots" or "9/12"	We have been provided criteria used for processing certain tax-exempt applications, but IRS officials stated that they do not know who developed it or who knew about it and when.

We are currently drafting our report, which may be issued before you complete your investigation. We plan to note in our report that we have referred certain matters to your office for further investigation. We will provide you with a draft of this report as background and to ensure that our reference to this referral is appropriate. If you identify evidence material to our audit report before it is issued, we will work with you on any additional disclosures we should make. Due to the high visibility of this issue, it is possible you will be asked to brief congressional staff on the results of your investigation.

(14)

We will provide you and your staff access to all relevant documentation we have received including the first written evidence of the improper targeting policy. Once you have reviewed this memo please have your staff coordinate with Troy Paterson, Director, Tax Exempt and Government Entities/Human Capital, at (404) 338-7476.

cc: Deputy Inspector General for Investigations IG:OI
Acting Deputy Inspector General for Audit IG:A

File: *PA6.ee EDS 501c4 Case Universe Open and Closed Rec'd 6-11-12*
Tabs: *Open* and *Closed* (see notes below)
Purpose: To identify the universe of open 501(c)(4) applications to sample from and to identify the universe of closed 501(c)(4) applications to sample from.
Date Created: June 5, 2012

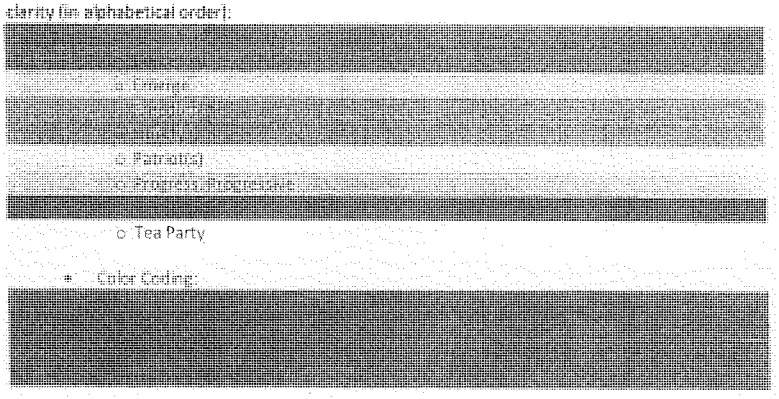
File modified as followed purely for presentation purposes and to aid discussion:

- To look at the entire universe in a single manner, the Open and Closed tabs have been combined to create a single listing.

- One additional column was added entitled "List." This column has four potential values:

o May '12: This indicates that the application appeared in the Advocacy Listing that was effective as of May 31, 2012.
o Dec '12: This indicates that the applications did not appear in the May 31, 2012 Advocacy Listing but did appear in the December 17, 2012 Advocacy Listing.
o None: This indicates that the application did not appear in either the May 31, 2012 or the December 17, 2012 Advocacy Listing.

- Color Coding: The following color codes were used for Application Names for purposes of clarity (ie. alphabetical order):



Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy Ltr	Subsection	Current EDS Status	Current EDS Status Date	Control Date
				None	4	1	5/21/2010	[illegible]
				None	4	1	12/29/2010	[illegible]
				None	4	4	10/14/2010	[illegible]
				May '12	4	52	1/10/2012	[illegible]
				May '12	4	52	6/1/2012	5/20/2010
				May '12	4	1	5/25/2012	8/20/2010
				May '12	4	4	3/2/2012	8/31/2010
				May '12	4	52	6/1/2012	11/19/2010
				May '12	4	52	2/6/2012	1/13/2011
				May '12	4	52	3/11/2011	2/22/2011
				May '12	4	1	5/25/2012	4/4/2011
				Dec '12	4	74	5/31/2012	8/15/2011
				May '12	4	51	4/13/2012	12/21/2011
				May '12	4	51	5/24/2012	4/9/2012
				Dec '12	4	74	6/2/2012	4/24/2012
				Dec '12	4	74	6/2/2012	5/10/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

			Conservative					
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Submission	Current EDS Status	Current EDS Status Date	Control Date
				None	4	1	5/20/2010	[illegible]
				May '12	4	52	5/8/2012	[illegible]
				May '12	4	4	3/2/2012	5/11/2010
				None	4	6	7/15/2010	5/27/2010
				May '12	4	52	1/18/2012	6/7/2010
				None	4	1	9/7/2010	6/30/2010
				May '12	4	58	4/23/2012	7/14/2010
				None	4	11	9/20/2011	9/16/2010
				May '12	4	74	3/1/2012	10/25/2010
				None	4	1	7/20/2011	12/30/2010
				None	4	6	4/25/2011	3/17/2011
				May '12	4	52	6/1/2012	4/7/2011
				None	4	1	3/13/2012	8/10/2011
				May '12	4	51	5/15/2012	8/16/2011
				None	4	51	3/6/2012	1/20/2012
				May '12	4	51	5/1/2012	2/2/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

			Emerge					Pre-May 2010
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Subsection	Current EDS Status	Current EDS Status Date	Control Date
[redacted]				None	4	2	9/7/2011	12/28/2007
				None	4	2	9/7/2011	7/7/2008
				None	4	2	9/7/2011	8/12/2008
				None	4	2	7/25/2011	12/29/2009
				None	4	1	4/27/2011	6/22/2010

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.
Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

			Freedom					
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Subsectio n	Current EDS Status	Current EDS Status Date	Control Date
				None	4	1	9/2/2010	6/22/2010
				None	4	52	5/16/2012	6/25/2010
				None	4	6	7/29/2010	6/11/2010
				None	4	9	12/29/2010	7/16/2010
				None	4	6	8/20/2010	7/29/2010
				None	4	1	9/22/2010	8/23/2010
				None	4	52	11/19/2010	9/9/2010
				May '12	4	52	6/1/2012	9/24/2010
				None	4	1	3/25/2011	10/1/2010
				None	4	1	3/25/2011	10/5/2010
				May '12	4	52	6/1/2012	12/22/2010
				None	4	1	5/12/2011	1/20/2011
				None	4	1	2/17/2012	1/26/2011
				None	4	1	4/9/2012	2/16/2011
				May '12	4	52	2/9/2012	3/7/2011
				May '12	4	52	2/10/2012	3/10/2011
				May '12	4	52	6/1/2012	4/15/2011
				None	4	1	7/27/2011	4/15/2011
				May '12	4	58	4/23/2012	5/4/2011
				Dec '12	4	6	6/14/2011	5/4/2011
				May '12	4	58	4/23/2012	5/17/2011
				None	4	1	12/8/2011	5/17/2011
				May '12	4	1	5/25/2012	6/28/2011
				None	4	1	3/2/2012	7/25/2011
				None	4	6	11/21/2011	10/13/2011
				None	4	1	12/6/2011	10/31/2011
				May '12	4	51	4/13/2012	11/2/2011
				May '12	4	51	5/15/2012	11/15/2011
				None	4	1	2/16/2012	11/30/2011
				None	4	6	1/31/2012	12/7/2011
				May '12	4	51	5/15/2012	2/9/2012
				Dec '12	4	62	5/18/2012	3/20/2012
				Dec '12	4	74	6/2/2012	4/5/2012
				Dec '12	4	51	6/1/2012	5/24/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.
Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

[redacted] Liberty [redacted]

TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Subsection	Current EDS Status	Current EDS Status Date	Control Date
[redacted]				None	4	1	4/15/2011	
				None	4	1	5/8/2010	
				None	4	1	7/14/2010	
				None	4	6	8/6/2010	6/18/2010
				May '12	4	52	1/23/2012	6/30/2010
				None	4	11	3/29/2011	7/2/2010
				May '12	4	52	1/30/2012	8/31/2010
				None	4	6	10/8/2010	9/10/2010
				May '12	4	52	2/6/2012	9/13/2010
				May '12	4	4	4/6/2012	9/28/2010
				None	4	6	10/29/2010	10/18/2010
				Dec '12	4	6	1/15/2011	12/7/2010
				May '12	4	52	6/1/2012	1/18/2011
				May '12	4	52	6/1/2012	2/22/2011
				May '12	4	6	5/15/2011	4/26/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/9/2011
				May '12	4	51	4/11/2012	6/15/2011
				May '12	4	52	6/1/2012	9/13/2011
				May '12	4	51	4/13/2012	11/7/2011
				None	4	72	5/14/2012	11/8/2011
				None	4	72	5/14/2012	1/27/2012
				May '12	4	51	5/1/2012	2/9/2012
				Dec '12	4	62	6/1/2012	4/23/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

			Patriot(s)					As of May 2010
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Submitted on	Current EDS Status	Current EDS Status Date	Control Date
				May '12	4	52	6/1/2012	[illegible]
				May '12	4	58	4/23/2012	2/10/2010
				May '12	4	4	1/25/2012	3/18/2010
				May '12	4	52	1/12/2012	4/29/2010
				May '12	4	52	1/12/2012	5/3/2010
				May '12	4	52	1/17/2012	5/11/2010
				May '12	4	52	1/18/2012	6/11/2010
				May '12	4	58	4/23/2012	7/20/2010
				None	4	1	12/3/2010	7/26/2010
				None	4	2	1/11/2012	8/18/2010
				None	4	3	9/16/2010	8/19/2010
				None	4	3	10/5/2010	9/14/2010
				May '12	4	52	2/2/2012	10/18/2010
				May '12	4	52	2/2/2012	10/25/2010
				May '12	4	74	3/1/2012	10/25/2010
				None	4	9	3/25/2011	11/18/2010
				May '12	4	52	2/6/2012	12/17/2010
				May '12	4	58	5/17/2012	1/31/2011
				None	4	1	7/8/2011	4/6/2011
				May '12	4	52	2/21/2012	4/13/2011
				May '12	4	52	2/21/2012	4/16/2011
				May '12	4	52	2/21/2012	4/19/2011
				May '12	4	51	4/11/2012	6/10/2011
				May '12	4	51	5/11/2012	8/12/2011
				May '12	4	51	4/13/2012	9/30/2011
				May '12	4	51	5/11/2012	9/30/2011
				May '12	4	51	4/13/2012	10/24/2011
				Dec '12	4	74	6/1/2012	11/8/2011
				May '12	4	51	4/13/2012	12/30/2011
				May '12	4	51	5/24/2012	3/5/2012
				May '12	4	51	5/24/2012	4/9/2012
				None	4	61	5/9/2012	4/26/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

			Progress / Progressive					
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Subsection	Current EDS Status	Current EDS Status Date	Control Date
				None	4	11	2/14/2012	[illegible]
				None	4	9	5/5/2010	[illegible]
				None	4	9	6/29/2010	[illegible]
				None	4	1	11/29/2010	[illegible]
				None	4	1	11/19/2010	5/14/2010
				None	4	1	1/11/2011	6/10/2010
				None	4	1	12/22/2011	6/24/2010
				None	4	1	10/19/2010	8/3/2010
				None	4	1	12/6/2010	9/20/2010
				None	4	9	4/22/2011	11/30/2010
				May '12	4	52	6/1/2012	3/11/2011
				May '12	4	52	2/13/2012	3/30/2011
				None	4	6	7/29/2011	6/27/2011
				May '12	4	51	4/11/2012	7/1/2011
				None	4	6	9/25/2011	8/2/2011
				May '12	4	51	5/15/2012	8/19/2011
				None	4	6	9/25/2011	8/22/2011
				May '12	4	51	4/13/2012	9/2/2011
				May '12	4	52	6/1/2012	10/19/2011
				None	4	71	5/15/2012	10/26/2011
				May '12	4	51	4/13/2012	11/26/2011
				Dec '12	4	62	5/31/2012	1/6/2012
				None	4	71	5/14/2012	3/23/2012
				Dec '12	4	75	6/1/2012	5/10/2012

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.

Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

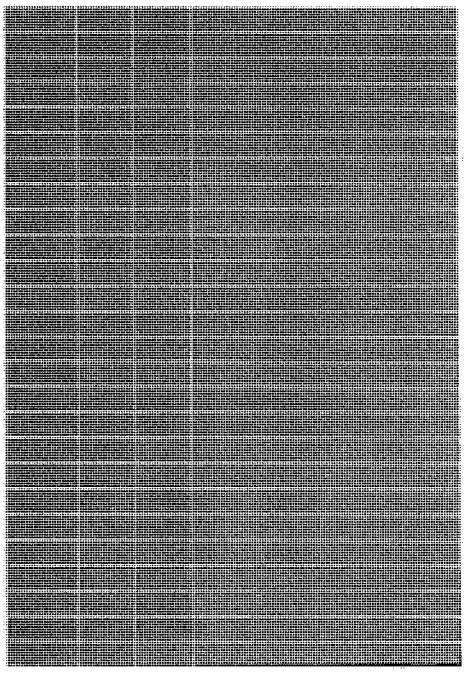
TEDS Case #	EDS Case #	Ein	Applicantname1	Advocacy List	Subsecti on	Current EDS Status	Current EDS Status Date	Control Date
				None	4	6	6/16/2011	5/16/2011
				None	4	6	11/22/2011	8/5/2011
				May '12	4	51	5/11/2012	10/3/2011

Purpose: To identify the universe of open 501(c)(4) applications to sample from. This listing was run on June 5, 2012.
Source: Holly Paz, Director, Rulings and Agreements

501(c)(4) Initial Applications

[redacted] Tea Party [redacted]

TEDS Case #	EOS Case #	Ein	Applicantname1	Advocacy List	Subsect 00	Current EOS Status	Current EOS Status Date	Control Date
[redacted]				None	4	4	6/15/2010	[redacted]
				May '12	4	58	5/17/2012	
				May '12	4	4	3/5/2012	
				May '12	4	52	3/16/2012	
				None	4	52	11/7/2011	
				May '12	4	58	4/23/2012	
				May '12	4	37	3/2/2012	
				May '12	4	52	1/8/2012	
				May '12	4	4	3/2/2012	
				May '12	4	52	1/12/2012	
				May '12	4	52	1/12/2012	
				May '12	4	52	1/12/2012	
				May '12	4	52	1/12/2012	
				May '12	4	4	4/4/2012	5/7/2010
				May '12	4	52	1/18/2012	5/21/2010
				May '12	4	4	2/27/2012	5/26/2010
				May '12	4	52	1/18/2012	5/27/2010
				May '12	4	52	1/18/2012	5/28/2010
				May '12	4	52	1/18/2012	6/11/2010
				May '12	4	52	1/18/2012	6/11/2010
				May '12	4	52	1/24/2012	7/6/2010
				May '12	4	52	1/24/2012	7/8/2010
				May '12	4	58	4/23/2012	7/19/2010
				May '12	4	58	4/23/2012	7/23/2010
				May 12	4	52	1/27/2012	8/5/2010
				May 13	4	52	1/27/2012	8/9/2010
				May '12	4	52	1/31/2012	8/24/2010
				May '12	4	52	1/30/2012	8/31/2010
				May '12	4	52	2/2/2012	10/13/2010
				May '12	4	52	2/3/2012	10/18/2010
				May '12	4	52	6/1/2012	12/1/2010
				May '12	4	52	2/6/2012	12/17/2010
				May '12	4	52	2/8/2012	1/3/2011
				May '12	4	58	5/17/2012	1/27/2011
				May '12	4	58	5/17/2012	1/31/2011
				May '12	4	4	6/2/2012	3/8/2011
				May '12	4	58	4/23/2012	3/17/2011
				May '12	4	58	4/23/2012	3/18/2011



May '12	4	4	6/2/2012	3/25/2011
May '12	4	52	2/13/2012	3/31/2011
May '12	4	52	2/16/2012	4/8/2011
May '12	4	52	2/21/2012	4/13/2011
May '12	4	52	2/21/2012	4/16/2011
May '12	4	52	2/21/2012	4/19/2011
May '12	4	51	4/11/2012	6/6/2011
May '12	4	51	4/13/2012	7/25/2011
May '12	4	51	4/13/2012	7/25/2011
May '12	4	51	5/11/2012	8/8/2011
May '12	4	51	5/11/2012	8/11/2011
May '12	4	51	5/11/2012	8/12/2011
May '12	4	52	6/1/2012	8/23/2011
May '12	4	51	5/11/2012	9/16/2011
May '12	4	51	5/11/2012	9/30/2011
May '12	4	51	5/11/2012	9/30/2011
May '12	4	51	5/11/2012	10/4/2011
May '12	4	51	4/13/2012	10/17/2011
May '12	4	51	4/13/2012	11/2/2011
May '12	4	51	4/13/2012	11/23/2011
May '12	4	51	4/13/2012	12/1/2011
May '12	4	51	4/13/2012	12/30/2011
May '12	4	51	4/13/2012	12/31/2011
May '12	4	51	4/13/2012	1/11/2012
May '12	4	51	4/13/2012	1/18/2012
May '12	4	51	5/24/2012	3/5/2012

Topic: Date Ranges for Data Selection

Statement (Audit): "We determined this through two statistical samples of 338 (7.5 percent) from a universe of 4,510 I.R.C. § 501(c)(4) tax-exempt applications ***filed*** during **May 2010 through May 2012** that were not forwarded to the team of specialists." (footnote 19 on page 8)

Statement (Audit): "We reviewed a statistical sample of 94 I.R.C. § 501(c)(4) cases ***closed*** from **May 2010 through May 2012** from a universe of 2,051 applications..." (page 9)

Statement (Audit): "We reviewed a statistical sample of 244 I.R.C. § 501(c)(4) cases ***closed*** from **May 2010 through May 2012 or open as of May 31, 2012**..." (page 9)

Statement (Audit): "We reviewed all 298 applications that had been ***identified*** as potential political cases as of **May 31, 2012.**" (page 10)

Statement (Letter): "TIGTA performed additional research which determined that six tax-exempt applications ***filed*** **between May 2010 and May 2012** having the words "progress" or "progressive" in their names were included in the 298 cases the IRS identified as potential political cases."

Statement (Letter): "We also determined that 14 tax-exempt applications ***filed*** **between May 2010 and May 2012** using the words "progress" or "progressive" in their names were not referred for additional scrutiny as potential political cases.

IRS Observations: The first, fifth, and sixth statements above reference a date range based on the date that the application was *filed* with the IRS (known as the Control Date). The second, third, and fourth statements appear to reference applications that may have been received by the IRS prior to May 2010 but had some action taken during the May 2010 to May 2012 timeframe.

The set of 298 advocacy cases that TIGTA reviewed includes 21 501(c)(4) cases that were filed with the IRS prior to May 2010 (including 11 Tea Party cases). The set of 298 cases also does not include 3 additional Tea Party cases (one 501(c)(3) case and two (c)(4) cases) that were filed prior to May 2010 but never ended up in the advocacy case listing, including the 501(c)(4) case that was the primary focus of the recurring Sensitive Case Reports in the TIGTA files. The set of 298 cases also does not include 5 cases that were closed in 2011 for an organization on the opposite end of the political spectrum from Tea Party, four of which also received a referral to EO Technical, had a Sensitive Case Report prepared, were referred to Chief Counsel for additional scrutiny, and eventually received a determination after approximately a three-year delay. Moreover, the list of 298 does not include 72 cases that were received by the IRS prior to May 31, 2012, but had not been assigned to the advocacy case listing by that date [37 cases for 501(c)(4) and 35 cases for 501(c)(3)].

The TIGTA report states in Appendix I (Detailed Objective, Scope, and Methodology): "Obtained a list of applications that were identified for processing by the team of specialists and determined the status of the identified cases (open, approved, denied, etc.) through May 31, 2012. We also received an updated list of identified cases through December 17, 2012, to determine the status of each initial case as of this date." This updated file expands the total universe of cases set aside for additional scrutiny as potential advocacy cases to 407.

> TIGTA indicated in a conversation on July 9, 2013 that the December 17, 2012 file was only used to update the status of the original 298 cases under review, and not to update the listing itself to include those additional cases that were, in fact, filed prior to May 2010 and were included in the December 2012 Advocacy listing update, but had not made it into the Advocacy listing as of June 5, 2012 when the list of 298 cases was prepared.

Topic: More on Date Ranges for Data Selection and Data Used for Statistical Sampling

Statement (Audit): The footnote associated with the statement that all cases with Tea Party, Patriots, or 9/12 in their names were forwarded to the team of specialists (footnote #19) states: "We determined this through two statistical samples of 338 (7.5 percent) from a universe of 4,510 I.R.C. § 501(c)(4) tax-exempt applications filed during May 2010 through May 2012 that were not forwarded to the team of specialists. See Appendix I for details on our sampling methodology."

TIGTA indicated in a conversation on July 11, 2013 that part of this statement was not accurate. There were applications filed *prior* to May 2010 that were included in the universe from which this sample was drawn. The actual universe used included two 501(c)(4) Tea Party cases that were not forwarded to the team of specialists, as well as four of the Progressive cases that were highlighted in the letter to Congressman Levin, that were filed prior to May 2010.

TIGTA also clarified that the "universe of 4,510 I.R.C. § 501(c)(4) tax-exempt applications filed during May 2010 through May 2012" used as the basis for this sampling was not the entire universe of 501(c)(4) applications that had been provided by the IRS, but rather a subset of that universe of data. Specifically, several hundred applications were removed from the universe based on status codes that TIGTA believed were not relevant for the purpose of the sampling. This truncated data set appeared to primarily be designed to address the following two questions (page 9 of the audit report):

- How many "applications had indications of significant political campaign intervention and should have been forwarded to the team of specialists" but had not;
- How many "applications that the IRS determined required additional information from the organizations applying for tax-exempt status ... but were not forwarded to the team of specialists;" and

However, this same truncated data set was also used to determine the following (page 8):

- "That all cases with Tea Party, Patriots, or 9/12 in their names were forwarded to the team of specialists."

Statement (Audit): In Appendix I: In the first of the two samples referenced in the footnote: "We selected our statistical sample using the following criteria: 90 percent confidence level, 50 percent error rate, and ± 5 percent precision rate."

The footnote to this statement is: "An expected error rate of 50 percent was chosen because we determined that cases needing significant additional information had criteria that included the names of specific groups."

See data sets for discussion on the beginning and end points for data collection used in the audit report.

Relevant Documents from TIGTA workpapers: *PA6.ff – Advocacy Case Tracking Sheet, PA6.ee EDS 501c4 Case Universe Open and Closed Rec'd 6-11-12 , PA6 nn – Tracking Sheet 12172012 – Advocacy Cases,* and *20100419 – April 2010 Tea Party* (and subsequent monthly Sensitive Case Reports)

Topic: Percentage of applications identified for additional scrutiny as "potential political cases"

Statement (Audit): "While the team of specialists reviewed applications from a variety of organizations, we determined during our reviews of statistical samples of I.R.C. § 501(c)(4) tax-exempt applications that all cases with Tea Party, Patriots, or 9/12 in their names were forwarded to the team of specialists."

Statement (Letter): "...our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit."

IRS Observations: Specific data sets used, and whether actual data or statistical sampling was used; See spreadsheets for calculations and discussion. Summary tables included in this section -- see footnote for explanation for the definition of the three data sets referenced in these summary tables.[1] None of these are precise matches to TIGTA. Data Set #1 is the closest match, however numbers for Patriots and Progressive differ from the charts below because of the exclusions that TIGTA made from the universe of 501(c)(4) applications based on certain status codes.

	Data Set #1			Data Set #2			Data Set #3		
	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside
Tea Party	62	64	97%	62	62	100%	51	51	100%
9/12; 9-12; 9 12; 912	10	16	63%	10	13	77%	12	12	100%
Patriot(s)	24	32	75%	24	32	75%	21	28	75%

Relevant Documents from TIGTA workpapers: *PA6.ff – Advocacy Case Tracking Sheet, PA6.ee EDS 501c4 Case Universe Open and Closed Rec'd 6-11-12,* and *PA6 nn – Tracking Sheet 12172012 – Advocacy Cases*

---

[1] Data Set #1:

- "Set Aside for Additional Scrutiny" (the numerator):
  - Includes all cases with the name/label that appear in the Advocacy Listing as of May 31, 2012
  - Does not include cases with the name/label filed prior to May 31, 2012 but did not appear in the Advocacy Listing until the update provided on December 17, 2012
- "Total Applications" (the denominator):
  - Includes everything in the numerator + all other cases filed with the IRS with that name/label as of May 31, 2012

Data Set #2:

- "Set Aside for Additional Scrutiny" (the numerator):
  - Includes all cases with the name/label that appear in the Advocacy Listing as of May 31, 2012
  - Does not include cases with the name/label filed prior to May 31, 2012 but did not appear in the Advocacy Listing until the update provided on December 17, 2012
- "Total Applications" (the denominator):
  - Includes everything in the numerator + all other cases filed with the IRS with that name/label between May 2010 and May 2012 (inclusively)
  - Does not include non-Advocacy cases with the name/label filed prior to May 2010 (key change from #1)

Data Set #3:

- "Set Aside for Additional Scrutiny" (the numerator):
  - Includes all cases that were filed with that name/label between May 2010 and May 2012 (inclusive) and ended up in an Advocacy Listing (either the May 2012 listing or the December 2012 listing) (key change from #1 and #2)
  - Does not include cases that were filed prior to May 2010 or after May 2012 (key change from #1 and #2)
- "Total Applications" (the denominator):
  - Includes everything in the numerator + all other cases filed with the IRS with that name/label between May 2010 and May 2012 (inclusively)

Statement (Letter): "TIGTA performed additional research which determined that six tax-exempt applications filed between May 2010 and May 2012 having the words "progress" or "progressive" in their names were included in the 298 cases the IRS identified as potential political cases. We also determined that 14 tax-exempt applications filed between May 2010 and May 2012 using the words "progress" or "progressive" in their names were not referred for additional scrutiny as potential political cases."

IRS Observations: Specific data sets used; See spreadsheets for calculations and discussion

	Data Set #1			Data Set #2			Data Set #3		
	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside
Progress or Progressive	7	24	29%	7	20	35%	9	20	45%

Relevant Documents from TIGTA workpapers: *PA6.ff – Advocacy Case Tracking Sheet, PA6.ee EDS 501c4 Case Universe Open and Closed Rec'd 6-11-12* , and *PA6 nn – Tracking Sheet 12172012 – Advocacy Cases*

Statement (Letter): "As part of our audit, we reviewed the section of the BOLO listings that related to the specific criteria that the IRS stated were used to identify potential political cases for additional scrutiny. TIGTA also found that certain criteria (e.g., Patriots, 9/12, education of the public by advocacy/lobbying to "make America a better place to live," etc.) used to select potential political cases were not in any BOLO listings."

Evidence: While many names and labels appeared over time on the BOLO lists, Tea Party was the only name or label that ever appeared on the Emerging Issues tab. Greater insights into the selection pattern of the "Other" 202 cases represented in the pie chart in the audit may be useful in this regard.

IRS Observations: Specific data sets used; See spreadsheets for calculations and discussion

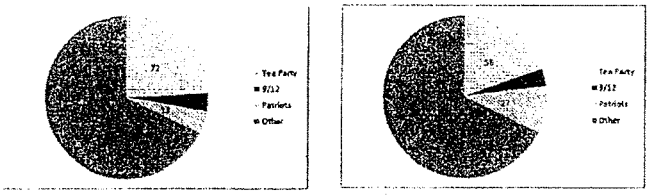
	Data Set #1			Data Set #2			Data Set #3		
	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside	Set Aside	Total Apps	% Set Aside
Conservative	8	16	50%	8	15	53%	7	14	50%
Republican	1	3	33%	1	3	33%	1	3	33%

Relevant Documents from TIGTA workpapers: *PA6.ff – Advocacy Case Tracking Sheet, PA6.ee EDS 501c4 Case Universe Open and Closed Rec'd 6-11-12* , and *PA6 nn – Tracking Sheet 12172012 – Advocacy Cases*

Topic: Additional Discussion for Clarification

Statement (Audit): "Figure 4 shows that approximately one-third of the applications identified for processing by the team of specialists included Tea Party, Patriots, or 9/12 in their names, while the remainder did not."

Seeking clarity on the grouping of names in the pie chart (Figure 4) in the audit report where two of these labels appear in a single organization's name.



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

January 28, 2014

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 request for documents relating to tax exempt advocacy organizations.

The Internal Revenue Service is committed to providing you with as complete a response as possible. Since May of last year, we have been collecting, reviewing, and producing materials in response to a number of Congressional requests, including those from you and your Committee. In order to provide you and your staff our full cooperation in addressing this matter, more than 150 people, including Chief Counsel attorneys, litigation support staff, and IRS personnel have worked for a total of more than 70,000 hours.

- To date, we have produced over half a million pages of documents to the Senate Finance and House Ways and Means Committees, which are authorized to receive IRC section 6103 information.[1] We also have produced over 385,000 pages, redacted as required by law for IRC section 6103 information, to the Senate and House Governmental Oversight Committees. Our productions have prioritized the custodians, subject matters, and search terms as requested.

- IRS has responded to more than fifty Congressional letters and hundreds of informal Congressional requests.

- We have facilitated more than sixty transcribed interviews by Congressional staff of current and former IRS employees.

- IRS personnel have answered questions related to the subjects of these investigations at 14 Congressional hearings.

- The IRS document production has been collected from IRS hard copy and electronic files as well as documents from 82 individual custodians.

The enclosed documents from this IRS production are Bates-stamped IRSR0000495035-IRSR0000508187. Today's production includes hard copy notes from Steven T. Miller that are Bates stamped IRSR0000505454-IRSR0000507228 and hard copy materials related to

[1] As part of this process, in May 2013 we directed our document retention and retrieval specialists to perform an electronic data search of the records of personnel we identified who may have potentially relevant information. We are conducting this process under the litigation hold procedures detailed in IRS Chief Counsel Notice CC-2012-017. Much of the raw electronically stored information (ESI) required decryption, which often corrupted files that had to be restored manually before the search process could begin. Once we received the decrypted information, it was electronically searched using search terms we have provided to you.

congressional hearings in March and July 2012 and May 2013. As with earlier productions, these include certain materials, such as spreadsheets, that do not lend themselves to this production format. If there are documents with unique formatting that you need re-produced in a different format, please let us know.

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

Sincerely,

Leonard Oursler
National Director for Legislative Affairs

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

April 22, 2014

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:

This is in further response to your letter dated January 4, 2013 requesting additional information about I.R.C. § 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, November 23, 2012, and March 15, 2013, and addresses additional questions raised by your staff in a meeting on April 30, 2013.

Our letter to you dated November 23, 2012 stated that Exempt Organizations (EO) had issued 42 revocation notices to section 501(c)(4) organizations between January 2007 and September 2012. Our letter to you dated March 15, 2013 explained that because of some discrepancies between system-generated information and the actual revocation notices, we were unable to provide accurate copies of the letters that were mailed without retrieving them from the files. With the March 15, 2013 letter, we provided you with copies of 9 of the 42 revocation letters. At the April 30, 2013 meeting, your staff asked us to update the information as to the number of revocations and to provide copies of additional letters.

For the period October 2012 to February 2014, we have identified 5 additional revocations, so that, as of February 2014, the total number of revocations since January 2007 stands at 47. We are enclosing 28 additional redacted revocation letters for the period January 2007 to September 2012, as well as five redacted letters for the period October 2012 to February 2014. We have learned that the remaining revocations from the original count of 42 were not sustained in Appeals. Accordingly, no redacted copies of letters in those cases are available.

Please note that some of the 33 revocation letters enclosed herewith say that they are making adverse determinations. Although that phrase is used in some of the revocation letters, it is clear from the body of each letter that the letter constitutes an adverse determination after examination, and that the Service is revoking the exemptions.

Our letter to you dated November 23, 2012 enclosed copies of all 10 of the redacted adverse determination letters that were issued between January 2007 and September 2012. At the April 30, 2013 meeting, your staff asked us to update the information as to the number of adverse determinations and to provide copies of those additional letters.

Since September 2012, EO Determinations has issued 9 adverse determinations (denials) to organizations applying for section 501(c)(4) status. It should be noted that some of these denials may not have involved political advocacy issues even though the organization applied for section 501(c)(4) tax-exempt status. We are in the process of retrieving redacted copies of the 9 additional adverse determinations from the underlying files, and will provide those copies as soon as they have been located.

The enclosed documents are Bates-stamped IRSC036438 - IRSC036823.

I hope this information is helpful. If you have questions, please contact me or have your staff contact me at (202) 317-4146 or John McDougal at (202) 317-5103.

Sincerely,

Leonard Oursler
National Director of Legislative Affairs

Enclosures (33)

From: Medina Cheryl J TIGTA
Sent: Monday, May 20, 2013 11:35 AM
To: Medina Cheryl J TIGTA
Subject: FW: Advocacy Orgs - Updated List of Cases and Guidesheet from EOT
Attachments: Updated Adv Org Excel Cinci v3 11-21-11.xls; Advocacy Org Guidesheet 11-3-2011 (2).doc

---

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:04 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Advocacy Orgs - Updated List of Cases and Guidesheet from EOT

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 8:44 AM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P; Paz Holly O
Subject: FW: Advocacy Orgs - Updated List of Cases and Guidesheet from EOT

Attachment 1 includes an updated list of advocacy organizations along with comments received from EOT.

Attachment 2 is the Advocacy Organization guidesheet received from EOT that was shared with the manager overseeing the Emerging Issue (Advocacy Organizations).

From: Bowling Steven F
Sent: Wednesday, November 23, 2011 3:01 PM
To: Thomas Cindy M
Subject: FW: Advocacy Orgs
Importance: High

Cindy,

I would like Stephen Seok to coordinate these. We have a commitment meeting at 8:30 and I have a 2011-44 team meeting at 10:30 on the 30th.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Wednesday, November 23, 2011 1:57 PM

To: Bowling Steven F
Subject: Advocacy Orgs
Importance: High

Steve,

Please refer to Mike Seto's email below. Attachment 1 includes the list of cases EOT reviewed along with their comments. Attachment 2 is a draft document EOT put together for our use.

I'd like to meet with you on 11/30, along with whomever you'd like to coordinate these cases, so we can come up with a game plan for working these cases. In the meantime, for those cases that EOT believes can be approved, I'd recommend you go ahead and have those cases worked now that the Guidesheet is available.

From: Seto Michael C
Sent: Tuesday, November 22, 2011 3:56 PM
To: Thomas Cindy M; Fish David L; Kindell Judith E
Cc: Grodnitzky Steven; Goehausen Hilary; Lowe Justin; Kastenberg Elizabeth C; Lieber Theodore R
Subject: List of advocacy org cases screened by EOT for EODI

Hilary has updated the spreadsheet, the content of which is self-explanatory.

We have screened 182 cases, substantial majority of which needs to be developed.

We identified 12 cases that may qualify for exemption. The caveat is that the favorable suggestions are based on initial screening of the cases, not full development. We recommend that EOD review our suggestions on these 12 cases.

We identified 15 cases for possible denial of exemption. The caveat is that our denial suggestions are based on initial screening of the cases, not full development. We recommend that EOD review our suggestions on these 15 cases.

[redacted]

If you have questions, please contact Hilary and Steve or me. FYI . . . Steve is the manager overseeing this technical area.

Thanks, Mike

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

	Organization Name	Control Date	EIN	Subsection	Current EO Status	Lobbying	General Advocacy (i.e. issue advocacy and/or educational	Propaganda/inflammatory (little to no educational aspects)	Political Activities	Development	Comments
1	[redacted]										
2											
3											
4											
5											
6											
7											
8											

Report Exhibits Page 001066

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
1
2
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)

[redacted]

29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45

PSI-TIGTA-0[illegible]-000048

[redacted]

EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)

PSI-TIGTA-01-000049

PSI-TIGTA-01-000050

EOD Political Advocacy Cases - Screened by EO Technical (11/15/11)
71
72
73
74
75
76
77
78
79
80
PSI-TIGTA-01-000051

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95

EOO Political Advocacy Cases - Screened by EO Technical (11/16/11)

[redacted]

PSI TIGTA-01-000053

EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)

[redacted]

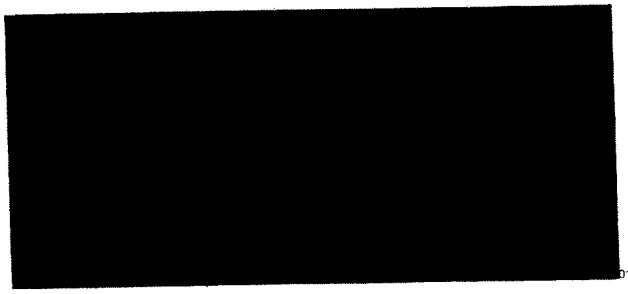
EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
1
10
HSI-TIGTA-01-000055

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
142
143
144
145
146
147
148
149
150
151
152
154
165
166
157
158

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
159
160
161
162

13

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

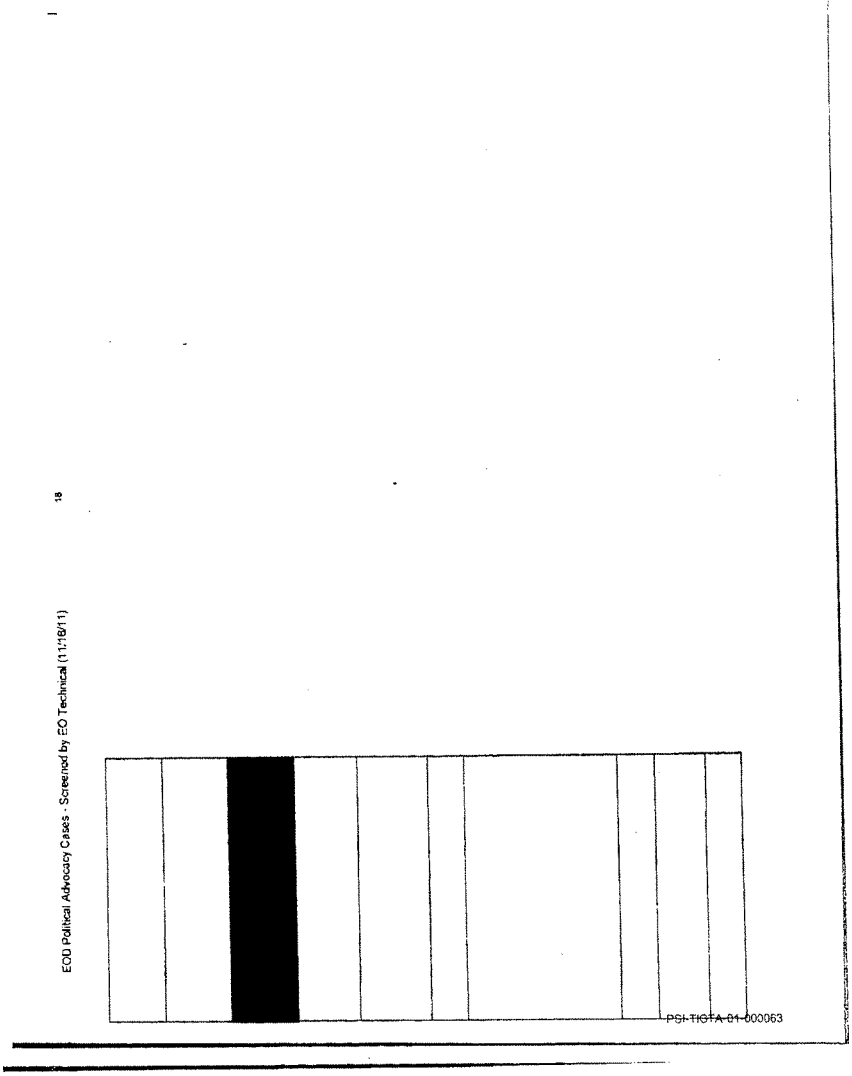


EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

1
15
EOD Political Advocacy Cases - Screened by EO Technical (11/15/11)

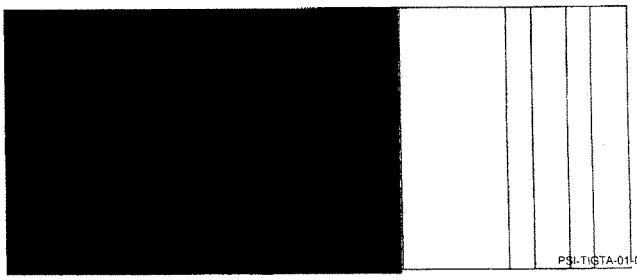
EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
16
PSI-TIGTA-01-000081

EOD Political Advocacy Cases - Screened by EO Technical (11/15/11)


EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)
18
PSI-TIGTA-01-000063

19
EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
001-000084

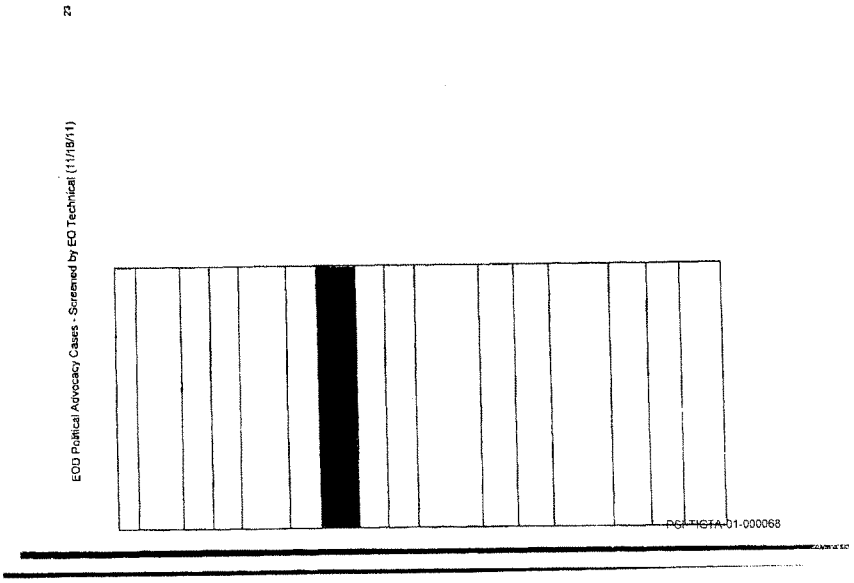
EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

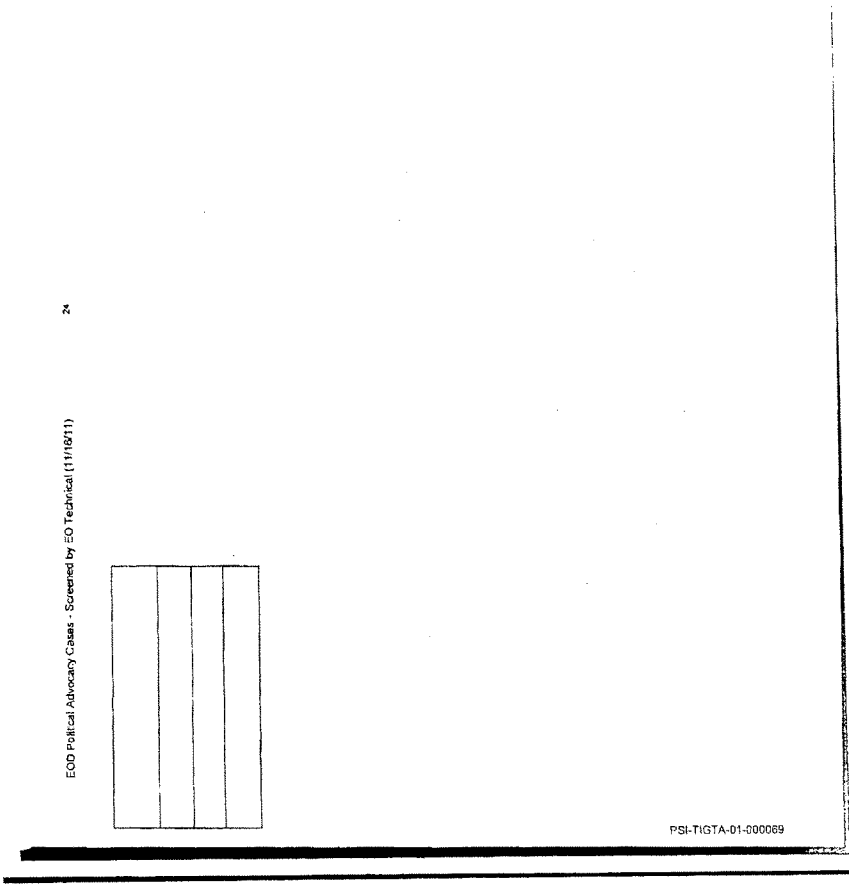

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)
21
PSI-TIGTA-01-000066

22

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

[redacted]


EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)
PGI-TIGTA-01-000068


EOD Political Advocacy Cases - Screened by EO Technical (11/18/11)
24
PSI-TIGTA-01-000089

Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) **Political Campaign Intervention**:

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) **Lobbying**:

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) **General Advocacy**:

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) IRC 501(c)(3) organizations:

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) IRC 501(c)(4) organizations:

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) IRC 501(c)(5) organizations:

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) IRC 501(c)(6) organizations:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) IRC 527 organizations:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including 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.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; **Must Not Constitute Primary Activity Of Organization**	YES
Engage in lobbying	LIMITED;	YES;	LIMITED

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
    - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
    - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
    - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
    - What is the location, date and time of the events.
    - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
    - How many resources (funds/employees/volunteers) are devoted to the activity?
    - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
    - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
    - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
    - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office? Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.		
B.	Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.		
	Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	**Personal Endorsements:** Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one		

	candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.) • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert, or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • Does the communication to the public include a "call to action" such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?, • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

From: Medina Cheryl J TIGTA
To: Medina Cheryl J TIGTA
Subject: FW: Clean-ups & Revisions to Guide Sheet
Date: Monday, May 20, 2013 12:19:44 PM
Attachments: guide sheet master 04-25-12 (counsel).doc
guide sheet master compare 04-25-12.doc

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 24, 2012 1:56 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Clean-ups & Revisions to Guide Sheet

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 3:48 PM
To: Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary; Urban Joseph J
Cc: Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L
Subject: Clean-ups & Revisions to Guide Sheet

We just can't seem to keep our hands off this thing (or stop thinking about it). You'll see a fair amount of red here. But it's predominantly clean-up, more consistency in language, some rephrasing (political now ahead of lobbying throughout), added precision and clarity (we hope), and better conformity to the published ruling examples. We also removed, combined, or massaged a number of factors that were neutral (or unnecessary) free-standing.

The first document is clean, only containing the discrete comment windows from before.

The second is red, white and black.

Please let us know if you have questions or would like to discuss anything.

Don & Crew

DRAFT 4/25/2012

Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications (Political Campaign Intervention and Lobbying)

OVERVIEW

This document provides information to assist you in processing the exemption applications under sections 501(c)(3) and 501(c)(4) of organizations that indicate they may participate or intervene in a political campaign ("political campaign intervention"), or attempt to influence legislation ("lobbying").[1] This document will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity may be political campaign intervention or lobbying.

Questions on case development and applicable law should be directed to Exempt Organizations Technical.

This document contains the following sections:

1. Definitions of political campaign intervention and lobbying
2. Rules on political campaign intervention and lobbying for section 501(c)(3) and section 501(c)(4) organizations
3. A separate guide sheet for certain activities that may be political campaign intervention or lobbying.

PART 1: DEFINITIONS

1) <u>Political Campaign Intervention</u>:

- Participating or intervening in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. [§ 501(c)(3); § 1.501(c)(4)-1(a)(2)]
- It includes, but is not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to a candidate. [§ 1.501(c)(3)-1(c)(3)(iii)]

---

[1] This document is not designed for use in processing exemption applications under § 501(c)(5) (labor, agricultural, or horticultural organizations) or § 501(c)(6) (business leagues). The guide sheets relating to specific types of activities conducted by § 501(c)(4) organizations may be relevant for gathering information from these organizations.

2) **Lobbying:**

- Contacting, or urging the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocating the adoption or rejection of legislation.
- Legislation includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.
- Lobbying does not include engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

[§ 1.501(c)(3)-1(c)(3)(ii), (3)(iv); Rev. Rul. 71-530 (applying to § 501(c)(4) organizations)]

PART 2: RULES ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING[2]

1) **Section 501(c)(3) Organizations:**

- Organized and operated exclusively for charitable, educational, and other specified purposes. [§ 501(c)(3)]
- Do not engage in political campaign intervention. [§ 501(c)(3), § 1.501(c)(3)-1(c)(1), Rev. Rul. 2007-41]
- No substantial part of their activities is lobbying.[3] [§ 501(c)(3)]

2) **Section 501(c)(4) Organizations:**

- Operated exclusively for the promotion of social welfare [§ 501(c)(4)]
- Promotion of social welfare does not include political campaign intervention. [§ 1.501(c)(4)-1(a)(2)] The regulations do not impose a complete ban on such activities, as long as the organization's primary activities promote social welfare.[4] [Rev. Rul. 81-95]
- Lobbying may promote social welfare. [§ 1.501(c)(3)-1(c)(3)(flush); Rev. Rul. 68-656, Rev. Rul. 71-530]

---

[2] Organizations described in § 501(c) (other than § 501(c)(3)) are subject to special reporting rules regarding their political and lobbying activities and may be subject to tax on those activities. *See* § 527 and § 6033(e).
[3] For private foundations, even insubstantial lobbying activities are subject to penalty excise taxes. [§ 4945(e)]
[4] A § 501(c) organization that makes expenditures for political organization "exempt function" activity as defined in § 527(e) is subject to tax on the organization's net investment income, up to the amount of the "exempt function" expenditures. [§ 527(f)]

PART 3: GUIDE SHEETS FOR SPECIFIC ACTIVITIES

Below are separate guide sheets for certain activities that may be political campaign intervention or lobbying. Use the guide sheet only if the organization indicates that it may engage in that specific activity.

The guide sheets will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity is political campaign intervention or lobbying. The guide sheets each present a specific set of facts in which an activity generally is (or generally is not) political campaign intervention or lobbying. For all other situations, the guide sheets list individual facts for you to consider and develop. The facts are listed by whether they tend to show (or tend not to show) political campaign intervention or lobbying. Each fact contains a citation to revenue rulings or other legal authorities to consult for further information. These authorities contain examples that illustrate how to apply the law on political campaign intervention and lobbying to these activities.

Your determination is based on all the facts and circumstances. No one fact determines whether an activity is political campaign intervention or lobbying. If an organization engages in multiple activities, the interaction among them may affect whether the organization is engaged in political campaign intervention [Rev. Rul. 2007-41]. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

Comment [A1]: Add an instruction to call EO technical if the application has possible campaign or lobbying activities other than those activities addressed in the specific guide sheets?

Possible Political Campaign Intervention

- **Guide Sheet 1: Voter Guides**
- **Guide Sheet 2: Candidate Forums**
- **Guide Sheet 3: Other Candidate Appearances**
- **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention**
- **Guide Sheet 5: Individual Activity by Organization Leaders**
- **Guide Sheet 6: Business Activities**

Possible Lobbying : For Section 501(c)(3) Organizations Only

- **Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)**
- **Guide Sheet 8: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)**

Guide Sheet 1: Voter Guides

Certain voter education, including the preparation and distribution of certain voter guides, conducted in a non-partisan manner, may not constitute political campaign intervention [Rev. Rul. 2007-41] On the other hand, an organization that publishes a compilation of candidate positions or incumbents' voting records may engage in political campaign intervention if the questionnaire used to solicit candidate positions or the voter guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate. [Rev. Rul. 78–248] The timing and manner of the distribution also are relevant to determining whether the organization is engaged in political campaign intervention. [Rev. Rul. 80–282]

Comment [A2]: The revenue rulings cited in this document are § 501(c)(3) rulings. They do not specifically address, or state that they apply to, § 501(c)(4) organizations. This document applies them to both, based on the same or similar language on political campaign intervention and lobbying in the regulations under §§ 503(c)(3) and (c)(4)

Use this guide sheet only if the organization indicates that it may publish or distribute voter guides. This guide sheet will help you screen the organization's voter guide activities for possible political campaign intervention, decide which voter guide activities require further case development and which facts to develop, and determine whether a particular voter guide activity may be political campaign intervention.

Parts A and B present a specific set of facts in which voter guide activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Voter guide activities generally are not political campaign intervention if either:

1. The organization annually prepares and makes generally available to the public a compilation of voting records of all members of a particular legislative body on major issues involving a wide range of subjects, the publication contains no editorial opinion, and the contents and structure of the publication do not imply approval or disapproval of any members or their voting records [Rev. Rul. 78-248, Situation 1]; or

2. The organization sends a questionnaire to all candidates for the same public office soliciting a brief statement of their positions on a wide variety of issues; it publishes all responses in a voter guide it makes generally available to the public; it selects the issues for their importance and interest to the electorate as a whole, and neither the questionnaire nor the voter guide, in form or content, shows a bias or preference for any candidate. [Rev. Rul. 78-248, Situation 2]

B. Voter guide activities generally are political campaign intervention if either:

1. The organization sends a questionnaire evidencing bias on certain issues to candidates for public office, and it uses the responses to prepare a voter guide that it distributes during an election campaign [Rev. Rul. 78-248, Situation 3]; or

2. The organization publishes a compilation of the voting records of incumbents on a narrow range of issues, and it widely distributes the publication among the electorate during an election campaign. [Rev. Rul. 78-248, Situation 4]

C. Voter Guides -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a voter guide activity is (or is not) political campaign intervention. The facts are listed separately for guides on the positions of candidates for public office and guides on the voting records of incumbents. Consider all the facts and circumstances. No one fact determines whether a voter guide activity is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Positions of Candidates for Public Office

Does the organization indicate that it may prepare and distribute a guide summarizing the positions of one or more candidates for public office? If no, skip this section. If yes, develop the following facts.

a. Facts tending to show that the candidate position activity is not political campaign intervention:

Comment [A3]: Phrase from 2004-6

- The organization sends to all candidates for the same public office a questionnaire that covers a wide variety of issues selected by the organization based on their importance and interest to the electorate as a whole, and publishes all of the responses. [Rev. Rul. 78-248, Situation 2]
- The questionnaire does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]
- The questionnaire solicits from all candidates for the same public office a statement of his or her position, and the organization publishes or distributes all candidate responses to the questionnaire in the voter guide. [Rev. Rul. 78-248, Situation 2]
- The voter guide covers a wide variety of issues, which the organization selects based on their importance and interest to the electorate as a whole. [Rev. Rul. 78-248, Situation 2]
- The voter guide does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]

b. Facts tending to show that the candidate position activity is political campaign intervention:

- The organization sends a questionnaire to all candidates for the same public office that covers a narrow range of issues of importance to the organization, and it uses the responses to prepare a voter guide which it widely distributes during an election campaign. [derived from Rev. Rul. 78-248, Situations 2 & 4]

Comment [A4]: Derived from means that this is not a specific example in the ruling, but is supported by the ruling's listed factors.

- The questionnaire shows a bias on certain issues, and the organization uses the responses to the questionnaire to prepare a voter guide which it distributes during an election campaign. [Rev. Rul. 78-248, Situation 3]

- The voter guide, in content or structure, shows a bias or preference with respect to the views of any candidate or group of candidates, and the organization distributes the guide during an election campaign. [derived from Rev. Rul. 78-248, Situations 1 & 2]

- The voter guide covers a narrow range of issues of importance to the organization, and the organization widely distributes the voter guide among the general public during an election campaign. [derived from Rev. Rul. 78-248, Situation 4]

2. Voting Records of Incumbents

Does the organization indicate that it may prepare and publish or distribute a report or other compilation of the voting records of incumbents (for example, current Members of Congress)? If no, skip this section. If yes, develop the following facts.

a. Facts tending to show that the voting record activity is not political campaign intervention:

- The organization annually prepares and makes generally available to the public a compilation of voting records of incumbents on major legislative issues involving a wide range of subjects. [Rev. Rul. 78-248, Situation 1]

- The organization usually publishes the voting records after the close of the legislative session, and the distribution is not geared to the timing of any election. [Rev. Rul. 80-282]

- The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any incumbents or their voting records. [Rev. Rul. 78-248, Situation 1]

- The publication presents the voting records of all incumbents, and it does not identify candidates for reelection. [Rev. Rul. 80-282]

- The format and content of the publication is not neutral because it reports on whether the incumbent supported the organization's views, but distribution occurs as soon as practical after the end of each legislative session, is limited to a relatively small group consisting of the organization's normal readership, is not targeted to particular areas in which elections are occurring, and is not timed to coincide with an election campaign. [Rev. Rul. 80-282]

- The publication does not comment on an individual's overall qualification for public office, or compare candidates who might be competing with the incumbents in any political campaign. [Rev. Rul. 80-282]

b. Facts tending to show that the voting record activity is political campaign intervention:

- The publication contains a statement that endorses or rejects any incumbent as a candidate for public office, or identifies candidates for re-election and comments on their overall qualification for public office, or compares candidates that might be competing with incumbents in a political campaign, and the publication is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived from Rev. Rul. 80-282]

- The publication reports on the organization's views on selected legislative issues, indicates whether the incumbent supported or opposed the organization's view, and is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived both from Rev. Rul. 80-282 and Rev. Rul. 78-248, Situation 4]

- The publication covers a narrow range of issues selected for their importance to the organization, and it is widely distributed during an election campaign. [Rev. Rul. 78-248, Situation 4]

D. Legal References:

- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154

Guide Sheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public. [Rev. Rul. 66–256] Providing a forum for candidates does not, in and of itself, constitute political campaign intervention. [Rev. Rul. 74–574] However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate, such as through biased questioning procedures. On the other hand, 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 political campaign intervention. [Rev. Rul. 86–95] [also cited in Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may invite candidates for public office to speak at its events in their capacity as political candidates. This guide sheet will help you screen the organization's candidate forums for possible political campaign intervention, decide which candidate forums require further case development and which facts to develop, and determine whether a particular candidate forum may be political campaign intervention.

Parts A and B present a specific set of facts in which candidate forums generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Candidate forums generally are not political campaign intervention if:

The organization invites all candidates seeking the same office to participate at the same (or a substantially similar) event, provides each candidate an equal opportunity to address and field questions on a wide variety of topics, and does not comment on their qualifications or indicate a preference for any candidate. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

B. Candidate forums generally are political campaign intervention if:

The organization invites one candidate to speak at an organization event in support of the candidate's campaign and does not invite any other candidates for the same public office. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

C. Candidate Forums -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a candidate forum is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate forum is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains

any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate forum is not political campaign intervention:

- The organization does not comment on the qualifications of, or indicate a preference for, any candidate during the event. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]
- The topics discussed cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7); Rev. Rul. 86-95]
- The organization does not indicate support for or opposition to a candidate during the event (such as when the candidate is introduced). [Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]
- The candidates at the event are not asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]
- A nonpartisan, independent panel prepares any questions presented to candidates at the event. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- A nonpartisan, independent panel or moderator presents the questions. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator does not comment on questions or otherwise imply approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator states that the views expressed are those of the candidates and not of the organization, and that sponsorship of the forum is not intended as an endorsement of any candidate. [Rev. Rul. 86-95]
- The organization provides an equal opportunity for candidates to use its facilities to speak in support of their respective campaigns. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

2. Facts tending to show that a candidate forum is political campaign intervention:

- The organization comments on the qualifications of, or indicates a preference for, any candidate during the event. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)

- The topics discussed at the forum do not cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public. [derived both from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7) and Rev. Rul. 86-95]

- The organization indicates support for or opposition to a candidate during the event (such as when the candidate is introduced). [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]

- The candidates at the event are asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]

- Questions to forum participants are not prepared and presented by a nonpartisan, independent panel. [Rev. Rul. 2007-41 (Candidate Appearances); derived from Rev. Rul. 86-95]

- The moderator comments on questions or otherwise implies approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]

- The moderator does not state that the views expressed are those of the candidates and not of the organization, or that sponsorship of the forum is not intended as an endorsement of any candidate. [derived from Rev. Rul. 86-95]

- The organization selectively provides an opportunity for one candidate (but not others) to use its facilities to speak in support of his or her campaign. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

D. Legal References:

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances, Situations 7-9)
- Rev. Rul. 86-95,1986-2 C.B. 73
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 66-256, 1966-2 C.B. 210

Guide Sheet 3: Other Candidate Appearances

The question whether an activity constitutes political campaign intervention may arise in the context of a candidate appearance at an organization event. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may be involved with any candidate appearance. This guide sheet will help you screen any candidate appearances at organization events for possible political campaign intervention, decide which candidate appearances require further case development and which facts to develop, and determine whether a particular candidate appearance may be political campaign intervention.

Parts A and B present a specific set of facts in which candidate appearances generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

Consult **Guide Sheet 2: Candidate Forums** for assistance in evaluating whether inviting candidates for public office to speak at organization events in their capacity as political candidates may be political campaign intervention.

A. Candidate appearances generally are not political campaign intervention if either:

1. The organization invites the individual to speak solely for reasons other than his or her candidacy; neither the individual nor any representative of the organization mention the individual's candidacy or the upcoming election; and no political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]; or

2. The individual appears at an organization event only in a non-candidate capacity; the organization only acknowledges the individual's presence and his official title; and the organization makes no reference to the individual's candidacy or the upcoming election. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 10)]

B. Candidate appearances generally are political campaign intervention if:

The individual attends an organization's event that is open to the public; and an official of the organization asks the crowd to support the candidate in the upcoming election. [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]

C. Candidate Appearances -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a candidate appearance is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate appearance is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate appearance is not political campaign intervention:

- The individual was invited to appear or speak at the organization's event for reasons other than his or her political candidacy. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The individual attends or speaks only in a non-candidate capacity. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- The organization does not indicate any support for or opposition to the individual's candidacy (including introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- No political fundraising or other campaign activity occurs at the event in connection with the candidate's attendance. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The organization makes no mention of the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]
- The organization maintains a nonpartisan atmosphere at the event at which the candidate is present. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

2. Facts tending to show that a candidate appearance is political campaign intervention:

- The organization indicates support for or opposition to the individual's candidacy (including during introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]
- There is political fundraising at the event, or other campaign activity occurs at the event in connection with the candidate's attendance. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]

- The organization maintains a partisan atmosphere on the premises or at the event where the candidate is present. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-13)



Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention

Organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, issue advocacy may function as political campaign intervention. [Rev. Rul. 2007-41] Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement may engage in political campaign intervention if there is any message favoring or opposing a candidate. A statement can identify a candidate not only by stating the candidate's name, but also by other means such as showing a picture of the candidate, referring to political party affiliations, or other distinctive features of a candidate's platform or biography. All the facts and circumstances need to be considered to determine if the advocacy is political campaign intervention. [Rev. Rul. 2007-41]

A web site is a form of communication. An organization that posts something on its web site that favors or opposes a candidate for public office will be treated the same as if it distributed printed materials, oral statements or broadcasts. When an organization establishes a link to another web site, it is responsible for the consequences of establishing and maintaining that link, even if it does not have control over the content of the linked site. Links to candidate-related material, by themselves, do not necessarily result in political campaign intervention. All facts and circumstances must be taken into account when assessing whether a link produces that result. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that its issue advocacy communications (including on its web site) may support or oppose a candidate for public office. This guide sheet will help you screen the organization's issue advocacy communications for possible political campaign intervention, decide which issue advocacy communications require further case development and which facts to develop, and determine whether a particular issue advocacy communication may be political campaign intervention.

Parts A and B present a specific set of facts in which issue advocacy communications generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Issue advocacy communications generally are not political campaign intervention if:

> The communication urges the public to contact an officeholder to support specific legislation, the statement appears immediately before the officeholder is scheduled to vote on that legislation, the statement does not mention the election or the candidacy of the office holder, and the issues that are the subject of the legislation have not been raised as distinguishing the officeholder from any election opponent. [Rev. Rul. 2007-41 (Issue Advocacy. Situation 14)]

B. Issue advocacy communications generally are political campaign intervention if:

The communication is delivered shortly before an election, identifies by name an officeholder who is also a candidate in that election, takes a position on an issue that has been used to distinguish the candidates in the election, is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue, and is not timed to coincide with a non-electoral event (such as a legislative vote or other major legislative action on the issue). [Rev. Rul. 2007-41 (Issue Advocacy, Situation15)]

C. Issue Advocacy Communications -- Facts to Consider and Develop

Below is a list of facts that tend to show whether an issue advocacy communication, including on a website, is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether an issue advocacy communication is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that issue advocacy communications are not political campaign intervention:

- The communication does not identify one or more candidates for a given public office by name or by other means. [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication does not address any issue that has been raised as an issue distinguishing candidates for a given office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication is not delivered close in time to an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The organization has not posted anything on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites)]

- The organization's web site does not provide a direct link to a web page that contains material favoring or opposing a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 20)]

- The organization's web site links to the website of another entity, the web site link serves an exempt purpose of the organization (such as educating the public), and neither the context for the link nor the relationship between the organization and the other entity indicates that the organization was favoring or opposing any candidate. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]

- The organization establishes on its web site links to the official campaign web sites of all the candidates for a particular office and presents all of the links in a neutral, unbiased manner. [Rev. Rul. 2007-41 (Web Sites, Situation 19)]

2. Facts tending to show that issue advocacy communications are political campaign intervention:

- The communication identifies one or more candidates for a given public office by name or by other means, such as addressing an issue that has been raised as an issue distinguishing the candidates for that office [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

- The communication is delivered close in time to an election and is not timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

- The communication is delivered close in time to an election and is not part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

- The organization posts a message on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 21)]

- The organization's web site provides a direct link to a web page that contains material favoring or opposing a candidate for public office, and the web site link does not serve an exempt purpose of the organization, such as educating the public. [derived from Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]

- The organization establishes a link to a candidate's official campaign web site and does not present the link in a neutral, unbiased manner or does not establish similar links for all of the candidates for a particular office. [derived from Rev. Rul. 2007-41 (Web Sites, Situation 19)]

D. Legal Reference

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Issue Advocacy, Situations 14-15; Web Sites, Situations 19-20)



Guide Sheet 5: Individual Activity by Organization Leaders

The question whether an activity constitutes political campaign intervention may arise in the context of political campaign activities by any organization leader. [Rev. Rul. 2007-41]

Use this guide sheet only if any organization leader may engage in any political campaign activity. This guide sheet will help you screen the political campaign activity of any organization leader for possible political campaign intervention by the organization, decide which organization leader activities require further case development and which facts to develop, and determine whether a particular political campaign activity by any organization leader may be political campaign intervention by the organization.

Parts A and B present a specific set of facts in which political campaign activities by any organization leader generally are political campaign intervention by the organization and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Political campaign activity by any organization leader generally is not political campaign intervention if:

The leader makes a statement in the leader's personal capacity supporting the election of a candidate for public office; the statement appears in a publication that is not an official publication of the organization; the organization pays none of the costs of the publication; and the publication states that the leader's title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41, Situation 3.]

B. Political campaign activity by any organization leader generally is political campaign intervention if:

The leader makes an oral statement to vote for a candidate for public office at an official meeting of the organization. [Rev. Rul. 2007-41 (Situation 6).

C. Political Campaign Activity by Organization Leaders -- Facts to Consider and Develop

Below is a list of facts that tend to show whether the political campaign activity by any organization leader is (or is not) political campaign intervention by the organization. Consider all the facts and circumstances. No one fact determines whether political campaign activity by any organization leader is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that political campaign activity by any organization leader is not political campaign intervention

- The leader's statement in support of (or in opposition to) a candidate for public office does not appear in an official publication of, or in a publication paid for by, the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader does not say that he is speaking as a representative of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader personally endorses a candidate in a publication that is not paid for by the organization and is not an official publication of the organization, and the publication states that her title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 3)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization or otherwise use the organization's assets, and the leader does not say that he is speaking on behalf of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

2. Facts tending to show that political campaign activity by any organization leader is political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office appears in an official publication of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 4)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 6)]
- The organization pays for the publication of the leader's statement in support of (or in opposition to) a candidate for public office. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an event that is not an official function of the organization, and the

leader states that she is speaking on behalf of the organization. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Individual Activity by Organization Leaders, Situations 3-6)



Guide Sheet 6: Business Activities

The question whether an activity constitutes political campaign intervention may arise in the context of a business activity of the organization, such as the selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may engage in business activities with any candidate for public office. This guide sheet will help you screen the organization's business activities for possible political campaign intervention, decide which business activities require further case development and which facts to develop, and determine whether a particular business activity may be political campaign intervention.

Parts A and B present a specific set of facts in which business activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Business activities with candidates generally are not political campaign intervention if:

The organization sells or rents goods, services, or facilities to the general public, it makes them available to all candidates in the same election on an equal basis, and the fees charged to candidates are at the organization's customary and usual rates. [Rev Rul. 2007-41 (Business Activity, Situation 17)]

B. Business activities with candidates generally are political campaign intervention if:

The organization does not normally sell or rent goods, services or facilities to the general public, but does so selectively to a candidate for public office, and it does not make its goods, services or facilities available on an equal basis to the other candidates in the same election. [Rev Rul. 2007-41 (Business Activity, Situation 18)]

C. Business Activities -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a business activity is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a business activity is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a business activity is not political campaign intervention:

   - The business activity is an ongoing activity of the organization. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
   - The organization makes the good, service or facility available to the general public. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
   - The organization makes the good, service, or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
   - The organization charges all candidates in the same election its usual and customary rates for the good, service, or facility. [Rev. Rul. 2007-41 (Business Activity)]

2. Facts tending to show that a business activity is political campaign intervention:

   - The organization only provides the good, service or facility to a political candidate. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
   - The organization does not make the good, service or facility available to all candidates in the same election. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
   - The organization does not make the good, service or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
   - The organization does not charge all candidates in the same election its usual and customary rates for the good, service or facility. [Rev. Rul. 2007-41 (Business Activity)]

D. Legal Reference

   - Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Business Activity, Situations 17-18)

Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)

The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude the organization from qualifying under section 501(c)(3). [§ 1.501(c)(3)-1(d)(2)] However, an organization does not qualify under section 501(c)(3) if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. [§ 1.501(c)(3)-1(c)(3)]

An organization also does not qualify for exemption under section 501(c)(3) if its primary objective may be attained only by legislation (or a defeat of proposed legislation) and it advocates for the attainment of such objective, as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. [§ 1.501(c)(3)-1(c)(3); Rev. Rul. 64-195]

Use this guide sheet only if the organization indicates that it may communicate with the general public on legislative issues. This guide sheet will help you screen the organization's communications with the general public on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Parts A and B present a specific set of facts in which communications with the general public on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

Consult **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention** for assistance in evaluating whether a communication on legislative issues functions as political campaign intervention.

A. Communications with the general public generally are not lobbying if either:

1. The communication does not advocate the adoption or rejection of legislation or urge the public to contact one or more legislators to propose, support, or oppose legislation; and the organization's primary objective can be attained other than by the enactment or defeat of legislation. [§ 1.501(c)(3)-1(c)(3)(ii), (iv)] or

2. The organization conducts nonpartisan analysis, study, and research to develop solutions for problems affecting a particular region and publishes the results for the benefit of the public, and does not advocate the adoption of any legislation or legislative action to implement its findings. [Rev. Rul. 70-79]

B. Communications with the general public generally are lobbying if:

The communication urges members of the general public to contact legislators to support or oppose legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]

C. Communication with the general public -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with the general public on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with the general public is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with the general public is not lobbying:

- The communication does not advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii); Rev. Rul. 64-195; Rev. Rul. 70-79]
- The communication does not urge the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with the general public is lobbying:

- The communication advocates the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication urges the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)



Guide Sheet 8: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)

An organization can communicate with government officials on legislative issues without engaging in lobbying. For example, an organization is not engaged in lobbying activity if, at the request of a legislative committee, a representative testifies as an expert witness on pending legislation affecting the organization. [Rev. Rul. 70-449] Similarly, an organization may seek to assist government officials in the study of problems by conducting nonpartisan analysis, study, and research into these problems and publishing the results for the benefit of the general public. Such activities may qualify as educational. However, an organization may be engaged in lobbying if it advocates the adoption of legislation to implement the organization's findings. [Rev. Rul. 70-79]

Use this guide sheet only if the organization indicates that it may communicate with government officials on legislative issues. This guide sheet will help you screen the organization's communications with government officials on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Parts A and B present a specific set of facts in which communications with government officials on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

A. Communications with government officials generally are not lobbying if:

1. At the request of a legislative committee, the organization sends a representative to provide expert testimony on pending legislation [Rev. Rul. 70-449]; or

2. The organization's activities are limited to studying, researching, and assembling materials necessary to evaluate legislation, and presenting an objective analysis of the legislation to those who are interested in the issue (both those who favor the legislation and those who oppose it) and to the general public. [Rev. Rul. 64-195]

B. Communications with government officials generally are lobbying if:

The organization contacts legislators to advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)].

C. Communications with government officials -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with government officials on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with government officials is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with government officials is not lobbying:

   - The communication is in response to a request for technical assistance from a governmental body, such as a Congressional committee. [Rev. Rul. 70-449]
   - The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 64-195, and Rev. Rul. 70-79]
   - The communication does not advocate the adoption or rejection of any legislation. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with government officials is lobbying:

   - The organization contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
   - The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127
- Rev. Rul. 70-449, 1970-2 C.B. 111

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

DRAFT 4/25/2012

Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications (Political Campaign Intervention and Lobbying)

OVERVIEW

This document provides information to assist you in processing the exemption applications under sections 501(c)(3) and 501(c)(4) of organizations that indicate they may participate or intervene in a political campaign ("political campaign intervention"), or attempt to influence legislation ("lobbying").[1] This document will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity may be political campaign intervention or lobbying.

Questions on case development and applicable law should be directed to Exempt Organizations Technical.

This document contains the following sections:

1. Definitions of political campaign intervention and lobbying
2. Rules on political campaign intervention and lobbying for section 501(c)(3) and section 501(c)(4) organizations
3. A separate guide sheet for certain activities that may be political campaign intervention or lobbying

PART 1: DEFINITIONS

1) **Political Campaign Intervention:**

- Participating or intervening in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. [§ 501(c)(3); § 1.501(c)(4)-1(a)(2)]

- It includes, but is not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to a candidate. [§ 1.501(c)(3)-1(c)(3)(iii)]

[1] This document is not designed for use in processing exemption applications under § 501(c)(5) (labor, agricultural, or horticultural organizations) or § 501(c)(6) (business leagues). The guide sheets relating to specific types of activities conducted by § 501(c)(4) organizations may be relevant for gathering information from these organizations.

2) Lobbying:

- Contacting, or urging the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocating the adoption or rejection of legislation.
- Legislation includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.
- Lobbying does not include engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

[§ 1.501(c)(3)-1(c)(3)(ii), (3)(iv); Rev. Rul. 71-530 (applying to § 501(c)(4) organizations)]

PART 2: RULES ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING[2]

Deleted: LOBBYING AND

1) **Section 501(c)(3) Organizations:**

- Organized and operated exclusively for charitable, educational, and other specified purposes. [§ 501(c)(3)]
- Do not engage in political campaign intervention. [§ 501(c)(3), § 1.501(c)(3)-1(c)(1), Rev. Rul. 2007-41]
- No substantial part of their activities is lobbying.[4] [§ 501(c)(3)]

Deleted: No substantial part of its activities is lobbying.

Deleted: [3][501(c)(3)] If Does

Deleted:)

2) **Section 501(c)(4) Organizations:**

- Operated exclusively for the promotion of social welfare [§ 501(c)(4)]
- Promotion of social welfare does not include political campaign intervention. [§ 1.501(c)(4)-1(a)(2)] The regulations do not impose a complete ban on such activities, as long as the organization's primary activities promote social welfare.[5] [Rev. Rul. 81-95]
- Lobbying may promote social welfare. [§ 1.501(c)(3)-1(c)(3)(flush); Rev. Rul. 68-656; Rev. Rul. 71-530]

Deleted: <#>Lobbying may promote social welfare. [1.501(c)(3)-1(c)(3)(flush); Rev. Rul. 68-656; Rev. Rul. 71-530]¶

---

[2] Organizations described in § 501(c) (other than § 501(c)(3)) are subject to special reporting rules regarding their political and lobbying activities and may be subject to tax on those activities. *See* § 527 and § 6033(e)

[3] For private foundations, even insubstantial lobbying activities are subject to penalty excise taxes. [§ 4945(c)]

[4] A § 501(c) organization that makes expenditures for political organization "exempt function" activity as defined in § 527(e) is subject to tax on the organization's net investment income, up to the amount of the "exempt function" expenditures. [§ 527(f)]

Deleted: section

Deleted: section

Deleted: section

Deleted: section

Deleted: section

Deleted: section

PART 3: GUIDE SHEETS FOR SPECIFIC ACTIVITIES

Below are separate guide sheets for certain activities that may be political campaign intervention or lobbying. Use the guide sheet only if the organization indicates that it may engage in that specific activity.

The guide sheets will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity is political campaign intervention or lobbying. The guide sheets each present a specific set of facts in which an activity generally is (or generally is not) political campaign intervention or lobbying. For all other situations, the guide sheets list individual facts for you to consider and develop. The facts are listed by whether they tend to show (or tend not to show) political campaign intervention or lobbying. Each fact contains a citation to revenue rulings or other legal authorities to consult for further information. These authorities contain examples that illustrate how to apply the law on political campaign intervention and lobbying to these activities.

Your determination is based on all the facts and circumstances. No one fact determines whether an activity is political campaign intervention or lobbying. If an organization engages in multiple activities, the interaction among them may affect whether the organization is engaged in political campaign intervention [Rev. Rul. 2007-41]. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

Possible Political Campaign Intervention

- **Guide Sheet 1: Voter Guides**
- **Guide Sheet 2: Candidate Forums**
- **Guide Sheet 3: Other Candidate Appearances**
- **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention**
- **Guide Sheet 5: Individual Activity by Organization Leaders**
- **Guide Sheet 6: Business Activities**

Possible Lobbying : For Section 501(c)(3) Organizations Only

- **Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)**
- **Guide Sheet 8: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)**

Deleted:

Deleted: some

Deleted: which

Deleted: lobbying or

Deleted: lobbying or

Deleted:

Deleted:)

Comment [A1]: Add an instruction to call EO technical if the application has possible campaign or lobbying activities other than those activities addressed in the specific guide sheets?

DRAFT 4/25/2012

Guide Sheet 1: Voter Guides

Certain voter education, including the preparation and distribution of certain voter guides, conducted in a non-partisan manner, may not constitute political campaign intervention. [Rev. Rul. 2007-41] On the other hand, an organization that publishes a compilation of candidate positions or incumbents' voting records may engage in political campaign intervention if the questionnaire used to solicit candidate positions or the voter guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate. [Rev. Rul. 78–248] The timing and manner of the distribution also are relevant to determining whether the organization is engaged in political campaign intervention. [Rev. Rul. 80–282]

Comment [A2]: The reverse rulings cited in this document are § 501(c)(3) rulings. They do not specifically address, or state that they apply to, § 501(c)(4) organizations. This document applies them to both, based on the same or similar language on political campaign intervention and lobbying in the regulations under §§ 501(c)(3) and (c)(4).

Use this guide sheet only if the organization indicates that it may publish or distribute voter guides. This guide sheet will help you screen the organization's voter guide activities for possible political campaign intervention, decide which voter guide activities require further case development and which facts to develop, and determine whether a particular voter guide activity may be political campaign intervention.

Deleted: is

Parts A and B present a specific set of facts in which voter guide activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Voter guide activities generally are not political campaign intervention if either:

1. The organization annually prepares and makes generally available to the public a compilation of voting records of all members of a particular legislative body on major issues involving a wide range of subjects, the publication contains no editorial opinion, and the contents and structure of the publication do not imply approval or disapproval of any members or their voting records [Rev. Rul. 78-248, Situation 1]; or

Deleted: as

2. The organization sends a questionnaire to all candidates for the same public office soliciting a brief statement of their positions on a wide variety of issues; it publishes all responses in a voter guide it makes generally available to the public; it selects the issues for their importance and interest to the electorate as a whole; and neither the questionnaire nor the voter guide, in form or content, shows a bias or preference for any candidate. [Rev. Rul. 78-248, Situation 2]

Deleted: position

Deleted: s

Deleted: s

B. Voter guide activities generally are political campaign intervention if either:

1. The organization sends a questionnaire evidencing bias on certain issues to candidates for public office, and it uses the responses to prepare a voter guide that it distributes during an election campaign [Rev. Rul. 78-248, Situation 3]; or

Deleted: with biased questions

2. The organization publishes a compilation of the voting records of incumbents on a narrow range of issues, and it widely distributes the publication among the electorate during an election campaign. [Rev. Rul. 78-248, Situation 4]

C. Voter Guides -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a voter guide activity is (or is not) political campaign intervention. The facts are listed separately for guides on the positions of candidates for public office and guides on the voting records of incumbents. Consider all the facts and circumstances. No one fact determines whether a voter guide activity is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

Deleted: elected officials,

1. Positions of Candidates for Public Office

Does the organization indicate that it may prepare and distribute a guide summarizing the positions of one or more candidates for public office? If no, skip this section. If yes, develop the following facts.

Deleted: of

a. Facts tending to show that the candidate position activity is not political campaign intervention:

Comment [A3]: Phrase from 2004-6

- The organization sends to all candidates for the same public office a questionnaire that covers a wide variety of issues selected by the organization based on their importance and interest to the electorate as a whole, and publishes all of the responses. [Rev. Rul. 78-248, Situation 2]

Deleted: , which
Deleted: selects

- The questionnaire does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]

- The questionnaire solicits from all candidates for the same public office a statement of his or her position, and the organization publishes or distributes all candidate responses to the questionnaire in the voter guide. [Rev. Rul. 78-248, Situation 2]

Deleted: each candidate
Deleted: election

- The voter guide covers a wide variety of issues, which the organization selects based on their importance and interest to the electorate as a whole. [Rev. Rul. 78-248, Situation 2]

- The voter guide does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]

b. Facts tending to show that the candidate position activity is political campaign intervention:

- The organization sends a questionnaire to all candidates for the same public office that covers a narrow range of issues of importance to the organization, and it uses the responses to prepare a voter guide which it widely distributes during an election campaign. [derived from Rev. Rul. 78-248, Situations 2 & 4]
- The questionnaire shows a bias on certain issues, and the organization uses the responses to the questionnaire to prepare a voter guide which it distributes during an election campaign. [Rev. Rul. 78-248, Situation 3]
- The voter guide, in content or structure, shows a bias or preference with respect to the views of any candidate or group of candidates, and the organization distributes the guide during an election campaign. [derived from Rev. Rul. 78-248, Situations 1 & 2]
- The voter guide covers a narrow range of issues of importance to the organization, and the organization widely distributes the voter guide among the general public during an election campaign. [derived from Rev. Rul. 78-248, Situation 4]

2. Voting Records of Incumbents

Does the organization indicate that it may prepare and publish or distribute a report or other compilation of the voting records of incumbents (for example, current Members of Congress)? If no, skip this section. If yes, develop the following facts.

a. Facts tending to show that the voting record activity is not political campaign intervention:

- The organization annually prepares and makes generally available to the public a compilation of voting records of incumbents on major legislative issues involving a wide range of subjects. [Rev. Rul. 78-248, Situation 1]
- The organization usually publishes the voting records after the close of the legislative session, and the distribution is not geared to the timing of any election. [Rev. Rul. 80-282]
- The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any incumbents or their voting records. [Rev. Rul. 78-248, Situation 1]
- The publication presents the voting records of all incumbents, and it does not identify candidates for reelection. [Rev. Rul. 80-282]

Deleted: , which the organization selects based on their

Deleted: and interest

Deleted: . [

Comment [A4]: Derived from means that this is not a specific example in the ruling, but is supported by the ruling's listed factors.

Deleted: The questionnaire, in content or structure, shows a bias or preference with respect to the views of any candidate or group of candidates.

Deleted: <#>The voter guide covers a narrow range of issues, which the organization selects based on their importance and interest to the organization. [Rev. Rul. 78-248, Situations 2 & 4] ¶
¶

Deleted: Situation 3

Deleted: interest

Deleted: Elected Officials

Deleted: public office holders

Deleted: all members of a legislative body

Deleted: will publish

Deleted: will

Deleted: be

- The format and content of the publication is not neutral because it reports on whether the incumbent supported the organization's views, but distribution occurs as soon as practical after the end of each legislative session, is limited to a relatively small group consisting of the organization's normal readership, is not targeted to particular areas in which elections are occurring, and is not timed to coincide with an election campaign. [Rev. Rul. 80-282]

- The publication does not comment on an individual's overall qualification for public office, or compare candidates who might be competing with the incumbents in any political campaign. [Rev. Rul. 80-282]

b. Facts tending to show that the voting record activity is political campaign intervention:

- The publication contains a statement that endorses or rejects any incumbent as a candidate for public office, or identifies candidates for re-election and comments on their overall qualification for public office, or compares candidates that might be competing with incumbents in a political campaign, and the publication is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived from Rev. Rul. 80-282]

- The publication reports on the organization's views on selected legislative issues, indicates whether the incumbent supported or opposed the organization's view, and is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived both from Rev. Rul. 80-282 and Rev. Rul. 78-248, Situation 4]

- The publication covers a narrow range of issues selected for their importance to the organization, and it is widely distributed during an election campaign. [Rev. Rul. 78-248, Situation 4]

D. Legal References:

- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154

Deleted: it is a small

Deleted: and

Deleted: or to time the publication

Deleted: with other candidates,

Deleted: organization targets the

Deleted: towards

Comment [AS3]: This is not a specific example in the ruling, but is supported by the ruling's listed factors

Deleted: and Rev. Rul. 78-248, Situation 4

Deleted: select

Deleted: s

Deleted: when and

Deleted: and interest

Guide Sheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public. [Rev. Rul. 66–256] Providing a forum for candidates does not, in and of itself, constitute political campaign intervention. [Rev. Rul. 74–574] However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate, such as through biased questioning procedures. On the other hand, 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 political campaign intervention. [Rev. Rul. 86–95] [also cited in Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may invite candidates for public office to speak at its events in their capacity as political candidates. This guide sheet will help you screen the organization's candidate forums for possible political campaign intervention, decide which candidate forums require further case development and which facts to develop, and determine whether a particular candidate forum may be political campaign intervention.

Deleted: campaign

Deleted: is

Parts A and B present a specific set of facts in which candidate forums generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Candidate forums generally are not political campaign intervention if:

The organization invites all candidates seeking the same office to participate at the same (or a substantially similar) event, provides each candidate an equal opportunity to address and field questions on a wide variety of topics, and does not comment on their qualifications or indicate a preference for any candidate. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

B. Candidate forums generally are political campaign intervention if:

The organization invites one candidate to speak at an organization event in support of the candidate's campaign and does not invite any other candidates for the same public office. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

C. Candidate Forums -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a candidate forum is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate forum is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains

any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate forum is not political campaign intervention:

   - The organization does not comment on the qualifications of, or indicate a preference for, any candidate during the event. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]
   - The topics discussed cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7); Rev. Rul. 86-95]
   - The organization does not indicate support for or opposition to a candidate during the event (such as when the candidate is introduced). [Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]
   - The candidates at the event are not asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]
   - A nonpartisan, independent panel prepares any questions presented to candidates at the event. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
   - A nonpartisan, independent panel or moderator presents the questions. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
   - The moderator does not comment on questions or otherwise imply approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
   - The moderator states that the views expressed are those of the candidates and not of the organization, and that sponsorship of the forum is not intended as an endorsement of any candidate. [Rev. Rul. 86-95]
   - The organization provides an equal opportunity for candidates to use its facilities to speak in support of their respective campaigns. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

2. Facts tending to show that a candidate forum is political campaign intervention:

   - The organization comments on the qualifications of, or indicates a preference for, any candidate during the event. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)

Deleted: e.g.,
Deleted: -9
Deleted: make comments that
Deleted: <#>The moderator includes a statement that the order of the speakers was determined at random. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 8)] ¶ ¶ <#>The moderator includes a statement that one candidate declined to the invitation to speak. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 8)]¶ ¶
Deleted: Rev. Rul. 2007-41 (

- The topics discussed at the forum do not cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public. [derived both from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7) and Rev. Rul. 86-95]

- The organization indicates support for or opposition to a candidate during the event (such as when the candidate is introduced). [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]

- The candidates at the event are asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]

- Questions to forum participants are not prepared and presented by a nonpartisan, independent panel. [Rev. Rul. 2007-41 (Candidate Appearances); derived from Rev. Rul. 86-95]

- The moderator comments on questions or otherwise implies approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]

- The moderator does not state that the views expressed are those of the candidates and not of the organization, or that sponsorship of the forum is not intended as an endorsement of any candidate. [derived from Rev. Rul. 86-95]

- The organization selectively provides an opportunity for one candidate (but not others) to use its facilities to speak in support of his or her campaign. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

D. Legal References

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances, Situations 7-9)
- Rev. Rul. 86-95,1986-2 C.B. 73
- Rev. Rul. 74-574, 1974-2 C.B. 160
- Rev. Rul. 66-256, 1966-2 C.B. 210

Deleted:);

Deleted: ¶

Deleted: (e.g.,

Deleted: -9

Deleted: A nonpartisan, independent panel does not prepare the questions presented to candidates at the event.

Deleted: <#>A nonpartisan, independent panel or moderator does not present the questions (Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95)¶
¶

Deleted: makes comments that imply

Deleted: s

Deleted: . (derived from Rev. Rul. 86-95)¶
¶
The moderator does not include a statement that the order

Deleted: speakers was determined at random. (Rev. Rul. 2007-41 (

Deleted: Candidate Appearances, Situation 9)]

Deleted: <#>The moderator does not include a statement that one candidate declined to the invitation to speak even though one candidate was not present. [Rev. Rul. 2007-41 (derived from Candidate Appearances, Situation 8)]¶
¶

Deleted: a candidate

DRAFT 4/25/2012

Guide Sheet 3: Other Candidate Appearances

The question whether an activity constitutes political campaign intervention may arise in the context of a candidate appearance at an organization event. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may be involved with any candidate appearance. This guide sheet will help you screen any candidate appearances at organization events for possible political campaign intervention, decide which candidate appearances require further case development and which facts to develop, and determine whether a particular candidate appearance may be political campaign intervention.

Deleted: the organization's

Parts A and B present a specific set of facts in which candidate appearances generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

Consult **Guide Sheet 2: Candidate Forums** for assistance in evaluating whether inviting candidates for public office to speak at organization events in their capacity as political candidates may be political campaign intervention.

A. Candidate appearances generally are not political campaign intervention if either:

1. The organization invites the individual to speak solely for reasons other than his or her candidacy; neither the individual nor any representative of the organization mention the individual's candidacy or the upcoming election; and no political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]; or

2. The individual appears at an organization event only in a non-candidate capacity; the organization only acknowledges the individual's presence and his official title; and the organization makes no reference to the individual's candidacy or the upcoming election. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 10)]

B. Candidate appearances generally are political campaign intervention if:

The individual attends an organization's event that is open to the public; and an official of the organization asks the crowd to support the candidate in the upcoming election. [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]

C. Candidate Appearances -- Facts to Consider and Develop

Deleted: chooses

Deleted: 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10 and 11)]; or¶
¶
2. The individual appears or speaks at an organization event only in a non-candidate capacity; the organization clearly indicates the capacity in which the individual is appearing; neither the individual nor any representative of the organization mention of the individual's candidacy or the upcoming election; and no political fundraising occurs at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10 and 11)]¶
¶
B. Candidate appearances generally are political campaign intervention if either: ¶
¶
1. .The organization chooses the individual to speak because he or she is a political candidate, and the individual or a representative of the organization mention the individual's candidacy or the upcoming election; or political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Derived from Situations 10 and 11)]; or¶
¶
2. .The individual appears or speaks at an organization event in a non-candidate capacity; and the individual or a representative of the organization mention the individual's candidacy or the upcoming election; or political fundraising occurs at the event. [Rev. Rul.

Deleted: 12)]

DRAFT 4/25/2012

Below is a list of facts that tend to show whether a candidate appearance is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate appearance is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate appearance is not political campaign intervention:

- The individual was invited to appear or speak at the organization's event for reasons other than his or her political candidacy. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The individual attends or speaks only in a non-candidate capacity. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- The organization does not indicate any support for or opposition to the individual's candidacy (including introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- No political fundraising or other campaign activity occurs at the event in connection with the candidate's attendance. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The organization makes no mention of the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]
- The organization maintains a nonpartisan atmosphere at the event at which the candidate is present. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

2. Facts tending to show that a candidate appearance is political campaign intervention:

- The organization indicates support for or opposition to the individual's candidacy (including during introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]
- There is political fundraising at the event, or other campaign activity occurs at the event in connection with the candidate's attendance. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]

Deleted: not
Deleted: because he
Deleted: she is a
Deleted: candidate.
Deleted: during
Deleted: , communications concerning the individual's attendance, and any materials distributed during the event
Deleted: Derived from
Deleted: 13
Deleted: There was no
Deleted: at the event,
Deleted: any
Deleted: <#>The individual was invited to appear or speak at the organization's event because he or she is a political candidate. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]¶ ¶ <#>The individual speaks in his or her capacity as a candidate (Candidate Appearances When Speaking or Participating as a Non-Candidate)].¶
Deleted: , communications concerning the individual's attendance, and any materials distributed during the event).
Deleted: was
Deleted: occurring
Deleted: (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 11 and 13)]¶ ¶ The organization mentions the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev.
Deleted: ,
Deleted: 13

- The organization maintains a partisan atmosphere on the premises or at the event where the candidate is present. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

Deleted: Derived from

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-13)

DRAFT

DRAFT 4/25/2012

Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention

Organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, issue advocacy may function as political campaign intervention. [Rev. Rul. 2007-41] Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement may engage in political campaign intervention if there is any message favoring or opposing a candidate. A statement can identify a candidate not only by stating the candidate's name, but also by other means such as showing a picture of the candidate, referring to political party affiliations, or other distinctive features of a candidate's platform or biography. All the facts and circumstances need to be considered to determine if the advocacy is political campaign intervention. [Rev. Rul. 2007-41]

A web site is a form of communication. An organization that posts something on its web site that favors or opposes a candidate for public office will be treated the same as if it distributed printed materials, oral statements or broadcasts. When an organization establishes a link to another web site, it is responsible for the consequences of establishing and maintaining that link, even if it does not have control over the content of the linked site. Links to candidate-related material, by themselves, do not necessarily result in political campaign intervention. All facts and circumstances must be taken into account when assessing whether a link produces that result. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that its issue advocacy communications (including on its web site) may support or oppose a candidate for public office. This guide sheet will help you screen the organization's issue advocacy communications for possible political campaign intervention, decide which issue advocacy communications require further case development and which facts to develop, and determine whether a particular issue advocacy communication may be political campaign intervention.

Parts A and B present a specific set of facts in which issue advocacy communications generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Issue advocacy communications generally are not political campaign intervention if:

The communication urges the public to contact an officeholder to support specific legislation, the statement appears immediately before the officeholder is scheduled to vote on that legislation, the statement does not mention the election or the candidacy of the office holder, and the issues that are the subject of the legislation have not been raised as distinguishing the officeholder from any election opponent. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]

Deleted: lobby for or against legislation or otherwise

Deleted: web

Deleted: web

Deleted: involve discussion of the positions of public officials who are also candidates

Deleted: discussion of the positions of public officials who are also candidates for public office

Deleted: discussion(s)

Deleted: discussion of the positions of public officials who are also candidates for public office is

Deleted: discussion of the positions of public officials who are also candidates for public office

Deleted: is

Deleted: is

Deleted: Discussion of the positions of public officials who are also candidates for public office

Deleted: is

Deleted: either

Deleted: statement

B. Issue advocacy communications generally are political campaign intervention if:

The communication is delivered shortly before an election, identifies by name an officeholder who is also a candidate in that election, takes a position on an issue that has been used to distinguish the candidates in the election, is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue, and is not timed to coincide with a non-electoral event (such as a legislative vote or other major legislative action on the issue). [Rev. Rul. 2007-41 (Issue Advocacy, Situation15)]

C. Issue Advocacy Communications -- Facts to Consider and Develop

Below is a list of facts that tend to show whether an issue advocacy communication, including on a website, is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether an issue advocacy communication is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that issue advocacy communications are not political campaign intervention:

- The communication does not identify one or more candidates for a given public office by name or by other means. [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication does not address any issue that has been raised as an issue distinguishing candidates for a given office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication is not delivered close in time to an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The organization has not posted anything on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites)]

Deleted: Discussion of the positions of public officials who are also candidates for public office
Deleted: is
Deleted: either
Deleted: statement
Deleted: close in time to
Deleted: refers
Deleted: to
Deleted: and
Deleted: organization
Deleted: election
Deleted: ,
Deleted: Discussion of the positions of public officials who are also candidates for public office
Deleted: a discussion
Deleted: of the positions of public officials who are also candidates for public office
Deleted: a discussion of the positions of public officials who are also candidates for public office
Deleted: a discussion of the positions of public officials who
Deleted: also candidates for public office is
Deleted: The statement
Deleted: , Situations 14 & 15
Deleted: statement
Deleted: Situations 14-15
Deleted: The statement
Deleted: election
Deleted: derived from
Deleted: 15
Deleted: The statement
Deleted: derived from
Deleted: , Situation15
Deleted: The statement
Deleted: derived from
Deleted: , Situation15
Deleted: web
Deleted: , Situation 21

- The organization's web site does not provide a direct link to a web page that contains material favoring or opposing a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 20)]
- The organization's web site links to the website of another entity, the web site link serves an exempt purpose of the organization (such as educating the public), and neither the context for the link nor the relationship between the organization and the other entity indicates that the organization was favoring or opposing any candidate. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]
- The organization establishes on its web site links to the official campaign web sites of all the candidates for a particular office and presents all of the links in a neutral, unbiased manner. [Rev. Rul. 2007-41 (Web Sites, Situation 19)]

2. Facts tending to show that issue advocacy communications are political campaign intervention:

- The communication identifies one or more candidates for a given public office by name or by other means, such as addressing an issue that has been raised as an issue distinguishing the candidates for that office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]
- The communication is delivered close in time to an election and is not timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15]
- The communication is delivered close in time to an election and is not part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]
- The organization posts a message on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 21)]
- The organization's web site provides a direct link to a web page that contains material favoring or opposing a candidate for public office, and the web site link does not serve an exempt purpose of the organization, such as educating the public. [derived from Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]
- The organization establishes a link to a candidate's official campaign web site and does not present the link in a neutral, unbiased manner or does not establish similar links for all of the candidates for a particular office. [derived from Rev. Rul. 2007-41 (Web Sites, Situation 19)]

D. Legal Reference

Deleted: <#>The organization does not establish on its website a link to another website that contains material on candidates for public office. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]¶
¶
Deleted: web
Deleted: Situations 19-
Deleted: ,
Deleted: web
Deleted: a discussion of the positions of public officials who
Deleted: also candidates for public office is
Deleted: The statement
Deleted: . [Rev. Rul. 2007-41 (Issue Advocacy, Situations 14 & 15)]¶
¶
The statement addresses
Deleted: a given
Deleted:
Deleted: Situations 14-15
Deleted: statement
Deleted: election
Deleted: The statement
Deleted: <#>The statement is delivered close in time to an election [Rev. Rul. 2007-41 (Issue Advocacy, Situation15)]¶
¶
Deleted: posted something
Deleted: web
Deleted: <#>The organization established on its website a link to another website that contains material on candidates for public office. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]¶
¶
Deleted: web
Deleted: . [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)] ¶
¶
The
Deleted:)

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Issue Advocacy, Situations 14-16; Web Sites, Situations 19-20)

Deleted: and

DRAFT

Guide Sheet 5: Individual Activity by Organization Leaders

The question whether an activity constitutes political campaign intervention may arise in the context of political campaign activities by any organization leader. [Rev. Rul. 2007-41]

Use this guide sheet only if any organization leader may engage in any political campaign activity. This guide sheet will help you screen the political campaign activity of any organization leader for possible political campaign intervention by the organization, decide which organization leader activities require further case development and which facts to develop, and determine whether a particular political campaign activity by any organization leader may be political campaign intervention by the organization.

Deleted: be involved with

Parts A and B present a specific set of facts in which political campaign activities by any organization leader generally are political campaign intervention by the organization and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Political campaign activity by any organization leader generally is not political campaign intervention if:

The leader makes a statement in the leader's personal capacity supporting the election of a candidate for public office; the statement appears in a publication that is not an official publication of the organization; the organization pays none of the costs of the publication; and the publication states that the leader's title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41, Situation 3.]

Deleted: made
Deleted: a publication
Deleted: was
Deleted: did not pay for the
Deleted: stated
Deleted: was

B. Political campaign activity by any organization leader generally is political campaign intervention if:

The leader makes an oral statement to vote for a candidate for public office at an official meeting of the organization. [Rev. Rul. 2007-41 (Situation 6).

Deleted: made
Deleted: supporting the election of
Deleted: ; and the leader made the statement

C. Political Campaign Activity by Organization Leaders -- Facts to Consider and Develop

Below is a list of facts that tend to show whether the political campaign activity by any organization leader is (or is not) political campaign intervention by the organization. Consider all the facts and circumstances. No one fact determines whether political campaign activity by any organization leader is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that political campaign activity by any organization leader is not political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office does not appear in an official publication of, or in a publication paid for by, the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader does not say that he is speaking as a representative of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader personally endorses a candidate in a publication that is not paid for by the organization and is not an official publication of the organization, and the publication states that her title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 3)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization or otherwise use the organization's assets, and the leader does not say that he is speaking on behalf of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

2. Facts tending to show that political campaign activity by any organization leader is political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office appears in an official publication of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 4)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The organization pays for the publication of the leader's statement in support of (or in opposition to) a candidate for public office. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an event that is not an official function of the organization, and the

Deleted: The publication in which the leader's statement in support of (or in opposition to)

Deleted: public office appeared stated

Deleted: is

Deleted: , and the organization did not pay for the publication

Deleted: did

Deleted: , the leader did not say that he was speaking on behalf of

Deleted: , and he did not use church

Deleted: for the function.

Deleted: s 3 &

Deleted: s 5 &

Deleted: paid

Deleted:

Deleted: Derived from

Deleted: made

Deleted: was

leader states that she is speaking on behalf of the organization. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

Deleted: stated
Deleted: was
Deleted: [
Deleted: Derived from

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Individual Activity by Organization Leaders, Situations 3-6)

DRAFT

Guide Sheet 6: Business Activities

The question whether an activity constitutes political campaign intervention may arise in the context of a business activity of the organization, such as the selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may engage in business activities with any candidate for public office. This guide sheet will help you screen the organization's business activities for possible political campaign intervention, decide which business activities require further case development and which facts to develop, and determine whether a particular business activity may be political campaign intervention.

Parts A and B present a specific set of facts in which business activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Business activities with candidates generally are not political campaign intervention if:

The organization sells or rents goods, services, or facilities to the general public, it makes them available to all candidates in the same election on an equal basis, and the fees charged to candidates are at the organization's customary and usual rates. [Rev.Rul. 2007-41 (Business Activity, Situation 17)]

B. Business activities with candidates generally are political campaign intervention if:

The organization does not normally sell or rent goods, services or facilities to the general public, but does so selectively to a candidate for public office, and it does not make its goods, services or facilities available on an equal basis to the other candidates in the same election. [Rev Rul. 2007-41 (Business Activity, Situation 18)].

C. Business Activities – Facts to Consider and Develop

Below is a list of facts that tend to show whether a business activity is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a business activity is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

Deleted: is

Deleted: provides

Deleted: it charges all

Deleted: in the same election its

Deleted: either

Deleted: 1.

Deleted: provides

Deleted: one or more candidates

Deleted: them

Deleted: all

Deleted: ; or

Deleted: ¶
2. The organization provides goods, services or facilities to one or more candidates, and it makes them available on an equal basis to all candidates in the same election, but it does not charge all candidates in the same election its usual and customary rates. [Rev Rul. 2007-41 (derived from Business Activity, Situation 17)].¶

1. Facts tending to show that a business activity is not political campaign intervention:

   - The business activity is an ongoing activity of the organization. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
   - The organization makes the good, service or facility available to the general public. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
   - The organization makes the good, service, or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]

     Deleted: , Situations 17 &18

   - The organization charges all candidates in the same election its usual and customary rates for the good, service, or facility. [Rev. Rul. 2007-41 (Business Activity)]

     Deleted: , Situations 17 &18

2. Facts tending to show that a business activity is political campaign intervention:

   - The organization only provides the good, service or facility to a political candidate. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
   - The organization does not make the good, service or facility available to all candidates in the same election. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
   - The organization does not make the good, service or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]

     Deleted: for

     Deleted: , Situation 18

   - The organization does not charge all candidates in the same election its usual and customary rates for the good, service or facility. [Rev. Rul. 2007-41 (Business Activity)]

     Deleted: , Situation 18

D. Legal Reference

   - Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Business Activity, Situations 17-18)

Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)

The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude the organization from qualifying under section 501(c)(3). [§ 1.501(c)(3)-1(d)(2)] However, an organization does not qualify under section 501(c)(3) if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. [§ 1.501(c)(3)-1(c)(3)]

An organization also does not qualify for exemption under section 501(c)(3) if its primary objective may be attained only by legislation (or a defeat of proposed legislation) and it advocates for the attainment of such objective, as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. [§ 1.501(c)(3)-1(c)(3); Rev. Rul. 64-195]

Use this guide sheet only if the organization indicates that it may communicate with the general public on legislative issues. This guide sheet will help you screen the organization's communications with the general public on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Parts A and B present a specific set of facts in which communications with the general public on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

Consult **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention** for assistance in evaluating whether a communication on legislative issues functions as political campaign intervention.

A. Communications with the general public generally are not lobbying if either:

1. The communication does not advocate the adoption or rejection of legislation or urge the public to contact one or more legislators to propose, support, or oppose legislation; and the organization's primary objective can be attained other than by the enactment or defeat of legislation. [§ 1.501(c)(3)-1(c)(3)(ii), (iv)] or

2. The organization conducts nonpartisan analysis, study, and research to develop solutions for problems affecting a particular region and publishes the results for the benefit of the public, and does not advocate the adoption of any legislation or legislative action to implement its findings. [Rev. Rul. 70-79]

B. Communications with the general public generally are lobbying if:

The communication urges members of the general public to contact legislators to support or oppose legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]

C. Communication with the general public -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with the general public on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with the general public is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with the general public is not lobbying:

- The communication does not advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii); Rev. Rul. 64-195; Rev. Rul. 70-79]
- The communication does not urge the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with the general public is lobbying:

- The communication advocates the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication urges the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127

Deleted:))

Deleted: (

Deleted:),

Deleted: ,

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

DRAFT

DRAFT 4/25/2012

Guide Sheet B: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)

An organization can communicate with government officials on legislative issues without engaging in lobbying. For example, an organization is not engaged in lobbying activity if, at the request of a legislative committee, a representative testifies as an expert witness on pending legislation affecting the organization. [Rev. Rul. 70-449] Similarly, an organization may seek to assist government officials in the study of problems by conducting nonpartisan analysis, study, and research into these problems and publishing the results for the benefit of the general public. Such activities may qualify as educational. However, an organization may be engaged in lobbying if it advocates the adoption of legislation to implement the organization's findings. [Rev. Rul. 70-79]

Use this guide sheet only if the organization indicates that it may communicate with government officials on legislative issues. This guide sheet will help you screen the organization's communications with government officials on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Deleted: is

Parts A and B present a specific set of facts in which communications with government officials on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

A. Communications with government officials generally are not lobbying if:

1. At the request of a legislative committee, the organization sends a representative to provide expert testimony on pending legislation [Rev. Rul. 70-449]; or

Deleted:

Deleted:)

2. The organization's activities are limited to studying, researching, and assembling materials necessary to evaluate legislation, and presenting an objective analysis of the legislation to those who are interested in the issue (both those who favor the legislation and those who oppose it) and to the general public. [Rev. Rul. 64-195]

B. Communications with government officials generally are lobbying if:

The organization contacts legislators to advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]

Deleted: Treas. Reg.

C. Communications with government officials -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with government officials on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with government officials is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with government officials is not lobbying:

   - The communication is in response to a request for technical assistance from a governmental body, such as a Congressional committee. [Rev. Rul. 70-449]
   - The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 64-195, and Rev. Rul. 70-79]
   - The communication does not advocate the adoption or rejection of any legislation. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195, Rev. Rul. 70-79]

2. Facts tending to show that a communication with government officials is lobbying:

   - The organization contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
   - The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127
- Rev. Rul. 70-449, 1970-2 C.B. 111

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

From: Medina Cheryl J TIGTA
To: Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Date: Monday, May 20, 2013 11:32:06 AM
Attachments: EDS Letter 4587(modified) (3).doc

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:32 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 9:07 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Paz Holly O
Sent: Thursday, March 08, 2012 10:09 AM
To: Thomas Cindy M
Subject: RE: EDS Letter 4587(modified) (3).doc

Yes. But I think they are going to change it to 60 days to respond instead of 90. The theory is that, when we have had a case for a long time without taking action and are asking for a lot of stuff, we have to give more time. I hear you on fairness but I also do what I am told. Thanks for looking at the letter.

From: Thomas Cindy M
Sent: Thursday, March 08, 2012 8:53 AM
To: Paz Holly O
Subject: FW: EDS Letter 4587(modified) (3).doc
Importance: High

Just to make sure I understand, we're giving the organization 90 days to respond and, if the organization doesn't respond, then another 90 days in suspense before closing FTE. Is this correct?

a. If not, please clarify.

b. If so, I don't understand why an organization who is not being compliant is getting special treatment. But obviously, we'll do what we are told to do.

From: Paz Holly O
Sent: Wednesday, March 07, 2012 11:04 PM
To: Thomas Cindy M
Subject: FW: EDS Letter 4587(modified) (3).doc

Importance: High

This supersedes the letter I sent you earlier today. Any comments? Thanks!

From: Lerner Lois G
Sent: Wednesday, March 07, 2012 7:24 PM
To: Paz Holly O
Subject: EDS Letter 4587(modified) (3).doc

A tiny change

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45202

Department of the Treasury

Employer Identification Number:
[NN-NNNNNNN]

Contact

Person:
Date:

[Agent Name and Number]

Toll Free Telephone Number:
1-877-829-5500

[Organization Name]
[Address]
[Address]

Previous Letter Date: [8010]
[Letter Date Field] (Automatic,

variable required)

Dear Applicant:

Our previous letter, copy enclosed, requested additional information about your application for tax-exempt status under section 501(c)(4) of the Internal Revenue Code. To be tax-exempt under section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare. When determining whether an organization meets that standard, all the facts and circumstances of that specific organization must be considered.

As indicated in our previous letter, we are unable to make a final determination on your exempt status without additional information. We ask that you provide the previously requested information by [90 days]. Please contact the individual listed above if you believe that the details required to demonstrate eligibility of section 501(c)(4) status can be provided through alternative information or if you have any other concerns about specific information requested. If you need additional time to provide the requested information or have other questions, please contact the individual listed above. Please submit your response to us at:

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

If you do not provide the additional information or receive an extension from us by [90 days], your case will be placed in suspense. You may reactivate your case by providing the requested information within 90 days of being placed in suspense. After the 90-day period has passed, we will close your case, and if you wish to pursue IRS recognition of tax-exempt status you will be required to submit a new application package and new user fee payment.

Please note that if your case is closed and you hold yourself out as a section 501(c)(4) organization, you must file the appropriate Form 990-series return (Form 990-N, Form 990-EZ or Form 990).

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure:
Previous Letter

Deleted: Because w

Deleted: the

Deleted: , we ask that you provide the information

Deleted: insert date

Deleted: information

Deleted:

Deleted: about our request

Deleted: .

Deleted: request and

Deleted: insert date

Deleted: ,

Comment [k1]: Is this language standard?

Deleted: Unlike section 501(c)(3) organizations, section 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax-exempt status. You may self-declare and, if you meet the statutory and regulatory requirements, you will be treated as tax-exempt. If you do want reliance on an IRS determination of your status, your application for exemption must be approved by the IRS. While your application is pending, you must file the appropriate Form 990-series return (Form 990-N, Form 990-EZ or Form 990), like any other tax-exempt organization, and are able to operate without material barrier. ¶
¶
¶

Formatted: Font color: Red

Deleted: ¶
¶

From: Medina Cheryl J TIGTA
To: Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Date: Monday, May 20, 2013 12:32:27 PM
Attachments: Draft IRM 7.20.4 - Emerging Issues - 05102012.doc

---

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:36 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 9:45 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Friday, May 11, 2012 12:37 AM
To: Paz Holly O
Subject: BOLO Spreadsheet - Description

Yes, Group 7822 is responsible for updating the BOLO spreadsheet and sending BOLO Alerts to all EO Determinations specialists and managers when changes are made to the BOLO spreadsheet. One of the areas of responsibility for Group 7822 is Emerging Issues cases.

Issues can be updated on the BOLO spreadsheet for the Watch List, Potential Abusive, or Coordinated Processing by the manager of a particular group sending an email to the manager of Group 7822. For example, if Group 7824 (responsible for potential abusive cases) identifies something from an ATAT meeting, review of cases, etc., the Group 7824 manager or potential abusive case coordinator will send an email to the Group 7822 manager asking that an issue be revised. If there are concerns by the Group 7822 manager about what is being requested, the Group 7822 manager will elevate. For example, one manager previously requested that the Coordinated Processing tab include beauty pageants and farmers' markets. The Group 7822 manager took exception with that because he believed we'd need to start adding every type of case we worked, where to draw the line, and the problem with these types of cases was the need for more training. Another example of how an issue is added to the BOLO spreadsheet, EOT manager contacts me to "watch for" certain types of cases that need to be coordinated with EOT. I'll email Group 7822 manager, who has the issue added to the "Watch For" tab on the BOLO spreadsheet, and the coordinator sends a BOLO Alert.

For emerging issues to be added to the BOLO spreadsheet, referrals are sent to Group 7822 and the coordinator reviews and researches the issue. The manager is responsible for consulting with the area manager and/or the EO Determinations program manager to determine how the emerging issue will be handled, i.e., whether I discuss with EOT manager, EO R&A Director, issue paper written, etc.

In June/July 2010, we had CPE and the Spreadsheet was introduced/shared with employees. At that time, I believe very basic information was shared with employees regarding the Spreadsheet and what would be included. Shortly after CPE (in August 2010), we came up with BOLO as the name of the

Spreadsheet. Since CPE, when information was shared with employees, we've had a few discussions with managers as to how the process should work but no formal, written procedures have been shared. In October 2011, we started revising IRM 7.20.4 (Specialty Issues IRM), including reviewing, revising, and sending to OTC and Publishing all letters and forms referenced, incorporating written procedures where there are gaps such as Emerging Issues, etc. Refer to draft material prepared for processing Emerging Issue cases.

If you have questions regarding this, please let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, May 09, 2012 11:29 PM
To: Thomas Cindy M
Subject: question re BOLO

One of the things we have been asked by Steve is to think about potential adjustments to the BOLO process going forward. If I understand correctly, the emerging issues group is responsible for updating it. Do I have that right? What's the process for adding to it? Do suggestions come into a centralized place? How is it decided whether or not to put something on and how to describe it?

Thanks!

DRAFT

IRM 7.20.4

7.20.4.9 (MM-DD-YYYY)
Emerging Issues and Coordinated Cases

(1) "Emerging Issues" are issues identified in cases during the determination process which may require additional study, research, or coordination by the designated group for various reasons. An emerging issue is often identified by:

- Multiple applications exhibiting identical or highly similar programs;
- The programs are of a novel, unfamiliar, or unconventional kind;
- Unusual technical questions and issues arise in connection with the common programs;
- Applicable precedent is not immediately obvious; and/or
- There is a change in the related legal or cultural environment (e.g., a change in the law or world events, such as an economic crisis.)

(2) "Coordinated cases" are cases that do not meet emerging issue criteria or other reserved inventory categories but which may be desirable to work in a coordinated fashion to ensure uniformity and consistency of case processing. For example, a group of cases that represent a filing trend rather than simultaneous submission of applications by a few closely related organizations.

(3) Emerging issues and coordinated processing cases will be tracked on the Be On the Look Out (BOLO) spreadsheet (see IRM 7.20.4.9.2.3).

7.20.4.9.1 (MM-DD-YYYY)

Identification and Referral

(1) A specialist may identify a potential emerging issue or cases benefitting from coordinated processing at any stage of processing.

(2) If a potential issue is identified, the specialist will complete Form XXXXX, Potential Referral to Designated Specialty Group.

(a) The form must include clearly stated reasons for the referral.

(b) The case remains with the assigned specialist until he or she receives notice of the disposition of the referral.

(3) The specialist's manager reviews the referral. If the manager agrees with the specialist, he/she signs the referral form. The specialist will send the referral to the manager of the designated group for consideration with a copy to the specialist's manager.

(4) Cases identified in technical screening are forwarded with the approved referral form to the designated group. If related hard copy cases are forwarded, cases should be banded together and marked "related cases".

(5) All referral forms and any related documents should be sent using secure email.

7.20.4.9.2 (MM-DD-YYYY)
Receipt and Review of Referral by the Designated Group

(1) The designated EO Determinations group selects a primary coordinator.

(2) The coordinator reviews the referral form and makes one of the following recommendations:

- Coordinated handling of the related cases is warranted
- The issue identified qualifies as an emerging issue
- The referral should not be accepted
- The referral involves a potential abusive transaction and/or fraud issue and is discussed with the coordinator in the group designated to work those cases before any recommendation is made.

(3) Accepted referrals are reviewed by the coordinator's manager for concurrence.

(4) If the referral is not accepted, an explanation of why it was not accepted is sent to the referring group's manager.

(5) If a referral from the screening group is not accepted, cases will be rescreened according to procedures set forth in IRM 7.20.2.3.

7.20.4.9.2.1 (MM-DD-YYYY)
Identified Emerging Issues

(1) The group manager will assign a specialist to study the emerging issue.

(2) The coordinator will identify and locate all open cases meeting the profile of the emerging issue.

(3) The assigned specialist will:

(a) Conduct research on the identified issue;

(b) Present his or her conclusions and the research upon which they are based to the group manager; and

(c) Consult with the group manager to determine which cases should be assigned to the emerging issues group.

(4) The group manager will consult with the area manager and/or the EO Determinations program manager to determine whether an issue paper should be prepared to assist upper management in deciding how the emerging issue is to be handled. If appropriate:

(a) The specialist will draft the issue paper.

(b) The group manager will review and perfect the issue paper and will elevate it to the area manager.

(c) The area manager will review and share the final issue paper with the EO Determinations program manager.

(d) The program manager will discuss the issue with EO Determinations senior management and/or EO Rulings and Agreements in the Washington Office, as deemed necessary, to determine the appropriate handling of the emerging issue and will communicate its decision down to the group manager.

(5) The emerging issue coordinator will:

(a) List instructions in the "Disposition" column of the worksheet for EO Determinations personnel to follow, and

(b) Will, if the emerging issue is accepted, add the issue and its description to the "Emerging Issues" tab of the BOLO spreadsheet (see IRM 7.20.4.9.2.3).

(6) The coordinator will disseminate the decision to the groups through a follow-up alert and will update the information in the BOLO spreadsheet, as necessary.

7.20.4.9.2.2 (MM-DD-YYYY)
Identified Coordinated Processing Cases

(1) If the coordinator's manager agrees that coordinated case processing may be appropriate, he or she will assign the coordinator or another specialist to create an action plan.

(a) The action plan will include specific proposals for consistent handling of the cases.

(b) The action plan will be elevated to management.

(2) Management will communicate to the group manager its decision concerning the handling of the cases in question.

(3) If the management decision is made to coordinate the working of the cases, the coordinator will add the issue to the "Coordinated Processing" tab of the BOLO spreadsheet along with the approved instructions for handling of the cases.

(4) The coordinator will issue an email alert to the groups notifying them of the new coordinated processing issue including a brief description of any actions to take.

(5) The coordinator will update the issue on the spreadsheet and issue follow-up alerts, as appropriate.

7.20.4.9.2.3 (MM-DD-YYYY)
Be On the Look Out (BOLO) Spreadsheet and E-mail Alerts

(1) Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing cases will all be tracked on a single combined Be On the Look Out (BOLO) spreadsheet.

(a) The spreadsheet is maintained to enable EO Determinations specialists to be informed about the current status of abusive transactions and fraud, emerging, coordination, and watch issues, and to process cases in a consistent manner.

(b) Abusive Transactions and Fraud Issues, Emerging Issues, and Coordinated Processing will each occupy a separate tab of the spreadsheet.

(c) A fourth tab, the "Watch List" will list recent developments such as changes in the law current events, or specific applications that EO Determinations management believes has the potential to impact the filing of applications.

(2) The Emerging Issues coordinator will maintain the combined spreadsheet including:

(a) Creating original entries for new emerging issues and entering them on the appropriate tab of the spreadsheet.

(b) Creating original entries for new coordinated processing cases and entering them on the appropriate tab of the spreadsheet.

(c) Receiving issue updates from the abusive transaction and fraud group and entering them on the appropriate tab of the spreadsheet.

(d) Receiving "Watch List" updates from senior management and entering them on the appropriate tab of the spreadsheet.

(e) Updating the spreadsheet as instructed by the group manager.

(3) EO Determinations groups will be notified of new Watch List items, Potential Abusive Transaction and Fraud Issues, Emerging Issues, and Coordinated Processing cases through single e-mail alerts. When there is any change or update to the status or procedural handling of any listed issue/case, a follow-up alert will be disseminated by e-mail.

(4) The Emerging Issues coordinator is responsible for issuing all e-mail alerts.

(5) The most recent copy of the spreadsheet will be posted on the EO Determinations shared drive folder.

From: Seidell Thomas F TIGTA
Sent: Thursday, May 30, 2013 2:41 PM
To: Seidell Thomas F TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Attachments: Advocacy Team.xls

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:10 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 8:47 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Bowling Steven F
Sent: Tuesday, February 28, 2012 11:47 AM
To: Thomas Cindy M
Subject: RE: Guidance on developing advocacy cases

Attached is a list of the team and the number of cases assigned to each individual in the ( ). Mitch Steele has been removed but is working what he already had and Lori Perry has been added.

Per Stephen's numbers;

EDS cases total 169 and 141 are assigned. 26 U.S.C. § 6103

TEDS cases total 60 and 0 are assigned. 26 U.S.C. § 6103
26 U.S.C. § 6103

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Bowling Steven F
Sent: Tuesday, February 28, 2012 8:47 AM
To: Thomas Cindy M
Subject: RE: Guidance on developing advocacy cases

I told Stephen to hold off on any further development of template questions, not to stop developing cases. I'll straighten it out. I understood that Washington is looking at the letters that went public and would provide guidance.

I've asked Stephen for the other information you requested, I'll respond as soon as I can.

Also, Stephen has a meeting set up today @ 1:00 with the entire to team to discuss their cases and current events. I'm going to try and make it, I'm scheduled for a DQMP meeting @ 9:00 which could last all day.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

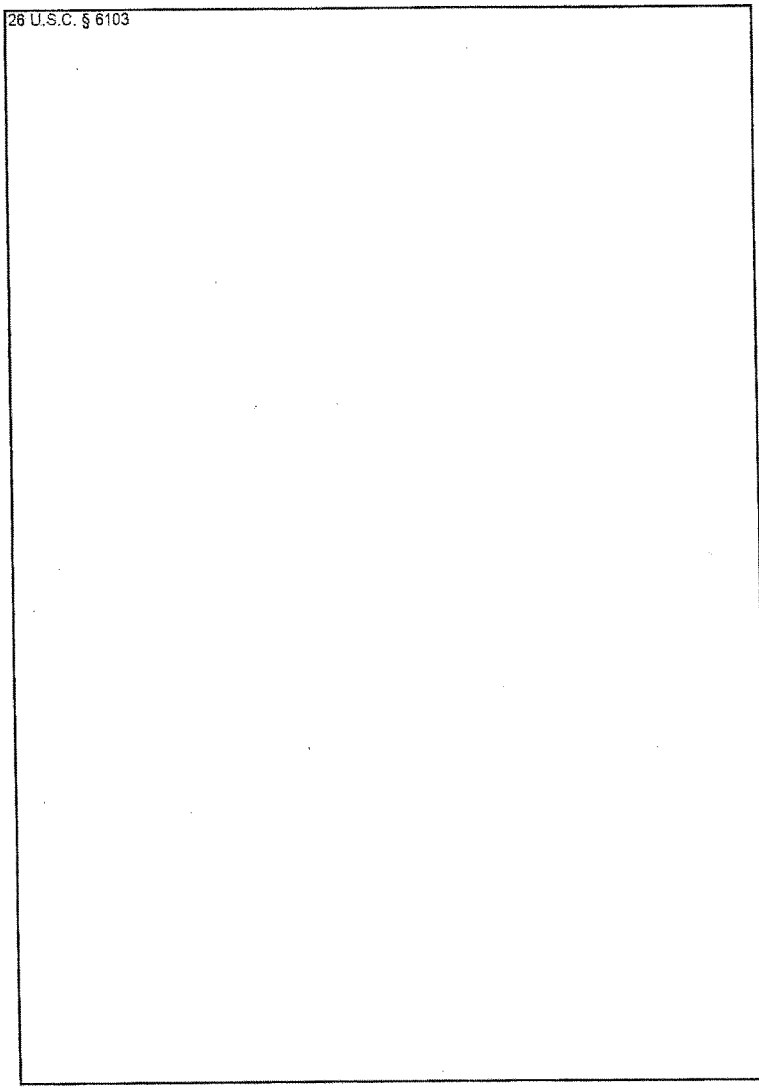
From: Thomas Cindy M
Sent: Monday, February 27, 2012 9:56 PM
To: Bowling Steven F
Subject: RE: Guidance on developing advocacy cases
Importance: High

26 U.S.C. § 6103

A question though: Why are we not issuing development letters? Who instructed folks to stop? The only thing I heard from Holly is that we shouldn't be asking organizations to submit their entire website. Instead, we should be printing pages of concern and send them to the organization with questions that cause us concern.

Please send me a list of the folks who are working the advocacy cases. Also, please let me know if they are working the cases 100% of the time or are requesting other cases be assigned. If you or Stephen don't know, just let me know and I'll have Bonnie ask their managers. Finally, what is the control date of the oldest unassigned case?

26 U.S.C. § 6103


26 U.S.C. § 6103

26 U.S.C. §6103

From: Herr Joseph R
Sent: Monday, February 27, 2012 9:57 AM
To: Seok Stephen D
Subject: Guidance on developing advocacy cases

Stephen,

I have a few items to run by you regarding the advocacy cases.

- 26 U.S.C. § 6103
- Do we have any idea on when we might be able to issue developmental letters again? I have four un-reviewed cases. It does not make sense to review them if we cannot issue letters. If it will be a while, I should request some non-advocacy case to work.
- Regarding developmental questions in general, I am wondering if we should tweak our line of questioning. We are currently asking questions which will answer whether individual actions by the applicants would be considered social welfare or political. That method of questioning does not necessarily answer the question whether social welfare is the primary activity. I am wondering if we should add to the questioning a line of inquiry to see if the organization is proactively monitoring their political activity. We could ask the organizations if they have any policies and procedures to track and monitor the amount of political activity and political expenditure. We could think about drafting some suggested policy and control guidance for them to adopt. This suggestion would need to be elevated, but it could be a way to be a way to approve cases especially if the organization's have not had any past activities.
- 26 U.S.C. § 6103

Thank you,
Joseph

Joseph R. Herr
Revenue Agent Group 7821
Exempt Organizations Determinations
(513) 263-3725
(513) 263-4513 fax

7822	7829	7821	7823	7824	7827
Cincinnati	Cincinnati	Cincinnati	Cincinnati	Cincinnati	Cincinnati
Bowling, Steve	Vicki Lahey	Ken Bibb	Dan Berry	Lynn Brinkley	Angner, Bill

Sank, Stephen (21)	Estes, Janine (2)	Herr, Joseph (35)		Herring, Grant (21)	Steele, Mitch (18)
Bell, Ron (1)					
Perry, Lee			N/A		

7828	7830	7880	7887	7888	QA
Cincinnati	Cincinnati	Baltimore	El Monte	Sacramento/Laguna	Cincinnati
Lewis, Jovonnie	Waddell, Jon	Jefferson-White, Beverly	Shankling, Lonnie	Haley, Phillip	Abner, Donna

Young, Carly (6)	Garuccio, Jodi (3)	Morris, Annetta (6)	Woo, Greg (7)	Marquez, Elizabeth (21)	Hofacre, Liz

PSI-TIGTA-02-000068

EXCERPT

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues
Audit # 201210022

Comment [MCJT1]: Comments from EO Director on timeline of events.
Purpose: To document comments by EO Director on timeline of events.
Source: EO Director

Objective: To interview Exempt Organizations (EO) function management involved in developing the advocacy emerging issue to identify steps taken and develop a timeline of events.

Background: We interviewed EO function officials to understand how applications are processed for organizations seeking tax-exempt status. We learned that there was an increase in the number of organizations applying for Section (§) 501(c)(3) or -501(c)(4) ~~exempt status that were very up-front about political work the organizations would be conducting~~whose applications contained indicators of potentially significant amounts of political campaign intervention.

26 U.S.C. § 6103

It is EO Rulings & Agreements' standard practice with emerging issues (including credit counseling and mortgage foreclosure,) as well as these advocacy organizations) to work some of the applications in EO Technical in order to get a better sense of the issues. EO Technical is then better able to advise EO Determinations on the processing of such cases and determine the most appropriate form of advice, which may range from verbal or written advice on a particular application or case to template development letters, template denial letters, guide sheets, etc. In addition to seeking advice from and coordinating with EO Technical, tThe unusual number of applications with potential political campaign interventionadvocacy by organization seeking § 501(c)(3) or 501(c)(4) ~~exempt status~~ also prompted the EO function to isolate these types of cases as an emerging issue warranting scrutiny by Determinations group to ensure consistent processing~~by a specialized Determinations group~~.

In order to help specialists identify cases involving potentially significant political campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical To assist in this effort, a ~~Be On the Lookout (BOLO) listing was developed, which contained criteria~~ description ~~to aid Revenue Agents in identifying applications submitted by § 501(c)(3), § 501(c)(4), § 501(c)(5), and § 501(c)(6) organizations that should be sent to the specialized Determinations group~~was included on the Be On the Lookout (BOLO) list. To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

1

Date	Event	Additional Details
June 1-2, 2011	Acting Director, Rulings and Agreements, requested criteria used to identify "Tea Party" cases from EO Determinations Manager. EO Determinations Manager requested criteria from Screener Manager.	
June 1-62, 2011	As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to make sure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "Tea Party case" filter (e.g., some had "tea party" in their name but others did not, some stated in their activities that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for the briefing with the EO Director, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine if a case was a "Tea Party case." Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)", the EO Determinations Program Manager asked Screener Manager what criteria were being used to label these cases ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?"). Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Program Manager ("The following are items that could indicate a case to be considered a potential 'tea party' case"). Information forwarded to Acting Director, Rulings and Agreements. ~~Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Manager. Information forwarded to Acting Director, Rulings and Agreements~~	~~This criteria is very different than the Be On The Lookout criteria available at the time.~~

Formatted: Font: Times New Roman, 12 pt

From: Medina Cheryl J TIGTA
Sent: Thursday, June 06, 2013 2:15 PM
To: Medina Cheryl J TIGTA
Subject: FW: Advocacy Cases --- Status Request

-----Original Message-----
From: Thomas Cindy M [mailto:Cindy.M.Thomas@irs.gov]
Sent: Wednesday, September 05, 2012 9:36 PM
To: Medina Cheryl J TIGTA
Cc: Paz Holly O
Subject: Advocacy Cases --- Status Request

-----Original Message-----
From: Thomas Cindy M
Sent: Wednesday, November 17, 2010 7:17 AM
To: Camarillo Sharon L
Cc: Bowling Steven F
Subject: Re: emerging issue cases

Sharon,

Steve's email is accurate. I called Holly a couple of weeks ago and she indicated she was going to check into this matter and would get back with me.

I haven't heard back from her so I will follow up and will get back with you.

Sent using BlackBerry

------Original Message------
From: Sharon Camarillo
To: Steven Bowling
Cc: Cindy M Westcott
Subject: RE: emerging issue cases
Sent: Nov 16, 2010 5:02 PM

Steve, the last communication I have from EOT (Grodnitzky) is that because these TEA PARTY cases are included in an SCR, they will not make any recommendations for closure without coordination with Rob.

Cindy, do you have anything more recent on this issue?

Sharon

From: Bowling Steven F
Sent: Tuesday, November 16, 2010 1:47 PM
To: Camarillo Sharon L
Subject: emerging issue cases
Importance: Low

Sharon,

I the past Chip Hull has requested copies of tea party applications and case development letters from Liz Hofacre and now has requested some development letters from Ron Bell. I know Cindy has contacted Holly Paz about the tea party cases but I don't know or remember if a game plan was established. I believe when this all started the idea was to have EOT take a look at some of these and provide us with a development letter similar to how we handled Credit Counseling cases. I'm not sure how everyone wants to proceed but I think we need to get a handle on this. Ron is getting phone calls on these cases and his typical answer is "the case is under review". I just want to make sure that I'm on the same page.

Thank you,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Medina Cheryl J TIGTA
Sent: Monday, May 20, 2013 11:06 AM
To: Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:05 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 4:42 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Monday, June 06, 2011 10:16 AM
To: Bowling Steven F
Cc: Esrig Bonnie A
Subject: RE: 26 U.S.C. § 6103

Steve,

26 U.S.C. § 6103 Holly sent an email and asked questions about criteria being used to identify cases as "tea party cases." The D.C. office thinks the criteria being used may be resulting in over-inclusion. 26 U.S.C. § 6103
26 U.S.C. § 6103

My response was that we have no problem including or excluding any type of case, as long as they come up with the criteria so we can provide it to the Screening Group. And, it doesn't matter what the cases are called or how they are grouped, EOD still needs guidance to ensure consistency.

A meeting has been set up for 6/29 for EOT to brief Lois on these cases. Holly asked for me to participate. I asked her if she wants me to have you, Ron, and Bonnie participate. If so, I'll forward the information.

Until we hear otherwise, we'll continue working cases as we have been.

From: Bowling Steven F
Sent: Monday, June 06, 2011 9:04 AM
To: Thomas Cindy M

Cc: Esrig Bonnie A; Combs Peggy L; Bell Ronald D
Subject: RE: 26 U.S.C. § 6103

Cindy,

26 U.S.C. § 6103

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Monday, June 06, 2011 8:59 AM
To: Combs Peggy L; Bell Ronald D
Cc: Bowling Steven F; Esrig Bonnie A
Subject: RE: 26 U.S.C. § 6103

Peggy –

26 U.S.C. § 6103

Ron –

26 U.S.C. § 6103

Any questions, please let me know. Thanks.

From: Combs Peggy L
Sent: Monday, June 06, 2011 8:06 AM
To: Thomas Cindy M
Subject: FW: 26 U.S.C. § 610

Cindy,

26 U.S.C. § 6103 Let me know if you would like me to do anything.

Peggy

From: Sabando Cesar A
Sent: Friday, June 03, 2011 4:50 PM
To: Combs Peggy L
Cc: Abramowitz Hyman; Bradley Kenneth W
Subject: 26 U.S.C. § 610

Hi Peggy,

I'm on the Classification Referral Committee along with Hy Abramowitz and Ken Bradley. We are

26 U.S.C. § 6103

Thanks for assistance.

Cesar Sabando
Manager, EO: 7910
Ph. (718) 488-2212
Fx. (718) 488-2358

From: Paz Holly O <Holly.O.Paz@irs.gov>
Sent: Tuesday, July 24, 2012 7:03 AM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Briefing Paper on c3/4 Advocacy Orgs.
Attachments: June 29 C3-4 Advocacy Orgs Briefing Paper.doc

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Friday, April 20, 2012 4:05 PM
To: Marks Nancy J; Urban Joseph J; Malone Robert; Light Sharon P
Subject: FW: Briefing Paper on c3/4 Advocacy Orgs.

From: Lowe Justin
Sent: Monday, June 27, 2011 8:56 AM
To: Paz Holly O
Cc: Seto Michael C; Buller Siri; Hull Carter C; Kastenberg Elizabeth C; Goehausen Hilary
Subject: Briefing Paper on c3/4 Advocacy Orgs.

Holly,

Attached is the briefing paper we plan to use at the meeting with Lois on Wednesday afternoon. Please let us know if you have any questions or would like to meet beforehand.

Thanks,

Justin

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, 26 U.S.C. § 6103
- 26 U.S.C. § 6103
  - 26 U.S.C. § 6103
  -
- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.
- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.
- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.
- Transfer cases to EOT to be worked.
- Include pattern paragraphs on the political intervention restrictions in all favorable letters.
- Refer the organizations that were granted exemption to the ROO for follow-up.

Cautions:

- These cases and issues receive significant media and congressional attention.
- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

From: Seidell Thomas F TIGTA
Sent: Thursday, May 30, 2013 7:49 AM
To: Paterson Troy D TIGTA
Subject: FW: advocacy cases - next steps

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 24, 2012 4:48 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: advocacy cases - next steps

From: Paz Holly O
Sent: Thursday, June 07, 2012 5:01 PM
To: Megosh Andy; Goehausen Hilary; Giuliano Matthew L; Kindell Judith E; Miller Thomas J; Lowe Justin
Cc: Light Sharon P; Fish David L; Seto Michael C; Lerner Lois G; Marks Nancy J
Subject: FW: advocacy cases - next steps

Set forth below is a summary of the bucketing results. This email outlines the next steps to be taken with regard to each bucket.

83 c/3s bucketed:

16 approval
16 limited development
23 general development
28 likely denial

199 c/4s bucketed:

65 approval
48 limited development
56 general development
30 likely denial

Bucket 1:

C4s

Faye and Jodi will make calls to all c4 applicants who were sent development letters but have not yet responded before favorable determination letters are sent using the script already provided. Faye and Jodi will send the favorable c4 determinations using the letter already provided.

C3s

Faye and Jodi will make calls to make calls to all c3 applicants who were sent development letters but have not yet responded before favorable determination letters are sent. The phone script already provided will be modified accordingly by Faye and Jodi. Faye and Jodi will send the favorable c3 determinations. Addendum 1 to the c4 letter will be added to our standard favorable c3 letter. The second addendum to the c4 letter referencing the section of the pub re: political activity is not necessary.

Donor Information

C3s and c4s that provided names of their donors in response to an additional information request from the IRS will be sent a letter (to be sent in a separate email) indicating that the request was made in error and we have destroyed that information. This applies to applicants that provided the information in response to a development request specifically requesting a list of all donors, a development request to detail all sources of revenue or any other additional development request by the IRS. It does not apply to organizations that provided this information in their application. In cases meeting this criteria, this letter must be sent before the favorable determination is sent.

Quality Review

In light of the small number of disagreed cases, Quality will now shift from 100% mandatory review of c4s to reviewing one of every 10 c4 cases in bucket 1. All c3s will be sent to Quality, but this will be reduced to a sampling based on the results of the review. Disagreed cases will be discussed by QA, the individuals who completed the bucketing worksheets and/or reconciliation sheet, and Sharon to reach a mutual decision re: the appropriate action on the case. The Determs bucketer will get the complete file back from Donna so they can discuss with the DC bucketer. If a mutual decision cannot be reached, the case will be elevated to me for decision.

Bucket 2:

Jodi, Faye, Grant, Janine, and Carly will draft the development letters consisting of the questions listed by the bucketers on the bucketing worksheets. Each letter is to be reviewed by Hilary, Matthew or Andy before it is sent based on the following partnering:

Andy -- Faye (all c/3 cases)

Matthew -- Carly and Grant (c/4 cases)

Hilary -- Jodi and Janine (c/4 cases)

Hilary and Matthew should consult with Andy if they have any questions.

Caveat: In light of the size of the files and the time it would take to get another specialist familiar with the files, 26 U.S.C. § 6103

26 U.S.C. § 6103

The DC reviewer will provide any comments or a response indicating no comments within 2 business days. If a response is not received within two business days, the drafter of the development letter should notify Sharon.

If an applicant was previously sent a development letter but has not yet responded, the individual assigned to write the development letter will first call the applicant to direct them to disregard the prior development letter and that a new letter will be coming (modifying phone script provided for bucket 1

cases). The new development letter should also contain such a statement (language can be pulled from first addendum to favorable c4 letter).

The assigned Determinations specialist should email the assigned DC reviewer the development letter. In reviewing the letter, the DC reviewer will look at the application on TEDS , the bucketing worksheets (and reconciliation worksheet, if applicable) and the organization's website (if available).

Quality will review the the cases once a response has been received and the Determinations specialist has reached a decision on the case - just like a regular mandatory review case. Initially, all bucket 2 cases will be sent to Quality, but this will be reduced to a sampling based on the results of the review. I will send a message to the team when we are ready to shift to a sampling review.

Bucket 3:

Same as bucket 2 except the individual assigned the case will have to draft the questions. Bucket 2 cases should be started before bucket 3 cases. Given the number of c3s in this bucket, c3 cases may have to be assigned to more than one person.

Bucket 4:

Cindy will send me the 10 oldest c4 cases. Judy and Justin will draft a development letter for each case. Tom Miller will review the development letter. Judy and Justin will send the development letter to Ron Bell who will assign the case to either Mitch or Joseph -whichever is available at that time. Mitch and Joseph will send the development letters and coordinate with Judy/Justin on reviewing the responses.

Joseph is in the process of determining whether c3s in this bucket could qualify under c4 and, if so, is contacting the applicant to inform them that we do not believe they qualify under c3 but may under c4 and instruct them to submit 1024 if they are interested in pursuing c4 status.

Bucketing Going Forward:

Mitch and Joseph will each review and bucket all new receipts that meet the definition of advocacy case on the BOLO and send their bucketing worksheets to Sharon. Sharon will be involved in any reconciliation discussions needed if Mitch and Joseph place cases in different buckets.

Tracking Going Forward:

Ron Bell will be responsible for tracking the advocacy cases going forward. He will use a spreadsheet that combines the original tracking sheet created by Determinations and the spreadsheet created by Sharon and may modify it to add new columns as cases move through the process. Everyone should notify Ron when a case is sent to their manager for closing.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Chip Hull, EO Technical Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 30, 2012
Time:	1:00 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Hull's manager, Steve Grodnitzky, asked him to become the Cincinnati coordinator, working with Liz Hofacre in Cincinnati on § 501(c)(4) and (c)(3) cases with political activities. Mr. Hull first worked on

26 U.S.C. § 6103

Ms. Hofacre sent copies of additional information letters to Mr. Hull to review prior to issuance. She later began sending copies of the case files as well, so Mr. Hull could determine what questions needed to be asked. Mr. Hull's manager looked at the first few cases with him and decided it wasn't necessary to look at any more. Mr. Hull is the Subject Matter Expert on § 501(c)(4)'s, (c)(5)'s, (c)(6)'s and political organizations. Mr. Hull reviewed around 30 cases for Cincinnati. He also had numerous phone conversations with Ms. Hofacre on cases, usually 4-5 at a time.

Mr. Hull's understanding of the issue was whether organizations were engaged in political activity and whether it was more than 50 percent of their activities. Cincinnati needed to frame the questions to determine the activities and the amount of time on each activity. As far as he knows, no donor information was requested.

Mr. Hull worked with Liz Hofacre for around a year. The volume of cases decreased. Ron Bell took over for Liz Hofacre in Cincinnati. He stopped sending Mr. Hull cases for review and didn't ask for his guidance with the development letters.

Mr. Hull did not have any involvement in the BOLO criteria. He heard his name was on the BOLO as a contact, but never saw the criteria being used. He does not know who developed it. He knew that the cases were being referred to in conversation as Tea Party, but he is bi-partisan. After a meeting with Lois Lerner, EO Director, in June 2011, the cases were referred to as advocacy cases instead of Tea Party.

7/31/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Mike Seto, EO Technical Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 30, 2012

Time: 2:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

In January 2011, Mr. Seto was Acting Director of EO Technical.

26 U.S.C. § 6103

In the Fall of 2011, Determinations asked EO Technical to complete a review of all the advocacy cases. Hilary Gochausen completed the review, with technical assistance from Justin Lowe.

The purpose of the review was whether the organizations qualify as § 501(c)(4), which requires an activities test. It is difficult to determine exemption; includes looking at staffing and resources to determine primary activity.

Mr. Seto first learned of the Tea Party reference in April/May 2011. He had no idea about the BOLO criteria, but learned of it during the June 2011 briefing of the EO Director. He refers to them as advocacy or lobbying cases. He was not involved in the development of the BOLO criteria.

Mr. Seto did not instruct Cincinnati to stop working on cases while the guide sheet was developed. He spoke with Cindy Thomas, Determinations Manager, about the cases, but does not remember how she referred to them.

He is currently reviewing new additional information request letters from the May 2012 bucketing of the cases in Cincinnati.

7/31/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Justin Lowe, EO Guidance Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 30, 2012
Time:	3:00 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

Last summer, around July 2011, the EO Director was briefed. Mr. Lowe wrote the briefing paper. He first learned about the criteria used to identify cases when writing the June 2011 briefing paper for the EO Director. He believes he received the criteria in the briefing paper from Cindy Thomas, Determinations Manager, or maybe Ron Bell, Advocacy Coordinator. (Auditor's Note: Mr. Lowe went back and checked for the email with the criteria, but could not find it.)

26 U.S.C. § 6103 Cincinnati has many cases. He worked on developing the guide sheet for Cincinnati to use when reviewing advocacy cases along with Hilary Goehausen. Judy Kindell also reviewed the draft guide sheet.

In January 2012, Mr. Lowe reviewed development letters and worked on revising the guide sheet. He also worked on responses to Congressional inquiries.

Mr. Lowe understood that the issue involved the identification of more cases related to getting citizens involved in issues/politics. Cases were referred to as Tea Party cases, but some were

26 U.S.C. § 6103 too.

Mr. Lowe never saw the BOLO and was not involved in any of the criteria changes.

Mr. Lowe occasionally helped Hilary Goehausen with the triage of cases performed to determine if any cases could be closed either approved or denied. He would provide advice on how to handle certain issues. He always referred to the cases as advocacy cases and was concerned with (c)(4) activities (general vs. advocacy). Cincinnati referred to cases as Tea Party, but it was just a shorthand for all advocacy cases.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Nan Marks, Technical Advisor, TE/GE Division Commissioner Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 31, 2012
Time:	2:00 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

Nan Marks became a technical advisor to the Division Commissioner in August/September 2011. Prior to this, she worked in the Chief Counsel's Office. The first time she was involved in the advocacy issue was in early March 2012. She was asked to review guidance being prepared for EO Determinations. Ms. Marks knew that the guidance was going back and forth between Counsel and EO Technical, and that they wanted someone else's opinion on it. On March 23, 2012, Ms. Marks participated in a meeting with Steve Miller, Deputy Commissioner, Services and Enforcement, about concerns with the media coverage of the IRS's processing of applications for Tea Party organizations. He wanted to make sure EO Determinations was on track with handling the cases and what delays were occurring. He also was interested in the nature of the questions being asked. At this meeting, they also prepared for Mr. Miller's testimony at an upcoming hearing.

On March 27, 2012, they met again to prepare his testimony. Mr. Miller also asked Ms. Marks to take a look at what was happening in EO Determinations and make some recommendations. Mr. Miller wanted to have an understanding on how applications were processed for his testimony. The focus was to be on § 501(c)(4), (c)(5), and (c)(6) applications, as well as the particular handling of the advocacy applications.

Ms. Marks was authorized to pull resources to review the application process. She tried to review case files using TEDS, but found out that not all the information is available on TEDS, especially open cases. Prior to her visit to Cincinnati in April 2012, Ms. Marks requested copies of all development letters for the advocacy cases be available to review. She asked Judy Kindell and Sharon Light to go through them to determine if certain agents need more scrutiny, had more extensive letters, etc. The review found that one agent, Stephen Seok, had consistently extensive additional request letters. They toyed with the idea of creating a worksheet for the case reviews,

but abandoned the idea. They felt that this could lead to bias/pre-judging of the applicants. They wanted the case files to speak for themselves.

Ms. Marks requested the approximately 230 advocacy cases be pulled for her to review. Although she did not get through them all, she probably reviewed around half the cases during her visit to Cincinnati. She visited EO Determinations in Cincinnati the week of April 23, 2012, along with Holly Paz, Acting Director, Rulings and Agreements, Rob Malone, Tax Law Specialist, Sharon Light, Technical Advisor, EO Director, and Joe Urban, Tax Law Specialist. Ms. Marks wanted fresh eyes to look at the processing of advocacy cases. This is when she first heard about the BOLO. She asked the advocacy team what was working and not working in the processing of the cases. She found that the Specialists were frustrated with the process.

During the Cincinnati meeting in April 2012, everyone sat in a room to review the cases. They found that questions 5 and 15 of the Form 1024 were significant in determining political activity. The bylaws and articles, and the website could also have political emphasis. Based upon their reviews, they determined if the development letter was appropriate. No bias was found in the identification of the advocacy cases. The group does not think the organizations were trying to hide anything; there is just confusion by the applicants and the Specialists on how to complete and review the Form 1024.

Once the group returned to Washington, D.C., they reconvened to do a post-mortem on the cases. They also reviewed the questions asked and identified the ones they felt were not necessary to resolve the cases – remote chance of risk. Stephen Seok had lengthy lists of questions that were exhaustive and repetitive between cases. Ms. Marks discovered that Mr. Seok was previously part of a credit counseling team where the cases were similar, so similar questions were asked. The determinations reviews ended up more like an Exam for the credit counseling cases.

Ms. Marks developed her own timeline of the events of the development of the advocacy issue. (Auditor's Note: she did not develop a document of the timeline. It comes from emails and conversations with various people.) In February 2010, John Shafer, Screener Manager, informed Cindy Thomas, Determinations Manager, that there has been an uptick in cases with (c)(4) political activities.

26 U.S.C. § 6103

Cincinnati completed a TEDS search and found 18 cases with similar issues; 3 were approved, 4 were (c)(3)s, 10 were (c)(4)s, 26 U.S.C. § 6103 The cases were assigned to Liz Hofacre.

26 U.S.C. § 6103

Ms. Hofacre worked other cases as well as the advocacy cases during this time.

Mr. Hull concluded that the cases were not "cookie cutter" and did not think a template would work to process these cases. During the latter part of 2010, Mr. Hull worked with Ms. Hofacre to develop additional question letters for the cases assigned to her. In **October 2010**, Ms. Hofacre transferred to Quality Assurance. All of the advocacy cases under her control were transferred to Ron Bell. **He was told to put them on hold until assistance came from EO Technical on how to process them.** 26 U.S.C. § 6103

26 U.S.C. § 6103

In the Summer of 2011, 26 U.S.C. § 6103 26 U.S.C. § 6103 the inventory in Cincinnati was growing. EO Technical and Counsel decided to develop a guide sheet that covers the broad view of issues by EO. An early draft was sent to Cincinnati in early November 2011 for comment. Mrs. Thomas stated that it didn't look very helpful in its current form.

Cincinnati requested different technical experts to help them with processing the cases. Hilary Goehausen and Justin Lowe were assigned as contacts for the Specialists.

In the Fall 2011, Hilary Goehausen, using information available on the TEDS, reviewed all the identified advocacy cases to provide feedback to Cincinnati with recommendations for processing the cases.

In November 2011, Cincinnati set up a team of GS-13s to review advocacy cases. Stephen Seok was in charge of the team. Mr. Seok provided the team one of his development letters as a guide for the others, but the team did not use it. The team compared notes on the questions asked in the cases and started to develop a template of questions to assist them in case processing. The team sent the "template" to DC for review, but never used it when processing cases.

In January 2012, the advocacy team started reviewing the cases again and development letters were issued to the organizations. There was much media coverage of these development letters, stating that the IRS was using boiler plate letters instead of requesting needed information. Ms. Marks stated that they did not find the use of a "template" for the additional letters when they conducted their review in April 2012.

In March 2012, the media coverage with complaints about the two week time period for responding from the applicants began. Ms. Marks's team found that all requests for extensions of time to reply were granted.

Lois Lerner, EO Director, decided to give all organizations that had not responded to their additional request letters a 60 day extension in March 2012. If they did not reply, the cases would still go into suspense for another 90 days before closing FTE. The Specialists were told to stop working on the cases at this time.

Marks's team again discussed issuing guidance on the advocacy cases. These cases are very much facts and circumstances, so it is difficult to boil it down in a guidance document. In

addition, there is not a lot of published guidance on § 501(c)(4)s, and they didn't want to set a precedent with any guidance developed.

After reviewing the cases, they came up with what they felt was a sense of the problem; Specialists were well intended but confused on the standards to apply to the cases.

- Legislative vs. political advocacy
- What is primarily for the activities standard
- Private benefit threshold

There was fear of making a mistake which prevented them from moving the cases.

Ms. Marks developed options for moving forward. They could transfer all the cases to EO Technical in DC, but there are not enough people to work them and it wouldn't be a long term solution. The other option was to conduct a workshop in Cincinnati for the advocacy team to group and prioritize the inventory of cases. Hopefully, as Cincinnati became more comfortable, DC's involvement would be phased out. She decided on the second option.

To prepare for the workshop, Judy Kindell and Sharon Light reviewed around 70 unassigned advocacy cases on TEDS and put them into 1 of 4 buckets (approval, focused development, full development, and probable denial). They identified cases with certain issues to use during the workshop. Ms. Marks picked a team of experienced DC employees for the bucket review: Sharon Light, Justin Lowe, Judy Kindell, Hilary Goehausen, Matthew Giuliano, and Andy Megosh. During the week of May 14th, EO Technical staff conducted a workshop with the advocacy team, going through sample cases with specific issues and coming up with the questions that needed to be asked. Discussions followed on the appropriateness of the questions. Since these cases are mandatory review, a person from Quality Assurance was also part of the team.

It took around 3 weeks total to review all the advocacy cases and go through the bucketing exercise. Each case was reviewed by two people. A worksheet was developed to capture their reviews. Bucket 1 (approvals) was given to the processing group to issue approval letters. Bucket 2 (focused development) were transferred to the advocacy team to work first. Bucket 4 (denials) were sent to DC for development of a model to use as the denial letter. Once all of Bucket 2 was completed, then Bucket 3 (full development) cases were assigned to the advocacy team.

There seemed to be a lot of taxpayer confusion with the whole application process. Ms. Marks felt they needed better communications with the public. Before the approval letters were issued, they were reviewed by EO Technical and the wording "massaged". The Specialists also went through a role playing exercise on how to deal with the frustration from the applicants when contacting them. Ms. Marks also felt there was a need to send letters to the organizations acknowledging that we did not need the information previously requested.

With the approval letter, a pamphlet is sent on how to stay exempt. The letter refers to certain pages of the pamphlet.

To be able to close certain cases where there were indications of possible political activity, but nothing to prevent approval of tax-exempt status, a ROO referral would be developed for follow-up in the future.

Ms. Marks is not directly involved in the advocacy issue anymore. She does participate in the periodic calls updating Steve Miller on the status of the cases.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 31, 2012
Time:	1:00 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

Ms. Paz went through her role during the development of the advocacy issue.

Beginning in 2010 – Acting Manager, EO Technical
Maternity leave in March 2010 – Steve Grodnitzky, Acting Manager, EO Technical
October 2010 – Manager, EO Technical Manager
January 2011 – Acting Director, Rulings and Agreements – Mike Seto became Acting Manager, EO Technical
Maternity leave in October 2011 – David Fish, Acting Director, Rulings and Agreements
February 2012 – Acting Director, Rulings and Agreements
May 2012 – Director, Rulings and Agreements

In early 2010, Ms. Paz received questions from Cincinnati about a possible emerging issue identified in screening involving political activity related to the Tea Party organizations or affiliated with the Tea Party. She requested 2 cases (1 c3 and 1 c4) be sent to EO Technical for review. 26 U.S.C. § 6103

26 U.S.C. § 6103

26 U.S.C. § 6103

By the Spring of 2011 there was a large increase in the number of cases identified to around 100 cases. This was too much for Chip Hull to handle. The EO Director, Lois Lerner was briefed in

June 2011 on the situation. It was decided that a guide sheet would be developed by EO Technical for Cincinnati to use. This was also when the BOLO criteria was revised. Ms. Paz did not know about the Tea Party criteria being used until she began to prepare for this briefing with Lois Lerner.

Cases were commonly referred to as Tea Party cases in Cincinnati and by Chip Hull. It did not occur to Determinations not to use this "short hand" for the types of cases they were identifying. Other issues have been referred to by particular names in the past. The BOLO was not approved during the development of the advocacy issue. Ms. Paz now approves all wording for the BOLO.

The EO Director receives Sensitive Case Reports monthly. Mr. Hull began preparing a Report for the 26 U.S.C. § 6103 No meetings were held with Ms. Lerner until June 2011.

There was a miscommunication with Determinations about working cases. They were told that EO Technical was developing guidance, but not to stop working the cases. Ms. Paz does not know who decided to stop work on the cases.

In the Fall of 2011, Hilary Goehausen and Justin Lowe went through all the advocacy cases on TEDS because Mrs. Thomas and Ms. Paz thought some of the cases didn't belong and could be closed. Judy Kindell worked with both of them on the cases. However, Cincinnati did not do anything with the results of this review when sent to Mrs. Thomas. Ms. Paz does not know why.

The screeners were told to cast a wide net when reviewing applications. Ms. Paz stated that this is commonly done when new issues are identified. Ron Bell re-screened the cases before being added to the case tracking sheet. The BOLO criteria was rewritten in January 2012 because too many cases that did not meet the criteria for the advocacy team were being transferred over.

In June 2011 Justin Lowe took over for Chip Hull as the coordinator in EO Technical. He could more quickly handle the cases. Mr. Lowe is groomed in political issues.

The identified cases were consolidated in the emerging issues group. This group is responsible for all "issues" that seem to need consistency in review. Liz Hofacre worked all the initial cases starting in 2010. In the Fall 2010, Ms. Hofacre transferred to Quality Assurance. Ron Bell was given responsibility for the cases.

In November-December 2011, Mrs. Thomas decided that a team approach would be better for working the cases. The volume became too much for one person. The advocacy team was selected based upon their experience and grade (GS-13s). Stephen Seok took over as coordinator from Ron Bell because Mr. Bell was also trying to oversee the auto revocation applications and it was just too much for one person to work.

In January 2012, the Advocacy Group Manager, Ron Bell, and Stephen Seok decided that the BOLO criteria was too generic and revised it. This did not come from DC. Ms. Paz found out

about the change in April 2012 and informed Ms. Lerner. Ms. Paz changed the criteria again in May 2012.

The draft guide sheet was begun in July 2011. Counsel helped reviewed the guide sheet beginning in March 2012 and had concerns with it. It did not have any information that is not already stated in published guidance or revenue rulings.

In March 2012, Ms. Lerner approved a one-time letter issued to organizations that had not responded to development letters giving them 60 day extensions. Ms. Paz does not know who came up with this idea. It was considered a fairness issue since Determinations was asking for a larger than usual volume of information. These letters should be in the case files.

Based on the discussions over the guide sheet, training was provided to the advocacy team in Cincinnati. Sample cases were reviewed as a group. There were no handouts or other documentation for this training. The Specialists seemed terrified of making a bad approval.

Other than the May 2012 training, the advocacy team did not receive any other training, and none is planned. The advocacy team members not located in Cincinnati did not receive the training. EO had a virtual CPE in May/June 2011 during which political activity was covered.

Since May 2012, the advocacy team is working with an assigned EO Technical employee on the advocacy cases. All letters are being reviewed by the EO Technical employee, along with the case files. They are trying to ensure that the letters don't ask for too much and are written in plain language. No disagreements to date between Determinations and EO Technical. If there are any problems, Sharon Light will review the case as coordinator of this effort. All the cases are going to Quality Assurance right now. As everyone becomes comfortable with these cases, EO will go back to sampling for quality reviews.

Ms. Paz was not involved in the development of the initial additional information letter requests. Ms. Lerner wants Determinations to be more mindful of what information is needed to make a determination.

EO Determinations received Operational Assistance Requests (OAR)s from the Taxpayer Advocate Office on some of the advocacy cases. Ron Bell dealt with responding to these requests with the status of the cases.

Ms. Paz was not involved in the initial development of the BOLO criteria prior to June 2011. She was not involved in the change made in January 2012, but did write the May 2012 change.

In June 2011, template letters were discussed for working advocacy cases but it never happened.

Ms. Paz discussed Determination's concern with the requested donor information with the Counsel Procedure and Administration Office. They stated that since the information was not relied on to make the determinations, it can be destroyed on sent back to the organization – referred to as expunged. The request for the information was a mistake so it doesn't need to be

in the file. A letter was sent to all organizations that provided donor information at the request of the Specialist notifying them that the information was destroyed.

Many of these organizations hadn't had contact with the IRS on their applications in a long time or hadn't responded to a development letter. So, after the bucketing exercise in May 2012, the organizations that were to receive an approval letter received a call first to explain the situation (script). An addendum to the favorable letter was also added informing them to disregard the development letter. The script and addendum were developed by Ms. Paz, Ms. Lerner, Judy Kindell and Nan Marks.

General questions

EO is currently updating IRM 7.20.1 with current processing procedures for applications. It will include screener guidance, BOLO and OFAC research, and new check sheets.

Ms. Paz first saw the BOLO criteria when preparing for the Lerner briefing. AM Seidell commented that the BOLO criteria in June 2011 was different than what was in the briefing paper, so we were confused on what the screeners were using to identify advocacy cases. Ms. Paz never compared the two criteria and does not know why they are different. The BOLO iterations document we received may be incomplete. We should ask Ron Bell in Cincinnati.

Managers do not review additional information letters prior to issuance. Managers review case files before they are closed. They track case closures. She did not receive the advocacy tracking sheet regularly during the emerging issue development. Since the bucketing of cases in May 2012, Ms. Paz receives a status report on the advocacy cases every two weeks. She does not have access to EDS to monitor the cases herself.

Ms. Paz did not know if organizations applying for § 501(c)(3) status are informed of their right to sue if the application is not closed within 270 days. No organizations included in the advocacy cases have sued the IRS because it missed this standard. In fact, this type of lawsuit if very rare in general.

In September 2011, EO knew the volume of cases was growing and decided to triage the cases in EO Technical to see if any could be closed. Hilary Goehausen performed this triage. After the media attention from the January 2012 letters, Specialists were told to stop working the cases around the end of February 2012. They were to continue working the cases, but no new development letters should be issued. After the bucketing of the cases in May 2012, development letters began to be issued again.

Ms. Paz does not know if calendar days or work days are used in the BPR to compute elapsed days for case inventory. We should ask Cindy Thomas, Determinations Manager.

In hindsight, the EO Director should have been briefed earlier in the development of the advocacy emerging issue. The Determinations Office moves at a faster pace than EO Technical, which was trying to develop guidance for Cincinnati.

In March/April 2012, Steve Miller, Deputy Commissioner, became involved in the advocacy issue. He wanted to know the status of the cases and be briefed for upcoming testimony.

Ms. Paz was involved since the beginning of the emerging issue, but was not involved in discussions to refer to them in a certain way.

Since the bucketing in May 2012, Ron Bell has been using a new tracking sheet to monitor the cases. Not all advocacy cases are included. Some types of cases are reserved for EO Technical to review per the IRM. They may have political advocacy issues. If identified, they should be included on the tracking sheet Ron Bell is controlling in Cincinnati. None have been identified yet.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Steve Grodnitzky, EO Technical Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 9:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

Mr. Grodnitzky has been the group 1 manager for 6 years. He is currently detailed to legislative affairs.

During October/November 2011, the Branch Manager oversaw the cases sent to his group. The Branch Manager and Ron Shoemaker screened the cases referred to EO Technical and if they were advocacy related, not just political advocacy, but all types of advocacy, they would be transferred to Mr. Grodnitzky's group. Mr. Grodnitzky initially reviews all cases into his group and assigns them. If the case was advocacy related, they would be assigned to Hilary Goehausen. He checks the status of all cases, not just advocacy ones, on a regular basis.

Mr. Grodnitzky keeps a Word file with a summary of all the cases for reference. (w/p: Binder 1, pp. 147-150) Every 4 weeks, he contacts the Specialists for an update. Because certain cases are assigned to EO Technical, there may be some advocacy cases not included on the Cincinnati's tracking sheet.

Mr. Grodnitzky's understanding of the issue is that some organizations are advocating specific positions/candidates and a determination needs to be made if the activity is political.

He did not know what the BOLO was and has never seen the BOLO criteria. Cases are transferred from Cincinnati to DC, they are screened and assigned to his group if advocacy.

Mr. Grodnitzky always refer to the cases as advocacy cases. He has no direct interaction with Cincinnati. He became aware of the advocacy issue after the guide sheet was begun, so he is not aware that case reviews stopped. There was no stoppage of cases in DC.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective 1A

MEMO OF CONTACT

Participants:	Sharon Light, Senior Technical Advisor to EO Director Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 31, 2012
Time:	10:00 am
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

Ms. Light began with the IRS in January 2011. The first time she was involved in the advocacy issue was at the June 2011 EO Director briefing. She is aware that guidance was developed but was not involved in it. Nor was she involved in any of the Congressional inquiries.

She became involved after all the media and Congressional attention began in March 2012. She traveled with Nan Marks to Cincinnati in April 2012 and completed a walk-through of the Determinations process. They also went through applications and discussed how to handle the cases.

Ms. Light worked with Hilary Goehausen reviewing cases. This lead to the bucketing of the cases in May 2012. Ms. Light was responsible for coordination of the bucketing exercise. The cases were split up into 4 categories: approval, focused development, full development and probable denial.

Teams of 3 people were set up by Holly Paz to review all the advocacy cases. Two people from each team reviewed each case (blind review): one from Headquarters and one from Cincinnati Determinations. They completed worksheets on each case and sent them to Sharon. If both agreed on the same case, the approvals went to Quality Assurance for review. If the two reviewers disagreed, they would meet to discuss and created a third worksheet. There have been no cases that the two reviewers could not agree on. If they couldn't come to agreement, Ms. Light would make the final decision. This has not happened to date.

The definition of political intervention is a grey area. Most organizations are new to the exempt arena, so the cases are difficult to work. The vast majority of them do not say Tea Party.

She participated in the May 2012 training. There is no documentation. Nan Marks spoke first and then Holly Paz laid out the process established for the bucketing exercise. Judy Kindell discussed § 501(c)(4) issues.

While reviewing the cases it was noted that many have private benefit issues, not political issues. She selected cases with certain issues for the training to gain consensus on how to handle them. Suggestions on how to ask questions were discussed, then the team went through cases and discussed how to handle the issues. The next day, the bucketing of all the advocacy cases began.

The original advocacy team members not located in Cincinnati are no longer working on advocacy cases. They transferred their remaining cases to Cincinnati for assignment.

The first time Ms. Light heard about the BOLO was at the June 2011 EO Director briefing. There was discussion on changing the language in the BOLO at this briefing. In June 2012, private benefit was added to the BOLO definition.

She has always referred to these cases as advocacy cases, but prior to her involvement they were probably referred to as Tea Party cases. People understood that Tea Party referred to a range of issues, not the Tea Party specifically. The screeners used the BOLO, but she did not see any targeting of the Tea Party during her review of cases.

Going forward, the advocacy cases will continue to be bucketed using the 4 buckets set up in May 2012. Ron Bell is tracking the bucketing results and assigning the cases to the advocacy team. Each team member in Cincinnati works with someone in EO Technical on the cases.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Judy Kindell, Technical Advisor to EO Director
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 11:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

26 U.S.C. § 6103

There were discussions on whether cases should stay in Cincinnati or be transferred to DC. There was an attempt to develop guidance by Hilary Goehausen. She asked Ms. Kindell and Sharon Light to review it. They felt it was too lawyerly and not a good roadmap for the Specialists. Cindy Thomas, Determinations Manager, also reviewed it and didn't feel it was useful.

In the Spring 2012, she again reviewed the guide sheet. Counsel had revised it, but it was never finalized. The next thing she hears about is all the media coverage of the development letters issued.

All of the issued advocacy development letters were reviewed by Sharon Light and Ms. Kindell to determine the types of questions that were asked. Each Specialist had his own list of questions that were used.

In May 2012, she participated in the training of the advocacy team and went through bucketing the cases. Each case was reviewed by two people. Quality Assurance looked at all the cases before approval.

The probable denial bucket cases are being worked by Ms. Kindell and Justin Lowe, EO Guidance. They are developing the denial letters, which are being reviewed by Tom Miller, EO

Rulings and Agreements. Once approved, the letters are returned to Cincinnati for issuance. This process will continue in the future.

Ms. Kindell believes the issue is candidate support, which is not a (c)(4) activity, but the organizations can participate in it. The cases involve the political realm and may act for the private benefit of one political party.

Ms. Kindell first learned about the Tea Party BOLO criteria after January 2012 from an email to Lois Lerner from Holly Paz. She is not aware how the cases were identified.

Ms. Kindell does not know who instructed Cincinnati to stop working the cases while guidance was being developed.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Hilary Goehausen, EO Technical Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	July 31, 2012
Time:	3:30 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

In April/May 2011, Ms. Goehausen started reviewing (c)(3) and (c)(4) cases for political activity and lobbying The cases were transferred from Chip Hull as part of her training in the area. She did not provide assistance to Cincinnati at this time.

She was not part of developing the BOLO criteria, although she saw the BOLO mentioned in some case chronologies. She was contacted by Cincinnati with questions on certain issue and whether the organizations were complying with the regulations.

One of the first projects she was tasked with in July/August 2011 was to develop a guide sheet for Cincinnati to process the advocacy cases. She based it on issued guidance and regulations. She completed it in October/November 2011. She was not aware of any stoppage of casework while she was developing the guide sheet.

She never referred to the cases because she was not involved. She had no input to the June 2011 briefing paper. In September 2011, she was asked to help with the development of the advocacy cases. She reviewed the TEDS files and made recommendations for closure or additional questions to ask. She completed this in October 2011.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: John Shafer, Determinations Screener Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012/August 7, 2012

Time: 2:15 pm/2:30 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

John Shafer is the group manager of the screener group. 26 U.S.C. § 6103 Mr. Shafer raised the concern through his manager, Sharon Camarillo (retired). Cindy Thomas, Determinations Manager, elevated it to Holly Paz, Acting EO Technical Manager, in Washington, D.C. This was not the first case with similar political issues, but it is the 26 U.S.C. § 6103 The concern is the application of the law consistently on all similar cases. Mr. Shafer has regular group meetings to ensure consistency in all case reviews.

Jack Koester is a GS 12 Screener. He has been in the screening group for 10 years. The screening group is staffed with all GS 12s and GS 13s volunteers. They can be rotated out if they are not happy with the work. Mr. Shafer can also transfer a non-performer from the group. The work is not assigned by subsection. Mr. Shafer commented that screeners become bored when reviewing the same type of application all the time. The screeners have told him they like switching between application types.

Mr. Shafer was not involved in the TEDS search completed to identify other cases similar to the 26 U.S.C. § 6103

With approximately 80,000 applications received every year, Mr. Shafer cannot review all the screened applications completed by his group. He has three GS 13s that help him review the screened cases.

He does not remember when he first learned about the BOLO criteria. He commented that the BOLO is a convenient way to issue guidance. It is distributed by email by the group in charge of overseeing it. His screeners use the BOLO, as well as their experience, to identify advocacy

cases. Mr. Shafer does not know how his screeners use the BOLO or whether it is the only criteria used for advocacy cases. He believes that the screeners did not use just Tea Party for the criteria. Political activity, whether legislative or candidate related, would make a difference in identifying advocacy cases. Agents would use activities and supporting documents to make a decision.

Screeners use worksheets to identify the issues and where the case should be assigned. The worksheet has boxes to check for the topics needing development, but does not show what group it should go to. Mr. Shafer is not sure what box would be checked for the advocacy cases. AM Seidell asked him to check for us.

Mr. Shafer did not have any concerns on the process for working the advocacy cases. He refers to them as advocacy cases.

At 2:30 pm on August 7th, we again spoke to Mr. Shafer, to ask some additional questions.

AM Seidell first asked about how cases are identified as advocacy are transferred correctly to the advocacy group for review. Mr. Shafer stated that the screeners update the case category in TEDS with advocacy.

AM Seidell then showed Mr. Shafer an email dated June 2, 2011 from him to Cindy Thomas, Determinations Manager, which documents the criteria used by the screeners to identify advocacy cases. (Auditor's Note: This criteria is very different than the criteria on the BOLO.) Mr. Shafer could not remember specifically where it came from. It probably came from his senior agent of 35 years, Gary Muthert. Mr. Shafer is not sure if this criteria was shared with the other screeners. It could have been discussed at his monthly group meetings. AM Seidell requested copies of the meeting minutes from February 2010 through the present.

cjm
8/8/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective 1A

MEMO OF CONTACT

Participants: Liz Hofacre, former Determinations Specialist
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012

Time: 3:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

In April 2010, her group manager, Joseph Herr, was assigned the emerging issues topic. Cases were assigned to Ms. Hofacre from the screeners. The criteria at the time for identifying cases was Tea Party, 9/12, Patriot, etc. Ms. Hofacre knew some screeners were doing word searches of the applications, such as "patriot" to identify the cases.

Ms. Hofacre was also involved in the initial BOLO development in August 2010. She worked with John Waddell (former TAG group manager), to develop the terrorist listing tab of the BOLO. The initial BOLO was reviewed by Steve Bowling, John Waddell, and possibly Cindy Thomas, Determinations Manager. (Auditor's Note: Ms. Hofacre and the emerging issue topic was transferred to a different group in August 2010.) Ms. Hofacre received subsequent changes to the BOLO from her new manager, Steve Bowling. She did not know from whom he received the changes. In October 2010, Ms. Hofacre accepted a position in the Quality Assurance office.

Cases were referred to as Tea Party cases initially, but it changed to advocacy cases. Ms. Hofacre thought they were called Tea Party cases because the majority of the cases involved Tea Party organizations. They were considered high profile cases because there was a lot of media coverage on them. When Ms. Hofacre left for Quality Assurance, there were 40-50 cases.

Ms. Hofacre worked with EO Technical employees Chip Hull and Steve Grodnitzky on the cases. She faxed the case files to Chip. She developed some additional information letters and sent them to Chip for review. He would suggest wording changes and other questions to ask. Ms. Hofacre used some of the suggested questions.

Ms. Hofacre raised concerns with the turn-around time working with Mr. Hull. It took way too long for him to provide feedback to her. Sometimes she waited days or even weeks for a

response. Ms. Hofacre never sent second development letters to the applicants. After the first responses were received, she faxed them to Mr. Hull, but never heard from him again. She worked around 40 cases with Mr. Hull. These were transferred to Ron Bell when Ms. Hofacre transferred to Quality Assurance. Up to 6 months ago, Ms. Hofacre was still receiving phone calls from applicants wanting to know the status of their applications.

Ms. Hofacre was never told to stop working the cases.

Ms. Hofacre was not influenced by anyone outside of the IRS when developing the BOLO criteria used to identify advocacy cases.

ejm
8/8/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Joseph Herr, former Determinations Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012

Time: 4:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

The screeners were identifying cases at the same time the emerging issues group was being developed in 2010. The Determinations Manager decided that she wanted similar cases worked by the same group to ensure consistency. For example, if a group ruling was broken up, all the individual organizations would come in for their own exemption.

Screeners identified a pattern of cases and raised it as an emerging issue. His group triaged the cases. He assigned one employee, Liz Hofacre, to review the cases. Mr. Herr does not remember who decided his group would be responsible for emerging issues.

His understanding of the emerging issue was political activity, education activity, but doing it in a different way. Most lobbying organizations focus on one topic (e.g., environment). These organizations were involved in multiple advocacy issues.

Mr. Herr was not involved in the initial search for additional cases on TEDS once the issue was identified. He was also not involved in any tracking sheet developed for the cases.

Ms. Hofacre triaged the cases: applied an understanding of the law, determined if there were related organizations, researched existing precedent for the issues, and coordinated with EO Technical.

The BOLO gives the screeners the criteria to route cases to a particular group. Ms. Hofacre was responsible for maintaining the BOLO. She worked with Brenda Melahn, retired Area Manager. The BOLO included criteria where if an application was identified as Tea Party, it should be forwarded to Mr. Herr's group.

Mr. Herr does not recall any secondary screening done while he was overseeing the emerging issues. His group worked on a template and guidance for developing Tea Party cases. Around September 2010, the emerging issue topic was transferred to Steve Bowling's group. Ms. Hofacre and the maintenance of the BOLO were transferred to the new group as well. She worked with Chip Hull in EO Technical on the cases. Mr. Herr did not have any input after this.

Mr. Herr was part of a pilot: travelling manager. He had employees at six different posts of duty. The emerging issue was transferred to another group so the cases would be worked in one location.

Mr. Herr did not have any concerns about how the processing of the cases was completed. Determinations needs to get behind why there was an influx of the new type of cases. He did mention that the timeliness of EO Technical's response could have been better, but that is normal. EO is tasked with a lot of work and limited resources.

Cases were referred to as Tea Party cases, but later changed to advocacy. The Tea Party reference was used as an identifier. In tax law, the "party" usually refers to political activity.

Mr. Herr was not influenced in any way be anyone outside of the IRS when developing the criteria used to identify advocacy cases.

cjm
8/8/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective 1A

MEMO OF CONTACT

Participants: Steve Bowling, Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 10:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

Mr. Bowling inherited the maintenance of the BOLO list in late 2010. He receives BOLO updates and forwards them to the coordinator in his group. There have not been too many updates to the emerging issues list. The changes come from upper management.

He was not involved in the BOLO criteria development. The initial cases were transferred to his group, along with Liz Hofacre. The cases were put on hold by upper management while waiting for guidance from EO Technical. When asked who in upper management put a hold on the cases, Mr. Bowling suggested that it was Sharon Camarillo, Area Manager (retired). Mr. Bowling was not sure when work resumed on the cases. Ms. Hofacre transferred to Quality Assurance and Ron Bell became the coordinator in October/November 2010.

Mr. Bowling does not know when the tracking sheet for the advocacy cases was started. It must have been after he left the group. He was not involved in the initial BOLO criteria development. His group made a suggested change to the criteria in the end of 2011/beginning of 2012. The suggestion was forwarded to Cindy Thomas, Determinations Manager, for approval.

Mr. Bowling was not aware of the criteria for identifying advocacy cases in the John Shafer email.

Secondary screening was used to correct the bucketing of cases if it was determined not to be advocacy related. The case could stay in the group if the case related to another topic assigned to it. If not, the case would be put back into general inventory.

The advocacy team got together and developed a list of questions for consistency in the development letters to the advocacy organizations. They also referred to the draft advocacy guide sheet from EO Technical when developing the list of questions.

Mr. Bowling is not aware of the triage completed by EO Technical of all the advocacy cases. He does not know what was done with the results of the review.

In March 2012, the advocacy team was told to hold off on the cases until guidance was received from EO Technical.

Managers do not review development letters. Mr. Bowling reviews all closed cases. For TEDS cases, his review is documented by him updating the status code. This status code change alerts the processing section to issue the closing letter. If the case is worked on paper. Mr. Bowling initials the closing sheet.

Mr. Bowling monitors the age of inventory using a Business Objects report. It lists the group inventory as well as the inventory of individual agents. Each agent tracks his inventory and required follow-ups differently. It depends on his organizational skills. Some use reports from Business Objects, and others would use the TEDS system.

There has been changes in the advocacy group. Mr. Bowling is no longer the group manager. He left in April/May 2012. Ms. Hofacre left for Quality Assurance, and Ron Bell took over as coordinator. Due to the large volume of auto revocation cases Ron Bell was working, the coordinator role was transferred to Stephen Seok.

Advocacy cases are worked by senior agents. No new training was provided.

When the cases were first transferred to his group, they waited for guidance from EO Technical. It took too long to receive this guidance.

Mr. Bowling referred to the cases as advocacy cases, in particular political issues. Very few additional cases were received after the initial transfer from Liz Hofacre. Any cases that were received went to the coordinator, Ron Bell. Mr. Bowling was focused on the thousands of auto revocation cases at the time.

If applying for § 501(c)(3) status, organizations are not notified of the 270 day standard for processing applications in the letters received from EO.

Mr. Bowling was not influenced by anyone outside the IRS when developing BOLO criteria for the advocacy cases.

cjm
8/8/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Ron Bell, Senior Agent
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 11:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

Mr. Bell was promoted in June 2010 and transferred to Group 7822. He was assigned to work the auto revocation applications. In October 2010 Liz Hofacre transferred to Quality Assurance and he took over the advocacy cases. Ms. Hofacre was working with EO Technical in Washington, D.C. on the cases. She told him not to send any more cases to EO Technical. She was waiting for guidance. Mr. Bell believes Ms. Hofacre and Mr. Bowling, group manager, told him not to work the cases when they were transferred to him. He does not remember if it was documented. If it was from Ms. Hofacre, it was verbally communicated. The cases from Ms. Hofacre were sitting in Mr. Bell's inventory. Any new advocacy cases received while waiting for EO Technical guidance were placed in a group dummy number waiting to be assigned to a Specialist.

Customers started calling Mr. Bell asking about the status of their applications. He would say they were under review. In November 2011, EO Technical guidance was received and he started working the cases. Stephen Seok took over as coordinator of the advocacy issue.

Mr. Bell is the "scribe" for the BOLO listing. He receives changes from his manager and updates the listing. He took this duty over from Liz Hofacre after she left. The initial BOLO wording was already established when he received this responsibility. The emerging issue definition has changed a couple of times. There was discussion during a meeting in November/December 2011 with the group manager and Stephen Seok about the verbiage used to describe the advocacy emerging issue. Mr. Seok revised the wording and received approval from the group manager, Steve Bowling. Mr. Bell made the change in January 2012. He believes a BOLO change would need to be approved by the Area Manager. Mr. Bell did not create the BOLO iterations summary document we received. Mr. Bell will provide us with the various iterations of the BOLO file.

Although Mr. Bell had not seen the criteria for identifying the advocacy cases used in the June 2011 briefing, he commented that during secondary screening, he has seen cases with all of the criteria included.

Based upon the July 2011 BOLO criteria, screeners cast a wide net when identifying potential advocacy cases. Mr. Bell was tasked to perform a secondary screening of the cases to ensure they met the criteria for political advocacy in January 2012. Mr. Bowling wanted to get the cases moving. Mr. Bell used the BOLO criteria and completed Internet research to determine if the case was indeed an advocacy case. If he found references to the constitution, patriots or public policy issues, it would be assigned to the advocacy team. The BOLO was the primary criteria used. He did not complete a screening check sheet for this secondary screening. He made an entry in the Case Chronology Record. If the case did not meet the advocacy criteria, Mr. Bell would make a note in the Case Chronology Record and transfer it. In TEDS, the advocacy case category would be selected to transfer a case to the advocacy team (group 7822). On paper, he would write it on the outside of the case file.

Mr. Bell received an advocacy tracking sheet from Liz Hofacre in October 2010. During his secondary screening, Mr. Bell added cases to the tracking sheet if he deemed them acceptable for the advocacy team. He also received some cases from field agents working cases. Since the bucketing exercise in May 2012, Mr. Bell added some columns to the tracking sheet. They include which bucket the case was put into and whether a development letter was issued. Mr. Bell was not involved in the bucketing exercise completed in May 2012.

Mr. Bell was not involved in the development of template questions by the advocacy team. He is not developing advocacy cases. He is only responsible for the secondary screening. He has not had much interaction with Washington, D.C. on the advocacy cases. Mr. Bell did keep asking has group manager, Steve Bowling, about the guidance status from EO Technical. He felt there was a problem coming to an agreement on the questions to ask for these cases.

Mr. Bell had a concern with how long it took to receive guidance from EO Technical. He kept receiving phone calls from applicants wondering about their applications. When Determinations works any group of cases, consistency is always the main concern.

The cases were referred to as Tea Party cases as the emerging issue was developed. This was changed because of the sensitivity of the issue. In the past, the IRS was sued for another group of cases referred to as the 26 U.S.C. § 6103 They need to be careful about targeting groups.

He was not influenced by anyone outside of the IRS when developing criteria for the identification of advocacy cases.

cjm
8/9/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Tyler Chumney, Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 2:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

Mr. Chumney began as acting group 7822 manager in March 2012. He became aware of the advocacy issue in November 2011 as staff assistant to the Determinations Manager, Cindy Thomas. The issue was discussed at meetings, and he took the minutes.

Stephen Seok was coordinator of the advocacy issue and handled the day-to-day activities. He ensured the cases were controlled on the tracking sheet and stored in a locked file cabinet. If Mr. Chumney received any information regarding the advocacy, he would forward it to Mr. Seok.

Ron Bell was performing a secondary screening of the cases. He is a senior GS 13 agent. He looked for political advocacy. If he was unsure, he would ask Mr. Chumney for advice.

Group managers complete a "53 sheet" when reviewing cases for closure that are returned to the agent. It is called this because the case is in status 53 (returned to agent from manager). The sheet should be in the case file. Group managers also complete workload reviews.

Approved cases are transferred to the processing unit to issue the determinations letter and close the case on TEDS. The cases are put into status 37 by the manager. Only group managers or their designees can update a case to status 37 on TEDS. A closing worksheet is prepared by the agent. If the case was worked on paper, the agent completes Form 8670, which is initialed by the manager to document his review.

The BOB-J report from Business Objects is used to monitor the age of cases by the group manager. It breaks down the cases by agent and status. There is also a separate unassigned inventory report. The control date and grade of the case is used to assign the cases to an agent.

Employees from EO Technical came to Cincinnati in May 2012 to train the advocacy team.

Mr. Chumney was involved when the BOLO definition was updated in June 2012. He forwarded it to Ron Bell for updating the BOLO and issuing the change. A change in procedure was received for updating anything on the BOLO. A change needs to be approved by management. Mr. Chumney did not edit the definition. Mr. Chumney was not involved in the January 2012 BOLO definition change.

The May 2012 bucketing of cases was not done by anyone on the advocacy team. They wanted fresh eyes reviewing the cases. Sharon Light, Staff Assistant to EO Director, is overseeing the cases now.

Ron Bell is acting group manager for group 7822. Mr. Chumney returned to his staff assistant position on July 15, 2012. Mr. Bell assigns the cases and maintains the tracking sheet.

The advocacy team is now made up of specialists from other Cincinnati groups only. No one in group 7822 is reviewing advocacy cases.

cjm
8/9/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Cindy Thomas, Determinations Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 3:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

---

Details:

26 U.S.C. § 6103

26 U.S.C. § 6103 Gary Muthert completed a TEDS search to identify additional cases.

Determinations did not receive any feedback from EO Technical for a while. Ms. Thomas followed up every 30 days requesting a status update on guidance.

26 U.S.C. § 6103

Determinations was looking for template questions and letters from EO Technical, like it had received for other issues raised to them. Every case was being worked individually, but Determinations was looking for guidance on how to handle all the cases the same way. Ms. Thomas does not have any written request for EO Technical's assistance with the advocacy cases. There is no formal process to request initial assistance or for following up.

Ms. Thomas does not think the initial BOLO emails are saved anywhere. There was no approval process for the language used in the BOLO. Ms. Hofacre started the BOLO listing because too many emails were being sent to agents with things to look for during a case review. The BOLO consolidated all the information.

The Touch and Go (TAG) Unit had too many cases in its inventory. Ms. Thomas decided to break up the cases and assign them to other groups. The consistency cases (similar cases needed to be worked consistently) were transferred to Joseph Herr's group. These became the emerging issue cases. Ms. Hofacre was transferred from the TAG group to Mr. Herr's group.

Mr. Herr took a detail to EO Examinations, and Ms. Thomas realigned the Determinations groups. In August 2010, the emerging issues cases were transferred to Steve Bowling's group. Ms. Hofacre moved to this group at the same time.

In October 2010, Ms. Hofacre transferred to the Quality Assurance office and Ron Bell took over the advocacy cases. He worked on one case while waiting for guidance from EO Technical. Ms. Thomas does not know who told Mr. Bell to stop working on the cases until guidance was received – possibly EO Technical??

Ms. Thomas was not periodically briefed on the status of the advocacy issue cases. She did follow-up with EO Technical every 30 days to determine the status of the guidance.

EO Technical sent a guide sheet in November 2011. Ms. Thomas set up an advocacy team to review the cases. There were too many for one person to review. One person from almost every Determinations group was selected for the team. This provided each group a subject matter expert on advocacy issues. The team was selected; it was not made up of volunteers.

Ron Bell began completing a secondary screening on the advocacy cases. There was a large volume of cases being assigned to the advocacy group based on the BOLO criteria. However, many were lobbying issues, that did not meet the political advocacy threshold.

Determinations received Operational Assistance Requests from the Taxpayer Advocate Office on some of the advocacy cases. Ms. Thomas requested assistance from EO Technical on how to respond to the requests.

In July 2011, the BOLO criteria was changed after a briefing in June 2011 with the EO Director. EO Technical was involved in the wording change. The advocacy team changed the criteria later. Stephen Seok and Steven Bowling were involved. There was no approval process for changing the BOLO.

We showed Ms. Thomas the criteria email used for developing the June 2011 EO Director briefing. She thought that the screeners came up with this criteria after they identified the advocacy issue and prior to the BOLO issuance. Once the BOLO was issued, the screeners used the BOLO criteria for identifying advocacy cases.

EO Technical's Justin Lowe and Hilary Goehausen performed a triage of all the identified advocacy cases. Ms. Thomas did not think it was very helpful. She was unsure what the comments on the cases meant. They went back and forth a few times revising the comments. EO Technical only reviewed the information available on TEDS, so they did not want to commit to recommending closing a case based upon their review.

In November 2011, EO Technical issued a draft guide sheet to help work the advocacy cases. Ms. Thomas met with group manager Steve Bowling and Stephen Seok to review the triage results and guide sheet to try and figure out what to do with the cases. During this meeting, they discussed the development of an advocacy team to review the cases. Mr. Seok became coordinator of the team in December 2011.

When asked about any concerns about the development of the advocacy issues, Ms. Thomas stated that she should have raised the issue to Rob Choi, former Rulings and Agreements Director, when she was not getting timely assistance from EO Technical.

Determinations should also not have used the term Tea Party to refer to advocacy cases. They did not think about how it would look to outsiders. Tea Party was just used as a shorthand for political advocacy cases. Everyone in Determinations knew what was meant by it – ensure consistency is processing political advocacy cases.

Ms. Thomas was not reviewing suggested changes to the BOLO during this time. Managers would send changes to Steve Bowling, who would have the BOLO updated. If Mr. Bowling disagreed with an update, he would raise it to Ms. Thomas.

Ms. Thomas was not involved in the January 2012 change to the BOLO and did not approve it. Stephen Seok and Steve Bowling developed the change.

Section 501(c)(3) organizations are not informed of the 270 day standard for processing applications. The cycle time of a case begins on the control date (postmark date) and ends when the case is closed. It is a calendar day measurement.

cjm
8/9/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Gary Muthert, Determinations Specialist, Screener
Sharon Light, Technical Advisor, EO Director
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 15, 2012

Time: 2:45 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

[redacted] 26 U.S.C. § 6103 (Binder 1, pp.4-5) John Shafer, Screener Manager, asked Mr. Muthert to complete research of the TEDS system to see if there were any more [redacted] applications or similar entities like the [redacted] Mr. Muthert began his searches around March 1, 2010 and performed queries using various criteria, including Tea Party, Patriots, 9/12, and subsection (c)(4). He arranged the (c)(4) query results alphabetically and selected organizations that could be political based upon their names like [redacted] 26 U.S.C. § 6103 etc. During the first week, he identified 3-4 Tea Party organizations. Some organizations identified were § 501()(3) applications.

26 U.S.C. § 6103

26 U.S.C. § 6103

When Mr. Muthert was acting for John Shafer, he created a spreadsheet of 18 identified organizations on April 5, 2010. (Binder 1, pp. 10-11). He does not have any other documentation of the organizations he identified while researching TEDS. He continued performing searches a few times a week for 30-60 days. Once the Be On The Lookout (BOLO) listing was issued, he stopped completing searches. The BOLO never had the actual criteria used to identify the cases. Tea Party was a shorthand for anything political. He was not involved in the criteria included on the BOLO.

He identified around 30 applications during his searches. The applications were pulled out of general inventory.

AM Seidell asked about the criteria used in the EO Director's briefing paper that John Shafer provided to EO Technical. (PA6.u; Binder 1, pg. 38) Mr. Muthert responded that he probably gave Mr. Shafer the criteria. He sent an email to Mr. Shafer in March 2010 with the criteria he was using for his TEDS searches. Mr. Muthert does not have the email anymore.

Screeners complete a check sheet after reviewing each application. Mr. Muthert referred to it as a 51 sheet. He believes that a check sheet has been used for at least 5 years, and possibly 10 years. It was used prior to TEDS, but the sheet does not match the TEDS system. If the case is on TEDS, Mr. Muthert would select BOLO as the case category. He would assign the case to the correct group on TEDS. If the case is on paper, he would write BOLO on the outside of the case file. He may also select the political issues box on the check sheet and write BOLO next to it.

cjm
8/16/12

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

DAN BURTON, INDIANA
JOHN L. MICA, FLORIDA
TODD RUSSELL PLATTS, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
PATRICK MCHENRY, NORTH CAROLINA
JIM JORDAN, OHIO
JASON CHAFFETZ, UTAH
CONNIE MACK, FLORIDA
TIM WALBERG, MICHIGAN
JAMES LANKFORD, OKLAHOMA
JUSTIN AMASH, MICHIGAN
JAN MARIE BUENKE, NEW YORK
PAUL A. GOSAR, D.D.S., ARIZONA
RAUL R. LABRADOR, IDAHO
PATRICK MEHAN, PENNSYLVANIA
SCOTT DESJARLAIS, M.D., TENNESSEE
JOE WALSH, ILLINOIS
TREY GOWDY, SOUTH CAROLINA
DENNIS A. ROSS, FLORIDA
FRANK C. GUINTA, NEW HAMPSHIRE
BLAKE FARENTHOLD, TEXAS
MIKE KELLY, PENNSYLVANIA

LAWRENCE J. BRADY
STAFF DIRECTOR

ONE HUNDRED TWELFTH 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

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

EDOLPHUS TOWNS, NEW YORK
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
DENNIS J. KUCINICH, OHIO
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
STEPHEN F. LYNCH, MASSACHUSETTS
JIM COOPER, TENNESSEE
GERALD E. CONNOLLY, VIRGINIA
MIKE QUIGLEY, ILLINOIS
DANNY K. DAVIS, ILLINOIS
BRUCE L. BRALEY, IOWA
PETER WELCH, VERMONT
JOHN A. YARMUTH, KENTUCKY
CHRISTOPHER S. MURPHY, CONNECTICUT
JACKIE SPEIER, CALIFORNIA

June 28, 2012

The Honorable J. Russell George
Inspector General for Tax Administration
Treasury Inspector General for Tax Administration
City Center Building
1401 H Street, N.W., Suite 469
Washington, D.C. 20005

Dear Mr. George:

Over the past several months, the Internal Revenue Service (IRS) sent many organizations, operating under tax exempt status, lengthy and detailed questionnaires that many are equating to a campaign of intimidation.[1] While the IRS should provide appropriate scrutiny of organizations applying for tax exempt status, several experts suggest that these recent IRS questionnaires exceed appropriate scrutiny. For example, Marcus Owens, who ran the IRS's exempt organizations department for a decade, called the IRS initiative an "overreach."[2]

Moreover, the IRS must apply the same criteria for all organizations applying for tax exempt status. News reports, however, indicate that the IRS effort lacks balance, with conservative organizations being the target of the IRS's heightened scrutiny. *Roll Call* contacted several liberal groups and reported that none had received the recently-sent questionnaire:

> [A] spokesman for Protect-YourCare, a 501(c)(4) set up to defend the new health care law, said the group has not received any kind of questionnaire from the IRS. Another liberal 501(c)(4) granted tax exempt status in May received only a modest six-part questionnaire.[3]

[1] Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012; Susan Jones, "IRS Accused of 'Intimidation Campaign' Against Tea Party Groups," CNSNews.com, March 7, 2012.
[2] Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," Roll Call, March 8, 2012.
[3] *Id.*

On March 8, 2012, Committee staff and Treasury Inspector General for Tax Administration (TIGTA) staff discussed potential problems with IRS's recent effort to increase scrutiny of organizations operating under 501(c)(4) status. We understand that because of our March meeting, TIGTA is conducting ongoing work to better understand this IRS initiative. We would greatly appreciate if you provided Committee staff periodic updates and a copy of TIGTA's final report on this matter.

Sincerely,

Darrell Issa
Chairman

Jim Jordan
Chairman
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending

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

The Honorable Dennis Kucinich, Ranking Minority Member
Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

July 11, 2012

The Honorable Jim Jordan
Chairman, Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending
Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

Thank you for your letter dated June 28, 2012, regarding concerns with the Internal Revenue Service's (IRS) oversight of organizations applying for tax-exempt status. Your letter specifically mentioned questionnaires that the IRS has issued which may exceed appropriate scrutiny and a potential lack of balance in the use of criteria for reviewing organizations that are applying for tax-exempt status. We appreciate your interest in ensuring that the IRS has processes in place to effectively and fairly administer tax-exempt laws.

As stated in your letter, after our meeting with the Committee staff, our Office of Audit recently began work on this issue. We would be happy to provide a status update to the Subcommittee staff and provide a copy of our interim and final reports on the matter when they are issued.

Please contact me should you have any questions regarding this matter, or have your staff contact Mr. Matthew Sutphen, Counselor to the Inspector General, at (202) 927-7266.

Sincerely,

J. Russell George
Inspector General

Identical letter sent to:

The Honorable Darrell Issa
Chairman, Committee on Oversight
and Government Reform

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL FOR TAX ADMINISTRATION

July 11, 2012

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

Dear Chairman Issa:

Thank you for your letter dated June 28, 2012, regarding concerns with the Internal Revenue Service's (IRS) oversight of organizations applying for tax-exempt status. Your letter specifically mentioned questionnaires that the IRS has issued which may exceed appropriate scrutiny and a potential lack of balance in the use of criteria for reviewing organizations that are applying for tax-exempt status. We appreciate your interest in ensuring that the IRS has processes in place to effectively and fairly administer tax-exempt laws.

As stated in your letter, after our meeting with the Committee staff, our Office of Audit recently began work on this issue. We would be happy to provide a status update to the Subcommittee staff and provide a copy of our interim and final reports on the matter when they are issued.

Please contact me should you have any questions regarding this matter, or have your staff contact Mr. Matthew Sutphen, Counselor to the Inspector General, at (202) 927-7266.

Sincerely,

J. Russell George
Inspector General

Identical letter sent to:

The Honorable Jim Jordan
Chairman, Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending

EO Email Review

16,691 Total Email Messages
5,617 Total Hits in 2,277 Emails/Documents

JOSEPH R. HERR - 3048 Emails

Keywords - Hits
Tea - 910
Patriots - 39
9/12 - 18
(c)(4) - 533

ELIZABETH L. HOFACRE - 3692 Emails

Keywords - Hits
Tea - 857
Patriots - 19
9/12 - 39
(c)(4) - 496

GARY A. MUTHERT - 281

Keywords - Hits
Tea - 323
Patriots - 1
9/12 - 2
(c)(4) - 476

JOHN H. SHAFER - 2593 Emails

Keywords - Hits
Tea - 392
Patriots - 19
9/12 - 16
(c)(4) - 233

CINDY M. THOMAS - 7077 Emails

Keywords - Hits
Tea - 872
Patriots - 6
9/12 - 42
(c)(4) - 324

Determinations Process
Planning

MEMO OF CONTACT

Participants:	Holly Paz, Director, Rulings and Agreements David Fish, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	May 17, 2012
Time:	10:30 am
Subject:	Details about the development of the June 2011 briefing document regarding the advocacy issue

Details:

We received a briefing document on May 16th that was provided to the EO Director as background for a meeting in June 2011 to discuss the emerging advocacy issue. This briefing paper stated that:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved. PA6.u

The specific criteria used to identify these types of cases concerned us because it included direct references to specific organizations and beliefs. As a result, we requested additional information from Ms. Paz. She suggested a meeting.

The briefing was developed by Tax Law Specialists in EO Technical and EO Guidance. Justin Lowe, EO Guidance, was the primary author. It was reviewed by Mike Seto, Acting Manager, EO Technical.

The criteria included in the briefing was developed by the manager of the emerging issues group in Cincinnati assigned to advocacy at the time the issue was identified (Group 7825) along with members from his group. The Be On The Lookout (BOLO) spreadsheet (PA6.v) included this criteria as an emerging issue when EO Determinations officially began using it in August 2010. Prior to the BOLO, emerging issues were communicated through emails. The emerging issue was transferred to Group 7822 in August 2010, and this group is still responsible today.

During the EO Director briefing in June 2011, concerns were raised over the language of the criteria. The Determinations Unit in Cincinnati was asked to revise the wording and the BOLO was updated in July 2011. The updated wording included lobbying, which § 501(c0(4) organizations are allowed to do without any limits. Ms. Paz will provide us a copy of this version of the BOLO. Many applications were being identified for the advocacy issue inappropriately based upon this new criteria. The BOLO was again updated to focus on political advocacy. (Note: Ms. Paz said that they were still unhappy with the wording of the criteria and are trying to improve it).

Initially, all the advocacy cases were worked by one person. In December 2011, a team was set up to review advocacy cases with an agent from each Determinations group. This was done to help spread knowledge of the area to all Determination groups. EO also provided additional contacts in EO Headquarters for the team working advocacy issues. Justin Lowe (Guidance) and Hilary Goehausen (Technical) were to help the team with any issues.

I asked for a breakdown of who were the executives during this whole process.

Holly Paz was Acting EO Technical in February 2010. She went on maternity leave until June 2010, when she resumed the acting position.

Rob Choi was Director, Rulings and Agreements until December 2010 (retired)
Holly Paz was Acting Director, Rulings and Agreements from January 2011 through September 2011.
David Fish was Acting Director, Rulings and Agreements from October 2011 through January 2012.
Holly Paz again acted as Director, Rulings and Agreements beginning in February 2012 until she was given the position permanently.

AM Seidell then turned to our concerns with the nature of the criteria in the briefing paper. Based upon this criteria, it appears the complaints being made in the media by certain groups are valid. In addition, it appears to contradict the testimony of the Commissioner before Congress. Ms. Paz agreed that the initial criteria was not a good way to identify advocacy cases. However, it is common to refer to certain groups by name for identification purposes in Determinations. For example, the "Occupy" and (b)(3):26 U.S.C. 61 groups are listed specifically on the BOLO.

Ms. Paz indicated that even with this criteria, any questionable political activity by an organization would have still been identified by the screeners and forwarded to the advocacy group. They found no evidence of bias in the identification process of advocacy cases. The wording of the criteria was poor, but there was no malice.

AM Seidell explained that we will next discuss this issue with our Director. More than likely, an email will be sent to raise the issue immediately and get it on the table for discussion. We will be asking for more details on the events during the development of the advocacy issue and the BOLO.

cjm
5/2/12

Document: EO Director's responses to 3 questions asked by Director Paterson.
Purpose: To document the responses of the EO Director regarding the criteria for identifying advocacy cases.
Source: Lois Lerner, EO Director

1. To the best of your knowledge, did any individual or organization outside the IRS influence the creation of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

No. To the best of my knowledge, no individual or organization outside the IRS influenced the creation of these criteria.

2. To the best of your knowledge, did IRS or Tax Exempt and Government Entities Division management sanction the use of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

3. When did you become aware the IRS was targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

In early 2010, EO Determinations witnessed an uptick in the number of applications for § 501(c)(3) or 501(c)(4) status that contained indicators of potentially significant amounts of political campaign intervention ("advocacy organizations"). EO Determinations first became of aware of this uptick in

26 U.S.C. § 6103

organizations that had been receiving media attention for purportedly seeking classification as § 501(c)(4) social welfare organizations but operating like § 527 political organizations. He alerted his manager of the potential "emerging issue."

To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email

alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

The first BOLO list contained the following entry on the Emerging Issues tab: "These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4) [sic]." That description was added to the BOLO to help specialists identify cases involving potentially significant political campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical. The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. At this time, the language was not reviewed or approved by executive management.

As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to ensure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for briefing me, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations Program Manager asked the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?"). The manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government

debt and taxes. 5. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run."

As TIGTA's interviews with EO Determinations employees revealed, the BOLO description and the above-referenced list of criteria used by EO Determinations to determine which cases fell under the BOLO description were their shorthand way of referring to the group of advocacy cases rather than targeting any particular group. Applications that did not contain these terms, but that contained indicators of potentially significant political campaign intervention, were also referred to the group assigned to work such cases.

I first became aware that the BOLO referenced "tea party" organizations and EO Determinations was using the above criteria to determine what organizations met that description when I was briefed on these cases on June 29, 2011. I immediately directed that the BOLO be revised to eliminate the reference to "tea party" organizations and refer instead more generally to advocacy organizations. The BOLO was revised on July 11, 2011; the "Issue name" was changed from "Tea Party" to "Advocacy Orgs", and the "Issue Description" was changed to "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."

[redacted]. They were trying to edit the description to avoid capturing these organizations. Per my direction, the BOLO was updated on May 17, 2012. The separate entries for Occupy groups and [redacted] were deleted and the advocacy organization description was revised to read, "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."

At the same time that I directed the BOLO be revised, I also directed the Acting Director of EO Rulings & Agreements to implement procedures for updating the

BOLO that included executive-level approval. On May 17, 2012, the Acting Director of EO Rulings & Agreements issued a memorandum that set forth such procedures, which require that all additions and changes to the BOLO be approved by the manager of the emerging issues coordinator, the EO Determinations Program Manager, and the Director, Rulings & Agreements.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants:	Stephen Seok, Senior Agent Holly Paz, Director, Rulings and Agreements Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	August 7, 2012
Time:	1:00 pm
Subject:	Information on involvement in the advocacy emerging issue for timeline

Details:

In December 2011, Mr. Seok was transferred to Group 7822. The group manager, Steve Bowling, asked him to lead the advocacy team. He performed the following activities as team coordinator:

- Assigning cases to team members
- Holding meetings with the team
- Elevating issues/questions to group manager
- Discussing case development with team members
- Reviewing development letters and providing feedback
- Providing help to team if able; if not forward issue to group manager
- Working own advocacy cases
- Set up a small committee of advocacy team members to develop template questions for development letters

Template questions were developed with the aid of the guidance from EO Technical as well as development of their own questions. Two other advocacy team members and Mr. Seok developed the template questions. Once completed Mr. Seok sent the template questions to Mr. Bowling for review. The questions then were forwarded to Cindy Thomas, Determinations Manager, for review. This occurred in February/March 2012. (W/P Binder 1, pg. 94-107) The team also developed a template development letter and forwarded it to the group manager, but it was never used.

The tracking sheet was already in use when Mr. Seok became coordinator of the advocacy team. It would be populated with new cases after the secondary screening. Mr. Bowling would sign off the case as an approved advocacy case before it was added to the tracking sheet by Mr. Seok. He

would document this secondary screening in the Case Chronology Record. If the case was not an advocacy case, it would be put back into general inventory.

Mr. Seok prepared status reports when he felt it was necessary, or when Mr. Bowling requested one. He had two team meetings during his time as coordinator. He only has meeting minutes for one of them. (w/p Binder 1, pg. 110)

When Mr. Seok took over as coordinator, Mr. Bell had 26 U.S.C. § 6103 The rest of the open cases were begun by Ms. Hofacre. Ms. Hofacre had sent development letters to the applicants. Most of the advocacy inventory was not in development when Mr. Seok took over. They were on hold while Mr. Bell was coordinator. The cases were started to be developed when the EO Technical guidance was received in November 2011.

Mr. Seok does not have any concerns with how the cases were processed. He always referred to the cases as advocacy cases.

He had input to the January 2012 BOLO criteria change. It was discussed during a meeting. The BOLO changes as issues arise during case reviews. Other types of cases may be identified as participating in political activities. For example, it started with Tea Party cases, but eventually included Occupy cases.

As of May 2012, Mr. Seok is no longer working on the advocacy cases.

He was not influenced by anyone outside the IRS when developing the BOLO criteria for identifying advocacy cases.

cjm
8/9/12

MEMORANDUM OF DISCUSSION
Audit # 201210022

DATE: 01/16/2013 **TIME:** 3:15-4:15 PM

SUBJECT/PURPOSE: Overall Concerns with Case Review Results

PRESENT:	Lois Lerner	Exempt Organizations (EO) function Director
	Holly Paz	EO function Rulings and Agreements Director
	Troy Paterson	TIGTA

SOURCE: Teleconference

NOTE: Prior to the meeting, Lois stated that she wanted to have a high-level meeting about case review results prior to her staff and the TIGTA audit team discussing the cases in detail. The following are highlights of the conversation.

- **Lois:** Lois stated she wanted to meet with me personally before meeting on the individual cases we provided to the IRS. Lois said that the EO function does not have a lot of issues with the shorter list that we gave the EO function of cases that did not go to the advocacy group and TIGTA believes should have. However, Lois said the EO function is having issues with the larger list of cases that went to the advocacy group and TIGTA believes should not have gone to the advocacy group. She stated she was not sure how many the EO function has reviewed so far. However, she believed it was around 60. She stated that the EO function only agreed with one case so far. Lois stated that TIGTA seems to be focused solely on what the application explicitly says regarding political campaign intervention. However, Lois stated that the EO function does not think it can look only at what an organization is calling "political campaign intervention". Many of the applications the IRS receives are not prepared by tax professionals and the preparers do not have a lot of experience with what information should be provided and may not understand the definition of "political campaign intervention" versus the definition of "issue advocacy" or what constitutes lobbying. Therefore, Lois stated that the EO function believes it must do due diligence to determine if what is being stated in the application is actually the case. For example, if an organization states that it will be doing a small amount of "political campaign intervention" and a lot of advocacy work. The EO function may look at the advocacy work and determine that it believes that work to be "political campaign intervention". Therefore, the EO function cannot just conduct a cursory review of what is on the application. Instead, it needs to know specifically what an organization is doing or plans to do. **Troy:** I stated that it was my understanding that the criteria were changed in 2011 to include political campaign intervention, lobbying, and advocacy. However, it had to be changed again because too many applications were going to the advocacy group. **Lois:** Lois stated that she wanted to clarify that. New criteria were put into place by National Office in July 2011. Unbeknownst to Lois and Holly, Lois stated the criteria were changed by EO function staff in Cincinnati because they believed the criteria were too broad. Lois stated that was not her view. Lois stated the criteria have since changed and the EO function has put controls in place to ensure it is not changed again without management knowing about it. Lois stated the EO function is focusing on political campaign intervention, but it must review applications closely to ensure that what new organizations are doing or plan to do is actually what it states on the application. In other words, we erred on the side of caution.
- **Lois:** Lois stated that there is often a fine line between what is and is not political campaign intervention. For example, Lois referred to the criteria we used in the case review regarding nonpartisan candidate forums/debates. Organizations may state in the application that they will conduct nonpartisan candidate forums, but we may find out that only party is invited. In that case, it would be political campaign intervention. Lois stated that it really came down to the facts and circumstances of each case. Lois then stated that she and Holly would look at the case review criteria we provided more closely, but upon glancing at the criteria, she had a few concerns. First, she asked where we got the criteria. I responded that the criteria regarding political campaign intervention came from a guide that was prepared by the EO function, which was based on revenue rulings. Second, she wanted to know where we came up with the 35 percent figure. I stated that we needed some figure to guide our case reviews, but that we were aware that no figure is stated in the statute. Lois stated that the EO function could not agree with the 35 percent figure, or any figure for that matter. She stated that the IRS has been vocal in the press that the figure being thrown around about keeping your political activities at 49 percent is wrong. She stated that

the statute only says "primary purpose". It does not define primary purpose as a particular percentage of activity or dollars spent. I stated that TIGTA would not be publishing that figure in the report, but we needed some type of guidepost to help our case reviewers spot something that might potentially involve "significant" political campaign intervention. Lois stated that, again, the EO function might read an application that states that political campaign intervention involved 10 percent of an organization's activities, but would perform its own work to determine if activities the organization was not counting as political campaign intervention should be. Third, Lois asked about the criteria involving future activities. I stated that we had heard recommendations from the EO function that it could send cases to the ROO for future follow-up. Therefore, we were thinking that the IRS could not review something the organization states it "may" do in the future. Lois stated that she disagreed. She stated that most applications are for organizations that are not currently operating. Therefore, if the EO function did not review planned activities, most of its work would go away.

- **Lois:** Lois stated that the determinations unit is the best place to catch things before they go awry. Examinations general happen after acts have already been committed and Lois stated that the IRS doesn't have the resources to be examining all the tax-exempt organizations that are out there. Her view is that the determinations process should be very detailed so the administrative record includes a very specific list of what the IRS agreed the organization can do now and in the future. In the future, if the organization does the opposite of what it said it would do, the EO function can retroactively revoke the organization to the date of the determination. If the administrative record is silent on a particular point, the EO function can only revoke the tax-exempt status of the organization going forward. Unfortunately, sometimes the EO function makes a mistake and states that it is permissible for a tax-exempt organization to do something. When the EO function finds that something was done wrong and the administrative record for the determination states the organization could do a specific activity, we do not penalize the organization. It was the EO function's mistake.
- **Troy:** I stated that I understood the points that Lois and Holly had made and I would need to consider them in light of the results of further discussions on the case review. Then, TIGTA will need to state whether it agrees, partially agrees, or fully disagrees with the IRS's views on our case reviews. **Lois:** Lois stated that she understood the difficulty TIGTA faces because this is one of the more complicated areas that the EO function must administer.
- **Troy:** I then stated I was still concerned that if the criteria is to look at any case that mentions advocacy, lobbying, or politics that most cases (specifically section 501(c)(4) cases) would go to the advocacy group and it would be overwhelmed. **Lois:** Lois stated that she might be overstating the IRS's view a bit. She stated that she believed that when TIGTA and IRS stated discussing specific cases that there would be more to it. For example, she believed that while an organization may specifically state that it was not or would not be conducting political campaign intervention, another part of the organization's package would state that the organization planned to put up election signs on its grounds. That could very well be political campaign intervention. Therefore, she thought that we would see contradictions in the application were a main reason why the EO function was disagreeing with TIGTA's results. **Troy:** I stated that TIGTA would really like to know about these contradictions. TIGTA reviewed more than just check boxes about whether political campaign intervention was occurring and we may have overlooked something. **Lois:** Lois asked Holly to add a column to the spreadsheet results TIGTA had provided with the reasons the IRS did not agree. Lois then asked if TIGTA could meet on Friday. I stated that we could. Therefore, Lois asked that Holly put this information together and get it to us before Friday so that we could use the document to guide the meeting. Lois stated that she would be present for the initial meeting on Friday due to the sensitivity of the issues being discussed. I stated that I would be in attendance also.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Activity
Objective IIIC

MEMO OF CONTACT

Participants:	Holly Paz, Director, Rulings and Agreements Judy Kindell, Senior Technical Advisor Hiliary Goehausen, EO Technical Troy Paterson, Audit Director Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor
Date:	January 25, 2013
Time:	11:30 am
Subject:	EO comments on exception cases

Details:

Ms. Paz stated that they have gone through a "chunk" of cases and wanted to discuss some issues with us. The following is the list of cases discussed and the issues involved.

IIIC Case exceptions that EO does not agree with:

26 U.S.C. § 6103

Ms. Paz then went through a few common issues that they saw during the case reviews completed so far.

- Candidates for office are on the Board of Directors. We may have handled this situation inconsistently with the IIIA review. 26 U.S.C. § 6103
- 501(c)(3) cases have a different threshold for political intervention. 26 U.S.C. § 6103
- 501(c)(3) organizations with a related 501(c)(4) organization – resource sharing agreement. Applications state separate activities, but need to look at the facts and circumstances. 26 U.S.C. § 6103
- Some applications have "code words" that raise a red flag. They include "mobilizing people", "increase accountability of government officials" and "leadership training". When organizations that use these types of vague descriptions are later audited, EO usually finds problems. Ms. Kindell stated that leadership training ends up being candidate training. 26 U.S.C. § 6103
- 26 U.S.C. § 6103

26 U.S.C. § 6103

Director Paterson commented that he thought if the activity was only a possibility in the future, that the bucketing recommended a referral to the ROO. Ms. Kindell agreed. If the case looks ok with only 501(c)(4) activities, but there may be some political intervention in the future, a ROO referral would be prepared. Some organizations are engaged in advocacy that does not violate election law, but may violate tax law. The organizations do not know the difference.

The conversation turned to what is next for this review. EO will send us their comments on the first 60 cases reviewed to date on Monday. We will go through them and select cases to discuss further with EO. AM Seidell and myself will go to DC to meet with EO next Thursday.

Director Paterson mentioned that we are on a tight timeline. TIGTA is supposed to brief the Hill in March, and we would like to provide EO with a draft copy of the report prior to the meeting. Ms. Paz appreciated the opportunity to review the report prior to the briefing.

AM Seidell asked if the criteria being used to review the exceptions is any advocacy. Ms. Paz stated that since there is no percentage test for the level of allowable political intervention, EO needs to look to see if what the organization is calling general advocacy is in fact political intervention. This requires additional information in many cases.

Director Paterson asked if EO agreed with any IIIC exceptions. Ms. Paz responded a couple.

Review of Internal Revenue Service's Process for Reviewing Applications for Tax Exemption by Potential 501(c)(4)-(6) Organizations
Audit # 201210022

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

Memorandum of Discussion

Participants: Cincinnati Submission Processing Center Walkthrough

Holly Paz, Acting Director, Rulings and Agreements (R&A) Office, Exempt Organizations (EO) Function, Tax Exempt and Government Entities (TE/GE) Division
Telephone #: [redacted]
Cindy Thomas, Program Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
Sherry Whitaker, Manager, Submission Processing Programs, Business Systems Planning (BSP), TE/GE Division
Telephone #: [redacted]
Carol McCorkle, Program Manager, Receipt & Control Operations, Cincinnati Submission Processing, Wage and Investment (W&I) Division
Telephone #: [redacted]
Jennifer Jett, Program Analyst, Operations Maintenance & Support, BSP Office, TE/GE Division
Telephone #: [redacted]
Sharon Lasley, Program Analyst, Operations Maintenance & Support, BSP Office, TE/GE Division
Telephone #: [redacted]

EO Determination Unit -- John Weld Peck Federal Building

Holly Paz, Acting Director, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
Cindy Thomas, Program Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
Ron Bell, Internal Revenue Agent, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
Tyler Chumney, Acting Group Manager, Group 7822, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
John Shafer, Group Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]
Nancy Heagney, Internal Revenue Agent, Determinations Unit, R&A Office, EO Function, TE/GE Division
Telephone #: [redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

Treasury Inspector General for Tax Administration

Tom Seidell, Audit Manager, TE/GE / Human Capital Programs, Management Services and Exempt Organizations (MSE) Division
Telephone #: [redacted]
Cheryl Medina, Lead Auditor, TE/GE / Human Capital Programs, MSE Division
Telephone #: [redacted]
Michael McGovern, Auditor, TE/GE / Human Capital Programs, MSE Division
Telephone #: [redacted]

Date: May 1, 2012

Time: 8:30 a.m. to 10:00 a.m. Cincinnati Submission Processing Center
10:30 a.m. to 11:30 a.m. John Weld Peck Federal Building

Locations: Cincinnati Submission Processing Center
John Weld Peck Federal Building (550 Main Street, Cincinnati, OH)

Purpose: To conduct a walkthrough to obtain an understanding of how the EO function's determination process operates when reviewing applications for tax exemption by potential 501(c)(4)-(6) organizations.

Details of Discussion

Note: Our walkthrough began at the Cincinnati Submissions Processing Center (CSPC) where the determination applications are received, and then we returned to the John Weld Peck Federal Building to resume discussions related to the EO Determination Unit's processing activities related to the application packages.

CSPC Walkthrough

At the start of the CSPC walkthrough Ms. Whitaker provided the attendees a folder containing a number of documents to assist with understanding the processing of applications at the CSPC. These documents consisted of:

- A flowchart depicting TEDS front-end processing of EO determination applications.
- The projected and actual receipts and hours for EO determination applications and user fees for Fiscal Years 2011 through 2013.
- The number of EO and EP determination applications received at CSPC for FYs 2009 to 2012.
- An Application Identification Sheet (AIS), which enables the IRS to associate the additional correspondence or documents requested by the IRS with the organization's application case file to facilitate processing of the application.
- Form 8718, User Fee for Exempt Organization Determination Letter Request.
- Copy of blank Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

Ms. Whitaker indicated that the process described below is the same for the processing of both Forms 1023 and 1024.

Guidelines for Processing Determination Applications and User Fees

Internal Revenue Manual (IRM) 3.45.1 contains the procedures for the processing of Employee Plan (EP) and EO determination applications and user fees.

Date Stamping of Determination Application

The postmark and IRS received dates are stamped on the bottom, front page of the determination application after the envelope containing the EO determination application is opened. Also, a Document Locator Number (DLN) is stamped on the determination application as well as Form 8718, User Fee for Exempt Organization Determination Letter Request. Applications are sorted by Form and then by remittance or non-remittance. Any remittances received are attached to the front of the package.

Document Preparation of Application Package

Document preparation entails verifying that all required information is available on the application. All notations/edits recorded during the document preparation phase are denoted in red ink. If any information is missing, research is completed to try and find it. If a payment voucher is not completed, one will be prepared and stamped with "Prepared by IRS" at the bottom.

The Power of Attorney (POA) form is also reviewed during the document preparation phase. If the POA is invalid, then the attorney does not receive any correspondence from the IRS related to the determination application. This POA is not added to the Centralized Authorization File.

Input of Application to LINUS Versus TEDS

IRM 3.45.1 identifies the criteria about whether a determination application package should be input to LINUS or TEDS. For instance, if an application contains an insufficient user fee or an outdated (obsolete) application is used to request a determination for tax-exempt status, then these types of circumstances will result in the application package being input to LINUS; otherwise, the application documents normally will be scanned into TEDS.

If an outdated (obsolete) determination application is received, the CSPC does not have the legal authority to reject the application. In this type of situation, the application is input to LINUS at the CSPC and a notice generated via LINUS. The generated notice is sent to the EO Determination Unit in downtown Cincinnati for mailing. If a new application is submitted to the Determination Unit as a result of the notice, then the application package is sent to the CSPC for initial processing.

CRX is the system used to generate acknowledgement letters for applications that have been input to TEDS.

Input of Determination Application User Fee into LINUS

Each application package is placed in a tub and routed to the EP/EO Determination User Fee Unit for processing of the remittance. Each tub contains about 30 application packages. The user fee, EIN, and organization name is input (data transcription) to LINUS. Form 8718, User Fee for Exempt Organization Determination Letter Request, should be included by the organization with each Form 1024 application. The Form 1023 application includes a payment voucher, so a separate form is not needed.

Scanning of Application into TEDS

After data entry of the applicable payment information into LINUS, the application package is placed in a cart for scanning into TEDS. The application packages awaiting scanning are batched in groups of five, with the earliest receipt date first. A "separator sheet" is used to segregate the various types of documents enclosed in the application package. If unscanable documentation is received with the determination application, such as a hard copy book or disk, then a checksheet is prepared and a note is written indicating the nature of the document that could not be scanned. The checksheet containing the notation is scanned, so that the determination specialist will be aware that the unscanable documentation is available. The separator sheets within each application package are not removed after scanning has been completed. A separator sheet is also placed between the batches when they are in the cart awaiting scanning.

A sign-out sheet is completed before removing a batch from the cart prior to scanning into TEDS. If the applicant establishes that the application merits expedite processing, or there are indications that it is a potential expedite, then it is flagged as an expedite in TEDS.

We were informed that amendments and foundation follow-up cases have not been input to TEDS. These cases are filed at the Federal Records Center.

As the application is being scanned, the employee can view the documents to look for any errors like a crooked image.

Data Completion

About 90 percent of available Form 1023 information is transcribed using the scanned documents displayed on the TEDS screen. This transcription is performed so that applicable information can be posted to the Master File.

If there is a problem with the application during the data completion stage, then the case is systemically sent to a classifier for research. Once resolved, the case is sent back systemically to complete the data transcription process.

In some instances TEDS will flag a document within the application package for a "manual ID" (manual review) because TEDS cannot properly read the scanned document to determine whether all required line items have been completed. For example, if there is a blank page as part of the scanned image, TEDS will flag it for human review. The employee will delete these pages.

Data Verification

A different employee from the one who completed the data transcription will verify the information. During the verification stage manual edit checks are performed for certain data originally transcribed during the Data Completion stage (e.g., DLN, postmark, and IRS received dates). The data verification is performed by manually inputting specific fields (EIN and DLN) to ensure it matches with what the initial transcriber input. This is referred to as a double-blind. Other transcribed fields are visually verified by comparing them to the scanned image of the application. This process is referred to as "double verification."

Processing Timeframes

Data completion and verification, including processing of the determination application payment, should be completed within six workdays. The application payment should be deposited within 72 hours.

Processing of Forms 1023 should be completed within 270 days from the postmark date. This benchmark is a statutory requirement of the Internal Revenue Code. The applicant can take legal action if a determination is not made within this timeframe.

Processing of Requested Supplemental Information

If a determination specialist requests additional information from an organization for an application that has already been input to TEDS, then the requested information should be sent by the organization directly to the CSPC where the documentation will be scanned, assuming the organization properly follows the mailing directions associated with the request for additional information. However, if the organization does not properly follow the mailing directions, but instead sends the requested documentation directly to the EO Determination Unit in Cincinnati, then the determination specialist will prepare an Additional Document Filing (ADF) sheet and send the received documentation to the CSPC for scanning. If one of the EO Determination field offices (e.g., Laguna Niguel) receives the organization's response to the request for additional information, then the additional documentation that is received is not scanned until case closure.

Responses to additional information requests can also be faxed to either the agent or CSPC. If the case is being worked on paper, then the additional information will not be scanned into TEDS.

Agents should print and include an Additional Information Sheet (AIS) with all additional information requests. This will have a barcode on it to help associate the documentation with the original application. Many times, the responder does not include the AIS with the additional information. If so, one will be printed and scanned into TEDS along with the additional documentation.

EO Determination Unit Processing Activities

Screening of EO Determination Applications

Most of the screeners are Grade 12, but there are also 3 Grade 13 screeners. The purpose of the screening process is to determine if the application package is complete to enable a determination about qualification for tax-exempt status. There is a checklist used during the screening process. A copy of the checklist will be provided to us.

On average about 35 percent of daily screened cases are closed on merit (i.e., sufficient information is available to make a determination). About 20 percent of daily screened cases require full development. The remaining 45 percent of daily screened cases consist of Accelerated and Intermediate Processing cases, both of which relate to applications that require research, clarifying minor procedural information, and/or securing missing items needed to make an application substantially complete before approving exemption.

A demonstration was provided using an actual Form 1023 application about how TEDS documents are screened. During this demonstration we were informed that individuals listed in Part V of Form 1023 are researched / queried on the Terrorist Listing during the screening process. Other things checked are the fundraising activities, incorporating date and the BOLO listing of emerging issues. The amount of contributions is also checked to ensure the correct user fee was paid. Under $10,000 in contributions results in a lower fee.

A secondary screening is conducted for certain types of cases, such as credit counseling and emerging issues. Mr. Chumney's group has been assigned responsibility for the screening of auto revocations and emerging issues. A case can be closed on merit during secondary screening.

At the conclusion of secondary screening a chronology entry is added to the Case Chronology Record (CCR) by the screener indicating the actions taken. Also, the case is updated to "74PC" status by the screener, so that the case file is systemically sent to the manager for review if it is ready to close.

As an aside, it was mentioned that non-disclosable documents, such as the CCR, are placed on the left, inside cover of the case file.

BOLO (Be on the Lookout) Spreadsheet

The BOLO spreadsheet, which is used throughout the determination process, is comprised of four worksheets: Watch List, Coordinated Processing, Emerging Issues, and Potential Abusive Transactions. Applications with issues that fall into one of these four categories are considered "specialty type cases." There are currently informal guidelines for the handling of these types of cases. The informal guidelines are in the process of being incorporated into the IRM. When a specialty type case is identified, a referral is sent to the appropriate group that has experience with the particular type of specialty case issue. Further action is suspended on the determination application until a response is received about how to proceed from the group that was referred the specialty case. A referral form is being developed.

Full Case Development Process

TEDS/EDS Status Code 51 denotes an unassigned case requiring full development; whereas, TEDS/EDS Status Code 52 denotes an assigned case requiring full development.

We were provided a handout of an actual Form 1024 application, including EO Letter 1312 (a.k.a., development letter for EO applications) that requested additional information from the organization to make a determination about the application for tax exempt status. Mr. Bell discussed his rationale (basis) for requesting each of the additional information items requested in Letter 1312. This discussion was very insightful and allowed us to clearly understand the basis for requesting each additional item of information from the applicant as a result of statements in the application that conflicted with researched information posted on the organization's website.

Audit Manager Seidell asked why it would be necessary for a determination specialist to request the names of an organization's contributors (several 501(c))(4) Tea Party organizations have indicated that the IRS is requesting contributor names as part of the determination process). Mr. Shafer responded that if an organization is receiving substantial funds from a candidate or Section 527 political organization, it could be an indicator that the organization is not meeting its primary operational purpose, adding that it "boils down to facts and circumstances in each case." The requirements of any grants received could also affect the determination decision. Mr. Shafer commented that an organization could expend most of its funds on political activities and still qualify as a (c)(4), adding that the political activities test is not limited to the dollars expended, but also includes an assessment of the nature of the organization's activities.

Future Year Follow-Up by Review of Operations (ROO)

Some approved determination applications are sent to the ROO function for future year follow-up to ensure that the organization is complying with its exempt purpose if there are some indicators / issues that the determination specialist deems warrant monitoring (follow-up) in future years once the organization has been operating for a reasonable period of time.

Preparer: Mike McGovern 05/03/2012

** AUDIT LOG
Purpose – Capture Key Events **

[redacted] = Redacted by the Permanent Subcommittee on Investigations

TIGTA OA: Process for Reviewing Applications for Tax Exemption
Audit Code: 2012-10-022

Date	Initials	Description
3/29/12	CJM	Director Paterson issued the following email to Legislative Affairs informing them of our audit: Joel, This e-mail is to inform you of an audit we plan to conduct of the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations, which will be included in our Fiscal Year 2013 Annual Audit Plan. Currently, we do not have an associated audit number. Once we receive a number, I will provide it to you. To develop an understanding of the controls in the area, we will be conducting a limited amount of planning to develop the appropriate scope for this audit. We will follow the established process of coordinating interviews and requests through the appropriate points of contact within the Tax Exempt and Government Entities Division's Exempt Organizations function. Once we have completed our planning, we will prepare and issue an engagement letter. If you have any questions or comments, please feel free to contact me or the research team mentioned below. Troy Paterson Audit Director Phone: [redacted] e-mail: troy.paterson@tigta.treas.gov Tom Seidell Audit Manager Phone: [redacted] e-mail: thomas.seidell@tigta.treas.gov Cheryl Medina Lead Auditor Phone: [redacted] e-mail: cheryl.medina@tigta.treas.gov
4/30-5/2/12	CJM	AM Seidell and Auditors McGovern and Medina visited Cincinnati, OH for a walkthrough of the application process and to obtain information on the availability of data. PA1.a PA1.c PA1.l
5/3/12	CJM	Requested data from TEDS and EDS to assist in planning: Hi Cindy, We would like to request some data from both the TEDS and EDS systems.

Date	Author	Description
		We will refine are requests later; but for now we would like to familiarize ourselves with what is available using the criteria below. All the requested fields may not be available on one or both systems. From TEDS – four Excel spreadsheets -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) open cases, broken out by status code. -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) closed cases beginning July 1, 2010 through the present, broken out by status code. -We would like a detailed listing of open Section 501(c)(4) cases with the following fields: TEDS Case Number EDS Case Number EIN Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Group Number -We would also like a detailed listing of Section 501(c)(4) cases closed beginning July 1, 2010 through the present using the same fields listed above. We realize that not all cases are worked through completion in TEDS, but our understanding is that almost all cases are initially scanned into TEDS, so the volumes should be accurate, even if the status' are not up to date. We are also requesting similar data from EDS. -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) open cases, broken out by status code. -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) closed cases beginning July 1, 2010 through the present, broken out by status code. -We would like a detailed listing of open Section 501(c)(4) cases with the following fields: TEDS Case Number EDS Case Number EIN Case Type "I" - Initial Subsection "04"

Date	Author	Description
		Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Group Number -We would also like a detailed listing of Section 501(c)(4) cases closed beginning July 1, 2010 through the present using the same fields listed above. If any part of this request is not possible due to system limitations, please let me know. If at all possible, we really would appreciate receiving this data in the next week, to help us focus our review. If you have any questions, please feel free to contact me or Tom. Thanks for your help. Cheryl Medina
5/8/12	CJM	Team meeting held by AM Seidell to discuss results of Cincinnati trip with new team member Evan Close. Went through Congressional concerns and developed areas for possible audit. Areas include selection bias, whether questions are reasonable, timeliness (standards), time for processing cases overall, and consistency of what was requested between types of organizations.
5/14/12	CJM	Sent the following email to Holly Paz, Director, R&A requesting EO responses to Congressional requests: Hi Holly, We would like to request the responses to other recent Congressional requests related to Exempt Organizations. We have identified the following requests: October 6, 2011, House Ways and Means, Charles Boustany March 1, 2012, House Ways and Means, Charles Boustany (follow-up to October 6, 2011 request) February 16, 2012, Senate March 14, 2012, Senate In addition, the response you provided to us for the Representative Issa request stated that a supplemental response was still being prepared. Once this is completed, we are also requesting a copy of this response. Thanks for your help with this. Cheryl Medina
5/15/12	CJM	Director Paterson held a team planning meeting in Stoneham to discuss the focus of this review. Initially, we went through the processing of applications based upon our visit to Cincinnati. We discussed what our scope for the audit should be based upon

Date	Author	Description
		the information received. We decided to focus just on § 501(c)(4) organizations based upon the fact that only (c)(4) organizations have been identified as advocacy cases and that all the media attention has focused on (c)(4) organizations. Director Paterson is concerned with the timeliness of the advocacy cases. Some go back to 2009 and still are not closed. We may have to interview agents and managers to determine if there are any obstacles in the process. We then discussed the scope of the audit. Director Paterson sees us issuing an interim report and then a final report. We can split up the audit work into two parts: first sample for selection bias of advocacy cases by determining if all the identified advocacy cases should have been included and a second sample of cases not identified as advocacy and determine if they should have been included. The second part of the review would determine if the advocacy cases are predominantly of one political affiliation, whether the same questions are asked and whether they are appropriate. We would limit the review of questions to requests made after the draft guidance was issued in December 2011. We will probably be taking statistical samples of the non-advocacy cases and review 100% of the advocacy cases. We will use the same data for both parts of the review (interim and final). We will also document the process used to develop the advocacy emerging issue. The only outcomes we see now would be related to taxpayer burden.
5/15/12	CJM	Sent the following email to Holly Paz and Cindy Thomas: Holly/Cindy, I am just checking on the status of the remaining items we requested during our visit to Cincinnati. According to my records, we are still waiting for the following: - Sensitive Case Report for the review of cases by DC - Quality standards from TEQMS - EO Director briefing from June 2011 - Sample of cases to begin familiarizing ourselves with the Determinations process When do you think we will be getting this additional information?
5/16/12	CJM	Received a briefing paper from Holly Paz, Director R&A, for a meeting with Lois Lerner, Director, EO. PA6.u I raised concerns with AM Seidell on the criteria listed for identifying advocacy cases (bullet #2). He discussed it with Director Paterson and it was decided to send the following email to Holly Paz requesting some additional details: Hi Holly, We have a couple of questions on this briefing paper. - Who developed this briefing paper (where did it come from)? - How was the criteria used by screeners (bullet #2) developed? Who made this decision? - What decisions were made as a result of the briefing paper/meeting and were they

Date	Author	Description
		documented? If so, please provide the documentation. (e.g., meeting minutes, memo to file, etc.) Any more details on how this briefing was developed and what resulted from it would be greatly appreciated. Thanks. Cheryl
5/17/12	CJM	AM Seidell and myself had a conference call with Holly Paz and David Fish, Rulings and Agreements, to discuss the briefing paper and our concerns with the criteria used to identify advocacy cases. PA6.u PA2.i
5/17/12	CJM	AM Seidell discussed our concern with the criteria used to identify advocacy cases with Director Paterson. PA6.u PA6.v The documentation received from the IRS indicates that Tea Party groups were being targeted. Director Paterson will discuss issue with Acting AIGA, Martin, to determine what we do with the information.
5/18/12	CJM	Director Paterson discussed issue with Acting AIGA Martin. Decided that we should prepare an IRS Commissioner briefing on the issue, but not anything for public dissemination. PA2.m Briefing paper forwarded to Acting AIGA Martin.
5/21/12	CJM	AM Seidell sent the following email to Holly Paz, Director, Rulings and Agreements: Holly, I informed my Director (Troy Paterson) about the c3/c4 advocacy briefing paper and our discussion on Thursday. He will be briefing the Inspector General and told me he will contact Joseph Grant and Lois to let them know. Thanks Tom
5/22/12	CJM	Director Paterson held a conference call with Lois Lerner, EO Director, to discuss our concern with the criteria used to identify advocacy cases. PA2.n
5/23/12	CJM	Director Paterson sent the following email to Legislative Affairs: Joel, As promised, we now have an audit number for our research into the IRS's process for reviewing application for tax exemption by potential 501(c)(4)-(6) organizations. The audit number is 201210022. If you have any questions, please let me know. Troy Paterson Audit Director Phone: 404-338-7476

Date	Author	Description
5/24/12	CJM	I sent the following email to Holly Paz, Director R&A regarding outstanding documentation: Hi Holly, I was just going through my list of requested documentation, and saw that there are a couple of outstanding items. We have not received the Sensitive Case Report for the cases reviewed by Headquarters. We also have not received the responses to the Congressional requests, but I believe you said Legislative Affairs would be providing them to us. Is there a contact for these responses? Thanks
5/24/12	CJM	Holly Paz response: Cheryl, Legislative Affairs actually sent me the responses to the Congressional requests yesterday. I tried to forward them on to you earlier this morning but it bounced back saying the file size is too big. I am going to break them up into separate emails and send on to you in a moment. Same for Sensitive Case Reports. Holly
5/29/12	CJM	Discussed statistical sample computations with AM Seidell. Since we already have concerns with the identification of advocacy cases being biased, we decided to use a high error rate in our sample computations. We will compute our samples using a 90 percent confidence level, 50 percent error rate, and 5 percent precision rate. We will also use May 31, 2012 as the cut-off date for obtaining the data to select our samples from. In addition, we will review 100 percent of the identified advocacy cases for bias and appropriateness of questions.
6/1/12	CJM	Director Paterson held WebEx Meeting to discuss draft audit plan with AM Seidell and myself. Went through the objectives and revised as deemed necessary. Discussed statistical samples – decided that we only need to look at closed merit/accelerated/intermediate processed cases. All cases with political issues are supposed to be sent to full development by the screeners, so open merit cases should not involve political activity. It was decided that we only need to use a 10 percent error rate for these cases. We will still use a 50 percent error rate for the full development sample.
6/1/12	CJM	Sent the following email to Cindy Thomas, Determinations Manager, requesting updated Determination case information: Cindy, We would like to request an updated copy of the advocacy case tracking sheet used by the advocacy team. If possible, we are requesting the information through May 31, 2012.

Date	Author	Description
		Also, we would like an updated listing of open and closed Section 501(c)(4) cases from EDS. The following is the criteria for this request: -We would like a spreadsheet with all Case Type "I" Section 501(c)(4) closed cases beginning May 1, 2010 through May 31, 2012. -We would also like a detailed listing of Case Type "I" Section 501(c)(4) open cases. Both listings should include the following fields: TEDS Case Number EDS Case Number EIN Organization Name Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Employee Name Group Number Employee Post of Duty (if possible) [redacted] = Redacted by the Permanent Subcommittee on Investigations If you have any questions, feel free to contact me or Tom Seidell. I will be out of the office next Monday and Tuesday. Thanks for your help. Cheryl Medina Treasury Inspector General for Tax Administration Phone [redacted] Fax # 781-279-0336
6/11/12	CJM	Discussed case reviews with AM Seidell. We agreed that we will need a case analysis document for our review of advocacy cases to document our decision on whether questions were necessary to make a determination.
6/13/12	CJM	Acting AIGA Martin held meeting to discuss draft audit plan. He wants to avoid the word bias and instead use inconsistency. He also wants to make the issue of timeliness more prominent by making it a separate objective and ensure we determine who knew what when and who made the decisions on the criteria changes throughout the emerging issue development. He would also like us to include the § 501(c)(3) cases that were identified as advocacy in our case reviews, so we will complete a 100 percent review of identified advocacy cases.. He requested more background be added to the audit plan to explain the Determinations process.
6/14/12	CJM	Sent the following email to Holly Paz, Director, Rulings and Agreements, and received a response:

Date	Author	Description
		From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Thursday, June 14, 2012 2:34 PM **To:** Paz Holly O **Subject:** TIGTA Follow-up Question Hi Holly, I need to confirm something with you. Are the screeners only identifying advocacy cases related to political campaign intervention for the advocacy team? So, the advocacy team is not looking at lobbying or general advocacy cases; only political advocacy? Thanks. Cheryl Medina Response: That is correct. The screeners are looking for cases with indicators of significant amounts of political campaign intervention, not lobbying or issue advocacy. 501(c)(4)s can engage in an unlimited amount of lobbying germane to their exempt purpose. 501(c)(3)s can also engage in a certain amount of lobbying. In contrast, political campaign intervention cannot be a 501(c)(4) organization's primary activity and 501(c)(3)s are prohibited from engaging in campaign intervention. Thus, the advocacy team is focused on campaign intervention, not lobbying.
6/14/12	CJM	Sent the following email to Holly Paz, Director, Rulings and Agreements and received an initial response: We will check and get back to you ASAP. --- **From:** Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Thursday, June 14, 2012 3:09 PM **To:** Paz Holly O **Subject:** Verification of EDS Information Holly, We are unable to find four cases from the advocacy tracking sheet that are listed as 501(c)(4)s on the EDS data you provided us. We are hoping you can provide us with confirmation that the applications are controlled on the EDS. The cases do have EDS #'s so we are trying to determine why they are not on our EDS extract of 501(c)(4) applications. 26 U.S.C. § 6103

WP #_____

Date	Author	Description
		Thanks for your help. Received response: PALs
6/20/12	CJM	Due to a timing difference between the scope of the EDS data we requested and the actual extract date, 26 U.S.C. § 6103 We requested additional EDS data to ensure we received all applicable cases that were open as of May 31, 2012: Holly/Cindy, We would like to request some additional EDS data. This request includes closed 501(c)(4) Initial requests that were closed June 1st through June 5th. The data should include the same fields as our initial request. TEDS Case Number EDS Case Number EIN Organization Name Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Employee Name Group Number Employee Post of Duty (if possible) Thanks for your help.
6/20/12	CJM	Discussed which types of cases to include in our EDS universe for Objective IIIA with AM Seidell. Went through the status codes to determine which cases to include. AM decided on the following for the open cases: 51 (unassigned), 52 (assigned), 55 (waiting for closing approval), 53 (manager returned to specialist), 37 (group suspense – could include FTE cases that would be full development), 74 (awaiting managerial review (TEDS)), 58 (in transit), 31 (in review), 75 (group inventory), 57 (TEDS awaiting closure on EDS) and 32 (returned on review memo). The following are the status codes for the closed cases: 26 U.S.C. § 6103 11 (FTE) and 4 (withdrawn). Also received additional EDS data requested for June 1-5, 2012. Three cases appear to be full development cases 26 U.S.C. § 6103 and 26 U.S.C. § 6103 that were not on our original EDS data extract. The other status codes refer to merit closures (6 and 9) or returned incomplete (3). 26 U.S.C. § 6103 26 U.S.C. § 6103 Since we are not looking at

Date	Author	Description
		open merit cases and incomplete applications would not have been sent for full development, we do not need to include them in our universe.
6/22/12	CJM	Audit Plan approved. EA2.c Discussed with Director Paterson the possibility of requesting the merit closed case sample now before the engagement letter is issued. He does not have a problem with it. He suggested we put in the request that we have the facilities to ensure the data is protected.
6/22/12	CJM	Requested the merit closed sample cases from Cindy Thomas, Determinations Manager. C3.3 Received the following reply from Ms. Thomas: Cheryl, I'm checking with my Processing Section to see whether they have any concerns with this. I'll get back with you early next week to let you know if they have any concerns and to let you know when you can expect to start receiving the cases.
6/26/12	CJM	Received response from Cindy Thomas, Determinations Manager, regarding shipping the closed cases directly to us: Cheryl, For control purposes, the Processing Section prefers to request the cases be sent back to us and they'll forward the cases to you. They'll start requesting the cases right away and you should expect to start receiving some by next week.
6/26/12	CJM	AM Seidell sent the following response to Cindy Thomas, Determinations Manager, regarding receipt of closed cases: Cindy, I understand the Processing Section's desire to control the cases, but in this instance I think the cases should be sent directly to us without going through the Determinations Unit. As you are aware, outside organizations have made allegations that the IRS targeted specific organizations and treated them unfairly. Due to the seriousness of these allegations and the definition used in the BOLO spreadsheet identifying specific organizations and issues they raise, I think the cases should be sent directly to us from the Federal Records Center. Tom Thomas F. Seidell Audit Manager TIGTA Phone: [redacted] [redacted] = Redacted by the Permanent Subcommittee on Investigations
6/26/12	CJM	AM Seidell sent the following email to Lois Lerner, EO Director, to schedule an opening conference:

Date	Author	Description
		Lois/Dawn, I'd like to schedule the opening conference for the subject audit. Our schedules are pretty open, so if you can get back to me with some dates/times I'd appreciate it. Thanks Tom
6/26/12	CJM	Director Paterson spoke with Lois Lerner, EO Director, regarding our request for the closed cases being shipped directly to us from the Federal Records Center. She completely understands our position, but there may be an issue. If a FOIA request comes in, EO needs access to the cases. Also, Congressional committees that are involved in tax writing can request IRS files without § 6103 restrictions. She plans to speak with Joseph Grant, Acting Director, TEGE. Ms. Lerner later called Director Paterson again and told him that Dave Camp, Chairman House Ways and Means, has made a request for all closed determination cases, and the Determinations Office is currently making copies to fulfill this request.
6/27/12	CJM	AM Seidell held a team meeting to discuss the status of the review and assign objectives. Auditor Close will be working with us until October when he will begin the Fair Tax review. Objectives I and II will be assigned to me. Objective IIIA is assigned to Auditor McGovern; Objectives IIIC, IIID and the overall objective III summary are assigned to Auditor Close, and Objective IIIB is TBD, depending on when Objectives IIIA and IIIC are completed. We plan to issue an interim report after the completion of Objectives I-III. Objective IVA is assigned to me (501(c)(3) cases) and Auditor McGovern (501(c)(4) cases). Auditor McGovern will complete the overall objective summary. Once we begin receiving case files, we will get together and go through a few so everyone is on the same page.
6/27/12	CJM	Discussed scope period for case reviews with AM Seidell. Advocacy listing is through June 5, 2012 instead of the requested May 31, 2012. However, 26 U.S.C. § 6103 We will then decide to include them or not in our review.
6/28/12	CJM	AM Seidell spoke with Holly Paz, Director Rulings and Agreements, to obtain more details on Rep. Camp's request for applications. He requested all § 501(c)(4) applications received in 2010 and 2011. Ms. Paz stated that this included around 4,440 applications. The Determinations Office has been photocopying for about a week now. (Auditor's Note: Many of our requested cases are included in Rep. Camp's request. This may delay us receiving cases. We can no longer receive the cases directly from the Federal Records Center, and will most likely have to copy the closed cases upfront instead of receiving the originals. In addition, if the Determinations Office is using its photocopying machines to fulfill Rep. Camp's request, then we will not be able to use them, further slowing the process for us.)

Date	Author	Description
6/28/12	CJM	Director Paterson held his third quarter meeting with EO Director Lois Lerner. Holly Paz, Director Rulings and Agreements, was also present. Discussed current situation with obtaining case files. PAZ.r
7/2/12	CJM	AM Seidell and Director Paterson had teleconference with Holly Paz and Cindy Thomas, Rulings and Agreements, to discuss how we will get copies of our sampled cases. We previously sent them the listing of merit closed cases. They said 40 of them are in Cincinnati and they will make copies for us. Another 65 cases are either at the Federal Records Center or at the Processing Center. They cannot locate 15 of them right now, but are still looking. We will send them the rest of our sample case listings, but they will focus on locating and copying the closed ones first. They will make copies of all the cases and ship them to us, around 28 cases per box, so we do not need to go to Cincinnati. I will send the rest of the sampled case listings to them. AM Seidell would like Auditor Close to come up to Stoneham on July 16-17, so we can begin going through the cases together and determine how we will review them.
7/2/12	CJM	Sent the following email requesting the rest of our sampled cases: Cindy/Holly, Based upon your teleconference this morning with Tom and Troy, I am sending you the attached listings of sampled case we need copies of for our review. We have split up the EDS listings between open and closed, at least at the time the data was provided to us. Of course, I'm sure some things have changed. We identified the POD of the Agent assigned to the open cases based upon the Group Number you provided. We hope this makes locating them a little easier. We sorted the closed cases by TEDS number because we were told that is how they are filed, but some cases do not have a TEDS number. We also require 100 percent of the advocacy cases from the latest listing you provided us. I have attached the listing for your reference. No one will be in the office on Thursday or Friday this week, so it would be better if you do not ship any cases with a delivery date prior to July 9th (next Monday). If you have any questions, or need additional information from us, please let me know. Thank you for your help. Cheryl Medina PA6.ff C2.3
7/5/12	CJM	Held opening conference. PAZ.o
7/9/12	CJM	Sent the following email to Holly Paz, Director R&A, requesting contact names: Holly, Attached please find our initial listing of "people" we wish to speak with for our

Date	Author	Description
		review. If there are others that you feel we need to speak with to completely understand the development of the advocacy issue, please include them in the contacts you provide us. A.2.2 Also, during our opening conference, I jotted down that you were going to provide a listing of cases that were closed as part of the recent training given to Revenue Agents. I believe there are 41 cases that received a favorable determination. Thanks, and if you have any questions, feel free to contact me.
7/10/12	CJM	Received the merit closed cases. EO is still looking for four of 120 cases.
7/11/12	CJM	26 U.S.C. § 6103 I re-requested it from Karen Allen, who sent us the cases: Karen, Thanks for all the hard work it took to locate and copy these cases. I have just gone through them all to match them up with what we requested. 26 U.S.C. § 6103 26 U.S.C. § 6103 If you need any additional information, please let me know. You can include this case in the next batch you send to us. We have a couple of case requests outstanding. Thanks again.
7/12/12	CJM	Sent the following email to Holly Paz, Director Rulings and Agreements, requesting the latest response to a Congressional request: Hi Holly, The IRS received another Congressional request on June 18, 2012 from the Senate Finance Committee. We would like a copy of the IRS's response once it is completed. I have attached the request for your reference. Thanks. Cheryl Medina PA5.sb

Date	Author	Description
7/13/12	CJM	Discussed what criteria we are going to use when reviewing cases with AM Seidell. It was decided that we will use what the Screeners should have used – political campaign intervention. As we go through the first cases together next week, we will develop criteria for what we consider political campaign intervention. If we identify exception cases, the faulty criteria, such as the BOLO, will be the cause for the case not being identified or being incorrectly identified as an advocacy case.
7/16/12	CJM	26 U.S.C. § 6103 Sent the following email requesting the correct case: Hi Karen, We received another box of cases on Friday. I'm not sure if you sent it or not, but thanks. 26 U.S.C. § 6103 Cheryl Medina
7/16/12	CJM	Auditor Close traveled to Stoneham, so we could begin going through cases as a team and determine the best way to review them. AM Seidell and auditors, Medina, McGovern and Close reviewed several cases and determined how to review them. We went through the draft methodology for case reviews and the schedules developed to capture are review results, making changes. We developed the order for the workpapers in the case files. AM Seidell assigned Objective IIIB cases to Auditor Close, and IIIA cases to Auditor McGovern. We have not receive any cases related to Objective IIIC to date. We also discussed the cases closed during a May 2012 training session. If Determinations decided that the additional questions originally asked were unnecessary and closed the case without receiving additional information, then we can conclude for Objective IV that the questions were not necessary, and we do not have to review the case to come to a conclusion.
7/16/12	CJM	Sent the following request to Holly Paz, Director R&A: Hi Holly, Just checking on the status of a couple of things with you. During the opening conference, we mentioned that we hoped to be in Cincinnati the week of July 30th, to speak with people involved with the advocacy issue. You were going to check on people's schedules for that week. I also sent you a listing of "people" we want to speak with. Have you been able to come up with a list of

Date	Author	Description
		people we should speak with and determine if the week of July 30th works with people's schedules? Also, during our opening conference, we discussed our engagement letter request for all documentation, including emails, related to the decisions made regarding what to do about the increased volume of advocacy cases. When do you think we will receive this documentation? Cheryl Medina
7/17/12	CJM	Received response from Holly Paz on site visits. Attached is the list of closed advocacy cases you requested. I have inserted the names of the individuals meeting the criteria of your interview request into your potential interviewees document. I have now heard back as to schedules from most, but not all, of these individuals. A number of the Cincinnati folks (including Cindy, Joseph, Herr and Liz Hofacre) are not available the week of 7/30. Moreover, Lois would like me to sit in on all the interviews so that we will be in the best position to respond to TIGTA's report and recommendations, and I am unable to travel to Cincinnati that week due to a teaching commitment Wednesday afternoon. It looks like the beginning of the week of 8/6 would be better for the Cincinnati interviews and the week of 7/30 would be better for DC interviews. Does that work for you? If so, as far as next steps, would you like us to reach out to people to set up specific interview times or will you reach out to them directly? If you'd like us to do it, for how long should we schedule each interview? In regard to the request in your engagement letter for all documents and correspondence related to EO's response to and decision-making process for addressing the increase in applications for tax-exempt status from organizations involving potential political advocacy issues, I have a few questions. Could we talk briefly by phone tomorrow? Thanks, Holly
7/17/12	CJM	Auditor McGovern identified cases during his review for Objective IIIA 26 U.S.C. § 6103 Discussed with AM Seidell. We will use the Form 1023 information to complete this objective, if available, to determine if the case should have been forwarded to the advocacy team. In addition, Auditor McGovern identified that 26 U.S.C. § 6103

WP #_____

Date	Author	Description
		26 U.S.C. §6103 Discussed with AM Seidell and he wants us to request 26 U.S.C. § 6103 We will do this on a weekly basis, as needed.
7/18/12	CJM	Received email from Holly Paz, Director R&A, regarding site visits. People in Cincinnati not available the week of 7/30, but people in DC are. Cincinnati is available the week of 8/6. Planning trip to DC for week of 7/30 and trip to Cincinnati week of 8/6. She also has questions on our request for documentation related to advocacy decisions and would like to talk about it. She will call me.
7/18/12	CJM	Spoke with Holly Paz, Director, R&A. She wanted clarification on what types of documentation we are looking for. She questioned whether we wanted the specialists to send their decisions on the advocacy cases. I explained that we are trying to develop a timeline of actions taken during the whole development of the advocacy issue – who made decisions and when – more at a higher level than the Specialists. She commented that since we requested copies of the advocacy cases, she didn't think we wanted the case-related info for this request, but wanted to make sure she understood. We decided that she will ask people to look for documentation from January 2010 through May 2012. She is going to request it be sent to me by the middle of next week, so we have time to go through it before our meetings in DC. We discussed the May 2012 training in Cincinnati. Cases were not closed during the training. They used live cases to discuss how to ask questions for additional info without being too broad; Holly considered it a workshop. After the 1 ½ day training, a team comprising EO Technical, EO Guidance and Determinations, completed a "bucket exercise" and went through every open advocacy case. Two people independently looked at each case and applied the training to it. If the two people agreed on how the case should be handled, it was put in one of three buckets: approved, minor development, or full development. They only looked for advocacy related issues, so each case was then assigned to a Specialist for review and closure to make sure the application included all required documentation, such as a signature or bylaws, etc. This review took several weeks. TEGE's new space does not have a separate security office like the old space. We will have to call Holly from the lobby and she can come down and get us. We will need a temporary access card to use the elevator, similar to their other space. There is no food or cafeteria in the building, so everyone has to go out at lunch.
7/23/12	CJM	Emailed Holly Paz, Director R&A, to inform her that the week of August 6th is good for us to visit Cincinnati. I also asked if she had set up anything for our DC trip next week.
7/23/12	CJM	Sent the following email to Karen Allen, Records, requesting additional case files: Hello, Thanks so much for the cases last week. We are beginning to go through them and unfortunately, need some additional cases. The attached spreadsheet includes the information we need. Most of them are 26 U.S.C. § 6103

26 U.S.C. § 6103

WP #

Date	Author	Description
		26 U.S.C. § 6103 We plan to send you additional requests on a weekly basis, if needed, as we continue to go through the cases already provided to us. If you have any questions, please feel free to contact me. Thanks for your help. c2.4, Additional Request Tab
7/23/12	CJM	Discussed case reviews with AM Seidell. 26 U.S.C. § 6103 AM Seidell thinks that we should request the Form 1023, because that is what the screener used for identifying political advocacy. This will mean requesting Form 1023 for about 40 percent of our completed cases to date. AM Seidell would like a count of the number of affected cases and will review some of them during our weekly meeting on 7/25/12.
7/25/12	CJM	AM Seidell held first weekly team meeting to discuss progress of case reviews. Went through audit plan and discussed status of each objective. Objective I – began receiving emails yesterday related to activities for the timeline. Objective II – began reviewing emails from objective I. Objective IIIA – received 158 of 265 requested cases. Have reviewed around 90 cases to date. Objective IIIB – received 116 of 120 requested cases. Have reviewed around 40 cases to date. Discussed issue of cases originally filed with a Form 1023. AM Seidell decided that if we have a complete F1023 or 1024 in the case file and can make a determination on whether case should have been considered advocacy related, then we do not need to request the F1023. Only if there is not enough info do we need to obtain the F1023 to review. Discussed miscoded cases (cases on EDS as (c)(4)s and included in our sample), but application approved for a different section. Need to research IDRS to determine what code section the accounts have listed on the BMF.
7/26/12	CJM	Director Paterson held conference call with AM Seidell and myself to discuss sensitive questions we will ask of EO personnel during our site visits. We need to determine when people knew about the Tea Party criteria and whether they had any input to the criteria. We also need to ask if there was any outside influences that affected the criteria. [redacted] We also discussed potential inconsistent treatment of taxpayers. Advocacy organizations were given an extra 60 days to respond to requests for additional information. Regular applicants were not given this extra time. Director Paterson does not think it is inconsistent treatment if the advocacy organizations were asked to provide a lot more information than a regular applicant. EO gave the extra time

Date	Author	Description
		because it asked for too much information to begin with.
7/30-8/1/12	CJM	AM Seidell and myself completed site visit in DC to perform interviews.
8/1/12	CJM	Director Paterson visited Stoneham and held audit team meetings. He first asked about the status of the case reviews - how many we requested and how many completed to date. We discussed the need for us to request other case files related to a Form 1023 application to be able to review the Form 1024 application. 26 U.S.C. § 6103 We discussed potential application processing issues that we need to keep in mind going forward, but we can't deal with during this review. AM Seidell gave a brief overview of our possible exception cases. 26 U.S.C. § 6103 Are these cases supposed to go to the advocacy team, or were they considered ok by the screeners? We will have to compare the non-advocacy exception cases to the advocacy cases to determine what caused some cases to be selected but others not. AM Seidell and myself gave some details of our visit to Washington DC. Based upon how the case reviews are going and our need to request additional files to complete some reviews, Director Paterson does not want to set a due date for the interim report.
8/2/12	CJM	Discussed the assignment of Objective IIIC cases with AM Seidell. Recommended that the cases be split between Auditors Close and McGovern by code section – Close completes the (c)(3) cases, including the timeliness analysis, and McGovern completes the (c)(4) cases. McGovern will review the (c)(4) cases again for Objective IV. AM Seidell agreed.
8/6-8/8/12	CJM	AM Seidell and myself visited Cincinnati, OH to perform interviews.
8/9/12	CJM	AM Seidell held weekly team meeting. We went through the audit plan, discussing the status of each objective. Auditors Close and McGovern have just about finished reviews of the cases received to date. AM Seidell and myself have completed the first round of interviews to develop the timeline of events for the advocacy issue. Hopefully, we will receive more cases next week. 26 U.S.C. § 6103 AM Seidell will speak with Director Paterson to determine if we need to replace the cases in our sample. Our 1/3 meeting with Director Paterson is scheduled for August 15th at 1:00. I need to complete a briefing document for the meeting.
8/9/12	CJM	AM Seidell spoke with Director Paterson about 26 U.S.C. § 6103
8/13/12	CJM	Scheduled a teleconference on 8/15/12, at 2:45 pm, with Gary Muthert, Determinations, to discuss his role in initially identifying Tea Party cases. Ms. Paz will also participate in the call.
8/15/12	CJM	Director Paterson held 1/3 meeting. AM Seidell went through the briefing paper and

WP # _____
PSI-TIGTA-05-000926

Date	Author	Description
		discussed the status of each objective. ~~PA2.5~~ Lack of management oversight appears to be one of the main causes of the problems found for processing the advocacy cases. We then went through the draft timeline of events I developed. ~~A2.1~~ Director Paterson had several questions on the various entries. It was also agreed that we do not need the third column highlighting the officials involved. He will go through the timeline and start to select which entries we should include in an appendix to our report. Office of Audit agreed to brief the Government Oversight Sub-committee by September 2012. Director Paterson already discussed this with the new AIGA, Greg Kutz. We will also have to brief the IRS Commissioner before the sub-committee briefing.
8/16/12	CJM	Received response to my request for listing of organizations that were approved without providing additional requested information. Cheryl, Your understanding of the process post bucketing is correct. Unfortunately, I checked with Cindy and Sharon and we do not have a 26 U.S.C. § 6103 26 U.S.C. § 6103 This can be determined based on review of the individual files, but there is no master list. Similarly, 26 U.S.C. § 6103 Holly **From:** Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Tuesday, August 14, 2012 1:37 PM **To:** Paz Holly O **Subject:** Bucketing Results Request Hi Holly, I am still getting through all the emails and documents you provided us. I have another request. After the bucketing in May 2012, it was determined that 26 U.S.C. § 6103 If I understand what occurred, 26 U.S.C. § 6103 You provided a recent tracking sheet that includes which bucket the cases fell into, but I am not sure if 26 U.S.C. § 6103

WP # _____

Date	Author	Description
		26 U.S.C. §6103 Thanks, Cheryl Medina
8/27/12	CJM	Discussed advocacy case review with AM Seidell. Most of the cases do not have the bucketing result sheets in the files. However, based upon the case tracking sheet, we know the results of the bucketing, and they sometime disagree with our review of the cases. I suggested we need to request all the bucketing sheets to determine why the particular recommendations were made and see if we missed something in the original case file. We will only consider comments made on the original application, and not any additional research completed by the bucketer. The initial screener would not have had the additional research to make his determination on whether the case should go to the advocacy group or not. AM Seidell reviewed a few advocacy cases and agreed we need the bucketing sheets.
8/28/12	CJM	Contacted Holly Paz, Director R&A, and requested all of the bucketing sheets. She has them all in electronic form, and will send them on a flash drive to me.
9/4/12	CJM	Sent the following email to Cindy Thomas, Manager, EO Determinations: Cindy, During our meeting in Cincinnati, you told us that you sent an email requesting the status of the guidance every 30 days. Do you still have those emails? If so, can you please forward them to me? Thanks. Cheryl Medina
9/4/12	CJM	Received response from Cindy Thomas, Manager, EO Determinations: I completed a cursory review of the folder that I set up and don't see them. I'll send you the ones I found that talk about status. Also, I'll ask Steve Bowling if he has any of the emails. He was the manager with oversight of these cases and he initiated an email to me asking the status and that prompted me to send the emails to Holly asking the status. NOTE: We weren't initially sending the emails asking for a status update --- only started doing that after things didn't seem to be moving. Then, we stopped sending the emails at some point --- I'm not sure when but my guess would be when Lois was brought in.
9/12/12	CJM	Greg Kutz, new MSE AIGA, held meeting with audit team, including Director Paterson, to discuss review. AM Seidell gave some background on the issue being reviewed. Then he began going through the objectives. Discussed our interviews of Headquarters and Field employees and the development of the timeline of events. Mr. Kutz asked if we can highlight cases (generically) in the report to show the delays that occurred. He also asked if we are checking for consistent questions between advocacy

Date	Author	Description
		and non-advocacy cases (we are not). Mr. Kutz wanted to know what we saw us reporting. We have to be very careful. Quantitative or factual information is safe to report. He questioned whether we know for sure that no one in Headquarters new the Tea Party was being targeted prior to June 2011. He suggested we have the Office of Investigations conduct interviews, under oath, to determine who knew what when. It was decided to ask the IRS Commissioner during the September briefing when Headquarters knew about the criteria. Director Paterson will elevate this to the Acting DIGA. Mr. Kutz also asked how many applications were withdrawn and if we knew why the organizations withdrew them. I commented that 26 U.S.C. § 6103 Mr. Kutz asked if we could contact the organizations to determine why they withdrew their applications. Mr. Kutz asked Director Paterson to contact his assistant to set up a Part 2 meeting to continue our discussion. Second meeting scheduled for October 1st.
9/13/12	CJM	AM Seidell held weekly team meeting. We discussed the status of the objectives. Objectives I and II are basically done barring any additional information being provided. Objective III is the case reviews. We still have not received 128 cases (IIIA 28, IIIB 3, IIIC 97). AM Seidell stated that if we do not receive a case, we will not replace it. It will be UTD. Similarly, if there is missing documentation from the case files that precludes us from reviewing the case, we will not replace it as well. If we do not have bucketing sheets for a case, we will re-request them. Once EO decides it has sent us all the cases, I will develop a listing of any cases we did not receive or have missing documentation one final time to attempt to receive them from EO.
9/25/12	CJM	AIGA Kutz visited Stoneham. We had an audit team meeting with him, including Director Paterson via phone. PA2.u
9/25-26/12	CJM	Auditor Close visited Stoneham. AM Seidell, Auditor Close and myself went through Close's completed § 501(c)(3) advocacy cases. AM Seidell commented that he needs to make sure the "why" we consider a case an exception or not is included in the auditor comments of the case review schedule. If there is any hint of political campaign intervention, we will consider the case ok for the advocacy group because (c)(3) organizations cannot participate at all in them. EO stopped work on the advocacy cases while developing the letter giving organizations that had not responded to a development letter 60 extra days to respond. Auditor Close asked how he should treat this hold time for his timeliness analysis. AM Seidell stated that this time should not negatively affect the organization. In some cases, 26 U.S.C. § 6103 then the time needs to be backed out of the timeliness analysis. 26 U.S.C. § 6103 that the clock still runs. We went back and forth on this and AM Seidell decided we need a Counsel opinion on this issue.
9/26/12	CJM	Auditor McGovern found an original page of a document in case file 184 for objective IIIC. I mailed it back to EO Determinations.

Date	Author	Description
9/27/12	CJM	Sent the following email to Holly Paz, Director, Rulings and Agreements: Hi Holly, I need some clarification on the issuance of the 60-day extension letter. Were these letters issued to all organizations that had not responded to a development letter, or to just those that were already untimely in their responses to the requests for information? For example, if an organization still had 5 days of the 21-day response period to reply, would it have received a 60-day extension? Information in the emails you sent me indicate 26 U.S.C. § 6103 Thank you.
9/28/12	CJM	Received response from Holly Paz, Director, R&A, or 60-day extensions: Cheryl, My apologies for the delayed response. I have been out sick the last two days. 26 U.S.C. § 6103 Holly
10/3/12	CJM	AM Seidell held status meeting with team. Discussed Director Paterson's meetings with Acting TEGE Commissioner, Joseph Grant, and EO Director, Lois Lerner. He went over the shortened timeline with each of them and asked the about any outside influences and when did they know about the criteria used to identify advocacy cases. Mr. Grant will get back to Director Paterson. Ms. Lerner was not happy with the questions. She commented that the timeline was incomplete. Director Paterson sent her the full timeline for review. He also thinks we may use the full timeline as an appendix to the report. AM Seidell then asked for the various case counts – received and reviewed, for the three samples. Auditor Close is supposed to move on to another project starting October 15, 2012. If he is close to completing his case analyses, AM Seidell hopes to keep him on a little longer.

Date	Author	Description
10/10/12	CJM	AM Seidell held status meeting with the team. Director Paterson and AIGA Kutz met with Acting Deputy IG McKenney to discuss briefing the Hill. McKenney stated there will be no briefings until we have finalized our conclusions. He would like us to ask EO directly who directed the use of the criteria for identifying advocacy cases. If we do not receive an adequate response, we will refer it to the Office of Investigations. There is a conference call with the IG tomorrow to brief him on the status of the audit as well. We have not received any comments on the timelines provided to the EO Director by Director Paterson. We then went over the status of the case reviews.
10/15/12	CJM	Team held 2/3 meeting with Director Paterson. ~~0.2.4~~ Still have not received 15 cases and have around 10-12 cases for which we have requested additional documentation. Objectives I & II – on hold while waiting for feedback from Joseph Grant and Lois Lerner. Provided the timeline to Lois Lerner, but have not heard back. Also waiting for a response from Grant and Lerner on the 3 questions asked by Director Paterson. He will follow up with both of them. If we receive a response that no one knows who directed the use of the criteria for identifying advocacy cases, then we will refer the issue to OI. Director Paterson is also waiting to hear about the rescheduling of the IG meeting on the audit and he received agreement from AIGA Kutz that we will not brief IRS Commissioner Schulman, who is leaving, but will wait for Acting Commissioner Steven Miller. Objective IIIA – continue to review cases. Need to check for 26 U.S.C. § 6103 Auditor McGovern thinks there is missing information that we re-requested, but did not receive. Objective IIIB – for 3 missing cases, include the replacements for them, but we need to state in the report that we did not receive the originally sampled cases. IIIC – criteria we are using is political campaign intervention only. We need to break out exceptions – no political intervention, limited intervention, and only maybe in the future, but not now. Auditor McGovern mentioned the ROO referrals being recommended by the bucketers. I need to check the new IRM to see if this process is included, or if we need to make a recommendation. Auditor McGovern also mentioned that the bucketers only make recommendations. All the cases are quality reviewed, and there have been a few that changed the bucket recommendation. Director Paterson mentioned that Acting DIGA McKenney talked about whether the cases were approved in bucketing due to pressure to close the cases. We estimated that the case reviews will be initially completed by the end of October. Director Paterson is tentatively visiting Stoneham the week of 11/5 to review the exception cases. We also have to decide how we will get agreement to the facts from EO. With the large volume of exceptions, we may need to group them into similar scenarios and only discuss a sample with EO. EO may not agree to this. I asked about us issuing the interim report. Director Paterson doesn't think AIGA Kutz likes the idea. If we do not issue an interim report, we will need to do a lengthy addendum to the audit plan so we can complete objective IV. This may also provide EO ample time to review all the exceptions if it wants to.
11/6/12	CJM	Director Paterson held team meeting during visit to Stoneham. Discussed Objective IV. It was decided that we will use the questions identified by EO as unnecessary to review the advocacy cases and determine if any unnecessary questions were asked. ~~0.2.4~~ Since EO completed this review for 166 cases, ~~0.2.5~~ we will complete the rest only. We will first review a 10 percent sample of the EO completed cases to verify

WP # _____

Date	Author	Description
		their analysis. We will also need to determine if permanent procedures have been put in place so the targeted review of certain organizations does not reoccur. What corrective actions have been taken by EO? Director Paterson decided that we will not request any missing development letters from the case files. We will only review what we have received. We will need to submit an addendum to change to Objective IV. We also need to add a new objective (IIC) to include the 501(c)(3) analysis in the audit plan. We will add 6 weeks to the calendar days and 70 staff days. Holiday leave and the delay in receiving cases will be the reason. Director Paterson will also discuss a second addendum with AIGA Kutz for the time it takes to discuss the large number of exception cases with EO.
11/6-8/12	CJM	Director Paterson visited Stoneham and reviewed some exception cases from Objectives IIIA, IIIB, and IIIC.
11/7/12	CJM	Director Paterson sent the following email to Holly Paz, Director, Rulings and Agreements, regarding EO's comments to the timeline: Holly, Thank you again for taking the time to review and provide feedback on the 3 questions we submitted and the long timeline. We have a few follow-up questions. 1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, 'The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria. 2. [redacted] 3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employees was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

Date	Author	Description
		As always, we appreciate the assistance and we look forward to your response. Troy
11/8/12	CJM	After beginning sampling of EO review of advocacy cases for Objective IV, determined that we cannot rely on it. Auditor McGovern found errors in the review. 9.2.5 Discussed with Director Paterson and Audit Manager Seidell. We will have to do a 100 percent review of the advocacy cases to determine if any questions identified by EO as unnecessary were asked.
11/8/12	CJM	Sent the following email to Holly Paz, Director Rulings and Agreements. Hi Holly, The attached document is the review completed by Judy Kindell to identify unnecessary questions being asked in the advocacy development letters. We have identified 4 cases (highlighted) that are not included on the May/June 2012 advocacy listing we are using in our review. What happened to these cases and why would they be removed from the tracking sheet? Are there any other cases that were removed from the advocacy listing? Why and how many? Thanks for any information you can provide. Cheryl 9.2.5
11/9/12	CJM	Received response from Holly Paz, Director, Rulings and Agreements, to Director Paterson's email above: Troy, Please see answers to your follow-up questions below. Please let me know if you have any further questions or if you think a discussion would be helpful. Holly 1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is refererenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria. EO executive management did not sanction use of 1-4 above as criteria for identifying

Date	Author	Description
		advocacy cases. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, I, as Acting Director of EO Rulings & Agreements, sought clarification as to the criteria being used to identify these cases in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.). My inquiry prompted the EO Determinations Program Manager to ask the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). We understand that the screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party" and was told by his employees that they included organizations meeting any of criteria 1-4 above as falling within the BOLO's reference to "tea party" organizations. 2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that 'propaganda' activities should be [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities should not be [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail? I am afraid that the wording of my question to Tom has contributed to the confusion. You can see I said we were seeing inflammatory talk, which I characterized as propaganda. "Propaganda," however, is a term with legal significance. So, Tom's email went on to discuss what constitutes "propaganda" versus what is "educational," for purposes of characterizing the inflammatory talk. He says that, "[b]ased on these principles, [illegible] 3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed? EO Technical employees are reviewing all development letters to organizations in buckets 2 and 3 prior to issuance. Designated EO Technical employees are also available to answer questions the Determinations specialists may have after receiving responses to those development letters. While EO Technical employees are reviewing all development letters, typically on favorables, EO Technical does not review the closing letter itself because these

Date	Author	Description	[redacted] = Redacted by the Permanent Subcommittee on Investigations
		are essentially form approval letters . All denial letters, however, are being closely coordinated between EO Technical and EO Determinations.	
11/9/12	CJM	Asked Audit Manager Seidell a question regarding the criteria for unnecessary questions. P2.4 A question asking for resumes of directors, employees, etc. of the organization will be considered requesting information regarding employment other than for the organization (Criteria F) and will be deemed unnecessary.	
11/14/12	CJM	Director Paterson replied to Holly Paz, Director Rulings and Agreements, regarding her response documented on 11/9/12 log note above: Holly, Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria. Troy [redacted]	
11/19/12	CJM	Sent email to Karen Allen, EO Determinations Records, and Holly Paz, Director, Rulings and Agreements: Hi Karen, We are still waiting for 5 case files and 1 additional request for missing documentation. I have attached a list. If we do not receive the cases by November 30th, we will have to report that they could not be located for our review. Thanks. Cheryl Medina	
11/19/12	CJM	Audit team held meeting with Director Paterson and AIGA Kutz to discuss audit status. P2.5b Acting DIGA McKenney was unable to attend. We first discussed the timeline. AIGA Kutz suggested we explain that some cases were worked early on but never resolved. He agrees that the entire timeline will be good as an appendix to the report, but should put an abbreviated timeline in the body of the report. We should also include a criteria timeline to show when changes to the criteria took place, and that no manager knew of the criteria for 13 months. We then discussed the timeliness	

Date	Author	Description
		of 501(c)(3) case processing. We should include a chart showing the distribution of cases by number of days. A possible recommendation would be to create a management report to notify them when a case is getting close to the 270-day time standard. We also can recommend improved form and instruction guidance on the 270-day standard. In the report background we need to explain the different subsections and what they can and can't do related to political campaign intervention. The law and the Treasury regulations related to political campaign intervention are different. We should find out how this happened and possibly recommend a change for consistency. AIGA Kutz would like a breakdown of our exceptions for Objectives IIIC and IV by Tea Party, 912, and Patriots for the report. To shorten the amount of time it will take to get the report out, AIGA Kutz would like us to create an outline for discussion prior to beginning writing the report. Also, we can start writing it while waiting for EO's agreement to the facts on the exception cases.
11/19/12	CJM	Holly Paz, Director Rulings and Agreements, responded to Director Paterson's second request for clarification: Troy, Your reading of our response to question #1 is correct. The EO Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request in June 2011. No one in the EO management chain sanctioned the use of the four criteria listed in your question #1 below. Holly --- **From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov] **Sent:** Wednesday, November 14, 2012 10:01 AM **To:** Paz Holly O **Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G **Subject:** RE: Responses Holly, Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria.
11/19/12	CJM	Response to request of Holly Paz, Director R&A, about 4 cases removed from the advocacy tracking sheet:

Date	Author	Description
		Cheryl, 26 U.S.C. § 6103 26 U.S.C. § 6103 26 U.S.C. § 6103 Holly
11/19/12	CJM	Additional email from Holly Paz, Director R&A, on a 26 U.S.C. § 6103 26 U.S.C. § 6103 26 U.S.C. § 6103

Date	Author	Description
		26 U.S.C. § 6103
11/29/12	CJM	Director Paterson, Audit Manager Seidell, and myself held first meeting to discuss the report and start drafting a report outline for review by AIGA Kutz. A few decisions were made. The subsection chart in the background needs to include a row on whether the organizations have to apply or notify the IRS. I need to ask for the number of applications received for c3-c6 for FY 2009-2012. Before we recommend that a management report identifying c3 applications approaching the 270 day standard for processing be developed, we need to find out if there is already one available. AS5.a AS5.b
11/29/12	CJM	Received final available cases from Determinations.
11/30/12	CJM	Sent the following email to Holly Paz, Director R&A Hi Holly, We would like to request some statistics on the number of applications received for Fiscal Years 2009-2012, broken out by fiscal year and subsection for 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations. If you have any questions, please let me know. Thanks. Cheryl Medina PA6.pnr
12/5/12	CJM	Director Paterson, Audit Manager Seidell, and myself had second meeting to discuss report outline. AS5.d Good progress was made on the overall presentation of the

WP # _____
PSI-TIGTA-05-000938

Date	Author	Description
		results of our review and the outline was updated during the meeting. ASS.e I need to make additional changes to the outline, so it can be discussed with AIGA Kutz.
12/7/12	CJM	I received the following response email from Holly Paz, Director, R&A: Bucketing occurs after screening. We have not yet determined how long we will continue to bucket cases identified in screening as advocacy cases. We have not implemented a bucketing process for other types of cases and do not have plans to do so at this time; but if, as we go forward, we see a need for such a process with other types of applications, we will implement it at that time. --- **From:** Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Thursday, December 06, 2012 7:35 AM **To:** Paz Holly O **Subject:** Bucketing Review Questions Hi Holly, You stated that after the initial bucketing exercise of the existing advocacy cases was completed in May 2012, bucketing has continued on all new advocacy cases identified. When in the process does this occur (e.g., after screening?) and how long will you continue with bucketing? Have you or do you plan to implement this process for other types of applications? Thanks, Cheryl Medina
12/7/12	CJM	I received the following response email from Holly Paz, Director, R&A: The BOLO criteria for identifying advocacy cases have not changed since May 2012. --- **From:** Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Thursday, December 06, 2012 9:31 AM **To:** Paz Holly O **Subject:** Another criteria question Holly, Sorry, but I just thought of another question. You changed the BOLO criteria in May 2012 when you issued the memo with new approval procedures. Is this still the criteria to identify political cases, or has it changed since May? If it has changed, can you send me the changes and what it is currently? Thanks, Cheryl Medina

Date	Author	Description
12/10/12	CJM	AM Seidell spoke with Holly Paz, Director Rulings and Agreements, about obtaining agreement to the facts for our Objectives IIIA, IIIB, IIIC, and IV exception cases. He sent the following email afterwards: Holly, Attached are the excel files containing the four analyses I mentioned during our phone conversation earlier today. I added a brief description below for each of the files. I also plan on forwarding another analysis on the number of cases that had developmental letter with unnecessary questions. I'm hoping we can get together the week of January 7th to discuss. If you have any questions please let me know. Attached files: IIIA – all 501(c)(4)open/closed full development cases sample (Cases that we believe should have gone on advocacy listing). C.2.9 IIIB – all 501(c)(4) merit closed cases sample (Cases that we believe should have gone on advocacy listing). C3.7 IIIC – advocacy cases (Cases that we believe did not contain indications of significant political campaign intervention (c4) or any (c3) and therefore should not have gone on advocacy listing). C4.6 IIC – timeliness analysis of 501(c)(3) advocacy case processing (501c3 cases on advocacy listing when organization could have sued for declaratory judgment at some point while case was in process). B.4.3 Thanks Tom
12/12/12	CJM	AIGA Kutz held message conference to discuss report outline with AM Seidell, Director Paterson, and myself. A55.9 The main question we need to answer is, did the IRS target certain groups and what was the impact if it did. The answer is Yes, the IRS did target because it didn't follow the regulations for identifying political organizations. We need to use the Condition, Criteria, Cause and Effect format to present an unbiased report. We will have two findings: did the IRS target and what was the effect of the targeting on the organizations. The effect finding will include the inconsistency case review results, the delays, and the unnecessary questions. AIGA Kutz would like us to include clips for documents and charts/graphs throughout the report. He asked us to consider a delay timeline. He also asked if we know the status of the organizations that were held up for 13 months. We do not, but will request an updated advocacy tracking sheet to determine if any cases are still open. We also discussed the report title. It needs to be direct and respond to the allegations. I am to draft the report based upon this meeting.
12/14/12	CJM	Received the following email from Holly Paz, Director R&A, regarding the exception cases:

Date	Author	Description
		Tom, I skimmed through the attachments and am concerned about our ability to be ready for a meeting to discuss our thoughts in January as a number of our folks familiar with this area of the law will be starting to take use or lose leave soon and those folks have been tasked with working the open advocacy cases as quickly as possible. Could we possibly push the meeting back into February? Holly
12/20/12	CJM	AM Seidell held a conference call with Holly Paz, Director R&A. Audit Manager Seidell spoke with Holly Paz regarding Ms. Paz's email that the EO function would not be able to discuss our case reviews (Objective III) until early February. I told Ms. Paz that Representative Issa's staffers were requesting a status briefing on the review and that we wanted to provide EO the opportunity to provide input to our case reviews before we brief Congress. I suggested that we discuss the 17 cases in the first two spreadsheets (IIIA and IIIB) the week of January 14 via conference call, and then following up in person to discuss the cases in Objective IIIC. Ms. Paz said she was more concerned about having enough time to review the Objective IIIC cases because that spreadsheet contained over 100 cases. Ms. Paz said she would discuss this option with the EO members reviewing the cases to see if it was doable and would get back to me by tomorrow.
12/20/12	CJM	AM Seidell sent the following email to Holly Paz, Director Rulings and Agreements: Holly, Attached are the results of our audit tests to determine if developmental letters contained questions that were deemed unnecessary by EO. As we discussed, for criteria we used the list of 7 questions/areas identified as unnecessary by EO (Attachment 1) as well if the applicant received a subsequent letter from EO to disregard any previously asked questions. We would appreciate receiving any input you may have regarding the results of this test. I also look forward to hearing from you about our proposed schedule to discuss the results of our case reviews. Thanks Tom 2.2.4 2.2.5
12/21/12	CJM	AM Seidell received the following email regarding discussing the exception cases with EO: **From:** Paz Holly O [mailto:Holly.O.Paz@irs.gov] **Sent:** Friday, December 21, 2012 12:12 PM

Date	Author	Description
		To: Seidell Thomas F TIGTA **Subject:** review of cases Tom, We discussed the timeline you and I spoke about yesterday and will try to have reviewed at least a sizeable number of the cases by the dates you mentioned. Our folks who will be doing the review are now out until the beginning of the year. We will update you as to the status of our review the end of the first week of January so we can set exact dates and times for our discussions. Holly
1/9/13	CJM	AM Seidell sent the following email to Holly Paz, Director, Rulings and Agreements, regarding EO's review of the exception cases: Hi Holly, I hope you had a nice holiday. I'm checking in to see how far along you are on the cases. Thanks Tom
1/11/13	CJM	Briefing held with Acting DIGA, Mike McKenney, AIGA Kutz, Director Paterson, AM Seidell and myself. ~~PA2.ff~~ We first discussed the targeting of groups and the criteria used. We do not have the May 2010 email first issued citing Tea Party as the criteria. Acting DIGA McKenney commented that the IRS should be required by law, just like TIGTA, to retain all emails for a certain amount of time. We should ask EO Director Lois Lerner about this email. AIGA Kutz will ask TIGTA's CIO George Jakabcin about the retention requirements. We need to include in the report that in some cases, the application did not show any political campaign intervention, but it was found once the application was processed. AIGA Kutz mentioned that Senator Hatch is interested in the donor question, so we need to have this information ready He also asked us what recommendations we plan to make. They include formalizing in the IRM the process for approving BOLO additions or changes, and the need for training. AIGA Kutz suggested we recommend expeditious processing of the old advocacy cases that are still open. The ones open longer then average. AIGA Kutz informed Acting DIGA McKenney that we still need to go through the exception cases with EO. Acting DIGA McKenney will brief IG George about this review. TIGTA will brief the Hill in March on this review. Senate Finance will want a briefing, too.
1/14/13	CJM	Director Paterson received an email from EO Director Lois Lerner regarding our exception cases. ~~C.1.7~~
1/15/13	CJM	Director Paterson, AM Seidell, and myself discussed EO Director's email regarding exception cases. I researched the four cases mentioned to determine if we were inconsistent in our treatment of them. 26 U.S.C. § 6103

WP # _____

Date	Author	Description
		26 U.S.C. § 6103 Director Paterson requested our methodology with the criteria we used to review the cases. He also requested an email from Holly Paz, Director Rulings and Agreements, that confirms only political advocacy should be reviewed. I forwarded both to him. AM Seidell suggested we make hotel reservations for the last week of January in DC to discuss the cases.
1/15/13	CJM	Director Paterson sent Lois Lerner, EO Director, the criteria we used to identify our exception cases. C.4.8
1/15/13	CJM	Director Paterson had a conference call with EO Director and Director R&A, to discuss at a high level the case reviews. PAZ.00
1/24/13	CJM	Director Paterson sent the following email and received a response regarding the May 2010 criteria email sent to Determinations Specialists: **From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov] **Sent:** Thursday, January 24, 2013 8:51 AM **To:** Paz Holly O **Subject:** E-Mail Retention Question Holly, Good morning. During a recent briefing, I mentioned that we do not have the original e-mail from May 2010 stating that "Tea Party" applications should be forwarded to a specific group for additional review. After thinking it through, I was wondering about the IRS's retention or backup policy regarding e-mails. Do you know who I could contact to find out if this e-mail may have been retained? Troy **From:** Paz Holly O [mailto:Holly.O.Paz@irs.gov] **Sent:** Friday, January 25, 2013 5:40 AM **To:** Paterson Troy D TIGTA **Subject:** RE: E-Mail Retention Question Troy, I have not dealt with this issue before and do not know who you would need to contact regarding this question. I will raise this up and try to identify the appropriate contact person. In the meantime, I will ask the folks in EO Determinations to search their electronic and paper files again to see if we can locate the email. Holly

Date	Author	Description
1/25/13	CJM	Had conference call with EO to discuss its review of case exceptions. C.4.10
1/31/13	CJM	AM Seidell and myself traveled to DC to meet with EO and discuss exceptions. C.4.15
1/31/13	CJM	Director Paterson, along with AIGA Kutz, briefed the IG on this audit.
1/31/13	CJM	Director Paterson received the following response from Holly Paz regarding the May 2010 email and IRS retention requirements: **From:** Paz Holly O [mailto:Holly.O.Paz@irs.gov] **Sent:** Thursday, January 31, 2013 5:15 AM **To:** Paterson Troy D TIGTA **Cc:** Lerner Lois G **Subject:** RE: E-Mail Retention Question Troy, I'm sorry we won't get to see you today. We have reached out to determine the appropriate contact regarding your question below and have been told that, if this data request is part of a Discovery, the coordination needs to go through Chief Counsel. The person to contact regarding e-Discovery requests is Glenn Melcher. His email address is Glenn.J.Melcher@irscounsel.treas.gov and his phone number is [redacted] Holly [redacted] = Redacted by the Permanent Subcommittee on Investigations
1/31/13	CJM	Director Paterson sent a request to Glenn Melcher, IRS Counsel, regarding IRS email retention: Glenn, Good morning. My name is Troy Paterson and I work with the Treasury Inspector General for Tax Administration. Holly Paz within the Tax Exempt and Government Entities Division's Exempt Organizations (EO) function referred me to you for some assistance on one of our audits (the engagement letter is attached). During the audit, we were informed that an e-mail was sent in May 2010 by someone in the EO function's Determinations Unit in Cincinnati Ohio to forward all "Tea Party" applications for additional review by a particular Determinations group. The EO function has not been able to locate this e-mail. Therefore, we would like to determine whether internal e-mails from May 2010 have been archived or retained in some manner. If so, how would we go about obtaining a copy of the e-mail? Any assistance you could provide would be appreciated. Troy Paterson Director, Tax Exempt and Government Entities/Human Capital Glenn Melcher read the email, but never responded.

Date	Author	Description
		From: Melcher Glenn J [mailto:Glenn.J.Melcher@irscounsel.treas.gov] **Sent:** Thursday, January 31, 2013 8:31 AM **To:** Paterson Troy D TIGTA **Subject:** Read: RE: E-Mail Retention Question Your message To: Melcher Glenn J Subject: RE: E-Mail Retention Question Sent: Thursday, January 31, 2013 7:34:56 AM (UTC-05:00) Eastern Time (US & Canada) was read on Thursday, January 31, 2013 8:31:06 AM (UTC-05:00) Eastern Time (US & Canada). No further response was received.
2/4/13	CJM	Director Paterson, AM Seidell and myself held conference call to discuss report message. Director Paterson briefed us on his meeting with the IG regarding this audit.
2/7/13	CJM	Director Paterson briefed AM Seidell and myself on meeting with AIGA Kutz. AIGA Kutz was interested in the status of the report, in particular the Highlights page. Director Paterson stated that he had written something, but due to size limitations, it is very general. We will also need to leave room for an office of audit comments section. AIGA Kutz then informed Director Paterson of a meeting with the Office of Investigations he had. Randy Silvis of OI used to work with the e-fraud team which has access to all IRS emails and can search for the May 2010 email we are trying to obtain. The search can be completed using key words and people's names. It was decided that AM Seidell and myself will develop a listing of people for certain time periods and criteria that we want to search.
2/13/13	CJM	I sent the following email to Holly Paz, Director Rulings and Agreements, requesting an estimated date for receiving EO's feedback on the rest of the exceptions. Hi Holly, I wanted to check on the review status of the rest of the exception cases (those related to cases not sent to the advocacy team) as well as the review of the timeliness and unnecessary question schedules we sent you. Do you have an estimate on when we will be receiving EO's comments? Thanks. Cheryl Medina
2/20/13	CJM	Sent request to Dr. Katz for our statistical sample projections. 5.2.11
2/25/13	CJM	Director Paterson sent the discussion draft to Acting DIGA, Mike McKenney, and Chief Counsel, Mike McCarthy, for review prior to issuance. Good morning, Greg mentioned that, due to the sensitivity of the attached report, he would

Date	Author	Description
		like for us to obtain your feedback before we issue a discussion draft report to the IRS. Therefore, I am attaching a copy of the report for your review. If you have any questions or would like to meet to discuss, please let me know. I look forward to hearing from you. Troy Paterson
2/25/13	CJM	Director Paterson sent the discussion draft to Tom Dori, Auditor, to review our outcome measures prior to issuance. Tom, Good afternoon. I hope all is well. I was hoping you could help us out. Attached is a report we have written regarding how the IRS processes tax-exempt applications from organizations that potentially are involved in political campaign intervention. Due to the sensitivity of this report, our AIGA has asked that Chief Counsel and the DIGA review the report before we issue it as a discussion draft. In addition, Greg thought it would be a good idea for the report to be reviewed from an outcome perspective so we don't potentially revise our position with the IRS on outcomes between discussion draft and draft. Could you please review and let us know what you think of how we present our outcomes and whether you identify any additional outcomes we should consider? I would appreciate it. If you have any questions or would like to discuss, please let me know. Troy [redacted] [redacted] = Redacted by the Permanent Subcommittee on Investigations
2/25/13	CJM	Tom Dori, Auditor, sent his response regarding our outcome measures: Hi Troy – I took a quick read through Appendix IV and the report body. Nothing jumped out at me as being out of line, and I did not see anything that you missed. If you have any other questions, let me know. Thanks, Tom
2/25/13	CJM	Director Paterson sent the following email to Lois Lerner and Holly Paz regarding issues identified during our review, but did not make it into the report: Lois and Holly,

WP # _____

Date	Author	Description
		Good afternoon. There were a couple of minor issues that we uncovered during our audit that are not significant enough to be included in our upcoming report. However, I thought I would forward them to you for your consideration. 1. Issue #1 – Miscoded Cases: We selected two samples of Section 501 (c)(4) applications from an EDS download provided to us by the EO function. However, when we reviewed the sampled case files, 14 cases with subsection (c)(4) on the EDS were actually not related to 501(c)(4) organizations. The subsections were incorrect on the EDS. We performed IDRS research on the 14 cases and found that 11 are still miscoded as 501(c)(4) organizations on the EOBMF as well. 26 U.S.C. § 6103 Attached is a listing of the 14 cases for your use. S.2.10 2. Issue #2 – Form 1023 Instructions: Organizations applying for 501(c)(3) tax-exempt status are afforded the right to sue the IRS for declaratory judgment if a determination decision is not made within 270 days. However, the instructions for completing the Form 1023 application do not mention this right. Many of the organizations applying for 501(c)(3) tax-exempt status are small organizations run by volunteers and may not be aware of other existing guidance regarding this right, e.g., Revenue Procedure 2012-09 or Publication 557. These organizations are more likely to rely on the Form 1023 instructions for guidance. In addition, development letters to 501(c)(3) organizations include statements about the organization possibly losing the right to sue if they do not respond to the request for information timely. This may confuse organizations if it is the first time they have heard of this right. In future revisions of the Form 1023 instructions, we would suggest the IRS consider including information on an organization's right to sue for declaratory judgment, as well as possibly a reference to the Internal Revenue Code, Publication 557, and/or the most current Revenue Procedure for further details. I hope this information is useful to you. Troy [redacted] [redacted] = Redacted by the Permanent Subcommittee on Investigations **Lois Lerner, EO Director response:** Thanks Troy--we'll look into this. Lois G. Lerner Director of Exempt Organizations
2/27/13	CJM	Received the following response from Holly Paz, Director, Rulings and Agreements, regarding some loose ends: Please see answers below.

WP # _____

Date	Author	Description
		From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] **Sent:** Wednesday, February 27, 2013 7:59 AM **To:** Paz Holly O **Subject:** Follow-up questions Hi Holly, I have a couple of questions to close some gaps in our information. 1. Was the draft guidance provided to Determinations in November 2011 ever finalized? No. The decision was made to conduct training and do the bucketing instead given the facts and circumstances intensive analysis required by 501(c)(4). 2. Have any 501(c)(3) advocacy organizations sued the IRS for declaratory judgment because it has taken more than 270 days to make a determination? Not to our knowledge. Thanks for your help with these. Cheryl Medina
3/8/13	CJM	AIGA Kutz, Director Paterson, AM Seidell, and myself had a teleconference with TIGTA Counsel to discuss our report.
3/11/13	CJM	Sent revised report to AIGA Kutz.
3/19/13	CJM	Director Paterson sent a pre-discussion draft of the report to Lois Lerner, EO Director, and Holly Paz, Director Rulings and Agreements: Lois and Holly, Good afternoon. As mentioned previously, I am providing a copy of our report regarding applications to you while it is still in the process of being quality reviewed. I wanted to provide an early version so that you can have a little extra time to consider the issues in the report. I suspect that we will complete quality review by this time next week. Therefore, if you have any concerns that you would like us to consider before we issue the discussion draft, could you please provide them to us by **COB Monday March 25th**? If you wish, we can also schedule a meeting to discuss. Our first priority is any concerns you may have with the facts in the report, but we also will consider any other concerns that you may have. As always, if you have any questions or comments, please let me know. Troy Phone (Tuesday): [redacted] Phone (Monday, Wednesday-Friday): [redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

WP # _____

Date	Author	Description
		ASS.u
3/21/13	CJM	EO Director, Lois Lerner, sent the following message regarding our pre-discussion draft: **Holly and I have gone over the report and will try and incorporate our concerns into one document and get it to you by Monday. We also have some overall things we'd like to mention. Do you want to look at the comments first or should we just put some time on the calendar for Mon to have the chat?** *Lois G. Lerner* Director of Exempt Organizations
3/22/13	CJM	Director Paterson sent the following email to schedule a meeting regarding the pre-discussion draft: Lois, Thank you for reviewing the report and offering to meet with us on Monday. Can you schedule a meeting for Monday morning to talk about your comments and concerns? Our executive, Greg Kutz, may be able to attend in person if he can work out the logistics. However, the rest of us will not be able to attend in person due to funding issues. Therefore, we will need a conference line also. I look forward to our discussion. Troy [redacted] [redacted] = Redacted by the Permanent Subcommittee on Investigations
4/17/13	CJM	Treasury Secretary Lew requested briefing from IG. Briefing held same day.
04/22/2013	TDP	I reviewed this document and noted adequate documentation of supervision (involvement) by Acting AIGA Martin, AIGA Kutz, Director Paterson, and A/M Seidell.
5/10/13	CJM	Received response from OI on search of IRS emails for identify of person who developed Tea Party criteria. PA2.on
5/10/13	CJM	IRS apologized for targeting Tea Party organizations in advance of our final report issuance.
5/10/13	CJM	TIGTA held briefings with Hill staffers. Provided Appendix VI (criteria timeline) and VII (comprehensive timeline) from our report.
5/13/13	CJM	Additional briefings held with several committee staffers.
5/13/13	CJM	House Ways and Means scheduled hearing for 5/17/13 at 9:00 am
5/14/13	CJM	Final Report issued.

Process for Reviewing Applications for Tax Exemption
Closing Conference

MEMO OF CONTACT

Participants: Lois Lerner, Director Exempt Organizations
Meghan Biss, Technical Advisor
Greg Kutz, AIGA
Troy Paterson, Director
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: March 25, 2013

Time: 11:00 am

Subject: EO comments on pre-discussion draft report

Details:

Director Paterson provided EO a pre-discussion draft of the report for review. Lois Lerner provided written comments for a discussion. AS6.w We went through the comments and the following are the main points made.

Comment 1: Although 501(c)(3) organizations are the majority of applications received, Ms. Lerner does not know what the total number of all other types of organizations combined is, so she does not think us saying most organizations are required to file is accurate.

Comment 2:

26 U.S.C. § 6103

Comment 3: We agree to change wording from actual to potential.

Comment 4: Ms. Lerner thinks the letters used the word expunged. Director Paterson asked if "destroyed" is ok because expunged may not be understood by everyone. She agreed.

Comment 7: Ms. Lerner wants more explanation of the application process.

Page 3: We need to determine the source of the figures cited by the Center for Responsive Politics. (Auditor's Note: The figures are from the Federal Election Commission. ?A1.6)

Comment 9: Use of the term "political team" is inflammatory; the team is not just looking for political campaign intervention. It is referred to as the advocacy team because it is looking at all advocacy activities to make sure that social welfare is the primary activity. Ms. Lerner feels that the July 2011 criteria is what they should be reviewing: "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)".

When a new issue is identified in Cincinnati (Determinations Unit), the EO Technical Unit requests a few cases to develop training. EOT sends development letters to the organizations, and some withdraw their applications. This requires additional cases to be requested from Determinations. All of this takes a while.

Director Paterson commented that the current criteria for identifying advocacy cases only refers to political campaign intervention and not all types of advocacy. Ms. Lerner stated that after the training in May 2012, the Specialists knew what political campaign intervention was, so changing the criteria to this was fine. The advocacy team is reviewing the applications for social welfare activities, not just political campaign intervention; all advocacy activities need to be considered.

Comment 10: Director Paterson asked how we should be referring to the various levels within the IRS. Ms. Lerner responded that at her level it would be the EO function or IRS; at Holly Paz's level it would Rulings and Agreements; and at Cindy Thomas' level it would be Determinations.

Comment 11: Ms. Lerner is upset with the 26 U.S.C. § 6103 The report makes it appear that EO withheld information from us, which is not true. They have asked everyone, and no one knows who wrote the criteria. Mr. Kutz stated that someone has to know. Ms. Lerner stated that the staff put the BOLO together. She added that she has worked with TIGTA since 2001 and 26 U.S.C. § 6103

26 U.S.C. § 6103

Comment 19: Organizations are required to file tax returns if they are denied tax-exempt status. If they have been in operation for 3 years and not filed an information return, if the organization is approved it will be automatically revoked.

Comment 21: Organizations must pay taxes retroactively if denied exemption.

Comment 23: The draft guidance was sent to Cincinnati for comment, not to use; training was provided instead of finalizing the guidance. There is a proposal to include 501(c)(4) guidance on the guidance plan for next year. This is not definite. Director Paterson commented that EO could respond to our recommendation to finalize the draft guidance with this action instead.

cjm
3/25/13

EXCERPT

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

~~Tax-Exempt Applications Were Inappropriately Identified for Processing Based on Organization Names and Values, but Corrective Actions Have Been Taken~~Ineffective Oversight Resulted in Delayed Processing of Tax-Exempt Applications

DRAFT

Phone Number : *202-622-6500*
E-mail Address : *TIGTACommunications@tigta.treas.gov*
Website : *http://www.treasury.gov/tigta*

DRAFT - ~~Tax-Exempt Applications Were Inappropriately Identified for Processing Based on Organization Names and Values, but Corrective Actions Have Been Taken~~Ineffective Oversight Resulted in Delayed Processing of Tax-Exempt Applications

We asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Director, EO function; and other EO function personnel if the criteria were influenced by any individual or organization outside the IRS. All of these officials informed us that the criteria were not influenced by any individual or organization outside the IRS. Instead, IRS management stated that the criteria were developed solely by the Determinations Unit without managerial approval~~IRS management informed us that the Inappropriate criteria were developed by the EO function Determinations Unit~~ for several reasons. The EO function developed and implemented inappropriate criteria due to ineffective oversight. For example, there was minimal management oversight or approval of the criteria before it was implemented. ~~First~~Also, ~~EO function Determinations Unit~~Determinations Unit employees did not consider the public perception of using targeted, politically sensitive criteria when identifying these cases. ~~In addition~~Lastly, the criteria developed ~~shows~~ showed a lack of knowledge in the ~~EO~~ Determinations Unit of what activities are allowed by IRC § 501(c)(3) and IRC § 501(c)(4) ~~social welfare~~ organizations. ~~Lastly, inappropriate criteria were allowed to be implemented because there was no management oversight or approval of its development; were no procedures in place to ensure that criteria developed by the Determinations Unit were approved by executive management.~~

EO function employees stated that they considered the "Tea Party" criterion as a shorthand term for all political cases.[*] Whether the inappropriate criteria was shorthand for all political cases or not, developing and using criteria that focuses on organization names and values, instead of the activities permitted under the tax law, does not promote public confidence that tax-exempt laws are being adhered to~~handled~~ impartially. In addition, the applications for those organizations that were identified for ~~coordinated~~ processing by the political team experienced additional delays and requests for unnecessary information that will be detailed later in this report.

~~*Management Actions:* Prior to July 2011, After EO function Director and the Acting Tax Exempt and Government Entities Division Commissioner stated that they were not aware of the improper coordinated processing criteria developed by the EO function Determinations Unit. After~~ being briefed on the criteria in June 2011, the ~~EO~~ Director, EO function, immediately requested that the criteria be changed. In July 2011, the criteria were changed to focus on the activities of the organization. ~~However~~While this criteria was better than using organization names and values, it was subsequently changed by ~~EO function Determinations Unit~~Determinations Unit employees in January 2012 without executive approval because they believed the July 2011 criteria were too broad. The January 2012 criteria again focused on the values of organizations, instead of the activities of organizations. After 3 months, the ~~Upon learning that the criteria had been changed again by the EO function Determinations Unit, the~~ Director, Rulings and Agreements learned the criteria had been changed by the political team

[*] Based on our review of other criteria, the use of organization names on the BOLO listing is not unique to political cases.

Comment [KGDT20]: How do you know this, is this what they told us? Should we attribute to IRS? CM: We attribute it to the IRS.

Comment [KGDT21]: So we are saying all of this a local, what about HQ being unaware of what's going on in the field? CM: See revised statement.

Comment [KGDT22]: Need to discuss whether the other 200 (100 tea party/9/12/patriot) and other 200 – how the "other 200" were selected? TDF: We do not know. Either the IRS was using "Tea Party" as shorthand and selecting any organization that was involved in political campaign intervention or the other 200 that something to do with the "values" in the criteria. We could not determine either way. Please see the next suggestion on the next page.

Comment [KGDT23]: Isn't this a cause, HQ was admitted they were unaware of what was going on for 17 months? TDF: Agree. Removed statement.

Comment [KGDT24]: Were we OK with this? TDF/CM: The criteria is better than before, but still too broad.

Comment [KGDT25]: Again isn't this a finding of ineffective management, when was this changed and how long was it around? What did it say? TDF: Based how long this was around and that the criteria inappropriately focused on values, see Exemption 12 referring to Appendix A for the various criteria that were used.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

January 28, 2013

MEMORANDUM FOR THE OFFICE OF CHIEF COUNSEL

FROM: Assistant Inspector General for Audit (Management Services and Exempt Organizations)

SUBJECT: Request for Assistance Regarding Internal Revenue Code Section 501(c)(4) and Treasury Regulation Section 1.501(c)(4)-1

In connection with our audit entitled *Consistency in Identifying and Reviewing Applications for Tax Exempt Status Involving Political Advocacy Issues* (Audit # 201210022), we are requesting the Office of Chief Counsel's opinion on the interpretation of Internal Revenue Code (I.R.C.) Section (§) 501(c)(4) made in Treasury Regulation § 1.501(c)(4)-1.

Background

I.R.C. § 501 states that, "An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503." Section 501(c)(4)(A) describes one type of organization included in this exemption as, "Civic leagues or organizations not organized for profit but operated ***exclusively for the promotion of social welfare***, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Treasury Regulations were issued that provided further guidance on this I.R.C. § 501(c)(4). Treasury Regulation § 1.501(c)(4)-1 states that, "***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."

Appendices I and II include excerpts of I.R.C. § 501(c) and Treasury Regulation § 1.501(c)(4)-1.

	Initiator	Proofreader/ Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Office Symbols	IG:A:MSE	IG:A:MSE	IG:A:MSE					
Surname	Medina	Davis	Paterson					
Date	01/24/2013	1/24/13	01/24/2013					

Form 1937-A (TIGTA) Correspondence Approval and Clearance

PSI-TIGTA-15-000006 Department of the Treasury

Requested Counsel Opinion

It appears that the Treasury regulation contradicts the I.R.C. If an organization is required by law to operate **exclusively** for the promotion of social welfare, it's activities cannot be properly assessed using a lesser standard of **primarily** engaged in promoting the common good and general welfare of the people of the community and still meet the requirements of the law. The standards of **exclusively** and **primarily** are not the same when measuring levels of activity.

We are requesting Counsel's opinion on the following:

> Is there any history of the Department of the Treasury's interpretation of I.R.C. § 501(c)(4) when developing Treasury Regulation § 1.501(c)(4)-1, any tax committee notes, or any other documentation that could explain the Department of the Treasury's requirement of organizations to only be **primarily** engaged in promoting general welfare of the community instead of operating **exclusively** for the promotion of social welfare.

Thank you for your assistance. If you have any questions, please contact Audit Manager Thomas Seidell at (781) 438-2215.

Appendix I

I.R.C. § 501(c) Excerpt

Sec. 501. Exemption from tax on corporations, certain trusts, etc.

-STATUTE-

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations

The following organizations are referred to in subsection (a):

(4)(A) Civic leagues or organizations not organized for profit but operated **exclusively** for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Appendix II

Treasury Regulation 1.501(c)(4)-1 Excerpt

(a) *Civic organizations*—

(1) *In general.* A civic league or organization may be exempt as an organization described in section 501(c)(4) if—

(i) It is not organized or operated for profit; and

(ii) It is operated exclusively for the promotion of social welfare.

(2) *Promotion of social welfare*—(i) *In general.* 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.

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity:	Date and Time:
☐ Personal Interview ☐ Telephone Interview ☒ Records Review ☐ Other	April 17, 2013 through May 3, 2013
Activity or Interview of: Review of Electronic Mail in Support of the Treasury Inspector General for Tax Administration, Office of Audit	Conducted by: Special Agent in Charge James S. Jackson Electronic Crimes and Intelligence Division
	Location of Interview/Activity: TIGTA Headquarters 1401 H Street, NW. Suite 469 Washington, DC 20005

Subject Matter/Remarks

On April 17, 2013, the Treasury Inspector General for Tax Administration (TIGTA), Office of Investigations (OI), Electronic Crimes and Intelligence Division (ECID), received a request from the TIGTA Office of Audit to retrieve and conduct a keyword search of the electronic mail for Internal Revenue Service (IRS) Employees JOSEPH R. HERR, ELIZABETH L. HOFACRE, GARY A. MUTHERT, JOHN H. SHAFER and CINDY M. THOMAS. ECID was requested to use the keywords "Tea" or "Patriots" or "9/12" or "(c)(4)", to identify any electronic mail messages sent or received between the staff of the IRS Office of Exempt Organizations (EO), Determination Unit, that directed the Determination Unit staff to hold or stop processing applications for tax exempt status.

On April 18, 2013, the electronic mailboxes and decryption certificates for HERR, HOFACRE, MUTHERT, SHAFER and THOMAS were received from the IRS, decrypted and exported to searchable format by ECID, Digital Forensics Support Group (DFS) Special Agent (SA) KEVIN TREBEL. An initial automated search conducted by DFS SA KEVIN HOLSTON for the above keywords resulted in over 5,500 hits.

Between April 18, 2013 through May 3, 2013, a manual search and review of the above decrypted and exported electronic mail messages was accomplished by ECID, Special Agent in Charge JAMES S. JACKSON. This review revealed that there was a lot of discussion between the employees identified above, as well as other EO employees on how to process "Tea Party" and other political organization's tax exempt applications. The search also revealed that there was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the group charged with reviewing these applications was not sure how to process them, not because they wanted to stall or hinder the application process. There was no indication from this electronic mail review that the pulling of these selected applications was politically motivated. The electronic mail traffic available indicated that there were unclear processing directions

MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

and the group wanted to make sure they had guidance on processing the applications, so they pulled them in order to ensure they were all processed in a consistent manner.

Stuber, Laura (HSGAC)

From: Carter Thomas E TIGTA <Thomas.Carter@tigta.treas.gov>
Sent: Thursday, April 24, 2014 3:31 PM
To: Stuber, Laura (HSGAC)
Cc: Lueptow, Michael (HSGAC)
Subject: FW: HSGAC PSI questions

Hi Laura,

Here are Greg Kutz's answers. I also believe one of the documents in the last release (TIGTA Bates No. 01694) relates to this issue. Please let me know if you have any questions or need further assistance.

Thanks,
Tom

Thomas E. Carter
Acting Deputy Chief Counsel
Treasury Inspector General for Tax Administration
1401 H. St NW, Room 414
Washington, DC 20005

(202) 927-0479 Office
(202) 622-3339 Fax

From: Kutz Gregory D TIGTA
Sent: Thursday, April 24, 2014 2:51 PM
To: Carter Thomas E TIGTA
Subject: RE: HSGAC PSI questions

We requested in February that OI review emails of certain individuals to determine whether they (OI) could identify an email that IRS had told us existed and then later said didn't, could be found. We also wanted to understand who had developed the inappropriate criteria. My letter was to Randy Silvis and that is who I primarily spoke to. We had a meeting in April with the IG to brief on the audit findings and OI was to brief on the status of request to review emails. At that point they expressed concerns about the scope of the email review, and I don't believe they had started pulling any emails at that point. I don't specifically recall Tim mentioning "fishing expedition" and my only reaction would be that we thought it would be prudent to look through emails for the reasons stated in the February referral letter. The ultimate resolution was to reduce the number of individuals whose emails were reviewed to a smaller number. I don't recall any disagreement since they had initially accepted the referral, but in the meeting the IG agreed that the emails should be reviewed before the report was issued. And they were.

Greg

From: Carter Thomas E TIGTA
Sent: Thursday, April 24, 2014 1:42 PM
To: Kutz Gregory D TIGTA
Subject: HSGAC PSI questions

Hi Greg,

Following up on our earlier conversation, I thought it might be better to get the answers in your own words to ensure accuracy and avoid me making any misrepresentations. Here are Laura's questions...

1) What is your reaction to Tim Camus describing OA's initial request for the "smoking gun" email as a "fishing expedition"

2) Describe any disagreement between OI and OA surrounding the OA request and how any disagreement was resolved.

If possible, I'd like to get this back to Laura by COB today. Please let me know if you have any questions or if you need more time.

Thanks,
Tom

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

June 6, 2014

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
United States Senate
Russell Senate Office Bldg., Room SR-269
Washington, D.C. 20510-2202

Dear Senator Levin:

This is in response to your letter of May 28, 2014, regarding the Subcommittee's investigation into oversight by the Internal Revenue Service (IRS) of § 501(c)(4) groups that engage in campaign activity. As part of this investigation, the Subcommittee reviewed the Treasury Inspector General for Tax Administration's (TIGTA) audit report entitled, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," Audit Report No. 2013-10-053. You asked us to respond to five questions. Our responses to your questions follow:

1. *Is it correct that the TIGTA audit found no evidence of political bias in how the IRS selected and reviewed 501(c)(4) applications filed by groups engaged in campaign intervention activities?*

   The Office of Audit asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Exempt Organizations (EO) Director; and Determinations Unit personnel whether the inappropriate criteria were influenced by any individual or organization outside the IRS. We reported that, "all of these officials stated that the criteria were not influenced by any individual or organization outside the IRS." I also testified before Congress that TIGTA found no evidence of political bias during this audit. However, it is important to note that the matter is being further reviewed.

2. *The TIGTA audit engagement letter stated the audit's "overall objective" was to examine the "consistency" of IRS actions in identifying and reviewing 501(c)(4) applications, including whether "conservative groups" experienced "inconsistent treatment." What conclusion did the TIGTA audit reach regarding whether conservative groups experienced inconsistent treatment by the IRS in comparison with liberal or progressive groups?*

TIGTA's engagement letter actually stated that the overall objective of the audit was "to assess the consistency of the EO function's identification and review of applications for tax-exempt status involving political advocacy issues." Our overall objective was not to determine whether conservative groups experienced inconsistent treatment. Appendix I of our report shows that we, "determined whether the actions taken by the EO function to identify applications for tax-exempt status of organizations potentially involved in political campaign intervention were consistent" by reviewing all 298 potential political cases identified as of May 2012 that IRS forwarded to their team of EO specialists, as well as statistical samples of applications that the IRS did not forward to its team of EO specialists. In all, we reviewed more than 600 cases to determine if the applications involving political advocacy issues received consistent treatment. Our report concludes that:

> *"The inappropriate and changing criteria may have led to inconsistent treatment of organizations applying for tax-exempt status. For example, we identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention. All applications that were forwarded to the team of specialists experienced substantial delays in processing."*

Our audit report does not include the terms "conservative," "liberal," or "progressive," and TIGTA did not make any characterizations of the political views of any organizations.

3. *At a June 3, 2013 hearing before the House Appropriations Subcommittee on Financial Services and General Government, in response to a question about whether TIGTA's audit had "found any political motivation in reviewing tax-exempt applications," you testified:*

> *"But in the instance of the political activity matter, we did not uncover instances of groups that could readily be identified as being, you know, liberal, you know, for lack of a better term, that were treated in a manner that these Tea Party cases were."*

Did you mean that the TIGTA audit uncovered instances where liberal groups were treated in a different manner than Tea Party groups? If so, please describe those instances and in what ways the liberal groups were treated differently.

In the audit report, TIGTA did not characterize any organizations as liberal or conservative. Nor did we assess whether liberal groups were treated in a manner different than Tea Party groups. Our audit report used the terms Tea Party, 9/12, or Patriots because those were the terms the IRS represented it was using to select cases for further review for potential significant political campaign intervention. As stated in our audit report: "We identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention."

In my testimony before the House Appropriations Subcommittee on Financial Services and General Government, I was conveying that, in the audit report, we did not characterize the political views of any organizations. Many of the names of the organizations used terms not readily categorized on the political spectrum, and we did not identify any objective criteria that we could use to label these groups in a manner that meets government auditing standards.

4. *Did the Be on the Look Out (BOLO) lists issued by the IRS ask IRS agents to be on the lookout for applications filed by progressive and liberal groups?*

   As we stated in our audit report, we did not review the use of other named organizations or terms on the BOLO listings to determine if their use was appropriate, nor did our audit make any characterizations of the political views of any organizations. During our audit, we used the "Emerging Issues" section of the BOLO listing, which the IRS informed us was the criteria it used to identify potential political campaign intervention cases during the time period covered by our audit. However, the term "Progressives" appears on the BOLO listing in a section labeled "Historical." This BOLO entry refers to § 501(c)(3) organizations. The three "Progressive" cases included in the 298 potential political cases that were forwarded to the team of specialists as of May 2012 were § 501(c)(4) organizations. While we have multiple sources of information corroborating the use of Tea Party and other related criteria we described in our report, including employee interviews, e-mails, and other documents, we found no indication in any of these sources that "Progressives" was a term used to refer cases for scrutiny for political campaign intervention during the time period covered by our audit.

5. *In his interview with the Subcommittee, Assistant Inspector General Gregory Kutz told the Subcommittee that all 501(c)(4) applications within the advocacy category of cases appeared to have received the same treatment by the IRS. Do you agree?*

   Based on the recollection of Mr. Kutz, the response of "same treatment" would have referred to the delays in processing and tracking by the IRS of these cases. Specifically, as stated in our audit report, all applications (including 89 applications for § 501(c)(3) status) that we reviewed that were forwarded to the IRS team of EO specialists experienced substantial delays in processing. In addition, all of the 298 potential political cases that we reviewed were recorded on a tracking sheet by the IRS. However, it is important to note that no two applications were treated exactly the same since the information provided by applicants in each application differed. For example, for 296 of these cases,[1] as of December 17, 2012, 108 applications had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 cases were open from 206 to 1,138 calendar days (some crossing two election cycles). In addition, the IRS Determinations Unit sent applicants requests for information that we later (in whole or in part) determined to be unnecessary for 98 (58 percent) of 170 organizations that received additional information request letters.

We hope this information is helpful. If you or your staff has any questions, please contact me at (202) 622-6500, or Acting Deputy Inspector General for Audit Michael McKenney at (202) 622-5916.

Sincerely,

J. Russell George

J. Russell George
Inspector General

cc: The Honorable John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

[1] By December 17, 2012, two cases were no longer being processed by the team of EO specialists.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Involving Political Advocacy Issues
#201210022
AIGA Briefing
September 12, 2012

Overall Objective:
Our overall objective is to assess the consistency of the Exempt Organizations function's identification and review of applications for tax-exempt status involving potential political advocacy issues.

Objective I – Assess the actions taken by the Exempt Organizations function in response to the increase in applications for tax-exempt status from organizations potentially involved in political advocacy activities.

Current Status:

- We have completed preliminary interviews with the main players in the development of the advocacy issue to ascertain actions taken.
- We have obtained numerous emails and documents related to the development of the advocacy issue.
- We have completed a draft timeline of events based upon the information we have obtained to date.

Work Scheduled:

- Perform additional interviews as necessary to gather all relevant information.
- Continue to develop the timeline if additional information is provided.
- Complete summaries for the objective.

Objective II – Determine whether changes to procedures and controls since May 2010 affected the timeliness of reviewing applications involving potential political advocacy issues.

Current Status:

- We have completed preliminary interviews with the main players in the development of the advocacy issue and determined that there were no outside influences when developing the criteria used to identify advocacy cases that led to delays in processing the cases.
- We have reviewed documentation related to the steps taken during the development of the advocacy emerging issue to determine if any actions delayed the review of the political advocacy applications. Delays identified include:
  - Lack of consistent management oversight.
  - Lack of a formal process to request assistance from EO Technical (Headquarters).
  - Untimely guidance provided to EO Determinations from EO Technical.

Work Scheduled:

~~PSI-TIGTA-06-003081~~
TIGTA Bates003081

- Complete summaries for the objective.

Objective III – Determine whether the actions taken by the Exempt Organizations function to identify applications for tax-exempt status of organizations with potential political advocacy issues were consistent.

Current Status:

- IIIA – EDS Full Development Cases
  - 173 out of 244 cases completed. We received another 36 cases that need to be reviewed.
  - 21 potential exceptions identified
  - 72 cases missing screener chronology
  - 21 cases missing specialist check sheet
  - 14 cases missing specialist chronology
  - 12 cases missing specialist narrative detailing justification for determination
  - 26 U.S.C. § 6103
- IIIB – Merit Closed Cases
  - 90 of 94 cases completed plus the extra sampled cases. We did not receive three of the initially sampled cases. (We have re-requested them. We also re-requested 1 additional case because the file was incomplete.)
  - 3 potential exceptions identified
  - 26 cases missing screener chronology
  - 34 cases missing specialist check sheet
  - 8 cases missing specialist chronology
  - 35 cases missing specialist narrative detailing justification for determination
- IIIC – Advocacy Cases
  - 116 out of 298 cases completed. We received another 75 cases that need to be reviewed.
  - 62 potential exceptions identified
  - 17 cases missing screener chronology
  - 12 cases missing specialist check sheet
  - 4 cases missing specialist chronology
  - 6 cases missing specialist narrative detailing justification for determination

Work Scheduled:

- Continue to review objective IIIA cases as the files are received.
- Continue to review objective IIIC cases as the files are received.
- Discuss results with EO once reviews completed.
- Complete summaries for the objective.

Objective IV – Determine whether the EO function consistently had a reasonable basis for requesting information from organizations seeking tax-exempt status involved in potential advocacy.

~~PSI-TIGTA-06-003082~~
TIGTA Bates003082

Current Status:

- We have not begun this objective.

Work Scheduled:

- Once we complete objective III, we will begin reviewing cases for this objective. We will review the same cases obtained for Objective IIIC.

~~PSI-TIGTA-06-003083~~
TIGTA Bates003083

Consistency in Identifying and Reviewing Applications for Tax-exempt Status Involving Political Advocacy Cases
Audit Status Meeting

MEMO OF CONTACT

Participants:	Greg Kutz, AIGA Troy Paterson, Director (via phone) Tom Seidell, Audit Manager Cheryl Medina, Senior Auditor Michael McGovern, Auditor Evan Close, Auditor
Date:	September 25, 2012
Time:	10:00 am
Subject:	Status of audit

Details:

AIGA Kutz began by informing us that TIGTA received an inquiry from Representative Issa on the status of our review. It was decided that TIGTA will respond that we are still in fieldwork.

AM Seidell went through the current status of the audit. We have completed a timeline of events after interviewing numerous EO employees and reviewing over 100 emails. AIGA Kutz commented that we don't know if we received all documentation.

AM Seidell then discussed our three samples for the case reviews. He explained what a § 501(c)(4) organization can and cannot do, including political campaign intervention, as long as it is not the primary activity of the organization, and furthers its exempt purpose. For § 501(c)(3) organizations, they cannot do any political campaign intervention. For the three samples, we are reviewing over 600 cases to determine if they were accurately identified for the advocacy group based upon the information available to the screener. In Objective IV, we will review the questions to determine if any were unnecessary.

AIGA Kutz had an idea for a future review. Fake organizations could be approved for § 501(c)(4) status. Any charitable donations to the organizations are tax deductible, which affects the tax gap.

AM Seidell explained that according to the people we spoke to, the Headquarters office knew cases were being held, but did not know the criteria being used. However, we have emails that include references to Tea Party cases by Headquarters employees.

AIGA Kutz kept suggesting we put examples in the report of references to organizations and the delays in processing cases that took place. He suggested we check with Chief Counsel on whether we can generically refer to cases as examples without them being redacted in the report.

AIGA Kutz reviewed 26 U.S.C. § 6103 (b)(3), 26 U.S.C. 6103 He asked how many organizations received the donor information question. I stated that we have not looked at the questions yet, but IRS Headquarters reviewed many case files for the donor question and that I could give him a figure. (Auditor's Note: During a break in the meeting, I reviewed the Headquarters analysis of the questions asked and identified 29 organizations that received the donor question. AIGA Kutz asked how many of them were Tea party organizations. I identified eight Tea Party organizations that received the donor question. Binder 1, pp. 112-116)

We then discussed how we envision the report. AM Seidell explained that we planned on issuing an interim report and a final report for this review, similar to the filing season audits completed every year. The first report would cover the timeline of events and the identification of advocacy cases. The second report would include similar information, but would also include our analysis of the questions (Objective IV). AIGA Kutz did not think an interim report was a good idea. He suggested that the report needs to answer the crucial question of whether the IRS targeted Tea Party organizations. The answer is yes. We should also include the allegations made by the organizations.

Right now, no one has admitted to authorizing the criteria used to identify advocacy cases. It just ended up that way. AIGA Kutz thinks we need to ask the TEGE Commissioner who authorized the Tea Party criteria. Director Paterson has his quarterly meeting with the Commissioner tomorrow (9/26/12).

AM Seidell called Director Paterson to join the meeting. AIGA Kutz reiterated that he would like to get TEGE's official position on the criteria. Director Paterson agreed and suggested he could also ask the EO Director about this as well. AIGA Kutz thought this was a good idea. AIGA Kutz also wants to ask if the executives know that the organizations were asked to provide additional information, but later told it was not necessary.

Director Paterson mentioned the interim report we plan on issuing. It would include information on whether the IRS targeted Tea Party organizations, whether more liberal organizations were referred to the advocacy group. A discussion on how to word issues in the report was had. It was decided we need to state the facts – other organizations with political campaign intervention issues were not sent to the advocacy group (objective IIIA and IIIB). We cannot definitively identify liberal vs. conservative organizations, so we want to stay away from using "heated" jargon.

cjm
9/27/12

Anketell Margaret A TIGTA

From:	Paterson Troy D TIGTA
Sent:	Monday, March 19, 2012 7:28 AM
To:	Medina Cheryl J TIGTA; McGovern Michael A TIGTA; Seidell Thomas F TIGTA
Cc:	Nakamura Nancy A TIGTA
Subject:	JCT Report on Allegations of Bias Surrounding Applications for Tax Exemption and Examinations of Tax-Exempt Organizations

Cheryl, Mike, and Tom,

Proving that there is nothing new under the sun, here is a March 2000 report from the Joint Committee on Taxation regarding allegations that the IRS was biased when reviewing applications and conducting examinations of politically active organizations that were tax-exempt or applying to be tax-exempt. Sound familiar? I haven't read this yet, but I'm thinking we might be able to glean some bits of wisdom from an investigation that has already been down the path we are heading. Have fun!

Troy

[redacted]

[redacted]

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

Anketell Margaret A TIGTA

From: Paterson Troy D TIGTA
Sent: Thursday, March 22, 2012 1:47 PM
To: Martin Russell P TIGTA
Subject: RE: 501(c)(4) Briefing Paper

Russ,

I thought Russell was going to be briefed on these at the Senior Staff meeting today, but it looks like we're scheduling something for early next week. Assuming there are no objections next week, we will start planning the application side of the audit next week. Planning will start for the oversight of existing 501(c)(4)s review in about a month.

We lucked out that we have two teams that are in the process of issuing reports right now and they happen to be the teams with the most experience in the area!

Troy

[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Martin Russell P TIGTA
Sent: Thursday, March 22, 2012 1:42 PM
To: Paterson Troy D TIGTA
Subject: RE: 501(c)(4) Briefing Paper

When are you starting these if you do?

<< OLE Object: Picture (Device Independent Bitmap) >>
Russell P. Martin
Director - Electronic Tax Administration
Returns Processing and Account Services
Treasury Inspector General for Tax Administration

From: Paterson Troy D TIGTA
Sent: Thursday, March 22, 2012 1:34 PM
To: Martin Russell P TIGTA
Subject: RE: 501(c)(4) Briefing Paper

Russ,

Nancy and I were up on the hill about a week and a half ago to discuss concerns one of the House Ways and Means subcommittees had with the way the IRS is processing requests for tax exemption from potential section 510(c)(4) organizations related to the Tea Party. Basically, the staffers we met with allege that the IRS has been sitting on requests for a long time and, during an election year, asking a massive amount of unreasonable questions before deciding on whether to grant tax exemption to Tea Party-related groups. At the same time, the IRS is getting a lot of heat from the Democrat side who allege that the IRS is not cracking down hard enough on organizations funneling money to super PACs that are masquerading as tax-exempt social welfare organizations (section 501(c)(4)

~~PSI-TIGTA-07-001208~~

organizations). In response, we've decided to look at both sides of it (how the IRS is processing applications for tax exemption by potential 501(c)(4) organizations and how the IRS is overseeing 501(c)(4) organizations that are already in business and filing information returns).

This seems to crop up every election year when one side or the other believes either the IRS is overstepping its bounds or tax-exempts are being too politically active.

Troy
[redacted]

From: Martin Russell P TIGTA
Sent: Thursday, March 22, 2012 1:22 PM
To: Paterson Troy D TIGTA
Subject: RE: 501(c)(4) Briefing Paper

Hey Troy – what is this in response to??? Sorry trying to get up to speed.

<< OLE Object: Picture (Device Independent Bitmap) >>
Russell P. Martin
Director - Electronic Tax Administration
Returns Processing and Account Services
Treasury Inspector General for Tax Administration

[redacted] = Redacted by the Permanent Subcommittee on Investigations

---

From: Paterson Troy D TIGTA
Sent: Thursday, March 22, 2012 12:44 PM
To: Phillips Michael R TIGTA; Nakamura Nancy A TIGTA
Cc: Casey Kenneth F TIGTA; Martin Russell P TIGTA
Subject: RE: 501(c)(4) Briefing Paper

Mike,

Attached is the revised 501(c)(4) briefing paper. We have addressed your concern by stating that we will cancel one audit and delay another audit. A brief description of the canceled audit and delayed audit can be found in the footnote. If you need any additional information, please let me know.

Troy
[redacted]

<< File: IG Briefing Paper (501c4 Social Welfare Organizations).doc >>

From: Phillips Michael R TIGTA
Sent: Thursday, March 22, 2012 8:56 AM
To: Nakamura Nancy A TIGTA
Cc: Paterson Troy D TIGTA; Casey Kenneth F TIGTA; Martin Russell P TIGTA
Subject: FW: 501(c)(4) Briefing Paper
Importance: High

Hi Nancy,

Before I send this up to Matt, can Troy and you put under the Audit Project section what we have to give up doing to focus on these two audits. If you can be specific about which two audits in the plan will not be done and why we will not do them, it helps to show Russell that we have limited resources and have to give up other reviews that we had planned to do.

Thanks,

Mike

From: Nakamura Nancy A TIGTA
Sent: Wednesday, March 21, 2012 8:45 PM
To: Phillips Michael R TIGTA
Cc: Paterson Troy D TIGTA
Subject: FW: 501(c)(4) Briefing Paper

Mike,

Based on our discussion last Tuesday in Atlanta, we are planning a two-phased audit reviewing the IRS's oversight of § 501(c)(4) organizations. The attached briefing document outlines the two phases as well as the recent media and congressional interest in this area.

If you have any questions, please let me know.

Thanks,
Nancy

From: Paterson Troy D TIGTA
Sent: Wednesday, March 21, 2012 5:42 AM
To: Nakamura Nancy A TIGTA
Cc: Kisler Debra L TIGTA
Subject: RE: 501(c)(4) Briefing Paper

<< File: IG Briefing Paper (501c4 Social Welfare Organizations).doc >>

From: McGovern Michael A TIGTA
To: Medina Cheryl J TIGTA
Cc: Scidell Thomas F TIGTA
Subject: RE: c4s
Date: Monday, March 26, 2012 8:47:03 AM

Ok. I was on the phone with Tom Hawkins. I'm going to begin referencing today, so the sooner we have the meeting the better.

From: Medina Cheryl J TIGTA
Sent: Monday, March 26, 2012 8:40 AM
To: McGovern Michael A TIGTA
Subject: c4s

Tom called me this morning to say that Nancy has given Troy the ok to contact legislative affairs informing them of this review. We then can contact EO for a planning meeting. Tom would like to have a conference call later today for us to brainstorm on what info/questions we want to discuss with EO during planning. Put your thinking cap on.

Cheryl Medina
Treasury Inspector General for Tax Administration
Phone: 781-835-4278
Fax: 781-279-0336

Anketell Margaret A TIGTA

From: Medina Cheryl J TIGTA
Sent: Thursday, March 29, 2012 9:41 AM
To: Seidell Thomas F TIGTA; McGovern Michael A TIGTA; Paterson Troy D TIGTA
Subject: Article on Determs

Here is the first article I've seen that actually compares letters from the IRS to both conservative and progressive groups – letters ask similar questions.

Does the IRS really have it in for tea party groups?

By Teddy Wilson
Wednesday, March 28, 2012 at 5:19 am

Conservative activists and some Republican lawmakers are up in arms about what they describe as the Internal Revenue Service conducting a partisan and ideologically driven campaign against tea party groups around the country. They claim that progressive organizations are not experiencing the same level of scrutiny. However, some progressive groups say they have had similar experiences with the IRS, and at least one expert dismisses the notion that the government is engaged in an ideological witch hunt.

Tea party groups, as well as other non-profit organizations, can apply for tax-exempt status with the IRS. Under the 501(c) designation there are 28 different types of organizations that are exempt from paying some or all federal taxes. Typically, organizations like tea party groups will apply either for 501(c)3 or 501(c)4 status, depending on the organization's activities. One of the differences between the designations is that donations to a 501(c)3 are tax deductible and donations to a 501(c)4 are not.

In an interview with the Texas Independent, Toby Walker of the Waco Tea Party said that the group applied for 501(c)4 status by filing a 1024 form with the IRS in July of 2010. About a month later the group was informed that the IRS would take 90 days to inform it of an approval, a denial, or a request for more information. "The 90 days came and went," said Walker. "But on their web site it said that they were behind. We started calling and checking in, and they said they were backlogged."

Then on Feb. 7 of this year, the Waco Tea Party received a letter from the IRS asking for the answers to 20 questions. "Some of the questions were acceptable," said Walker. "We knew they were going to ask for more information, and we weren't surprised to get the letter. What surprised us were a number of the questions that did not pertain to the 1024."

"Red alert"

Walker specifically cited the seventeenth question as being a "red alert." The question asks if the group has a "close relationship with any candidate for public office or political party." The question also asks them to describe the relationship.

"I told our treasurer to find out what that means," said Walker. "When we called the IRS they said that close relationship is subjective and to send them the names, and they will let us know. What does that mean?"

"It was so onerous to answer," said Walker.

The letter asked for transcripts of the group's social media activities, including posts on Facebook and Twitter. It also requested transcripts of the group's online radio show. Walker said that the group was looking at significant costs for printing and shipping all of the documents required. "Just to do our Twitter account would be between 2,500 and 3,000 pages," said Walker.

Walker said that she knew that "left leaning groups" that filed the same year had been approved. While she did not name the specific groups, **Walker referred to a March 8 Roll Call article**. The article stated that "several liberal groups contacted by Roll Call did not report similar experiences."

The article specifically cited **Protect Your Care**, a 501(c)4 organization that describes its mission as providing a space to "champion the Affordable Care Act," as an organization that did not receive any such questionnaire letter from the IRS. Roll Call also said that one other unnamed liberal 501(c)(4) organization was granted tax exempt status in May after receiving "only a modest six-part questionnaire."

Progressives get same treatment

However, interviews conducted by the Texas Independent with three different progressive organizations call into question charges that the IRS is engaged in ideological discrimination. Each organization reported varying degrees of interactions with the IRS, and the amount of time it took each to receive final approval also varied. However, two of the organizations did receive correspondence from the IRS requesting more information, and these letters included similar questions to those received by the Waco Tea Party.

In College Station, Texas, the **Brazos Progressives**, a coalition of progressive groups and businesses, originally filed for 501(c)3 status and, after being denied, filed for and received 501(c)4 status. **Clean Elections Texas**, an organization that seeks to build support for a public funding option for candidates seeking public office in Texas, filed for 501(c)4 status and said that they avoided requests for more information by being advised on what specific information the IRS was looking for on the 1024 forms.

A staff member of a progressive organization in Texas spoke with the Texas Independent on the condition of anonymity due to the fact that their organization is undergoing a similar review as the Waco Tea Party. The staff member said that that while the organization's application for 501(c)3 and 501(c)4 status went through "fairly smoothly," the organization also had to answer extensive follow-up questions about its finances and mission.

"We received a questionnaire of around twenty questions," said a staff member. "The letter was looking for a deeper understanding of our organization. There were no questions that were that surprising. I think they [the questions] were just about really drilling into why we wanted to have a tax exempt status. It made us focus on what we are working on and what kind of great good agenda, not just a partisan agenda, we are working toward."

"The IRS is asking similar questions of organizations from all over the political spectrum."

The staff member, who said that he has worked for multiple 501(c)3 and 501(c)4 organizations during the Clinton, Bush, and Obama administrations, said that he has perceived no difference in how non-profits applying for tax-exempt status are treated. "When the IRS asks questions, then you answer them," said the staff member. "If you are upset with being upfront and clear about your organization, then maybe you shouldn't be filing for a 501(c)4 status."

A comparison of the letter from the IRS released by the Waco Tea Party and of a letter provided by the progressive Texas organization found that both are extensively detailed, asked similar questions, and were tailored to each organization. Both letters asked for copies of the organization's board meeting minutes and for

copies of each organization's web sites. Questions also addressed specific concerns that the IRS had with each organization but, on the whole, did not appear to treat the organizations differently.

Marcus Owens, an attorney who represents non-profit organizations and has previously worked with the IRS, told the Texas Independent that the IRS is attempting to "get behind the rhetoric" of organizations that are interested in public policy.

"The IRS is asking similar questions of organizations from all over the political spectrum," said Owens. "The real issue for the IRS when it looks at organizations that apply for 501(c)4 status is whether or not they are social welfare organizations or something else. It's not whether or not they should be exempt or not, but which code section they should be exempt under."

While Owens did think that some of the questions were too broad and could have been worded better, he also said that groups applying for tax exempt status have options when questioned by the IRS.

"Fundamentally the IRS has a right ask the questions," said Owens. "However, the IRS is usually open to negotiating how much information you need to provide. What is clear is that this application process is normally not improved by public posturing. It is the task of the organization or the organization's representatives to add to the facts and make the case to the IRS."

Walker says that when the Waco Tea Party received the letter from the IRS, the group contacted its members, volunteers, and supporters. At no time did the group contact the IRS directly for clarification of the questions or to negotiate what information would be acceptable.

The Waco Tea Party also sought out the **American Center for Law and Justice** for legal advice and representation.

The ACLJ has taken up the cause of the Waco Tea Party and other tea party groups. The ACLJ describes itself as "committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world." Founded in 1990 by television evangelist Pat Robertson, the group has gained notoriety for taking up conservative causes. These have included **providing a legal defense for a public bus driver** who was fired for refusing to take a woman to a Planned Parenthood clinic in Texas.

"When a branch of the fed government is violating citizens' rights, they need to be investigated and put into their constitutional box."

The ACLJ posted a petition on its web site to "**Stop the IRS from Silencing the Tea Party**." The petition claims that under the Obama Administration the IRS "appears to be conducting politically motivated investigations of tea party organizations nationwide." The petition characterizes the investigations as "bullying tactics" that are "designed to silence these organizations." The petition calls for the Speaker of the House and others to "provide IRS oversight." Other Republican lawmakers and candidates have joined in supporting these claims, and some have called for congressional investigations.

Rep. Flores gets involved

Republican Rep. Bill Flores (TX-17), whose district includes Waco, **penned a letter** to House Committee on Oversight on Government Reform Chairman Rep. Darrell Issa stating that he is "concerned that the IRS is targeting tea party organizations around the country." The letter requests that Issa's committee open an investigation into the issue and hold congressional hearings. Republican senators **also sent a letter** to Commissioner of the IRS Douglas Shulman, requesting a response to similar concerns and demanding that the agency hold further "demands for information."

The Waco Tea Party also taken to social media to make its case that it is being targetted by the IRS, characterizing it as a battle between the "**IRS versus the tea party**." Posting multiple status updates and links on Facebook and Twitter, the group has made the claim that you are "**either with us or against us and the constitution**." The group has also promoted the petition drive by the ALCJ, tweeting "**defend the tea party from the IRS, sign the petition and call Congress**."

Another recent tweet reads: "The left is trying to silence Rush, and the IRS is trying to silence the tea party."

Walker shares the desire for an investigation and hearings. "Yes there needs to be congressional hearings," she said. "When a branch of the fed government is violating citizens' rights, they need to be investigated and put into their constitutional box."

Waco Tea Party IRS Letter//

IRS Letter to Progressive Group//

Cheryl Medina
Treasury Inspector General for Tax Administration
Phone: 781-835-4278
Fax: 781-279-0336

From:	Martin Russell P TIGTA
To:	Paterson Troy D TIGTA; Jones Jeffrey M TIGTA
Subject:	FW: Monthly Briefing Documents (May)
Date:	Monday, May 21, 2012 10:11:01 AM
Attachments:	201210022-Commissioner Briefing Paper (Dated 05-30-2012) (2).doc #201110027 CmrBriefingMay2012.doc Text for IRS Commissioner Data Call to AIGA 10-10.doc

FYI

Russell P. Martin

Acting Assistant Inspector General for Audit

Management Services and Exempt Organizations

Treasury Inspector General for Tax Administration

Office - 978-809-0296

From: Martin Russell P TIGTA
Sent: Monday, May 21, 2012 10:11 AM
To: Begg Margaret E TIGTA
Subject: FW: Monthly Briefing Documents (May)

Peggy,

Below are the two suggestions from MSE. The one on the 501(c)(4) is the key briefing.

Thanks Russ

Russell P. Martin

Acting Assistant Inspector General for Audit

Management Services and Exempt Organizations

Treasury Inspector General for Tax Administration

Office - 978-809-0296

From: Stephens Dorothy A TIGTA
Sent: Monday, May 14, 2012 1:34 PM

To: Begg Margaret E TIGTA; Duncan Alan R TIGTA; Martin Russell P TIGTA; McKenney Michael E TIGTA; Nakamura Nancy A TIGTA
Cc: Davis Estine H TIGTA
Subject: Monthly Briefing Documents (May)

Good afternoon, would you kindly send the briefing documents directly to the DIGA for the month of May and June.

Thank you for your assistance.

Dot

Monthly Commissioner Meeting

The **MAY** meeting with the IRS Commissioner is scheduled for **MAY 30TH**. The prep meeting with the Inspector General will be on **MAY 22nd**.

In order to prepare this month's briefing book, I need your respective suggestions for topics, as well as audits that you think Mike should discuss at the meeting. As in the past, please provide a briefing document on significant audits or any other audit issues or topics you would like discussed. If you would like to provide a copy of the discussion draft/draft report to supplement the briefing paper please feel free to do so.

Monthly Recovery Act Briefing Papers

Please update your monthly Recovery Act Briefing Papers as well.

For both the Commissioner Meeting Briefings and the Recovery Act Briefings, please use a new document for each audit you're highlighting. For your Recovery Act Briefing Papers, please include Recovery Act in the project title.

Please use the attached revised briefing paper template for both the Commissioner Meeting Briefing Papers and the Recovery Act Briefing Papers. I would appreciate it if I could get your input by Friday, May 18th.

Thanks.

Process for Reviewing Applications for Tax Exemption
Office of Audit Briefing Paper
May 30, 2012

Audit Project or Report Number: 201210022
Objective: We are currently developing the appropriate scope for this audit, which will focus on the process used by the IRS when reviewing applications for tax-exempt status by § 501(c)(4) organizations.

Planned Discussion Draft Report Date: N/A
Planned Draft Report Date: N/A
Planned Final Report Date: N/A

Project/Report Description: On March 8, 2012, the Counselor to the Inspector General and Office of Audit representatives met with congressional staffers from the House Committee on Oversight and Government Reform. Congressional staff raised concerns with IRS reviews of applications for tax-exempt status by § 501(c)(4) Social Welfare organizations. Specifically, congressional staff were concerned that the IRS was targeting specific groups that had applied for tax exemption, e.g., Tea Party groups, and subjecting them to additional scrutiny based on their political views.

Program Information:

Organizations wishing to be recognized as tax-exempt may file applications with the IRS indicating their planned activities, as well as financial information. A determination is made on whether the organization qualifies for tax-exempt status. In some cases, additional information is requested from the organization before a determination decision is made.

Audit Status:

Due to the sensitivity of this issue, we are providing information identified during planning for this audit. We obtained documentation indicating that certain organizations' applications for tax-exempt status were targeted by the Exempt Organizations Determinations office based on the organizations' name or political beliefs. Additional audit work is needed to determine the extent, if any, of inconsistent treatment of these organizations applications for § 501(c)(4) tax-exempt status.

- In February 2010, according to Exempt Organizations function officials, the Determinations office identified an increase in applications for § 501(c)(4) status where organizations were advocating issues relating to government spending, taxes, and similar matters.
- As early as May 2010, according to documentation we were provided, Exempt Organizations function screeners were informed to identify applications by Tea Party groups for additional scrutiny.
- In June 2011, the Exempt Organizations Director was informed the Determinations office was using criteria that **specifically targeted** applications

that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run. As of June 2011, over 100 applications meeting this criterion had been identified and were forwarded to a specific group for processing.

- In July 2011, subsequent to the briefing of the Exempt Organizations Director, the Exempt Organizations function changed the criterion for identifying these organizations to remove references to specific political groups or political issues. The criterion was changed to "organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)".
- As of January 2012, the criterion now reads "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement."

Media Attention:

There have been numerous news articles with allegations of the IRS requesting extensive amounts of additional information from organizations applying for § 501(c)(4) tax-exempt status, including donor information, as part of its review of applications. Several accusations of bias towards conservative groups, particularly Tea Party organizations, have been made.

The Congress has shown increased interest in the IRS's treatment of § 501(c)(4) social welfare organizations, as well. Several members of Congress have requested the IRS investigate whether groups designated as social welfare organizations are improperly engaged in a substantial or even predominant amount of campaign activity. Several other requests from the Congress raised concerns about selective enforcement in the determinations process.

MEMORANDUM OF DISCUSSION

DATE: 05/22/2012 **TIME:** 10:50-11:30 AM

SUBJECT/PURPOSE: To document discussion of the IG briefing paper that we prepared on certain § 501(c)(4) applications being "targeted"

PRESENT: Lois Lerner Director, EO function
Troy Paterson TIGTA

SOURCE: Discussion via teleconference

NOTE: The following are highlights from my conversation with the EO function Director, Lois Lerner.

- **Troy**: I'm just calling to let you know that we will be raising an issue to our IG regarding § 501(c)(4) applications. We have received documentation showing that certain organizations (Tea Party, organizations criticizing how the country is being run) were targeted for additional scrutiny in part of the EO function. We do not know whether this led to inconsistent or improper treatment of these organizations and we will not know that until we conduct an audit. I believe we need to inform our IG because our front office has received congressional interest and external complaints that the IRS has been targeted specific groups as part of the application process. The reason I wanted to let you know this is because the IG may or may not discuss this at the upcoming IRS Commissioner meeting. **Lois**: I was expecting your call and I understand the issues, but I would probably characterize it differently.

- **Troy**: Let me fill you in on what I know and you can let me know if you think my understanding is incorrect and if you have any perspective to add. In the Spring of 2010, the IRS began receiving certain types of applications that it had not seen before. Therefore, the EO Rulings and Agreements organization put out e-mails to its screeners to target all "Tea Party" applications for additional review by a certain group. By June 2011, the criterion had been expanded to include other groups, such as Patriots and the 9/12 group, as well as groups that question how the country is being run. About 100 cases had been set aside by this time. It is my understanding that you were briefed on the criterion being used. As a result of the briefing, the criterion was changed to be more about the tax law and less about the specific groups or ideologies involved. We believe that the criterion should have been about issues with the tax law all along. We are aware that the criterion has changed since then and is still under revision. Is this correct? **Lois**: That is basically correct; however, I think I can fill in some gaps that will help you understand the situation better. It has been customary for the applications group in Cincinnati to document emerging issues through e-mails. However, we received complaints at a CPE that employees were receiving too much information via e-mail and there was no consolidated place where employees could go for this information. As a result, Cincinnati began consolidating information into what is called a BOLO (Be On the LOokout). In the Spring of 2010, the applications group began seeing a surge in applications that were very up front about political work the organizations would be conducting. It is not unusual for us to send cases to a specific group when we see an uptick of applications with the same issues. We like to have a specific group or set of people work the applications so that we are consistent in our determinations.

- **Lois**: Since our Cincinnati folks had never seen applications like the ones they were receiving, they contacted the TE/GE Division National Office to ask for guidance on how to proceed. At the time, I was only aware that there had been an uptick in the number of applications received that involved political activity. This is not unusual leading into an election year. I had not been informed of the specific criterion that was being used in the field. Our National Office asked to review several representative cases so that we could provide guidance on how the field should handle these cases. This is not unusual when there is not a lot of legal precedent in an area. Our National Office reviewed cases and drafted guidance for the field. However, I'm not sure if that guidance was used or whether it was used consistently because it was only in draft form. When I heard the criterion being used, I immediately asked that the criterion be changed. While I don't believe our folks in Cincinnati meant any malice, I was disappointed with the language used to describe the emerging issue. I would agree that the language should be more about the issues in the applications and not about particular groups that are applying for tax exemption. I believe that Cincinnati was just using shorthand to describe the cases and

was not thinking about the impact of describing cases in a particular manner. Our work is much more out in the public and, while I believe the Cincinnati employees were just trying to find an easy way to describe the applications, our employees need to be cognizant of the fact that we need to make it clear that we do not select cases for additional determinations or examination work based on political affiliation. It should not enter into the conversation.

- **Lois**: As a result of the briefing you mentioned, we changed the criterion. I was later informed that the criterion we decided upon was so generic that it was catching too many applications. Therefore, the Cincinnati employees began changing the criterion to ease the situation. Once I heard about that, I began to put controls in place to ensure that any criterion that is established or edited is reviewed and approved at a higher level in the EO function organization. **Troy**: It is interesting that you say that because the audit team and I have spoken about the need for a control that would ensure a more broad-based approval than local level e-mails and spreadsheets. **Lois**: I believe that by the time you get to reporting on your audit that we will have already taken care of the issue. I believe you will also see that we have conducted training on the issue and we're moving forward on getting guidance into the IRM. You will also see some other actions that we are taking.

- **Troy**: Would you suggest that I contact Joseph Grant (Acting Commissioner, Tax Exempt and Government Entities) to let him know about the fact that we will be briefing our IG and he may brief the IRS Commissioner? **Lois**: I appreciate it, but I can inform him of our discussion. He is very well aware of the events that have led us to this point.

NOTE TO FILE: On March 8, 2012, the Counselor to the Inspector General (IG), Nancy Nakamura, and I met with congressional staffers (Chris, Teagan, Brian, and Kevin) from the House Committee on Oversight and Government Reform. The following are highlights from our discussion.

- Chris stated they had met with the IRS a couple of weeks ago.
- Chris asked what had changed that might explain the IRS's overly burdensome questions being asked of Tea Parties applying for 501(c)(4) tax exemption. I stated I wasn't sure because TIGTA's Office of Audit had not conducted an audit in the area recently. However, the recently issued Exempt Organizations Workplan discusses a new project on 501(c)(4) self-declarers and news articles have mentioned a companion application process. It may be part of this effort. Chris requested a copy of the Workplan. Since it is available publically, I stated that I could provide that documentation to the staffers through the Counselor to the IG.
- One of the other staffers asked if I could comment on whether or not the questions being asked of the Tea Parties were reasonable. I stated that I could not. One of the staffers read some of the questions and asked if I had heard these questions asked in previous projects. I responded that the previous projects we had audited did not relate to 501(c)(4) organizations; therefore, I could not compare the 501(c)(4) questions with questions I had seen in other projects. The staffers seemed to agree that the questions have gone over the line, especially questions asking for donor information and speakers that will speak in the distant future.
- Chris stated that he believed the IRS was trying to overburden the Tea Parties in hopes that they would give up, as many of these organizations are too small to handle the kind of requests that the IRS is issuing. Teagan stated that, if the IRS believes these organizations should not receive tax-exempt status, the IRS should go ahead and deny the applications instead of asking more questions.
- The staffers expressed concern that other organizations may not be receiving the same amount of scrutiny as the Tea Parties because of the Tea Party's beliefs.
- Chris asked if we would review the area if requested by Congress. The Counselor to the IG stated that it would depend on how the request was worded and whether the IG believed the work should be completed. Nancy suggested that, if the staffers wished to make a request through their representatives, the staffers should work with TIGTA on the wording prior to submission so we could ensure that the request was for something that Office of Audit could accomplish.
- Nancy then reviewed the concerns expressed by the staffers. The staffers are concerned that the IRS is biased in how it is processing 501(c)(4) applications from Tea Parties versus other organizations. The staffers are concerned about whether the questions being asked of potential 501(c)(4) organizations have gone over the line (e.g., requests for names of donors and future speakers). The staffers are also concerned about the application process for 501(c)(4)s. What is the IRS trying to achieve with the actions it is taking?
- Chris asked if the Office of Audit had received information from the IRS's Exempt Organizations function under 26 USC 7217 regarding top level Executive Branch

officials requesting the IRS to examine or review certain organizations. Nancy and I stated that we had not received anything; however, I stated that the Office of Investigations may have received something the Office of Audit is not privy to. However, the Counselor to the IG stated that he had canvassed all functions within TIGTA and TIGTA has not received anything under 26 USC 7217 from the IRS. However, the Counselor to the IG stated that he would broaden the search by just using the general topic of the inquiry and not mentioning 26 USC 7217. According to Chris, the IRS responded that they had sent information over to the Office of Audit under 26 USC 7217. IRS officials would not state how many times they had done that. Instead, they responded that it was infrequently.

Troy Peterson

From: Nakamura Nancy A TIGTA
Sent: Friday, May 10, 2013 11:21 AM
Phillips Michael R TIGTA
Subject: RE: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

Thanks, Mike!

From: Phillips Michael R TIGTA
Sent: Friday, May 10, 2013 11:19 AM
To: McKenney Michael E TIGTA; Nakamura Nancy A TIGTA; Kutz Gregory D TIGTA
Subject: FW: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

Hello all,

This just went out and we are getting calls from the Hill. I know Counsel sent Greg suggestions for additional redactions. We probably need to speed up the release of this report. Greg can you give me a status on your folks' review?

Thanks,

Mike

From: Holmgren R David TIGTA
Sent: Friday, May 10, 2013 11:06 AM
To: Phillips Michael R TIGTA
Subject: Fw: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

Mike, this is a brilliant preemptive strike by the IRS; when we release next week it will be old news.
David
Sent from my BlackBerry

From: The Washington Post [mailto:newsletters@email.washingtonpost.com]
Sent: Friday, May 10, 2013 10:57 AM
To: Holmgren R David TIGTA
Subject: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

IRS apologizes for inappropriately targeting conservative political groups

Friday, May 10, 2013 10:56:26 AM

tional News Alert

IRS apologizes for inappropriately targeting conservative political groups

The Internal Revenue Service is apologizing for inappropriately flagging conservative political groups for additional reviews during the 2012 election to see if they were violating their tax-exempt status.

Lois Lerner, who heads the IRS unit that oversees tax-exempt groups, said organizations that included the words "tea party" or "patriot" in their applications for tax-exempt status were singled out for additional reviews.

Lerner said the practice, initiated by low-level workers in Cincinnati, was wrong and she apologized while speaking at a conference in Washington.

Read more at:
http://www.washingtonpost.com/business/irs-apologizes-for-inappropriately-targeting-conservative-political-groups-in-2012-election/2013/05/10/5afef7b8-b980-11e2-b568-6917f6ac6d9d_story.html

Unsubscribe
©2013 The Washington Post
1150 15th St NW Washington, DC 20071
Help & Contact Info
Privacy Policy

.vid.holmgren@tigta.treas.gov

From: Hernandez Gladys M TIGTA
Sent: Friday, May 10, 2013 11:25 AM
Phillips Michael R TIGTA
Cc: McCarthy Michael T TIGTA; Barnes David J TIGTA
Subject: RE: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

Smart strategy on their part. We also again reached out to Greg and copied OMP. Gladys

From: Phillips Michael R TIGTA
Sent: Friday, May 10, 2013 11:21 AM
To: Hernandez Gladys M TIGTA; McCarthy Michael T TIGTA
Cc: Barnes David J TIGTA
Subject: RE: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

Thanks Gladys. I think this is an IRS pre-emptive strike. We have already received multiple emails from Issa's staffers and others. I have sent Mike McKenney, Nancy, and Greg an email asking the status of the review to Counsel's additional suggestions for redactions.

Mike

From: Hernandez Gladys M TIGTA
Sent: Friday, May 10, 2013 11:14 AM
To: McCarthy Michael T TIGTA; Phillips Michael R TIGTA
Barnes David J TIGTA
Subject: FW: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

FYI

From: Jones Amy P TIGTA
Sent: Friday, May 10, 2013 11:07 AM
To: Hernandez Gladys M TIGTA
Subject: FW: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

From: The Washington Post [mailto:newsletters@email.washingtonpost.com]
Sent: Friday, May 10, 2013 10:56 AM
To: Jones Amy P TIGTA
Subject: [MARKETING]News Alert: IRS apologizes for inappropriately targeting conservative political groups

IRS apologizes for inappropriately targeting conservative political groups

Friday, May 10, 2013 10:54:56 AM

National News Alert

...S apologizes for inappropriately
targeting conservative political groups

The Internal Revenue Service is apologizing for inappropriately flagging conservative political groups for additional reviews during the 2012 election to see if they were violating their tax-exempt status.

Lois Lerner, who heads the IRS unit that oversees tax-exempt groups, said organizations that included the words "tea party" or "patriot" in their applications for tax-exempt status were singled out for additional reviews.

Lerner said the practice, initiated by low-level workers in Cincinnati, was wrong and she ...ologized while speaking at a conference in Washington.

Read more at:
http://www.washingtonpost.com/business/irs-apologizes-for-inappropriately-targeting-conservative-political-groups-in-2012-election/2013/05/10/5afef7b8-b980-11e2-b568-6917f6ac6d9d_story.html

Unsubscribe
©2013 The Washington Post
1150 15th St NW Washington, DC 20071
Help & Contact Info
Privacy Policy

From: Kraushaar Karen G TIGTA
Sent: Sunday, May 12, 2013 7:55 PM
George J Russell TIGTA
Cc: Phillips Michael R TIGTA; Kutz Gregory D TIGTA; Barnes David J TIGTA; McCarthy Michael T TIGTA
Subject: Re: Communications Report 05-12-2013

Hi Russell,

I have not responded to any reporters this weekend. At this point I do not see the merit in engaging with reporters until we have something concrete to share, such as a date and time for a media briefing.

I am hopeful that TIGTA may be able to offer that tomorrow or Tuesday, and have suggested expedited disclosure review so that we can schedule briefings on the final report in an orderly fashion for congressionals and media as soon as possible. By jumping the gun with its public apology, the IRS created some confusion and inaccuracy about the nature of our report and findings, which we can set straight by releasing the final report without delay.

Should be an interesting week!

----- Original Message -----
From: George J Russell TIGTA
Sent: Sunday, May 12, 2013 05:04 PM Eastern Standard Time
To: Kraushaar Karen G TIGTA; Barnes David J TIGTA
Cc: Phillips Michael R TIGTA; Kutz Gregory D TIGTA
bject: Re: Communications Report 05-12-2013

Karen:

Did you speak with the NY Times reporter who has reached out to me and others today?

----- Original Message -----
From: Kraushaar Karen G TIGTA
Sent: Sunday, May 12, 2013 04:23 PM
To: Barnes David J TIGTA
Cc: Phillips Michael R TIGTA; George J Russell TIGTA
Subject: Re: Communications Report 05-12-2013

Thanks for tracking these David. Nothing new to share at this time.

----- Original Message -----
From: Barnes David J TIGTA
Sent: Sunday, May 12, 2013 04:17 PM Eastern Standard Time
To: Kraushaar Karen G TIGTA
Subject: Communications Report 05-12-2013

The following media outlets inquired regarding TIGTA's audit of the IRS's handling of applications for tax-exempt status:

'all Street Journal, New York Times and BNA Daily Tax Report.
David Barnes
Public Affairs Liaison
Treasury Inspector General for Tax Administration

From: George J Russell TIGTA
Sent: Monday, May 13, 2013 8:46 AM
Kraushaar Karen G TIGTA
Cc: Phillips Michael R TIGTA
Subject: Re: Cavuto Request

I agree with you.

----- Original Message -----
From: Kraushaar Karen G TIGTA
Sent: Monday, May 13, 2013 08:30 AM
To: George J Russell TIGTA
Cc: Phillips Michael R TIGTA
Subject: Fw: Cavuto Request

Good morning Russell,

This request came in last night. I recommend a strategy of politely declining until such time as we are ready to release our report. I think it is important that you be able to remain above the political fray until then.

Kindly let me know your thoughts when you can.

Karen

-- Original Message -----
.om: Siegelheim, Matthew [mailto:Matthew.Siegelheim@foxbusiness.com]
Sent: Sunday, May 12, 2013 08:40 PM Eastern Standard Time
To: Kraushaar Karen G TIGTA
Subject: Cavuto Request

Hi Karen,

Hope you had a wonderful Mother's Day!

Would IG George be available to appear with Neil tomorrow on FBN to discuss the timeline involving the IRS and Tea Party?

Taping between 5:15-6pm et.

Matt

From: Kutz Gregory D TIGTA
To: Seidell Thomas F TIGTA; Paterson Troy D TIGTA
Subject: EO Draft
Date: Friday, March 08, 2013 4:15:20 PM

I thought we had a good meeting with Counsel today. I often find it useful to have internal debate and discussion on issues and other views. I know Mike McKenney has good perspective as he was on the Hill as a Subcommittee staff director on the Oversight committee. On the biggest issue as to whether we say the IRS targeted, I am fine with leaving the objectives as they are focused on the allegations and answering them without using the word "target" but describing clearly what they did. I think we are in agreement on "inappropriate" and it seems we can work through the other matters. Tom if Troy is out with his father please feel free to work directly with me on a revised version and hopefully getting this to IRS early next week for a "pre-discussion" draft.

Thankyou
Greg

From: Paterson Troy D TIGTA
To: Medina Cheryl J TIGTA; Seidell Thomas F TIGTA
Subject: RE: Well...
Date: Monday, March 11, 2013 6:58:00 AM

Tom and Cheryl,

I reviewed the revised report over the weekend and have some minor revisions throughout and a few questions. Fortunately, I believe it will not be difficult to make any needed changes and get this up to Greg today!

I have a meeting with Greg and the directors regarding testimony this morning. After that, we can get together and discuss.

Troy

From: Medina Cheryl J TIGTA
Sent: Friday, March 08, 2013 1:36 PM
To: Paterson Troy D TIGTA; Seidell Thomas F TIGTA
Subject: RE: Well...

Troy,

I made a feeble attempt at changing targeting and timely in the clean version of the report I was preparing. I don't know what else needs to be changed.

If we are going to keep targeting, we should make sure we are referring to the criteria, and not EO personnel.

Tom said he won't be available this afternoon because of his meeting with GSA.

Cheryl

From: Paterson Troy D TIGTA
Sent: Friday, March 08, 2013 1:32 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: Well...

Tom and Cheryl,

I took off for lunch and tried to clear my head after the Counsel meeting. How do you think we should proceed?

Troy

From: Kutz Gregory D TIGTA
To: Creswell Lori L TIGTA; McCarthy Michael T TIGTA
Subject: RE: Tax-Exempt Applications Audit Report for your Review and Feedback
Date: Monday, March 18, 2013 3:11:00 PM

Let me know when you are in office some time with a few minutes to chat. I will share with you the discussion we had with IRS last week on the conferences draft report (Beth Tucker, Pam LaRue and Acting Commissioner Chief of Staff).

Greg

From: Creswell Lori L TIGTA
Sent: Monday, March 18, 2013 2:08 PM
To: Paterson Troy D TIGTA
Cc: Kutz Gregory D TIGTA; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; McCarthy Michael T TIGTA; Carter Thomas E TIGTA
Subject: RE: Tax-Exempt Applications Audit Report for your Review and Feedback

Troy,

We wanted to thank you all for meeting with us to discuss Counsel's comments concerning the draft audit report pertaining to applications for tax-exempt status. We have reviewed the revised draft that you provided to our office last week and appreciate the changes that have been made to the draft report. We believe that the revisions address and/or resolve the comments and concerns that we have offered. At this time, we have no further comments to offer concerning this matter.

Thanks
Lori

From: Paterson Troy D TIGTA
Sent: Wednesday, March 13, 2013 10:57 AM
To: McCarthy Michael T TIGTA; Creswell Lori L TIGTA
Cc: Kutz Gregory D TIGTA; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: RE: Tax-Exempt Applications Audit Report for your Review and Feedback

Mike and Lori,

Good morning. Thank you again for the assistance on our report regarding applications for tax-exempt status. Attached is a revised version of the report. We have incorporated, for the most part, the suggestions you provided below and in our subsequent conference call. Could you review one more time and let us know if you have any remaining concerns? We appreciate the help.

Troy Paterson
Director, Tax Exempt and Government Entities/Human Capital
Phone: [redacted]
e-mail: troy.paterson@tigta.ttreas.gov

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: McCarthy Michael T TIGTA
Sent: Thursday, February 28, 2013 10:07 AM
To: Kutz Gregory D TIGTA; Paterson Troy D TIGTA
Cc: Creswell Lori L TIGTA; Carter Thomas E TIGTA; Hernandez Gladys M TIGTA
Subject: FW: Tax-Exempt Applications Audit Report for your Review and Feedback
Importance: High

Greg and Troy –

Thank you for forwarding the attached report to Counsel for comment. Having not been involved in the audit or having access to the audit work papers, our comments and concerns are premised solely upon the information in the written draft report.

According to the draft report, OA has concluded that the EO function "used inappropriate criteria that targeted Tea Party and other organizations applying for tax-exempt status based upon their names or values, instead of applications with indications of potential political campaign intervention (hereinafter referred to as political cases)."

As an initial concern, "targeted" has a connotation of improper motivation that does not seem to be supported by the information presented in the audit report. I think "selected" or even "singled out" would be more accurate. Also, it is not clear why exactly we find the criteria used were "inappropriate." Is it because specific names associated with political activity shouldn't be used as a criteria? That would seem to make it difficult for the IRS to identify potential political applications for referral to the specialized unit. If this is the rationale, the information in footnote 11, that the use of organization names occurs in non-political cases as well, seems like it needs more attention, since it suggests both that the IRS was not politically motivated in this case, and that our recommendation might need to be broader. Or are we saying it was inappropriate because the use of names was one-sided, i.e. name criteria included only certain types of groups seen as conservative, and names of other political groups with different policies should have also been included? If that is the rationale, do we have evidence that similarly situated groups from the left side of the political spectrum should have been included by name in the criteria, but were not? The later sections of the report seem to suggest this, but it is not clear.

The report also refers to one of the selection criteria as an organization's "values," which we don't think is an accurate word based on the examples given. I think these would be more accurately described as "policy positions" or "policy goals" or "political statements."

On pages 8-9 of the report, we offer statistical information purporting to determine whether the use of "inappropriate criteria resulted in organizations being treated inconsistently." However, the statistical information does not actually address the use of the "inappropriate criteria." Instead, it really focuses on whether the application had

information concerning potential political activity and whether it should have been processed by the political team.

Starting on page 10 of the report, the report talks about applications not being "process[ed] timely due to ineffective management of political cases." The report does not identify what standard OA used to define "timely." While it is clear that processing took a long time, can we say it is not timely if there is no time limit for processing? Also, it appears that the lengthy delay results from a lengthy wait for a legal opinion, which appears to be the basis for OA's conclusion that it was "ineffective management." It is unclear however how waiting for an opinion equates to "ineffective management."

We hope that this helps highlight our substantive concerns with the draft report. If you would like to discuss further, please let me know.

Thanks,
Mike

From: Paterson Troy D TIGTA
Sent: Monday, February 25, 2013 8:19 AM
To: McKenney Michael E TIGTA; McCarthy Michael T TIGTA
Cc: Kutz Gregory D TIGTA; Davis Estine H TIGTA; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; McGovern Michael A TIGTA
Subject: Tax-Exempt Applications Audit Report for your Review and Feedback

Good morning,

Greg mentioned that, due to the sensitivity of the attached report, he would like for us to obtain your feedback before we issue a discussion draft report to the IRS. Therefore, I am attaching a copy of the report for your review. If you have any questions or would like to meet to discuss, please let me know. I look forward to hearing from you.

Troy Paterson
Director, Tax Exempt and Government Entities/Human Capital
Phone: [redacted]
e-mail: troy.paterson@tigta.treas.gov

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Paterson Troy D TIGTA
To: Kutz Gregory D TIGTA
Subject: RE: EO Applications Report
Date: Tuesday, March 26, 2013 8:32:00 AM

Greg,

Sounds good...I will give you a call in your office at 11. Sorry I wasn't able to meet with you earlier, but I needed to meet with the EO applications and the tax credit bond teams this morning to get things moving in the right direction.

Troy
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Kutz Gregory D TIGTA
Sent: Tuesday, March 26, 2013 8:30 AM
To: Paterson Troy D TIGTA
Subject: RE: EO Applications Report

I am going into 2 hours or so of meetings. How about 11 am?

From: Paterson Troy D TIGTA
Sent: Tuesday, March 26, 2013 8:28 AM
To: Kutz Gregory D TIGTA
Subject: EO Applications Report

Greg,

Whenever you are ready, please give me a call at 404-338-7476 to discuss the meeting with Lois. I met with the team this morning and discussed a few extra changes that we thought were appropriate. However, there are 3 separate issues that Lois brought up that I think you and I need to discuss and decide how we are going to proceed.

1. Lois stated that the report read like it was politically motivated and there was no recognition about how difficult these cases were and the fact that there is no bright line test for making determinations on applications involving these issues.
2. Lois stated that the background of the report should be expanded to discuss how applications are processed (number of applications processed, screening process, 3 different outcomes of screening, more about full development cases and how they are assigned by grade, etc.).
3. Lois wanted us not to use the terms "political teams" and "political cases". In Lois' opinion, the IRS was not specifically looking for political campaign intervention.

Troy
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Paterson Troy D TIGTA
To: Dori Thomas M TIGTA
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: RE: Audit # 2012100022 - Outcome Measure Review
Date: Monday, February 25, 2013 2:13:00 PM

Tom,

Thanks. Everyone is a bit anxious about this report due to its subject matter. We appreciate you taking the time to see if we are on the track!

Troy
[redacted]

From: Dori Thomas M TIGTA
Sent: Monday, February 25, 2013 2:10 PM
To: Paterson Troy D TIGTA
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: RE: Audit # 2012100022 - Outcome Measure Review

Hi Troy – I took a quick read through Appendix IV and the report body. Nothing jumped out at me as being out of line, and I did not see anything that you missed. If you have any other questions, let me know.

Thanks,

Tom

From: Paterson Troy D TIGTA
Sent: Monday, February 25, 2013 1:31 PM
To: Dori Thomas M TIGTA
Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: Audit # 2012100022 - Outcome Measure Review

Tom,

Good afternoon. I hope all is well.

I was hoping you could help us out. Attached is a report we have written regarding how the IRS processes tax-exempt applications from organizations that potentially are involved in political campaign intervention. Due to the sensitivity of this report, our AIGA has asked that Chief Counsel and the DIGA review the report before we issue it as a discussion draft. In addition, Greg thought it would be a good idea for the report to be reviewed from an outcome perspective so we don't potentially revise our position with the IRS on outcomes between discussion draft and draft.

Could you please review and let us know what you think of how we present our outcomes and whether you identify any additional outcomes we should consider? I would appreciate it.

If you have any questions or would like to discuss, please let me know.

From: Martin Russell P TIGTA
To: Paterson Troy D TIGTA
Subject: FW: TIGTA letter
Date: Wednesday, July 11, 2012 8:42:21 AM

FYI

From: McKenney Michael E TIGTA
Sent: Friday, June 22, 2012 9:14 AM
To: Martin Russell P TIGTA
Subject: RE: TIGTA letter

So you recommend advising against such a letter?

From: Martin Russell P TIGTA
Sent: Friday, June 22, 2012 6:55 AM
To: McKenney Michael E TIGTA
Subject: RE: TIGTA letter

Mike,

Not familiar with the process of providing regular updates on audits where we have not issued a report. Are we allowed to say what we are finding to outside stakeholders, such as staffers, without issuing a report?

I just signed the audit plan and Engagement Letter will be coming up for your review and signature. Below is an FYI for you on what we identified so far: (We will now be focusing on whether the identified applicants were treated inconsistently with applicants that did not relate to a Tea Party Organization)

The Exempt Organizations function's Determinations Office began seeing an increase in applications for tax-exempt status from organizations involved in potential political advocacy activities early in Calendar Year 2010. The following highlights the actions taken by the Exempt Organizations function once this increase was identified:

- In February 2010, according to Exempt Organizations function officials, the Determinations Office identified an increase in applications for IRC § 501(c)(4) status where organizations were advocating issues relating to government spending, taxes, and similar matters. This was identified as an emerging issue needing more scrutiny. The Group Manager responsible for initially screening applications notified the Headquarters Office about this potential emerging issue.
- As early as May 2010, according to documentation we were provided, Exempt Organizations function screeners were informed to identify applications from Tea Party groups for additional scrutiny. This documentation informed function screeners to forward any application related to the Tea Party to a certain Determinations Group for further review. The Group Manager initially assigned this emerging issue developed the criteria for identifying the applications.

In August 2010, this emerging issue was transferred to a different Determinations Group, which still has responsibility for it today.

- In June 2011, the Exempt Organizations Director was informed that the Determinations Office was using criteria that **specifically targeted** applications that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) Government spending, Government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run. As of June 2011, the IRS indicated that over 100 applications meeting this criterion had been identified and were forwarded to a specific group for processing.
- In July 2011, subsequent to the Exempt Organizations Director being briefed on the targeting criteria being used to screen applications, the criterion for identifying these organizations was changed to remove references to specific political groups or political issues. The criterion was changed to "organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)." References to these applications in IRS documentation were also changed from Tea Party to advocacy organizations.[11]
- In December 2011, draft guidance was provided by the Headquarters office to aid in reviewing advocacy cases. This guidance is currently being revised.
- As of January 2012, the criterion was changed to, "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement." According to Exempt Organizations function management, this criterion is currently being revised.

From: McKenney Michael E TIGTA
Sent: Thursday, June 21, 2012 4:54 PM
To: Martin Russell P TIGTA
Subject: FW: TIGTA letter

Russ, what do you think about this?

From: Sutphen Matthew S TIGTA
Sent: Thursday, June 21, 2012 4:27 PM
To: McKenney Michael E TIGTA
Subject: FW: TIGTA letter

Mike,

Yesterday, I touched base with Chris Hixon and notified him that we just began working on our first 501(c)(4) audit. As you will see below, the Committee and Subcommittee would like to kept updated on our progress and for a copy of the final report. Chris has asked for our input on the letter.
I am not comfortable with the general, vague language of "regular updates." Maybe we can limit the scope and number of updates. Please review and provide me with any comments/edits you deem necessary.

Thank you!

Matthew

From: Hixon, Christopher [mailto:Christopher.Hixon@mail.house.gov]
Sent: Thursday, June 21, 2012 4:04 PM
To: Sutphen Matthew S TIGTA
Cc: Blase, Brian
Subject: FW: TIGTA letter

Matt – good talking with you. Attached is a draft letter from Chairmen Issa and Jordan that we are considering sending.

Let us know any thoughts/comments you have on the draft – happy to work with you on the language.

Thanks,
Chris

[1] The IRS defines advocacy as 1) political campaign intervention, 2) lobbying for specific legislation, and 3) general advocacy. For this emerging issue, the focus is on political campaign intervention.

From: Medina Cheryl J TIGTA
To: McGovern Michael A TIGTA
Subject: RE: case review criteria
Date: Friday, July 13, 2012 9:06:00 AM

We are not using the BOLO at all. We are going to independently look for any indications of political campaign intervention activities by the organization. This is what should have been done, but wasn't. I told Tom we are going to have to come up with some common definition of political campaign intervention, so we are all using the same criteria. He agreed and said we should know it when we see it.

From: McGovern Michael A TIGTA
Sent: Friday, July 13, 2012 9:03 AM
To: Medina Cheryl J TIGTA
Subject: RE: case review criteria

I'm still confused—are we exclusively using the BOLO criteria?

From: Medina Cheryl J TIGTA
Sent: Friday, July 13, 2012 9:01 AM
To: McGovern Michael A TIGTA
Subject: case review criteria

I spoke with Tom this morning. He wanted a status update for this past week. I told him you and I discussed the case review and had a concern with what criteria we are going to use. We don't know what the Screeners used. After going back and forth, he decided that it doesn't matter what the Screeners did. We need to use what they should have been following, which is identifying any political campaign intervention activity. If we find any exceptions, we can use the BOLO or any other faulty criteria the Screeners were following as the cause. The focus is on the bad criteria used and if it caused cases to be missed or misidentified.

We will discuss in more detail next week when we are going through the cases, but thought I let you know the latest.

Cheryl Medina
Treasury Inspector General for Tax Administration
Phone #781-835-4278
Fax # 781-279-0336

From: Paterson Troy D TIGTA
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; McGovern Michael A TIGTA; Close Evan A TIGTA
Subject: Article on Political Advocacy
Date: Monday, July 23, 2012 8:58:00 AM

Tom, Cheryl, Mike, and Evan,

For your gee whiz, here's an article about political advocacy.

[redacted] = Redacted by the Permanent Subcommittee on Investigations

Troy
[redacted]

Taxpayer Watchdog Calls on IRS to Probe Re-Branded Texas ACORN Branch
By Perry Chiaramonte
July 19, 2012



ACORN branches all over the country disbanded in disgrace in 2010, but have come back under new names.

The former Texas ACORN chapter has a new name and a scheme to collect donations and divert them for political use in a way that abuses tax laws governing charitable organizations, according to a Washington-based public interest group.

Cause of Action, a nonprofit taxpayer watchdog, charged in a letter to the **Treasury Inspector General for Tax Administration** that the tax-exempt Texas Organizing Project (TOP), formed from the ashes of scandal-ridden ACORN, is using money funneled to it by a closely associated group called the Texas Organizing Project Education Fund for political activity.

The fund gave nearly 80 percent of its revenues -- approximately $640,000 -- to the advocacy group in 2010, leading Cause of Action officials to believe its reason for being is to raise charitable donations to send to TOP, which is permitted to fund political activity. TOP has used its website to solicit support for Mary Ann Perez, a Democrat running for state representative.

"Cause of Action is asking the IRS to investigate these groups for potential abuses of their tax exempt status."

- Dan Epstein, Cause of Action

"Fiscal sponsorship [has allowed TOP and TOP ED] to use a loophole in the tax code to engage in improper political activities under the radar of the IRS," Dan Epstein, executive

director of Cause of Action, said to FoxNews.com. "Cause of Action is asking the IRS to investigate these groups for potential abuses of their tax-exempt status, and to hold them accountable for any violations they find."

"Texas Organizing Project Education Fund is abusing this privilege by not sponsoring an individual educational project, but rather sponsoring an entire political entity, the Texas Organizing Project. TOP ED should suffer tax penalties for essentially existing as a channel through which money is being directed to a political organization, but the IRS is either intentionally overlooking this abuse, or is unaware of it," Epstein added.

This marks the third such investigation that the watchdog group has called for accusing other re-branded ACORN branches of being engaged in similar activities.

"While fiscal sponsorships are legal, it is not legal for a 501(c)(3) organization, such as TOP ED, to give any money to an organization that engages in political activity, without triggering various tax consequences," reads the letter signed by senior counsel for Cause of Action.

Click here to view the full letter

The public advocacy watchdog group also claims in the letter that TOP and TOP ED are an example of former state chapters of ACORN re-branding themselves in the wake of controversies that led to the national parent group shutting down in 2010. Cause of Action claims the defunct non-profit instructed "its affiliates to funnel tax-deductible and/or taxpayer dollars to ACORN over a 40-year period."

"After ACORN became subject to public scrutiny, and eventually filed for bankruptcy, it re-branded many of its state chapters in order that those organizations could continue pursuing ACORN's goals," Cause of Action officials said. "TOP is the reconstituted ACORN in Texas."

Officials for TOP and TOP ED did not return repeated calls for comment.

Spokesmen for both the IRS and Treasury Inspector General declined to comment on the letter or any resulting investigation.

From:	Paz Holly O
To:	Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject:	FW:
Date:	Wednesday, August 08, 2012 4:58:57 PM
Attachments:	BOLO Spreadsheet 06162012.xls BOLO Spreadsheet 06162512.xls BOLO Spreadsheet 0710*2.xls BOLO Spreadsheet 0711*2.xls BOLO Spreadsheet 062512.xls

---

From: Bell Ronald D
Sent: Wednesday, August 08, 2012 3:47 PM
To: Paz Holly O
Subject:

5 BOLO's

From:	Paz Holly O
To:	Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject:	FW: BOLO Alert
Date:	Wednesday, August 08, 2012 4:52:20 PM
Attachments:	Copy of Combined Spreadsheet TAG 8 12 10.xls
Importance:	Low

From: Bell Ronald D
Sent: Wednesday, August 08, 2012 3:38 PM
To: Paz Holly O
Subject: FW: BOLO Alert
Importance: Low

From: Hofacre Elizabeth L
Sent: Thursday, August 12, 2010 10:19 AM
To: &TEGE:EO:RA All Ees
Subject: BOLO Alert
Importance: Low

All,

Enclosed is the combined spreadsheet with an additional issue (#13) under the BOLO Tab.

Thanks,
Liz Hofacre

TEGE EOD Emerging Issues Coordinator
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Paz Holly O
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: BOLO ALERT
Date: Wednesday, August 08, 2012 4:55:38 PM
Attachments: BOLO Spreadsheet 12 13 10 (2).xlsm

From: Bell Ronald D
Sent: Wednesday, August 08, 2012 3:41 PM
To: Paz Holly O
Subject: FW: BOLO ALERT

From: Bell Ronald D
Sent: Monday, December 13, 2010 10:07 AM
To: &TEGE:EO:RA Determ Ees
Subject: BOLO ALERT

Issue #15 has been identified and closed as of 12/13/10. Attached is the latest BOLO Spreadsheet revised 12/13/10.

Note: Issues numbers are found in column D of the attached spreadsheet.

Ron Bell
BOLO Coordinator
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Paterson Troy D TIGTA
To: Martin Russell P TIGTA
Subject: Discussion with Greg
Date: Tuesday, August 14, 2012 12:50:00 PM

Russ,

Greg called me this morning to introduce himself. We talked about Atlanta, where the 3 groups in our directorate are located, and the type of work we do (tax exempt, human capital, and equity/diversity/inclusion). He also asked if there was anything "big" going on that he should know about right away. I told him that the biggest thing on the horizon in our directorate had to do with a commitment we made to meet with congressional staff before September 30th on the political advocacy applications job. I gave him some background on the job and suggested that we would need to get together and determine the timing of the briefing and what we would like to discuss. He agreed that this would be something we would need to plan in advance due to the political sensitivity of the issue and the fact that we are in fieldwork.

I just thought I would let you know about our conversation in case Greg mentions something when you meet with him on Wednesday. I wanted to make sure he doesn't surprise you with some high-level knowledge about a project you have not briefed him on yet.

Troy
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Paz Holly O
To: Medina Cheryl J TIGTA
Subject: RE: Bucketing Results Request
Date: Thursday, August 16, 2012 10:23:47 AM

Cheryl,

Your understanding of the process post-buckering is correct. Unfortunately, I checked with Cindy and Sharon,and we do not have a list of the applicants who were approved without the additional information originally requested. This can be determined based on review of the individual files, but there is no master list. Similarly, there is no list of the organizations who were sent the letter indicating that the donor information was expunged from the file. My understanding is that that letter has only been sent in one or two cases as most organizations did not provide this information.

Holly

From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov]
Sent: Tuesday, August 14, 2012 1:37 PM
To: Paz Holly O
Subject: Bucketing Results Request

Hi Holly,

I am still getting through all the emails and documents you provided us. I have another request. After the bucketing in May 2012, it was determined that some organizations could be approved without the additional requested information. If I understand what occurred, each organization received a phone call informing them that the additional information was not necessary, and their application was approved. A special determination letter with an additional paragraph reiterating what was said during the phone call was sent. Do you have a list of organizations that fall into this scenario?

You provided a recent tracking sheet that includes which bucket the cases fell into, but I am not sure if every organization in bucket 1 on the sheet did not respond to the request for information and received the special determination letter. Did some of the bucket 1 cases previously respond, and the team determined the organizations could be approved? I am looking for just the ones that didn't respond, but were approved anyway.

Also, do you have a list of organizations that received the letter regarding destroying the donor information they provided at the request of the Specialists?

Thanks.

Cheryl Medina
Treasury Inspector General for Tax Administration
Phone #781-835-4278
Fax # 781-279-0336

From: Medina Cheryl J TIGTA
To: Seidell Thomas F TIGTA
Subject: FW: TIGTA request - updated case data
Date: Monday, June 11, 2012 8:31:00 AM
Attachments: 501c4 Cases for TIGTA(1).xls
Advocacy Case Tracking Sheet 06052012.xls
Importance: High

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, June 11, 2012 7:01 AM
To: Medina Cheryl J TIGTA
Cc: Thomas Cindy M
Subject: FW: TIGTA request - updated case data
Importance: High

Cheryl,

Attached are the spreadsheets you requested. Attachment 1 includes the updated tracking sheet information.

Attachment 2 includes the open and closed case listings requested. Tab 1 contains the open case listing and tab 2 contains the closed cases. NOTE: The Employee ID Number was requested, but that information is not in EDS. Instead, the EDS specialist number was included. Also, the POD was requested. While there is a POD field in EDS, it is not utilized.

Holly

From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov]
Sent: Friday, June 01, 2012 3:11 PM
To: Thomas Cindy M
Cc: Paz Holly O; Seidell Thomas F TIGTA
Subject: FW: TIGTA request - updated case data

Cindy,

We would like to request an updated copy of the advocacy case tracking sheet used by the advocacy team. If possible, we are requesting the information through May 31, 2012.

Also, we would like an updated listing of open and closed Section 501(c)(4) cases from EDS. The following is the criteria for this request:

-We would like a spreadsheet with all Case Type "I" Section 501(c)(4) closed cases beginning May 1, 2010 through May 31, 2012.
-We would also like a detailed listing of Case Type "I" Section 501(c)(4) open cases.

Both listings should include the following fields:

TEDS Case Number

EDS Case Number
EIN
Organization Name
Case Type "I" - Initial
Subsection "04"
Current Status Code
Current Status Date
Postmark Date/Control Date
Employee ID Number
Employee Name
Group Number
Employee Post of Duty (if possible)

If you have any questions, feel free to contact me or Tom Seidell. I will be out of the office next Monday and Tuesday. Thanks for your help.

Cheryl Medina
Treasury Inspector General for Tax Administration
Phone #781-835-4278
Fax # 781-279-0336

From: Martin Russell P TIGTA
To: Paterson Troy D TIGTA
Subject: RE: TIGTA letter
Date: Friday, June 22, 2012 6:49:34 AM

Thanks

From: Paterson Troy D TIGTA
Sent: Friday, June 22, 2012 6:48 AM
To: Martin Russell P TIGTA
Subject: RE: TIGTA letter

Russ,

Hmm...I've never provided regular updates on audits where we have not issued a report. Are we allowed to say what we are finding to outside stakeholders, such as staffers, without issuing a report? I've never heard of us doing that before. From our previous meeting with Mr. Hixon and other staffers, I'm certain the first question in the first meeting will be "Have you found any indications that the IRS is targeting Tea Party groups?". If we are not prepared to provide an answer to that question without issuing a report, I think we should limit the request to providing a briefing on the scope of our review and providing a copy of the final report.

Troy
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Martin Russell P TIGTA
Sent: Friday, June 22, 2012 6:35 AM
To: Paterson Troy D TIGTA
Subject: FW: TIGTA letter

Troy,

Let me know if you have any concerns.

From: McKenney Michael E TIGTA
Sent: Thursday, June 21, 2012 4:54 PM
To: Martin Russell P TIGTA
Subject: FW: TIGTA letter

Russ, what do you think about this?

From: Sutphen Matthew S TIGTA
Sent: Thursday, June 21, 2012 4:27 PM
To: McKenney Michael E TIGTA
Subject: FW: TIGTA letter

Mike,

Yesterday, I touched base with Chris Hixon and notified him that we just began working on our first

501(c)(4) audit. As you will see below, the Committee and Subcommittee would like to kept updated on our progress and for a copy of the final report. Chris has asked for our input on the letter.
I am not comfortable with the general, vague language of "regular updates." Maybe we can limit the scope and number of updates. Please review and provide me with any comments/edits you deem necessary.

Thank you!

Matthew

From: Hixon, Christopher [mailto:Christopher.Hixon@mail.house.gov]
Sent: Thursday, June 21, 2012 4:04 PM
To: Sutphen Matthew S TIGTA
Cc: Blase, Brian
Subject: FW: TIGTA letter

Matt – good talking with you. Attached is a draft letter from Chairmen Issa and Jordan that we are considering sending.

Let us know any thoughts/comments you have on the draft – happy to work with you on the language.

Thanks,
Chris

From: Lerner Lois G
To: &TEGE:EO All Eos
Subject: FW: Executive Announcement
Date: Monday, April 23, 2012 1:53:03 PM

Join me in officially welcoming Holly Paz as the permanent EO Director Rulings and Agreements!

Lois G. Lerner
Director of Exempt Organizations

From: Barczak Kim E
Sent: Monday, April 23, 2012 10:44 AM
To: &&Executives All
Cc: &Senior Exec Team Schedulers; &HCO Exec Services; Marx Michelle
Subject: Executive Announcement

This message is being sent on behalf of Joseph H. Grant, Acting Commissioner, Tax Exempt/Government Entities (TE/GE) Division:

I am pleased to announce the selection of **Holly O. Paz** as the **Director of Exempt Organizations (EO) Rulings and Agreements (R&A)**. She has been acting as the Director of EO R&A for some time now. Holly began her career with the IRS as an attorney-advisor in the Taxpayer Advocate Service. She joined TE/GE Exempt Organizations, Rulings and Agreements in June 2008 where she served as manager of EO Guidance, and manager of EO Technical. Prior to joining the IRS, Holly spent eight years as an attorney in private practice focusing on exempt organizations. She represented a diverse array of educational organizations, religious organizations, public charities, private foundations, social welfare organizations, and trade associations. Holly provided advice to such organizations regarding lobbying and political activities, private foundation rules, executive compensation, and unrelated business income tax.

Please join me in congratulating Holly and wishing her well in her new assignment.

Thank you.

Kim E. Barczak
Director, Executive Services
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: George J Russell TIGTA
To: Kraushaar Karen G TIGTA
Cc: Raschiatore Michael S TIGTA
Subject: RE: TIGTA In the News March 26, 2012 (revised)
Date: Monday, March 26, 2012 3:54:00 PM

Thanks Karen. The message was actually meant for Michael R., but keep your eyes open too.

J. Russell George

Inspector General

Treasury Inspector General for

Tax Administration

From: Kraushaar Karen G TIGTA
Sent: Monday, March 26, 2012 3:54 PM
To: George J Russell TIGTA
Subject: RE: TIGTA In the News March 26, 2012 (revised)

Will do.

From: George J Russell TIGTA
Sent: Monday, March 26, 2012 3:53 PM
To: Kraushaar Karen G TIGTA
Subject: RE: TIGTA In the News March 26, 2012 (revised)

Keep an eye out for the letter referenced in the second story. Make sure the mailroom knows to get it to me.

J. Russell George

Inspector General

Treasury Inspector General for

Tax Administration

From: Kraushaar Karen G TIGTA
Sent: Monday, March 26, 2012 11:14 AM
To: &TIGTA All Executives; Bennett Voneka S TIGTA; Barnes David J TIGTA; Donnan Jennifer Y TIGTA; Kraushaar Karen G TIGTA; Raschiatore Michael S TIGTA; McCarthy Michael T TIGTA; Polsfoot Thomas F TIGTA; Riley Kevin P TIGTA; Sutphen Matthew S TIGTA; Thomas Calvin A TIGTA; Venson Sheila M TIGTA
Subject: TIGTA In the News March 26, 2012 (revised)

<< OLE Object: Picture (Device Independent Bitmap) >>

March 26, 2012

- Federal Computer Week: IGs: IRS, SSA and DHS Lose Billions in Improper Payments
- CNS News: Mark Levin Asks IG to Probe Possible IRS Misconduct in Dealing With Tea Party
- Tax Prof.Com IRS Error Rate Results in $14-$17 Billion/Year in Erroneous EITC

Payments

Redacted by the
Permanent Subcommittee on Investigations

Redacted by the
Permanent Subcommittee on Investigations

CNS News

Sunday, March 25, 2012

Mark Levin Asks IG to Probe Possible IRS Misconduct in Dealing with Tea Party

(CNSNews.com) - Landmark Legal Foundation sent a letter on Friday to the Treasury Department's Inspector General for Tax Administration requesting an investigation to determine whether officials with the Internal Revenue Service have engaged in misconduct in dealing with applications from Tea Party groups seeking tax-exempt status under section 501 (c) (3) of the Internal Revenue Code.

"Landmark Legal Foundation requests an immediate investigation into possible misconduct by the Internal Revenue Service's Exempt Organization (EO) Divisoin that calls into question the integrity of federal tax administration and IRS programs," said the letter signed by Landmark President Mark Levin.

"Recent media reports indicate that the EO Division is using inappropriate and intimidating investigation tactics in the administration of applications for exempt status submitted by organizations associated with the Tea Party movement," Levin wrote.

As CNSNews.com reported earlier this month, the American Center for Law and Justice, which says it represents nearly 20 Tea Party organizations nationwide, put out a statement on March 7 complaining about what it perceived to be improper treatment of Tea Party groups by the IRS.

"This appears to be a coordinated attempt to intimidate Tea Party organizations by demanding information that is outside the scope of legitimate inquiry and violates the First Amendment," ACLJ Chief Counsel Jay Sekulow said in a statement.

"These organizations have followed the law and applied for tax exempt status for their activities as Americans have done for decades," Sekulow said. "The problem here is the IRS has gone beyond legitimate inquiries and is demanding that these organizations answer questions that actually violate the First Amendment rights of our clients."

"This intimidation campaign is as onerous as what the IRS did to the NAACP in the 1950's and is simply unacceptable," said Sekulow. "We will aggressively defend our clients and are prepared to take the IRS to court if necessary."

In his letter to the inspector general, Landmark's Levin said that the types of inquiries the IRS was making of Tea Party groups were inappropriate.

"The information demanded in many cases goes far beyond the appropriate level of inquiry regarding the religious, charitable and/or educational activities of a tax exempt entity," said Levin.

"The inquiries are not relevant to these permitted activities," Levin wrote. "Inquiries extend to organizational policy positions and priorities, personal and poltiical affiliations, and associations of staff, board members and even family members of staff and board members."

"Finally," said Levin, "reports that Tea Party-related organizations are being singled out for the IRS's intrusive inquries raises serious questions about the propriety of the personnel involved in the evaluation of tax exemption applications."

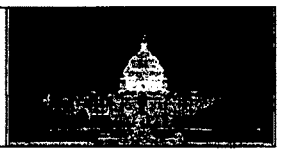
Landmark Legal Foundation also asked the inspector general to "determine whether the relevant IRS employees are acting at the direction of politically motivated superiors."

The Treasury Inspector General for Tax Administration provides "independent oversight of IRS activities."

Redacted by the
Permanent Subcommittee on Investigations

From:	Sutphen Matthew S TIGTA
To:	George J Russell TIGTA
Cc:	McCarthy Michael T TIGTA; McKenney Michael E TIGTA; Camus Timothy P TIGTA; Holmgren R David TIGTA; Begg Margaret E TIGTA; Kraushaar Karen G TIGTA; Raschiatore Michael S TIGTA; Nakamura Nancy A TIGTA; Jakabcin George J TIGTA; Venson Sheila M TIGTA
Subject:	Congressional Update
Date:	Friday, April 19, 2013 5:13:53 PM
Attachments:	Correspondence - Incoming 2506 2010-04-08 Letter to TIGTA (2).pdf

CONGRESSIONAL UPDATE
FRIDAY, APRIL 19, 2013



New Requests:

Redacted by the
Permanent Subcommittee on Investigations

Updates:

Redacted by the
Permanent Subcommittee on Investigations

Upcoming Hearings/Briefings:

Redacted by the
Permanent Subcommittee on Investigations

- Christopher Hixon, majority staffer for HOGR, expressed an interest in having an advanced briefing on OA's upcoming tax-exempt audit report. He too said that Chairman Issa may be interested in holding a hearing. As a reminder, this report was initiated as a result of meeting with the committee staff last spring, and Chairman Issa sent a follow-up letter expressing his interest in the matter.

From: Kutz Gregory D TIGTA
To: George J Russell TIGTA
Subject: Re: Greetings to you From [redacted]
Date: Tuesday, October 23, 2012 10:22:23 PM

given the highly sensitive nature of this ongoing audit (politically active non-profits) a more in depth discussion would be useful for you. Mike R is planning to discuss rescheduling with you

From: George J Russell TIGTA
Sent: Tuesday, October 23, 2012 06:17 PM
To: Kutz Gregory D TIGTA
Subject: RE: Greetings to you From [redacted]

Thanks. Do we still need to meet on that issue?

From: Kutz Gregory D TIGTA
Sent: Tuesday, October 23, 2012 4:39 PM
To: George J Russell TIGTA
Subject: Greetings to you From [redacted]

[redacted] called me today to do a reference check on a former employee [redacted]
[redacted]
[redacted]

Greg

[redacted] = Redacted by the Permanent Subcommittee on Investigations

McKenney Michael E TIGTA

From: McKenney Michael E TIGTA
Sent: Wednesday, May 08, 2013 10:13 AM
To: Kutz Gregory D TIGTA (Gregory.Kutz@tigta.treas.gov)
Subject: RE: Final Report 201210022 -- Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review

Greg, why is that that we don't say that this review was performed at the request of the Chairman of the House Oversight and Government Reform Committee?

From: Seidell Thomas F TIGTA
Sent: Wednesday, May 08, 2013 9:18 AM
To: McKenney Michael E TIGTA
Cc: Kutz Gregory D TIGTA; Anderson John E TIGTA; Davis Estine H TIGTA; Paterson Troy D TIGTA; Medina Cheryl J TIGTA
Subject: FW: Final Report 201210022 -- Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review

Mike,

The revised final report is attached. We made the two changes you wanted and the report is ready to go.

Tom

Tom Seidell
Audit Manager
[redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Anderson John E TIGTA
Sent: Wednesday, May 08, 2013 8:10 AM
To: Seidell Thomas F TIGTA
Cc: Paterson Troy D TIGTA; Davis Estine H TIGTA; McKenney Michael E TIGTA
Subject: FW: Final Report 201210022 -- Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review

Hi Tom – no, the final report package is with Mike McKenney. The files are attached if you need to make changes to the footnotes. When you do, please send to Mike with a cc to me so that I have the current version. Thanks.

From: Seidell Thomas F TIGTA
Sent: Wednesday, May 08, 2013 8:07 AM
To: Anderson John E TIGTA
Subject: Final Report 201210022

John,

Troy send the final package up to OMP on Monday, but we need to change two footnotes. Do you guys still have the report?

Thanks
Tom

From: Anderson John E TIGTA
Sent: Tuesday, May 07, 2013 5:40 PM
To: McKenney Michael E TIGTA
Cc: Jones Jeffrey M TIGTA
Subject: Final Report 201210022 -- Inappropriate Criteria Were Used to Identify Tax Exempt Applications for Review

Hi Mike,

Attached is the final audit report, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review*. The corresponding Highlights document is also attached. **I understand a press release has already been drafted for this report.**

TIGTA initiated this audit based on concerns expressed by members of Congress. The overall objective of this audit was to determine whether allegations were founded that the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups.

TIGTA determined that the IRS used inappropriate criteria that identified for review Tea Party and other organizations applying for tax-exempt status based upon their names or policy positions instead of indications of potential political campaign intervention. Ineffective management: 1) allowed inappropriate criteria to be developed and stay in place for more than 18 months, 2) resulted in substantial delays in processing certain applications, and 3) allowed unnecessary information requests to be issued.

Although the processing of some applications with potential significant political campaign intervention was started soon after receipt, no work was completed on the majority of these applications for 13 months. This was due to delays in receiving assistance from the Exempt Organizations function Headquarters office. For the 296 total political campaign intervention applications TIGTA reviewed as of December 17, 2012, 108 had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 were open from 206 to 1,138 calendar days (some for more than three years and crossing two election cycles).

More than 20 months after the initial case was identified, processing the cases began in earnest. Many organizations received requests for additional information from the IRS that included unnecessary, burdensome questions (*e.g.*, lists of past and future donors). The IRS later informed some organizations that they did not need to provide the information that was previously requested. IRS officials stated that any donor information received in response to a request from its Determinations Unit was later destroyed.

TIGTA recommended that the IRS finalize the interim actions taken, better document the reasons why applications potentially involving political campaign intervention are chosen for review, develop a process to track requests for assistance, develop and publish guidance, develop and provide training to employees before each election cycle, expeditiously resolve remaining political campaign intervention cases (some of which have been in process for three years), and request that social welfare activity guidance be developed by the Department of the Treasury.

In their response to the report, IRS officials agreed with seven of our nine recommendations and proposed alternative corrective actions for two of our recommendations. TIGTA does not agree that the alternative corrective actions will accomplish the intent of the recommendations and continues to believe that the IRS should better document the reasons why applications potentially involving political campaign intervention are chosen for review and develop and publish guidance.

John Anderson
Audit Manager – Office of Management and Policy
Office [redacted]
Telework [redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Barnes David J TIGTA
To: Kraushaar Karen G TIGTA
Subject: Fw: TIGTA Statement on "Be On the Look Out" Listings
Date: Tuesday, June 25, 2013 7:26:33 PM

David Barnes
Public Affairs Liaison
Treasury Inspector General for Tax Administration

Office: [redacted]
Mobile: [redacted]

[redacted] = Redacted by the Permanent Subcommittee on Investigations

From: Bernie Becker [mailto:bbecker@thehill.com]
Sent: Tuesday, June 25, 2013 07:25 PM Eastern Standard Time
To: Barnes David J TIGTA
Subject: Re: TIGTA Statement on "Be On the Look Out" Listings

Again: did you all know of BOLOs listing liberal groups when you wrote the audit?

On Tue, Jun 25, 2013 at 6:10 PM, Bernie Becker <bbecker@thehill.com> wrote:
That makes some sense. You're not really directly answering whether you knew about liberal groups being on the BOLOs though. I get that you knew other BOLOs existed, and that it wasn't part of the request.

Sent from my iPhone

On Jun 25, 2013, at 17:58, Barnes David J TIGTA <David.Barnes@tigta.treas.gov> wrote:

> We acknowledged that we had identified other issues that we beyond the scope of our audit.
>
> Think of an audit like writing a story. At some point, you need to quit reporting and start writing. If you find something that doesn't quite fit in the story, you mention it to get it on the record but focus on it.
> That make sense?
>
> What is Rep. Camp saying about this?
> David Barnes
> Public Affairs Liaison
> Treasury Inspector General for Tax Administration
>
> Office: [redacted]
> Mobile: [redacted]
>
> **From:** Bernie Becker [mailto:bbecker@thehill.com]

Sent: Tuesday, June 25, 2013 05:47 PM Eastern Standard Time
To: Barnes David J TIGTA
Subject: Re: Fw: TIGTA Statement on "Be On the Look Out" Listings

Thanks, David.

Just to be clear: You only focused on Tea Party groups because that was what the person who asked for the audit – i.e., Issa – requested. So, if you had found reason to believe that groups outside of the Tea Party were also singled out by the IRS for partisan reasons, you would not have pursued that any further.

And that is sort of standard operating procedure for the IG when an audit is requested. That all sound about right?

On Tue, Jun 25, 2013 at 5:36 PM, Barnes David J TIGTA <David.Barnes@tigta.treas.gov> wrote:

Bernie:

Here's some additional background, for attribution to a TIGTA spokesperson:

TIGTA was asked to narrowly focus on Tea Party organizations. On page 6 of our report we acknowledge the existence of other BOLOs. We did not review the use, disposition, purpose or content of the other BOLOs. That was outside the scope of our audit.

Hope this helps.

From: Bernie Becker [mailto:bbecker@thehill.com]
Sent: Tuesday, June 25, 2013 3:58 PM

To: Barnes David J TIGTA
Subject: Re: Fw: TIGTA Statement on "Be On the Look Out" Listings

Do you know when?

For example, I still have some questions about the statement you sent yesterday. You appear to be saying that the progressive term on the BOLO wasn't used to select cases dealing with potential campaign intervention. Is that because the progressive groups appear to be seeking c3 status on the BOLO? The fact they weren't on the emerging issues tab?

Any guidance is appreciated...

On Tue, Jun 25, 2013 at 2:23 PM, Barnes David J TIGTA <David.Barnes@tigta.treas.gov> wrote:

Bernie:
I'll get back to you on this.

[redacted] = Redacted by the Permanent Subcommittee on Investigations

David Barnes
Public Affairs Liaison
Treasury Inspector General for Tax Administration
Office: [redacted]
Mobile: [redacted]

From: Bernie Becker [mailto:bbecker@thehill.com]
Sent: Tuesday, June 25, 2013 1:46 PM

To: Barnes David J TIGTA

Subject: Re: Fw: TIGTA Statement on "Be On the Look Out" Listings

Thanks for this. Are you guys going to have a specific response to the Levin letter any time soon? Or more specific information on any steps forward for you guys?

On Mon, Jun 24, 2013 at 6:47 PM, Barnes David J TIGTA <David.Barnes@tigta.treas.gov> wrote:

David Barnes
Public Affairs Liaison
Treasury Inspector General for Tax Administration

Office: [redacted]
Mobile [redacted]

From: Barnes David J TIGTA

Sent: Monday, June 24, 2013 05:17 PM Eastern Standard Time
To: Barnes David J TIGTA
Subject: TIGTA Statement on "Be On the Look Out" Listings

For attribution to a TIGTA spokesperson:

"TIGTA's audit focused on the criteria the IRS used to select cases for expanded review for potential political campaign intervention. The "Be On the Look Out" listings discussed in our report were the ones used to refer cases for this type of scrutiny.

On page 6 of the report, we noted that the IRS had other criteria used to refer cases for other types of processing, some of which also used the names of organizations. For example, the IRS had lookouts for indicators of known fraud schemes, so they could be referred to the group that handled those issues.

As we continue our review, we have identified other criteria that use names and policy positions to refer cases. Although these criteria were not used to select cases for review of potential political campaign intervention, we are reviewing whether these criteria led to expanded scrutiny for other reasons, and why these criteria were implemented. Because many of these involve specific taxpayers, we cannot provide further information at this time, but have advised the IRS and Congressional committees authorized to receive tax information of our review."

[redacted] = Redacted by the Permanent Subcommittee on Investigations

David Barnes
Public Affairs Liaison
Treasury Inspector General for Tax Administration
Office: [redacted]
Mobile: [redacted]

From: Kraushaar Karen G TIGTA
To: samstein@huffingtonpost.com
Subject: Response to your inquiry
Date: Tuesday, June 25, 2013 5:27:00 PM

Hi Sam,

Please see below.
Questions:

1. Can TIGTA comment on the fact that the lead auditor assigned to the exempt organization audit was previously relieved from his position at the GAO because of a faulty report he did on for-profit colleges. I've confirmed as much through various press accounts. I would like to get your reaction to the concerns that some might have over his role in the IRS project in light of this episode

TIGTA response: "TIGTA's rigorous review process insures the integrity of all our work. Our audit reports, in addition to being conducted in conformance with government auditing standards, are subjected to extensive review."

2. Can TIGTA clarify why its report never mentioned that progressive groups were on the BOLO. They were listed on the same forms as Tea Party groups (as the House Democrat-released docs reveal). So it's impossible that investigators didn't see them. Perhaps the directive from the House Oversight Committee was very defined: only look at the targeting of conservative groups. TIGTA response: Yes, we were asked to narrowly focus on Tea Party organizations. But if that is the case, isn't it worthwhile context to include that progressive groups were screened? TIGTA response: On page 6 of our report we acknowledge the existence of other BOLOs. Perhaps the type of screening applied to each was different. If so, i'd love an explanation. TIGTA response: We did not review the use, disposition, purpose or content of the other BOLOs. That was outside the scope of our audit. Or perhaps you felt restricted in your ability to talk about it. I noticed that in the IG's testimony he alluded to other groups being targeted without mentioning names. But in that case, I'm unclear as to what type of proprietary tax information would have been revealed had you disclosed in the report that progressive groups were targeted. TIGTA response: Section 6103 of Title 26 forbids us from revealing any confidential taxpayer information, including taxpayer names.

If you still would like to discuss this further, David Barnes and I are both around tomorrow.

Thanks and have a good evening,

Karen Kraushaar
Director of Communications
Treasury Inspector General for Tax Administration
1401 H Street, N.W. Suite 469
Washington, D.C. 20005
Office: [redacted]
Cell: [redacted]
Karen.Kraushaar@tigta.treas.gov

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

From: Hicks, Josh
To: Kraushaar Karen G TIGTA
Subject: Re: Tax-Exempt audit objective
Date: Thursday, June 27, 2013 1:23:15 PM

Are you saying you want to retroactively put your last response -- about "not accurate" -- on background?

Regarding yesterday's questions, I am indeed still hoping for answers.

Sent from my iPhone

On Jun 27, 2013, at 12:59 PM, "Kraushaar Karen G TIGTA" <Karen.Kraushaar@tigta.treas.gov> wrote:

> Josh, I am only speaking on background today, not for attribution.
>
> Regrettably, erroneous information was provided to my office. It happens.
>
> There is a lot of confusion out there about this whole matter, especially about the BOLOs. I am still working on getting you responses to the questions you sent us yesterday. Do you still want those?
>
> Karen

From: Hicks, Josh [mailto:josh.hicks@washpost.com]
Sent: Thursday, June 27, 2013 12:39 PM
To: Kraushaar Karen G TIGTA
Subject: RE: Tax-Exempt audit objective

Did you say TIGTA was "asked by House Oversight Chairman Darrell Issa (R-Calif.) **'to narrowly focus on Tea Party organizations**," as the Hill put it.

If so, what was the context of that statement, and how did the Hill misuse it, in your opinion?

Josh Hicks
Washington Post
Desk: [redacted]
josh.hicks@washpost.com
Twitter: @reporter_hicks

http://www.washingtonpost.com/blogs/federal-eye/

[redacted] = **Redacted by the Permanent Subcommittee on Investigations**

From: Kraushaar Karen G TIGTA [mailto:Karen.Kraushaar@tigta.treas.gov]
Sent: Thursday, June 27, 2013 12:31 PM
To: Hicks, Josh
Subject: RE: Tax-Exempt audit objective

Yes Josh thanks. The statements attributed to me in The Hill are not accurate.

Several members of Congress shared their concerns about Tea Party organizations with TIGTA. However, the focus of our audit was on the IRS's consistency in its identification and review of applications for tax-exempt status involving potential political advocacy issues.

Thanks ...there is a lot of confusion out there!

From: Hicks, Josh [mailto:josh.hicks@washpost.com]
Sent: Thursday, June 27, 2013 12:09 PM
To: Kraushaar Karen G TIGTA
Subject: RE: Tax-Exempt audit objective

Hey, Karen. Following up on this for the story we're planning to run tomorrow: Do you dispute any of the quotes the Hill newspaper attributed to you in the article we discussed?
http://thehill.com/blogs/on-the-money/domestic-taxes/307813-irs-ig-says-audit-limited-to-tea-party-groups

If not, do you have any issues with the Hill's framing of your remarks?

Josh Hicks
Washington Post
Desk: [redacted]
josh.hicks@washpost.com
Twitter: @reporter_hicks

[redacted] = Redacted by the Permanent Subcommittee on Investigations

http://www.washingtonpost.com/blogs/federal-eye/

From: Kraushaar Karen G TIGTA [mailto:Karen.Kraushaar@tigta.treas.gov]
Sent: Wednesday, June 26, 2013 6:01 PM
To: Hicks, Josh
Subject: RE: Tax-Exempt audit objective

Hi Josh,

Some members of Congress did express concern about the way Tea Party organizations were being treated, but our audit is as stated below.

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues (FY 2012 – Work in Process – Audit Number: 201210022) **Audit Objective:** Assess the consistency of the EO function's identification and review of applications for tax-exempt status involving

potential political advocacy issues.

Hope this helps. Thanks!

From: Hicks, Josh [mailto:josh.hicks@washpost.com]
Sent: Wednesday, June 26, 2013 5:54 PM
To: Kraushaar Karen G TIGTA
Subject: RE: Tax-Exempt audit objective

Thanks for all this. The picture has become clearer, but we're going to hold off on the story until we have more information about the BOLO tabs and what they each mean. As for now, it appears as though the focus of the audit was on the "emerging issues" criteria, which arose after court decisions opened the door for a new type of tax-exemption candidate. The terms such as "progressive" and "medical marijuana" came from separate BOLO categories, as you and Mike pointed out this morning.

Very important question: Why did you tell the Hill newspaper that Issa had asked TIGTA to "narrowly focus on tea party organizations"? Seems like the audit actually focused on emerging issues cases. We'll need to address that in this article. http://thehill.com/blogs/on-the-money/domestic-taxes/307813-irs-ig-says-audit-limited-to-tea-party-groups

Josh Hicks
Washington Post
Desk: [redacted]
josh.hicks@washpost.com
Twitter: @reporter_hicks

[redacted] = Redacted by the Permanent Subcommittee on Investigations

http://www.washingtonpost.com/blogs/federal-eye/

From: Kraushaar Karen G TIGTA [mailto:Karen.Kraushaar@tigta.treas.gov]
Sent: Wednesday, June 26, 2013 5:39 PM
To: Kraushaar Karen G TIGTA
Cc: Phillips Michael R TIGTA
Subject: Tax-Exempt audit objective

Here is the accurate description of our audit report, in our annual audit plan:

Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues (FY 2012 – Work in Process – Audit Number: 201210022) **Audit Objective:** Assess the consistency of the EO function's identification and review of applications for tax-exempt status involving potential political advocacy issues.

Please refer to this. While members of Congress expressed their concerns about Tea Party organizations, this is the accurate description of the audit. Let me know any

questions. Thanks!

The following is correspondence between the Permanent Subcommittee on Investigations and the Internal Revenue Service, March 2012 - March 2013:

1. Subcommittee letter of March 30, 2012;
   IRS response of June 4, 2012 (PSI-IRS-02-000001-026).

2. Senator Levin letter of June 13, 2012;
   IRS response of July 13, 2012 (PSI-IRS-03-000001-002).

3. Subcommittee letter of July 27, 2012;
   IRS response of August 24, 2012 (PSI-IRS-04-000001-008).

4. Subcommittee letter of August 31, 2012;
   IRS response of September 14, 2012 (PSI-IRS-05-000001-004).

5. Subcommittee letter of September 27, 2012;
   IRS response of October 17, 2012 (PSI-IRS-06-000001-003).

6. Subcommittee letter of October 23, 2012;
   IRS response of November 23, 2012 (PSI-IRS-07-000001-119).

7. Subcommittee letter of January 4, 2013;
   IRS response of March 15, 2013 (PSI-IRS-08-000001-108).

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA
SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS
MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

March 30, 2012

VIA U.S. MAIL & EMAIL (Floyd.Williams@IRS.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Shulman:

Some entities claiming tax-exempt status as social welfare organizations under 26 U.S.C. §501(c)(4) appear to be engaged in political activities more appropriate for political organizations claiming tax-exempt status under 26 U.S.C. §527. Because of the urgency of the issues involved in this matter, please provide the following information by April 20, 2012.

(1) Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having that tax-exempt status without filing an application or undergoing IRS review?

(2) For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:

   (a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which that application is approved or denied;

   (b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and

   (c) approximately how many days after an application is filed that questionnaire is typically sent.

(3) A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole."

Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

(4) Is it the position of the IRS that an entity claiming tax-exempt status under Section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources?

(5) A Treasury regulation applicable to 501(c)(4) organizations states: "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." Treas.Reg. §1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:

(a) made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?

(b) made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?

(c) made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?

(d) made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?

(e) made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?

(f) made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?

(6) Would the IRS generally view it as a violation of Treasury Regulation §1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.

(7) I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation §1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.

(8) If the IRS were to deny an entity's request to be treated as tax exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?

(9) If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?

(10) If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?

(11) What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?

(12) Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).

(13) Please 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 partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Thank you for your assistance on this matter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

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

DEPUTY COMMISSIONER

June 4, 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 March 30, 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. This response follows the telephone conversation held with your staff on May 4, 2012.

Question 1. Are entities seeking tax-exempt status under Section 501(c)(4) required to submit an application to the IRS for review and approval, or can they hold themselves out as having tax-exempt status without filing an application or undergoing IRS review?

The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt. Organizations also can apply for IRS recognition as tax-exempt. Whether an organization is self-declared under section 501(c)(4) or has been determined by the IRS to meet the requirements of section 501(c)(4), the organization must file Form 990 annual information returns.

Question 2.

To assist in responding to your specific sub-questions, we are providing background information about our system for processing applications for tax-exempt status, as well as the statutory disclosure rules that govern public inspection of IRS documents relating to tax-exempt organizations.

Application Process

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 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 application 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 allows the IRS to obtain all the information relevant to the determination.

[1] Enclosure A describes the criteria used to determine the appropriate level of experience.
[2] 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).

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 higher graded specialists in Exempt Organizations), in consultation with the IRS Office of Chief Counsel, may 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. Because the administrative record must either support exemption or denial, it is important for the record to be complete. 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. The Appeals 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 organization may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking 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 may refer 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 record, it has reliance on the IRS determination. If the application is denied, the applicant may challenge its non-exempt status by paying any tax owed as a taxable entity, and seeking a refund in federal court.

Statutory Disclosure Rules

Public disclosure regarding tax exempt organization filings is principally governed by sections 6103, 6104 and 6110 of the Internal Revenue Code. Generally, section 6103 of the Code prohibits the disclosure of information about specific taxpayers unless the disclosure is authorized by a provision of the Code. Section 6104 of the Code requires the IRS to make certain materials available for public inspection, including an organization's approved application for recognition of tax exemption and Form 990 annual information returns.[3] 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.[4]

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 two of the Form 1024 instructions. This notice is reiterated in any development letters sent to the organizations. The administrative record of approved applications, including the application, supporting documents and correspondence between the applicant and the IRS are available upon request.

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 open to public inspection, with certain identifying and other information redacted.

---

[3] 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.

[4] 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.

For entities that submit an application for tax-exempt status under Section 501(c)(4), please indicate:

(a) the approximate average number of days between the date on which an entity submits an application for 501(c)(4) tax-exempt status and the date on which the application is approved or denied;

The average case processing time for determination cases closed in FY2011 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 the case can be closed 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 revenue agent and the applicant to fully develop the application, and whether a case is transferred to EO Technical.

(b) if it is not provided on a routine basis, approximately what percentage of such applicants receive an IRS questionnaire seeking information about any political activities, and how the IRS determines whether and when to send that questionnaire; and

We understand that the reference in your letter to "questionnaire" is intended to 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. There is no standard questionnaire used in the determinations process seeking information about political activities.

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 to make a determination 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.

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 B 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, may develop 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 regarding 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.

The below chart provides the total number of applications closed for FY 2008-2011,[5] as well as preliminary information for part of 2012.[6] The below chart provides the percentage of all exemption applications closed each year through the technical screening process (i.e., no development letters sent).

	Fiscal Year				
	2008	2009	2010	2011	2012
Total number of applications closed	84,220	77,305	65,590	61,004	28,570
Percentage of applications closed through technical screening	59%	57%	56%	60%	70%

Although we are able to produce the number of cases closed during this time period that received development letters, our systems do not track the specific types of questions asked in the development letters for these cases. Therefore, manual review of each file would be necessary to determine the particular organization and the development letters sent.

[5] 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. This SOI data is 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.

[6] The data for FY 2012 reflects the preliminary information available through the second quarter from October 1, 2011 through March 30, 2012. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

(c) approximately how many days after an application is filed that questionnaire is typically sent.

As mentioned above, 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. Once the case is assigned, the revenue agent notifies the organization and reviews the application.

Based upon the established precedent and the facts and circumstances set forth in the application, the revenue agent will request additional information and documentation to complete the file. If applicable, the revenue agent will coordinate with EO Technical and Chief Counsel to develop requests for information to be issued to the organization. For all of these reasons, it is difficult to predict the time frame between the filing of an application for tax-exemption and the issuance of a development letter.

Question 3. A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, copy attached, made public in connection with a Senate investigation into federal election campaigns, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and "benefit[s] select individuals or groups, instead of the community as a whole." Is it still the position of the IRS that a 501(c)(4) organization cannot engage in any partisan political activity, even as a secondary activity?

As noted above, 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. Under section 6110 of the Code, if the IRS ultimately denies the application for recognition of tax-exempt status, the denial letter is subject to public inspection, with identifying and other information redacted, to assist the public in understanding the IRS' reasoning while also protecting the identity of the organization. Although you reference what appears to be a proposed denial letter that may have been made available publicly by sources other than the IRS, IRS Disclosure Counsel has advised that section 6103 continues to apply and we are legally prohibited from discussing taxpayer information.[7] However, we are able to respond to your question generally.

To qualify for exemption as a social welfare organization described in section 501(c)(4),

[7] 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.

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.[8] 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.[9] Nevertheless, 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.[10] The regulations do not impose a complete ban on political activity by section 501(c)(4) organizations.[11] Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.

A revenue agent must first determine whether activities undertaken by the organization primarily further an exempt purpose. If the organization is engaged in some activities that do not promote social welfare, 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. If the application is unclear or not sufficiently detailed as to whether the primary activity conducted by the organization is exempt social welfare activity, the revenue agent will need to follow-up on this issue in a development letter.

It is also important to note that section 6110(k)(3) provides that determination letters (including both proposed and final letters) may not be used or cited as precedent. Determination letters are based on the specific facts and circumstances of the applicant.

Question 4. Is it the position of the IRS that an entity claiming tax-exempt status under section 501(c)(4) can engage in nonpartisan political activity as a secondary activity, and that political activity can consume up to 49% of the entity's expenditures and resources.

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.[12] The IRS has taken no position on a fixed percentage or any one factor in precedential guidance.

---

[8] IRC § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1.

[9] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

[10] Rev. Rul. 81-95, 1981-1 C.B. 332.

[11] Rev. Rul. 81-95, 1981-1 C.B. 332.

[12] Treas. Reg. § 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 § 501(c)(4); all the facts and circumstances are considered). *See, generally Haswell v. United States*, 500 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).

Question 5. A Treasury regulation applicable to 501(c)(4) organizations states: "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." Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii). Would the IRS generally view it as a violation of that regulation if a 501(c)(4) organization:

(a) Made a cash contribution to a political organization which is tax-exempt under Section 527 and functions as a campaign committee to elect a particular candidate to public office?

(b) Made a cash contribution to a political action committee which was established under the Federal Election Campaign Act (FEC Act) and which routinely makes cash contributions to campaign committees, each of which was established to elect a particular candidate to public office?

(c) Made a cash contribution to a political action committee or Section 527 political organization which makes independent expenditures on behalf of or in opposition to one or more candidates for public office?

(d) Made a cash contribution to a national political party which engages in partisan political campaigns to elect multiple candidates from the same political party to public office?

(e) Made a cash contribution to a political action committee or Section 527 political organization which is engaged in partisan political activity, but does not campaign on behalf of or in opposition to any particular candidate for public office?

(f) Made a cash contribution to a political action committee or Section 527 political organization which is engaged in nonpartisan political activity and does not campaign on behalf of or in opposition to any particular candidate for public office?

As noted previously, a section 501(c)(4) organization may directly or indirectly participate or intervene in a political campaign as long as it is primarily engaged in activities that promote social welfare. Treasury regulations provide that promotion of social welfare does not include certain activities, including political campaign intervention.[13] This regulation does not prohibit a section 501(c)(4) organization from engaging in such activity. Rather, the political campaign intervention activity does not count towards the organization's exempt activities that promote social welfare. Therefore, if the organization engages in such activity, it has "violated" no rule under the regulations. As discussed, all facts and circumstances are relevant in determining whether the requirements for tax exemption are ultimately satisfied.

The same legal requirements apply in each of the facts patterns articulated in your questions. With respect to each of the fact patterns that you specify, while depending

[13] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

on the facts and circumstances, political activity would not be for a social welfare purpose, the organization does not violate any Internal Review Code rule applicable to section 501(c)(4) organizations if it engages in such activity. All the facts and circumstances need to be considered to determine whether this activity affects the section 501(c)(4) organization's tax-exempt status.[14]

Question 6. Would the IRS generally view it as a violation of Treasury Regulation § 1.501(c)(4)-1(a)(2)(ii), if a 501(c)(4) organization were to coordinate its political activities with a campaign committee, political action committee, or national political party? Please explain.

As stated, section 501(c)(4) organizations may engage in some political campaign activity provided that such intervention, along with other activity that does not promote social welfare, does not constitute the organization's primary activities. The tax law does not explicitly prohibit a section 501(c)(4) organization from coordinating political activity.

However, such coordination could raise issues of primary activity, inurement or private benefit. Thus, for example, if an organization's activities are conducted primarily for the benefit of a political party or any other private group of individuals, rather than the community as a whole, the organization is not operated primarily to promote social welfare. Accordingly, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) if that private benefit is the primary activity of the organization.[15]

Question 7. I understand that some persons have petitioned the Treasury Department to clarify or revise Treasury Regulation § 1.501(c)(4)-1(a)(2)(ii). Please indicate whether the IRS plans to engage in such a rulemaking, whether it would first solicit comments on what should be included in that rulemaking, and whether or when any such rulemaking effort has been scheduled to begin.

The IRS, in collaboration with the Treasury Department's Office of Tax Policy ("Treasury"), annually develops a list of the guidance that Treasury and the IRS intend to work on during the upcoming guidance plan year. Certain types of guidance are issued in proposed form to allow an opportunity for public comment.

The IRS is aware of the current public interest in this issue and will seriously consider any proposed changes. Treasury and the IRS have not yet established the list of the

[14] Rev. Rul. 68-45, 1968-1 C.B. 259. *See also, e.g. Contracting Plumbers Coop. Restoration Corp. v. U.S.*, 488 F.2d 684 (2d Cir. 1973) (There are multiple factors relevant in applying this standard, including formative history, stated purposes, and actual operations). Note that tax may apply in certain cases under Internal Revenue Code section 527(f).

[15] IRC § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1. See *Contracting Plumbers Coop. Restoration Corp. v. U.S.*, 488 F.2d 684, 687 (2d Cir. 1973) (Organization was not primarily devoted to the common good when it provided substantial and different benefits to both the public and its private members). *American Campaign Academy v. Commissioner*, 92 T.C. 1053, 1078 (1989), a section 501(c)(3) case, held that an organization was not operated exclusively for exempt purposes when it conferred substantial private benefits on a political party and its candidates.

guidance that Treasury and the IRS intend to work on from July 1, 2012, through June 30, 2013. The selection of items for the 2012-2013 Guidance Priority List will be made in collaboration with Treasury after review and evaluation of comments received.

Question 8. If the IRS were to deny an entity's request to be treated as tax-exempt under Section 501(c)(4), would the IRS automatically apply corporate income taxes to that entity or would it allow the entity to apply for tax-exempt status on other grounds?

When a section 501(c)(4) organization receives a final determination letter denying its application for tax-exempt status, the letter advises the organization that it must file Federal income tax returns for the years listed in the letter within 30 days of the issuance of the denial letter, unless the organization requests an extension of time to file. Enclosure C is a copy of this standard final denial letter.

If the revenue agent assigned to the case believes that the organization may not meet the requirements of a section 501(c)(4) organization, but may meet the requirements of another tax-exempt provision, the issue of whether the organization wants to be considered tor exemption under that other provision could be discussed with the organization through development letters prior to the final resolution of the application. If the organization indicates that it does not want to proceed under the other provision and continues to pursue section 501(c)(4) exemption, the IRS would deny the application and the organization would be treated as a taxable entity.

Please note that 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, those applications are closed as "failure to establish."

Question 9. If the IRS were to determine that an entity was impermissibly participating in partisan political activity, does the IRS have unilateral authority to reclassify it as a Section 527 political organization instead of a Section 501(c)(4) social welfare organization?

Whether an organization fails to qualify under section 501(c)(4) does not determine whether it is a political organization under section 527. Section 527 applies to a party, committee, or other organization that is organized and operated primarily for the purpose of accepting contributions or making expenditures for an exempt function (as defined in section 527(e)(2)). Subject to certain exceptions, to be tax-exempt under section 527, a political organization is required to give notice electronically to the Service.[16]

[16] Section 527(i)(1), Rev. Rul. 2003-49, 2003-1 C.B. 903. Section 527 also provides for the taxation of certain organizations that do not provide notice to the IRS. IRC § 527(f), (i)(4).

As noted above, if the revenue agent assigned to the case believes that the organization may not meet the requirements of a section 501(c)(4) organization, but may meet the requirements of another tax-exempt provision, the issue of whether the organization wants to be considered for exemption under that other provision could be discussed with the organization through development letters prior to the final resolution of the application. If the organization indicates that it does not want to proceed under the other provision and continues to pursue section 501(c)(4) exemption, the IRS would deny the application and the organization would be treated as a taxable entity.

Question 10. If an entity were denied tax-exempt status by the IRS under Section 501(c)(4), how would past contributions and income earned on those funds generally be treated under the tax code?

If an organization is denied tax-exempt status, the organization is a taxable entity as of the date the organization originated. The final adverse determination letter states that 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.

Question 11. What considerations does the IRS use to determine when an entity that is denied tax-exempt status under Section 501(c)(4) should be subject to a penalty? What penalties are available and how are they calculated?

There is no penalty specifically applicable to an organization as a result of a denial of tax-exempt status. An organization that is denied tax-exempt status is advised in the final denial letter that it has 30 days from the final denial letter to either file its income tax returns or request additional time to file the taxable returns. If the organization timely filed Form 990 annual returns during the period of time that the application for tax-exempt status was pending and timely files its taxable returns once tax-exemption is denied, the organization will not be subject to penalties. If the organization does not timely file taxable returns, the organization may be subject to failure to file or failure to pay penalties under section 6651 of the Code.

The failure to file penalty under section 6651(a)(1) of the Code, is calculated at a rate of 5 percent of the amount required to be shown as tax on the return if the failure to file is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof that the failure to file continues, not to exceed 25 percent in the aggregate.

The failure to pay tax penalty under section 6651(a)(2) of the Code, is calculated at a rate of 0.5 percent of the amount of the tax shown on the return if the failure to pay is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof that the failure to pay continues, not to exceed 25 percent in the aggregate.

Penalties assessed may be abated if the organization can show that the failure to file or failure to pay was due to reasonable cause and not due to willful neglect.[17]

Question 12. Please provide a copy of the standard questionnaire that the IRS sends to entities claiming tax-exempt status under Section 501(c)(4) to obtain information about their political activities. In addition, please provide any written guidance provided to IRS agents regarding the issue of political activity in connection with Section 501(c)(4).

There is no standard questionnaire used to obtain information about political activities. Although there is a template development 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 B is a copy of the template letter. The amount and type of development necessary to process a section 501(c)(4) 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 then attached to the above described general template letter.

In connection with recent cases, EO Technical prepared a 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 guide sheet was neither mandated nor finalized.

Question 13. Please 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 partisan or nonpartisan political activity. If the IRS has issued 10 or less such letter rulings, please provide copies of all such letters. If the IRS has issued more than 10 such letter rulings, please provide a sample containing discussions of the widest variety of issues related to the denial of tax-exempt status under Section 501(c)(4) due to partisan or nonpartisan political activity.

Preliminarily, as previously stated, section 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. 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 the IRS ultimately denies 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 assist the public understand the IRS reasoning while also protecting the identity of the organization.

[17] IRC § 6651(a)

The application process for tax-exempt status does not involve the revocation of tax-exemption; rather, it only concerns the denial of applications. IRS data on the denial of applications is kept in reports published 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 these reports as Enclosures D-1 through D-5. For your convenience, however, we are replicating the total number of determination denials for section 501(c)(4) organizations for FY 2007-2012 in the chart below.

Note that the number of denials does not reflect a full picture of applications not approved. 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, those applications are closed as "failure to establish."

Fiscal Year	The Number of Social Welfare Organization Applications that were Denied
2007	8
2008	*
2009	3
2010	3
2011	6
2012[18]	6

* Fewer than 3

Please note that although IRS automated systems track the numbers of applications closed as denied, they do not track the names of the applicant organizations or the reasons for the denials. Absent manual review of the files, we are unable to state whether any of these denials were issued due to involvement with partisan or nonpartisan political activity.

[18] The data for FY 2012 reflects the preliminary information available for October 1, 2011 through April 11, 2012. SOI Data Book information is updated annually, with the complete FY 2012 information expected in March 2013.

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

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

Report Exhibits - Page 001393

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Date: *

Employer Identification Number:
XX-XXXXXXX
Person to Contact – Group #:
Specialist Name - XXXX
ID# XXXXXXX
Contact Telephone Numbers:
XXX-XXX-XXXX Phone
XXX-XXX-XXXX Fax (859-669-3783 for TEDS)

Cases)

Response Due Date:

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.
- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

Name
EIN

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

**********DELETE IF NOT A 501(c)(3) APPLICATION**********

In addition, if you don't respond to the information request by the due date, we will conclude that you have not taken all reasonable steps to complete your application for exemption. Under Internal Revenue Code section 7428(b)(2), you must show that you have taken all the reasonable steps to obtain your exemption letter under IRS procedures in a timely manner and exhausted your administrative remedies before you can pursue a declaratory judgment. Accordingly, if you fail to timely provide the information we need to enable us to act on your application, you may lose your rights to a declaratory judgment under Code section 7428.

**********DELETE IF NO POWER OF ATTORNEY**********

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

****

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Specialist Name
Exempt Organizations Specialist

Enclosure: Information Request
Application Identification Sheet

Letter 1312 (Rev. 05-2011)

Additional Information Requested:

3

Name
EIN

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

Selective:

(EDS Cases)

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 2508
Cincinnati, OH 45201
ATT: Specialist Name
Room XXXX
Group XXXX

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
550 Main St. Federal Bldg.
Cincinnati, OH 45202
ATT: Specialist Name
Room XXXX
Group XXXX

(TEDS Cases)

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 12192
Covington, KY 41012-0192

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
201 Rivercenter Blvd
ATTN: Extracting Stop 312
Covington, KY 41011



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date:

Contact Person: (Specialist Name)

Identification Number: (Specialist ID #)

Contact Number: (Specialist Phone #)

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Third Party Communication
Date:
Category:

Comment [81]: Delete this section if you do not have a Third Party Communication.

Dear Applicant:

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)( ). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

Table 24. Tax-Exempt Organization and Other Entity Applications or Disposals, by Type of Organization and Internal Revenue Code Section, Fiscal Year 2007

Type of organization, Internal Revenue Code section	Total applications or disposals	Approved	Disapproved	Other [1]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total	**91,742**	**72,869**	**1,628**	**17,245**
Section 501 (c) by subsection, total [2]	**91,689**	**72,856**	**1,628**	**17,205**
(1) Corporations organized under act of Congress	d	0	d	d
(2) Title-holding corporations	158	141	d	d
(3) Religious, charitable, and similar organizations [3]	85,771	68,278	1,607	15,886
(4) Social welfare organizations	1,867	1,394	8	465
(5) Labor and agriculture organizations	233	180	6	45
(6) Business leagues	1,615	1,370	6	239
(7) Social and recreation clubs	1,036	751	d	d
(8) Fraternal beneficiary societies	25	16	0	9
(9) Voluntary employees' beneficiary associations	356	283	3	67
(10) Domestic fraternal beneficiary societies	44	21	0	23
(12) Benevolent life insurance associations	116	94	0	22
(13) Cemetery companies	174	156	0	18
(14) State-chartered credit unions	10	7	0	3
(15) Mutual insurance companies	6	21	d	0
(17) Supplemental unemployment benefit trusts	6	3	0	3
(19) War veterans' organizations	131	99	0	32
(25) Holding companies for pensions and other entities	106	101	0	5
Section 501 (d) Religious and apostolic associations	**5**	**5**	**0**	**0**
Section 521 Farmers' cooperatives	**28**	**8**	**0**	**20**
Nonexempt charitable trusts	**20**	**0**	**0**	**20**

d—Not shown to avoid disclosure about specific taxpayers. However, data are included in the appropriate totals.

[1] Includes applications withdrawn by the organization, applications which failed to provide the required information, incomplete applications, IRS refusals to rule on applications, applications forwarded to other than the IRS National Office, IRS correction disposals, and others.

[2] No applications were filed for teachers' retirement funds [section 501(c)(11)]; corporations to finance crop operations [section 501(c)(16)], employee-funded pension trusts [section 501(c)(18)], black lung trusts [section 501(c)(21)], multiemployer pension plans [section 501(c)(22)], veterans' associations founded prior to 1880 [section 501(c)(23)], trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) [section 501(c)(24)], State-sponsored high-risk health insurance organizations [section 501(c)(26)], and State-sponsored workers' compensation reinsurance organizations [section 501(c)(27)].

[3] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations, Rulings and Agreements, Determinations, SETE:EO:RA:D

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2008 (Revised March 2011)

Type of organization, Internal Revenue Code section	Applications for tax-exempt status [1]			
	Total	Approved	Disapproved	Other [2]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [3]	**84,220**	**69,957**	**1,242**	**13,021**
Section 501 (c) by subsection, total	**84,180**	**69,943**	**1,240**	**12,997**
(2) Title-holding corporations	114	93	0	21
(3) Religious, charitable, and similar organizations [4]	79,107	65,761	1,221	12,125
(4) Social welfare organizations	1,492	1,202	d	d
(5) Labor and agriculture organizations	269	235	0	34
(6) Business leagues	1,477	1,298	6	175
(7) Social and recreation clubs	594	561	d	d
(8) Fraternal beneficiary societies	20	11	d	d
(9) Voluntary employees' beneficiary associations	249	197	4	48
(10) Domestic fraternal beneficiary societies	43	16	d	d
(12) Benevolent life insurance associations	91	66	0	25
(13) Cemetery companies	155	148	d	d
(14) State-chartered credit unions	8	5	0	3
(15) Mutual insurance companies	26	15	d	d
(17) Supplemental unemployment benefit trusts	4	4	0	0
(19) War veterans' organizations	128	101	0	27
(25) Holding companies for pensions and other entities	106	100	0	6
Section 521 Farmers' cooperatives	**28**	**d**	**d**	**d**
Nonexempt charitable trusts	**14**	**d**	**0**	**d**

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals.

[1] 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.

[2] Includes 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.

[3] No applications were filed for corporations organized under an act of Congress (section 501(c)(1)); teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations formed prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored high-risk health insurance organizations (section 501(c)(26)); State-sponsored workers' compensation reinsurance organizations (section 501(c)(27)); and religious and apostolic associations (section 501(d)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1993.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

NOTE: Revised March 2011 to correct errors attributed to a transition in reporting systems.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2009 (Revised March 2011)

Type of organization Internal Revenue Code section	Applications for tax-exempt status [1]			
	Total	Approved	Disapproved	Other [2]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [3]	**77,305**	**62,459**	**480**	**14,366**
Section 501 (c) by subsection, total	**77,221**	**62,392**	**480**	**14,349**
(1) Corporations organized under an act of Congress	6	0	0	6
(2) Title-holding corporations	137	112	0	25
(3) Religious, charitable, and similar organizations [4]	70,824	56,943	472	13,209
(4) Social welfare organizations	1,922	1,507	3	412
(5) Labor and agriculture organizations	601	543	0	58
(6) Business leagues	1,560	1,742	d	d
(7) Social and recreation clubs	1,115	848	d	d
(8) Fraternal beneficiary societies	16	5	0	11
(9) Voluntary employees' beneficiary associations	257	210	d	d
(10) Domestic fraternal beneficiary societies	45	25	0	20
(12) Benevolent life insurance associations	75	56	0	70
(13) Cemetery companies	209	194	0	15
(14) State-chartered credit unions	d	d	0	0
(15) Mutual insurance companies	6	3	d	d
(17) Supplemental unemployment benefit trusts	8	d	0	d
(19) War veterans' organizations	178	142	0	35
(25) Holding companies for pensions and other entities	62	57	0	5
(27) State-sponsored workers' compensation reinsurance organizations	d	0	0	d
501 (d) Religious and apostolic associations	**59**	**55**	**0**	**4**
Section 521 Farmers' cooperatives	**13**	**7**	**0**	**6**
Nonexempt charitable trusts	**12**	**5**	**0**	**7**

d - Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals when possible.

[1] 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.

[2] Includes 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.

[3] No applications were filed for teachers' retirement funds (section 501(c)(11)), corporations to finance crop operations (section 501(c)(16)), employee-funded pension trusts (section 501(c)(18)), black lung trusts (section 501(c)(21)), multiemployer pension plans (section 501(c)(22)), veterans' associations founded prior to 1880 (section 501(c)(23)), trusts described in section 4049 of the Employee Security Act of 1974 (ERISA) (section 501(c)(24)), and State-sponsored high-risk health insurance organizations (section 501(c)(26)). Tax-exempt status for legal service organizations (section501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

NOTE: Revised March 2011 to correct errors attributed to a transition in reporting systems.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2010

Type of organization, Internal Revenue Code section	Applications for tax-exempt status [1]			
	Total	Approved	Disapproved	Other [2]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [3]	**65,990**	**53,893**	**517**	**11,380**
Section 501 (c) by subsection, total	**65,548**	**53,868**	**517**	**11,363**
(1) Corporations organized under an act of Congress	6	3	0	d
(2) Title-holding corporations	155	117	0	38
(3) Religious, charitable, and similar organizations [4]	59,945	48,934	500	10,511
(4) Social welfare organizations	1,747	1,447	3	298
(5) Labor and agriculture organizations	310	273	0	37
(6) Business leagues	1,685	1,566	6	180
(7) Social and recreation clubs	804	710	d	d
(8) Fraternal beneficiary societies	16	11	0	5
(9) Voluntary employees' beneficiary associations	162	133	d	d
(10) Domestic fraternal beneficiary societies	37	18	d	d
(12) Benevolent life insurance associations	77	66	0	11
(13) Cemetery companies	155	148	0	7
(14) State-chartered credit unions	3	3	0	0
(15) Mutual insurance companies	16	8	4	4
(17) Supplemental unemployment benefit trusts	5	d	0	d
(19) War veterans' organizations	164	135	0	29
(25) Holding companies for pensions and other entities	177	151	0	26
(26) State-sponsored high risk health insurance organizations	d	0	0	d
Section 501 (d) Religious and apostolic associations	**14**	**d**	**0**	**d**
Section 521 Farmers' cooperatives	**23**	**d**	**0**	**d**
Nonexempt charitable trusts	**5**	**0**	**0**	**5**

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals, when possible.

[1] 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.

[2] Includes 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.

[3] No applications were filed for teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employee funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored workers' compensation reinsurance organizations (section 501(c)(27)); and the National Railroad Retirement Investment Trust (section 501 (c)(28)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[4] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

Table 24. Closures of Applications for Tax-Exempt Status, by Organization Type and Internal Revenue Code Section, Fiscal Year 2011

Type of organization, Internal Revenue Code section	Closures of applications for tax-exempt status [1]			
	Total	Approved [2]	Disapproved	Other [2, 3]
	(1)	(2)	(3)	(4)
Tax-exempt organizations and other entities, total [4]	**61,004**	**54,713**	**217**	**6,074**
Section 501(c) by subsection, total	**60,980**	**54,701**	**217**	**6,062**
(1) Corporations organized under an act of Congress	d	d	0	0
(2) Title-holding corporations	92	81	0	11
(3) Religious, charitable, and similar organizations [5]	55,319	49,677	205	5,437
(4) Social welfare organizations	1,777	1,559	6	212
(5) Labor and agriculture organizations	294	268	0	26
(6) Business leagues	1,655	1,542	4	109
(7) Social and recreation clubs	1,012	855	0	157
(8) Fraternal beneficiary societies	39	32	0	7
(9) Voluntary employees' beneficiary associations	153	123	0	30
(10) Domestic fraternal beneficiary societies	49	41	0	8
(12) Benevolent life insurance associations	91	81	0	10
(13) Cemetery companies	282	267	0	15
(14) State-chartered credit unions	5	d	0	d
(15) Mutual insurance companies	13	d	d	d
(17) Supplemental unemployment benefit trusts	d	d	0	0
(19) War veterans' organizations	177	153	0	24
(25) Holding companies for pensions and other entities	17	14	d	d
(27) State-sponsored workers' compensat on reinsurance organizations	d	0	0	d
Section 501(d) Religious and apostolic associations	**13**	**6**	**0**	**7**
Section 521 Farmers' cooperatives	**5**	**d**	**0**	**d**
Nonexempt charitable trusts	**6**	**d**	**0**	**d**

d—Not shown to avoid disclosure of specific taxpayer data. However, data are included in the appropriate totals, when possible.

[1] 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.

[2] Beginning with Fiscal Year 2010, IRS initiated a revised application procedure that allows additional time for application closures. Therefore, fewer applications are reported in the "Other" category and more applications are reported in the "Approved" category.

[3] Includes applications withdrawn by the organization; applications that do 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.

[4] No applications were filed for teachers' retirement funds (section 501(c)(11)); corporations to finance crop operations (section 501(c)(16)); employer-funded pension trusts (section 501(c)(18)); black lung trusts (section 501(c)(21)); multiemployer pension plans (section 501(c)(22)); veterans' associations founded prior to 1880 (section 501(c)(23)); trusts described in section 4049 of the Employee Retirement Income Security Act of 1974 (ERISA) (section 501(c)(24)); State-sponsored high-risk health insurance organizations (section 501(c)(26)); and the National Railroad Retirement Investment Trust (section 501(c)(28)). Tax-exempt status for legal services organizations (section 501(c)(20)) was revoked effective June 20, 1992.

[5] Includes private foundations. Not all Internal Revenue Code section 501(c)(3) organizations are required to apply for recognition of tax exemption, including churches, integrated auxiliaries, subordinate units, and conventions or associations of churches.

SOURCE: Tax Exempt and Government Entities, Exempt Organizations.

CARL LEVIN
MICHIGAN

United States Senate
WASHINGTON, DC 20510-2202

June 13, 2012

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

Thank you for the June 4, 2012, response by Steven Miller, Deputy Commissioner for Services and Enforcement, to my March 30, 2012, letter. Internal Revenue Code Section 501(c)(4) organizations are increasingly active in partisan political campaigns. These organizations, working in conjunction with independent expenditure committees, or "Super PACs" that can raise unlimited amounts of money from individuals, corporations and unions, are able to avoid revealing their funding sources by hiding behind their tax-exempt status. This trend of using our tax code to limit campaign disclosure is deeply troubling.

A 1997 letter from the IRS denying tax-exempt status to the National Policy Forum, which was included in my March 30 letter, indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501 (c)(4)," and that the applicant "benefit[s] select individuals or groups, instead of the community as a whole."

The June 4 response from Mr. Miller has a somewhat weaker interpretation, as follows:

> "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 individuals 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. Nevertheless, 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."

At a minimum, under either the 1997 letter or Mr. Miller's interpretation, a message needs to be sent to Section 501(c)(4) entities on an urgent basis to ensure they understand that any political activities they undertake must constitute a secondary and not the primary activity of their organization. To make that message crystal clear, I urge the IRS to remind all 501(c)(4)

PRINTED ON RECYCLED PAPER

organizations about their obligation to observe that restriction on their activities if they want to retain their tax exempt status.

I hope you will do that within the next 30 days. Please let me know what your decision is. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202-224-9110. Thanks.

Sincerely,

Carl Levin

Carl Levin



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

JUL 13 2012

The Honorable Carl Levin
United States Senate
Washington, D.C. 20510

Dear Senator Levin:

I am responding to your letter to Commissioner Shulman dated June 13, 2012, requesting the IRS to remind section 501(c)(4) organizations regarding the limitations of engaging in non-exempt political activities. We appreciate your interest on this issue. The IRS recognizes the importance of outreach and educational materials to ensure that section 501(c)(4) organizations are aware of the requirements under the tax law.

The IRS takes steps to continually inform organizations of their responsibilities as social welfare organizations to help them avoid jeopardizing their tax-exempt status. For those seeking information on the requirements for section 501(c)(4) tax exempt status, we provide educational materials and published resources on our website at www.IRS.gov/charities, including the responsibilities and limitations of these organizations. For instance, the web-page with general information on Social Welfare Organizations contains the following narrative with web links to educational resources:

> 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). For further information regarding political and lobbying activities of section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Enclosed are print-outs of some of the aforementioned publicly-accessible pages on social welfare organizations and political activity limitations on the IRS website. These informative web-pages are regularly updated.

The IRS also addresses the issue of political activities during the application process.

In Form 1024, *Application for Recognition of Exemption under Section 501(a)*, under Schedule B: Organizations Described in Section 501(c)(4), the first question touches on the issue of political activity, and the Form Instructions references Publication 557, *Tax-Exempt Status for Your Organization*, which also addresses political activity under the chapter that includes specific information on section 501(c)(4) organizations. For instance, page 51 of Pub. 557, specifically states:

> Political activity. Promoting 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, if you submit proof that your organization is organized exclusively to promote social welfare, it can obtain exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office. See the discussion in chapter 2 under Political Organization Income Tax Return.

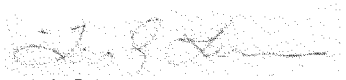
When an applicant is recognized as tax-exempt, the IRS sends an approved determination letter, along with an educational booklet, Publication 4221-NC, *Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)*, about the various tax law requirements applicable to section 501(c)(4) organizations. This booklet contains useful information to ensure organizations understand their responsibilities under the tax law, including activities that may jeopardize exempt status and the limitations on political activities.

We also address the issue of political activities in the Forms 990 and 990-EZ, the annual information returns filed by tax-exempt organizations under section 501(c)(4) Organizations that engage in direct or indirect political campaign activities are required to complete a separate schedule (Schedule C).

As the above illustrates, the IRS actively educates section 501(c)(4) organizations at multiple stages in their development about their responsibilities under the tax law. We believe this approach is the appropriate method by which to educate organizations on their responsibilities.

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,



Lois G. Lerner
Director, Exempt Organizations

Enclosures (2)

CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA

SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 27, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

I am writing to express my concern about how the IRS interprets the law regarding the extent to which 501(c)(4) "social welfare" organizations can engage in partisan political activity. The July 13, 2012 response by Lois G. Lerner, Director of Exempt Organizations, to my June 13, 2012 letter was unsatisfactory.

In the response, Ms. Lerner stated that "The IRS takes steps to **continually inform** organizations of their responsibilities as social welfare organization to help them avoid jeopardizing their tax-exempt status," and "**actively educates** section 501(c)(4) organizations at multiple states in their development about their responsibilities under the tax law." [*Emphasis added.*]

Her discussion does not describe an IRS initiative to "continually inform" or "actively educate." Rather, it shows the IRS is passively making some information available once a 501(c)(4) entity is already in existence. Further, her discussion of the explanatory materials available to the public, and the materials themselves, are confusing. This leads to a predictable result: organizations are using Internal Revenue Code Section 501(c)(4) to gain tax exempt status while engaging in partisan political campaigns. There is an absurd tangle of vague and contradictory materials that the IRS provides. Making the problem worse is that the IRS knows there is a problem because of the public nature of the activity, but has failed to address it.

First, the law.

26 U.S.C. §501(c)(4) states that "Civic leagues or organizations not organized for profit but operated **exclusively for the promotion of social welfare**, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes" are exempt from taxation.[1] [*Emphasis added.*] *Merriam-Webster* defines "exclusively" as "single, sole: whole; undivided." Therefore, it would appear that the law prevents entities that organize under Section 501(c)(4) from *any* activity that is not operated exclusively for the promotion of social welfare or an association of employees.

[1] 26 U.S.C. §501(c)(4).

Consistent with the law is a 1997 letter from the IRS denying tax-exempt status to a group called the National Policy Forum. The letter indicates that the IRS based its denial on the fact that the organization was engaged in partisan political activity, stating that "partisan political activity does not promote social welfare as defined in section 501(c)(4)," and that the applicant "benefit[s] select individuals or groups, instead of the community as a whole.[2]

One part of Internal Revenue Service Publication 557 in its guidance states, consistent with the law, that:

"If your organization is not organized for profit and will be operated **only** to promote social welfare to benefit the community, you should file Form 1024 to apply for recognition of exemption from federal income tax under section 501(c)(4)."[3] [*Emphasis added.*]

Another part of Internal Revenue Service Publication 557 starts off by agreeing with the law and states, "Promoting 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."[4] The IRS is accurately and clearly stating, in some places at least, that "social welfare" advocacy does **not** include campaigning for or against a candidate or candidates.

So far, so good - - until that same Publication 557 states: "However, if you submit proof that your organization is organized exclusively to promote social welfare, it can obtain an exemption [from taxes] even if it participates legally in some political activity on behalf of or in opposition to candidates for public office."[5]

That language seems inconsistent with the other referenced parts of Publication 557 (as well as being inconsistent with law and precedent), unless it means that the exemption isn't available for the political activity portion funded by 501(c)(4) receipts.

Further, an IRS regulation that interprets Section 501(c)(4) states that, "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."[6] [*Emphasis added.*]

So the IRS regulation says the law's requirement of "exclusively" really means "primarily," something very different from "exclusively."

The IRS webpage cites an internal training article which states:

"'[S]ocial welfare' is inherently an abstruse concept that continues to defy precise definition. Careful **case-by-case analyses** and close judgments are still required."[7] [*Emphasis added.*]

Fair enough.

---

[2] Internal Revenue Service letter to the National Policy Forum, February 21, 1997.
[3] Publication 557 (Rev. October 2011), pg. 51.
[4] *Id.*
[5] *Id.*
[6] Treasury Regulations, Subchapter A, Sec. 1.501(c)(4)-1.
[7] http://www.irs.gov/charities/nonprofits/article/0,,id=156372,00.html.

In its Compliance Guide for Tax-Exempt Organizations, the IRS gives direction regarding how to make a case-by-case evaluation whether a communication is political.[8] That Guide says that the following factors indicate that an advocacy communication **is** political campaign activity:

- The communication identifies a candidate for public office;
- The timing of the communication coincides with an electoral campaign;
- The communication targets voters in a particular election;
- The communication identifies the candidate's position on the public policy issue that is the subject of the communication;
- The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and
- The communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

The guide further lays out the factors that indicate when an advocacy communication **is not** political campaign activity:

- The absence of any one or more of the factors listed above;
- The communication identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;
- The timing of the communication coincides with a specific event outside the control of the organization that the organization hopes to influence, such as a legislative vote or other major legislative action (for example, a hearing before a legislative committee on the issue that is the subject of the communication);
- The communication identifies the candidate solely as a government official who is in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and
- The communication identifies the candidate solely in the list of key or principal sponsors of the legislation that is the subject of the communication.

It is clear from the application of those factors that what is going on in the U.S. with certain 501(c)(4) organizations in their television advertisements are political campaign activities.

Below are two transcripts of advertisements that were put on television by 501(c)(4) organizations. As you can see, the subject of Advertisement #1 is a Democratic Senator, and the subject of Advertisement #2 is a Republican Senator. This is not a partisan issue.

Television Advertisement #1:

"It's time to play: Who is the biggest supporter of the Obama agenda in Ohio. It's Sherrod Brown. Brown backed Obama's agenda a whopping 95 percent of the time. He voted for budget busting ObamaCare that adds $700 billion to the deficit. For Obama's $453 billion tax increase. And even supported cap-and-trade which could have cost Ohio over 100,000 jobs. Tell Sherrod Brown, for real job growth, stop spending and cut the debt. Support the new majority agenda at newmajorityagenda.org."

[8] Compliance Guide for Tax-Exempt Organizations, pgs. 4-5.

Television Advertisement #2:

> "Before Wall Street gave him $200,000 in campaign cash. ... Before he voted to let bank CEOs take millions in taxpayer funded bonuses. ... Dean Heller was a stockbroker. No wonder he voted against Wall Street reform; against holding the big banks accountable. Heller even voted to risk your Social Security here, in the stock market. Dean Heller: he votes like he still works for Wall Street, and that's bad for you."

Those ads, and so many like them, clearly fit the factors the IRS has laid out in its guide for what constitutes a political campaign activity. The advertisements make no pretense at nonpartisanship; they are blatantly and aggressively partisan communications.

Entities that file under Section 501(c)(4) of the Internal Revenue Code and take advantage of its tax exemption benefits should have to make a choice: either lose their exempt status (and pay taxes) or eliminate the partisan political activity.

The IRS needs to immediately review the activities of 501(c)(4) entities engaging in running partisan political ads or giving funds to Section 527 organizations that run such ads. The IRS needs to advise 501(c)(4) entities of the law in this area and the factors it will look at in reviewing 501(c)(4) status and tax exemption issues.

Please provide me with the following information no later than August 10, 2012:

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?

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?"

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."[9]

   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?
   c. How many persons are involved in the enforcement of the 501(c)(4) rules?

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

[9] Exempt Organizations 2011 Annual Report and 2012 Work Plan, pg. 8.

IRS. EO will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules."[10]

a. Why does the IRS allow 501(c)(4) organizations to self-declare?
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 that organization has classified itself correctly?

5. The IRS Compliance Guide for Tax-Exempt Organizations states:

"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 it its net investment income for the year or the aggregate amount expended on political campaign activities during the year, whichever is less."[11]

a. How does the IRS keep track of these explicit communications and ensure that the organization pays this tax?
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?
c. What tax would an organization have to pay if it spends *all* of its income on political advertising (therefore it has NO net investment income)?

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?
b. How does the IRS keep track of these political activities and ensure that the organization pays the tax under section 527(f)?

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?

8. Internal Revenue Service 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

---

10 *Id.*
11 Compliance Guide for Tax-Exempt Organizations, pgs. 3-4.

exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office."[12]

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.
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

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?

I have enclosed a copy of Ms. Lerner's letter. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Again, it is urgent that I receive your answers by August 10, 2012.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: Dr. Tom Coburn
Ms. Lois G. Lerner

[12] Publication 557 (Rev. October 2011), pg. 51.

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 any 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?

[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:

---

[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.

[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

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN

CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA

SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

August 31, 2012

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
10th Street and Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Commissioner Shulman:

Thank you for the August 24, 2012 response by Steven T. Miller, Deputy Commissioner for Services and Enforcement, to my July 27, 2012 letter.

I find it unacceptable that the IRS appears to be passively standing by while organizations that hold themselves out to be "social welfare" organizations clearly ignore the tax code with no apparent consequences.

Frankly, the response that "long standing Treasury Regulations have interpreted 'exclusively'" as used in section 501(c)(4) to mean "primarily" and the argument that "section 501(c)(4) does not contain a specific rule or limitation on political campaign intervention by social welfare organizations" are not persuasive. The word "exclusively" as written in the statute is clear and speaks for itself. Its clarity is not diminished because the section does not mimic words in another section, which words are also clear.

As a follow-up to your letter, I would like to know the following:

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 would be due? Will contributions that already have been made to that organization be taxable to that organization?

2. How many 501(c)(4) organizations which appear to be primarily engaged in political activity have been notified by the IRA within the last 6 months that they may be in violation of the law?

It is urgent that I receive your answers promptly, and no later than September 10, please.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: Dr. Tom Coburn
Mr. Steven T. Miller



DEPUTY COMMISSIONER

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

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

---

[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

CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA

SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

September 27, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Commissioner Shulman:

I appreciate the September 14, 2012 response by Steven T. Miller, Deputy Commissioner for Services and Enforcement, to my letter of August 31, 2012.

As a follow-up to that letter, please provide me with the following:

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.

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."

For your information, I am enclosing a copy my recent *Congressional Record* statement regarding the Internal Revenue Service and its treatment of 501(c)(4) organizations. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Please provide this information by October 9, 2012.

Thank you.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

Enclosure

cc: Dr. Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations

Mr. Steven T. Miller
Deputy Commissioner for Services and Enforcement
Internal Revenue Service



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

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 34113 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 20036-1304	http://www.prioritiesusa.org/	"Priorities USA is a 501(c)(4) organization dedicated to build bring 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 might be 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

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA
SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS
MICHAEL L. ALEXANDER, STAFF DIRECTOR
NICHOLAS A. ROSSI, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

October 23, 2012

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@IRS.gov)

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
U. S. Department of the Treasury
1111 Constitution Avenue
Washington, D.C. 20224

Dear Commissioner Shulman:

I am in receipt of the October 17, 2012, response from Mr. Miller to my letter of September 27, 2012.

In the June 4, 2012, response that I received from the IRS, your agency provided the following guidance:

> "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. Nevertheless, 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. The regulations do not impose a complete ban on political activity by section 501 (c)(4) organizations. Whether an organization meets the requirements of section 501 (c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative." [6/4/12 IRS response, pg. 8]

I have indicated previously that I believe this guidance misinterprets the law because the law says that the organization must be operated "exclusively" for the promotion of social welfare. However, accepting the IRS interpretation as accurate for the purposes of this letter, please provide the following information:

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.

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

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.

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.

   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?

Thank you for your assistance. If you have any questions, please contact me, or have your staff contact Kaye Meier of my staff at kaye_meier@levin.senate.gov or 202/224-9110. Please provide this information by November 9, 2012.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: The Honorable Tom Coburn, MD
Ranking Minority Member
Permanent Subcommittee on Investigations



DEPUTY COMMISSIONER

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

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

[redacted] = Redacted by the Permanent Subcommittee on Investigations

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 [redacted] 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 (Ct. Cl. 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).



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **200833021**
Release Date: 8/15/2008

Date: May 20, 2008

U.I.L. 501.04-03

SE:T:EO:RA:T:3

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120
Tax Years:
ALL

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s): You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

In a letter dated January 17, 2008, you submitted a copy of the minutes of the meeting of your Board of Directors dated September 17, 2007, which approved your dissolution effective September 30, 2007. A statement of your dissolution was filed with your state on September 14, 2007.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

U.I.L. 501.04-03 No Third Party Contacts

July 31, 2000

Contact Person:

ID Number:

Telephone Number:

Employer Identification Number:

Legend:

X =
Year 1 =
State 1 =
State 2 =
W =
Seminar =
Newsletter =
Conference =

A =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Year 1, as a nonprofit organization under the laws of the State 1. You were formed for purposes that include the following: to educate, inform and mobilize Ws to become active in the public arena in support of causes which reflect W values; and to uphold, propagate, and disseminate by all lawful means W principles and values.

You entered into an affiliation agreement with X, a national organization based in State 2. X's

five-fold mission is to--

Under the affiliation agreement, X has granted you a charter pursuant to which you shall represent X in State 1 and shall be known as the said state affiliate of X. The agreement further grants you a non-exclusive, revocable license to use X's name, logo, and any and all trademarks or service marks that X owns during the agreement. In addition, the affiliation agreement consists of the following provisions:

1. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X.

2. You shall adopt bylaws which will be substantially in the form of, or consistent with, the bylaws of X. Any amendments to your bylaws shall be sent to X for review and approval with your agreement not to adopt any amendments not approved by X.

3. You may organize and recognize local X chapters in State 1, provided you enter into an affiliation agreement with each local chapter and each such agreement is approved by X. Once a quarter, you shall provide X with the names and addresses of each local chapter, as well as the names, addresses, and phone numbers of the leader in each local chapter.

4. A portion of X's annual net revenues shall be segregated as a state project fund from which you may request funds for special projects from time to time. These funds may be distributed throughout the course of the year and must be requested in writing.

5. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge. X shall assist you in preparing mailings to these lists.

6. X shall provide you with a list of activities on X's database for you to use for fund-raising purposes.

7. X shall conduct for you regular workshops to teach fund-raising and organizing skills for state leadership.

8. X will schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 75 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school.

9. X will work with you to hold at least one major fund-raising event per calendar year to be

attended by A (as schedule permits) and/or other nationally recognized individuals;

10. X will provide you with access with to its flagship publication, W . You will be able to place a four-page insert into all copies of W mailed to all X members in State 1.

11. X shall provide state and local leaders with a regular update of events in the nation's capital. This update will be provided free of charge to state and chapter leaders with fax machines.

12. X shall provide you with voter education material specific to your state. Congressional scorecards will be provided at cost, and federal voter guides will be provided free of charge.

Your activities include the development of county chapters, distribution of voter guides, organizing and conducting training seminars, publishing and distributing monthly newsletters and updates on legislation, and lobbying activities.

You have been involved in the formation and development of county chapters in State 1. In the Local Chapter Chairman's Handbook, a manual published and provided to you by X in providing step-by-step instruction on how to develop a successful chapter, states in Chapter 1 –

The goals of a chapter are to:

The X handbook refers to the neighborhoods as "precincts," and it states "...the ultimate goal of X is to have ten identified activists in every precinct in America. Neighborhoods (precincts) are crucial. In order to effectively organize your county, you must organize neighborhoods. Establishing a coordinator in each neighborhood will very effectively give you political control over your county and ultimately, your state." The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps: identify, inform and mobilize voters.

You distribute voter guides for federal, state, and local elections. The voter guides are distributed to voters prior to Election Day for their use on that day. The voter guides for elections on the federal level were prepared by X. You prepare the voter guides for elections on state and local levels. The format of the voter guides includes the names and pictures of the Democratic and Republican candidates for various elective offices. Beneath each candidate's name and picture is the candidate's position on each of a list of selected issues. The Voter Guides indicate that most candidates were shown with a response of either "Opposes" or "Supports" to the selected issue, while many candidates were shown to have "No Response" or "Undecided" to most of the issues. The selected issues included:

The voter guides state in very small print that, "[t]his voter guide is provided for educational purposes only and is not to be construed as an endorsement of any candidate or political party." However, X's training materials called the X , under the heading states --

> The year marked the emergence of X onto the national political scene....
>
> As the election year went into full swing, X began distributing nonpartisan voter guides in churches nationwide. X's voter education efforts led to the largest turnout of voters in modern history with exit polls showing that 24 percent of all voters were self-identified . The results of such voter turnout were remarkable; an estimated candidates ran for school board, city council, state legislature, and percent won. X's commitment to the movement was now set in stone.
>
> X's activity in the election year proved that X was a major player in the political arena. X distributed voter guides during the presidential and other primaries as well as voter guides in churches during the general election.

You also conduct a seminar called W Seminar. The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

You also publish State 1 Newsletter, a monthly newsletter consisting of two pages updating members primarily on chapter meetings and events, status of legislation, and the political scene. The and issues included information regarding the "Conference," an annual conference conducted by X that features speeches by prominent members of the Party.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain issue legislation. A training manual published by X, which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax Regulations states that 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

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. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. The Leadership School trains people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted voters to get to the polls on election day. It has also been used to identify and encourage to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the

candidates regularly have "No Response" or "Undecided" listed after all or part of the issues, whereas very few candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred candidate, or conversely to portray a candidate as against issues. While these factors are not explicit endorsements of candidates, the lack of responses from candidates and the wording and choice of issues to create a particular response along party lines is significant. In addition, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the candidates and almost all of the positions of the candidates. This reporting is so heavily weighted toward the Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the candidates, especially those incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified and individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of candidates or to compare the positions of and candidates, since such a large percentage of candidates did not have their positions listed in the voter guides. In addition, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

3. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.

Manager, Exempt Organizations
Technical Group 3

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

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

U.I.L. 501.04-03 No Third Party Contacts

Release Number: **200836033**
Release Date: 9/5/08
Date: June 12, 2008

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120
Tax Years:

Dear

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

In a letter dated January 18, 2008, you indicated to have ceased conducting activities with no intention of reactivating because of our adverse ruling and have dissolved. We issued an initial adverse ruling on your exemption application on July 27, 2000.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. We amended the proposed adverse determination letter that was issued on July 27, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your

Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
July 27, 2000

U.I.L. No 501.04-03 Third Party Contacts
Contact Person:

ID Number:

Telephone Number:
Fax:

Employer Identification Number:

Legend:

X =
Date 1 =
Date 2 =
State 1 =
State 2 =
W =
A =
Handbook =

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Date 1, as a nonprofit organization under the provisions of the State 1 Revised Statutes annotated, Chapter . Your articles of incorporation provide that your purposes are as follows:

1. to educate, inform and mobilize W to become active in the political arena in support of causes which reflect W values, and to uphold, propagate, and disseminate by all lawful means W principles and values;

2. to urge the public to contact members of local, state, and federal legislative and regulatory bodies for the purpose of proposing, supporting, or opposing legislation to bring about betterment and the general welfare;

3. to aid the election of W candidates at the state and local level who promote Biblical values; and

4. to engage in any and all lawful activities incidental to the foregoing purposes.

On Date 2, you entered into an affiliation agreement with X, a national organization based in State 2. Pursuant to this agreement, you have become the state affiliate of X in the State of State 1. In part, the affiliation agreement consists of the following provisions:

1. You will clearly indicate on your stationery and other informational materials that you are the state affiliate of X, which will not grant state affiliation status to any other organization in State 1;

2. One-fourth of the state's counties and two-thirds of the Congressional Districts shall have functioning chapters and chairmen by a specified date; you will provide rosters of county and district officers on a quarterly basis to X;

3. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X;

4. You shall provide an audited financial statement to X on an annual basis;

5. Any advertisement or public relations effort using the X name will be sent to X national headquarters for approval prior to its use, including print advertisements, radio or television spots, newsletters, press releases, brochures, or voter guides.

6. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge;

7. X field staff will assist you in establishing X county chapters or appointing Congressional District coordinators;

8. X will schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 35 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school;

9. X will work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals;

10. A portion of X annual net revenues shall be segregated as a state project fund from which you may request funds for special projects; these funds shall be distributed on a quarterly basis and may be requested with an application form provided by X;

11. You will send a camera-ready insert of state news to X from time to time for publication in the W ;

12. X will provide production quality television and radio spots for broadcast on local television or radio by you;

13. You assume full liability for your own activities and programs; you indemnify X against liability; no principal and agent relationship is created; and, you and your chapters may not represent to third parties that you are acting on behalf of X unless specifically authorized in writing or as outlined in this agreement;

14. If you violate this agreement, X may immediately terminate it; and,

15. Both you and X may suspend the agreement upon providing 90 days notice in writing.

You solicit memberships, and one of the brochures you distribute for that purpose asks,"Isn't it about time we became informed & politically involved citizens in State 1?" The brochure describes you to the public as follows:

We are a non-partisan issue-oriented organization designed to mobilize

pro-family citizens for effective political action.

This grassroots coalition of Protestants, Catholics, and Jews, is working to make government and the media responsive to our reasonable concerns. Our goal is to speak with a united voice on public policy matters that preserve our freedoms and improve our nation and our communities. We work together because we understand resisting the tide of immorality and intolerant secularism is more important that (sic) our theological, racial, or cultural differences.

Our five-fold mission, in conjunction with our state and national organizations, is to:

1. Inform pro-family voters about timely issues and pending legislation;

2. Train leaders for effective social and political action;

3. Speak out in the public arena and in the media;

4. Represent pro-family voters before local councils, school boards, and the state legislature;

5. Protest anti-religious biases and defend the legal rights of W.

We distribute *Congressional Scorecards* to educate Americans on their representatives' votes, and *Voter Guides* to provide voters with candidates' positions on issues. We are also expanding our membership, developing leadership, and organizing by neighborhoods.

We serve pro-family citizens by providing a local grassroots organization to channel *your political* efforts. We will cooperate and work with local churches by helping them establish Political Awareness Committees formed with the approval of, and under the supervision of, their church's leadership. It is through networking with concerned citizens and people of faith that information is distributed enabling our collective voice to be heard. Your participation increases our influence to effect political change. You may choose your level of involvement from being kept informed to helping organize the state.

We are not exclusive, extremist, radical or intolerant. We are mainstream Americans who have a right to representation and a responsibility in self-government.

Your activities include the development of county chapters, organizing and

conducting training seminars, distribution of legislative scorecards, publishing and distributing monthly newsletters and updates on legislation, conducting conferences, and lobbying activities.

You have been involved in the formation and development of county chapters and neighborhood communities in the state of State 1. This formation of neighborhood communities is along the X's plan of establishing precinct organizations. The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps: identify, inform, and mobilize voters.

You conduct surveys for identification and mobilization of voters. Your voter identification method follows Abraham Lincoln's four rules for winning elections:

1. Obtain a complete list of voters,
2. Determine how they will vote,
3. Contact the favorable voters, and
4. Get them to the polls on election day

Your voter identification points out that Lincoln's four rules are the foundation of modern grassroots politics. The most effective element in influencing the public policy of a city, county or state is electing quality candidates to office.

You distribute voter guides timed to coincide with the elections. The voter guides are directed at different geographic areas of State 1, and cover specific elections. The format of the voter guides includes the names and pictures of the Democratic and Republican candidates for various elective offices. Beneath each candidate's name and picture is the candidate's position on each of a list of selected issues. Your Voter Guide for the state Governor and Congressional District elections show Republican candidates with a response of either "Opposes" or "Supports" to the selected issue, and the Democratic candidates were shown to have "No Response" to most of the issues. The selected issues on the election for Governor included:

Establishment of a State Income Tax
Abortion on Demand
Parental Notification for Abortion by Minors
Parental Choice in Education (Vouchers)
Banning Ownership of Legal Firearms
Condom Distribution in Public Schools
Outcome-Based Education
Special Rights for Homosexuals
Term Limits
Compulsory Union Dues for Employment

The voter guides state in very small print the following:

> Paid for and authorized by X, of State 2. X is a pro-family action organization. This voter guide is provided for educational purposes only and is not to be construed as an endorsement of any candidate or political party.

However, X produced training materials called the X Handbook, under the heading "Political Victory," states --

> The year marked the emergence of X onto the national political scene....
>
> As the election year went into full swing, X began distributing 40 million nonpartisan voter guides in nationwide. X's voter education efforts led to the largest turnout of voters in modern history with exit polls showing that 24 percent of all voters were self-identified . The results of such pro-family voter turnout were remarkable; an estimated 500 pro-family candidates ran for school board, city council, state legislature, and 40 percent won. X's commitment to the movement was now set in stone.
>
> X's activity in the 1996 election year proved that X was a major player in the political arena. X distributed 20 million voter guides during the presidential and other primaries as well as 45 million voter guides in during the general election.

You also distribute congressional scorecards. The scorecards are prepared by X for distribution to voters during elections through its state affiliates. The scorecard is a compilation of voting records of all incumbent members of Congress with respect to issues on which X has taken a position. The scorecard shows how each Senator and Representative voted on each of the selected issues with a rating of either "++" or "-" and a percentage score. The scorecard states that "++" indicates that the legislator voted or announced in favor of X position, and "-" indicates that the legislator voted or announced against X position. A score of 100% means that the legislator supported X position on every vote. A score of 0% means the legislator never supported a X position.

The X Congressional Scorecard Election Year Edition you distributed shows the names of Republican legislators in capital letters as compared to names of all Democratic legislators in lower case letters. In addition, while many and only Republican legislators garnered a score of 100%, many and only Democratic legislators garnered a score of 0%.

The issues chosen for the State 1 legislators in the X Congressional Scorecard Election Year Edition included the following: Family Tax Relief, Balanced Budget Amendment, Partial Birth Abortion, Promoting Homosexuality, Pornography on the Internet, Line-Item Veto, and Welfare Reform.

You conducted a seminar called X Seminar. Your flyer advertised the seminar with the headlines, "
." The seminar is described in the material as given by America's sharpest political strategists and is a crash course on:

- Why people of faith should be involved in politics;
- How to organize your neighborhood and ward;
- Influencing public policy at all levels of government;
- The biblical basis for political involvement; and,
- How to effectively lobby elected officials.

The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

> Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how, "[a]ll politics is local."

You publish State 1 W, a news supplement inserted in the magazine called W . The bi-monthly magazine is published by X and distributed through its affiliates.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain conservative-issue legislation. The manual published by X, which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

> The game of politics and lobbying operates no differently. In November 1994, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax Regulations states that 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government

officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

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. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your training seminars train people to work in campaigns and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials

presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities that were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Congressional Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the names of Republicans were shown in all capital letters with the highest percentage scores in the scorecard, which gives prominence and arguably an endorsement to those legislators, while there was no such distinction in the documents at issue in the revenue ruling, 3) the legislator's "score" was indicated based upon agreement/disagreement with your issues, 4) the scorecards were published and distributed to coincide with the national and state elections. We

also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization that publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors that should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after all or part of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen for each District seem to have a direct correlation to the desired response from your preferred Republican candidate, or conversely to portray a Democratic candidate as against your issues. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. In addition, the general nature of and approach taken with respect to the issues covered leads to responses that are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **200843033**
Release Date: 10/24/2008

Date: July 31, 2008

U.I.L. 501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120
Tax Years:
ALL

S:T:EO:RA:T:2

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

On , 2008, xxxxxxxxxxxxxxxx, your authorized representative, informed us that you decided not to pursue exemption under section 501(c)(4) and that we close the case.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. We amended the proposed adverse determination letter that was issued on July 27, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

U.I.L. 501.04-03 No Third Party Contacts

July 25, 2000

Contact Person:

ID Number:

Telephone Number:
Fax:

Employer Identification Number:

Legend:

W =
X =
Y =

A =
B =

Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =

Year 1 =

State 1 =
State 2 =
State 3 =

Seminar =
Newsletter 1=
Newsletter 2 =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information submitted indicates that you were incorporated on Date 1. Your Articles of Incorporation state that your principal purpose is to encourage active citizenship among people professing the W faith. Your other purposes are as follows: to support and uphold values and moral principles that accord with the Holy Bible; to defend religious freedom; to enunciate an interpretation of the United States Constitution which is in accordance with the original intention of the framers of the United States Constitution; and, to promulgate and teach concern for the sanctity of life, traditional family values, an economic system which fosters individual self-reliance, opposition to tyranny, and faith in God.

On Date 2, you entered into an affiliation agreement with X, a national organization based in State 1. X was created in Year 1 and its five-fold mission is to:

- Represent the pro-family point of view before local councils, state legislatures, and Congress.
- Speak out in the public arena and in the media.
- Train leaders for effective social and political action.
- Inform pro-family voters about timely issues and legislation.
- Protest anti-W bigotry and defend the rights of people of faith.

Pursuant to the affiliation agreement, you have become the state affiliate of X in the State 2. In part, the affiliation agreement consists of the following provisions:

1. You shall clearly indicate on your stationery and other informational materials that you are the state affiliate of X, which will not grant state affiliation status to any other organization in State 2;

2. One-fourth of the state's counties and two-thirds of the congressional districts shall have functioning chapters and chairmen by a specified date; you will provide rosters of county and district officers on a quarterly basis to X;

3. You shall incorporate as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code; copies of your corporate charter, bylaws and exemption application will be provided to X;

4. You shall provide an audited financial statement to X on an annual basis;

5. Any advertisement or public relations effort using X's name will be sent to X national headquarters for approval prior to its use, including print advertisements, radio or television spots, newsletters, press releases, brochures, or voter guides.

6. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge.

7. X field staff shall assist you in establishing X county chapters or appointing Congressional District coordinators.

8. X shall schedule at least one leadership school per calendar year in your state, to be sponsored by you that includes audio tapes, instructional manual, and all related materials; you are responsible for recruiting at least 35 paid registrants, while the national office shall provide all materials, audio and video tapes, a national or regional instructor, and one mailing from the national office to promote and publicize the school;

9. X shall work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals;

10. A portion of X annual net revenues shall be segregated as a state project fund from which you may request funds for special projects; these funds shall be distributed on a quarterly basis and may be requested with an application form provided by X;

11. You will send a camera-ready insert of state news to X from time to time for

publication in the ;

12. X shall provide production quality television and radio spots for broadcast on local television or radio by you; and

13. You shall assume full liability for your own activities and programs; you shall indemnify X against liability; no principal and agent relationship is created; and, you and your chapters may not represent to third parties that you are acting on behalf of X unless specifically authorized in writing or as outlined in this agreement.

Your activities include developing county chapters, organizing and conducting training seminars, distributing legislative scorecards, publishing and distributing monthly newsletters and updates on legislation, conducting conferences, and lobbying activities.

You have been involved in the formation and development of county chapters in the State 2 toward achieving the goal of X as a "precinct" organization. The manual called "The Plan," which is distributed by X in assisting the establishment of chapters, states, "How well you implement this plan will determine how quickly we establish X as a major force in American politics." The manual indicates X's short term goal is to establish a working X chapter. The long term goals are as follow:

A. Have 10 trained activists in every precinct.
B. Have a church coordinator in each conservative church.
C. Canvass each registered voter to determine their concerns and values.
D. Develop an information network to educate on issues and candidates.
E. Train W to be effective leaders in the social and political area.

X's precinct organization plan urges members to follow three simple steps: to identify, inform and mobilize voters. You conduct surveys for identification and mobilization of voters. Your voter identification brochure, which is prepared by, and which you receive from X, follows Abraham Lincoln's four rules for winning elections:

1. Obtain a complete list of voters
2. Determine how they will vote
3. Contact the favorable voters
4. Get them to the polls on election day

You distribute voter guides that are directed at different geographic areas within State 2, and cover the Presidential, Congressional and state races. The format of the voter guides includes the names and pictures of the Democratic and Republican

candidates for various elective offices. The distribution of the voter guides is timed to coincide with specific elections. Beneath each candidate's name and picture is the candidate's position on a list of selected issues. All Republican candidates were shown with a response of either "Opposes" or "Supports" to the selected issues. On the other hand, some Democratic candidates were shown to have "DNR," which stands for "Did Not Respond," or "Undecided" to many of the issues. The selected issues on the "96 X Voter Guide Presidential Election" included:

Balanced Budget Amendment
15% Federal Income Tax Cut
Banning Partial Birth Abortion
Taxpayer Funding of Abortion
Voluntary Prayer in Public Schools
Public and Private School Choice
Goal 2000/Outcome-Based Education
Homosexuals in the Military
Term Limits for Congress
FDA Regulation of Tobacco

You distribute the voter guides to members and constituents. The voter guides state in small print that "[t]he information provided herein is for the purpose of voter education and is not intended as an endorsement of any candidate." However, your training material, Seminar, at page 6, states the following:

> In Date 3, X distributed 500,000 voter guides in cooperation with minority groups and the Catholic Archdiocese in the State 3 City School Board races. As a result, an estimated 63 percent of pro-family candidates won and conservatives gained ground in even the most liberal districts. Due to the concerted efforts of X state and local chapters, conservatives are enjoying victories of this nature all across America.

Moreover, your publication Newsletter 1, Date 4 issue, clarified the primary objectives and importance of your voter guides in the following statement:

> As the primary voter education project of X, the Voter Guides have made a significant impact on State 2 politics. In the past four years alone, Y has distributed over 4 million Voter Guides -- and we have seen the difference the Voter Guides can make in electing conservative representatives across the state.

You also distribute legislative scorecards, a compilation of voting records of all

incumbent members of the State 2 legislature with respect to issues on which you and X have taken a position. The scorecard shows how each member of the State 2 Senate and the State 2 House of Representatives voted or announced on each of the selected issues with a rating of either "+" or "-" and a percentage score. The scorecard states that "+" indicates that the legislator voted or announced in favor of the X position, and "-" indicates that the legislator voted or announced against the X position. A legislator who is rated "+" on all issues is scored 100 percent to indicate that the legislator supported the X position on key issues on every vote cast during his or her current term in office.

Your 1997 State 2 Voter's Legislative Scorecard shows many 100 percent scores given to Republican legislators, and no 100 percent scores given to Democratic legislators. In the State 2 Senate scorecard, Republican senators' scores ranged from a high of 100% to a low of 78%, while Democratic senators' scores ranged from a high of 89% to a low of 33%. In the State 2 House of Representatives, Republican representatives' scores ranged from a high of 100% to a low of 55%, while Democratic representatives' scores ranged from a high of 82% to a low of18%.

The issues chosen for the State 2 House of Representatives were substantially similar to those of the State 2 Senate and included the following:

Partial-Birth Abortion Ban
Defense of Marriage Act
American Heritage History Amendment
Woman's Right To Know Act
Full Service School Based Clinics/Contraceptives in School
Faith-Based Programs in Prison
Scholarships for Adopted Foster Children
Vehicular Homicide for Death of Unborn Child
Funding to Communist Vietnam

You conduct leadership training or seminars called Seminars. The seminar uses training manuals produced and supplied by X. In his foreword in the training manual, A states --

> Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how "All politics is local."

You also engage in lobbying activities. You distribute materials urging members

and others in supporting or defeating certain legislation. The "Seminar Manual," a manual published by X which you use in your training seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

> The game of politics and lobbying operates no differently. In November 1994, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

You publish Newsletter 1, a four-page news supplement inserted in , a bi-monthly magazine published by X and distributed through its affiliates. You also publish Newsletter 2, a monthly newsletter updating members on various legislative bills and the political scene.

In Newsletter 1, Date 5 issue, your executive director wrote an article titled "Religion and Politics Do mix...indeed they MUST mix!" and stated the following:

> The old-age advice that religion and politics don't mix is the very reason American is in the "mess" it's in today! From the day the Supreme Court thumbed its nose at Almighty God by throwing out Bible reading and prayer in school, America has reaped a harvest of crime, teen suicide, illegitimacy, divorce, and a scourge of other symptoms of societal breakdown.
>
> Yet, in spite of continual increase of these social indicators, the liberals still contend that that the worst thing to happen to State 2 is for B, a man of faith, to become Speaker of the State 2 House of Representatives. Unfortunately, history reminds us the greatest reformist movements including the abolitionist movement to end slavery, the suffrage movement to give women the right to vote, and the civil rights movement to give people of color equal opportunity can all be traced back to the churches and synagogues of America. Religion and people of faith are not what's wrong with America, they are what's right with America.
>
> Therefore, we must continue our work to elect men and women of character and faith to our government, and add two very important endeavors: prayer and fasting for the spiritual reawakening in America, and active compassion for the less fortunate.

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax Regulations states that 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office.

We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

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. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your leadership seminars train people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to

get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Legislative Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large

number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the legislator's "score" was indicated based upon agreement/disagreement with your issues, and 3) the scorecards were published and distributed to coincide with the national and state elections. We also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after many of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred Republican candidate, or conversely to portray a Democratic candidate as against X's positions. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. Also, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a

neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying

and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending

correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **200903080**
Release Date: 1/16/2009

Date: 10/22/08

U.I.L. 501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:
1120
Tax Years:
ALL

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reasons: You were not primarily engaged in activities that promote social welfare. Your activities primarily constituted direct and indirect participation in political campaigns on behalf of, or in opposition to, candidates for public office.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. We amended the proposed adverse determination letter that was issued on July 25, 2000, by inserting a legend to delete identifying information for purposes of disclosure compliance under section 6110. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi
Director, Exempt Organizations
Rulings & Agreements

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

U.I.L. 501.04-03

July 25, 2000

Contact Person:

ID Number:

Telephone Number:
Fax:

Employer Identification Number:

Legend:

W =
X =

A =

Date 1 =
Date 2 =
Date 3 =
Date 4 =

Year 1 =
Year 2 =

State 1 =
State 2 =
State 3 =

Magazine =
Seminar =
Newsletter =
Conference =

Dear :

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based upon all of the materials you have submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Accordingly, we have concluded that you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4).

STATEMENT OF FACTS:

The information you have provided for our consideration of your application for recognition of exemption indicates that you were incorporated on Date 1, under the General Laws of the State 1. Your Articles of Incorporation state the following:

> The principal purpose of the Corporation is to encourage active citizenship among people professing the W faith. Other purposes are to support and uphold values and moral principles that accord with the Holy Bible; to defend religious freedom; to enunciate an interpretation of the United States Constitution which is in accordance with the original intention of the framers of the United States Constitution; and to promulgate and teach concern for the sanctity of life, traditional family values, an economic system which fosters individual self reliance, opposition to tyranny, and faith in God.

You are a state affiliate of X, a national organization based in State 2. The submitted copy of your affiliation agreement with X in Date 4 includes the following provisions:

1. You shall have the right to represent X in the State 1 and shall be known as its affiliate.

2. You shall acknowledge the objectives and purposes of X as set forth in the Charter and in the Bylaws of X and agree to take such action as appropriate to implement such objectives and purposes and to enhance the reputation and goodwill of X.

3. You are granted a non-exclusive, revocable license to use X's name, logo, and any and all trademarks or service marks that X now or hereafter owns during the

term of the agreement.

4. You shall provide X for its approval, prior to publication, broadcast or distribution, a copy of all advertisements, press releases, radio or television spots, newsletters, fundraising materials, brochures, voter guides, and other printed materials for public dissemination on which X's name, logo, trademarks, or service marks are used or appear.

5. You shall incorporate, and maintain corporate status, as a nonprofit corporation and apply for recognition of exemption under section 501(c)(4) of the Code.

6. You shall adopt bylaws subject to the applicable laws of the State 1 and shall be substantially in the form of the bylaws of X. You shall have the right to adopt additional bylaw provisions as are required by statute or deem appropriate, provided, however, that such additional bylaw provisions shall not be inconsistent with the Charter, the X bylaws, or this agreement.

7. Any proposed amendments of your governing document shall be submitted to X for review and approval.

8. You may organize and recognize local X chapters in the State 1, provided you enter into an affiliation agreement with each local chapter and each such agreement is approved by X. Once a quarter, you shall provide X with the names and addresses of each local chapter, as well as the names, addresses and phone numbers of the leader in each local chapter.

9. You may send mailings to certain X proprietary mailing lists for a reasonable computer and label/tape charge.

10. X shall provide you with a list of activists on X's database for the state to use for fund-raising purposes.

11. X shall conduct for you regular workshops to teach fund-raising and organizing skills for state leadership.

12. X shall schedule at least one leadership school per calendar year in your state, to be sponsored by you. You shall be responsible for recruiting at least seventy five (75) paid registrants for the seminar. X shall provide all educational materials at cost, a national or regional instructor, and one mailing from the national office to promote and publicize the school;

13. X will work with you to hold at least one major fund-raising event per calendar year to be attended by A (as schedule permits) and/or other nationally recognized individuals.

14. X will provide you with access to its flagship publication, Magazine. You shall be able to place a four-page insert into all copies of the Magazine mailed to the members of the X in your state. The cost of printing and mailing the insert will be paid for by X. In addition, limited bulk mailings of the Magazine will be sent to drop points you designated.

15. X shall provide state and local leaders with a regular update of events in the nation's capital.

16. X shall provide you with voter education materials specific to your state. Congressional scorecards will be provided at cost, and federal voter guides will be provided free of charge.

17. You and X are separate corporate entities and as such shall not incur any liability, obligation, or expense on behalf of each other.

As the state affiliate of X in State 1, your objectives are similar to X. A brochure produced by X describes these objectives and their implementation as follows:

X was formed in Year 1 to speak out against anti-W bigotry and to make our government more responsive to the concerns of W and pro-family Americans. In pursuit of this goal, X...

- provides America's 40 million W voters with the information and knowledge that they need to make sure W voices are heard in government;
- represents Ws before the U.S. Congress, state legislatures and local governing bodies;
- registers Ws to vote and makes sure they cast ballots on Election Day; and
- protests unfair and biased treatment of Ws by the news media, the entertainment industry and officials in government.

You indicate that your main activities consist of lobbying the state legislature on education, tax, and social issues, conducting workshops, and distributing newsletters, voter guides and scorecards.

You conduct a seminar called X Seminar. Your flyer advertising the seminar headlines "THINK LIKE JESUS. LEAD LIKE MOSES. FIGHT LIKE DAVID. RUN LIKE LINCOLN." The seminar is indicated in the material as given by America's sharpest political strategies and is a crash course on:

- Why people of faith should be involved in politics.
- How to organize your neighborhood and precinct.
- Influencing public policy at all levels of government,
- How to effectively lobby elected officials.

The seminar uses training manuals produced and supplied by X. In his foreword to the training manual, A states the following:

> Our Seminar is designed to give you a hands-on-working knowledge of the essential nuts and bolts of grassroots political activism. You will learn valuable insights into: becoming a X liaison to your church; setting up a neighborhood organization; identifying pro-family voters; and learning how, "[a]ll politics is local."

You have been involved in the formation and development of county chapters and putting coordinators in neighborhood communities. X's brochures refers to the neighborhood community as a "precinct" and it states that X is organizing "precincts" as no other organization of any kind has done. The X precinct organization plan consists of getting neighborhood helpers to follow three simple steps:

- identify voters
- inform voters
- mobilize voters

You conduct surveys for identification and mobilization of voters. Your voter identification brochure, which was prepared by X, follows Abraham Lincoln's four rules for winning elections:

1 .Obtain a complete list of voters,
2. Determine how they will vote,
3. Contact the favorable voters, and
4. Get them to the polls on election day

Your voter identification brochure points out that Lincoln's four rules are the foundation of modern grassroots politics. The most effective element in influencing the public policy of a city, county or state is electing quality candidates to office. Voter identification is the key.

You also distribute voter guides on candidates from the Republican, Democratic and Independent parties for presidential, state and local elections. You also distribute voter guides for primary elections but only for the Republican Party. The voter guides for federal elections are produced and supplied by X. You produce voter guides for state and local elections similar to the X-produced materials. You distribute voter guides just prior to elections.

The format of the voter guides includes the names and sometimes pictures of the candidates for various elective offices. In the voter guide for the Year 2 election, all Republican candidates were shown with a response of either "Opposes" or "Supports" to the selected issue, and 1the Democratic candidates were shown to have "No Response" to most of the issues. The selected issues included:

> 10% Income Tax Cut
> Parents' Right To Home School or Use Non-accredited Private School
> Public Or Private School Vouchers
> Require Parent's Consent To Presenting Sex Education Curriculum
> Exempt Religious Day Care From MD Child Care Administration Oversight
> Defining Homosexuals As A Minority Guaranteed Legal Rights To Abortion
> Taxpayer Funding Of Abortion Through Health Insurance Mandates Or Medicaid
> Crime Victims Compensated From Criminal Assets
> Restrictions On Gun Owners

You distribute the voter guides to members and constituents. The voter guides state in small print that "[t]he information provided herein is for the purpose of voter education and is not intended as an endorsement of any candidate." However, your training material, Seminar, states the following:

> In Date 2, X distributed 500,000 voter guides in cooperation with minority groups and the Catholic Archdiocese in the State 3 City School Board races. As a result, an estimated 63 percent of pro-family candidates won

and conservatives gained ground in even the most liberal districts. Due to the concerted efforts of X state and local chapters, conservatives are enjoying victories of this nature all across America.

You also distribute congressional and legislative scorecards. The congressional scorecards prepared by X for distribution to voters through its state affiliates. The scorecard is a compilation of voting records of all incumbent members of the United States Congress with respect to issues on which X has taken a position. The names of legislators from the Republican Party are all capitalized but not the names of the legislators from the Democratic Party.

The X Congressional Scorecard, Year 2 Election Year Edition, shows how each United States senator and representative voted or announced on each of the selected issues with a rating of either "+ +" or "-" and a percentage score. The scorecard states that "+ +" indicates that the legislator voted or announced in favor of the X position, and "-" indicates that the legislator voted or announced against the X position. A score of 100 percent means that the legislator supported the X position on key issues on every vote cast during his or her current term in office.

The Year 2 congressional scorecard shows 12 issues that members of the U.S. House of Representatives voted on, and 14 issues that members of the U.S. Senate voted on. More than half of the issues voted on by members of the U.S. House of Representatives were identical to the issues voted on by members of the U.S. Senate. The issues chosen for the U. S. House of Representatives in Year 2 included the following:

Banning Immigration With HIV/AIDS Virus
Parental Notification For Abortion
Lifting Bans on Gays in the Military
Taxes To Promote Abortion
Fetal Issue Research
Clinton Pork-Barrel Spending
Clinton Tax-and-Spend Budget Plan
Increasing Debt Limit
Giving Parents A Say in Education
Government-Sanctioned Homosexual Marriages
Taxpayer-Funded Abortion
Taxpayer-Funded Pornography/Government Waste

You also publish Newsletter, a newsletter consisting of two pages updating members primarily on the status of legislation and the political scene. It also includes

information regarding the "Conference," an annual conference conducted by X that is billed as a legislative rally. The conference includes meetings with members of Congress and features speeches by prominent members of the Republican Party.

Additionally, you publish a four-page news supplement inserted in the Magazine. This bi-monthly magazine is published by X and distributed through its affiliates.

You also engage in lobbying activities. You distribute materials urging members and others in supporting or defeating certain conservative-issue legislation. The *Seminar Manual*, the training manual published by X, which you use in your seminars, contains the following information on the topic of the basic lobbying that X and you, as one of its affiliates, implement:

> The game of politics and lobbying operates no differently. In Date 3, we saw X teams all across the country work together to ensure those pro-family conservative values were represented in Congress. During that same election cycle, not one pro-life incumbent lost a seat in Congress, and a new tide of pro-family legislators rolled onto the shores of Capitol Hill because X team members played their parts.

LEGAL ANALYSIS:

Section 501(c)(4) of the Code provides for exemption from Federal income taxes under section 501(a) for organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-l(a)(2)(i) of the Income Tax Regulations states that 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. Whether an organization is "primarily" engaged in promoting social welfare is a facts and circumstances test. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(i).

Section 1.501(c)(4)-l(a)(2)(ii) of the regulations provides that political campaign activities do not promote social welfare as defined in section 501(c)(4). The regulations

under section 501(c)(4) clearly distinguish between acceptable social welfare activities such as lobbying and unacceptable activities such as political campaign intervention. The regulation states:

> 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.

Section 1.501(c)(4)-l(a)(2)(ii).

In order for an organization to engage in political campaign activities, there generally must be a candidate for public office on whose behalf or against whom the activity or intervention occurs. Section 1.501(c)(3)-l(c)(3)(iii) of the regulations states that the "term 'candidate for public office' means an individual who offers himself, or is proposed by others, as a contestant for an elective public office." In Rev. Rul. 76-456, 1976-2 C.B. 151, the organization at issue was formed for the purpose of elevating the standards of ethics in the conduct of campaigns for election to public office at the national, state and local levels, and had disseminated information concerning general campaign practices. The organization proposed a code of fair campaign practices, but did not solicit the signing or endorsement of the code by candidates for political office. We concluded that this did not constitute political intervention since the organization's activities only allowed citizens to increase their knowledge and understanding of election processes and participate more effectively in their selection of government officials, without any candidates even mentioned. At the same time we modified Rev. Rul. 66-258, 1966-2 C.B. 213, which was an identical organization except that it did solicit the signing or endorsement of its code of fair campaign practices by candidates for political office. We concluded that the latter organization was engaged in political intervention and therefore was not exempt under section 501(c)(3) of the Code. (Because these Rev. Ruls. contain a section 501(c)(3) analysis which prohibits all political campaign activities, the activities should be considered in absolute terms. However, for purposes of section 501(c)(4), we are determining whether political intervention is the primary activity of the organization.)

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. See, e.g., Rev. Rul. 74-361, 1974-2 C.B. 159 (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, 1968-1 C.B. 259 (organization's principal

source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare). In Rev. Rul. 81-95, 1981-1 C.B. 332, we concluded that "an organization may carry on lawful political activities and remain exempt under section 501(c)(4) of the Code as long as it is primarily engaged in activities that promote social welfare." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under section 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances.

1. Precinct Organization:

Your activities with regard to recruitment of people to become active in local politics at the precinct level appear to be identical to the recruitment and organization that takes place in a political party. Your leadership seminars train people to work in campaigns, and political involvement and get-out-the-vote activities are advocated in order to intervene and influence elections. Your focus is on getting people to become candidates and activists. While organizing down to the precinct or neighborhood level has enabled you to mobilize some limited legislative grassroots campaigns, this organizational basis has primarily been used to mobilize targeted conservative voters to get to the polls on election day. It has also been used to identify and encourage religious conservatives to run for local office. From your inception, you have been part of X's precinct organization intended to facilitate intervention in the political process at every level of government. As stated above, it is also evident that you were interested in legislation and lobbying activities. However, after a careful review of the materials presented, it is apparent that the lobbying activities were secondary to political intervention. You primarily engage in activities intended to intervene in the political process and to influence the elections of those Republican conservative candidates who reflected your views. Your emphasis is focused on activities which were designed to result in the election of religious conservatives to public office at every level of government. Using the facts and circumstances test, we conclude that your precinct organizational basis was implemented primarily to intervene in political campaigns.

2. Legislative Scorecards:

In defining political campaign activity, Rev. Rul. 67-368, 1967-2 C.B. 194, states that rating candidates as average, good, or excellent using qualifications such as education and experience, even on a nonpartisan basis, is an intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated for purposes of section 501(c)(4) of the Code. See The Association of the Bar of the City of New York v. Commissioner, 858 F.2d 876 (2d Cir. 1988), cert. denied 490 U.S. 1030 (1989). However, in Rev. Rul. 80-282, 1980-2 C.B. 178, we concluded that publishing

the voting records of all incumbent members of Congress on selected legislative issues soon after the close of each congressional session, along with an expression of the organization's position on the issues, were not political campaign activities. We set forth several factors which were considered when ruling that the publication and distribution of the voting records were not political intervention. Those factors included: 1) voting records of all incumbents were presented, 2) candidates for reelection were not identified, 3) no comment was made on an individual's overall qualifications for public office, 4) no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, 5) no comparison of incumbents with other candidates, 6) the organization pointed out the inherent limitations of judging the qualifications of an incumbent on the basis of the selected votes by stating the need to consider other unrecorded matters, and 7) no attempt was made to time the date of publication to coincide with an election. Another factor considered relevant was that the organization did not distribute the voting records widely. Again, a facts and circumstances test was utilized to determine whether the publication was political intervention.

Distinguishing factors between your scorecards and the documents at issue in Rev. Rul. 80-282 include the following: 1) your scorecards were distributed to a large number of religious conservatives, while the documents at issue in Rev. Rul. 80-282 were only distributed to a few people, 2) the legislator's "score" was indicated based upon agreement/disagreement with your issues, and 3) the scorecards were published and distributed to coincide with the national and state elections. We also believe that the limited distribution in Rev. Rul. 80-282 was an important factor in the conclusion that an intervention did not occur. Your scorecards were very widely distributed among religious conservatives. Your targeted yet wide distribution of the congressional scorecards differs substantially with the factual situation in Rev. Rul. 80-282. Rev. Rul. 80-282 sets forth a facts and circumstances test. Therefore, after carefully considering all the facts and circumstances we conclude that the scorecards constitute political intervention.

3. Voter Guides:

An organization which publishes and distributes candidate questionnaire results in the form of voter guides must demonstrate neutrality in order for the voter guides to be considered educational. A facts and circumstances test is utilized to determine whether activities involving voter guides are educational or whether they are political campaign activities. In Rev. Rul. 78-248, 1978-1 C.B. 154, examples are given as to the factors which should be considered when applying a facts and circumstances test. The factors which are indications that the activities are educational are as follows: 1) the publication reports on a neutral group of elected officials or candidates such as all

members of Congress or all candidates for a particular office, 2) the publication reports elected officials' or candidates' views or their voting records on a wide range of subjects, 3) the publication includes no editorial opinion on the elected officials or candidates, or on their views, 4) the publication does not indicate approval of elected officials or candidates in the contents or structure of the publication, and 5) the organization makes the publication generally available to the public.

After looking at your voter guides, several patterns emerge. First, as mentioned above, the Democratic candidates regularly have "No Response" listed after many of the issues, whereas very few Republican candidates were listed without a complete list of "Opposes" or "Supports" underneath their name and picture. Only the names of Republican candidates are shown in capital letters. Second, the issues chosen seem to have a direct correlation to the desired response from X's preferred Republican candidate, or conversely to portray a Democratic candidate as against X's positions. While these factors are not explicit endorsements of candidates, the lack of responses from Democratic candidates and the wording and choice of issues to create a particular response along party lines is significant. Also, the general nature of and approach taken with respect to the issues covered leads to responses which are arguably inaccurate. Additionally, the summary descriptions are so vague that they do not adequately cover any of the issues. Finally, the voter guides do not report on a neutral group of candidates as required by Rev. Rul. 78-248. The voter guides list the names of a neutral group of candidates, but they fully report the positions of only some of the Democratic candidates and almost all of the positions of the Republican candidates. This reporting is so heavily weighted toward the Republican Party as to not constitute reporting on a neutral group of candidates.

In our view, the voter guides are heavily weighted in favor of the Republican candidates, especially those Republican incumbents endorsed on the congressional scorecards. We conclude that these voter guides cannot be considered nonpartisan educational materials within the intent of the law. Inaccurate and/or incomplete information does not constitute education. The targeted distribution of the scorecards and voter guides also indicates that these publications are not nonpartisan educational activities. These documents were distributed to previously identified conservative churches and conservative individuals. The voter guides would have only limited educational value to anyone wishing to know the positions of Democratic candidates or to compare the positions of Democratic and Republican candidates, since such a large percentage of Democratic candidates did not have their positions listed in the voter guides. Also, the possible distortion of the candidate's position when translating a vote on legislation to a summary description is an additional factor we have considered in determining that the voter guides constitute political intervention. Based on all the available information, we conclude that the voter guides are not nonpartisan and

constitute intervention in political campaigns.

4. Lobbying Activities:

Lobbying activities were considered in Rev. Rul. 68-656, 1968-2 C.B. 216, to not only be an acceptable activity for an organization described in section 501(c)(4) of the Code, but to constitute activities that promote social welfare. Rev. Rul. 68-656 provides that seeking favorable legislation is recognized by the section 501(c)(4) regulations as a permissible means of attaining social welfare goals. Additionally, Rev. Rul. 71-530, 1971-2 C.B. 237, concludes that an organization described in section 501(c)(4) may have lobbying as its only activity. A facts and circumstances test is to be used in determining whether an organization's activities primarily constitute political intervention or whether those activities constitute lobbying or educational activities. After reviewing all of the facts and circumstances presented in the administrative file as discussed above, we have concluded that your primary emphasis and primary activities constituted direct and indirect political intervention. While you engage in extensive lobbying activities, they are by no means your primary activity. Your first and primary emphasis is on getting people elected to public office. The administrative record contains a wealth of information regarding your organizational structure and activities relating to candidate recruitment. There is only, secondarily, an emphasis on lobbying and educational activities. Your organizational thrust is to organize at the neighborhood or precinct level in order to get religious conservatives elected to local offices; only secondarily is this precinct level organization utilized to influence legislation.

Accordingly, after looking at all of the facts and circumstances, we have concluded that your lobbying activity was not your primary activity.

CONCLUSION REGARDING YOUR PRIMARY ACTIVITY:

The emphasis throughout your materials is on electing to office "family friendly" people in order to impact legislation and policy as insiders. The overwhelming majority of the evidence in the administrative record, and thus the facts and circumstances in this case, denotes an organization that is intent upon intervening in political campaigns. The precinct organizational structure allows you to implement your policies as more and more religious conservatives are elected to office. While lobbying is usually mentioned, and we recognize that lobbying activities are being pursued, those activities are not your primary activity. An analysis of all of the facts and circumstances contained in the administrative file leads us to the conclusion that your primary activity constitutes political intervention.

CONCLUSION:

Based upon the materials submitted in connection with your application, we have concluded that your activities primarily constitute direct and indirect participation or intervention in political campaigns on behalf of or in opposition to candidates for public office. Therefore, you are not primarily engaged in activities that promote social welfare and do not qualify for recognition of exemption under section 501(c)(4) of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Attn: T:EO:RA:T:3, Room 6137
1111 Constitution Ave, NW
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **201128032**
Release Date: 7/15/2011

Date: April 4, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: January 13, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

UIL Code:
501.04-00

Employer Identification Number:

Legend:
State =
Party =

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("the Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on August 16, 2006 as a nonprofit corporation under the laws of State. Your Articles of Incorporation and Bylaws state that your purpose is to

Your Bylaws provide that your properties and assets are dedicated to social welfare purposes, upon dissolution or otherwise, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program for who are members of Party, including sessions covering

Your potential trainees must apply, remit a application fee, and be interviewed to be admitted to your program. To enroll, trainees must pay tuition of You state that you may provide partial or full financial aid following admission to the program.

Your website contains various materials related to your training program. Your homepage states,

Your webpage states that you select students for your training program based on evidence of

This webpage also states that applicants must be Party members and

Your 2011 Program Application contains a section which asks the potential trainee, and, If an applicant did not is then asked to explain why.

Your 2011 Program Application also contains a which requires the applicant to affirm the following:

Your webpage notes the success of which includes

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the regulations states that 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, such as bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described

in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real Estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an

organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles and Bylaws, your primary activity is to train and recruit who are members of the Party to run for political office. Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have run for, or won, elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of the Party and that is conducted with the partisan objective of increasing the number of the Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney,

Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
*****
1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois Lerner
Director, Exempt Organizations
Rulings & Agreements

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201128034**
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: January 14, 2011

Contact Person:

Identification Number:

Contact Number:

UIL Code:
501.04-00

FAX Number:

Employer Identification Number:

Legend:
State =
Party =

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("the Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on December 21, 2007 as a nonprofit corporation under the laws of State. Your Articles of Organization and Bylaws state that your purpose is

and 4. To operate exclusively to promote the social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code . . . .

Your Articles of Organization and Bylaws provide that upon dissolution, your assets shall be dedicated to social welfare purposes, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of for who are members of Party. The program includes sessions covering

Your recruitment of students began in and training began in

You charge in tuition for your training program. You provide scholarships for tuition expenses and make payment plans available. You select up to participants each year.

Your website contains a number of materials related to your training program. Your homepage states that you are You describe your curriculum as follows:

Your website states that you select students for your training program based on evidence of

Your 2010 Program Application shows that one of your training dates coincides with the [Party]'s State Convention and contains a and, If an applicant did not is then asked to explain why.

Your 2010 Program Application also contains a which requires the applicant to affirm the following:

On your page you state you are,

On the same page, you state,

In answering the question "What makes [you] unique?" you state that you are

You also state that you are

In materials you provide to potential donors, you note your program's success by stating that the

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations states that 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if

it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to train and recruit who are members of Party to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative,* if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney.* All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
*****
1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **201128035**
Release Date: 7/15/2011

Date: April 18, 2011

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(4).

We made this determination for the following reason(s):

You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: 1/13/11

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("the Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on August 7, 2006 as a nonprofit corporation under the laws of *****. Your Articles of Incorporation state that you are organized for the following purpose

In addition, your Bylaws state that your purpose is:

Your Bylaws provide that your properties and assets are dedicated to social welfare purposes, upon dissolution or otherwise, and that no part of your net income or assets may inure to the benefit of any director, officer, member, or private individual.

You conduct a training program of for ***** The program includes sessions

This activity began in and you train up to each year.

You charge a application fee for prospective students and in tuition for your training program. You provide scholarships for tuition expenses to students who request them.

You state that you select students based on evidence of

Your program application for 2009 contains a portion which asks, and, Additionally, this portion asks, and, " If an applicant did not is then asked to explain why.

Your program application for 2009 also contains a which requires the applicant to affirm the following:

You have provided your which you state Your first is "***** You state in conjunction with this point that you Your second is that you have no litmus tests for your students Your include that you do not endorse candidates or legislation. You state that you "provide intensive training," which

Your training curriculum contains materials on in which the of the student's cabinet, or networking contacts, include "***** party insiders."

In materials you provide to your donors, you state that you are

In these materials, you note your success from 2007-2008 in recruiting, training, and

LAW

Section 501(a) of the Internal Revenue Code ("Code") exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in section 501(c)(4) of the Code if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the regulations states that 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, such as bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in

the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than

the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and in subsequent correspondence, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit

conferred on these persons was more than incidental, and thus demonstrated a substantial nonexempt purpose that precluded exemption. While you are an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections As such, for purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to the community, you fail to qualify for exemption because your training program primarily benefits the interests of the ***** and its candidates. According to your Articles and Bylaws, your primary activity is to train and recruit ***** to run for political office. Moreover, your program application asks prospective students to disclose specific details of their political participation as a *****, and clearly discloses that you limit your membership to registered members of the ***** Like the school in American Campaign Academy, your purpose in conducting this activity is to provide education solely to individuals affiliated with a certain political party who want to enter politics. Indeed, you measure your success in terms of the number of your graduates who have won elective office representing the ***** or are actively engaged as campaign managers and advocates for ***** campaigns.

Because your primary activity is an educational program that is limited to ***** and conducted with the partisan objective of increasing the number of ***** elected officials you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you

want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
*****
1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Holly Paz
Acting Director, Exempt Organizations
Rulings & Agreements

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201142027**
Release Date: 10/21/2011

Date: June 30, 2011

UIL: 501.04-03

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: June 30, 2011

Contact Person:

Identification Number:

UIL: 501.04-03

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

State =
Party =

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("Code"). Based on the information provided, we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. The basis for our conclusion is set forth below.

FACTS

You were formed on December 8, 2008 as a nonprofit corporation under the laws of State. Your Articles of Incorporation state that you are "organized and shall be operated exclusively to inspire and train Party to run for public office."

Your Articles of Incorporation provide that upon dissolution or final liquidation, after the payment or provision for payment of all of the liabilities of the corporation, your remaining assets shall be distributed to such organization or organizations as the board of directors shall determine.

You conduct a training program of for who are members of Party. The program includes sessions covering

. You conducted your first training program in .

You charge $ in tuition for your training program. You may award partial financial aid to program participants. You select participants each year.

Your website contains a number of materials related to your training program. Your homepage states that "

."

You describe your curriculum as follows:

."

Your website states that you select students for your training program based on evidence of

. You declare that you do not discriminate on the basis of "

."

Your 2010 Program Application contains a " " section which asks the potential trainee, " ?" and, " ?" If an applicant did not , is then asked to explain why.

Your 2010 Program Application also contains a " ," which requires the applicant to affirm the following: "

."

Your " " page says you are the:

On your "About Us" page you state:

Your website describes you as part of a

. You note your program's success by stating that the to which you belong has trained over

LAW

Section 501(a) of the Code exempts from federal income tax organizations described in section 501(c)(4).

Section 501(c)(4)(A) of the Code describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that to be described in section 501(c)(4) of the Code, an organization must not be organized or operated for profit and must be operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2) of the regulations states that 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. Additionally, it states that an organization described within this section is operated primarily for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 73-306, 1973-2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in a particular apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex was eligible for membership. The organization represented its member-tenants in negotiations with the management of the complex in order to secure better maintenance and services, as well as reasonable rentals. The ruling holds that the organization was not described in section 501(c)(4) because it operated essentially to benefit its members and, thus, was not primarily engaged in activities that promote the common good and general welfare of the community. In contrast, Rev. Rul. 80-206, 1980-2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community, instead of limiting its benefits to member-tenants, does qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73-349, 1973-2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Rather, the organization was a cooperative enterprise operated primarily for the private economic benefit or convenience of its members, and provided only incidental benefit to the community.

Rev. Rul. 75-286, 1975-2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city

government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

Because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). The restricted nature of its membership and limited area in which improvements were made were further indicators of private benefit. However, by beautifying and preserving public property in cooperation with the local government, the organization was considered to primarily promote the general welfare of the community even though its activities also benefited its members. Therefore, the organization did qualify under section 501(c)(4).

In Erie Endowment v. United States, 316 F.2d 151 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of section 501(c)(4) of the Code, "the organization must be a community movement designed to accomplish community ends." Id. at 156.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized by World War II veterans for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit and, as such, the number of members was limited to the number of units available. The court held that the organization was not described in section 501(c)(4) of the Code because it was "a public-spirited but privately-devoted endeavor" that provided only incidental benefit to the community. Id. at 818. The organization did not promote social welfare because it furnished housing only to a certain group of individuals, rather than on a community basis, and did not offer a service or program for the direct betterment or improvement of the community as a whole.

In New York State Association of Real Estate Boards Group Insurance Fund v. Commissioner, 54 T.C. 1325 (1970), an association organized by a small group interested in obtaining group insurance did not qualify for exemption because it offered its benefits to only a limited class of its members and their employees. The court noted "[t]here is not in such an organization the requisite civic concern to constitute social welfare" required for qualification under section 501(c)(4). Where the primary benefit from an organization is limited to that organization's members, and not provided to the community as a whole, the organization is not operated primarily for the social welfare.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually in what proved to be a highly inefficient system. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses, and more efficiently repaired the city streets. While the court found that the program provided substantial benefits to the public, it concluded that the organization primarily served the private economic interests of its members and, thus, could not be considered exempt under section

501(c)(4) of the Code.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the organization's primary activity was to operate a school ("the Academy") training individuals for careers as political campaign professionals. The organization represented on its application for exemption that the Academy was an outgrowth of programs operated by the National Republican Congressional Committee ("NRCC") that were designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. In addition, the NRCC contributed physical assets to the Academy, two of the Academy's six full-time faculty members had been previously involved in the NRCC's training program, one of the Academy's three initial directors was the Executive Director of the NRCC at the time, and another initial director was a member of the Republican National Committee at the time. The Academy's activities were exclusively funded by the National Republican Congressional Trust. The Academy's curriculum included discussions concerning "How some Republicans have won Black votes," "NRCC/RNC/NRSC/State Party naughtiness," and "Use of GOP allies," without a counterbalance of comparable studies of other political parties.

While applicants to the Academy were not required to formally declare their political affiliation to attend the organization's school, the admission panel could deduce such affiliation from the campaign experiences and political references in the applications. The court found that this knowledge of an applicant's political affiliations allowed the admission panel to limit enrollment to applicants who were likely to subsequently work in Republican organizations and campaigns. Indeed, the court found that no graduate was known to affiliate with any political party other than the Republican Party. A substantial number of the members of the Academy's admission panel were affiliated with the Republican Party.

The Service determined that the organization operated for a substantial, non-exempt private purpose. The Tax Court agreed, holding the organization did not operate exclusively for exempt, educational purposes under section 501(c)(3) of the Code because it conducted its activities to benefit the private interests of Republican entities and candidates. Although these entities and candidates were not organization "insiders," the court stated that the conferral of nonincidental benefits on disinterested persons may cause an organization to serve a private interest. While the school had a legitimate educational program, it conducted these activities with the partisan objective of benefiting Republican candidates and entities. As such, a more than incidental private benefit was conferred on Republican entities and candidates who employed the Academy's students, one that precluded exemption under section 501(c)(3).

ANALYSIS

Based on the information you submitted with your application and review of your website, we find that you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code because your activities primarily serve private interests. Therefore, you do not qualify for exemption from federal income tax as an organization described in section 501(c)(4).

Your activities do not primarily promote social welfare because you primarily benefit private individuals and interests.

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. Section 1.501(c)(4)-1(a)(2)(i) of the regulations. An organization recognized under section 501(c)(4) is operated primarily for the purpose of bringing about civic betterments and social improvements. Id.

To qualify for exemption under section 501(c)(4), an organization must primarily benefit the community as a whole, rather than select individuals or groups. See Contracting Plumbers Coop. Restoration Corp., supra; New York State Ass'n of Real estate Boards Group Ins. Fund, supra; Lake Forest, Inc., supra; Rev. Rul. 75-286, supra. A section 501(c)(4) organization must be "a community movement designed to accomplish community ends." Erie Endowment, supra. As such, a tenants' organization that benefits all the tenants in the community qualifies for exemption, while one that directs its activities toward benefiting only its member-tenants does not. Compare Rev. Rul. 80-206, supra, with Rev. Rul. 73-306, supra; see also Rev. Rul. 73-349, supra. Therefore, conferring a sufficient amount of private benefit on select individuals will preclude exemption under section 501(c)(4) for an organization that would otherwise qualify. Even if an organization substantially benefits the community, it will fail to qualify for exemption if it primarily benefits private interests. See Contracting Plumbers, supra.

Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good. In American Campaign Academy, supra, the court denied exemption under section 501(c)(3) to a school organized to train individuals for careers as political campaign professionals because its educational activities were operated with the partisan purpose of benefiting Republican Party entities and candidates. The private benefit conferred on these persons was more than incidental, and thus demonstrated a substantial non-exempt purpose that precluded exemption. While you are requesting recognition as an organization described in section 501(c)(4) and not section 501(c)(3) (as was American Campaign Academy), the standard for determining what constitutes private benefit described in American Campaign Academy applies to both sections. Sections 501(c)(3) and 501(c)(4)(B) of the Code. For purposes of both section 501(c)(3) and section 501(c)(4), an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And, as discussed above, an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4).

Thus, notwithstanding any benefit your educational activities may provide to individual students and the community, you fail to qualify for exemption because your training program primarily benefits the interests of the Party and its candidates. According to your Articles, Bylaws, and website, your primary activity is to . Although you declare that you do not discriminate on the basis of "age, race, color, national or ethnic origin, marital status, religious affiliation, sexual orientation or physical abilities" you openly select students on the basis of partisan political affiliation. Your program application asks prospective students to disclose specific details of their political participation as a member of Party, and clearly discloses that you limit your membership to registered members of the Party . Your application asks candidates to affirm that they will use their increased skills to advance Party and the interests of Party. Like the school in American Campaign Academy, you provide education solely to individuals affiliated with a certain political party who want to enter politics. Your stated purpose is to advance opportunities for Party and the interests of the Party in general. Indeed, you measure your success, and that of your affiliates in other states, by the number of your

graduates who have won elective office representing the Party.

Because your primary activity is an educational program that is limited to who are members of Party and is conducted with the partisan objective of increasing the number of Party's elected officials, you primarily serve private interests. Therefore, the operation of your program does not promote social welfare within the meaning of section 501(c)(4) of the Code.

CONCLUSION

In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative,* if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney.* All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service
TE/GE (SE:T:EO:RA)

1111 Constitution Ave, N.W.
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director
Exempt Organizations



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **201214035**
Release Date: 4/6/2012

Date: January 11, 2012

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

UIL: 501.04-00; 501.04-03

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose,* and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: November 10, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

B = Board Member
M = Political Candidate
N = Political Party in P
O = State where Organization is Incorporated
P = Nation where M is a Candidate
Q = Date Form 1024 received by IRS
R = Date of Organization's Incorporation
S = Election Date
T = Autobiography of M
U = Book about M
V = Book on M's Policies
W = Book Promoting P's Patriotism
X = Applicant's Website
Y = Location of Applicant's Related Group
Z = Location of Applicant's Related Group

UIL:

501.04-00
501.04-03

Dear :

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(4). The basis for our conclusion is set forth below.

Issues

- Do you qualify for exemption under section 501(c)(4) of the Code?

No, for the reasons set forth below.

Facts

The Form 1024, Application for Recognition for Exemption Under Section 501(a) of the Internal Revenue Code was received on date Q. With the Form 1024, you are applying for tax exempt status under IRC Section 501(c)(4). You were incorporated under the laws of the state of O on date R.

Your Certificate of Incorporation states that your purpose is, "To create, form, and establish an organization to disseminate information regarding national elections to [citizens of P] residing in the United States; to promote, foster, and advance their voting rights in P by providing access to information concerning political topics of interest to [citizens of P] residing in the United States; to research economic and social policies which may affect the [citizens of P] population in the United States; to survey and study the [citizens of P] population in the United States regarding their opinions on issues relevant to the [citizens of P] community; to provide information on all matters of political concern to the [citizens of P] population; to provide information regarding the availability of P governmental and social services in the U.S.; to provide an avenue of information between [citizens of P] residing in the United States and their homeland."

Your board of directors is comprised of three unrelated individuals, who do not receive compensation.

Your website, X, states that you were formed to support M, former Chairman of the N, which is a political party in P. The percentage of time that will be directed toward providing any kind of support to M is 80%. You will support M's policies and make the public aware of M's policies and ideas. You indicated through your website that you will do your best to support and patriotically advise M in the upcoming presidential election. You believe that increasing the interest and voting rates of the citizens of P in the U.S. will lead to the development of P's (green card holders, citizens, and following generations) rights, interests, and pride for their mother land. For this purpose, you believe that M is the most reliable and suitable politician, and you will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election.

You will support M's policies and make the public aware of M's policies and ideas by having a website which updates all M related information, such as personal information, policies and plans, media articles, etc. in real time. You will introduce and distribute M related books. These related books include T, an autobiography of M, U , V and W, which present favorable views of M's policies. You purchase these books from various companies and publishers. T and U are given away for free to promote a better understanding of M. V highlights M through the great achievements, patriotism, and philosophy of M's father. W is given away for free to promote patriotism among the citizens of P living in the United States. You will solicit concerns about the conditions in P from student citizens of P through seminars. You will then deliver their desires and opinions to M. You also plan to provide rides to the voting center for voters on S, and will remain

neutral without supporting a specific candidate or political party while providing transportation. You stated that your goal is to turn out a high rate of voters by having advertisements in periodicals and through book purchases, which will help develop the interests of P's citizens in the U.S.

Your revenue will come from individual and group donations and gross dues and assessments of members. Your budgets indicate that your annual revenues range from less than $9,000 in 2010 to approximately $30,000 expected in 2012. Your expenditures included the $850 user fee paid for the processing of your Form 1024 application. Most of your expenses will be for publicity through advertising in periodicals and for book purchases.

Law

Section 501(c)(4) of the Code provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organizations 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.

Section 1.501(c)(4)-1(a)(2)(ii) of the regulations provides that 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.

In Rev. Rul. 67-293, 1967-2 C.B. 185, an organization already exempt under section 501(c)(4) of the Code, and substantially engaged in promoting legislation to protect or otherwise benefit animals, is not exempt from federal income tax under section 501(c)(3) of the Code, even though the legislation it advocates may be beneficial to the community, and even though most of the attempts to influence legislation may be indirect. The organization has not, however, participated or intervened in any political campaigns on behalf of or in opposition to any candidate for public office, and therefore, it remains exempt under section 501(c)(4) of the Code.

In Rev. Rul. 67-368, 1967-2 C.B. 194, the Service held that an organization, formed for the purpose of promoting an enlightened electorate, whose primary activity was rating candidates for public office, was not exempt under IRC 501(c)(4) because such activity is not "the promotion of social welfare." The ruling stated that comparative rating of candidates, even though on a non-partisan basis, is participation or intervention on behalf of candidates favorably rated and in opposition to those less favorably rated.

In Rev. Rul. 81-95, 1981-1 C.B. 332, the Service considered the effect of engaging in political campaign activities on an IRC 501(c)(4) organization. The organization was primarily engaged in activities designed to promote social welfare. In addition, it conducted activities involving participation and intervention in political campaigns on behalf of or in opposition to candidates for nomination or election to public office. The ruling concluded that since the organization's primary activities promoted social welfare, its lawful participation or intervention in political campaigns on behalf of or in opposition to candidates for public office would not adversely affect its exempt status under IRC 501(c)(4). However, the organization was subject to the tax imposed by IRC 527 on

expenditures for political activities as defined in IRC 527(e)(2), pursuant to IRC 527(f)(1).

Rev. Rul. 2004-6, 2004-4 I.R.B. 328, presents several scenarios involving 501(c)(4) organizations in which the [(c)(4)] organization engages in activities related to encouraging and supporting a particular public policy outcome or decision by associating the desired policy outcome with a specific elected official or candidate for public office. The individual scenarios are then differentiated in terms of whether the activities qualify for tax exemption. The Revenue Ruling held that expenditures by a 501(c)(4) organization were subject to tax under section 527(b)(1) of the Code when the actions of the organization do not identify and are not timed to coincide with a specific event or decision outside the control of the organization that it hopes to influence. Rather, expenditures and actions of the organization support or encourage the election of the specific public official or candidate in order to accomplish its public policy goal.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), a school that trained individuals as campaign managers was denied exemption under IRC 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates. Although the school had a legitimate educational program, the Tax Court held that it conducted its educational activities with the partisan objective of benefiting Republican interests. The court noted that the school's partisan purpose distinguished its activities from the educational organization in Rev. Rul. 76-456, supra.

Application of Law

You fail to meet the requirements of Section 501(c)(4) of the Code because you are not operated exclusively for the promotion of social welfare. The percentage of your time that will be devoted toward supporting M's political interests is 80%. Your activities are primarily political in nature in that you influence citizens of P to vote for M by distributing the books U, V, and W, supporting M's policies and making the public aware of M's policies and ideas by maintaining a website, which updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time.

You are not an organization described under 1.501(c)(4)-1(a)(2)(i) – (ii) of the regulations because you are not operating exclusively for the promotion of social welfare because you are not primarily engaged in promoting the common good and general welfare of the people of the community. Instead, you are engaged primarily in influencing or attempting to influence the selection, election, or appointment of M in P's upcoming presidential election. As noted above, 80% of your activities will be devoted to providing support to the political candidate, M. A document taken from your website and submitted with your response states that you are "organized throughout the United States to inspire our [P-Americans] (excluding US citizens) to exercise their rights to vote during P's elections, and especially to vote for the right leaders who will further develop our home country." The document further states, "Because the image of the association and chapter is closely related to and seriously influences that of candidate M, this association will endeavor to enhance and protect the image of the association." You also stated that you want to influence all citizens of P eligible to vote in P (those with green cards and/or visiting visas) that are in the U.S., and [P-American] leaders who are interested in the expansion of rights and interests for the next generation, but not voters located in P.

You are unlike the organization in Rev. Rul. 67-293 because you do participate and intervene in political campaigns on behalf of a candidate for public office, and therefore, are not exempt under section 501(c)(4) of the Code.

You are similar to the organization described in Rev. Rul. 67-368 because you are participating or intervening on behalf of M. A statement on your website, that has been shared with you in our correspondence, states that you were, "formed and [are] officially active in supporting M, former Chairman of N." Your website also states that, "the association will be in close ties with M, play an important role in connecting with the P-American Society, and support M in the upcoming presidential election." Your website further quotes your board member, B, who said, "This association is a nationwide association, expanding from pre-existing groups in O, Y, and Z who support M, and will do its best to support and patriotically advise M for M's victory in the upcoming presidential election." Finally, to reiterate, you also indicated in your most recent response that 80% of your time will be devoted to supporting M as a political candidate.

You are unlike the organization in Rev. Rul. 81-95 because your activities are primarily engaged in campaigning for M. Your website updates all M related information, such as personal information, M's policies and plans, media articles, etc. in real time. You will introduce M related books such as M's autobiography, T, as well as U, V and W, which present favorable views of M and M's policies. You also boost concerns about the conditions of P among P's citizens through seminars, and then report their desires and opinions to M.

Your activities in support of the policies and election of M are similar to activities of the organizations described in Rev. Rul. 2004-6 that are subject to tax because these activities and expenditures support or encourage the election of a specific public official or candidate in order to accomplish public policy goals.

You are similar to the organization described in American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), in that you conducted your activities with the partisan objective of benefiting M's interests. You stated that the purpose of advertising in periodicals and the book purchases is to attract citizens of P's attention to the politics in P and to create a high turnout of voters, thus supporting homeland prosperity and advanced politics through M, and to further the development of rights and interests of citizens of P in the U.S. for the next generation. You will promote M's political campaign by providing information of M's economic and political views and by providing information to the public of M's background and character. As stated earlier, your website updates all M related information including personal information, policies and plans, media articles, etc. in real time. Although this court case is about an organization being denied under 501(c)(3) because it operated for the substantial nonexempt purpose of benefiting the private interests of Republican party entities and candidates, the same concept would apply for a section 501(c)(4) organization because promoting a political candidate also does not serve social welfare purposes as described under section 501(c)(4) of the Code.

Applicant's Position

You state that your primary activity is involved in promoting M's political campaign. You believe that

increasing the interest and voting rates of citizens of P in the U.S. will lead to the development of the rights, interests, and pride for the mother land among these individuals (green card holders, citizens, and following generations). For this purpose, M is the most reliable and suitable politician. You will devote your efforts to form a pro-M public opinion and help elect M in the coming presidential election. You want to influence all citizens of P who are in the U.S. (those with green cards and/or visiting visas) to vote, and to influence [P-American] leaders who are interested in the expansion of rights and interests for the next generation, not just the voters in P. You plan to provide rides to the voting center for voters on S, the election date, while remaining neutral and without supporting a specific candidate or political party while providing transportation. Your goal is to create a high turnout of voters, which will support homeland prosperity and advanced politics through M, and further the development of rights and interests of citizens of P in the U.S. for the next generation.

Service Response to Applicant's Position

Your stated primary activity, promoting an individual's political campaign is not a qualifying tax-exempt purpose under IRC section 501(c)(4). Political educational organizations must conduct their activities in a non-partisan manner. Your activities are not conducted in a non-partisan manner because they serve primarily to support M's political presidential campaign. Therefore, you do not have a social welfare purpose consistent with section 501(c)(4) of the Code.

Conclusion

You do not qualify for exemption under section 501(c)(4), or any other section of the Code, because you primarily support M in the contest for the presidential election in P by influencing voters in the United States who are eligible to vote.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues.*

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative,* if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney.* All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.
If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892

Letter 4034(CG)(11-2005)
Catalog Number 47628K



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Number: **201224034**
Release Date: 6/15/2012

Date: March 21, 2012

UIL: 501.04-00
501.30-00
501.33-00

Contact Person:
****

Identification Number:
****

Contact Number:
****

Employer Identification Number:
****

Form Required To Be Filed:
****

Tax Years:
****

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code § 501(c)(4). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under § 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

****

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: February 15, 2012

501.04-00
501.30-00
501.33-00

Contact Person:
****
Identification Number:
****
Contact Number:
****
FAX Number:
****
Employer Identification Number:
****

Legend:

State	=	**********
Founder	=	**********
Schools	=	**********
Office	=	**********
County	=	**********
Program 1	=	**********
Program 2	=	**********
Program 3	=	**********
Program 4	=	**********
Program 5	=	**********
Program 6	=	**********
Program 7	=	**********

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code § 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under § 501(c)(4). The basis for our conclusion is set forth below.

Facts:

You were incorporated under the laws of State. You transitioned from a series of for-profit successors with the following purposes:

- Promoting political change through articles, columns, books, and other media Founder was planning to create.
- Producing and selling prepared foods to consumers.
- Promoting solutions to the state's challenging problems through grassroots advocacy and publicity.

Your latest Articles of Incorporation provide that you are organized to promote solutions to

****

State's challenging problems through grassroots advocacy and publicity. Your Articles also state that you will have a board of directors with one member and that member will be Founder. Founder is also your president. Upon dissolution, your remaining assets shall be distributed for one or more exempt purposes within the meaning of § 501(c)(3) or § 501(c)(4) of the Code.

Your Bylaws provide that you shall have one director and that person alone shall be known as the Board of Directors. Your Bylaws further provide that directors shall not be compensated for their duties as directors. Salaries of your officers shall be fixed by resolution of your board of directors. Founder is also your treasurer and secretary. You stated that as you grow, you will add an appropriate oversight mechanism but in your current state, you find this unnecessary. Your Bylaws contain a Conflict of Interest and Compensation Approval Policies. However, as Founder is your only director and officer, these Policies are immaterial.

You state that you are a citizen's advocacy group focused on solving some of the critical problems facing the citizens of State. At the time of application, you were engaged in the following activities:

- Program 1: this program allowed citizens to learn about and commit to specific action to save the marine environment through a website program. This program attempts to motivate citizens to substantially reduce the amount they pollute. Individuals who visit the website are presented with a list of actions they can take to reduce the amount they pollute, and then are asked to commit to taking specific actions. The website calculates how many pounds of pollution would not reach the marine environment as the result of each step taken. You worked with other organizations to develop the predictor model on the website.

- Program 2: this program attempted to help protect citizens from inappropriate law enforcement raids. You worked with public officials to pass legislation requiring jurisdictions using law enforcement tactical teams to report periodically on the number of tactical deployments and outcomes. State's governor signed the legislation into law.

- Program 3: this program allowed you to work with the leadership of Schools to design and implement a system where organizations can partner with schools to provide improved education opportunities to students. Founder worked with the Office to develop a program where individuals, businesses, and churches could partner with a specific school to provide additional educational opportunities to students or resources to the school.

At the time of application, you anticipated that your activities would change to the following:

- Program 1

- Program 4: this program would allow you to work with representatives of State's governor's office to implement one or more pilot programs showing how state agencies can restructure their systems to cut costs while providing better customer service.

****

- Program 5: this program would allow you to work with local business organizations to create programs to help entrepreneurial companies start and expand in State, creating high-quality jobs.

You state that for most of the time from submission of your application you were on hiatus while Founder, ran for elective office. After losing the election, Founder's attention turned back to your operations. You are currently focusing on the following:

- Program 1: you are working with residents in a few of the most critical communities to determine the cost structure and other criteria necessary to build community support to invest in sewer systems.

- Program 6: Founder was just elected chair of County's state-mandated organization whose mission is to represent the interests of parents and citizens to County's board of education. Founder's chairmanship started by fielding a comprehensive survey to determine residents' biggest concerns. You will participate in this research and report the results so the organization can use the results to choose a number of issues to research further and help solve.

- Program 7: you have almost completed a research project which will report how ambulance response rates in County compare with the national standard. You plan to report the results of this research mid-2011 and set up a task force of several high-level fire department personnel as well as representatives from two major hospitals in County. The task force will determine how to get ambulances back on the street more quickly.

Your website contains a description of all of your programs. Your website also contains a blog written and maintained by Founder. The blog started around the time of your incorporation and most recent amended Articles of Incorporation. Most blog posts center around current or pending legislation, as well as the agendas of elected political officials. Of the 17 blog posts, five of these criticize Founder's former opponent in a race for elected office. These critical blog posts occurred both before and after the election.

The blog page on your website contains links to Founder's campaign website.

You have been primarily funded through donations from Founder. You hope to recruit additional sources of support in the future. In the year that you were incorporated, income was generated from Founder's donations and Program 2. Expenses for that year primarily included those for disbursements to Program 2, software, personal property taxes, and your website. For the following tax year, you only incurred expenses for bank fees, depreciation, and merchant account fees.

At the time of application, you indicated you may spend money attempting to influence the selection, nomination, election, or appointment of individuals to public office or office in a political organization. Upon further development, you indicated you have not spent any money

****

doing so, nor do you ever intend to do so. Your webpage that seeks donations from individuals states that because donations are "used for lobbying and promoting political change, it is not tax-deductible under U.S. law."

You stated that because Founder is a political figure who ran for elective office in 2004 and 2010, you wish to seek exemption as a § 501(c)(4) organization to avoid the appearance of any impropriety.

Law:

Section 501(a) exempts from federal income tax organizations described in § 501(c)(4).

Section 501(c)(4)(A) describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. Section 501(c)(4)(B) indicates that subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations ("regulations") states that an organization may be exempt as an organization described in § 501(c)(4) if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) states that 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, such as bringing about civic betterments and social improvements.

Section 1.501(c)(4)-1(a)(2)(ii) provides that 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.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that a trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university, and therefore, the association did not qualify for exemption.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Individuals became members in the corporation by purchasing an apartment unit. The court held that the organization was not described in

****

§ 501(c)(4) because it was "a public-spirited but privately-devoted endeavor" with only incidental benefit to the community. Id. at 814. Although anyone was eligible to join the organization, the court determined that it provided benefits only to its members and not the community as a whole.

In Erie Endowment v. United States, 316 F.2d 151, 156 (3d Cir. 1963), the court held that to qualify for exemption within the meaning of § 501(c)(4), "the organization must be a community movement designed to accomplish community ends."

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), the court ruled that an organization benefitting only its members did not meet the requirements of § 501(c)(4) because the benefits flowed directly to members of the organization. The court followed "the rule that the presence of a single substantial non-exempt purpose precludes exempt status regardless of the number or importance of the exempt purposes." Id. at 686. The organization's primary activity benefited its members rather than the public, and therefore it was not "'primarily' devoted to the common good as required by even the most liberal reading of 501(c)(4)." Id. at 687.

Rev. Rul. 74-361, 1974-2 C.B. 159, held that an organization that was organized as a nonprofit volunteer fire company to provide fire protection and ambulance services for a community could be held as exempt from Federal income tax as a social welfare organization described in § 501(c)(4) because its activities promote the common good and general welfare of the community.

Rev. Rul. 68-45, 1968-1 C.B. 259, held that a war veterans' post which was primarily engaged in social welfare activities could qualify for exemption from Federal income tax under § 501(c)(4) even though a substantial portion of its revenue came from bingo games open to the general public.

Rev. Rul. 81-95, 1981-1 C.B. 332, held that an organization primarily engaged in the promotion of social welfare within the meaning of § 501(c)(4) may participate in lawful political campaign activities involving the nomination or election of public officials without adversely affecting its exempt status.

Analysis:

Based on our analysis of the information you submitted with your application and in subsequent correspondence, we have determined that you are not operated primarily for the promotion of social welfare within the meaning of § 501(c)(4), and therefore do not qualify as an organization described in § 501(c)(4).

To be described in § 501(c)(4), an organization must be operated exclusively for the promotion of social welfare. An organization will be operated exclusively for the promotion of social welfare, and therefore exempt, if it is primarily engaged in promoting the common good and

general welfare of the community. See § 1.501(c)(4)-1(a)(2)(i). Exempt purposes include bringing about civic betterments and social improvements. See § 1.501(c)(4)-1(a)(2)(i).

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. See e.g., Rev. Rul. 74-361, supra (volunteer fire company that provides recreational facilities for members is primarily engaged in promoting social welfare where providing facilities primarily furthers exempt purposes); Rev. Rul. 68-45, supra (organization's principal source of income is not sole factor in determining whether it is "primarily engaged" in promoting social welfare).

Based on Contracting Plumbers Cooperative Restoration Corp., an organization will not meet the requirements of § 501(c)(4) if it is operated primarily to benefit a private group rather than the community as a whole, even if it provides some benefit to the community. 488 F.2d at 687. Your activities serve to primarily benefit Founder. You solely serve to promote Founder and Founder's agenda and platforms. As provided in your Articles and Bylaws, Founder is the only member and officer on your Board of Directors. There is no community input or oversight, or independent members of the community on your Board of Directors. This is demonstrated from the fact that while Founder sought elected office your operations seized until the election was over. Furthermore, the selection, operation, and oversight of your programs and activities are made at the sole discretion of Founder, and are solely funded by Founder.

Founder also plans to use you to conduct activities in connection with Founder's election as the chair of County's state-mandated organization. The holding of Erie Endowment, requires that a § 501(c)(4) organization be a community movement designed to accomplish community ends. 316 F.2d at 156. Your programs, however, are designed strictly to promote Founder and that individual's pursuits.

Additionally, you have not established that your primary activity is not to engage in direct or indirect political intervention. 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. § 1.501(c)(4)-1(a)(2)(ii). In Rev. Rul. 81-95, supra, we 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." The corollary to this is that if an organization's primary activities do not promote social welfare but are direct or indirect political intervention, the organization is not exempt under § 501(c)(4). The key is to determine the character of the organization's primary activities by looking at all of the facts and circumstances. Founder used you to prepare studies that coincide with Founder's political interests, to lobby for things that Founder believes in, and to follow political opponents through the blog on your website. Your website contains a blog written and maintained by Founder that criticizes Founder's former opponent in a race for elected office. The blog also contains information on the political agendas of elected political officials. There are no procedures in place to bar using the website as platform development

****

Conclusion:

You have not established that you meet the requirements of § 501(c)(4) because you are not operated exclusively for the promotion of social welfare. Your primary activities do not serve the general welfare of the people or the community as required by § 1.501(c)(4)-1(a)(2).

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to this address:

Internal Revenue Service
TE/GE (**********)
****
1111 Constitution Ave, N.W.
Washington, DC 20224

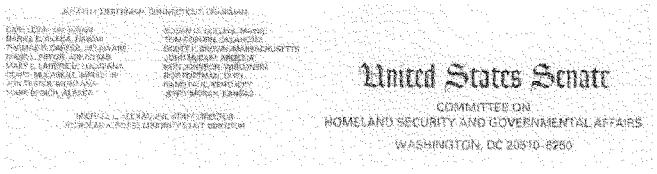
You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

****

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations



January 4, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@irs.gov)

The Honorable Steven T. Miller
Acting Commissioner and Deputy Commissioner for Services and Enforcement
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Acting Commissioner Miller:

I appreciate your November 23, 2012 response to my letter of October 23, 2012. Please provide the following information by January 25, 2012.

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."
    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.

        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.

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.
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, or criteria used by the IRS to determine whether or not a § 501(c)(4) organization was primarily engaged in political activity during these examinations.

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.[1] 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?
c. Please also provide an update as to the status of the application for tax exempt status filed by Crossroads Grassroots Policy Strategies.

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.

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.

---

[1] See *Karl Rove's Dark Money Group Promised IRS It Would Spend Limited Money on Elections*, Propublica, (12/14/2012), http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs.

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[2] 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.[3] 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.

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.[4] Please respond to the following:

   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?

Thank you for your assistance. If you have any questions, please contact me, or have your staff contact Laura Stuber of my staff at 202/224-9579 or Laura_Stuber@hsgac.senate.gov.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

---

[2] *Political Ads: Issue Advocacy or Campaign Activity Under the Tax Code*, Congressional Research Service, August 29, 2012.
[3] Id.
[4] See *How Non Profits Spend Millions on Elections and Call it Public Welfare*, Propublica, August 18, 2012, http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare.

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

---

§§ 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]

---

[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:

[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)

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE: EO Examinations
1100 Commerce Street
Dallas, TX 75242

Release Number: **200720026**
Release Date: 5/18/07
Date: 2/22/07
UIL Code: 501.04-01

ORG

Taxpayer Identification Number:

Form:
990
Tax Year(s) Ended:
12/31/xxxx
Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process,* explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues.* If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action.* We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

Legend:
ORG = Name of Organization
Related Firm = Name of the Related For Profit
City, State = Location of ORG
Security Firm – Name of Security Firm

ISSUE

Does the ORG qualify for tax exempt status under IRC section 501(c)(4)?

FACTS

ORG was created by the Related Firm (Related Firm) in Related Firm began to develop a acre parcel of beach front property as a first rate, mixed-use vacation resort. The resort area was to consist primarily of a large hotel, several distinct groupings of condominiums (condos) and the infrastructure and related facilities necessary to support the resort. Related Firm decided to create extensive common areas that were carefully landscaped to attract buyers to for these condos.

As the condominiums were built, Related Firm created individual condo associations for each distinctive grouping of condos. Related Firm referred to these associations as regimes. These traditional style condo associations were charged with the responsibility for maintaining the exterior of their structures and the care of the common areas closely associated with their condo territory.

To provide coordination between the individual associations and control the maintenance of the roads, streets, trails, lakes, and other landscaped areas, it was necessary for Related Firm to create the ORG to act as overseer to these areas and the individual associations.

ORG is funded with fees from the condo owners. The individual condo associations collect the fees and pass them along to ORG . ORG expends over 70% of the funds that they receive for the maintenance and care and landscaping of the common areas in the ORG area.

Related Firm has retained control of the entire ORG project from it's inception by installing favorable voting rights provisions into the organizational bylaws. The bylaws state that Related Firm receives two votes for every vote received by the other board members. The board consists of one representative from each condo association and a representative appointed by Related Firm .

In the Declaration of Covenants, dated June xx, 198X, Related Firm clearly states that the covenant covers the acre parcel now owned and any and all land that may acquired by Related Firm and included in the ORG project. Article I, section 1.1.7 of

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

the covenant states that common areas are for the "common use and enjoyment of the owners and occupants of the development."

FACTS, continued

ORG incorporated on November 2, 199X in City, State. The purpose of the organization is to provide an entity for the operation of and administration of the mixed use, multi-phased, multi-regime residential and commercial community known as ORG .

ORG applied for exemption under IRC section 501(c)(4) and were denied by IRS Determinations in early, 20xx. The application was rejected based on the lack of public access. ORG appealed the adverse determination and submitted evidence that the ORG area was in fact open to the public. IRS Appeals found in favor of ORG and granted tax exempt status.

Information contained on Form 1024:

Proposed Activities:

1. Maintain the general common areas of the residential community,
2. Make payment of common area utilities, insurance, street and lighting maintenance, landscaping and maintenance and repair of all association owned common property,
3. Publish a regular newsletter,
4. Conduct social, recreational and educational events in the community,
5. Provide a manned entry gate for traffic control, directions and assistance to both members as well as the public,
6. Within the association there is a hotel, restaurant, pools, lounge, shops and real estate office open to the general public.

The common areas may include but are not limited to maintenance areas, roads, streets, parking lots, parks, open areas, recreational amenities and walkways. The association does not maintain common areas or landscape for the shops, hotel, restaurant, lounge or pools. These areas are open to the general public.

Membership is mandatory. Each owner of every unit is a mandatory member. Membership begins with the purchase of a unit and ceases upon sale. There are no voluntary members and no membership certificate is issued.

Financial support consists of members' assessments, cable TV fees, and interest earned on reserve replacement funds.

ORG hires Security Firm, Inc. to provide security personnel and guards for the entrance into the ORG , area. In section 4.0 of the security handbook, in

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		

reference to access control, the guards at the entrance have the authority to deny entry to anyone at any time.

Financial disbursements include repair and maintenance to the common/gated areas.

LAW

Treasury Regulation 1.501(c)(4)-1(a)(2)(i) states; 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 community.

Treasury Regulation 1.501(c)(4)-1(a)(2)(ii) provides that social and recreational activities are not social welfare activities. However, if a substantial part of an organization's activities consists of social functions for the benefit, pleasure, and recreation of its members, it may qualify for exemption under IRC 501(c(4) if it is primarily engaged in social welfare activities.

Treasury Regulation 1.528-1: With regard to Homeowner's Associations

(a) *In general.* —Section 528 only applies to taxable years of homeowners associations beginning after December 31, 1973. To qualify as a homeowners association an organization must either be a condominium management association or a residential real estate management association. For the purposes of section 528 and the regulations under that section, the term "homeowners association" shall refer only to an organization described in section 528. Cooperative housing corporations and organizations based on a similar form of ownership are not eligible to be taxed as homeowners associations. As a general rule, membership in either a condominium management association or a residential real estate management association is confined to the developers and the owners of the units, residences, or lots. Furthermore, membership in either type of association is normally required as a condition of such ownership. However, if the membership of an organization consists of other homeowners associations, the owners of units, residences, or lots who are members of such other homeowners associations will be treated as the members of the organization for the purposes of the regulations under section 528.

(b) *Condominium.* —The term "condominium" means an interest in real property consisting of an undivided interest in common in a portion of a parcel of real property (which may be a fee simple estate or an estate for years, such as a leasehold or subleasehold) together with a separate interest in space in a building located on such

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

property. An interest in property is not a condominium unless the undivided interests in the common elements are vested in the unit holders. In addition, a condominium

LAW, continued

must meet the requirements of applicable state or local law relating to condominiums or horizontal property regimes.

(c) *Residential real estate management association.* —Residential real estate management associations are normally composed of owners of single-family residential units located in a subdivision, development, or similar area. However, they may also include as members owners of multiple-family dwelling units located in such area. They are commonly formed to administer and enforce covenants relating to the architecture and appearance of the real estate development as well as to perform certain maintenance duties relating to common areas.

(d) *Tenants.* —Tenants will not be considered members for purposes of meeting the source of income test under section 528(c)(1)(B) and §1.528-5. However, the fact that tenants of members of a homeowners association are permitted to be members of the association will not disqualify an association under section 528(c)(1) if it otherwise meets the requirements of section 528(c) and these regulations. [Reg. §1.528-1.]

Internal Revenue Code section 501(c)(4)(A) describes Civic Leagues as follows: Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Internal Revenue Code section 501(c)(4)(B) states that; Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Internal Revenue Code section 528. Certain Homeowner's Associations

528(a) GENERAL RULE. —A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

528(b) TAX IMPOSED. —A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax

LAW, continued

shall be equal to 30 percent of the homeowners association taxable income (32 percent of such income in the case of a timeshare association).

528(c) HOMEOWNERS ASSOCIATION DEFINED. —For purposes of this section —

528(c)(1) HOMEOWNERS ASSOCIATION. —The term "homeowners association" means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if —

528(c)(1)(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

528(c)(1)(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from —

528(c)(1)(B)(i) owners of residential units in the case of a condominium management association,

528(c)(1)(B)(ii) owners of residences or residential lots in the case of a residential real estate management association, or

528(c)(1)(B)(iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

528(c)(1)(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

528(c)(1)(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

528(c)(1)(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

LAW, continued

528(c)(2) CONDOMINIUM MANAGEMENT ASSOCIATION. —The term "condominium management association" means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used by individuals for residences.

528(c)(3) RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION. —The term "residential real estate management association" means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

528(c)(4) TIMESHARE ASSOCIATION. —The term "timeshare association" means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.

528(c)(5) ASSOCIATION PROPERTY. —The term "association property" means —

528(c)(5)(A) property held by the organization,

528(c)(5)(B) property commonly held by the members of the organization,

528(c)(5)(C) property within the organization privately held by the members of the organization, and

528(c)(5)(D) property owned by a governmental unit and used for the benefit of residents of such unit.

In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.

528(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED. —

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

528(d)(1) TAXABLE INCOME DEFINED. —For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of ;

LAW, continued

528(d)(1)(A) the gross income for the taxable year (excluding any exempt function income), over

528(d)(1)(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

528(d)(2) MODIFICATIONS. —For purposes of this subsection —

528(d)(2)(A) there shall be allowed a specific deduction of $100,

528(d)(2)(B) no net operating loss deduction shall be allowed under section 172, and

528(d)(2)(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

528(d)(3) EXEMPT FUNCTION INCOME. —For purposes of this subsection, the term "exempt function income" means any amount received as membership dues, fees, or assessments from —

528(d)(3)(A) owners of condominium housing units in the case of a condominium management association,

528(d)(3)(B) owners of real property in the case of a residential real estate management association, or

528(d)(3)(C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.

Commissioner v. Lake Forest, Inc., 305 F. 2d 814 (4th Cir. 1962), the court held that a cooperative housing corporation was not exempt as a social welfare organization under section 501(c)(4) of the Code since its activities were of the nature of an economic and private cooperative undertaking.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

Revenue Ruling 69-280 states that an organization that provides specified services for the member homeowners, such as exterior maintenance on walls and roofs, was not exempt under section 501(c)(4) of the code. The organization described in the ruling was performing services that its members would otherwise have to provide for

LAW, continued

themselves. It is a private cooperative enterprise for the economic benefit or convenience of the members.

In *Commissioner* v. *Lake Forest, Inc.*, 305 F. 2d 814 (1962), it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole.

Similarly, in this case it was held that the organization is operated primarily for the private benefit of members and any benefits to the community were not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community.

Revenue Ruling 72-102 holds that certain nonprofit organizations of a type usually called homeowners' associations, which are formed to administer and enforce covenants for preserving the architecture and appearance of a housing development and to maintain streets, sidewalks, and other non-residential, non-commercial properties in the development of the type normally owned and maintained by a municipal government, may qualify for exemption under section 501(c)(4) of the Code.

Revenue Ruling 74-99 modified Revenue Ruling 72-102, to make clear that a homeowners' association of the kind described in Revenue Ruling 72-102 must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; (2) It must not conduct activities directed to the exterior maintenance of private residences; and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

Revenue Ruling 74-17 holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit

LAW, continued

owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

GOVERNMENT'S POSITION

ORG was created by Related Firm in . As more condominiums were built in the ORG controlled area, Related Firm created separate condominium associations for each specific grouping. Each association or "regime" as Related Firm called them was responsible for maintaining their own common areas. As more condominiums were built, it became necessary for Related Firm to create the Master Association to oversee the subordinate regimes and the maintenance of all common areas.

As a condominium association, or a master condominium association, the organization should never have received tax exempt status under any code section. In Commissioner v. Lake forest, Inc., the court set a clear precedent that organizations that operated on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole.

Revenue Ruling 74-17 reiterates the points derived from Lake Forest and specifically states that condominium associations formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

Revenue Ruling 74-17 further states that condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Based on the Declaration of Covenants and organization by-laws which are in effect, Related Firm has maintained control of the entire acre ORG project since it's inception in Related Firm Development controls the operation and activities of the ORG project by holding over % of the voting rights. These favorable voting rights allow Related Firm Development to assert a large measure of control on the subordinate associations.

As the ORG project has progressed over time, Related Firm has enjoyed a private benefit from having control over the master association and subsequently, the subordinate associations. This private benefit came in the form of serving Related Firm commercial interests by having well-maintained roads, trails and immaculately landscaped areas which had to increase the ability of Related Firm to sell these condominiums.

IRC section 501(c)(4) specifically states that tax exempt status shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

ORG is not open to the general public, but is rather a closed, gated community where limited access to non-condominium owners may or may not be granted. As evidenced during the tour of the facilities and confirmed by reviewing the security manual used by the guards at the entrance gate, access is controlled by the organization and the guards have written policies on who to let in and the discretion on who to keep out.

The organization is clearly not operating within the spirit of a social welfare organization because they are not engaged in promoting in some way the common good and general welfare of the community.

TAXPAYER'S POSITION

The organization has signed the Form 6018-A agreeing to revocation of their tax exempt status. The organization has elected to file Forms 1120-H as required under code section 528 for the 200 , 200 and 200 tax years. The organization has provided these returns and the required payment checks to this office for filing.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

CONCLUSION

The ORG does not qualify for exemption under section 501(c)(4) of the code. The main reason for disallowing tax exempt status is that per Revenue Ruling 74-17, condominium associations do not qualify for exempt status under IRC section 501(c)(4).

Secondary reasons for disallowing the continuance of tax exempt status is that there are two private benefit issues that would preclude exemption under IRC section 501(c)(4).

First, the organization is a condominium association where the maintenance of common areas provides a private benefit to the individual condominium owners. As in *Commissioner* v. *Lake Forest, Inc.*, this organization provides housing on a cooperative basis which the court held to be the operation of a private self-help enterprise with only an incidental benefit to the community as a whole. As such, the organization cannot qualify for exemption under code section 501(c)(4) because they are operated for the private benefit of the condominium owners and not for the common good and general welfare of the community or general public.

Second, the organization and entire ORG remains under the control of Related Firm This control in and of itself precludes exemption based on the obvious private and commercial benefit received by Related Firm Any ancillary benefits received by the community as a whole pale compared to the benefits enjoyed by Related Firm

The developer of the ORG area has retained voting control over the Master Association's Board of Directors, and as an extension the subordinate individual associations. As the developer has never relinquished control of the common areas, the maintenance of said common areas connotes a private benefit to the developer in relation to having immaculate facilities and grounds to assist in the sale of condominiums still being built. Based on the private benefit bestowed upon the developer, the organization cannot qualify for exemption because they are operated for the private benefit of the developer as well as the condominium owners and not for the common good and general welfare of the community or general public.

A third issue that would preclude exemption is the lack of public access to ORG The organization restricts access to the ORG by allowing their

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended

gate guards to deny access to anyone they feel doesn't belong here. Such a policy is in stark contrast to the provisions in code section 501(c)(4). As there is no true open public access, the organization cannot qualify for exemption under code section 501(c)(4) because they are operated for the private benefit of the condominium owners and not for the common good and general welfare of the community or general public.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce
Dallas, Texas 75242

UIL: 501.04-01

ORG = Name of Organization

Dear Sir or Madam:

This is a Final Adverse Determination as to your exempt status under section 501(c) (4) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Organization's activities were operated on a cooperative basis and lacked the necessary requirements of an organization described for a community organization and were more like an operation for a private self-help enterprise.

The ORG fails to meet the requirement for exemption under IRC 501(c) (4) and 528. Section 1.501(c)(4)-1 of the Income Tax Regulations which states 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 community.

As a result of a recent audit of your organization's activities and Form 990 for the period ended December 31, 20xx, the operation is organized and operating solely as a condominium association which do not qualify for exempt status under IRC section 501(c)(4).

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (4) of the Internal Revenue Code effective January 1, 20xx.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20xy. You have executed the Form 6018 agreeing to this revocation.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15th day of the third month after the end of your annual accounting period. A penalty of $20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed $10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, or writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **200720030**
Release Date: 5/18/07
Date: 2/3/07
UIL Code: 501.04-01
ORG

Taxpayer Identification number:

Form(s):

Tax Year(s) Ended:

Person to Contact/ ID Number:

Contact Numbers:
Telephone:
Fax

Certified Mail – Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(4) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service."

We will then issue a final revocation letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form **886-A** (Rev. January 1994)	REPORT OF EXAMINATION	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

Issue Name: Tax Exempt Status

Per Return: 990
Per Exam:

Issue:
Whether qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code

Facts:
Exhibit A provides copies of the Internal Revenue Service correspondence requesting information from to perform examination, and requesting the organization to file the required return, on tax periods ending .
failed to respond to the Internal Revenue Service attempts to obtain information to perform an examination, and failed to file Forms 990 for the tax periods ending .

Law:
Section 1.61-1 of the regulations provides that gross income means all income from whatever source derived, unless excluded by law. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as cash.

Section 511 of the Internal Revenue Code imposes a tax at corporate rates under section 11 on the unrelated business taxable income of certain tax-exempt organizations, including those described in section 501(c)(3).

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all time available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of

Form **886-A** (Rev. January 1994)	REPORT OF EXAMINATION		Schedule number or exhibit
Name of taxpayer		Tax Identification Number	Year/Period ended

enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Section 501(c) (4) of the Code provides that a civic organization not organized for profit but operated exclusively for the promotion of social welfare is exempt from Federal income tax.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above-cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:
It is the IRS's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)( ) of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective .

Form 1120 returns should be filed for the tax periods after .

In accordance with IRM 4.75.22.12(9)(e), the effective date of the revocation will be the first day after the end of the 90-day period .



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examination
1100 Commerce Street
Dallas, Texas 75242

July 30, 2007

Taxpayer Identification Number:

Number: 200809035
Release Date: 2/29/2008

Form:
990
Tax Year(s) Ended:

ORG UIL:501.04-01
Address

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

3

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		**Year/Period Ended**
ORG		12/31/20XX

Legend
ORG = Organization name XX = Date XYZ = State City = city
CO-1 = Company CO-2 = 2nd company

ISSUES

Does ORG continue to qualify for tax exempt status under Internal Revenue Code section 501(c)(4)?

FACTS

The ORG (ORG) was incorporated May 21, 19XX in the State of XYZ. The ORG is not gated, nor does it enforce any covenant for preserving the architecture and appearance of a particular area.

The Articles of Incorporation shows the purposes for which the ORG was organized as:

- To promote and develop the common good and welfare of the residents within the community, such community being defined as that certain area of the City of City, known as the CO-1,
- To promote and develop good fellowship, neighborliness, and civic responsibility among the members of the corporation including, but not limited to, discussion and collective pursuit of problems of civic interest.

The By-laws identify the purposes of this ORG to be to preserve, protect, and advance the interests of the neighborhood in which its members reside, to disseminate information of interest to those residents, and to promote fellowship among its members.

The By-laws recognize the streets and blocks which make up the member residences which adult residents reside on. Membership is voluntary for all residents in the area covered by the ORG. The ORG provides its members with an annual directory, monthly newsletters, participation in neighborhood events and activities. The ORG has formed a Operations committee to act as liaison, arrange maintenance and periodic inspection of the area behind member's homes.

For the tax year ended December 31, 20XX, the ORG provided members with monthly informative newsletters and an annual telephone directory. The monthly newsletter provides members with property care tips, crime watch report, advertisements geared toward homeowners and the ORG agenda. The monthly newsletter is also used to keep members aware of the ORG events and activities, which promote fellowship and encourage non-member resident owners to join. The ORG holds a Spring and Fall General Membership meeting, Boot Scootin' Progressive Party, Easter Egg Hunt, the 4th of July Parade, Tree Lighting with Santa Claus, and annual Halloween Party. The ORG requires foods and candy as fee for admittance to the events held,

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		**Year/Period Ended**
ORG		12/31/20XX

Legend
ORG = Organization name XX = Date XYZ = State City = city
CO-1 = Company CO-2 = 2nd company

while other activities may require members to pay for events held off-site. The conducting these activities and member benefits make up about % of the organization total expenses.

The ORG also offers crime watch patrol open to the ORG members. The ORG has an agreement with a neighboring homeowner ORG to provide the crime watch patrol. The ORG employs off-duty police officers in City Police cars to patrol in the designated Crime Watch area. The patrol officers' schedule varies, with special emphasis on known peak crime hours. The operation of the crime watch program makes up about % of the ORG expenses. In 19XX the ORG formed the CO-2 to address growing crime in the area. As a result the ORG started Crime watch patrol. The ORG had about 405 participants on the program. The ORG charged $ per month in dues for the service. Benefits limited to paying participants include:

- Voice mail system – each member has an access code,
- Extra attention to their home while on a trip (such as checking windows and doors for anything unusual, and removing flyers and hiding newspapers and mail,
- Direct access to patrolling officers and off-duty voice mail message via dedicated cell phone,
- Member alert to recent crime in the area,
- Crimes watch member signage for home exterior.

Officers are available approximately 100 hours a week to address other problems and concerns such as:

- Medical emergency assistance
- Investigation of suspicious persons
- Investigation of unknown parked vehicles
- "Open garage door" alerts
- Overseeing personal safety for late-night home arrival
- Stopping vandalism in progress.

LAW

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Section 1.501(c)(4)-1(a)(2)(i) of the Regulations states that 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

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

Legend
ORG = Organization name XX = Date XYZ = State City = city
CO-1 = Company CO-2 = 2nd company

embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

Revenue Ruling 77-273, 1977-2 CB 194, A nonprofit organization that provides security services for residents and property owners of a particular community, who agree to voluntarily donate money at a specified hourly rate to defray the cost of the services, is carrying on a business with the general public in a manner similar to organizations operated for profit and does not qualify for exemption under section 501(c)(4) of the Code.

Revenue Ruling 69-280, 1969-1 C.B. 152 concluded that an organization that provides maintenance of exterior walls and roofs of members' homes in a housing development does not qualify for tax-exempt status under IRC section 501(c)(4). The organization was operating primarily for the benefit of individual members rather than the community as a whole.

In *Commissioner v. Lake Forest, Inc., 305 F. 2d 814(1962)*, it was held that the organization, a housing cooperative for World War II veterans and others, did not meet the requirements for tax-exempt status under IRC section 501(c)(4). The court found that the organization was not operating exclusively for "social welfare" purposes, but as a private economic enterprise. The court also determined that the organization was organized and operated for the benefit or convenience of its members by performing services that its members would otherwise have to provide for themselves.

Section 528(c)(1) defines the term "homeowners ORG" to mean an organization, which is a residential real estate management ORG organized and operated to provide for the acquisition, construction, management, maintenance, and care of ORG property. The homeowners ORG must receive at least 60 percent of its gross income from amounts received as membership dues, fees, or assessments, and at least 90 percent of its expenditures must be from the acquisition, construction, management, maintenance, and care of the ORG property on behalf of members of the ORG.

The taxable income of a homeowners ORG for any taxable year is an amount equal to the excess (if any) of the gross income for the taxable year (excluding any exempt function income), over the deductions allowed directly connected with the production of the gross income (excluding exempt function income).

Under section 528, the term "exempt function income" is any amount received as membership dues, fees, or assessments from owners of real property in the case of a residential real estate management ORG. There shall be allowed a specific deduction of $100. No net operating loss is deducible.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

Legend
ORG = Organization name XX = Date XYZ = State City = city
CO-1 = Company CO-2 = 2nd company

Section 1.528-1 of the Regulations states to qualify as a homeowners association an organization must either be a condominium management association or a residential real estate management association. As a general rule, membership in either a condominium management association or a residential real estate management association is confined to the developers and the owners of the units, residences, or lots. Furthermore, membership in either type of association is normally required as a condition of such ownership. However, if the membership of an organization consists of other homeowners associations, the owners of units, residences, or lots who are members of such other homeowners associations will be treated as the members of the organization for the purposes of the regulations under section 528.

GOVERNMENT'S POSITION

An organization that limits its service to certain property owners, operated to serve the individual interest of its members rather than the community as a whole by providing social activities, security patrol and disseminating information useful to its members, is not a social welfare organization exempt under section 501(c)(4). A social welfare organization must be operated for the benefit of the general public by providing a community benefit to qualify for exemption under section 501(c)(4). Generally, social welfare organization, which operates as an exempt homeowners association, owns and maintains certain common areas open to the public. The Treasury Regulations extend tax-exempt status to those exempt homeowners' associations that are primarily engaged in promoting 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 betterment and social improvements.

ORG has not shown its activities primarily serve the community rather than the private interest of its members. The security patrol services the ORG provides to property owners on a regular basis is similar to organizations operated for profit. The fact that security patrol services are provided does not satisfy the requirements of the regulations that an organization be primarily engaged in promoting the common good and general welfare the community.

ORG is similar to the organizations in Revenue Rulings 69-280 and 77-273, because the ORG activities and services are for the benefit of its members. Most of the ORG member dues are used for patrol services for private residents. An organization of this type described in the rulings is essentially a mutual, self-interest type of organization. ORG's income is used to provide direct economic benefits to its members and any benefit to the larger community is minor and incidental. As in *Commissioner v. Lake Forest, Inc.*, ORG's benefits are neither intended for the public at large, rather for the private interest of property owners paying for a particular service.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

Legend
ORG = Organization name XX = Date XYZ = State City = city
CO-1 = Company CO-2 = 2nd company

ORG is similar to organizations describe under section 528 of the Code. The activities and support are of those of a traditional homeowners' ORG as described in section 528.

TAXPAYER'S POSITION

Unknown

CONCLUSION

Since the benefits provided by the ORG are limited to its members, you are not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Code.

As a result of our examination of your Form 990 for the period ended December 31, 20XX, we have determined that your organization no longer qualifies as an exempt homeowners ORG described in IRC section 501(c)(4). We are proposing that the Corporation's exempt status be revoked as of January 1, 20XX. Form 1120-H, *U.S. Income Tax Return for Homeowners ORG*, should be filed for the fiscal years ended December 31, 20XX, 20XX and all future years.

DEPARTMENT OF THE TREASURY
Internal Revenue Service
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce Street
Dallas, TX 75424

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

January 28, 2008

Number: **200817061**
Release Date: 4/25/2008

UIL: 9999.98-00

Legend
ORG = Organization name Address = Address XX = Date

ORG
Address

Employer identification Number:

Person to Contact/ID Number:

Contact Numbers:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

In a determination letter dated July 19XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c) (4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective July 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On October 1, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You are therefore required to file Form[s] 1120, *U.S. Corporate Income Tax Return*, for the year[s] ended June 30, 20XX – 20XX with the Ogden Service Center. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate.

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
TE/GE EO Examinations
1500 Ormsby Station Court Suite A - Stop 700
Louisville, KY 40223

ORG
Address

Taxpayer Identification Number:

Form:
990
Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process,* explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez, Director
Exempt Organizations Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		**Year/Period Ended** June 30, 20XX & 20XX

Legend
ORG = Organization name XX = Date

Issue:

Whether ORG (ORG) qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

Exhibit A provides copies of the Internal Revenue Service correspondence requesting that ORG file the Form 990 for the tax periods ended June 30, 20XX & 20XX.

ORG failed to respond to the Internal Revenue Service correspondence or file the Forms 990 for the tax periods ended June 30, 20XX & 20XX.

Law:

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		June 30, 20XX & 20XX

Legend
ORG = Organization name XX = Date

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Taxpayer's Position:

The taxpayer failed to file the required Form 990s.

Government's Position:

The tax exempt status of ORG should be revoked effective July 1, 20XX.

If Forms 990 for June 30, 20XX & 20XX are filed within 30 days from the date of this report, the tax-exempt status will not be revoked.

Conclusion:

It is the IRS's position that ORG failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501(c)(4) of the Internal Revenue Code. Accordingly, ORG's exempt status is revoked effective July 1, 20XX.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		**Year/Period Ended** June 30, 20XX & 20XX

Legend
ORG = Organization name XX = Date

Form 1120 returns should be filed for the tax periods after July 1, 20XX.

Internal Revenue Service

Department of the Treasury

Number: **200829036**
Release Date: 7/18/2008

Taxpayer Identification Number:

Date: May 2, 2007

Form:
990

Tax Year(s) Ended:

UIL: 501.04-01

ORG
ADDRESS

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action.* We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Judy L. Jones, CPA

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form **886-A** (Rev. January 1994)	**EXPLANATIONS OF ITEMS**	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX

LEGEND
ORG = Organization XX = Date

Issue:

Whether ORG, Inc. (ORG) qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

Exhibit A provides copies of the Internal Revenue Service correspondence requesting that ORG file the Form 990 for the tax period ending December 31, 20XX. ORG failed to respond to the Internal Revenue Service correspondence or file the Forms 990 for the tax period ending December 31, 20XX.

ORG was previously examined for the tax year ended December 31, 20XX and given a letter stating that ORG continued to quality for exemption, but with an advisory addendum that set out several deficiencies which, if continued, could result in penalties and/or loss of exemption.

Specifically, an exempt organization whose annual gross receipts are normally $25000 or less does not have to file Form 990. The organization's gross receipts are the total amounts it receives from all sources during its annual accounting period, without subtracting any costs or expenses. An organization's gross receipts are considered normally to be $ or less if the organization averaged $ or less in gross receipts for the immediately preceding three tax years.

ORG's gross income for the year 20XX was over $, so even if it had no other income, it still has exceeded "normally more than $ annually", for the next three years. ORG was advised that it must file Form 990 for 20XX, 20XX, and 20XX because it had more than $ in income from the year 20XX alone.

During the course of the examination, it was determined that ORG did not maintain adequate records to report accurately its financial activities as required by Section (§)6033(a) of the Internal Revenue Code and the Regulations there under. The closing letter addendum was the official notice to keep complete records so the accuracy of your returns may be determined.

Law:

IRC §6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Form **886-A** (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX

LEGEND
ORG = Organization XX = Date

IRC § 6033(a)(1) provides, except as reuired in IRC §6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. §1.6001-1(a) in conjunction with Treas. Reg. §1.6001-1(c) requires that every organization exempt from tax under IRC §501(a) and subject to the tax imposed by IRC §511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC §6033.

Treas. Reg.§1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. §1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC §6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC §6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §6001 and §6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a

Form **886-A** (Rev. January 1994)	**EXPLANATIONS OF ITEMS**	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 1, 20XX

LEGEND
ORG = Organization XX = Date

complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §6001 and 6033 to be recognized as exempt from federal income tax under IRC §501(c)(4). In addition, it has failed to meet the recordkeeping requirements as required under by Rev. Rul. 59-95, 1959-1C.B. 627, and Treas. Reg. § 6001-1(e). Accordingly, the organization's exempt status is revoked effective January 1, 20XX, the first year following the prior examination year and for which it was specifically required to file a return and keep adequate records.

Form 1120 returns should be filed for the tax periods ending on or after December 31, 20XX.

Internal Revenue Service
Appeals Office
One Cleveland Center-Suite 815
1375 East Ninth Street
Cleveland, OH 44114-1739

Number: **200909072**
Release Date: 2/27/2009

Date: December 1, 2008

A

B

Department of the Treasury

Person to Contact:
******

Employee ID Number:
******

Tel: ******
Fax: ******
Refer Reply to:
******

In Re:
EO Examination
Tax Period(s) Ended:
12/20 and 12/20
EIN:
C
UIC: 501.04-00

LEGEND:

A -
B -

C -

CERTIFIED MAIL

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c)(4) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

Your organization fails to meet the requirements for exemption under IRC section 501(c)(4). IRC section 501(c)(4), provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

As a result of a recent audit of your organization's activities and Forms 990, it was determined that your organization is operated primarily for social purposes, rather than for the promotion of social welfare.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code effective January 1, 20

You are required to file converted Forms 1120, U.S. Corporation Income Tax Return, for any years which are still open under the statute of limitations beginning with the year ending December 31, 2005 and ending with the year ending December 31, 2007. You should file any returns due for these years with the Internal Revenue Service TEGE: EO: 1100 Commerce St. MC 4920 DAL: Mandatory Review, Dallas, TX 75242-1027 by March 31, 2009. Forms 1120 for tax periods beginning on and after January 1, 2008, should be filed with the Cincinnati Service Center, Cincinnati, OH, 45999-0012.

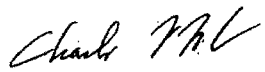
You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can call the Taxpayer Advocate for the IRS office that issued this letter. See the enclosed Notice 1214, *Helpful Contacts for Your "Notice of Deficiency"* for Taxpayer Advocate telephone numbers and addresses.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels, gets prompt and proper handling.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Douglas H. Schulman
Commissioner
By



Charles F. Fisher
Appeals Team Manager

Enclosure:
Notice 1214 Helpful Contacts for your "Notice of Deficiency"

Internal Revenue Service

Department of the Treasury
Internal Revenue Service
230 S Dearborn, 17th Floor, MC 4923 CHI
Chicago, IL 60604

Date: DEC 01 2008

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez.
Director, EO Examinations.

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

LEGEND
ORG = Organization name XX = Date City = city XYZ = State Country = country CO-1, CO-2, CO-3, CO-4, CO-5 & Co-6 = 1st, 2nd, 3rd, 4th, 5th & 6th Companies.

ISSUE

1. Whether the tax exempt status of ORG (ORG) recognized under Internal Revenue Code 501(c)(4) should be revoked?

BRIEF EXPLANATION OF FACTS

Organization Features

The subject organization is recognized as a 501(c)(4) tax-exempt organization. They received individual exemption on January 06, 20XX. According to its constitution, the primary purpose of the organization is to raise funds to help members within CO-1 and to donate to charitable organizations chosen by the members. Article 2 of the constitution described the objectives as;

Section 4: "..but extend to all types of economic, social, including but not limited to activities of fraternal, charitable, welfare and of social nature which further the interest of this organization, chapters and members directly or indirectly...."
Section 5: "...to unite as brothers and sisters and ride motorcycle for the enjoyment of the ride and to be family oriented association, and watch each others back..."
Section 6: "...to help brothers and sisters who are on the strike line by riding in and joining them....."

The organization is located in City, XYZ and has chartered chapters across Country and Country. Currently, they have over 11 chapters.

Application for Recognition of Tax-Exempt Status

The organization filed Form 1023 with the Internal Revenue Service under penalties of perjury to apply for recognition of tax-exempt status under Internal Revenue Code 501(c)(3) section on May 27, 20XX. The application described the objective as

"...to raise funds to help our brother and sister members within the CO-1 and to donate to charitable organizations especially children's organization. It shall further be an object of this organization to receive, manage, invest, expend, or otherwise use the funds and property of this organization to carry out the duties of the president and to achieve the objectives set forth in the bylaws for such additional purposes and objects not inconsistent therewith as will further the interest of the organization, chapters and its members directly or indirectly. It shall also be the objective of this organization to unite as brothers and sisters and ride motorcycles for the enjoyment of the ride and to be a family oriented association. It shall also be the objective of

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

this organization to help our brothers and sisters who are on the strike line by riding in and joining them....."

The organization's sources of financial support were listed as " Dues, Initiation Fees, Investment income including gains/loss from sales of investments (if any), sales of patches/Logos/Vests indicating club affiliation, Per Capita tax and fines.

Question 5 of the Form 1023 asked if the organization is controlled by any other organization. The answer was "Yes". The organization stated that CO-2 (CO-3) will control various local chapters when/if established.

Question 11 of Form 1023 asked if the organization is a membership organization. The answer was "YES" The explanation provided in part, that "the organization shall be composed of members and associate members of individual chapters which have been chartered by CO-3"

The following correspondences occurred between the IRS determination office and CO-2 during the application process:

August 09, 20XX: Request to amend organizing documents for proper purpose clause, dissolution clause and description of activities.

August 25, 20XX. Taxpayer responded to the August 09 letter, provided requested information, and amended the organizing documents. Taxpayer described the activities as primarily benefiting needy families. Important extracts from the letter include:

1) "The only criteria needed in order for the CO-2 to provide assistance is to show a need for help. The numerous families we assist each year could range from 1-5 or more if the participant demonstrates that he/she needs our help"
2) "CO-4, City, XYZ, in 20XX and 20XX, we sponsored a pledge run for the children of CO-4 donating all proceeds to the hospital. In 20XX, we had a member who was stricken with Multiple Sclerosis, we sponsored a run and donated all proceeds to the CO-5. Both of these activities are annual events"
3) "...We gather pledge donation from members and the public, we hold raffles on the day of the event, the purpose of this function is to help the children of CO-4 and to help them with the construction of a new wing of the hospital, we also ride a bike show at the hospital, the children of the hospital participates as judges in the bike show giving out trophies to the participants of the run, the purpose of this is to get the children involved with the people who are providing assistance for them..."
4) "The CO-6: we gather donations from members and the public, we hold raffles on the day of the event, the purpose of this function is to help the CO-5 defeat Multiple Sclerosis, to create awareness of Multiple Sclerosis and to assist its local chapter in City, XYZ with program (such as the aquatic program) to help there members cope with multiple sclerosis."

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

5) "The dues for members are $ per month, the dues are used to help run the fundraisers, organize new CO-2 chapters in other states, to stock vest and patches for new members, and to make donations to charitable organizations".

October 04, 20XX.
Agent from Internal Revenue Service determination office sent a letter to inform the organization that the activities are not exclusively charitable, educational or religious but are promoting community welfare. The agent suggested that the organization request exemption under IRC 501(c)(4) with a signed letter from the officer and other information regarding activities to substantiate recognition under IRC 501(c)(4).

November 07, 20XX.
Taxpayer responded on this date with the additional information and request to be exempted under IRC 501(c)(4).

January 06, 20XX.
Letter 948 (Exemption Letter) was issued to CO-2 as an organization recognized under IRC 501(c)(4). The organization received an individual organization exemption, not a group ruling.

Activities

ORG (ORG) is an association of motorcycle riders who conducts motorcycle runs for member's pleasure and for charitable purposes. The association is open to all ORG, who ride any brand of bike, and who are interested in joining the group. ORG in City is referred to as "CO-3" and represents the main/parent organization. CO-3 chartered other ORG chapters (over 11 chapters) all over Country including one chapter in Country.

There are two types of motorcycle runs as described below and extracted from the constitution:

1) "Runs will be for raising moneys for charities that the chapter has chosen to raise money for. Each chapter will have at least one party or event per year to raise moneys for their charitable organization. All chapters shall make attempt to attend other chapters events to raise moneys for their charitable organization"

2) "Other runs will be to unite as CO-2 brothers and sisters and ride for the enjoyment of the ride". "There shall be one designated mandatory run. CO-3 or chapter may call additional mandatory runs if need be. All members on mandatory runs will dress uniformly for such runs. Any member missing a mandatory run will be charged...".

Basically, this organization operates motorcycle runs to unite as ORG brothers and sisters, ride for the enjoyment/pleasure of members and raise money for selected charitable organizations.

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

Some of the runs conducted in 20XX include "Defeat M.S Ugly Pledge Run - $ each, CO-4, Multiple Sclerosis Run and CO-6.

Payment for the runs includes Breakfast, Lunch, Music, 50/50, raffles, door prizes and other social activities for members.

There are no educational or training activities involved in the runs or in any of the events described above.

Membership

As noted above, "membership is open to all ORG who ride any brand of Bike who are interested in joining". The preferred type of bike is Harley Davidson, but not required.

The extracts below described the membership structure as reported in the constitution of the organization:

The organization is composed of "members and associate members of the chapters which have been chartered by CO-3 and which are within the geographical jurisdiction of CO-3, which includes the Country and Country....".

In order to be an associate member " you must be an immediate family, wife, husband, son daughter, girlfriend or significant other and be sponsored by a member in good standing"

Furthermore, each new chapter member is required to sign a pledge agreement obligating her to pay a national initiation fee and annual fees directly to the founding chapter (CO-2).

"...members are required to attend four (4) runs or meetings per year or be put on the inactive member status which makes the member relive the three (3 to 6) month probation period...." "All members are required to attend four (4) meetings or runs per year or be suspended from membership...."

All new members are put on probationary status until other members vote on their status to convert to full members.

Members are required to wear vest, patches (logos) that distinguish them from other ORG. The logos are sold by CO-3 to all members of CO-3 and members of the other chapters. The logos cannot be purchased elsewhere.

"All chapters will have a 2 patch back logo, a 1-patch front chapter number logo, a 1 patch front association logo with your state, a 1 patch front flag on left chest, with the option of CO-3 ....."

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

"Any motorcycle jackets, vests, denim, Levi jackets, T-shirt or any other type of materials with the CO-2 Logo affix to it shall be bought only through CO-3..."

All new chapters and new members are required to pay initiation fee before starting a new chapter.

"Any chapter or member becoming three (3) months in arrears will be revoked and their Logo wearing rights shall be revoked.....

Reporting:

Form 990 return filed for the year ended did not include financial activities of the chapters. Information document request was issued to taxpayer to provided financial documents relating to the chapters on 04/20/XX. Taxpayer's response regarding the information is as follows, "...Article 15 of the by-laws clearly states the chapter's responsibilities for maintaining their own books and records and filling their own Form 990 as applicable. Therefore, this organization is unaware of each chapter's EIN, location and financial activities. That information is not part of our records"

Chapters Affiliations:

ORG created chapters all over Country and Country. and gave authority to the various chapters to operate using their name as the parent organization. The chapters purchase all logos and membership dues from ORG (CO-2) as stipulated in the constitution.

The review of exempt's status of these chapters disclosed that the chapters are not exempt organization and do not have separate EIN number and did not file a separate Form 990 return.

Although, in the process of the audit, the president confirmed that the chapters have their separate EIN number and are required to file their own separate 990 return. I requested for the EIN numbers and financial information for these chapters, they were never provided.

Extracts from the constitution regarding this arrangement of chartered chapters include:

"In order to be chartered, each officer of the Charter must be a member and remain a member in good standing of CO-3"

"All chapters will apply for their own (FEIN) Federal Employer Identification Number from the IRS, you need to fill out SS4 form, call in for number, then fax form in within 24 hours to be used to open their bank accounts.....

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

"All chapters will be responsible for filing their own 990 tax forms, where applicable"

The chapters operating under ORG's IRC 501(c)(4) exemption are listed below:

1) Chapter	City, XYZ	Parent
2) Chapter	City	Subordinate
3) Chapter	City	Subordinate
4) Chapter	City	Subordinate
5) Chapter	City, XYZ	Subordinate
6) Chapter	City	Subordinate
7) Chapter	City, XYZ	Subordinate
8) Chapter	City, XYZ	Subordinate
9) Chapter	City, XYZ	Subordinate
10) Chapter	City, XYZ	Subordinate
11) Chapter	City	Subordinate
12) Chapter	City, XYZ	Subordinate
13) Chapter	City, XYZ	Subordinate

LAW

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that 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 community. An organization embraced within this section is one that is operated primarily for the purpose of bringing about civic betterments and social welfare.

Reg. 1.501(c)(4)–1(a)(2)(ii) states that social and recreational activities are not social welfare activities. However, even if a substantial part of an organization's activities consists of social functions for the benefit, pleasure, and recreation of its members, it may qualify for exemption under IRC 501(c)(4) if it is primarily engaged in social welfare activities.

IRC section 501(c)(4)(B), applicable to all section 501(c)(4) organizations, requires that no net earnings inure to the benefit of any private shareholder or individual with respect to such organization.

Regulation 1.§501(c)(4)-1 - Social activities for the benefit, pleasure, or recreation of members do not promote accomplishment of social welfare purposes and thus are not qualifying social welfare activities. However, such social activities do not preclude exemption under IRC section 501(c)(4) so long as those social activities, along with any other activities that do not promote social welfare purposes, are not the primary activities of the organization.

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

In Rev. Rul. 75-286, 1975-2 C.B. 210, the residents of a city block formed an organization to preserve and beautify that block, to improve all public facilities within the block and to prevent physical deterioration of the block. Much of the public area improved by the organization is part of the public roadway lying between the sidewalk and the street in front of private property owned by members of the organization. This revenue ruling concluded that since the organization's activities promote social welfare because they beautify and preserve public property, although they are limited to a particular block, the community as a whole benefits. Thus, the organization qualifies for exemption under section 501(c)(4) of the Code.

Compare Rev. Rul. 78-69, 1978-1 C.B. 156, which holds that an organization providing rush hour commuter bus service to all residents of a community qualifies for exemption under section 501(c)(4), with Rev. Rul. 55-311, 1955-1 C.B. 72, which holds that a local association of employees operating a bus primarily for the convenience of its members does not so qualify.

Regulation §601.201.(n)(3) Rulings and determination letters

(3) Effect of exemption rulings or determination letters

(i) A ruling or determination letter recognizing exemption is usually effective as of the date of formation of an organization, if its purposes and activities during the period prior to the date of the ruling or determination letter were consistent with the requirements for exemption.

(ii) A ruling or determination letter recognizing exemption may not be relied upon if there is a material change inconsistent with exemption in the character, the purpose, or the method of operation of the organization.

Regulation §601.201. (n)(6)(1) Rulings and determination letters

(6) Revocation or modification of rulings or determination letters on exemption

An exemption ruling or determination letter may be revoked or modified by a ruling or determination letter addressed to the organization, or by a revenue ruling or other statement published in the Internal Revenue Bulletin. The revocation or modification may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction of the type described in subdivision (vii) of this subparagraph. In any event, revocation or modification will ordinarily take effect no later than the time at which the organization received written notice that its exemption ruling or determination letter might be revoked or modified.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

GOVERNMENT'S POSITION

Section 501(c)(4) of the Code provides for exemption of organizations not organized for profit but operated exclusively for the promotion of social welfare. An organization may be exempt under section 501(c)(4) of the Code only if it is not organized or operated for profit, and if it is operated exclusively for the promotion of social welfare. Operating exclusively means that a larger percentage of activities and expenses must be towards promotion of social welfare and not towards membership pleasure or enjoyment.

Basically, in order to be recognized under IRC 501(c)(4), the primary activity must be the promotion of social welfare and civic betterment in the community. The benefit from such organization must accrue to the community as a whole, not the membership.

In determining the extent of the social welfare, we reviewed the primary activities and the financial records of CO-2.

ORG is a membership organization and the review of activities indicated that the organization's primary activity is to enjoy the art of riding motorcycle with members. This is evident from the way the membership is structured, such as wearing the same uniform, patches, logos e.t.c. to identify members and also the mandatory requirement to attend runs during a designated functions or event. Members are expected to dress certain way and require mandatory participation in motorcycle runs.

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

The membership is restricted to motorcycle riders only, within and outside of Country. Collection of national membership fees is enforced by the power of the executive council, and they can withdraw national membership privileges from delinquent members.

The 20XX Form 990EZ return as filed by ORG reported $ in revenue and $ in expenses. The revenue consisted of $ from contributions and $ from membership dues and membership program activities. Out of the total expenses reported, only $ was spent on grants and donations to support social welfare. Thus, the organization spent 16% on social welfare activities and spent over 77% on membership activities while the remaining 7% was spent on general expenses.

The 20XX Form 990EZ had $ in revenue and $ in expenses. Revenue consisted of $ from contributions and $ from membership dues and membership program activities. $ was spent on grants and donations promoting social welfare, which amounted to 19% of total expenses. Over 70% was spent on membership activities while the remaining 11% was spent on general administrative expenses.

ORG provides some social welfare programs to the community by making donations to hospitals, scholarship fund, individual's e.t.c. The amount was reported as grants and donations in the books. Overall, amount spent as contributions and donations was less than 20% of total expenses.

The flow of expenses indicated that this organization spend more on member welfare than social welfare of the community. Analysis of program and financial activities disclosed that membership social activities outweigh social welfare benefit to the community.

To be a social welfare organization, the organization must be primarily engaged in promoting in some way the common good and general welfare of the community. In this case, ORG do promotes good and welfare of the community, but that is not the primary activity. In as much as the organization's social welfare program is not its primary activity, the organization is not exempt from Federal income tax under section 501(c)(4) of the Code.

A social welfare organization will jeopardize its exemption under Code section 501(c)(4) if it ceases to operate primarily to further social welfare purposes. Substantial social activities, and operating for the benefit of private individuals (members) are activities present in ORG that do not further social welfare purposes.

In addition, taxpayer failed to provide financial information regarding chapters that operate within the same exemption provided to the EO. Section 6033 provided that failure to provide accurate and required information return may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

Form 886A Revised Report	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit Form 990
Name of Taxpayer ORG		Year/Period Ended 20XX12 20XX12

Individual exemption issued to an organization is meant for that organization for which it was issued. Unless the organization applied and received a group exemption, they cannot apply the individual exemption to other organizations not included in the exemption letter. Such organization cannot operate in a manner similar to a group ruling, unless they were issued a group ruling and the subordinate's name were included on the ruling. The claim that "the chapters" chartered by the EO are exempt organization is false and misleading the general public. If ORG is not operating in accordance to the individual exemption received, this may jeopardize exempt status.

Since your services and programs are benefiting your members (private group of individuals) rather than the community and the income from the public is inuring to the benefit of your members because it is used for the maintenance and improvement of social activities, you do not meet the requirements of section 501(c)(4) of the Internal Revenue Code.

CONCLUSION

Based on all the facts and circumstances, you have not established that you operate primarily for the purpose of bringing about civic betterments and social improvements as required by section 1.501(c)(4)-1(a)(2)(i) of the regulations. In addition, you are not operating in accordance with individual exemption received, and failed to provide accurate information return regarding activities/operation of organizations that claim to be your "chapters".

Thus, you are not primarily engaged in promoting the common good and general welfare of the people of the community as required by section 1.501(c)(4)-1(a)(2)(i). Consequently, you do not qualify for recognition of exemption under section 501(a) of the Code.

Revocation of exemption is hereby proposed, effective from January 01, 20XX. You are required to file Federal income tax returns on Form 1120 for 20XX and going forward.

TAXPAYER'S POSITION

Taxpayer's position regarding the revised report is unknown.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242

Date: November 7, 2008

Number: **200910087**
Release Date: 3/6/2009

LEGEND
ORG = Organization name XX = Date Address = address
UIL: 501.04-01

ORG.
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

In a determination letter dated April 19XXX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective July 1st, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On September 4, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You have filed taxable returns on Form[s] 1120, *U.S. Corporation Income Tax Return*, for the year[s] ended June 30, 20XX, 20XX, and 20XX with us. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Vicki L. Hansen
Acting Director,
Exempt Organizations Examinations



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
Exempt Organizations
135 High Street, Stop 250
Hartford, CT 06103

August 20, 2008

Taxpayer Identification Number:

ORG
ADDRESS

Form:

Tax Year(s) Ended:

re: ORG

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process,* explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues.* If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action.* We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Revenue Agent

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service **Explanation of Items**	Schedule No. or Exhibit
Name of Taxpayer	**ORG.**	**Year/Period Ended** 20XX06

LEGEND
ORG = Organization name XX = Date City = city XYZ = State

FACTS:

ORG was formed in 19XX. ORG encompasses a small area of approximately 550 acres within the city of City, XYZ. ORG represents approximately households. Its purpose is to take ownership of private roadways and common areas in a residential development and to provide for their repair and maintenance. In addition, ORG was to provide police protection and generally safeguard the health, comfort and safety of residents. ORG was granted exempt status in April of 19XX.

ORG is a membership organization. Local property owners are referred to as members, their membership is a consequence of property ownership within the City area. Only property owners are allowed to join, and membership is automatic under provisions of the organization's By-Laws and Corporate Charter. Initially organization assessed its members for the funds with which to carry out its activities, but had no legal authority to enforce its assessments.

Dues are not obligatory, unless there is a provision for them in the deed of the property owner, and are used chiefly to defray the costs of printing an annual directory and for some smaller social events. The organization also conducts various holiday programs and recreational activities for resident members, some of which involve additional charges.

The organization's primary activity was in the area of public safety and crime prevention. As a major part of its efforts in this area, the organization contracted with retired police officers to provide the community with professionally trained security personnel. They patrol the area and respond to calls for routine police matters. Access by non-residents is explicitly restricted, and notice is given that any unauthorized vehicles will be stopped. If security personnel detect the presence of non-residents in the area, non residents are asked to leave.

The organization's activities in the City area include removal of deteriorated structures and flora, and improvement and maintenance of residential area roads, signage, drains, and open spaces. Signs are posted at various entry points to the area indicating it is private property.

In 19XX, the state of XYZ adopted a statute to allow for the establishment of districts within municipalities. The City Tax District was formed by area residents. Since association dues or assessments were not enforceable taxes were needed for purpose the purpose of providing security services and maintaining Association's common areas, and to enforce liens against property owners who failed to pay the assessments. The creation of a Tax District ensured that all property owners paid their fair share of the expenses of the area.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG.		Year/Period Ended 20XX06

ORG leased its roads and common areas to the Tax District to limit ORG's liability. The Tax District and Association entered into a Service Contract. The Service Contract makes ORG responsible for the duties it always discharged. ORG sub-contracts its responsibilities to other entities for security and maintenance. Provisions of the annual contract are essentially unchanged since 19XX.

ORG is reimbursed for the services it provides at cost from the Tax District. ORG does receive tax return preparation, bookkeeping, and legal services through the Tax District's budget, but this is not disclosed on the 990.

The organization's activities benefit local property owners. Substantially all of its financial support comes from assessments imposed by the Tax District on the property owners, with a minimal portion collected from membership dues. Its expenses primarily grow out of its security patrol contracts, road maintenance activities, and social activities. Legal expenses were substantially increased during the examination year and subsequent year due to the challenge by a local resident to the arrangement with the Tax District. ORG later ended its role in security contracts.

Law:

Section 501(c)(4) of the Code provides for exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that 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 for the purpose of bringing about civic betterments and social improvements.

Rev. Rul. 72-102, 1972-1 C.B. 149, holds that certain nonprofit organizations of a type usually called homeowners' associations, which are formed to administer and enforce covenants for preserving the architecture and appearance of a housing development and to maintain streets, sidewalks, and other non-residential, non-commercial properties in the development of the type normally owned and maintained by a municipal government, may qualify for exemption under section 501(c)(4) of the Code.

Rev. Rul. 74-99, 1974-1 C.B. 131, modified Rev. Rul. 72-102, to make clear that a homeowners' association of the kind described in Rev. Rul. 72-102 must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG.		Year/Period Ended 20XX06

governmental subdivision or a unit or district thereof; (2) It must not conduct activities directed to the exterior maintenance of private residences; and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

Section of the Statutes states in pertinent part that a "district" means any

. Section of the Statutes states in pertinent part that voters may establish a district for any or all of a number of purposes, including to

among other things.

Flat Top Lake Association, Inc., v. U.S., 868 F.2d 108, involved an organization's tax exempt status pursuant to IRC Section 501(c)(4). In the Flat Top Lake case the

> "Association acquired approximately 2,200 acres of land. It constructed a 230 acre artificial lake. The land surrounding the lake front was subdivided into lots and sold. Access to the property was provided by a two-lane road constructed by the Association. The road is not a public highway and bears a sign at the entrance to the development stating "Flat Top Lake Association, Private Property, Members Only." There are 375 lots in the Flat Top Lake development owned by members...
>
> The Association performs "tasks of quasi-governmental nature" for the Association members and others. Those tasks include year-round water and sanitation services, snow removal from common areas, police protection, road and equipment maintenance and maintenance of the dam and other common areas. The Association is working with local authorities in considering construction of a sewage treatment plant. Further, it has promulgated a disaster relief plan in the event of failure of the dam, and it supplies a backup water supply to the nearby City of Beckley, a city of some 19,000 population."

The court concluded that the Flat Top Lake Association did not qualify for exempt status under section 501(c)(4) because it did not represent a community as the term is described in the published precedent. The area served did not bear a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district. The court further held that the benefits of the organization were limited to its members and benefits were not enjoyed by the general public. The exclusionary nature of the organization where benefits were limited to members indicated that the organization was not organized for social welfare but for

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer	ORG.	Year/Period Ended 20XX06

the private benefit of its members.

Government's Position:

Rev. Rul. 74-99, 1974-1 C.B. 131, is a key published precedent concerning ORG's right to continued exemption. The ruling cites the following requirements: (1) the organization must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; (2) the organization must not conduct activities directed to the exterior maintenance of private residences; and (3) it owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners' association.

The *Flat Top Lake Association, Inc., v. U.S.*, 868 F.2d 108, confirmed the criteria in the revenue ruling. Even though the Flat Top Lake Association performed many more quasi governmental activities than ORG the court still ruled that the organization did not qualify for exemption because its size was not reasonably recognizable as a governmental subdivision and the benefits provided served the organization's members.

ORG serves a members only area. Security personnel expel all those who are determined to be non-residents of the City area without regard to their activities, such as fishing, bicycling, or enjoying the local park. Further, non-residents are warned away and informed the roadways and common areas maintained in the course of the organization's activities are private property and not for public use. Benefits of the maintenance are restricted to property owners.

As stated in the *Flat Top Lake* case, although it is unquestionably their right to do so, when a group of citizens elects to separate themselves from society and to establish an entity that solely advances their own private interests, no potential for general social advancement is implicated. The requirements expressed in *Rev. Rul. 74-99* have not been met.

Taxpayer's Position:

The organization's position has not been made known.

Conclusion:

Since the organization's activities serve the private benefit of its members, it is not operated for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

Further, since ORG is not organized for pleasure, recreation, or other non-profitable purposes, it does not qualify for exemption from Federal income tax under section 501(c)(7) of the Code.

Form 886A	Department of the Treasury - Internal Revenue Service **Explanation of Items**	Schedule No. or Exhibit
Name of Taxpayer	ORG.	Year/Period Ended 20XX06

Similarly, since the organization's revenues are not primarily from member assessments, it does not qualify as a Homeowner's Association under section 528 of the Code.

ORG appears to be properly described by IRC 277 as a membership organization which is not exempt from taxation.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75242

501-04-00

Date: December 4, 2009

Release Number: **201013060**
Release Date: 4/2/10
LEGEND
ORG = ORGANIZATION NAME XX = DATE ADDRESS ADDRESS

ORG
ADDRESS

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Exemption under Section 501(c)(4)
of the Internal Revenue Code
Person to Contact/ID Number:
Contact Numbers:
Phone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

In a determination letter dated 03/12/20XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective 01/01/20XX. This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On 05/15/20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You are required to file Federal income tax returns for the tax period(s) shown above. If you have not yet filed these returns, please file them with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted, or unless an examiner's report for income tax liability was issued to you with other instructions. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal

Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in the United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Taxpayer Advocate Service

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Sunita Lough
Director, EO Examinations



TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
1100 Commerce Street
Dallas, TX 75242

April 8, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

LEGEND
ORG = Organization name XX = Date State = state River = river
CO-1, & CO-2 = 1ST Company, 2ND Company ATT-1, ATT-2, ATT-3, ATT-4, ATT-5, ATT-6, ATT-7 & ATT-8 = 1ST ATTRACTION, 2ND ATTRACTION, 3RD ATTRACTION, 4TH ATTRACTION, 5TH ATTRACTION, 6TH ATTRACTION, 7TH ATTRACION & 8TH ATTRACTION

ISSUE:

Whether ORG's (ORG) section 501(c)(4) exempt status should be revoked effective January 1, 20XX, because the ORG is organized for profit. and is not operated exclusively for social welfare purposes.

FACTS-ORGANIZATIONAL:

The ORG (ORG) was incorporated or formed on 11/12/19XX. The ORG applied for exempt status under Section 501(c)(7) as a social ORG on 11/19/01. The ORG received a determination letter granting them exempt status under Section 501(c)(4) on 3/12/20XX. The ORG's Form 1024, Application for Exempt Status states, "The organization formerly owned and operated a private nine hole golf course and ORG house/restaurant for its members only. A couple of years ago, however, the organization went through a change. Rather than focusing on its members, it became a community organization. It opened its golf course up to the public. As a part of this change, it entered into an agreement with ORG, State, to combine with the organization's nine holes of golf the nine holes of golf owned by ORG, State. Thus, the organization currently operates an 18 hole course that is open to the public. ORG requested the organization to operate the entire course. This is the only golf course near City, State. ORG requires that all green fees be used towards the maintenance of the 18 holes of golf. ORG regularly meets with the organization to provide suggestions as to how to make this course better for the general community..."

The ORG's most recent ARTICLE's OF INCORPORATION dated 3/31/20XX [and prior Articles] state the following:

Article III PURPOSES AND POWERS
The ORG was organized and continues as a non-profit country ORG for the purpose of owning and operating a golf course, a ORG house and other related recreational, dining and social facilities for the recreation and enjoyment of the ORG's duly qualified members. The ORG shall have the power to carry on all activities reasonably related or incidental to the operation of a golf and country ORG. No part of the net earnings of the ORG shall inure to the benefit of any member or individual. The ORG's powers shall include but shall not be limited to the following:
(1) To construct, own, operate, and carry on a golf ORG for the use and enjoyment of its members and their guests, and to build, own, operate and maintain a golf course, a pro shop, a ORG storage facility and other related facilities, on its own or in conjunction with

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

other public or private entities as may be determined by the ORG's Board of Directors, for the use, pleasure and enjoyment of the ORG's member, their guests and the public.
(2) To construct, own, operate, and maintain a ORG house and other facilities as may be determined by the Board of Directors, including a restaurant, dining areas, dance floors or areas, refreshment stands, locker rooms, and other rooms, places or facilities, and to provide or conduct social, entertainment or amusement activities, for the convenience, health, comfort, and entertainment of the ORG's members and their guests;

Article VI (f) POWERS OF THE BOARD OF DIRECTORS
(1) To make, alter or amend the Bylaws and ORG rules and provide penalties for infractions thereof by members; all bylaws made and enacted by the Board shall have full and final effect unless inconsistent with the laws of the State of State or the Constitution and Articles of Incorporation;
(2) Prescribe the terms upon which persons may be accepted to membership in the ORG;
(3) Accept or reject any application for membership;
(4) Fix and prescribe classifications of members;
(5) Determine and fix admission fees and dues;
(6) Levy assessments against the members and provide for the collection of the same;
(7) Approve the hiring of the ORG manager, the golf pro, the greens superintendent, and all other employees of the ORG, and approve all salaries of ORG employees;
(8) Fine, reprimand, suspend or expel any member;
(9) Remove for cause any director or officer....

Article IX MEMBERSHIP
(a) Eligibility. Any person of good moral character, twenty-one years of age or over, shall be eligible for membership in the ORG, subject to the provisions of the Bylaws and rules of the ORG.
(b) Application for Membership and Action Thereon. Matters relating to applications for membership and action thereon shall be as fixed in the Bylaws.

The ORG's BYLAWS dated 3/31/20XX [and prior bylaws] state the following:

Article I Section 1.1 Purposes. The ORG was formed and continues as a nonprofit country ORG for the purpose of owning and operating a golf course, ORG house and other related recreational, dining and social facilities in City, State for the enjoyment and recreation of its members.

Article II MEMBERS:
Section 2.1.1. Members....In the case of a membership owned by a corporation or other entity, such entity shall designate one individual who will be deemed the owner for purposes of use of ORG facilities and voting.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

Section 2.1.2. Equity Members. Equity Members are those members who have purchased an equity membership, have received a certificate of equity membership issued by the ORG, and whose equity membership has not been sold by the member or terminated by the ORG. Equity Members are entitled to vote, hold office, share in any liquidation proceeds, and sell, transfer or bequeath their membership in the ORG as permitted by these Bylaws.

Section 2.1.3. Non-Equity Members. Non-Equity Members are those members who have purchased a non-equity membership and whose non-equity membership has not been terminated by the ORG. Non-equity Members are not entitled to vote, hold office, share in any liquidation proceeds, or sell, transfer or bequeath their membership in the ORG.

Section 2.4 Admission Procedures. Membership in the ORG will be solely by invitation of the Board. A request that an invitation to membership be extended must be made in writing by at least one (1) voting Equity Member in good standing. All requests for invitations will be submitted to the Membership Committee of the Board for consideration and review. The Membership Committee will carefully examine all information and communications in reference to each candidate. Before each monthly Board meeting, the Membership Committee will submit to the Board members a list of individuals for whom an invitation for membership has been requested, together with its recommendation for action. All information regarding the candidates, as well as all action taken by the Membership Committee and the Board regarding such candidates will be kept confidential. The affirmative vote of four Board members will be required to admit a candidate. Should the nomination be unfavorably acted upon, it may not be submitted again for a period of one (1) year. It will be the duty of each Member of the ORG possessed of any negative information regarding the character of a candidate, or knowing of any good reason why membership should not be granted to such individual, to communicate the same to the Membership Committee. All such communications will be held by the Membership Committee in strictest confidence.

Section 2.6. Upgrade from Non-Equity Membership to Equity Membership. At the discretion of the Board, a Non-Equity Member may become an Equity Member by requesting such status and by paying as an initiation fee the difference between the fee paid by the Member at the time he or she became a Non-Equity Member and the then current initiation fee for an equity membership. [For 20XX, both the purchase of an Equity membership and the initiation fee for a Non-Equity membership were $.]

Section 2.8. Voting Rights. ...Each Equity Member in good standing shall have one vote. Non-Equity Members shall not have voting rights. [In 20XX, the ORG had 127 equity members and 105 associate/non-equity members; both classes pay annual dues of $ per person.]

Article XV DISSOLUTION

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

Section 15.1. Dissolution of the ORG. In the event that the ORG shall be dissolved, the Equity Members in good standing shall participate on a pro-rata basis in the distribution of the net assets of the ORG.

FACTS – OPERATIONAL:

Golf Course Open to Public

The ORG operates an 18 hole championship golf course under an arrangement with ORG, State. The County owns 9 holes and leases this to the ORG in exchange for the ORG managing and maintaining it along with their 9 holes, and keeping the entire 18 holes open to the public. The County requires the ORG to roll green fees from the golf course back into the course for operating expenses, maintenance and improvements. For 20XX, the County also appropriated $ for capital improvements and equipment for the golf course.

Numerous golf tournaments are held on the golf course including fundraisers, state sponsored or sanctioned events, and company outings. All of the golf tournaments are open to the public as well as the ORG members. There are many people from out of the area that participate in the tournaments.

Members of the ORG and members of the general public all pay the same to play golf– whether it is a season pass or green fees.

Private ORG house – Members pay dues to patronize but also open to the public.

Facilities owned by the ORG include a restaurant and bar which is a private ORG house with a Class A liquor license as contemplated in Section 32A-5 of the State Code. The building also contains several large conference rooms not subject to the state private ORG rules.

Although the ORG house is a "private ORG" for purposes of the state liquor law, the ORG maintains that it is open to the public for practical purposes. The ORG actively seeks to book business meeting luncheons and corporate golf outing dinners with local and visiting companies and groups as well as company holiday parties, weddings, reunions, birthday gatherings, etc. The ORG meets and works with the Convention and Visitors Bureau and local hotels, rents billboards, and buys radio time to find bookings for the ORG house. The ORG explained that private ORG rules are followed by having a member of the ORG sponsor an event. Thus, the attendees are guests of that member. When an event is initiated by a non-member, they will ask one of their relatives or friends that is a member to sponsor the event. If it happens that there is non-member business, the person who is hosting the party must buy a temporary membership. [See section below on membership.]

Snack bar and pro-shop – Open to the public

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

ORG property also includes a building housing a snack bar and pro-shop, open to the public. Beer, but not liquor, is served in the snack bar so it is not subject to the State private ORG rules. The snack bar business is owned and operated by the ORG. The pro-shop business is owned and operated by the general manager (GM) of the ORG who is also their golf professional.

Membership: Voting, Non-Voting and Temporary

There are three classes of membership: (1) equity members, who have purchased an equity membership, are entitled to vote, hold office, share in any liquidation proceeds, and sell, transfer, or bequeath their shares in the ORG, (2) non-equity members, who are not entitled to vote, hold office, share in any liquidation proceeds, or sell, transfer or bequeath their shares in the ORG and (3) temporary members, whose only benefit is the use of the ORG house. Equity and non-equity membership is only by invitation of the ORG.

For 20XX, the purchase of both an equity membership and the initiation fee for a non-equity membership was $. Both classes pay annual dues of $ per person. In 20XX, there were 127 equity (voting) members and 105 non-equity (non-voting) members. Upgrade from non-equity to equity membership is at the discretion of the Board. Since the equity and non-equity members pay the same dues and fees, it is not immediately apparent why the non-equity members are not allowed to vote. One possible explanation may be that the State State liquor law requires at least of the membership of a Class A liquor licensee have full voting rights [and an equal share in the equity of the ORG if it is a stock corporation]. The ORG has members with full voting rights. This arrangement will generate dues revenue from all "members" willing to pay dues while granting full voting membership only to the extent required by State law. This would allow for maximum revenue and minimum sacrifice of voting control and equity.

Regarding the temporary memberships, in actuality, very few are sold. Non-member/temporary dues in 20XX totaled $. Regular membership dues totaled $. Initially, the examining agent was told that a temporary membership costing $ entitled the purchaser and guest(s) the use of the ORG house for two weeks. This amount was charged at the request of regular members because it approximates member's annual dues on a prorated basis. The members didn't think it was fair if they had to pay $ per person; $ per married couple to patronize the ORG house if a non-member could get in on a $ vistor card. [Under state law, the $ visitor card can be good for 3 weeks.] Per correspondence from the ORG's representative dated 3/13/20XX, "for the last several months they have three different types of non-member use of the restaurant. First, non-members are able to purchase a one month membership for the $. Second, they can purchase a one day membership for $. Third, and apparently the largest use, is that non-members are allowed to use the restaurant based upon being a guest of a member."

Membership dues, whether annual or temporary, do not entitle a member to use the golf course, only the restaurant and bar.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

Control of ORG

According to the Articles of Incorporation, control of the ORG rests with a board of seven directors who are elected by the members. The board determines who will be accepted as a member to the ORG and who will not. A prospective equity/voting member must be recommended to the board by a current equity member. An affirmative vote of four board members is required to admit a candidate.

The board meets with the County regularly regarding the management of the golf course, but manages the ORG house and membership in the ORG independently.

The area where the ORG is situated

The ORG is 1 of 5 golf courses in all of covers a comparable geographic area and has 88 golf courses. The golf course winds along the River and is banked by sandstone and shale cliffs. It is located between the towns of City and City in ORG. The approximate population of City is and City, the largest town in the county, There are at least two hotels in City which have event facilities. The CO-1 advertises that it has meeting and banquet facilities for groups of 10 to 500. The CO-2 has two meeting rooms. The larger has a capacity of 200 and the smaller, 50. Per an internet source, ORG per capita income is approximately $ with of the population below the poverty line. Largest industries are mining, government, and wholesale/ retail trade.

ORG terrain consists of mountain and desert. The area appears to be somewhat economically depressed, however many tourist attractions draw in additional commerce. City was once the hub of State's transportation and mining industries, and now nearly every building on Main Street is on the NATT-2. Other attractions in this area called "ATT-1" (unusual rock formations) include ATT-3, ATT-4, ATT-5, ATT-6 ATT-7, and ATT-8. There are hundreds of miles of mountain bike trails, trout fishing, hiking tours and camping.

FACTS – FINANCIAL:

The following two pages contain the ORG's financial statements. The ORGs allocates income and expenses to either the ORG house or the golf course.

Form 990	Revenue	ORG house	Golf Course	Combined
	Green Fees-ORG Members & General Public			
	Golf Season Passes - General Public			
	Driving Range Income			
	Riding Cart Rentals			
	Advertising Income – Bench Ads			
	Visitor cards - Temporary Membership ORG house			

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

	Mineral lease income			
	Miscellaneous income			
	Collection charge returned cks			
Line 2	Program Service Revenue			
	ORG house Member Golf Passes			
	ORG house Member Dues			
Line 3	Membership Dues			
Line 4	Interest Income			
	Sale of Fixed			
Line 8	Assets			
	ORG house - Food			
	ORG house - Minimum Charges			
	ORG house - Bev			
	ORG house - Liquor			
	ORG house - Beer			
	ORG house - Catering Deposits			
	Subtotal			
	Snack Bar - Food			
	Snack Bar – Beverages			
	Snack Bar - Beer			
	Subtotal			
Line 10a	Gross Sale of Inventory			
	Total Gross Receipts			
Line 10b	Cost of Goods Sold			
Line 12	Total Revenue			
Line 44	Total Expense			
Line 18	Excess or (deficit)			

Form 990	Expense	ORG house	Golf Course	Combined
	Groundskeeper Salary			
	Assistant Groundskeeper Salary			
	Assistant Golf Pro Salary			
	Grounds Labor			
	Salary - Driving Range			
	Starter's Salary			
	Marshalling			
	General Manager and Golf Pro Salary			
	Office Clerk and Office Manager Salary			
	Crew Labor			

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

	Labor Snack Bar	
	Janitor	
Line 26	Other Salaries and Wages	
Line 29	Payroll Taxes	
Line 31	Accounting Fees	
Line 32	Legal Fees	
	Office Supplies	
	Paper Supplies, Linens	
	Janitor Supplies, Misc Supplies, Freight	
	Kitchen Supplies, Uniforms, China/Silver,	
	Gasoline & Lubricants	
	Bar Supplies, Mistakes/Spills Liquor	
Line 33	Supplies	
Line 35	Postage and Shipping	
Line 37	Repairs & Maintenance - Bldgs & Equip	
Line 42	Depreciation	
	Outside Labor	
	Electric	
	Phone	
	Water	
	Tax & license	
	Property Taxes	
	Insurance	
	Employee ed,insure,bene,wrkmns comp	
	Legal services	
	Advertising	
	BDay, dues/sub, entertain, cable, misc, bad cks	
	Bank charges	
Line 43	Other Expenses	
Line 44	Total Expenses	

LAW:

IRC, 2007-CODE-VOL, **SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.**

501(c)(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

501(c)(4)(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

The term "shareholder" includes a member of an organization. See *West Side Tennis Club v. Comm.*, 111 F. 2d 6 (2d Cir. 1940).

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

FINAL-REG, TAX-REGS, **§1.501(c)(4)-1. Civic organizations and local associations of employees**

Reg. §1.501(c)(4)-1 does not reflect P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73 or P.L. 104-168.

(a) *Civic organizations*

(1) *In general.* —A civic league or organization may be exempt as an organization described in section 501(c)(4) if:

(i) It is not organized or operated for profit; and

(ii) It is operated exclusively for the promotion of social welfare.

(2) *Promotion of social welfare*

(i) *In general.* —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.

(ii) *Political or social activities.* —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.

Revenue Ruling 64-313

The organization in question was incorporated under state law, without capital stock, as a nonprofit corporation. Its purpose is to maintain a registry for the wishes of members in regard to arrangements following death; to study and develop methods of achieving simplicity and dignity in funeral and memorial services; and to educate and inform its members and the public as to the results of such study.

Membership is available to any person who is in sympathy with the purposes of the organization on payment of a nominal membership fee. The income of the organization is derived from membership fees and donations. Its funds are expended for office rental, printing and supplies, secretarial help, and other miscellaneous expenses.

It is clear that the educational functions of the organization benefit the community as a whole by informing it of the problems involved in funeral arrangements. Furthermore, the maintenance of the registry is not similar to a business ordinarily carried on for profit, and in view of the nominal cost of membership and the non-exclusiveness of membership, this activity also serves a public purpose by facilitating the completion of decedents' funeral arrangements and the disposition of their remains in accordance with their wishes. Supplying information to members or their

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

representatives as to local funeral directors furnishing low cost funerals is incidental to and in furtherance of the organization's primary social welfare functions.

Revenue Ruling 67-109
A nonprofit corporation which operates a roller skating rink is exempt under section 501(c)(4). The roller skating rink is located in a county-owned building which is made available by the county government to the organization on a rent free basis. The income of the organization, which is derived from admissions, membership fees, and concessions operated in conjunction with the skating facilities, is used to defray operating expenses. Although the charges made are aimed at a break-even operation, any profit which the rink might realize is donated to the county for necessary improvements to the rink building. Membership in the organization, which qualifies one to vote for officers and directors at the annual meeting, and admission to the rink are open to all residents of the county upon payment of a nominal amount.

Revenue Ruling 66-273
An organization was formed to provide supervised facilities in a community for the development of good pistol, rifle, and shotgun marksmanship and for instruction in the safe handling and proper care of firearms. Membership is open to any citizen of the community of good moral character over 18 years old. Its receipts are derived from membership dues, range fees, and proceeds from the sale of ammunition and targets. Disbursements are made for the purchase of ammunition and targets, improvements to the range ground and buildings, expenses of special events, and miscellaneous operating expenses. The organization does not maintain a clubhouse. Social affairs are limited to an annual dinner for members, occasional picnics, and special events. None of the organization's income inures to the benefit of private individuals.

American Women Buyers Club, Inc. v. Commissioner, 238 F.2d 526 (2nd Cir. 1964)
The court affirmed denial of exemption to a membership corporation of female ready-to-wear buyers organized to promote the general good and welfare of members in the trade, encourage friendly relations, and give aid to members in distress. Membership, even within the trade, was restrictive as approximately 15% of the applicants were turned down. The services provided by the club (such as employment facilities, information about sources of supply, lectures, dinners, installations, publications, and sick and death benefits) were all primarily, if not exclusively, for the club membership.

Revenue Ruling 80-205
The Service ruled that it will not follow the decision in Eden Hall Farm v. United States, 389 F. Supp. 858 (W.D. PA 1975). This case held that an organization providing recreational facilities to the employees of selected corporations qualifies for exemption as a social welfare organization described in IRC 501(c)(4).

Revenue Ruling 69-385

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

A corporation was formed for the stated purpose of promoting the general welfare of the residents of a particular community. Membership in the corporation was available to those who owned property in a designated area. They paid an assessment based on the amount of property owned. Membership was transferable to successive purchasers of property owned by the original members. The corporate bylaws provide that any profits of the corporation shall be apportioned pro rata among the members according to the assessment originally paid. The corporation used the original assessments to purchase unimproved lots and some undeveloped land in the area. Over the years, the corporation sold on a sporadic basis some of the property and received substantial income from such sales. It derived additional income from the investment of the proceeds from the sales. The corporation improved and maintained nonresidential property and engaged in other activities for the benefit of all the residents of the area. On several occasions the corporation distributed profits to the members in accordance with its bylaws provisions. The corporation is authorized to make, and in fact made, distributions of profits to its members. These distributions are equivalent to dividends based upon equity ownership and result in profit to the members. It was held that the corporation does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code since the authority for making the distributions and the distributions themselves are incompatible with the requirements of the regulations that an organization must not be organized or operated for profit.

In P.L.L. Scholarship Fund v. Commissioner, 82 T.C. 196 (1984) [CCH Dec. Link 40,960]
An organization operated bingo at a bar (a for-profit enterprise) for purposes of raising money for scholarships. The board of directors included the bar's owners and accountant, and two other persons. The court reasoned that, because the bar owners controlled the organization and appointed its directors, the organization's fundraising activities could be used to the advantage of the bar owners, and thus, provide them with a maximum private benefit. The organization claimed that it was independent because there was a separate accounting and that no payments were going to the bar. The court maintained that the organization's and the bar's activities were so interrelated as to be "functionally inseparable." A separate accounting did not change that fact. Thus, the organization did not operate exclusively for exempt purposes, but rather benefited private interests - the bar owners. Exemption was properly denied.

Revenue Ruling 74-298
A nonprofit organization was formed by local businessmen to provide recreation and entertainment for the citizens and visitors of the community. All residents of the community are eligible to become members of the organization upon payment of a nominal initiation fee and approval of a majority of the Board of Directors. The organization's sole activity is the sponsorship of an annual professional golf tournament that would otherwise not be available to the community. The tournament features nationally known competitors and receives nation-wide news coverage. The organization charges a standard admission fee to the public to attend the tournament. The organization's income is from gate receipts, membership fees, and assessments. Its disbursements are for prize money for the golfers, rental of a golf course, and miscellaneous administrative expenses. The ruling held that a professional golf tournament is an activity that

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

can be operated for profit, and the sponsorship of such a golf tournament can itself be a business for profit. The golf tournament sponsored by the organization is carried on with the general public and is operated in a manner similar to tournaments operated for profit. Accordingly, the organization is not operated primarily for the promotion of social welfare and, therefore, does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

In People's Educational Camp Society, Inc. v. Commissioner, 331 F.2d 923 (2nd Cir. 1964), a nonprofit corporation's social welfare activities were supported by its operation of a commercial resort. The court rejected the argument that the resort activities were social welfare and characterized them as business activities. It noted that a large portion of the revenue was being reinvested in the commercial operation. As the business activities were of such magnitude in comparison with the social welfare activities that the organization could not be said to be exclusively (that is, "primarily") engaged in the promotion of social welfare, the court held the organization nonexempt.

In Club Gaona, Inc. v. United States, 167 F. Supp. 741 (S.D. CA 1958), the organization's principal activity was the promotion of regular public dances, which were its main source of income. The club used these profits for speculative real estate dealings. The court held that the organization was not primarily promoting social welfare as its profits were devoted to the accumulation of funds which were not used for ascertainable civic projects.

GOVERNMENTS POSITION:

The ORG operates in several capacities:

1.) As a private ORG bar and restaurant in order to comply with the state liquor laws, to control membership and ownership, and for the benefit, pleasure and recreation of the members.
2.) Carrying on a business with the general public by actively seeking bookings for golf tournaments, banquets, other events and daily business.
3.) Managing and operating a County owned 9 hole golf course in conjunction with their own 9 hole course to provide recreation for the community and for ORG members.

During the course of this examination, there has been a good deal of discussion and fact finding in an attempt to determine whether the ORG is organized and operated as required under IRC 501(c)(4). i.e. Are the Articles and Bylaws consistent with IRC 501(c)(4)? What is the primary activity and is it in furtherance of social welfare purposes? Relevant facts and circumstances are as follows.

Social and recreational activities for members and activities similar to those carried on by a business operated for profit are present to a substantial degree. Functions for members in the ORG house and member golf leagues are not IRC 501(c)(4) activities. They are social and recreational activities for members. Also, operating a bar, restaurant, banquet facilities, renting out meeting rooms, and even hosting golf tournaments [R.R. 74-298] are activities similar to

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

those carried on by a business operated for profit and are not IRC 501(c)(4) activities. However, these activities do not preclude exemption provided they do not comprise the primary activity of the organization.

Factors such as the remote location of the golf course, the economically depressed area, the community's need for recreation, and the golf course being available at the same cost to the general public and ORG members, are indicative that the golf course may be operated for the benefit of the community. The ORG has suggested that the arrangement they have with the County and the support they receive from them shows that they qualify under IRC 501(c)(4).

The examining agent suggests that the "arrangement" is a management contract and the "support" is compensation under that contract; i.e. capital acquisition funds [9 holes are ORG property], additional revenues generated by the draw of having an 18 hole course suitable for tournaments, and additional revenues from being open to the public. The County's purpose was to provide a golf course open to the community. To achieve this, they contracted with a privately owned golf course [the ORG] to manage and operate it. The ORG did not apply for exempt status until a couple of years later. Nevertheless, without regard to the private ownership of the ORG, operation of a public golf course can qualify as a 501(c)(4) activity provided other facts and circumstances are consistent with IRC 501(c)(4). The examining agent will continue with the government's position allowing the presumption that the 18 hole golf course activity is considered to be an activity of the ORG and an activity described in IRC 501(c)(4).
Returning to the determination of the primary activity of the ORG; one method of determining the primary activity is a gross receipts test. Initially, the examining agent used the ORG's allocation of receipts on their financial statements for the gross receipts test which resulted in the ORG house having of gross receipts. However, the ORG pointed out that this allocation was
flawed because receipts from riding cart rentals and the snack bar are related to the golf course. Thus, these receipts were moved to the golf course column as reflected in the schedule below. Gross receipts from the golf course activities, i.e. green fees, season passes, golf cart rentals, driving range income and snack bar income make up of total gross receipts.

	ORG house	Golf Course	Total
ORG Financial Statements			
Gross Receipts			
Cost of Goods Sold			
Total Revenue			
Total Expense			
Excess or (Deficit)			
Riding cart rentals			
Snack Bar receipts			

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

Reallocation	
Gross Receipts	
Cost of goods sold	
Total Revenue	
Labor snack bar	
Total Expense	
Excess or (Deficit)	

The gross receipts test shows the golf course activity to be the primary activity and there are factors supporting that the golf course is operated for the benefit of the community. Additional facts and circumstances relevant in determining qualification for exempt status are as follows.

The examining agent feels it is important to point out that the riding cart rentals and snack bar income are not required by the County to be rolled back into the golf course. [Not that this would necessarily prevent funds from benefiting equity members as they own half of the 18 hole course.] These receipts may be disbursed as deemed necessary by the ORG board. In fact, the ORG financial statements allocate all of these receipts to the ORG house. Regardless, the excess from general public patronage benefits ORG members in such forms as an increase in services offered by the ORG without a corresponding increase in dues or other fees and as an increase in the ORG's assets which are distributable to equity members upon the dissolution of the ORG.

Equity membership in the ORG is exclusive; limited by the Board. Equity members are given access to the ORG house, the right to vote, hold office, and share in the net assets of the ORG upon dissolution. Non-equity members pay the same dues and fees and only receive access to the ORG house. They are not allowed to vote, hold office, or share in the net assets of the ORG upon dissolution. An organization that is operated for the benefit of the community should be open to all persons in the community with full voting rights and equal dues for equal rights. The exclusivity of membership is inconsistent with IRC 501(c)(4) purposes.

The ORG has stated that the ORG house itself provides social welfare activities because it has meeting rooms which provide a place for "various charities and other public gatherings" and that the bar and restaurant is not just for members but, open to the public, for all practical purposes. The examining agent contends that the activities are not social welfare activities. There are other bars, restaurants, event centers, banquet facilities, and a convention center, in the area. These are business activities carried on with the general public and operated for profit. However, it is not the operation of the ORG house as a business activity [or social activity for members] that precludes exemption. The ORG house does not appear to be the primary activity. The problem is the private ownership of the ORG house along with the limited membership. Revenues treated as tax exempt are inuring to private individuals.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

The Articles and Bylaws are not consistent with and in furtherance of IRC 501(c)(4) purposes. They state "In the event that the ORG shall be dissolved; the Equity Members in good standing shall participate on a pro-rata basis in the distribution of the net assets of the ORG." The net earnings of a 501(c)(4) organization must be devoted exclusively to charitable, recreational, or educational activities. The ORG's dissolution clause which provides for the distribution of nets assets to its members is not consistent with exemption under IRC 501(c)(4). [R.R. 69-385]

The organizing documents do state that the ORG was organized as a non-profit country ORG and that no part of the net earnings shall inure to the benefit of any member or individual. However, this declaration is contradicted when these same documents also authorize the issuance of certificates of equity, which are certificates of stock representing ownership in the corporation, and dedicate the assets to the owners/members of the corporation.

The ORG states that it is the net assets of the ORG that will be shared by the members and that IRC 501(c)(4) only requires that no net earnings inure to the benefit of any private shareholder or individual. The examining agent argues that for purposes of the prohibition against inurement, these terms are indistinguishable and interchangeable. Both the net assets and the net earnings of an IRC 501(c)(4) organization are protected by this prohibition. The ORG is organized so that equity members will participate on a pro-rata basis in the distribution of the net assets upon dissolution. This is a fatal flaw in the ORG's organizing documents.

TAXPAYER'S POSITION:

[Letter dated 12/28/20XX] The report basically ignores the fact that substantially all of the activities and funds of the Golf Course are devoted to maintenance and operation of the public golf course which provides needed recreational activities to the general public and is of the type that ORG clearly recognizes and supports. In addition to the larger capital acquisition payments, ORG contributes indirectly to the operations of the golf course. This results from the County making the additional nine holes of golf available for use with no charge. Thus, the golf course is able to use the green fees generated by this free use of the County's property for the operation of the golf course as a whole. All such green fees, as well as all golf passes sold to members and non-members must be used for the care, maintenance, and operation of the golf course. The vast majority of such green fees are paid from the general public users or from public tournaments. In addition to the use of the County's portion of the golf course, the County contributed last year about $ for golf course capital acquisitions. Given these two forms of contributions, there is no doubt but that the operation of the golf course is furthering one of the purposes of the County.

A "de minimis" part of the Golf Course activities is the operation of the restaurant. The restaurant is owned and operated in the manner imposed upon it by the State of State as a result of its liquor license. These rules make it appear as if it is similar to other private ORGs. However, like most places in State that permit the sale of alcohol, the actual operation of the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

ORG is radically different from a true private ORG. The public is able to and does use the restaurant. This is facilitated by the payment of a small three day fee, now being the minimum $ fee set by the state of State. The requirement of a member sponsoring an event to be held at the restaurant by the public on paper also looks like a private ORG. Here again, the state of State requires a member to sponsor such an event. However, this is form over substance, since such member sponsorship has been and is available upon request. In addition, in the same building as the restaurant, there are several large conference rooms. These are fully available, without the minimum liquor license fee, for all types of community and other charitable uses and are frequently used for such purposes.

Proceeds from the golf cart rentals are used for golf cart repair, maintenance, and purchase of new replacement carts. This is not the profit center alleged in the report, especially since this "profit" only goes to improve the facilities used by the public.

Although Code Section 501(c)(4) may use stricter language, the regulations make it clear that all that is required for an entity to qualify under this section is that it be "primarily" engaged in promoting the common good and general welfare of the people of the community. Regs. 1.501(c)(4)-1(a)(2)(i). Given the large percentage of funds and time devoted to the golf course, it is clear that this is the primary focus. There is no question that ORG clearly believes that the operation of a golf course is for the common good and general welfare of its citizens. This is the only golf course in ORG and ORG not only owns a portion of the course in question, but also regularly contributes substantially towards the cost of capital improvements. It is also clear that the golf course is available to the general public.

Although the report recognizes the obvious desire of the County to provide this type of recreation to its citizens, it suggests that this for some reason is not the type of social welfare addressed in Section 501(c)(4). The providing of recreation by governmental entities is common place and clearly is a governmental function. The fact that an economically strapped county, such as ORG, desires to make this type of capital resource available for recreation is proof that the golf course operation satisfies the social welfare requirement.

The report asserts the finding in a case which benefits a small group of apartment renters as reason why the golf course is not for the public benefit. There is no comparison between these two. There is not a select group that benefit from the golf course as there was in the apartment case. Every citizen is able to enjoy the benefit of this course. Clearly, this is a public and not a private benefit and the comparison to an apartment complex is completely incorrect. The lack of benefit to the members is additional evidence of the public purpose of the golf course.

The report also focuses on the restaurant as preventing satisfaction of the "primarily" engaged requirement. The report is wrong on three points. The activity and cost of operating the restaurant pales in comparison to the operation of the golf course. Second, the restaurant, for a small fee required by the state of State, is available to the public. Third, a portion of the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

restaurant itself provides social welfare. It provides a place for various charities and other public gatherings. In this economically strapped county, the ability for a large public group to gather satisfies a public welfare requirement. Although the state of State dictated liquor laws place some technical road blocks for such public gatherings, these have and continue to not be anything more than technical. For example, member sponsoring is required, but freely given to all. Such activities are very similar to those involved in Rev. Rul. 65-195, which found a social welfare activity to be present in conducting community sports contests.

We believe that the regulations and case law provide that once the public welfare benefit is established, minor profit activities do not destroy its qualifying under Section 501(c)(4). Although the court found that the primary activity of the taxpayer in People's Educational Camp Society, Inc. v. Comr. was the providing of for profit management services, the court indicated that had this been a secondary activity, the taxpayer would still qualify under Section 501(c)(4).

Similarly, see TAM 9815061, where the entire activity was a for profit activity. This distinction is best found, however, in TAM 97110004. Here a number of subordinate organizations were found to have as their "predominant activity" the commercial operations of a bar and restaurant. However, the parent company that oversaw such subordinate organization as well as other charitable organizations remained qualified since this commercial activity was not the primary or principal activity of the parent company. In short, the existence of minor non public welfare activity does not destroy the qualification.

Here, it is only a minor activity that is arguably a for profit activity. By far and away the vast majority of the activity is the operation of the public golf course. It is this activity that should control.

PRIOR APPROVAL: Even if the primary purpose of the golf course is ignored and hence the golf course is denied 501(c)(4) status, such change cannot be done retroactively. The golf course obtained a determination letter from the IRS. Neither its organizational documents nor its operations have changed from those disclosed in the application for this determination. Thus, this is a re-determination of the same facts and one that must be done prospectively only.

[Letter dated 1/30/20XX] We still disagree on two basic points. First, the regulations do not prohibit all other activity, but only require that the organization be "primarily" engaged in promoting the common good and general welfare of the people of the community. Reg. 1.501(c)(4)-1(a)(2)(i). We believe that even if the areas you have focused upon do not fit squarely in this general welfare requirement, such activities are very minor compared to the real focus of the golf course operator.

Second, we disagree with your conclusion that the provision to distribute the assets of the golf course operator to its members results in the sharing in net profits. In fact, the organizational documents prohibit the sharing in the net profits. Instead, they require the distribution of the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

remaining assets to the members if the entity ever dissolved. These two provisions are not in conflict since the net profits would be required to be distributed to a public charity and the initial capital (the land) distributed to the members.

[Letter dated 3/13/20XX] This is a follow up to our telephone conversation of about a week ago. [manager appeal conference] Attached is a summary of the financial income statement for the ORG. I have tried to allocate the income generated by the golf course versus that generated by the restaurant/ convention facility. It shows $ of income being generated by the golf course as compared to $ being generated by the restaurant/convention facility. It is difficult to make this same allocation based upon expenses since many of the upper level employees jobs are divided between the two activities.

With respect to the restaurant, management confirmed that for the last several months they have three different types of non-member use of the restaurant. First, non-members are able to purchase a one month membership for the $. Second, they can purchase a one day membership for $ (the minimum permitted by the state of State). Third, and apparently the largest use, is that non-members are allowed to use the restaurant based upon being a guest of a member. This last option is used the most and on a very liberal basis. Thus, any time there is any possibility that a non-member can attach himself or herself to a member, then no fee is charged. The reason being is that the restaurant needs more customers and hence they have an incentive to permit non-members use of it.

I had the ORG take a count of member versus non-member use of the restaurant over the time period from February 26 to March 8th 20XX. During this time, there were 29 members who used the restaurant and 180 non-members who used the restaurant. According to the ORG management, this is a typical use ratio.

Given the non-member availability to use the restaurant and the actual use of the restaurant by non-members, it is obvious that there is no real value to the members and hence no inurement to them. Given the low or no cost to use the restaurant there is clearly no real value being given to the members.

I did some research on the issue of the land going to the members upon a dissolution and whether or not the unrecognized appreciation would be treated as "net income" for purposes of the prohibition against sharing in income. I was not able to find anything on point going either direction. The board of directors has no problem amending the bylaws so that to the extent income was used to improve the property that the value of such improvements would go to a 501(c)(3) charity upon any dissolution. However, as to the real property itself, I still believe that an entity should be able to distribute such an asset to members upon dissolution without violating the sharing in net income, whether or not there has been unrecognized appreciation.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12, 20XX12

I also said that I would check on a modification of the bylaws so that both classes of stock were able to vote, rather than only the equity class having a right to vote. Because of the conflict between these two on a dissolution, the board of directors wanted to retain the right to have the equity class vote. Because ORG dictates how the golf course is to be run and maintained, the members have little power. For this reason, do not think that the voting disparity is all that important.

I believe the above covers those issues that were flushed out during our last telephone call. Hopefully, you will find that this supports my argument that the restaurant is either too immaterial to be concerned with or alternatively, that it provides a service for the community as a whole. If so, then the members are receiving no real advantage from the restaurant and it does not generate an inurement problem.

I like to try to compromise issues wherever possible, including those with the IRS. What I propose in this case is that the ORG retain its 501(c)(4) status, but that the restaurant is treated as an unrelated trade or business. I believe this fits with the facts since there is no real inurement to the members. Thus, to the extent it generates any income, there would be an UBIT. I realize that this compromise position cuts against by argument that the restaurant serves a community purpose since the conference rooms are used by the community as a whole. However, since such is basically free, the restaurant still generates the lion share of the income.

CONCLUSION:

IRC section 501(c)(4) provides that social welfare organizations must not be organized for profit and must be operated exclusively for the promotion of social welfare. IRC section 501(c)(4)(B) requires that no net earnings inure to the benefit of any private shareholder or individual with respect to such organization.

The ORG does not meet the organizational and operational requirements of IRC 501(c)(4) because it is owned by its stockholding/voting members, membership is limited, revenues generated by public patronage inure to the benefit of ORG members, and net assets are dedicated to ORG members upon dissolution.

Therefore, we propose revocation of the ORG's section 501(c)(4) exempt status retroactive to January 1, 20XX with consideration given to any request for IRC 7805(b) relief.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Attn: Mandatory Review, MC 4920 DAL
1100 Commerce St.
Dallas, TX 75242

501.04-00

Date: June 9, 2010

Release Number: 201037034
Release Date: 9/17/10
LEGEND
ORG = Organization name
XX=Date Address = address

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:
Voice:
Fax:

ORG
ADDRESS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

This is a final adverse determination letter with regard to your status under section 501(c)(4) of the Internal Revenue Code.

You were established in June 19XX as a subordinate under group exemption number 1710. The parent organization was granted tax exempt status as an organization described in section 501(c)(4) of the Code in January 19XX.

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. You ceased operations at the end of 20XX. Currently, you have no financial resources and no assets. You also failed to meet the reporting requirements under IRC §§ 6001 and 6033 necessary for continued exemption from federal income tax under IRC § 501(c)(4).

Accordingly, your exemption from Federal income tax is revoked effective December 31, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20XX.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at: (405) 297-4055 (not toll-free).

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

January 28, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

For Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX

Issue:

Whether ORG qualifies for exemption under Section 501(c)(4) of the Internal Revenue Code.

Facts:

The Internal Revenue Service has made reasonable requests to ORG to file Form 990 for the tax period ending December 31, 20XX.
The following requests were made:

1. Cover Letter 3606, Form 4564, Information Document Request, (IDR), and Publication 1 were sent to the organization on June 18, 20XX.
2. Agent called EO Officer at (405) 412-5019 several occasions to discuss the case and requested delinquent Return for 20XX12, but demands for filing were not met.
3. A 90 day notice and demand letter and IDR were sent by certified mail to the organization on September 22, 20XX. The certified receipt was returned signed on 09/28/20XX by Officer.
4. A letter was sent to EO Manager on October 16, 20XX requesting delinquent Returns forms 941 and 990 but not respond was receipted.

ORG, has failed to respond to IRS correspondences and phone calls, and failed to file the Form 990 for the tax period ending December 31, 20XX. The organization reported wages paid in 20XX of $ and failed to file Forms 941. Substitute-for-Returns were established by RA and Letter 3596 and form 2504 (Agreement to Assessment and Collection of Additional Tax) was mailed to EO for consent but the form was not return. The organization was required to file a 990 return as well for the year ending December 31, 20XX, but failed to respond to multiple correspondence sent and phone calls.

Background:

ORG, was established in June 19XX as part of a group ruling, group exemption number: 1710. The organization was granted tax exempt status as a 501(c)(4) non-profit organization in January, 19XX. According to the executive director, Officer, the organization no longer exists and does not conduct exempt activities. EO ceased

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX

operations at the end of 20XX. Currently, the organization has no financial resources and no assets. A letter was received from Quartermaster of the national office, RA, confirming ORG ceased of operations in 20XX.

Nonetheless, ORG, did not follow proper procedures for termination of its exempt status, Articles of dissolution were not filed, nor a final Return was submitted when requested.

Failure to File Form 990s:

IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number	Year/Period ended December 31, 20XX

Rev Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(4). Accordingly, the proposed revocation would be effective as of December 31, 20XX. Any contributions to the organization would no longer be deductible as charitable contributions. Any contributions to this organization by those who were in part responsible for or were aware of the activities or deficiencies on the part of the organization that gave rise to loss of exempt status will not be allowed as a deduction effective the date of revocation.

If this revocation becomes final, appropriate State officials will be advised of the action in accordance with Internal Revenue Code 6104(c) and applicable regulations.

JOINT COMMITTEE ON TAXATION PRESS RELEASE

JCT Press Release: 00-02 March 16, 2000
For Immediate Release:
For Further Information, Contact: Michael Boren (202-225-3621)
(Michael.Boren@mail.house.gov)

The staff of the Joint Committee on Taxation (the "Joint Committee") today submitted a Report Of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters to Chairman William V. Roth, Jr., Vice-Chairman Bill Archer, Senator Daniel Patrick Moynihan, and Congressman Charles B. Rangel of the Joint Committee. Attached is the Executive Summary containing an overview of the Joint Committee staff investigation and findings.

On March 24, 1997, Chairman Roth, Vice-Chairman Archer, Senator Moynihan, and Congressman Rangel (the "Members") sent a letter to then-Joint Committee Chief of Staff Kenneth J. Kies indicating their concern about recent reports alleging politically motivated treatment of certain tax-exempt organizations and individuals by the Internal Revenue Service ("IRS"). The Members directed the Joint Committee staff to investigate whether the IRS's selection of tax-exempt organizations (and individuals associated with such tax-exempt organizations) for audit had been politically motivated. The scope of the investigation was limited to tax-exempt organizations described in Internal Revenue Code sections 501(c)(3) ("charitable, educational, religious, etc., organizations") and 501(c)(4) ("social welfare organizations"). Because allegations had also been made concerning IRS handling of determination letter applications, a review of these IRS processes was included within the scope of the Joint Committee staff investigation.

The Joint Committee staff report contains the following information: (1) an executive summary of the investigation and findings (Part I); (2) a summary of the allegations (Part II); (3) a detailed discussion of the Joint Committee staff findings (Part III); (4) the methodology employed by the Joint Committee staff in conducting its investigation (Part IV); (5) details of IRS operations relating to tax-exempt organizations (Part V); and (6) exhibits and appendices containing additional information relevant to the investigation (Exhibits 1-1, 1-2, and 1-3 and Appendices A and B).

I. EXECUTIVE SUMMARY

Summary of allegations made concerning IRS handling of exempt organization matters

Beginning in 1996, allegations appeared in various media reports that the IRS was engaged in politically targeted examinations of tax-exempt organizations. Additional allegations were made in submissions to, and by individuals interviewed by, the Joint Committee staff in connection with its investigation.

Some allegations related to IRS actions with respect to political and lobbying activities of specific tax-exempt organizations. Other allegations related to more general targeting by the IRS of organizations with views opposed to the Clinton Administration. These allegations can be summarized as follows:

- the IRS handling of determination letter requests for organizations perceived to represent political views that were opposed to the Clinton Administration was biased;
- the IRS inappropriately granted determination letters or expedited the granting of determination letters for organizations whose views were in line with those of the Clinton Administration;
- the IRS handling of examinations of tax-exempt organizations (and individuals associated with such organizations) that were opposed to or were critical of the Clinton Administration's policies was biased;
- the IRS did not conduct examinations of organizations favored by the Clinton Administration engaged in activities similar to other tax-exempt organizations that were under examination;
- the IRS inappropriately initiated examinations of certain tax-exempt organizations in response to information provided to the IRS by the White House or other influential individuals (e.g., Members of Congress) whose views aligned with the Clinton Administration and in opposition to the organizations targeted; and
- IRS employees assigned to cases of tax-exempt organizations whose views were in opposition to the Clinton Administration exhibited bias in their handling of such cases.

Joint Committee staff investigation in general

The Joint Committee staff investigation focused on a review of (1) how the IRS generally administered the law relating to the political and lobbying activities of tax-exempt organizations, (2) how the IRS generally administered determination letter requests of tax-exempt organizations, (3) how the IRS generally selected tax-exempt organizations for examination, and

(4) the IRS handling of matters relating to certain specific tax-exempt organizations and individuals associated with such tax-exempt organizations.

Joint Committee staff review of IRS handling of specific tax-exempt organizations and individuals

The Joint Committee staff identified 142 tax-exempt organizations (and individuals related to such organizations) that were potentially within the scope of the Joint Committee investigation through the following sources: (1) media reports, (2) contacts from tax-exempt organizations and individuals, (3) information provided by the IRS (including the IRS Office of Inspection) and the Treasury Inspector General, and (4) information received from the Senate Governmental Affairs Committee. From these sources, the Joint Committee staff identified more than 130 organizations and individuals potentially within the scope of the investigation. The Joint Committee staff received briefings and/or summary materials prepared by IRS National Office personnel relating to each of these organizations or individuals. The Joint Committee staff identified 83 organizations and individuals for which complete case file reviews were conducted to evaluate IRS conduct with respect to the taxpayers.

The Joint Committee staff reviewed hundreds of boxes of case file material supplied by the IRS with respect to the organizations and individuals identified as within the scope of the Joint Committee staff investigation. In addition, the Joint Committee staff conducted in-depth interviews of 57 current and former IRS employees, many of whom were directly or indirectly involved in the cases of the organizations and individuals within the scope of the Joint Committee staff investigation. Follow-up interviews were conducted with a number of IRS employees to clarify inconsistencies in statements or to pursue additional information relating to the cases in question. The Joint Committee staff reviewed personnel files of IRS employees in certain circumstances.

The Joint Committee staff contacted organizations and individuals whose names had appeared in media reports and invited the organizations to meet with Joint Committee staff or to submit written responses to questions. The Joint Committee staff met with representatives of ten organizations or individuals and received written submissions from a number of other organizations.

Joint Committee staff review of other materials

In addition to the review of specific case file information with respect to organizations and individuals within the scope of the Joint Committee staff investigation, the Joint Committee staff reviewed extensive other information relating to IRS handling of tax-exempt organization matters in general and other information that may be relevant to the cases within the scope of the investigation. The Joint Committee staff review included the following information: (1) all determination letter and examination data for tax-exempt organizations from 1990 through 1998, (2) all Congressional correspondence to the IRS from 1995 through 1997, (3) IRS management

information and reports from 1990-1997, (4) IRS correspondence and case tracking systems, (5) Internal Revenue Manual procedures, (6) policies and procedures of the IRS, the Treasury Department, and the White House with respect to conduct of employees and employee involvement in specific taxpayer matters, (7) all allegations of employee misconduct with respect to tax-exempt organization matters from 1990-1998, and (8) information supplied by the Justice Department, the Treasury Department, and the White House.

Summary of Joint Committee staff findings

Most of the information supplied by the IRS to the Joint Committee staff in the course of its investigation constitutes taxpayer return information that cannot be disclosed pursuant to section 6103 of the Internal Revenue Code.[1] Thus, the Joint Committee staff findings do not include any specific findings of the Joint Committee staff with respect to the organizations and individuals within the scope of the Joint Committee staff investigation or any information that might identify such organizations or individuals. These findings represent the general conclusions drawn by the Joint Committee staff from its extensive review of IRS case file information, other information received from the IRS, other Federal agencies, and other sources, and interviews with relevant Federal employees and others.

IRS handling of tax-exempt organization determination letter requests

- The Joint Committee staff found no credible evidence that the IRS delayed or accelerated issuance of determination letters to tax-exempt organizations based on the nature of the organization's perceived views.

- The Joint Committee staff found that determination letter applications forwarded to the IRS National Office for handling took much longer on average for the IRS to process. The Joint Committee staff found no credible evidence that the forwarding of certain determination letter applications to the IRS National Office was the result of a deliberate effort by IRS employees to subject organizations with views that opposed the Clinton Administration to more intense scrutiny. The Joint Committee staff found that the delay by the IRS National Office in processing the determination letter application of one organization was unacceptably slow, but the Joint Committee staff found no credible evidence either of bias by IRS employees or other political intervention causing the delay.

---

[1] Under section 6103(f)(4), the Chief of Staff of the Joint Committee may receive taxpayer return information from the IRS. However, such Chief of Staff may not disclose any taxpayer return information received. Unauthorized disclosure of tax return information protected under section 6103 is a felony punishable by a fine of up to $5,000, imprisonment for up to five years, or both.

IRS handling of tax-exempt organization examinations

- The Joint Committee staff found no credible evidence that tax-exempt organizations were selected for examination, or that the IRS altered the manner in which examinations of tax-exempt organizations were conducted, based on the views espoused by the organizations or individuals related to the organization.
- The Joint Committee staff found no credible evidence of intervention by Clinton Administration officials (including Treasury Department and White House officials) in the selection of (or the failure to select) tax-exempt organizations for examination.
- The Joint Committee staff found that certain cases involving high-profile tax-exempt organizations and individuals received intense internal review and scrutiny by the IRS; however, the Joint Committee staff found no credible evidence that such increased review or scrutiny was politically motivated.
- The Joint Committee staff found that the interaction between the Office of IRS Chief Counsel and the Office of the Assistant Commissioner (Employee Plans and Exempt Organizations) with respect to technical advice requests results in significant delays in the processing of such requests and contributes to a reluctance by certain IRS Key District Office employees to submit such requests for technical advice. These delays contributed to a perception that the IRS was not treating all tax-exempt organizations consistently. The Joint Committee staff concluded that the delays in processing such requests were unnecessarily excessive in some cases.
- The Joint Committee staff found no credible evidence that the IRS had improperly targeted for examination individuals related to tax-exempt organizations within the scope of the Joint Committee staff investigation.

IRS use of information items in the tax-exempt organization area

- The Joint Committee staff found no credible evidence that the IRS systematically used information items (such as media reports, letters from Members of Congress, letters from taxpayers, etc.) to identify for examination tax-exempt organizations that espouse views that are opposed to the political views of the Clinton Administration. Prior to the middle of 1998, most IRS Key District Offices destroyed information items when a decision was made not to pursue the item. Thus, the Joint Committee staff could not evaluate whether there was a pattern of behavior by the IRS in the handling of information items that resulted in certain organizations being selected for examination and other organizations engaged in similar activities not being selected for examination. The Joint Committee staff found that the IRS had initiated examinations of certain tax-exempt organizations with views clearly in opposition to the Clinton Administration based on media reports and other information items provided to the IRS. The Joint Committee staff found that the IRS also initiated examinations of organizations that would be considered supportive

of the Clinton Administration based on such information items.

- The Joint Committee staff found a few instances in which the stated IRS National Office policy of sending information items without comment to the appropriate IRS Key District Office was not followed and the IRS National Office memorandum transmitting an information item contained statements as to the IRS National Office view of either the law or the relevance of the information item. The Joint Committee staff did not find any credible evidence that the IRS National Office attempted to influence IRS Key District Office decisions on whether to initiate examinations of tax-exempt organizations.

- Certain media reports raised issues relating to statements attributed to an IRS employee concerning the handling of Congressional inquiries relating to tax-exempt organizations. According to the reports, the IRS employee allegedly stated (1) that IRS employees had been or were shredding documents identifying the names of Members of Congress and their staff as the sources of examination requests and (2) suggesting ways to disguise information items received from Members of Congress. The Joint Committee staff reviewed documentation provided by the IRS relating to the IRS employee's statements. According to the documentation, the IRS employee's statements concerning the shredding of documents related to the previous practice in the IRS Key District Offices of destroying information items that did not result in an audit. The employee's statements with respect to the attribution of information items received from Members of Congress related to the concern raised by an IRS Office of Inspection Internal Audit report (discussed in detail below) that recommended identifying a media report as the source of an information item relating to a tax-exempt organization even if a taxpayer or a Member of Congress forwards such media report to the IRS.

- The Joint Committee staff found no credible evidence that Congressional inquiries had improperly altered the manner in which the IRS handled tax-exempt organization cases.

- The Joint Committee staff found no credible evidence that information items forwarded to the IRS by the Treasury Department or the White House were given more weight by the IRS than information items received from other sources.

Employee misconduct with respect to tax-exempt organization matters

- The Joint Committee staff found no credible evidence that any IRS employee had improperly altered the outcome of a tax-exempt organization case. The Joint Committee staff found that the IRS had procedures in place to ensure that political appointees, such as the Commissioner of Internal Revenue and the IRS Chief Counsel, did not generally become involved in the resolution of issues relating to specific taxpayers.

- The Joint Committee staff found that allegations of IRS employee misconduct with respect to organizations within the scope of the Joint Committee staff investigation that were referred to the IRS Office of Inspection were thoroughly investigated by IRS

management and the IRS Office of Inspection and disciplinary action, if warranted, was taken.

- The Joint Committee staff found that instances of employee misconduct or other issues relating to organizations within the scope of the Joint Committee staff investigation that were referred to the Treasury Inspector General's office were lost, misplaced, or not investigated by the Inspector General. The Joint Committee staff found no credible evidence that this failure to investigate referrals by the Inspector General's office occurred as a result of a concerted effort to protect high-ranking IRS and Treasury Department officials. Rather, it appeared that these failures to investigate resulted from lack of accountability, recordkeeping failures, and incompetence within the Inspector General's office.

- The Joint Committee staff identified eight instances of alleged IRS employee misconduct relating to organizations within the scope of the Joint Committee staff investigation. With respect to these eight instances, the Joint Committee staff found the following:

  - Two instances related to statements made by IRS employees to representatives of tax-exempt organizations under examination by the IRS. In each instance, the IRS employee's statements were interpreted by the representative of the tax-exempt organization to indicate that there was bias in the handling of the examination by the IRS. The Joint Committee staff found that the IRS employees' statements were ambiguous. In addition, based upon interviews of IRS employees by the Joint Committee staff and based upon records of interviews conducted by the IRS Office of Inspection and the Treasury Inspector General, the Joint Committee staff found that the IRS employees did not intend their statements to mean what the statements had been interpreted to mean by the representatives of the tax-exempt organizations.

  - Three instances related to allegations made by tax-exempt organizations that IRS employees assigned to the tax-exempt organizations' cases were biased, based generally on information the tax-exempt organization had about the political views of the IRS employees. In one instance, the case was transferred to the IRS National Office based on the issues involved and the IRS employee had no further involvement in it. In the other two instances, the IRS either reassigned the case in question to another IRS employee or added IRS employees to the case to ensure that individual IRS employee bias would not occur.

  - One instance related to an allegation that IRS employees had violated the church audit procedures contained in Code section 7611. The Joint Committee found that the contact made by IRS employees was done to educate the relevant church as to the law with respect to impermissible political campaign intervention by organizations described in section 501(c)(3). See the discussion in Part III.B., concerning the Joint Committee staff's findings with respect to the church audit procedures.

- One instance involved allegations of potential misconduct identified by one IRS employee with respect to the actions of the employee's supervisor. Based on the available information and evidence and the statements of the IRS employee and the employee's supervisor, the Joint Committee staff found no credible evidence that the supervisor had acted in a manner intended to influence improperly either the initiation or conduct of examinations of tax-exempt organizations.

- One instance involved an allegation of an improper attempt to obtain information by an employee of the Office of IRS Chief Counsel with respect to the examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. The Joint Committee staff found no credible evidence that the employee had acted in a manner intended to influence improperly the handling of the examination by the IRS.

- Allegations of IRS employee misconduct with respect to the handling of tax-exempt organization cases are not recorded in a single IRS data base and the IRS does not have a comprehensive system in place to identify all such allegations. In order to respond to Joint Committee staff requests with respect to allegations of employee misconduct, the IRS surveyed managers in the IRS National Office and IRS Key District Offices to determine their recollections of any such allegations. This manager survey identified one allegation that was also identified through one of the two relevant IRS databases. However, due to the lack of a comprehensive data base, the Joint Committee staff was unable to evaluate systematically whether all instances of alleged IRS employee misconduct with respect to tax-exempt organizations within the scope of the Joint Committee staff investigation were located.

- The Joint Committee staff found evidence of two nonroutine contacts of IRS employees made by White House and Treasury officials.

  - In the first instance, the Joint Committee staff found evidence of a single nonroutine direct contact in 1997 between White House officials and the IRS in which the White House officials appear to have attempted to obtain taxpayer return information to which they were not entitled under section 6103. Because the tax-exempt organization in question was not an organization described in section 501(c)(3) or (c)(4), the contact was outside of the scope of the Joint Committee investigation and, therefore, was not extensively reviewed. However, limited materials reviewed by Joint Committee staff indicated that the contact related to the status of certain forms filed by members of a tax-exempt organization. It appears that White House officials initially contacted employees in the Treasury Office of Tax Policy and were referred, in apparent violation of Treasury Order 107-05, directly to the IRS. The White House officials then, in violation of written White House policies, contacted directly several IRS employees (none of whom worked in the Exempt Organization Division) and attempted to secure taxpayer return information. The Joint Committee staff found that the IRS employees

involved (1) refused to disclose taxpayer return information protected under section 6103; and (2) promptly referred the contact to the Treasury Inspector General.

- In the second instance, a Treasury Department official was alleged to have made a 1995 inquiry to IRS employees concerning the status of an examination of a tax-exempt organization within the scope of the Joint Committee staff investigation. One of the IRS employees contacted in connection with the inquiry was sufficiently concerned about the nature of the contact that a referral was made to the IRS Office of Inspection. As the matter pertained to a Treasury Department official, the IRS Office of Inspection referred the matter to the then-Treasury Inspector General's office.[2] The Treasury Inspector General did not act upon the referral until it was brought to the Inspector General's attention during the Joint Committee staff investigation during 1997. When asked about the referral by the Joint Committee staff, the Treasury Inspector General's office could not locate it and had no record of any action taken with respect to the referral. Materials received by the Joint Committee staff from the Treasury Inspector General's office in 1999 indicate that the Inspector General received a copy of the referral in July 1997 and assigned an investigator to it. There was no evidence of any other action by the Treasury Inspector General with respect to this referral after September 1997. During 1999, following further Joint Committee staff inquiries with respect to the referral, the Treasury Inspector General for Tax Administration investigated the allegations made with respect to this contact and found that the evidence concerning the nature of the contact made by the Treasury official was inconclusive. However, the Treasury Inspector General for Tax Administration did not find any evidence that the IRS handling of the examination of the tax-exempt organization in question was improper. The Joint Committee staff interviewed all parties involved in this contact and reviewed IRS and Treasury records, including the relevant case file. The Joint Committee staff found no credible evidence that the contact by the Department of Treasury employee influenced the conduct or outcome of the examination.

Other investigations

Prior to and during the Joint Committee staff investigation, the IRS Office of Inspection, the Treasury Inspector General, and the Treasury Inspector General for Tax Administration conducted a number of investigations into the IRS processes relating to tax-exempt organizations generally and into allegations relating to IRS employee handling of certain cases specifically. The Joint Committee staff had access to all information obtained by or generated by these offices in connection with the various investigations.

---

[2] There is conflicting information regarding the timing of the referral by the IRS Office of Inspection to the Treasury Inspector General. IRS Office of Inspection records indicate that the referral was forwarded in 1995; however, the Treasury Inspector General's office had no record of receiving the referral prior to July, 1997.

THOMAS R. CARPER (DELAWARE), CHAIRMAN
CARL LEVIN, MICHIGAN
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE M. MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA
TOM COBURN, OKLAHOMA
JOHN MCCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
MICHAEL B. ENZI, WYOMING
KELLY AYOTTE, NEW HAMPSHIRE
RICHARD J. KESSLER, STAFF DIRECTOR
KEITH B. ASHDOWN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

May 23, 2013

VIA U.S. MAIL & EMAIL (Catherine.M.Barre@IRS.gov)

Mr. Daniel I. Werfel
Acting Commissioner
Internal Revenue Service
U. S. Department of the Treasury
1111 Constitution Avenue
Washington, D.C. 20224

Dear Mr. Werfel:

We are writing to urge you to suspend immediately Lois Lerner from her office as Director of the Office of Exempt Organizations at the Internal Revenue Service (IRS). We believe that Ms. Lerner failed to disclose crucial information concerning the IRS's inappropriate targeting of some conservative 501(c)(4) organizations during the course of a Permanent Subcommittee on Investigations inquiry into how the IRS enforces the 501(c)(4) law, leading to an incomplete account of the full operations of her unit.

Since March of last year, the Subcommittee has been examining whether the IRS adequately and appropriately enforces tax code provisions and implementing regulations regarding the extent to which tax-exempt 501(c)(4) groups may engage in political campaign activity. The Subcommittee asked the IRS why it was not enforcing the 501(c)(4) statute which states that social welfare organizations should be used "exclusively for the promotion of social welfare" and instead enforcing the more lenient IRS regulation which states that a social welfare organization may be used "primarily" for social welfare. It also asked the IRS about how they reviewed applications filed by certain Democratic and Republican leaning 501(c)(4)s. Our investigation has included a year's worth of correspondence between the Subcommittee and the IRS, as well as document productions and repeated consultations with IRS staff.

On April 30, 2013, Ms. Lerner and seven IRS colleagues spent six hours being interviewed, on a bipartisan basis, by Subcommittee staff. That interview covered, among other topics, how the IRS determines which groups to review, what actions are taken in connection with the IRS reviews, and how the laws and regulations are used to examine those groups. Ms. Lerner failed to disclose the internal controversy over the search terms used by the Cincinnati office to identify 501(c)(4) groups for further review, the actions taken by that office in reviewing the identified groups, the investigation and imminent findings by the Treasury Department Inspector General for Tax Administration (TIGTA), and TIGTA's conclusion that the IRS had used inappropriate criteria to target Tea Party and other conservative groups. Ms. Lerner also failed to disclose that she was fully aware of these issues as early as June 2011, and,

according to TIGTA, had been personally involved in reviewing questionable actions taken by the Cincinnati office.

Given the serious failure by Ms. Lerner to disclose to this Subcommittee key information on topics that the Subcommittee was investigating, we have lost confidence in her ability to fulfill her duties as Director of Exempt Organizations at the IRS. Ms. Lerner's continued tenure in the office she holds, where she is responsible for overseeing 1.6 million tax-exempt organizations, would erode public trust and confidence in the IRS and its professional integrity. We believe that the immediate removal of Ms. Lerner from office would be a vital step in helping to restore public trust in the agency.

Sincerely,

John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

Carl Levin
Chairman
Permanent Subcommittee on Investigations

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

July 19, 2013

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-6348

Dear Representative Levin:

On June 26, 2013, I responded to your letters dated June 24, 2013 and June 26, 2013 regarding our recent audit report entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." As a result of additional review of this matter, we would like to clarify two points from our previous response.

Before proceeding, I would like to reiterate that TIGTA did not make any characterizations of any organizations in our audit report as "conservative" or "liberal" and I believe it would be inappropriate for an Inspector General to make such conclusions. Therefore, our audit did not focus on names except for those that the Internal Revenue Service (IRS) informed us that it used to select potential political cases for additional review.[1] We reviewed all 298 potential political cases the IRS identified as of May 31, 2012 and statistical samples of 338 cases out of 4,510 Section 501(c)(4) tax-exempt applications that we identified, to determine if they matched names the IRS included in its criteria.[2] The analyses we are providing in this letter were conducted subsequent to our audit to respond to concerns expressed by congressional Members.

The first point I would like to clarify concerns a statement in our prior response that a total of 6 out of 20 applications filed between May 2010 and May 2012 including the words "Progress" or "Progressive" in the organization's name were processed as potential political cases. We subsequently found an additional organization whose name had been misspelled by the IRS on the listing it provided to us of 298 potential political cases that we believe should have been included in our analysis of "Progress" or "Progressive."[3] Therefore, we now believe that 7 of 21 Section 501(c)(4) tax-exempt applications having the words "Progress" or "Progressive" in their names were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012. Of

[1] Until July 11, 2011, the Rulings and Agreements office referred to these cases as "Tea Party" cases. Afterwards, the Exempt Organizations function referred to these cases as "advocacy" cases.
[2] Id.
[3] The IRS misspelled a word in one organization's name as "Progessive" in the listing it provided to us.

these, three specifically had the word "Progressive" in the organizational name. These figures are based on our research of data for 4,510 Section 501(c)(4) tax-exempt applications that were open as of May 31, 2012 or closed between May 2010 and May 2012.[4]

In addition, we researched the IRS's listing of 298 potential political cases to determine if any included the word "Occupy." We determined that none of the 298 organizations included the word "Occupy" in the organization's name as of May 31, 2012. Furthermore, we determined that there were no applications in the population of Section 501(c)(4) tax-exempt applications that we identified containing the word "Occupy" in the organization's name. Two organizations with the word "Occupy" were identified as potential political cases by December 2012 after the IRS removed "Occupy" from the Be On the Look Out (BOLO) listings.

In addition, on July 9, 2013, we received two documents from July 2010 that the IRS failed to provide to us during the conduct of our audit which refer to the term "Progressive" in association with "current activities/politics." In one of the documents, the Determinations Unit specialist responsible for processing potential political cases at the time of the documents states "'Progressive' applications are not considered 'Tea Parties'." Since we were not aware of the existence of these two documents during our audit, we did not ask questions about them. We are reviewing this matter further.

The second point we would like to clarify concerns a statement in our June 26, 2013 response that 100 percent of the tax-exempt applications filed between May 2010 and May 2012 including the words "Tea Party," "Patriots," or "9/12" were subjected to additional scrutiny as potential political cases. To clarify, 100 percent of the Section 501(c)(4) tax-exempt applications in our *statistical samples* with the words "Tea Party," "Patriots," or "9/12" in their names were processed as potential political cases.

[4] To be consistent with our audit, we researched a population of 4,510 Section 501(c)(4) tax-exempt applications. This includes 2,051 applications that the IRS determined required minimal or no additional information that were closed between May 2010 and May 2012. This also includes 2,459 applications that the IRS determined required additional information from the organization applying for tax-exempt status that were closed between May 2010 and May 2012 or open as of May 31, 2012. Additional applications that were open as of May 31, 2012 or closed between May 2010 and May 2012 were not considered as part of our analysis because they did not meet the criteria for our statistical samples, e.g., applications that were returned to organizations because they were incomplete or applications that had not made it through the IRS's initial review. Three additional applications with the words "Progress" or "Progressive" in the organizational name were open as of May 31, 2012, but were not in the population from which we sampled. None of these applications were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012.

The IRS recently shared with us additional information indicating that some applications with the words "Tea Party," "Patriots," or "9/12" in their names were not processed as potential political cases. We conducted additional analyses and determined that 12 of the 4,510 Section 501(c)(4) applications considered as part of our audit with the words "Tea Party" (two cases), "Patriots" (four cases), or "9/12" (six cases) in their names were not processed as potential political cases, as of May 31, 2012.[5] None of the 12 applications appeared in our statistical samples. We researched data for these 12 applications and determined that four were later processed as potential political cases, one was treated similarly to a potential political case, and one was not a potential political case. Specifically:

- Three of the "9/12" applications and one "Patriots" application were included on a listing of potential political cases prepared after May 2012.
- One "Tea Party" application was transferred to the Exempt Organizations Technical Unit to be processed.
- One application with "Patriots" in its name did not appear to relate to a group involved with political campaign intervention.

The remaining six cases included two that were withdrawn by the organization in Calendar Year 2010, two that were approved in Calendar Year 2010, and two that were approved in Calendar Year 2011.

As the IRS continues to provide us with additional information from its internal review, we will continue to provide you with updates as necessary. If you or your staff have any questions, please contact me at [redacted] or Acting Deputy Inspector General for Audit Michael E. McKenney at [redacted].

Sincerely,

J. Russell George

J. Russell George
Inspector General

[redacted] = Redacted by the Permanent Subcommittee on Investigations

[5] Four additional applications with the words "Tea Party," "Patriots," or "9/12" in the organizational names were either open as of May 31, 2012 or closed between May 2010 and May 2012, but were not in the population from which we sampled. The IRS returned three of the four applications to the applicants as incomplete. The remaining application required minimal information to process, but had not been closed. None of these applications were included in the 298 cases the IRS identified as potential political cases as of May 31, 2012.

IRS list reveals concerns over Tea Party 'propaganda'

Gregory Korte, USA TODAY *12:57 p.m. EDT September 18, 2013*
http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-propaganda/2825003/

Correction: *An earlier version of this story understated the number of groups represented by the the American Center for Law and Justice.*

WASHINGTON — Newly uncovered IRS documents show the agency flagged political groups based on the content of their literature, raising concerns specifically about "anti-Obama rhetoric," inflammatory language and "emotional" statements made by non-profits seeking tax-exempt status.

The internal 2011 documents, obtained by USA TODAY, list 162 groups by name, with comments by Internal Revenue Service lawyers in Washington raising issues about their political, lobbying and advocacy activities. In 21 cases, those activities were characterized as "propaganda."

The list provides the most specific public accounting to date of which groups were targeted for extra scrutiny and why. The IRS has not publicly identified the groups, repeatedly citing a provision of the tax code prohibiting it from releasing tax return information.

More than 80% of the organizations on the 2011 "political advocacy case" list were conservative, but the effort to police political activity also ensnared at least 11 liberal groups as of November 2011, including Progressives United, Progress Texas and Delawareans for Social and Economic Justice.

The IRS controversy first exploded in May, when Exempt Organizations Director Lois Lerner admitted that the IRS had targeted Tea Party groups for additional scrutiny beginning in early 2010. The IRS placed a hold on those applications for more than 20 months, an inspector general's investigation found.

On Nov. 16, 2011, IRS lawyers in Washington sent a list of cases to front-line agents in Cincinnati, along with comments and guidance on how to handle political organizations.

Tax law experts say those comments appear to show IRS employees trying to apply the murky rules governing political activities by social welfare groups.

But the American Center for Law and Justice, a nonprofit legal institute that represents 33 of the groups appearing on the IRS list, said it appears to be "the most powerful evidence yet of a coordinated effort" by the IRS to target Tea Party groups.

"The political motivations of this are so patently obvious, but then to have a document that spells it out like this is very damaging to the IRS," said Jay Sekulow, chief counsel for the ACLJ. "I hope the FBI has seen these documents."

The IRS categorized the groups as engaging in several advocacy-related activities that could have barred them from tax-exempt status, such as lobbying and "propaganda."

But the word "propaganda" doesn't appear in section 501(c)(4), which governs the social welfare status that most Tea Party groups were applying for, said John Colombo, a law professor at the University of Illinois. Instead, it appears in section 501(c)(3), which governs public charities.

"There would be no reason I would think to flag them if it's for a 501(c)(4) status," Colombo said. "That's very odd to me."

In three cases, IRS lawyers noted that groups appeared to be connected to Republican politicians: Stand Up for Our Nation Inc., linked to former Alaska governor Sarah Palin; Reform Jersey Now Inc., linked to Gov. Chris Christie; and American Solutions for Winning the Future, founded by former House speaker Newt Gingrich. Gingrich's group was approved last year.

Five groups were flagged as having "anti-Obama" materials in their applications or on their websites.

For instance, the IRS said the website of the Patriots of Charleston contains "negative Obama commentary." Though the IRS didn't cite examples, a November 2011 article on the group's site says: "Obama's and the Democrats' track record of disaster is based upon a combination of their ignorance and their fundamental desire to convert America into a ruling class of wealthy all-powerful elitists and a single class of serfs."

"The web site, as we explained to them on multiple occasions, is really a blog" that members can submit commentary to, said Joanne Jones, the group's vice chairwoman. "I'm not going to tell you we weren't political. We were to an extent, but we were within the limits of the law. For example, there's one clear-cut issue: We did not endorse candidates."

"To focus in on somebody saying something anti-Obama," she said, "it's almost like the speech police there. It's disturbing. It's the kind of overreach that leads into Obamacare."

The group received its tax exemption in September 2012.

RHETORIC OF SOME GROUPS QUESTIONED

It wasn't just anti-Obama rhetoric the IRS was looking out for. Progress Texas was identified by the IRS as engaging in lobbying, propaganda and political activities. IRS lawyers in Washington noted "anti-Rick Perry" rhetoric, referring to the Republican Texas governor, then a presidential candidate.

Progress Texas received a tax exemption as a social welfare group in June, 2012.

Campaign-finance watchdogs say the IRS scrutiny came out of a justified effort to police "dark money" in politics. After the U.S. Supreme Court ruled in 2010 that corporations and unions — and even non-profit groups — could engage in independent political advertising, social welfare groups became a vehicle for funneling undisclosed cash into the election system.

That's the position of Progressives United, a group founded by former senator Russ Feingold, D-Wis., that itself appeared on the 2011 IRS target list.

"The fact that our group received some scrutiny does not change at all our opinion that scrutiny like this from the IRS, it's their job. The law applies to us as it would any conservative group," said Progressives United's Josh Orton. "I feel like there's this group of campaign finance nihilists who want to expand this into an argument that there should be no scrutiny at all. They want a wild west of election law, because they want to continue using secret corporate money to influence elections."

Crossroads GPS, a group affiliated with GOP strategist Karl Rove, spent $70 million on the 2012 election. Its 2010 application for a tax exemption, obtained by the non-profit news organization Pro Publica last year, said it would spend 50% of its resources on "public education." In the 2011 list, the IRS noted "significant anti-Obama rhetoric." Crossroads has not received a tax exemption.

'WE ARE TOTALLY ABOVE BOARD'

The Tea Party of North Idaho filed its tax-exempt application in February, 2010 — the same month IRS screeners in Cincinnati first brought Tea Party applications to the attention of officials in Washington, according to IRS employee testimony before a congressional committee.

A lawyer in the IRS Exempt Organizations Technical Unit in Washington wrote the Idaho group had "No significant amount of clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information on issues."

The IRS lawyers recommended that screeners in Cincinnati look for other materials — including "press releases, commentary, articles, and research reports," according to the IRS list.

That's when Leslie Damiano, who co-founded the North Idaho group, started getting what she considered to be intrusive questions from the IRS. She said the tax agency wanted to know who her donors were, and what companies they own. They wanted to know the educational background of the group's board members. And they wanted to know whether candidates were invited to the group's meetings, and whether it made endorsements.

"We're a conservative organization. We invited some independents," she said. "We never had any rallies that were off the charts by any stretch of the imagination."

Frustrated with the process, the Tea Party of North Idaho withdrew its application in 2012.

"We had an accountant, we had a bookkeeper. We were totally above board with everything we did," Damiano said.

REDUCING THE NATIONAL DEBT

Some groups caught in the IRS' net had no connection to national politics on either side. The Citizens for the Preservation of Rural Murrysville says it's "dedicated to the preservation of the open and natural, rural character of Murrysville, Pa.," although the IRS said it endorsed some local candidates. The Sarasota Bay Tiger Club is one of several similar Florida clubs that provide "a non-partisan forum on current political issues." The club says it has "never endorsed political candidates nor advocated a particular ideology," but the IRS said in its spreadsheet that it was "unclear" if that was the case.

The list also includes the Association to Reduce the National Debt, which was seeking to be recognized as a charity so it could solicit tax-deductible contributions — and give those contributions to the U.S. Treasury to put toward the national debt.

Founder Seth Eisenberg said the group was not political — and he told the IRS that.

IRS tax specialists noted "no political campaign activities." But two years after applying, the association still hasn't gotten his ruling letter. And without that letter, contributions are not tax-deductible and no one will give, he said.

All for a group that said it wanted to give the government money.

"I thought this would be a fast-tracked application. A no-brainer. But it got caught up in this whole political controversy," Eisenberg said. "It's the greatest irony that ever was."

DOCUMENT: The IRS list of 'political advocacy cases
http://www.usatoday.com/story/news/politics/2013/09/17/irs-tea-party-target-list-document/2827925/

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

	Organization Name	Control Date	EIN	Subsection	EDS Status	Current	Lobbying	General Advocacy (i.e. issue advocacy and/or educational	Propaganda/Inflammatory (little to no educational aspects)	Political Activities	Development	Comments	Suggested Action(s)
													Suggestions are based on initial screening of cases in TEDS, not on a full review and development of the cases. * Indicates that development may not needed. Suggest that EOD may want to review the case to make final determinations whether to or not to develop the case.
1	Chattanooga Tea Party	11/19/09	27-0648657	c-4	52	X		X	X	Yes	Lobbying; general advocacy (little to no educational aspects); political activities (not primary)	
2	Mississipci Tea Party	12/04/09	27-0197731	c-4	52	X	X	X	X	Yes	Substantial political campaign intervention; could be primary activity. Development	
3	Richmond Tea Party	12/29/09	27-0929175	c-4	52		X			-	General advocacy; educational; limited campaign activities.	Positive favorable
4	American Patriots Against Government Excess	01/02/10	27-1203858	c-4	52	X			X	Yes	Lobbying/political campaign intervention; little to no general (issue) advocacy activities/educational activities. More development may be needed, including minutes from meetings held	
5	Take Back Our Country	02/10/10	61-1610764	c-4	52		X		X	Yes	Unclear whether primarily political campaign intervention or an advocacy org; more development needed, including copies of weekly newsletters. Based on website, primarily political campaign intervention. On the org's blog under "President's Message," states: "Our ultimate goal is to turn California's 54 electoral votes back to a conservative candidate. First order of business is to	
6	Tea Party Patriots of North Idaho	02/10/10	27-0354907	c-4	52					Yes	Additional development needed; no significant amount or clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information on issues. Additional development should include copies of materials provided to members; press releases, articles, commentary, and research reports; should obtain copies of these copies of records/documents.	
7	Patriots Educating Concerned Americans Now	03/02/10	27-1972341	c-3	52					Yes	Review for possible denial; activities are commercial in nature.	
8	Pennsylvania Coalition for Responsible Government	03/08/10	80-0364430	c-4	52				X	-	May be proposed denial; Articles of Incorporation specifically state their purposes are to "Promote the election of candidates that support limited government."	May be proposed denial if primary activity is political

Report Exhibits - Page 001684

9	1776 Tea Party	03/15/10	26-4317943	c-4	52		X	X		Yes	Issue advocacy; additional development may be needed as majority of website involves reposting various news articles; postings on website show little educational value; appear mostly emotional,	
10	Everyday Patriots	03/18/10	27-1802261	c-4	52		X			"	General advocacy org	
11	Roane County Tea Party	03/19/10	27-0945423	c-4	52				X	"	Political campaign activity. Activities unclear; no real educational activities/foment apparent. Development needed; hosted Herman Cain event	
12	San Angelo Tea Party, Inc.	03/26/10	27-0783603	c-4	52				X	"	Appears to be mostly engaging in primarily political campaign activity; no apparent educational or legislative activities.	
13	Freedom and Values Alliance, Inc.	03/26/10	27-0424641	c-4	52		X			Yes	General advocacy org; additional development should include requests for pamphlets, other published materials, etc.	
14	Voces	03/29/10	27-0456188	c-3	52					Yes	Not on TEDS, no website	
15	Western Slope Conservative Alliance	04/01/10	27-0320117	c-4	52	X	X		X	"	Legislative and general advocacy; some apparent political advocacy	Possible favorable
16	912 Lane County	04/05/10	27-1930524	c-4	52		X			Yes	Maybe general advocacy org but need to determine if really educational and good ol' activities; more development likely bc website requires member login to majority of website	
17	Red River Tea Party LLC	04/03/10	27-0759001	c-4	52	X	X		X	Yes	General advocacy and lobbying; appears to be good ol' activities	
18	Tri-Cities Tea Party	04/14/10	38-4668117	c-4	52		X			"	Advocacy org; some political campaign activity on state level (see Form 1024)	Possible favorable
19	Shenandoah Valley Tea Party	04/15/10	27-0704510	c-4	52		X		X	Yes	Advocacy org; additional development needed to determine if PA are primary; sec hold candidate forums (one indep, 3 republicans, no dems or others); website offers little information about activities/issues.	
20	Norcal Tea Party Patriots	04/29/10	27-1940800	c-4	52	X	X			"	General advocacy org	Possible favorable
21	Patriots of Charleston	05/03/10	26-4684102	c-4	52		X	X	X	Yes	Both general advocacy and some apparent political campaign activities (ie negative Obama commentary); more development may be needed to determine if good ol' activities	
22	Stand Up for Our Nation, Inc.	05/05/10	27-1068109	c-4	52					Yes	Unclear; Additional development; website requires log in. News articles say that Sarah Palin formed the org. Form 1024 is bona fide to activities.	
23	Katy Tea Party	05/07/10	27-0253894	c-4	52				X	Yes	Substantial campaign activity; additional development needed to determine if primary.	
24	Refoundin' Org	05/10/10	27-1757882	c-3	52					Yes	Couldn't pull up on TEDS	
25	Conservative Grass Roots	05/11/10	26-4490743	c-4	52		X		X	Yes	Unclear whether general advocacy or primarily political campaign activities.	
26	King Street Patriots	05/11/10	27-1628172	c-4	52		X			"	General advocacy; voter education activities	Possible favorable
27	Reform Jersey Now Incorporated	05/20/10	27-2435222	c-4	52		X			Yes	May be general advocacy org; additional development needed. Web articles link the org to Gov. Chris Christie.	
28	912 Project Fort Worth, Inc.	05/20/10	27-0196834	c-4	52		X	X		Yes	Additional development needed; little issue advo/educational activities on website; just information on rallies/meetings, etc	

Report Exhibits - Page 001685

29	Georgia Tea Party, Inc.	05/21/10	27-0473262	c-4	52	X					General advocacy org; possible lobbying; may be favorable but may need additional development to see what actual activities engaging in	
30	Peoples Tea Party Corp	05/26/10	27-2287542	c-4	52		X		X	Yes	Political activities; narrative states "half of" activities include getting to know candidates running for office; also publish voting score cards; need to determien if candidate activity is educational or nonpsn	
31	Hawaii Tea Party	05/27/10	27-0684930	c-4	52		X			"	General advocacy org	
32	Grimes County Tea Party	05/28/10	27-1126823	c-4	52	X	X			"	General advocacy; lobbying	
33	The America We Love Foundation	06/03/10	26-4693625	c-3	52					Yes	c3; Couldn't pull up on TEDS, but did a website search (verify website); based on website indirect prohibited political activities (anti-Obama rhetoric on website); substantial propaganda.	
34	Montana Conservative Alliance	06/07/10	27-2507672	c-4	52		X			"	General advocacy	
35	North Houston Tea Party Patriots, Inc.	06/11/10	27-0343879	c-4	52		X			"	General advocacy	
36	Manassas Tea Party	06/11/10	27-2568386	c-4	52				X	Yes	Political campaign intervention seems substantial; more development to determine if primary activity; also more development on any advocacy activities because as of filing Form 1024, had not engaged in any. See no educational activity or issue advocacy	
37	Unite In Action	06/14/10	27-1696680	c-4	52	X	X			Yes	Lobbying and general advocacy; development may be needed. Website includes a "Bro Timothy Geithner" section and a section to "demand Joe Biden apologize"	
38	American Leadership Council	06/18/10	27-1760373	c-3	52					Yes	c3; unclear; state purpose is to hold forums but little to no description of why/what purposes/topics/etc; more development needed; description of activities very bare.	
39	Idaho Rights Foundation, Inc.	06/23/10	27-1899255	c-3	52					"	General advocacy; educate public on civil rights and liberties.	
40	Ohio Liberty Council Corp	06/30/10	27-0026942	c-4	52		X			"	General advocacy; political activities (hold candidate forums)	Possible favorable
41	Dallas Tea Party, Inc.	07/06/10	27-0274828	c-4	52		X			Yes	Appears to be general advocacy; more development needed, no detail as to what issues they're advocating/educating on; can't access website.	
42	Waco Tea Party	07/08/10	27-0188644	c 4	52			X	X	Yes	Unclear; need to determine if activities actually constitute good n4 activities (i.e. issue adv or educational activities)	
43	10th Amendment Foundation, Inc.	07/12/10	27-0338663	c-3	52	X			X	Yes	Lobbying (healthcare legislation repeal) appears to be significant; Also, political activities (held candidate forum where only 1 candidate appeared and 2 others did not)	Possible denial
44	The Common Sense Campaign Corp	07/13/10	27-0866714	c-4	52	X	X			Yes	Lobbying and general advocacy; need more info on actual activities	
45	Coalition for a Conservative Majority Colorado Springs	07/14/10	27-0525005	c-4	52		X			Yes	General advocacy; little to no details or info on issues/educational activities on website or Form 1024	

Report Exhibits - Page 001686

46	Louisville Grassroots Tea Party, Inc.	07/19/10	27-0526697	c-4	52			X	X	Yes	Political campaign activities; verify website; website articles are emotional/inflammory; little to no description of activities on Form 1024; more development needed re political activities and educational value of website/other materials	
47	Allen Area Patriots	07/20/10	27-2785947	c-4	52				X	Yes	Substantial amount of campaign activity, including candidate forums, candidate ratings, etc. More development to determine if primary activity	
48	Rochester Tea Party Patriots	07/21/10	27-0995725	c-3	52	X				Yes	Lobbying; provide narrative description of activities; website is heavy on legislation, call to action on specific legislation; little to no educational aspects other than bare description of legislation, no substantive discussion of issues	
49	Laurens Co Tea Party Dianne Belsom	07/23/10	27-2061290	c-4	52				X	Yes	Significant political campaign activity, further development needed to determine if primary activity; have "vetting committees" for candidates and endorse specific candidates for various elections	
50	Arkansans for Common Sense	08/04/10	27-2075668	c-4	52	X	X			*	Lobbying and general advocacy org; candidate election advocacy (does not appear primary)	Possible favorable
51	San Antonio Tea Party, Inc.	08/05/10	80-0380303	c-4	52	X	X	X	X	*	Lobbying and general advocacy org; engages in political campaign activity; but, negative comments referring to liberals, etc.; may need development regarding inflammatory/emotional statements	
52	Stop This Insanity, Inc.	08/09/10	27-1909830	c-4	52				X	*	Proposed denial; Org states in its application that it is a PAC "which primarily helps members elect candidates who reflect our values through a variety of activities aimed at influcing the outcome of elections."	Possible denial
53	Southeastern Ohio 912 Project, Inc.	08/20/10	30-0637171	c-4	52		X			*	General advocacy org	
54	Myrtle Beach Tea Party, Inc.	08/24/10	27-0239091	c-4	52				X	Yes	Appears to be primarily political campaign intervention; website shows no educational activity or issue advocacy or legislative advocacy. Narrative of activities is bare with no detail other than dates of rallies.	
55	Texas Puentes Initiative	08/28/10	30-0634239	c-3	52		X			*	Appears to be general educational advocacy; website down so could not view so may want to do additional development.	
56	912 Project of Burlington County	08/31/10	27-2962958	c-4	52		X			*	Appears to be general advocacy; couldn't access website so may want to do additional development	
57	First Depot Tea Party, Inc.	08/31/10	27-0213422	c-4	52	X	X		X	*	General advocacy and legislative advocacy; may be indirectn egative political activities (indirect negative comments on Obama)	
58	SD Citizens for Liberty	08/31/10	27-3244200	c-4	52	X	X	X	X	Yes	General advocacy/some lobbying, but does engage in candidate election advocacy; further development bc little to no educational value; emotional/inflammatory language/unsupported "factual" statements.	

59	Crossroads Grassroots Policy Strategies	09/03/10	27-2753378	c-4	52	X	X	X	X	Yes	"Lobbying and general advocacy org, however, significant anti-Obama rhetoric and articles; appears to be an anti-Obama Administration website; however there are educational materials on site.	
60	Sidney Shelby County Liberty Group	09/13/10	36-4974344	c-4	52	X			X	Yes	Appears to be lobbying; have held a number of candidate forums; development should explore if political activities are primary activity etc. Also need more info on actual activities	
61	KSP True the Vote	09/20/10	27-2860085	c-3	52		X		X	Yes	c3; Educational advocacy org; voter registration/drive activities; however, may be direct/indirect campaign intervention (a substantial language/information on website focuses on democratic attacks and republican/conservative response so development is needed and should examine this language/web section)	Possible denial, however development suggested
62	OKC PIA Association	09/21/10	27-0434401	c-4	52	X		X		Yes	General advocacy org & lobbying activities, however little to no educational activities/issue advocacy; highly inflammatory and disparaging commentary/articles. Appears to have no objectivity, no factual support for statements, etc.	
63	US Health Freedom Coalition, Inc.	09/24/10	87-0809179	c-4	52	X				-	Lobbying appears to be primary activity. Org is advocating a health care reform/freedom act.	Possible favorable
64	Just Liberty Incorporated	09/28/10	27-1101708	c-4	52	X				Yes	Appears to be substantial lobbying activities; need membership to log in so development may want materials distributed via email, materials distributed at rallies, meeting minutes, etc.	
65	CVFC	09/30/10	27-3210078	c-4	52					Yes	More development necessary; affiliated with Combat Veterans for Congress PAC; Form 1024 provides little to no information on activities and is vague and broad as to planned activities.	
66	Wetumpka Tea Party Inc	10/13/10	27-1231032	c-4	52				X	Yes	Org specifically states activities involve candidate election advocacy; need to determine if primary activity.	
67	Bedford County Patriots	10/18/10	80-0589983	c-4	52				X	Yes	Political campaign activities; supporting candidates; website has little on educational activities, a lot of info on campaign activities and candidate forums. Need to determine if primary activity	
68	North East Tarrant Tea Party Inc	10/18/10	27-2998683	c-4	52				X	Yes	Political campaign intervention appears to be a significant if not primary activity.	
69	American Patriots for Conservative Action, Inc.	10/25/10	27-3587336	c-4	52					Yes	Unclear; much more development needed; Form 1024 description of activities is bare and not detailed. No website.	
70	Comeback America Initiative, Inc.	10/25/10	27-3489428	c-3	52		X			Yes	c3: Appears educational in line with 501c3 purposes, no apparent political campaign activity; may want to look into whether compensation of CEO is reasonable and if absolutely no political intervention	

Report Exhibits - Page 001688

71	San Fernando Valley Patriots, Inc	10/25/10	27-3587925	c-4	52		x	x	x	Yes	Significant political campaign activities (a lot of anti-Obama) but also general adv/educational activities (some facts/some inflammatory/emotional viewpoints/language); need to determine if PCA is primary	
72	Colles Party USA	10/28/10	27-2504748	c-4	52		x	x		Yes	General advocacy, some educational activity on website, however, a lot of emotional commentary/personal commentary based more on personal positions; conclusions/comments based more on strong emotional feelnts then objective evaluations. Development should include examination	
73	Yuba Sutter Tea Party Patriots	11/12/10	27-2076246	c-3	52				x	Yes	c3; possible denial; Engages in political campaign activity: Specifically checked on Form 1023, Part VIII, Specific Activities, that the org will support or oppose candidates. Additionally in narrative the org states it rates candidates and allow candidates who	Possible denial
74	Citizens for the Preservation of Rural Marysville	11/12/10	26-4714753	c-4	52	x	x		x	Yes	Engages in candidate election advocacy; specifically endorses certain candidates; engages in some legislative and general advocacy; need to determine if campaign election activities are primary activity.	
75	San Juan County 912 Project Corporation	11/19/10	27-1008251	c-4	52		x			Yes	General advocacy org; however, very vague on activities, for example states that its purpose is to educate on local, state and national issues but does not discuss those issues. Website is bare except for disparaging commentary about a local council person.	
76	Las Cruces Tea Party	12/01/10	27-1195139	c-4	52				x	Yes	Primary activity may be political activities/campaign intervention, majority of website involves anti-Obama articles and	
77	Tea Party Patriots Inc.	12/17/10	27-0470227	c-4	52					Yes	Unclear; org states its activities include helping "tea party" orgs market themselves, develop their org, attract speakers, develop websites, produce stickers/flags/items, etc. which seems like commercial/business activity; little to no educational or issue advocacy on website. Additionally, alot of campaign rhetoric, reference to taking back the country after Nov 2 elections. Attachment includes emotional rhetoric, nothing objective or informational; viewpoints/positions unsupported by facts. Development may also want to include examining whether exec compensation is reasonable	
78	Tea Party Patriots Foundation, Inc.	12/17/10	27-3893819	c-3	52					Yes	c3; Unclear; no website; Form 1023 narrative description of activities bare; additional development	
79	Restoring Freedom Foundation, Inc.	12/17/10	27-3986938	c-3	52		x			Yes	Appears to be general advocacy (educational activities). No website; development should request copies of brochures/pamphlets/materials distributed at fundraising or speech events, etc. to determine if	
80	Union County 2020, Inc.	12/21/10	26-2446373	c-4	52		x			-	Appears to be general advocacy; must sign up to access "stay informed" part of website; may want to do further development	

Report Exhibits - Page 001689

81	American Freedom and Enterprise Foundation, Inc.	12/22/10	27-0327515	c-4	52		X			-	General advocacy org	
82	Liberty Township Tea Party	12/30/10	27-2508219	c-3	52	X	X		X	Yes	c3; polls members to see who they are voting for (prohibited political activities). Also lobbying; made 501(h) election.	Possible denial
83	Greater Phoenix Tea Party	01/03/11	27-1091276	c-4	52					Yes	Could'nt locate on TEDS	
84	Linchpins of Liberty	01/05/11	27-3326137	c-3	52		X		X	Yes	c3; may be good c3 activities, but may be engaged in political campaign activity; development suggested to make sure	
85	1776 Nation, Inc.	01/07/11	80-0557602	c-4	52				X	Yes	Unclear; website shows substantial anti-Obama information; log in required for part of site; development should include copies of "fax blasts" and other materials disseminated to determine if political campaign activity and if primary.	
86	Center for the Next Generation	01/10/11	37-1818883	c-3	52	X				Yes	c3; 501h election; educational; "development should include determining reasonableness of CEO compensation (at $650,000 a year)	
87	No on 22-Citizens Against Taxpayer Giveaways	01/11/11	27-2942804	c-4	52	X	X			-	Legislative/general advocacy; Primary purpose is to defeat a state ballot initiative; engages in educational activities related to opposition to the measure	Possible favorable
88	Sarasota Tiger Bay Club, Inc.	01/13/11	50-2800695	c-3	52		X		X	Yes	c3; Unclear whether advocacy org or if they engage in political campaign intervention/activities; development needed because Articles of Incorp state part of its purpose is to promote business interests of its members as well as issue regarding political activity.	
89	Kentucky 912 Project, Inc	01/13/11	27-3008205	c-4	52		X		X	Yes	General advocacy org; need more info on activities	
90	4 Corners Liberty Restoration Group	01/18/11	27-2291108	c-4	52					Yes	Couldn't access on TEDS	
91	Protecting American Values, Inc.	01/18/11	27-4056436	c-3	52	X				Yes	501c3; engaging in lobbying. Language in Form 1023 narrative doesn't appear to be good c3 activities; language in Articles says specific purpose is to educate on "threats posed by radical Islam", combating these threats, etc. Org could be engaging	Possible denial
92	Strong America Now	01/20/11	27-4102251	c-4	52				X	Yes	Primary activity may be political campaign intervention. Significant Republican candidate election advocacy and campaign communications on website.	
93	coalition of energy users	01/24/11	27-4135171	c-4	52	X	X			-	General and legislative activity	Possible favorable
94	Indian River Tea Party, Inc.	01/27/11	80-0675650	c-4	52	X	X		X	Yes	Org states 50% of activities will be devoted to political campaigning and endorsement of candidates. General advocacy org/lobbying, lobbying activities also extensive	Possible denial
95	alliance for self-governance	01/31/11	27-4648506	c-4	52	X			X	Yes	Org states majority of activities divided between training people for lobbying and campaign activities	Possible denial

Report Exhibits - Page 001690

96	Tea Party Patriots Denver, Inc.	01/31/11	27-3173122	c-4	52		X			Yes	States it's an advocacy org; Form 1024 narrative is bare and undetailed; website is unavailable. More development likely.	
97	citizen opinion inc	02/01/11	27-2030004	c-3	52					Yes	Couldn't access on TEDS	
98	The Carleson Center for Public Policy	02/01/11	27-4682545	c-3	52				X	Yes	501c3; potential political campaign activity; negative commentary/articles on Obama on website. More development needed.	
99	Intersections, Inc.	02/03/11	80-0675701	c-3	52				X	Yes	501c3; additional development needed on reasonableness of executive compensation as well as activities and if there are any prohibited campaign activities.	
100	The Tim Melton Foundation	02/10/11	37-1547354	c-4	52					Yes	Org's purpose appears to be to raise money for an org called Pontiac Promise Zone (college tuition funding org). But also spent approx. $1,000 to send Tim Melton to the American Legislative Exchange	
101	Constitution Education Foundation	02/14/11	27-4502098	c-3	52					Yes		
102	Deliverations for Social and Economic Justice	02/14/11	27-1612626	c-4	52					Yes	Couldn't access on TEDS	
102	Cincinnati 9 12 Project, Inc.	02/22/11	30-0652509	c-4	52	X		X	X	Yes	Primary purpose may be political campaign intervention; website which states "our goal is to impact the 2010 elections." Form 1024 narrative provides little, undetailed information. Website is less educational and more emotional commentary.	
104	Minnesota Campaign for Liberty	02/22/11	27-2917133	c-4	52	X	X			*	Lobbying and general advocacy	
105	Iowans for Growth and Development	02/22/11	27-5085351	c-4	52	X				*	Primary purpose is to lobby for legislation; lobbying appears to relate to its exempt purposes	
106	Citizens for Prosperity and Reform Movement	02/22/11	27-3823883	c-4	52		X	X		Yes	Appears to be general advocacy org; no website. Form 1024 narrative provides emotional language as opposed to description of educational activities. More development needed to determine if good cs	
107	Freedom Path Inc.	03/07/11	90-0648831	c-4	52		X			*	General advocacy org	
108	Ohio First for a Better Government, Inc.	03/08/11	27-5401086	c-4	52	X	X			*	Legislative and general advocacy	
109	The Tea Party in Action, Inc.	03/08/11	27-2579530	c-4	52	X			X	*	Primary/main activity is lobbying. Some candidate election advocacy on website (verify website).	
110	Faith and Freedom Coalition of Ohio, Inc.	03/10/11	27-2152340	c-4	52	X	X		X	*	Lobbying, general adv., political campaign activities, ex. voter education activities (voter registration, get out vote drives, etc)	
111	Progress Texas	03/11/11	80-0587741	c-4	52	X		X	X	Yes	Unclear; anti-Rick Perry rhetoric; voter education activities though; political commentary that may be disparaging/emotional/not educational	
112	The Tabor Committee	03/15/11	27-1491503	c-4	52					Yes	Couldn't access on TEDS	
113	Spirit of freedom Institute	03/16/11	27-3731345	c-3	52					Yes	Couldn't access on TEDS	

114	Odessa Tea Party, Inc.	03/17/11	27-0748033	c-4	52					Yes	Provided BLANK Form 1024; provided no narrative, provided no financial data.	Possible denial
115	Hampton Roads Tea Party, Inc.	03/18/11	27-0810907	c-4	52	X	X		X	-	Lobbying and general adv., some candidate advocacy but may not be primary	
116	Concerned Nation, Inc.	03/25/11	45-0604110	c-4	52	X	X			-	Lobbying and general advocacy	
117	Dayton Tea Party, Inc.	03/25/11	26-4590565	c-4	52	X	X			-	General advocacy activity;may be lobbying; voter education activities	Possible favorable
118	The Mother Lode Tea Party	03/28/11	27-4020256	c-3	52	X			X	Yes	c3; May be engaged in substantial lobbying activities (no 501h election) and may also be engaged in prohibited political campaign activity (see website; holding a meeting about the presidential straw poll, more development needed). Have also held candidate forums so development should request materials from forums and information as to who was invited and who attended, questions presented, etc to determine if any political campaign intervention occurred or meets educational aspect.	
119	Louisiana Progress Action Fund, Inc.	03/30/11	37-1823923	c-4	52	X	X			Yes	Legislative and general advocacy (provided very little information so additional development likely)	
120	Arlington Tea Party	03/31/11	27-1701258	c-4	52					Yes	Unclear; development needed (website requires registered access); review website to determine if anytime educational activity or majority of which is	
121	Colorado 9-12 Project	04/04/11	27-2758282	c-4	52		X				General advocacy org	
122	Fightchange Com II	04/06/11	27-2531565	c-4	52		X		X	Yes	General advocacy; may have some political activities; affiliated with a 527 PAC Fightchange.com Political Action Committee	
123	Coalition for a Conservative Majority Denver Chapter	04/07/11	27-0855681	c-4	52				X	Yes	Primary activity may be candidate election intervention/political campaign activity based on website	Possible denial
124	Inteaparty Com. Inc.	04/08/11	27-0908491	c-4	52		X		X	Yes	Political activities; possible general advocacy but website provides little educational material or issue advocacy; activities include candidate vetting. development needed and should request information to help determine what issue advocacy/educational activities are being undertaken and questions on their "candidate vetting" and copies of materials distributed/produced.	
125	Gov at Home	04/11/11	45-0638130	c-3	52		X			Yes	501c3; no apparent campaign activity visible from 1023 or website. No legislative activity.	
126	Greenwich Tea Party Patriots of South Jersey LLC	04/13/11	27-1850927	c-4	52		X			-	General advocacy org; has presidential election poll on website but appears to be extent of political activity	
127	Vermonters for health care freedom	04/15/11	45-0833266	c-4	52	X	X			-	Engages in lobbying and general advocacy	
128	Cape 912 Inc.	04/15/11	27-3449015	c-3	52					Yes	501c3; no apparent campaign activity; couldn't access website though so development may be needed to ensure no prohibited political campaign	

Report Exhibits - Page 001692

29	Tea Party Patriots of Southern NJ, Inc	04/18/11	37-1603664	c-4	52	X		X		-	501c3; significant inflammatory/emotional comments; potentially substantial lobbying activities; not good c3 activities.	Possible denial
30	Mid-Coast Tea Party Patriots, Inc.	04/19/11	80-0498559	c-4	52		X		X	Yes	General advocacy org; engages in political activities; development should include questions on candidate forums, copies of any materials distributed, etc.	
31	American Solutions for Winning the Future	04/22/11	45-1552137	c-4	52					Yes	"This org was a 527 that terminated its status, news reports talk about a bankruptcy. It was associated with/formed by Newt Gringrich. It seeks to become a 501c4; the 527 is transferring any assets to to the	
32	Bayshore Tea Party Foundation	04/27/11	27-5471915	c-3	52				X	-	c3 engaging in prohibited political campaign intervention; website has a section devoted to an Elections Committee that "identifies, vets, and supports" candidates for office, pictures of group at campaign rallies wearing shirts supporting certain candidates. Form 1023 they checked no to engaging in political campaign activity.	Possible denial
33	America's Trust, Inc.	05/02/11	26-0149287	c-3	52					Yes	c3; also filed first page of a 1024 application?; educational activity; no apparent lobbying activities; no political activities; "development may want to	
34	Freedom Club	05/04/11	80-0084337	c-4	52					Yes	Unclear what activities are; website bare; activity may just be lobbying; development should request copies of "educational" materials it distributes/produces, materials from events, etc	
35	Liberty Markets Fund for Freedom	05/12/11	27-3055430	c-3	52					Yes	c3; development needed to determine if engaging in prohibited political activities/propaganda; no access to website (must sign in to view)	
36	Asheville Tea Party, Inc.	05/13/11	80-0403110	c-3	52					-	c3; engaging in prohibited political activity (see Candidate Bio page on website with language that appears to favor candidates discussed on page in addition the org fails to provide bios on ALL candidates for the offices at issue); additionally, there is language on website regarding "hold your elected officials accountable"; development should ask what the org means by this? Or how it intends to "hold elected officials accountable." A substantial part of activities also may be lobbying	Possible denial
37	Citizens for New Texas Freedom, Inc.	05/17/11	45-2153243	c-4	52	X				-	Lobbying	Possible denial
38	Oregon Capitol Watch Foundation	05/26/11	80-0711747	c-3	52		X			Yes	c3; no website or can't find via web search; appears to be general advocacy/educational org; development should determine if any prohibited	
39	Portage County Tea Party, Inc.	06/06/11	27-1440961	c-4	52		X	X		Yes	General advocacy/issue advocacy; need to determine if any educational activity or if activity/language of org is purely based on	
40	Louisiana Campaign for Liberty	06/08/11	27-2857260	c-4	52					Yes	Couldn't locate on TEDS	
41	Arkansas Campaign for Liberty	06/08/11	27-2856336	c-4	52					Yes	Couldn't locate on TEDS	

Report Exhibits - Page 001693

142	Kentucky Campaign for Liberty	06/09/11	27-2857130	c-4	52					Yes	Couldn't locate on TEDS	
143	Wyoming Campaign for Liberty	06/09/11	27-2858990	c-4	52					Yes	Couldn't locate on TEDS	
144	Missouri Campaign for Liberty	06/09/11	27-2859028	c-4	52					Yes	Couldn't locate on TEDS	
145	Kansas City Campaign for Liberty	06/09/11	27-2857069	c-4	52					Yes	Couldn't locate on TEDS	
146	Association to Reduce the National	06/10/11	45-2465453	c-3	52	X				Yes	c3; purpose is to raise money to send to the Treasury Department to help pay off national debt. No political campaign activities; legislative activities.	
147	West Suburban Patriots	06/10/11	80-0609904	c-4	52		X	X		Yes	General advocacy org; activities may be less educational and more emotional rhetoric (see website articles)	
148	Oklahomans for Liberty	06/15/11	27-4542143	c-4	52	X		X	X	Yes	Very political/partisan; website has substantial inflammatory/emotional rhetoric, no educational information found, Bad c4 activity	Possible denial
149	We the People of Maryland, Inc.	06/15/11	45-2437070	c-4	52	X	X			Yes	Lobbying and general advocacy. Need more info on actual activities	
150	Take Back Our Country	06/17/11	27-2922748	c-4	52					Yes	Couldn't locate on TEDS	
151	Act for America Middle Tennessee	06/21/11	27-4431473	c-4	52		X	X		Yes	"Org's purpose appears to be "educating" on the dangers of radical Islam/Sharia law/Muslim Brotherhood etc. While there are educational aspects to some articles on website, the materials/activities/etc could be propoganda, and	
152	New York Civic Action, Inc.	06/25/11	45-2800368	c-4	52	X			X	Yes	Primary activities appear to be lobbying and political campaign activities, will compose candidate questionnaires, voter guides, etc. (development	
154	Michigan Faith and Freedom Coalition	06/28/11	45-1316574	c-4	52				X	Yes	Unclear; more development needed to determine whether political activities are primary	
155	corporate accountability project	06/28/11	45-2288010	c-3	52	X	X			Yes	c3; 501(h) election; educational activities. However, have concerns about one activity of org that involves its website and that will "provide a means by which corporate employees and citizens with information on illegal and fraudulent corporate behavior may	
156	Californians for Regulatory Reform	06/28/11	45-2549959	c-4	52		X			-	General advocacy org; purpose is to influence regulations	
157	Free Congress Action, Inc.	06/29/11	27-3180178	c-4	52	X	X			-	Lobbying activities and general advocacy; need more info on activities engaging in	
158	Conserve our Republics Dignity	06/29/11	45-2023070	c-3	52					Yes	c3; no website; additional development to determine if any political activities; request materials, etc.; as well as compensation and allowance of discretionary	

Report Exhibits - Page 001694

59	New Roosevelt Foundation, Inc.	08/30/11	45-0821734	c-3	52					Yes	501c3; website under construction; additional development recommended to obtain materials distributed, research conducted, more detail on activities.	
60	Progressives United, Inc.	07/01/11	45-2317777	c-4	52	X	X				c4 appears to be engaged in lobbying & general advocacy; has related 527 PAC	
61	Arizona Citizens United	07/05/11	45-2521317	c-4	52				X	Yes	Political campaign activities appear to be substantial based on Form 1024 narrative; development may be needed	
62	where the line America foundation	07/00/11	27-4818012	c-3	52	X	X			Yes	c3 (expedited case); 501h election; also general advocacy; however, unsure whether good c3 activities; website is bare	

Report Exhibits - Page 001695

The Colorado Independent

Does the IRS really have it in for tea party groups?

Teddy Wilson
March 28, 2012 Politics
http://www.coloradoindependent.com/116361/does-the-irs-really-have-it-in-for-tea-party-groups

Conservative activists and some Republican lawmakers are up in arms about what they describe as the Internal Revenue Service conducting a partisan and ideologically driven campaign against tea party groups around the country. They claim that progressive organizations are not experiencing the same level of scrutiny. However, some progressive groups say they have had similar experiences with the IRS, and at least one expert dismisses the notion that the government is engaged in an ideological witch hunt.

Tea party groups, as well as other non-profit organizations, can apply for tax-exempt status with the IRS. Under the 501(c) designation there are 28 different types of organizations that are exempt from paying some or all federal taxes. Typically, organizations like tea party groups will apply either for 501(c)3 or 501(c)4 status, depending on the organization's activities. One of the differences between the designations is that donations to a 501(c)3 are tax deductible and donations to a 501(c)4 are not.

In an interview with the Texas Independent, Toby Walker of the Waco Tea Party said that the group applied for 501(c)4 status by filing a 1024 form with the IRS in July of 2010. About a month later the group was informed that the IRS would take 90 days to inform it of an approval, a denial, or a request for more information. "The 90 days came and went," said Walker. "But on their web site it said that they were behind. We started calling and checking in, and they said they were backlogged."

Then on Feb. 7 of this year, the Waco Tea Party received a letter from the IRS asking for the answers to 20 questions. "Some of the questions were acceptable," said Walker. "We knew they were going to ask for more information, and we weren't surprised to get the letter. What surprised us were a number of the questions that did not pertain to the 1024."

"Red alert"

Walker specifically cited the seventeenth question as being a "red alert." The question asks if the group has a "close relationship with any candidate for public office or political party." The question also asks them to describe the relationship.

"I told our treasurer to find out what that means," said Walker. "When we called the IRS they said that close relationship is subjective and to send them the names, and they will let us know. What does that mean?"

"It was so onerous to answer," said Walker.

The letter asked for transcripts of the group's social media activities, including posts on Facebook and Twitter. It also requested transcripts of the group's online radio show. Walker said that the group was looking at significant costs for printing and shipping all of the documents required. "Just to do our Twitter account would be between 2,500 and 3,000 pages," said Walker.

Walker said that she knew that "left leaning groups" that filed the same year had been approved. While she did not name the specific groups, **Walker referred to a March 8 Roll Call article**. The article stated that "several liberal groups contacted by Roll Call did not report similar experiences."

The article specifically cited **Protect Your Care**, a 501(c)4 organization that describes its mission as providing a space to "champion the Affordable Care Act," as an organization that did not receive any such questionnaire letter from the IRS. Roll Call also said that one other unnamed liberal 501(c)(4) organization was granted tax exempt status in May after receiving "only a modest six-part questionnaire."

Progressives get same treatment

However, interviews conducted by the Texas Independent with three different progressive organizations call into question charges that the IRS is engaged in ideological discrimination. Each organization reported varying degrees of interactions with the IRS, and the amount of time it took each to receive final approval also varied. However, two of the organizations did receive correspondence from the IRS requesting more information, and these letters included similar questions to those received by the Waco Tea Party.

In College Station, Texas, the **Brazos Progressives**, a coalition of progressive groups and businesses, originally filed for 501(c)3 status and, after being denied, filed for and received 501(c)4 status. **Clean Elections Texas**, an organization that seeks to build support for a public funding option for candidates seeking public office in Texas, filed for 501(c)4 status and said that they avoided requests for more information by being advised on what specific information the IRS was looking for on the 1024 forms.

A staff member of a progressive organization in Texas spoke with the Texas Independent on the condition of anonymity due to the fact that their organization is undergoing a similar review as the Waco Tea Party. The staff member said that that while the organization's application for 501(c)3 and 501(c)4 status went through "fairly smoothly," the organization also had to answer extensive follow-up questions about its finances and mission.

"We received a questionnaire of around twenty questions," said a staff member. "The letter was looking for a deeper understanding of our organization. There were no questions that were that surprising. I think they [the questions] were just about really drilling into why we wanted to have a tax exempt status. It made us focus on what we are working on and what kind of great good agenda, not just a partisan agenda, we are working toward."

"The IRS is asking similar questions of organizations from all over the political spectrum."

The staff member, who said that he has worked for multiple 501(c)3 and 501(c)4 organizations during the Clinton, Bush, and Obama administrations, said that he has perceived no difference in how non-profits applying for tax-exempt status are treated. "When the IRS asks questions, then you answer them," said the staff member. "If you are upset with being upfront and clear about your organization, then maybe you shouldn't be filing for a 501(c)4 status."

A comparison of the letter from the IRS released by the Waco Tea Party and of a letter provided by the progressive Texas organization found that both are extensively detailed, asked similar questions, and were tailored to each organization. Both letters asked for copies of the organization's board meeting minutes and for copies of each organization's web sites. Questions also addressed specific concerns that the IRS had with each organization but, on the whole, did not appear to treat the organizations differently.

Marcus Owens, an attorney who represents non-profit organizations and has previously worked with the IRS, told the Texas Independent that the IRS is attempting to "get behind the rhetoric" of organizations that are interested in public policy.

"The IRS is asking similar questions of organizations from all over the political spectrum," said Owens. "The real issue for the IRS when it looks at organizations that apply for 501(c)4 status is whether or not they are social welfare organizations or something else. It's not whether or not they should be exempt or not, but which code section they should be exempt under."

While Owens did think that some of the questions were too broad and could have been worded better, he also said that groups applying for tax exempt status have options when questioned by the IRS.

"Fundamentally the IRS has a right ask the questions," said Owens. "However, the IRS is usually open to negotiating how much information you need to provide. What is clear is that this application process is normally not improved by public posturing. It is the task of the organization or the organization's representatives to add to the facts and make the case to the IRS."

Walker says that when the Waco Tea Party received the letter from the IRS, the group contacted its members, volunteers, and supporters. At no time did the group contact the IRS directly for clarification of the questions or to negotiate what information would be acceptable.

The Waco Tea Party also sought out the **American Center for Law and Justice** for legal advice and representation.

The ACLJ has taken up the cause of the Waco Tea Party and other tea party groups. The ACLJ describes itself as "committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world." Founded in 1990 by television evangelist Pat Robertson, the group has gained notoriety for taking up conservative causes. These have included **providing a legal defense for a public bus driver** who was fired for refusing to take a woman to a Planned Parenthood clinic in Texas.

"When a branch of the fed government is violating citizens' rights, they need to be investigated and put into their constitutional box."

The ACLJ posted a petition on its web site to "**Stop the IRS from Silencing the Tea Party**." The petition claims that under the Obama Administration the IRS "appears to be conducting politically motivated investigations of tea party organizations nationwide." The petition characterizes the investigations as "bullying tactics" that are "designed to silence these organizations." The petition calls for the Speaker of the House and others to "provide IRS oversight." Other Republican lawmakers and candidates have joined in supporting these claims, and some have called for congressional investigations.

Rep. Flores gets involved

Republican Rep. Bill Flores (TX-17), whose district includes Waco, **penned a letter** to House Committee on Oversight on Government Reform Chairman Rep. Darrell Issa stating that he is "concerned that the IRS is targeting tea party organizations around the country." The letter requests that Issa's committee open an investigation into the issue and hold congressional hearings. Republican senators **also sent a letter** to Commissioner of the IRS Douglas Shulman, requesting a response to similar concerns and demanding that the agency hold further "demands for information."

The Waco Tea Party also taken to social media to make its case that it is being targetted by the IRS, characterizing it as a battle between the "**IRS versus the tea party**." Posting multiple status updates and links on Facebook and Twitter, the group has made the claim that you are "**either with us or against us and the constitution**." The group has also promoted the petition drive by the ALCJ, tweeting "**defend the tea party from the IRS, sign the petition and call Congress**."

Another recent tweet reads: "The left is trying to silence Rush, and the IRS is trying to silence the tea party."

Walker shares the desire for an investigation and hearings. "Yes there needs to be congressional hearings," she said. "When a branch of the fed government is violating citizens' rights, they need to be investigated and put into their constitutional box."

IRS Letter to Waco Tea Party

Internal Revenue Service
[redacted]
Cincinnati, OH 45201

Date: February 1, 2012

Waco Tea Party
PO Box 5231
Waco, TX 76708

Department of the Treasury

Employer Identification Number:
[redacted]
Person to Contact – Group #:
[redacted]
Contact Telephone Numbers:
[redacted] Phone
Fax
Response Due Date:
February 23, 2012

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.
- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

Waco
[redacted]

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours

[redacted]
Exempt Organizations Specialist

Enclosure: Information Request
Application Identification Sheet

Waco
[redacted]

Additional Information Requested:

1. Please provide copies of your current web pages, including your Blog posts. Please provide copies of all of your newsletters, bulletins, flyers, newsletters or any other media or literature you have disseminated to your members or others. Please provide copies of stories and articles that have been published about you.
2. Provide copies of the pages of your social networking sites
3. You provided a copy of your Articles of Incorporation that does not exhibit the State agency's date stamp. Please provide a copy exhibiting the date stamp.
4. Provide an updated roster of your Board and officers
5. Provide your actual revenues and expenditures for 2010 and 2011, and a projection of your 2012 revenues and expenditures. Please be very explicit about your expenditures
6. Provide copies of the action items you have sent to members and others by email or otherwise
7. Provide copies of the agendas and minutes of any Board meetings and, if applicable, membership meetings, in which electoral issues were discussed or to which candidates for political office were invited
8. Have you expressly endorsed or oppose candidates for public office or slates of candidates at public events, on your website, on your radio show or You Tube page, in your literature or in any other forum? Do you plan to do so in the current election cycle? If so, provide a list of candidates for political office you have expressly endorsed or opposed, and describe the occasion on which you made each endorsement.
9. Describe in detail any financial or other support you have given to candidates, slates of candidates, or political parties, or which you plan to give in the current election cycle
10. List the community events, including rallies, you organized or took part in in the past, or plan to organize or participate in during the current election cycle. What are the dates on which they took place or will take place?
    a. Describe the purpose of the event, and the issues that it addressed.
    b. Provide copies of any materials disseminated to participants in the event
    c. If you permitted a candidate qua candidate to address the participants in any event, explain in detail.
11. List the dates of the radio shows in which candidates for political office were invited or in which candidates as candidates were mentioned by name. Please provide transcripts of the pertinent parts of those shows
12. Submit copies of any candidate questionnaires you submit to candidates. How do communicate the results of the questionnaires to the electorate? Provide copies of these communications
13. Do you compile voter guides or distribute voter guides, either your own or those provided by others? Provide copies.
14. Provide copies of any documents you disseminate that rate incumbents or all candidates for political office. State the dates on which you disseminated these documents, and through which media

Waco
[redacted]

15. Do any issue-related advocacy communications compare to the positions of candidates or slates of candidates on these issues with your positions? Provide copies of these communications. What percentage do these constitute of your issue-related advocacy communications?

16 Do you encourage eligible voters to educate themselves, register to vote, and vote?

   a. Explain in detail how you do this. For example, do you conduct voter registration or get out the vote drives, or voter education?

   b. In the course of conducting these activities do your members or volunteers urge the voters to support or oppose particular candidates or slates of candidates?

   c. If not, describe how you ensure that these activities are conducted in a strictly non-partisan manner.

17. Do you have a close relationship with any candidate for public office or political party? If so describe fully the nature of that relationship.

18 Provide copies of any agreements you have with others for provision of goods or services, sharing of facilities or other cooperative arrangements, or anything else

19 What percentage of your time is devoted to each of the following? What percentage of your resources?

   a. Member events in which electoral issues, including the qualifications of candidates or slates of candidates are also discussed

   b. Organization/participation in public events. Within this category, what percentage involved some kind of intervention in the political process, including, but not exclusively, express or implicit endorsement or opposition to candidates or slates of candidates.

   c Express endorsements of candidates through press releases, advertising, member communications, radio shows, or other media.

   d. Financial or other support to candidates, slates of candidates, or political parties.

   e. Voter education and engagement activities which tend to support or oppose specific candidates or slates of candidates.

   f. Issue-related advocacy communications. Within this category, what percentage include comparisons of the positions of candidates or slates of candidates on these issues with your positions?

   g. Compilation and distribution of candidate questionnaires, voter guides, incumbent or candidate ratings, and so forth.

   h. Member events in which only legislative issues are discussed.

   i. Nonpartisan voter education or engagement activities

   j. Fundraising.

   k. Website maintenance

   l. Other administrative, including officer travel and participation in conferences

   m Other – please describe fully

Waco
[redacted]

20. Apart from your responses to the preceding, estimate the percentage of your time and what percentage of your resources you will devote to activities in the 2012 election cycle, in which you will explicitly or implicitly support or oppose a candidate, candidates or slates of candidates, for public office

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Internal Revenue Service
Exempt Organizations
[redacted]
Cincinnati, OH 45201
[redacted]

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
[redacted]
Cincinnati, OH 45202
ATT[redacted]

IRS Letter to Progressive Group

ORGANIZATION: [redacted]
CASE #: [redacted]
AGENT: [redacted]
DATE: [redacted]

ADDITIONAL INFORMATION

NOTE: Your response to this letter must be submitted over the signature of an authorized person or of an officer whose name is listed on the application. Also, the information you submit should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information.

1. Please submit statements regarding educational, work and philanthropic backgrounds of the organization's officers, directors, board members and trustees.

2. Please provide information as follows pertaining to each of the organization's officers, directors or trustees:

   a. Please describe the duties that each individual performs for the organization.
   b. Other than serving as an officer, director and/or board member for the organization, please provide the names and addresses of each individual's employer/business, the nature of their employment/business, and the number of hours devoted to their employment/business.

3. Other than the Cost Sharing Agreement submitted with Form 1024, please submit copies of any other written leases, contracts or agreements entered into by the organization.

4. Will anyone use the organization's facility other than for the purpose of directly carrying out its work? Will any of the directors or employees reside and/or work (e.g. not related to the organization's activities) at the facility? If so, explain fully. Please fully explain if the owner of the facility is related to the organization and/or its officers, directors, etc. in any way other than as landlord?

5. Please submit complete copies of the organization's financial statements and balance sheets for the following periods:

   a. Fiscal year ending December 31, 2011, and
   b. Period covering January 1, 2012 through Present.

6. Please provide copies of board meeting minutes since the organization's inception.

7. Please provide copies of agendas and/or descriptions of topics covered at each of the organization's general meetings and events since inception.

ORGANIZATION: [redacted]
CASE #: [redacted]
AGENT: [redacted]
DATE: [redacted]

8. Please provide copies of materials distributed at each of the organization's meetings since inception.

9. Does the organization have a website? If so, please provide its website address and complete copies of the organization's web pages and action alerts from its website. Please also ensure to include web pages that are accessible only to members.

10. Please provide copies of all of the organization's promotional material.

11. Has the organization distributed or will it distribute materials or conduct other communications that are prepared by another organization or person? If so, provide the following:

    a. Please provide details of this activity.
    b. Please provide the names of the individual(s) and/or organization(s) that prepared the materials.
    c. Please submit copies of materials and contents of the communications.
    d. When and where the distributions have been conducted or will be conducted?
    e. Who has distributed or will distribute the materials?

12. Is the organization a membership organization? If so, submit the following:

    a. Please indicate how many members the organization has currently.
    b. Please fully explain what the organization's memberships consist of (i.e. individuals, businesses, organizations, etc.).
    c. Please provide a numerical breakdown of members in each membership class.
    d. Please provide a complete copy of the member application/registration form.
    e. Please provide the membership agreement and rules that govern members.
    f. Please provide a membership fee schedule.
    g. Please fully describe the requirements for membership.
    h. Please fully describe what services and benefits are available only to the organization's membership.
    i. Please fully describe the members' roles and duties within the organization.

13. The attachment to Part II, Line 5 of Form 1024 indicates that the organization has a close connection to [redacted]. Please submit the following:

    a. Please fully describe the activities of [redacted]
    b. Please fully describe how the activities of [redacted] differ from those of the organization.
    c. Please provide the website address for [redacted]
    d. Please provide promotional material relating to [redacted]

ORGANIZATION: [redacted]
CASE #: [redacted]
AGENT: [redacted]
DATE: [redacted]

e. Please provide the names of officers, directors and board members of [redacted]

f. Please fully explain if [redacted] has been granted exemption from the Internal Revenue Service. If so, please provide complete evidence.

14. Please submit a breakdown list showing the percentage of time and resources that the organization devotes to its activities (For example, this organization is spending 25% of its activities conducting educational seminars and conferences, 35% of its activities on fund-raising activities, etc.).

15. We wish to call the organization's attention to section 4.03 of Rev. Proc. 2008-9, 2008-2 I.R.B. 258 states:

.03 Exempt status may be recognized in advance of the organization's operations if the proposed activities are described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements for exemption pursuant to the section of the Internal Revenue Code under which exemption is claimed.

(1) A mere restatement of exempt purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement.
(2) The organization must fully describe all of the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures.
(3) Where the organization cannot demonstrate to the satisfaction of the Service that it qualifies for exemption pursuant to the section of the Internal Revenue Code under which exemption is claimed, the Service will generally issue a proposed adverse determination letter or ruling.

The attachment to Part II, Line 1 on Page 2 of Form 1024 indicates that the organization's mission [redacted]

The information submitted with the exemption application does not contain sufficient information in detail to fully describe the organization's past, current and proposed activities. Therefore, please submit a much more detailed description of those activities.

Please ensure to include the following:

a. Please provide a detailed description of each activity.
b. The date, location, and content schedule of each event.
c. Copies of materials distributed to the audience at each event.

ORGANIZATION: [redacted]
CASE #: [redacted]
AGENT: [redacted]
DATE: [redacted]

d. Please fully describe what resources the organization uses to gather information for its activities.
e. Identify the educational materials that were used by presenters at each event.
f. The names and credentials of the instructors.
g. If speeches or forums were conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members were paid, provide the amount paid for each person. If not, please indicate that they volunteered to conduct the event.
h. The names of persons from the organization and the amount of time they spent for each event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation that was paid to each person.

16. Form 1024 indicates that the organization will conduct get out to vote activities including registering, recruiting, educating, mobilizing and turning out voters in critical elections. Please provide the following:

a. Please provide more details pertaining to each of these activities.
b. Please provide a list to show locations, date and time for each of the events.
c. Please fully explain who on the organization's behalf has conducted or will conduct the voter registration or get out to vote drives.
d. Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.

17. Form 1024 indicates that the organization will coordinate a voting rights project to monitor and promote public policy as well as play a watchdog role in election oversight and protection.

18. Please fully describe the activities that the organization conducts that influence legislation. Please ensure to give detailed examples on how the organization educates and/or will educate the public concerning key legislation and the positions of political candidates and elected officials on that legislation.

19. Please fully explain if the organization and/or its officers, directors and board members engaged and/or will engage in business dealings with any political candidates and/or elected officials or an organization that is associated with the candidates and/or elected officials (i.e. renting office space, providing access to a membership list, etc.). If so, describe the relationship in detail and copies of any contracts or other agreements documenting the business relationship.

20. Has the organization conducted or will it conduct candidate forums or other events at which candidates running for public offices are invited to speak? If so, provide the following details and nature of the forum including:

a. The names of candidates invited to participate.

ORGANIZATION: [redacted]
CASE #: [redacted]
AGENT: [redacted]
DATE: [redacted]

b. The names of the candidates who did participate.
c. The issues that were discussed.
d. The time and location of the event.
e. Copies of all materials provided and distributed at the forum, including any internet or advertising material discussed or used at the forum.

21. Describe in detail the organization's fundraising through mail solicitations, email solicitations, and personal solicitations. Please submit copies of all solicitation materials that the organization distributes.