

THE INTERNAL REVENUE SERVICE'S
AUDIT SELECTION PROCESS AND INTERNAL
CONTROLS WITHIN THE TAX EXEMPT AND
GOVERNMENT ENTITIES DIVISION

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

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**THE INTERNAL REVENUE SERVICE'S
AUDIT SELECTION PROCESS AND INTERNAL
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THURSDAY, JULY 23, 2015

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room 1100, Longworth House Office Building, Hon. Peter Roskam [Chairman of the Subcommittee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
Thursday, July 16, 2015
No. OS-06

CONTACT: (202) 225-3625

Chairman Roskam Announces Hearing on the Internal Revenue Service's Audit Selection Process and Internal Controls Within the Tax Exempt and Government Entities Division

House Committee on Ways and Means Subcommittee on Oversight Chairman Peter J. Roskam (R-IL), today announced that the Committee on Ways and Means Subcommittee on Oversight will hold a hearing on the Internal Revenue Service's audit selection process and internal controls within the Tax Exempt and Government Entities division. **The hearing will take place on Thursday, July 23, 2015, at 10:00 a.m., in Room 1100 of the Longworth House Office Building.**

Oral testimony at the hearing will be from the invited witnesses only. However, any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the on-line instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, August 6, 2015.** For questions, or if you encounter technical problems, please call (202) 225-3625 or (202) 225-2610.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

3. Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TDD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available online at <http://www.waysandmeans.house.gov/>.

Chairman ROSKAM. The Committee will come to order.

Welcome to the Ways and Means Oversight Subcommittee hearing on the Internal Revenue Service's audit selection process. Today we are going to review a new report from the independent Government Accountability Office, or GAO, about how the IRS decides to audit tax exempt organizations.

Two years ago we learned that the IRS was targeting conservative organizations that were applying for tax exempt status. The Exempt Organizations Division under Lois Lerner's direction had a checklist to select certain groups for extra scrutiny.

That checklist included criteria such as whether an organization's application referred to conservative buzz words like Tea Party or Patriots or if the groups criticized how the country was being run.

Targeted groups were subjected to intrusive and burdensome questionnaires. For example, an Iowa pro-life group was outrageously instructed to tell the IRS about their prayers. Many of these groups had to wait for years to get an answer from the IRS on their applications, if they even got one at all.

We are here today because some of these groups, in addition to all of that scrutiny, also got audited. To date the IRS has tried to reassure this Committee and the American people that this will not happen again by simply saying Lois Lerner does not work here anymore, but after we learned about the targeting of not-for-profit applicants, this Committee asked GAO to review whether the problem was bigger than that attributable to a single individual's direction.

We asked: "Can the IRS target tax exempt organizations in the audit process?" GAO released that report today. It says, "The controlled deficiencies GAO found increased the risk that the Exempt Organizations Unit could select organizations for examination in an unfair manner, for example, based on an organization's religious, educational, political or other views."

GAO found many examples where the IRS failed to follow its own internal controls or document audit selection decisions. Failure to document is a real problem because where there is no documentation, there is no way to know if an audit was commenced based on merit or bias. There is also no way to hold someone accountable for bad acts.

I am deeply concerned about how the IRS decides which organizations to audit in the first place. Many times when a nonprofit or-

ganization is audited, it is because the computer flags problems at the outset with an organization's paperwork, and that is fine.

But about 20 percent of the audits are set in motion because the IRS gets a complaint about an organization. These so-called referrals come from an individual. They come from news media or even someone's political adversary.

When the IRS receives a complaint, an employee looks to see if there is a likely tax violation. There are only five IRS employees who serve as these gatekeepers of the audit process, and they each cover only one issue area. The gatekeeper reviewing political activity complaints has been there since 2009. That means that for the past 6 years one person in the entire IRS has been reviewing political activity referrals to decide if they should move on in the audit process.

If one of these gatekeepers decides that there is an audit potential, the complaint is sent to a referral committee with disturbingly relaxed standards, and what is worse, over 25 percent of audits GAO reviewed were started because of a complaint with no description of the allegation in the file. That is, one in four audits GAO looked at had no explanation of the reason for the audit. In some instances, GAO found that entire case files were missing.

This means that no one can go back and determine if the audit was to begin for a fair reason or an unfair reason, and it is stunning, in my view, that in response to these findings the IRS has said, "Although the report states that a hypothetical risk exists that returns could be selected unfairly, the draft report did not find any evidence that this happened."

As we will show today, that is not true. The Inspector General tells this Committee that they have referred multiple cases of improper audit selection to the Justice Department for criminal prosecution in 2014 alone, and there is nothing hypothetical about that.

I remind my colleagues that in 2013, after the Inspector General concluded that the IRS unfairly targeted groups applying for non-profit status, the IRS response was similar. They said, "We have not found evidence of intentional wrongdoing by IRS personnel."

And to the contrary, this Committee uncovered evidence showing Lois Lerner acted in defiance of internal controls that were supposed to prevent anyone at the IRS from blocking a group's application or sending them to audit. Ms. Lerner was not only familiar with those internal controls, but these were policies she created and spoke of publicly as a way of commending the agency's impartiality.

The evidence shows that Ms. Lerner maliciously and intentionally bypassed these controls, reaching into her division and directing specific organizations be subjected to audit, something IRS rules said she could not do.

It is disappointing that over 2 years later it is still possible that the IRS can select groups for adverse treatment based on their personal, political, religious, and educational beliefs. There is not proper documentation of allegations or decisions to audit. There are a handful of gatekeepers with sweeping authority and broad discretion, and there is a very broken referral committee process.

The IRS has been entrusted with powerful authority to review and audit organizations, and with that comes a very serious re-

sponsibility to the American people. The IRS must acknowledge these problems and take concrete action to ensure a Lois Lerner 2.0 situation cannot happen.

This Committee will continue to work to reform this broken system and to ensure the IRS treats all Americans fairly and equally.

I would like to recognize Mr. Lewis for his opening statement.

Mr. LEWIS. Good morning. Thank you, Mr. Chairman, for holding today's hearing.

I would also like to thank the Commissioner and all the other witnesses for being here today.

This hearing is important. All Democrats agree that no organization should be targeted because of their political, educational or religious belief. It is important that the Internal Revenue Service operates with integrity and follows a fair process when selecting organizations to audit.

Charities and other exempt organizations are the fabric of our communities. They are our universities, our hospitals, our homeless shelters, and our food banks. These organizations care for the sick and feed the hungry. They educate our children and support the elderly. They give hope and help to those in need.

America is stronger because of these organizations. They help us fulfill our promise to care for the least among us, and they set a global example for our friends and neighbors, not just here in America, but around the world.

Today there are over 1.6 million tax exempt organizations in the United States. Overall, less than 1 percent are selected for audit. I am pleased to learn that the GAO did not find any evidence that IRS employees chose to examine organizations because of their political, educational or religious beliefs.

It is also encouraging, Mr. Chairman, to learn that GAO found that the IRS exempt organization employees equated fairness with reviewing organizations strictly by the law. In focus groups, the employees told GAO you should treat everyone alike. It does not matter who filed the information. It is what they filed.

In my estimation, this is the right way. It is the just and fair way.

Again, I thank all of the witnesses for being here today. I look forward to hearing more from the panel about the auditing process for organizations and how it can be improved.

Thank you, Mr. Chairman. I yield back.

Chairman ROSKAM. Thank you, Mr. Lewis.

Today we will hear from two panels. The first panel will consist of Jay McTigue, Director of Strategic Issues at the U.S. Government Accountability Office, and Commissioner John Koskinen at the IRS.

The second panel will consist of three witnesses, Michelle Easton, President of the Clare Boothe Luce Policy Institute; Joseph Metzger, Vice President of Finance at the Leadership Institute; and Elizabeth Kingsley, partner at the law firm of Harmon, Curran, Spielberg & Eisenberg.

And for all of the witnesses, we thank you for your time today, and the Committee has received your written statements, and they will be made part of the formal record. You each have 5 minutes

to deliver your oral remarks. We have a system of lights that is not complicated, red, yellow, green.

And, Mr. McTigue, we will begin with you.

**STATEMENT OF JAY MCTIGUE, DIRECTOR,
STRATEGIC ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. MCTIGUE. Chairman Roskam, Ranking Member Lewis, and Members of the Subcommittee, I am pleased to be here to discuss our report that is being released today on IRS' selection of tax exempt organizations for examination.

Tax exempt organizations play a major role in our economy and provide a range of important services. There are an estimated 1.6 million exempt organizations in the United States that range from small social service groups to large, nonprofit health systems and universities.

IRS' Exempt Organization Unit, or EO, within the Tax Exempt and Government Entities Division performs two key functions. First, it reviews applications from entities seeking tax exempt status to determine whether or not to grant status, and second, it oversees existing exempt organizations' compliance with the Tax Code.

One way that EO oversees compliance is through examinations which are reviews of an organization's activities and finances. EO uses various procedures to select cases for examination, including referrals from within and outside of IRS.

In fiscal year 2014, IRS closed about 8,000 examinations, or less than 1 percent of exempt organizations that file a return.

At the request of this Committee, we reviewed the adequacy of IRS' internal controls over the processes and procedures it uses to select exempt organizations for examination. In brief, Mr. Chairman, we found that EO has numerous controls intended to help ensure that it selects organizations for examination in a way that adheres to IRS' mission of applying the tax law with integrity and fairness.

While we found that some of EO's internal controls are adequate, the design and implementation of others are not, leaving IRS at risk for potentially unfair selection practices.

In terms of what is working well, we found, for example, that EO maintains well documented procedures for several, but not all, selection processes in the Internal Revenue Manual, which is IRS' official source of instructions to staff.

Furthermore, the IRM sets standards of conduct for treating taxpayers fairly without favoritism or discrimination. In focus groups we conducted with EO staff, they said that guidance documented in the IRM is valuable in helping them administer the Tax Code.

However, we also identified several areas where EO's controls could be improved, including weaknesses in documentation, management's monitoring of key procedures, and segregation of key duties.

For example, some EO processes, such as applying selection criteria to organizations under consideration for examination, are not included in the IRM as required by IRS policy and, therefore, are subject to fewer controls. This is significant because deviations

from the IRM are only allowed with approval by executive management and with the appropriate communication to employees.

Reliance on procedures that are outside of the IRM creates the risk that EO staff could deviate from official procedures, potentially resulting in unfair selection of organizations for examination. Excluding these procedures from the IRM also reduces transparency since they otherwise would not be available to the public.

We also found that EO management does not consistently monitor the effectiveness of internal controls for some examinations and database files to ensure that selection decisions are documented and properly approved in order to help ensure fairness.

For example, we found that an estimated 22 percent of cases where EO initially selected an organization for examination but later the examiner decided not to perform the exam were missing required management approval. As a result, management does not have assurance that internal controls are being followed properly.

As a final example, we observed that certain types of referrals are reviewed by only one individual. EO has identified five types of sensitive referrals, such as political activity and high profile referrals and has one staff or classifier for each sensitive area who determines whether the case should be considered for examination.

The classifiers are not cross-trained to review other types of referrals. Internal control standards dictate that key duties, such as these, should be divided among different people. Spreading classification responsibilities for sensitive referrals to more than one classifier could help decrease the potential influence or bias of any one classifier and better ensure fair case selection.

In conclusion, EO is faced with the challenging task for overseeing a diverse population of organizations in enforcing their compliance with the Tax Code. EO's reliance on a variety of procedures and multiple steps to select organizations underscores the importance of having a robust internal control system to ensure selection fairness and integrity. Mr. Chairman, this concludes my prepared remarks. I'd be happy to answer any questions you or other Members of the Committee have.

[The prepared statement of Mr. McTigue follows:]



United States Government Accountability Office

Testimony
Before the Subcommittee on
Oversight, Committee on
Ways & Means,
House of Representatives

For Release on Delivery
Expected at time, 10:00 a.m.
Thursday, July 23, 2015

IRS EXAMINATION SELECTION

IRS Should Strengthen Internal Controls for Exempt Organization Selection

Statement of Jay McTigue, Director, Strategic
Issues

Chairman Roskam, Ranking Member Lewis, and Members of the Subcommittee:

Thank you for the opportunity to discuss our report on Internal Revenue Service (IRS) selection of tax-exempt organizations for examination, which is being released today.¹ The 1.6 million tax-exempt organizations in the United States—ranging from small social services groups to large nonprofit health systems—play a major role in our economy and provide a range of important services.

The Exempt Organizations (EO) unit within the Tax Exempt and Government Entities (TE/GE) division at IRS reviews organizations' applications for tax-exempt status to determine whether to grant status and oversees existing exempt organizations' compliance with the tax code. One way through which EO oversees exempt organizations' compliance is through examinations, which are reviews of an organization's activities and finances. Examinations can result in assessment of taxes or revocation of tax-exempt status, among other things. EO uses various processes to select exempt organizations for possible examination. For example, EO processes referrals of exempt organization noncompliance from third parties, such as the public, and other parts of IRS. In fiscal year 2014, IRS closed 8,084 examinations of exempt organizations.

My remarks today highlight the key findings of our report on IRS selection of exempt organizations for examination. Specifically, this testimony assesses the adequacy of EO's controls over the various processes it uses to select exempt organizations.

To conduct this work, we reviewed IRS criteria, processes, and controls for selecting organizations for examination, and spoke with IRS officials; assessed whether IRS controls followed *Standards for Internal Control in the Federal Government*;² reviewed random probability samples from examination files; and tested populations and random probability samples from three databases used in EO examination selection to determine the

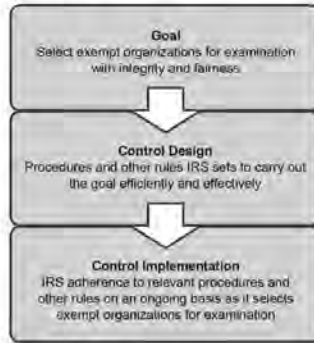
¹GAO, *IRS Examination Selection: Internal Controls for Exempt Organization Selection Should Be Strengthened*, GAO-15-514 (Washington, D.C.: July 13, 2015).

²GAO, *Standards for Internal Control in the Federal Government*, GAO-AIMD-00-21.3.1 (Washington, D.C.: November 1999).

adequacy of EO's internal control implementation (for files closed in fiscal year 2014). We also conducted eight focus groups on internal controls topics with EO staff who conduct research or make examination selection decisions. Our report includes a detailed explanation of the methods used to conduct our work. The work on which this testimony is based was performed in accordance with generally accepted government auditing standards.

In brief, Mr. Chairman, our analysis found that EO has various controls (see figure 1) intended to help ensure that it selects exempt organizations for examination in a way that adheres to TE/GE's mission of "applying the tax law with integrity and fairness to all." We found that some of EO's internal controls are adequate, and align with established selection standards; however, there were several areas where EO's controls were not well designed or implemented, and we made 10 recommendations for improvement.

Figure 1: Using Internal Controls in Selecting Exempt Organizations for Examination



Source: GAO | GAO-15-753T

In terms of what is working well, we found that the design and implementation of some EO examination selection controls aligned with

effective internal control standards. For example, EO maintains well-documented procedures for several examination selection processes in the Internal Revenue Manual, IRS's primary, official source of instructions to staff. Staff cannot deviate from procedures in the Internal Revenue Manual without executive management approval. In focus groups, EO staff generally told us that these procedures were valuable tools to help them administer the tax law.

However, there are several areas where EO's controls were not well designed or implemented. The control deficiencies we found increase the risk that EO could select organizations for examination in an unfair manner. Examples of internal control deficiencies we found include the following.

- **Staff could deviate from procedures for some selection processes without executive management approval.** We found that procedures for some processes—such as applying selection criteria to organizations under consideration for review—are not included in the Internal Revenue Manual, as required by IRS policy. As a result, those procedures are not covered by the same control standards as the Internal Revenue Manual. For example, deviations from the Internal Revenue Manual are only allowed with approval by executive management and with appropriate communication to employees, whereas these standards do not explicitly apply to other documents. Reliance on procedures that are outside of the Internal Revenue Manual creates the risk that EO staff could deviate from procedures without executive management approval. This could result in unfair selection of organizations' returns for examination. Excluding these procedures from the Internal Revenue Manual also reduces transparency, since they would be available to the public if they were in the Internal Revenue Manual.
- **EO management does not consistently monitor selection decisions.** We found that IRS does not consistently monitor examinations and database files to ensure that selection decisions are documented and approved in order to help ensure fairness. In our review of examination selection files, we found that some selection procedures were not consistently followed. For example, referrals that deal with political activity allegations or with what IRS has identified as sensitive allegations or organizations are reviewed by a three-person committee. Four out of fifteen committee referrals we reviewed that were selected for examination were missing a required description of the allegation for the committee. Also, an estimated 12 to 34 percent of cases where EO initially selected an organization for examination,

but the examiner ultimately decided not to perform the examination, were missing documentation of management approval of the final decision, as required in the Internal Revenue Manual. According to internal control standards, controls should be designed to assure that ongoing monitoring occurs in the course of normal operations. Taken as a whole, the deficiencies we found point to insufficient monitoring of case processing.

- **Certain types of referrals are reviewed by only one individual.** Five individuals, known as classifiers, determine the examination potential of referrals. Each classifier is responsible for reviewing specific types of referrals. For example, one classifier reviews high profile referrals (referrals that are sensitive or may attract media attention) and church referrals; another reviews referrals related to political activity. The classifier serves as an initial gatekeeper for determining whether a referral is reviewed by a committee. Aside from general referrals, the classifiers are not cross-trained to review other types of referrals. According to EO officials, classifiers are not cross-trained due to resource shortages. Internal control standards dictate that key duties and responsibilities should be divided among different people to reduce the risk of error. Spreading classification responsibilities for sensitive referrals to more than one classifier could help decrease the potential influence of any one classifier. Even if other safeguards are in place, having the same individual initially classify all political activity or all high profile and church referrals increases the potential for error or unfairness, for example, the classifier could choose not to forward particular kinds of organizations.

In conclusion, EO is faced with the challenging task of overseeing the diverse population of exempt organizations and with enforcing their compliance with the tax laws. EO's reliance on a variety of processes to select organizations' returns for examination underscores the importance of having a robust internal control system to ensure selection fairness and integrity. Although EO has some controls in place that are consistent with internal control standards, and has implemented some of these controls successfully, there are several areas where EO's control system could be strengthened. Many of these deficiencies pose a risk that could lead to selecting (or not selecting) returns for examination based on criteria or practices that fall short of TE/GE's mission of ensuring fairness and integrity. To help mitigate this risk, we recommended that IRS take 10 actions to improve selection control design and implementation, such as: ensuring that all selection procedures are included in the Internal Revenue Manual and thus subject to executive management approval; developing additional examination selection monitoring procedures; and

implementing a system to ensure that political activity, high profile, and church referrals are not always reviewed by the same classifier. IRS generally agreed with the recommendations.

Chairman Roskam, Ranking Member Lewis, and members of the Subcommittee, this concludes my prepared remarks. I look forward to answering any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

For questions about this statement, please contact me at (202) 512-9110 or mcliguej@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony were Jeff Arkin, Assistant Director; Deirdre Duffy; Meredith Moles; Amy Radovich; and Lindsay Swenson



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Chairman ROSKAM. Thank you, Mr. McTigue.
Commissioner.

**STATEMENT OF THE HON. JOHN A. KOSKINEN,
COMMISSIONER, INTERNAL REVENUE SERVICE**

Mr. KOSKINEN. Chairman Roskam, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to discuss the recent GAO review of our audit selection criteria for exempt organizations.

Maintaining a fair and unbiased audit process is one of the fundamental principles upon which the IRS operates in the Exempt Organization, in particular, and throughout all of our compliance programs. We choose returns for audit based on information that is or should be in the returns and without regard for who is filing the return.

It is important for people to understand, for example, that which political party they belong to or how they voted in the last election has no bearing at all on our decisionmaking process.

We continue to review our processes and procedures to ensure this fairness is maintained. For example, the IRS in 2013 asked its newly appointed Chief Risk Officer, who came from outside the agency, to conduct a servicewide review of audit selection criteria. He spent several months looking at the criteria used by more than 350 IRS compliance programs and found no evidence of bias in any of them.

I am pleased to note that the GAO's recent review of the exempt organizations area also found no instance where an organization was inappropriately selected for audit and no evidence of bias in our selection process.

As part of their reviews, both the IRS Chief Risk Officer and the GAO offered recommendations for improvements in our internal controls to further reduce any risk that exists for returns to be selected in an unfair manner.

The IRS has accepted all of these recommendations, and we have been working to implement them. For example, last week the Director of our Exempt Organization Division issued guidance designed to further strengthen oversight of the process by which we select cases for audit based on referrals that come to us from the public or from Congress.

Beyond the scope of the audit process, we have taken actions to ensure fairness in all of our dealings with exempt organizations. We are continuing the work begun in 2013 to ensure that the management mistakes made in regard to the determination process for tax exempt status do not happen again.

As part of those efforts we have implemented all of the recommendations made by the Inspector General in his May 2013 report. The IG noted these efforts in a followup report issued in March of this year.

Let me reiterate my belief that the IRS must continue to do everything possible to make sure that all individuals and organizations can be confident that they will be treated fairly in their dealings with the agency.

Even with our constrained resources, we will audit over one million taxpayers this year. Some will be members of one party. Some

will be members of another. Some will have voted for one candidate in the last election and some for another. Some will have attended one political rally or another, but none of that matters to us in our audit process.

The bottom line for all individuals and organizations is that when someone hears from the IRS regarding their tax return, it is only because of the information that is or should be in that return and not for other factors. And if someone else has the same issue on their return, they will hear from us as well within the limits of our budget resources.

Chairman Roskam, Ranking Member Lewis and Members of the Subcommittee, that concludes my statement, and I would be happy to answer your questions.

[The prepared statement of Mr. Koskinen follows:]

**WRITTEN TESTIMONY OF
JOHN A. KOSKINEN
COMMISSIONER
INTERNAL REVENUE SERVICE
BEFORE THE
HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON OVERSIGHT
ON EXEMPT ORGANIZATION AUDIT SELECTION PROCESSES AND
INTERNAL CONTROLS
JULY 23, 2015**

INTRODUCTION

Chairman Roskam, Ranking Member Lewis and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the report by the Government Accountability Office (GAO) on the criteria the IRS uses to select exempt organizations for audit.

Let me begin by reiterating my belief that the IRS must continue to do everything possible to ensure that all individuals and organizations can be confident that they will be treated fairly in their dealings with this agency. I would note that the GAO's report on the criteria we use to select exempt organizations for audit found no evidence of organizations being selected in an unfair or biased manner. We welcome the GAO's recommendations for improvements in our processes in order to lower still further the risk of partiality entering into the audit selection process. The actions we are taking in response to those recommendations are discussed in greater detail below.

It is critical for the IRS to continually monitor its processes and procedures and determine where improvements are needed, not just in regard to audits and other compliance activities, but throughout agency operations. To enhance these capabilities within the IRS, we have established an agency-wide enterprise risk management program, creating risk management liaisons in each area of our operations and providing for the regular identification and analysis of risks to be mitigated or managed. The risk management program builds from and complements existing internal controls and program management activities across the agency.

We are working to further encourage a culture where employees think of themselves as risk managers and understand they should report any issues or problems that occur. My goal is to have employees understand that the only problems we can't solve are the ones we don't know about. As a corollary to that effort, we continue to encourage the flow of information from front line employees up through the organization as well as out to the front line from senior managers.

Recognizing the need to ensure fairness and impartiality in all of the agency's activities, including the exempt organizations area, in 2013 the new IRS Chief Risk Officer – who had been selected from outside the agency – conducted a review of the audit selection criteria used in more than 350 compliance programs across the Service, to identify any instances where there could be a risk of unfairness embedded in that criteria.

I'm pleased to report that the Chief Risk Officer found no evidence of partiality in those programs, and deemed the risk of unfairness entering into these programs in the future to be low, based on the documentary evidence of business rules, procedures, criteria and internal controls reviewed. The Chief Risk Officer did identify a few instances where internal controls could be tightened in order to further reduce the risk of bias, and IRS business units have responded to all of the points he raised.

ENSURING FAIRNESS IN EO COMPLIANCE PROGRAMS

The IRS has a variety of tools at its disposal to make certain that tax-exempt organizations comply with federal tax law. The responsibility for administering these procedures belongs to the Exempt Organizations (EO) function, which is part of the Tax Exempt and Government Entities (TE/GE) Operating Division.

The types of compliance activities that EO conducts in regard to tax exempt organizations fall into two broad categories: audits and compliance checks.

Audits, or examinations, normally include a review of a taxpayer's books and records to determine tax liability, though audits in the tax-exempt area also look at an organization's qualification for tax-exempt status.

EO also conducts compliance checks, which are reviews to determine whether an organization is adhering to recordkeeping and information reporting requirements. In conducting compliance checks, EO specialists may inquire about an item on a return, ask whether specific reporting requirements have been met, or look to see whether an organization's activities are consistent with its stated tax-exempt purpose.

In regard to audits of exempt organizations, EO designs its compliance activities to address issues that carry the most non-compliance risk. We do that by applying data analytics to the wealth of information we receive from Forms 990, *Return of Organization Exempt from income Tax*, which are filed annually by exempt organizations, as well as information from other sources.

Responsibility for developing potential compliance issues and selecting returns for audit falls to the Compliance Strategy Critical Initiatives (CSCI) group within EO. Once the issues are identified, CSCI works to identify the returns that contain the issues in question. The EO Case Selection and Delivery unit (CS&D)

is responsible for obtaining the necessary returns to satisfy the requirements of the examination program and transferring the returns to the appropriate examination groups that cover the geographic areas where the organizations are located.

In developing issues and selecting returns for audit, EO also receives referrals from the general public and Congress about potential non-compliance by exempt organizations. These referrals are all handled in a standardized manner no matter what the source. EO maintains three referral committees to review referrals and determine whether examination potential exists. One committee handles referrals regarding churches or houses of worship, a second handles referrals regarding political campaign activity potentially in excess of what is allowed by law, and the third handles referrals with regard to public figures, or institutions that are considered high profile. Each committee is composed of three senior EO staff members – all of whom are career civil servants – on a rotating assignment, and the committees all make decisions about examination potential by majority vote. Referrals not falling into any of the above three categories are reviewed by a classifier rather than a committee.

As noted above, the GAO's report found no examples of EO selecting organizations for audit based on criteria or practices that fall short of TE/GE's stated mission of ensuring fairness and integrity. In its report, the GAO acknowledged that EO's reliance on a variety of sources to select returns for examination shows that EO recognizes the importance of having a robust and effective internal control system to maintain impartiality in the return selection process.

The GAO noted that EO has well-documented procedures for numerous examination selection processes, all of which are contained in the Internal Revenue Manual (IRM), which is our primary, official source of instructions to staff throughout the IRS.

At the same time, the GAO also identified areas where EO's system of internal controls for the audit selection process could be improved in order to reduce the hypothetical risk that exists for returns to be selected in an unfair or biased manner. In response to the GAO's recommendations, we are proceeding with a number of actions to tighten these internal controls, including the following:

Updating the Internal Revenue Manual. A critical part of ensuring fairness, integrity and consistency in the audit selection process involves communicating the appropriate procedures to EO employees, which as noted above is accomplished primarily through the IRM. The GAO identified a number of areas where updates to the IRM are needed. In fact, EO is in the second year of a three-year plan to update all 145 IRM sections pertaining to the EO function. New sections are being created as new processes are put into place. For example, we are currently developing IRM sections for the simplified and streamlined

exemption application process and the recently implemented post-determination process.

Specifically related to audits, the EO Examinations office is expected to complete its review and update of 46 of the 62 Examinations IRM sections in Fiscal Year (FY) 2015. The remaining sections are scheduled to be reviewed and updated in FY 2016. EO Examinations is also creating new IRM sections to formalize the guidance on compliance checks and compliance reviews, and to outline the EO Compliance Area classification procedures. It is important to note that, as a practical matter, EO requires adherence to both the IRM and all non-IRM procedure documents that are issued, and the GAO did not identify any evidence of deviation from either source of guidance. Going forward, EO will review and update all pertinent IRM sections on an annual basis.

Expanded monitoring procedures. EO will review its current monitoring procedures to ensure that processes, such as documenting explanations for audit selection decisions and obtaining the necessary sign-offs for those decisions, continue to be followed. The monitoring procedures will be accomplished through operational reviews by the appropriate executives. These reviews will document whether the appropriate documentation for case selection decisions is maintained and if periodic adjustments are needed. To be clear, classifiers review referrals – which could be complaints from members of the public not versed in tax law – to identify those that contain potential violations of the federal tax laws. Further review of referrals that do not identify federal tax issues would be inefficient and out of scope.

Improved documentation of selection processes. EO Examinations is undertaking efforts to ensure that all criteria used to select returns for examination and executive approvals for added or changed criteria will be documented, including changes that occur during a project or in a new phase of a project. Additionally, IRM sections are being written for examination selection procedures, including a process to ensure the criteria and selection decisions are consistently documented.

Additional training for classifiers. EO will provide cross-training to employees who work with various types of referrals, to improve their ability to correctly select returns for audit from referrals that cover a wide variety of subject matter. EO will prioritize training of classifiers working with political activity, high-profile and church referrals.

Increased tracking and maintenance of closed case files. EO will review and, if necessary, clarify its internal processes for monitoring and shipping case files, and will work with the other business divisions to ensure proper coordination with them in regard to the process of requesting, shipping, tracking and storing closed case files.

Ensuring diversity among referral committee members. EO will change the policy that members of the committees that review referrals for audit participate on a voluntary basis. Historically, the referral committees have been staffed by qualified employees who volunteer for this assignment with the expectation of being relieved of the assignment in 12 months. As committee workload has increased, fewer qualified employees have volunteered for this assignment and, as a result, this has extended the service of committee members. In recognition of this dynamic, EO plans to staff the referral committees by collateral assignment and not through the volunteer process. Thus, participation by EO managers will no longer be voluntary, and we will ensure committee members are rotated on a regular basis.

MAINTAINING IMPARTIALITY THROUGHOUT THE EO FUNCTION

The work being done within EO to ensure fairness and impartiality extends beyond the audit process. The IRS is continuing the efforts it began in 2013 to implement broad managerial and operational improvements in the determination process for tax-exempt status. The IRS has implemented all of the recommendations made by the Treasury Inspector General for Tax Administration in its May 2013 report. The Inspector General reviewed our responses to those recommendations, and in March of this year issued a follow-up report, noting that the IRS has taken "significant actions" to address the 2013 recommendations.

These are important steps. We have eliminated the use of inappropriate criteria; we have expedited the processing of section 501(c)(4) applications; we have instituted a quality review process to ensure that unnecessary or improper information requests are not sent to applicants; and the Department of the Treasury and the IRS have begun the process of revising draft guidance to address how to measure social welfare and non-social welfare activities of section 501(c)(4) organizations. Our goal on this last point is to provide guidance that is clear, fair to everyone, and easy to administer.

The changes we have made in response to the Inspector General's recommendations on exempt organizations also include:

- Establishing a new process for documenting the reasons why applications are chosen for further review during the application process;
- Developing new training and workshops for employees on a number of critical issues, including the difference between issue advocacy and political campaign intervention, and the proper way, under current law, to identify applications that require review of potentially significant political campaign intervention;
- Establishing guidelines for EO specialists on how to process requests for tax-exempt status involving organizations engaging in potentially significant political campaign intervention; and

- Creating a formal, documented process for EO determinations personnel to request assistance from technical experts.

In addition to these actions, the entire leadership chain from the top down to the EO function is new since 2013, starting with the Commissioner of the IRS, the Deputy Commissioner for Services and Enforcement, the Commissioner and Deputy Commissioner of TE/GE, and the Director of the EO function.

One critical area addressed by the new leadership team has been the backlog in pending section 501(c)(4) applications. We have reduced the inventory of section 501(c)(4) applications, including the group of 145 cases in the "priority backlog" – those that were pending for 120 days or more as of May 2013. By July 2, 2015, 140 of those cases, or 97 percent, were closed. Of the closed cases, 107 of them were approved, including 43 organizations that took advantage of a temporary self-certification procedure we offered in summer 2013. Of the remaining 33 closed cases, most were closed without a determination, either because the organization withdrew the application or it failed to respond to our questions. To date, five applications have been denied. The remaining five cases are still open.

CONCLUSION

During my tenure as IRS Commissioner, one of my top priorities has been and continues to be making sure the public understands that anyone – any individual, business or organization – dealing with the IRS will be treated fairly, no matter what their political affiliation, their position on contentious political issues, or whom they supported in the last election.

On the individual side, we will audit over 1 million taxpayers this year. And when someone hears from us regarding their tax return – by letter, I should add, in light of the recent proliferation of IRS impersonation telephone scams – they need to understand that it is only because of something in their tax return, and not other factors. And, if someone else has the same issue on their return, they will hear from us as well, within the limits of our budget resources.

In the exempt organizations area, we will continue to review and improve our efforts to maintain appropriate oversight of, and compliance by, the tax-exempt sector, including our examination case selection internal control system.

Chairman Roskam, Ranking Member Lewis and Members of the Subcommittee, this concludes my statement. I would be happy to take your questions.

Chairman ROSKAM. Thank you, Commissioner.

Mr. Kelly.

Mr. KELLY. Thank you, Chairman, and thank you both for being here.

Commissioner, we have been together so many times now, and I want to thank you again for joining us on this tax exempt issue status and the IRS administration of the provision in the Tax Code.

Last night I looked up the 501(c)(3) statute of the Tax Code just to refresh my memory, and let me just read it. “To be considered tax exempt under Section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in 501(c)(3). A list of exempt organizations include:”—and this is on page 2202 of the Tax Code—“corporations and any community chest fund or foundation organized and operated exclusively for religious, charitable, 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, no part of the net earnings of which inures to the benefit of any private shareholder or individual, 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 distribution of statements, any political campaign on behalf of or in opposition to any candidate for public office.”

Now, in the past we have discussed issues involving the IRS granting organizations 501(c)(3) status or not. There was a great deal of concern about why were these people waiting so long.

Now, today we have turned our focus to issues involving maintaining an exempt status once the IRS selects a tax exempt organization for audit. So I want to focus our discussion on a recent issue involving a 501(c)(3) organization, and I like the idea of where the referrals come from.

It says referrals are complaints the IRS receives about organizations from third parties, including other units of the IRS, Members of Congress, and the general public.

About 18.2 percent of the audits closed in 2014 were selected based on referrals, and this comes down to the general public. I want to ask you a question because this has just come up in the last couple of days, and it really bothers me, and it bothers a lot of people in the Third District back in Pennsylvania that I represent.

Planned Parenthood is a 501(c)(3). Now, it has been in the news recently that Planned Parenthood has been in the news for what appears to be commercial business activity, the sale of fetal tissue.

Now, you have seen the videos. I am assuming you have seen some of the videos. I have, and most of the people I represent have. Planned Parenthood operates a tax exempt entity for both 501(c)(3) as well as a 501(c)(4). According to Planned Parenthood’s 990 Form filed in 2013, they had gross receipts of \$196,986,791. So as a non-profit, they look rather profitable.

However, given the recent videos that have come to light, my question to you, from an outcry from the general public: Does the

IRS plan to audit or investigate Planned Parenthood for what looks to be a commercial activity?

I know we investigate people, and a lot of it is based on referrals. What kind of a referral would the IRS have to have to look into this?

Mr. KOSKINEN. Obviously I cannot discuss any particular case. As a general matter, we rely on referrals across the board, from the public and the Congress, as you note, but we also as the GAO report notes in some detail have a process for regularly reviewing the operations of exempt organizations across the board and looking for areas that we think are important to review, important to examine, important to audit. One of them is unrelated business income tax.

If you are a 501(c) organization—

Mr. KELLY. I do not want to get into the weeds on this. I am asking you. There is a general outcry right now throughout the United States of America. Whenever we can keep organizations from getting a tax exempt status, whenever we can go in and audit certain organizations because we think they are doing something outside of the 501(c)(3) guidelines, we have no problem looking at that.

But really what we are talking about today is restoring the faith and trust that the American people have to have in the IRS, and they look to us in Congress as their oversight, the ability to protect them at all costs.

You and I both work for the same people. I do not work for the Republican Party. I work for the people of Pennsylvania's Third District and, more importantly, the people of the United States, the same as you.

I am looking at an organization right now, Planned Parenthood, with a 501(c)(3) status and looking at the numbers and saying, "My God, do we really have a blind eye and a deaf ear to what is going on there? And are these people ever going to be audited?"

Have you ever audited Planned Parenthood?

Mr. KOSKINEN. Let me make just one clarification. Any tax exempt organization can have unrelated business income. They have to pay tax on it. Universities, public organizations of—

Mr. KELLY. I understand that, Commissioner.

Mr. KOSKINEN. Pardon?

Mr. KELLY. My question: When you read the definition of what qualifies for a 501(c)(3) and it very clearly states what it is they have to do, I would think at some point somebody somewhere should be hearing all the bells and whistles going off and the smell of sulfur in the room to say we had better look into what is going on here. There is something that has really gone off track.

I would say if referrals can come from the general public, I would think the people of America right now are asking the IRS to take a very good look into this organization as a 501(c)(3) exempt organization status. I am going to look into it. I want you to get back to me.

Have they ever been audited? Has anybody ever looked into the procedures that they have been conducting and said these people do not qualify as a 501(c)(3), the same as some of my friends in religious organizations have been targeted, the same way other organizations have been targeted because of their political beliefs?

It has happened in the past. We know it. These people have retired and left your organization, but they were the people that drove this issue.

So I thank you. I am sorry my time is up, and I hate to go on like this, but this has just reached the point where the American people demand an answer. They no longer request it. They demand answers to these issues.

Thank you.

Chairman ROSKAM. Mr. Lewis.

Mr. LEWIS. Thank you very much, Mr. Chairman.

Thank you, Mr. Director, Mr. Commissioner, for being here.

Everyone agrees that the IRS should not target organizations based on political, religious or other beliefs. I want the record to be perfectly clear on this point. So the question is for you two: Have you seen any evidence that IRS targeted organizations for audit based on political, religious or other beliefs?

Mr. MCTIGUE. Congressman, we designed our study to test the internal controls that help safeguard the selection processes that EO uses to identify potential cases for examination. That said, we did not find or we did not observe any instances of unfair selection in cases that we reviewed.

But, again, our study was looking at the broader controls, and I would add that this is important because looking just at individual cases would only give us a snapshot in time of past selection decisions, whereas looking at internal controls broadly, that is the safeguard for preventing unfair selection now and over time into the future.

Mr. LEWIS. Mr. Commissioner.

Mr. KOSKINEN. As I noted, we set up an Enterprise Risk Organization late in 2013. The new ERO Risk Manager we charged with the responsibility to look across the entire exam function, and he found no evidence of bias, no cases that he could find.

He did find, as GAO did, suggestions for improving our procedures, which we are following. We are delighted to have the GAO recommendations, but thus far we have no indications from any of those reviews nor have we been advised by the Inspector General in their reviews and audits of specific cases any indication that there has been bias in the selection of audits in the exempt area.

Mr. LEWIS. Thank you.

Mr. McTigue, as Director, I would like to understand generally how many organizations are audited each year. Your report stated that the overall audit rate for organizations was less than 1 percent in 2014.

In 2014, how many organizations were audited by the IRS?

Mr. MCTIGUE. According to data that we received from IRA, approximately 8,000.

Mr. LEWIS. In 2008, how many organizations were audited by the IRS?

Mr. MCTIGUE. I believe that number was a bit higher. I do not have the number with me, but I believe it was in the order of 11,500, a little bit higher.

Mr. LEWIS. Thank you, Mr. Director.

Mr. Commissioner, I understand that the Risk Officer for the IRS conducted its own review for the Examination Unit and 350

other compliance functions at the IRS. What did this Risk Officer discover or find?

Mr. KOSKINEN. He found that there was a low risk of any bias in any of those procedures. He reviewed them all. He came up with a handful of cases with additional procedural improvements along the line of some of the same kind of things GAO was finding, and we committed then and we commit now that we are going to make those improvements because we do think the point GAO makes is correct, that we need to make sure we have processes and procedures, which as GAO and our Risk Manager said we had a lot of. We need to make sure they are updated. We need to make sure they are monitored. We need to make sure they are effective.

Thus far, as I say, we are thankful that there have not been individual cases found where someone was inappropriately selected for exam, but that does not mean we do not need to continue to get better at it. We need to continue to monitor it.

It is why I have always been supportive of IGs and GAO and outside reviews, because they give you good suggestions and insights.

Mr. LEWIS. Mr. Commissioner and Mr. Director, thank you for being here and thank you for your service.

I yield back, Mr. Chairman.

Chairman ROSKAM. Mr. Holding.

Mr. HOLDING. Thank you.

Mr. Commissioner, your response to this report repeatedly notes that the GAO found no evidence of wrongdoing. So I want to be clear for everyone as to what GAO looked at and what it did not look at.

So, Mr. McTigue, the IRS closed 8,000 audits of tax exempt organizations in fiscal year 2014. Did you review all of those audits?

Mr. MCTIGUE. We reviewed a statistical sample of those audits.

Mr. HOLDING. Okay. So you were looking at the processes and internal controls within the Exempt Organizations Examination Unit; that is correct?

Mr. MCTIGUE. That is correct.

Mr. HOLDING. And then you looked at a statistical sample of cases to see how the processes work, whether employees were consistently following them, correct?

Mr. MCTIGUE. That is correct.

Mr. HOLDING. So you cannot say with any certainty that of those 8,000 closed cases that none of them were improperly selected for audits, correct?

Mr. MCTIGUE. That is correct, sir.

Mr. HOLDING. Thank you.

And for many of the cases you did look at, there was documentation missing on how the IRS chose a group for audit, correct?

Mr. MCTIGUE. We looked at over 23 of the key procedures and processes that IRS uses. It is a very complex process overall with multiple steps, with multiple reviews of different people involved, and looking across those processes and procedures we did find some that were ineffective, some that—

Mr. HOLDING. But in the individual cases that you did look at, you did find missing documentation in those cases?

Mr. MCTIGUE. We did find weaknesses in documentation and management monitoring and approvals.

Mr. HOLDING. So when you would run across one of those cases with missing documentation, you would not be able to tell whether that group was selected improperly because there is not enough information in the case to tell either way because of the missing documentation, correct?

Mr. MCTIGUE. For example, the type of documentation that we noted was missing involved summaries. For example—

Mr. HOLDING. Sure. It is like when I used to work in a prosecutor's office, and we would have to do prosecution memorandums and so forth whether we are going to go forward or we are not going to go forward.

Mr. MCTIGUE. Correct.

Mr. HOLDING. And if you do not have those contemporaneous memorandums, you really cannot figure out exactly why the case was declined or accepted.

Mr. MCTIGUE. And that is an area where we did find some weakness. However, more broadly, when a file moves forward, the entire case file moves forward. So the fact that the summary was missing, you know, is a deficiency in monitoring. However, the committee would still have the full case file and in that case file there would be—

Mr. HOLDING. Sure. But without summaries and without a memorandum memorializing your conclusions and how you got there, you cannot make the determination as to whether they were improperly selected.

So essentially what the GAO found is that the IRS is not documenting its decisionmaking process when it selects groups for audit, and that is a problem. I cannot imagine running a prosecutor's office, you know, without that process in place.

And essentially an IRS audit, it is an adversarial procedure. It means, it is akin to a criminal prosecution investigation. So when you cannot tell why a group was audited, it makes it impossible to ensure that it was not selected based upon improper criteria, and that is a very big problem and undermines the confidence the American people would have in the IRS and the job that they are doing.

I do not think I have quite enough time to get to another question, Mr. Chairman. So I will yield back.

Chairman ROSKAM. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

I wish I could join in thanking you for this hearing, but it seems like I keep coming in on this movie and it never seems to end, but gentlemen, could you tell me how you interpret Congress' intent in allowing a tax exempt organization to participate, even if not its primary objective, in any political activity?

Mr. KOSKINEN. The 503(c)'s by statute are, in effect, prohibited from—

Mr. RANGEL. Forget 503(c)'s. I am talking about 501(c)(4)'s.

Mr. KOSKINEN. For 501(c)(4)'s, the statute talks about they need to be exclusively social welfare organizations. Over the years that has been interpreted to mean they have to be primarily social welfare organizations. The Congress has made it clear—

Mr. RANGEL. Let me try again. You have to interpret what the Congress meant. Obviously you have had to defend your country's

laws. We make them, and just to make certain that you effectively enforce them for us, I am asking you: The 501(c)(3), it is abundantly clear, is exclusively for public use. Now we have the other one. We know the language, and I do not know how to frame my question any better than you know there is a separation in (c)(4).

I am asking you if someone were to ask who is not a Member of Congress: Why do you believe the United States Congress allows people to receive tax exemptions for doing political activity, albeit not exclusively?

Mr. KOSKINEN. Well, Congress has made it clear in its statutory framework—

Mr. RANGEL. If it is that clear, I would not be asking you the question. If it is so clear, then answer it. Why are they doing this? Why do they not just say if you are in politics, you go the political route?

Now we are using tax exemption.

Mr. KOSKINEN. Right. There is a Section 527 provision that Congress passed that after the (c)(3)'s and (c)(4)'s were passed, if you want to spend most of your money, if you want to be primarily a political organization, you can do that and be tax exempt. You simply have to file for that.

So I have made it clear we do not make a choice for you. The statutory provisions say you can be a (c)(3), (4) or a (7).

Mr. RANGEL. I only have 5 minutes. I am talking about the 501(c)(4)'s.

Mr. KOSKINEN. Right.

Mr. RANGEL. It has to be not exclusively, but primarily for the public good, right? And what is the other part of it? It can be used for other purposes, right?

Mr. KOSKINEN. Right.

Mr. RANGEL. For political purposes.

Mr. KOSKINEN. Correct.

Mr. RANGEL. If you were explaining this law to the general public and you didn't have the geniuses that we have on our Committee who write these laws and they were asking you not just as a public citizen but someone who has the obligation to enforce the law: Commissioner, what was your opinion of the intent of Congress to allow people to make taxes and contributions for political purpose, albeit not entirely for political purposes?

Mr. KOSKINEN. You do not get to take a deduction for a contribution to any (c) organization other than a (c)(3). So when you make a contribution that is deductible, it has to be to a (c)(3), and they cannot engage in any significant, almost any political activity.

If you make a contribution to a (c)(4) or a 527—

Mr. RANGEL. I wish we had a Chief Counsel here—

Mr. KOSKINEN [continuing]. You do not get to deduct it.

Mr. RANGEL [continuing]. Who could frame my question better than I am framing it, but I am going to take a last shot at this. Can an organization, a 501(c)(4), in any way engage in any political activity at all?

Mr. KOSKINEN. A 501(c)(4)?

Mr. RANGEL. Yes.

Mr. KOSKINEN. A 501(c)(4) can engage in political activity.

Mr. RANGEL. Why? What would be in your opinion the legislative intent in doing this?

Mr. KOSKINEN. The legislative intent would be to support the political process, to encourage people to participate in it, to allow the organizations that are the recipients of those—

Mr. RANGEL. Thank you.

And do you think this is a good idea, to use the Tax Code to encourage people to participate politically?

Mr. KOSKINEN. I have spent some time trying to reassure everyone that the IRS is a tax administration organization. Tax policy and issues of policy are the responsibility of the Administration and the Congress.

Mr. RANGEL. So you do not believe it is your responsibility to make recommendations to us? I mean, you go through all of this. Mistakes have to be made because of the millions of people that you audit, and so you think it is out of place for us to say, "Do you think there is a better way to do this, Mr. Commissioner?"

You would say, "It is up to you to decide that?"

Mr. KOSKINEN. I would be happy to talk to you about that without my IRS hat on, as a personal member of the public, but as far as the IRS goes—

Mr. RANGEL. I am concerned about us having oversight of the IRS. This is why you are subject to these types of intrusions in your personal life.

Mr. KOSKINEN. Yes.

Mr. RANGEL. And when we do these things, we like to get an opinion from you. Is it working?

Mr. KOSKINEN. My response is from a tax administration standpoint, the Congress has made the policy. Our goal is to enforce it fairly.

One of the concerns I have, that the IG had, was that the rules around the (c)(4) regulations are not clear, and my tax administration view is we should make them clearer. But in terms of the basic question you asked, which is a fair question, it is not a question on which the IRS has a position.

We do not take positions on policy questions as to whether there should be more or less of something. Our goal is simply to implement the intent of Congress in the legislation that has been passed.

Chairman ROSKAM. Mr. Renacci.

Mr. RENACCI. Thank you, Mr. Chairman.

I want to thank the witnesses for being here. I want to also thank the Commissioner for your help with my staff on a number of issues we have come to you on, and we look forward to working together in the future on some other issues.

But I want to talk a little bit about internal controls. You know, as a CPA and businessowner, I really understand the importance of internal controls. Checks and balances are essential for the health of a business. A fundamental element of any set of internal controls is a proper segregation of duties, and really segregation of duties reduces opportunities for errors and fraud.

Just as it is necessary for a business to implement and follow internal controls, it is essential for the IRS to implement and follow its internal controls to safeguard the integrity of the tax audit proc-

ess. In other words, IRS internal controls are supposed to protect taxpayers and keep the process fair and unbiased.

The IRS should prevent any one person from being able to decide whether someone should be audited. I am going to go back to the past, and then I am going to really move to the future.

But in the past, we had an incident where Lois Lerner, somebody who has been before this Ways and Means Committee, had abused the internal controls. Crossroads was referred to audit twice. Both times it was dismissed and based on a vote of a three-person panel. Yet one person, Lois Lerner, writes in an email, "I need to think about whether to open an exam." And then she says, "I think yes."

To me that sounds like she could and did bypass internal controls. That was before your time, Commissioner. I understand. I want to look to the future and what we are doing as far as internal controls.

That being said, the GAO report shows that the IRS did not have sufficient internal controls in place which could lead to the abuse in the audit selection process. Commissioner, do you agree that these internal control deficiencies pose a risk that certain tax exempt organizations could be selected or not be selected for audit based on inappropriate criteria?

Mr. KOSKINEN. I think the controls we have had in place are detailed, complicated. The GAO spent pages explaining all of those, noting that a number of them were appropriate; suggested improvements, and we are supportive of those improvements, but at this point we do not think that looking backwards, those controls as they operated resulted in anyone being improperly targeted.

But as I have said, and I agree with you, you need to continue to review your processes. You need to monitor them. You need to make sure that people are following them, and I think the recommendations that GAO makes are very helpful, and we are going to implement them all.

Mr. RENACCI. I appreciate that. I think it is important that the people that I represent and the people of the United States understand that there is a fair and balanced process, although, again, looking at this email that is on the board, I am not sure that Lois Lerner did not break the internal controls by being the only individual who made that decision, and that is what I want to avoid going forward.

I am hoping that the IRS continues to monitor these internal controls.

So what are you doing to address the problems that GAO found specifically with regard to the referral process?

Mr. KOSKINEN. Yes. On both cases, they have the suggestion on the classifiers, who simply classify cases. They do not make a selection themselves. They classify for the review panels. The classifiers should be cross-trained so that you do not have one classifier only dealing with one classification, and we have agreed to do that. We think that would be helpful.

They also said with regard to the review panel it is historically where people who volunteered who met criteria and would serve for a year and rotate off, as the resources declined and the work grew up, we did not get volunteers on a regular basis in the past. So the

members of some of those review panels had been on those panels for a number of 3 or 4 years rather than a year or two.

So we have already announced, following the GAO recommendation, that we will actually randomly select, but on a regular basis, people for a 2-year term on each of those panels, and they will rotate through. They will rotate off, and in both the classifier case and the people who are going to participate in the panels, we will make sure they get appropriate training and background information so they can perform effectively, and we think those will be improvements.

Mr. RENACCI. And I appreciate that.

Again, as a businessowner, even though we set internal controls up and we had all of these processes, are there checks and balances in place to make sure all of these internal controls stay in place?

Mr. KOSKINEN. Yes. One of the things, as I said in my testimony, in addition to appointing a risk manager, I have spent the last year and a half trying to get employees from the front lines on up, and I have talked to about 14,000 IRS employees in person to understand that every IRS employee should view themselves as a risk manager.

Any IRS employee who feels there is a problem, is uncomfortable with something, thinks things are not working the way they are supposed to, has numerous lines of communication, including directly to me as well as to the Risk Manager, to raise that flag.

As the GAO noted in their interviews, all of the employees they talked to in focus groups place great emphasis on our ability to fairly deal with taxpayers. So in addition to all of our processes and procedures, I am trying to make sure that the employees understand that the problems we cannot solve are the ones we do not know, and we need their help whenever they think there is a problem of any kind to raise their hand and raise that problem.

And we reward people who do that. We do not punish them.

Mr. RENACCI. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman ROSKAM. Mr. Smith.

Mr. SMITH OF MISSOURI. Thank you, Mr. Chairman.

Mr. Commissioner, in 2005 under the direction of Lois Lerner, the IRS created something called the "review of operations," or a compliance review. If an organization is put into this review, the IRS would monitor that organization without ever making contact. In other words, the IRS will put them under surveillance, potentially building a case for a future audit.

Taxpayers should not have to worry about the IRS spying on them. In fact, this is a huge potential for abuse. Would you agree with that?

Mr. KOSKINEN. I am not familiar with that process, but what we do is when we are looking at compliance possibilities, we do look at trends, and in many cases we do not audit anyone. We do not send them notices. We simply monitor questions.

A question was raised about unrelated business income taxes, and we will monitor across the board are people paying those taxes. Are they, in fact, engaged primarily in commercial enterprises and no longer in tax exempt enterprises? And we will actually monitor that without necessarily auditing anyone.

Mr. SMITH OF MISSOURI. Okay. So you are telling me as the Commissioner of IRS you are not familiar with the review of operations process?

Mr. KOSKINEN. The discussion you are talking about in 2005 I am not familiar with.

Mr. SMITH OF MISSOURI. Okay. I understand you were not there, but I have an email right here. Actually Lois Lerner was definitely aware of it. In fact, it shows how she was aware of the surveillance program, and I would like to show her discussion.

As you can see up there, it says, "Lois would like to discuss our planned approach for dealing with these cases. We suspect we will have to approve the majority of the (c)(4) applications. We will also refer these organizations to the Review of Operations for follow-up," which is the spying program. "Even when the IRS approves organizations, it can still subject them to increased scrutiny and surveillance."

Can IRS still make referrals to the Review of Operations currently?

Mr. KOSKINEN. Yes. Actually, right now, for instance, we have streamlined the (c)(3) application process for small organizations, and one way we are going to check up on that and audit it is after the fact, a year or two later, see if those organizations that went through the streamlined process are actually behaving as they said they were going to, or do we need to adjust the streamline process.

So when we have an influx of exempt organization applications in any particular area, we will, in fact, later on follow up to see how are they performing. Are they doing what they said they were going to do?

Mr. SMITH OF MISSOURI. How do we make sure that this process is not being abused right now in the IRS?

Mr. KOSKINEN. I am sorry. How do we what?

Mr. SMITH OF MISSOURI. How do we assure that this process is not being abused, spying on the various (c)(4) organizations?

Mr. KOSKINEN. Well, as noted, we do not reach outside the organization. I mean, we collect the information they provide. We look at the 990s they provide. We simply monitor their activities. We are looking for are they paying employment taxes; are they engaged in unrelated business income areas; are there other areas that as a general matter look like there is a question.

We do not do "spying on organizations" as a matter. We simply periodically review information to see how are organizations providing. As noted—

Mr. SMITH OF MISSOURI. Do they know that you are reviewing it?

Mr. KOSKINEN. Pardon?

Mr. SMITH OF MISSOURI. I mean, do you notify them and say, "Hey, we are reviewing these organizations?"

Mr. KOSKINEN. Everyone who files a 990 with us understands we review those filings and we review them in order to make sure (a) you are filing them and (b) if there are significant changes from one year to another, we will monitor those.

I do not think anyone would be surprised that when they give us that information we are going to look at it.

Mr. SMITH OF MISSOURI. It is just in this email in regards to referring to Lois Lerner, it talks about in the spying process that they will review their websites, monitor their websites. They will check for political activity, what political activity is being engaged in, check if they are registered with the FEC and the representational aspects.

So it looks a lot like you are keeping an eye on them.

Mr. KOSKINEN. Right. That would have been her point. As noted, she thought that they were going to end up approving most of the (c)(4)'s, and in fact, most of the (c)(4) applications were approved, albeit as I have said in the past, in a process that was not right, delays should not have happened, the requests for voluminous information should not have been made, it was a management failure that should not happen again.

Mr. SMITH OF MISSOURI. Thank you, Mr. Chairman.

Chairman ROSKAM. Mrs. Black.

Mrs. BLACK. I think it is on. It is not lighting up. My light is not on, but the microphone is hot.

Well, thank you, Mr. Chairman, for allowing me to be here.

Commissioner, this report identified a lot of serious problems with the IRS audit selection process, and the GAO also made 10 recommendations to address these problems.

Do you agree with the recommendations?

Mr. KOSKINEN. We do. We have announced we agree, and beyond that, we have started to implement and have implemented some of them and expect to implement all of them.

Mrs. BLACK. Well, my understanding is that the problem is that they have not been implemented.

Mr. McTigue, how many of the recommendations that GAO has made to the IRS have not been implemented yet?

Mr. MCTIGUE. In this report, we made 10 recommendations, and as the Commissioner stated, they announced yesterday the implementation of 2 of the 10 recommendations.

More generally, more broadly, across IRS GAO has made hundreds of recommendations. Currently there are approximately 180 outstanding recommendations that have not been implemented, that remain open. Many of those have to do with specific line items in the financial statement.

Mr. KOSKINEN. I would note that the GAO recommendations have only been available to us for the last 2 or 3 months. So obviously we could not do them all in that timeframe, but we have both committed to doing them, much as we did with the Inspector General's recommendations, and we have set that process in motion.

Mrs. BLACK. Well, I also know that the Inspector General, TIGTA, has similar lists, and they had 171 unimplemented recommendations, too. So if you add all those together, it is about 350 recommendations altogether that have not been addressed by the IRS. So—

Mr. KOSKINEN. I would be happy to get you the list of the thousands of recommendations that we have had over time that have been implemented, and we, in fact, track with both the IG and GAO the status of those recommendations and the progress we are making on them.

In some cases, and the IG has recognized that, the implementation depends upon more resources than we presently have. If it is not a resource question, we are committed to implementing the IG and GAO recommendations. If we disagree with them, we announce that up front, and obviously we do not implement the handful of recommendations that we do not agree with.

As a general matter, we have found with both the IG and GAO, we have agreed with the bulk and vast majority of those recommendations and are committed to implementing them.

Mrs. BLACK. Well, I appreciate the fact that you are committed to implementing them because this is a big trust issue, and I know in my district, and I hear it everywhere I go, that people are continuing to be concerned that this whole issue of Lois Lerner and targeting has still really not been resolved and that there are still questions out there in people's minds about whether they can trust the IRS.

As a matter of fact, I have had some people that have had letters come from the IRS, and they question me, "Is this because perhaps I know you? Is this perhaps because I give to certain organizations?"

You know, I try as hard as I can to let people know that we are working here in Congress to restore that trust, but when I have a list of this many recommendations that still need to be done, it is awfully hard for me to tell the people in my district that, yes, you can trust the IRS.

So, Mr. Koskinen, I hope that we can hear back from you, and I know that the Chairman will continue to follow this; we will hear back about what really has been implemented so we can restore the trust.

A year and a half later after this targeting, there are still questions out there, and I think it is imperative that these recommendations be put into place as soon as possible. As I read through them, I think there are some that seem to be fairly easy to put in place, and I think they should be clicked off fairly easily so that you can come back to this Committee and tell us that you have done the work and that over 350 recommendations between GAO and TIGTA have been addressed and that they have been resolved so that we can restore the trust of the IRS with the American public.

Thank you.

Mr. KOSKINEN. We would be delighted to keep you updated about that, and these recommendations in particular. We would be delighted to advise you when they are all completely implemented. The IRMs, for instance, we expect to have all of that updating done by early next year, and we will keep you advised.

Because I agree with you totally. As I said earlier, we are going to audit a million people this year, and they need to be comfortable and confident it has nothing to do with who they are in terms of what political organization they belong to.

Mrs. BLACK. If I may, if I may because my time is only 10 seconds here, I would suggest that you would be sending this Committee reports on a regular basis about what you have done on the recommendations here in adhering to those so that we do not have to wait until the next hearing.

Thank you, Mr. Chairman. I yield back.

Chairman ROSKAM. Thank you.

You know, in his own inimitable fashion, Mr. Rangel posed an interesting and provocative question, as he usually does, and he said, "Look. When does the movie end? The movie never seems to end as it relates to the IRS."

Let me just relay an experience that I had, and it echoes a theme that he articulated, and it was brought to my attention by an IRS employee a few months ago. As the Commissioner knows, when I became Chairman of the Subcommittee I asked to have a meeting with the Exempt Unit employees in Cincinnati, and I went down and just had kind of a town hall meeting discussion, no press, no big hoopla, but I went in and had a discussion, took one staff person with me. You know, the diplomats would call it a frank discussion, shall we say, but it was pretty forthright.

It was right after we had moved a big packet of legislation. You remember we all moved a bunch of IRS reform bills. There was a package of them that came out of the Committee, unanimously, or were on the floor, and so forth.

One of the employees at the IRS in Cincinnati raised his hand and he asked Mr. Rangel's question, but it was phrased up a different way. He said, "When does it end? When is enough enough? I heard your statements on YouTube. I saw your comments, Congressman, on the floor of the House of Representatives. When does it end?"

I said, "Look, part of the charm of the American public, one of the things that is really a great feature of the United States and one of our characteristics that I find so endearing is we are quick to forgive."

The American public is quick to forgive. It is quick to give people a second chance, but the key to being forgiven is to ask for forgiveness and to acknowledge that there has been a problem, and I think that the weakness, the disconnect with this whole scene is this reluctance on the part of the Internal Revenue Service to acknowledge that targeting happened.

So there are still words like "alleged," and so forth. And it is like, hey, enough already. Just come clean and admit that it happened, and then we are able to turn the page.

So a more provocative question, I would say, is not when does the movie end, but really when did the movie start, and the movie started when the IRS targeted people based on their application, and then the second reel of the movie was put on when we learned through the work of this Committee that the IRS was manipulating, and it was Lois Lerner that was manipulating and Big Footing the processing. "I am going to decide who gets audited here."

Now the movie continues. We are on the third reel because the GAO at our request has said this has not gone away.

And so, Commissioner, my question to you is you asserted earlier that this is a hypothetical risk. So you have heard all of the Members of the Committee. We are of one mind in that nobody wants this to happen. Mr. Lewis said that in his opening statement. Mr. Rangel said that. The Republicans said that essentially. Nobody wants this to happen.

You asserted that this was a hypothetical risk, and yet we asked the Treasury Inspector General for Tax Administration about various complaints. So from 2013 to present, TIGTA has investigated 102 complaints from tax exempt organizations who believe that they were unfairly targeted. Of those, 12 cases were referred to the Department of Justice for criminal investigation.

Keep in mind this does not mean that TIGTA did not find problems with the other 90 cases, but it does mean that TIGTA said, "We find that a threshold," and a very high threshold as you know, "of criminality has been triggered here, and we are referring these to the Department of Justice."

Were you aware of that? Is this news to you? And can you give me your state of mind as to that information?

Mr. KOSKINEN. Yes. Actually, we meet regularly with the Inspector General at a high level to review what is going on. They have advised us of investigations. They regularly encourage the public, and we do, too. If you have a question, feel free to refer it to the Inspector General.

They advised us, and continue to advise us, in those reviews they have found no evidence in any of the reviews thus far in the information we got from them that there was improper exam selection. They do not tell us if they refer, for whatever other reasons there are, cases to Justice for review, but as a general matter as we have reviewed things, they have brought no case to our attention where there has been unfair exam selection in the exempt organization area.

Chairman ROSKAM. Well—

Mr. KOSKINEN. They will have to speak for themselves.

Chairman ROSKAM. Fair enough.

Mr. KOSKINEN. That is what they have advised me, but they do not advise us, and it is not appropriate they would, about individual cases. We do not know the details of anyone and we do not know the details of what their referrals are to the Justice Department. That is what they need to have between them and the Justice Department. So we do not—

Chairman ROSKAM. Okay, just to close the loop on this line of inquiry, they have communicated to us that there is a criminal activity going on here. They have made a criminal referral a dozen times based on the audit process. So we have to get to the bottom of that.

Mr. KOSKINEN. The IG can tell you that. All I can tell you is we have been advised that in those cases, the 112, whatever number it is, and we get that at our regular meetings, they have not found that anyone improperly selected anyone for an audit.

Chairman ROSKAM. You would acknowledge though if they did, then that would not be hypothetical.

Mr. KOSKINEN. That is right. If they did that, but they have not told us that.

Chairman ROSKAM. All right.

Mr. KOSKINEN. My point about hypothetical is not to say we should not implement the procedures. Our point is to say it goes back to the point about reassuring the public. At this point we do not have indications that anyone improperly was selected for an exam. We have good recommendations from GAO on how to make

sure that does not happen as we go forward, and we are delighted to implement those recommendations.

We can never be too good. We need to continue to review our processes, but I think it is important for the public to understand that in this review and in the review by the outside Risk Manager we brought in, there was no evidence of bias in the selection process.

Chairman ROSKAM. So just to be clear and so that we have the record clear, the TIGTA does an investigation when someone is complained against. So when someone comes and says, "Look. I think I am being unfairly targeted by the IRS. I am an exempt group." TIGTA does an investigation of that.

Mr. KOSKINEN. They do an investigation for a variety of things. Somebody could complain that they have been threatened. Someone can complain they have been attempted to be extorted. There are a lot of complaints beyond simply I was improperly selected.

All of those complaints are reviewed. TIGTA does an excellent job of following through. We think it is an important process, but they are not simply "I was selected. I am a tax exempt organization and I was badly selected."

There are a lot of claims taxpayers make, and they deserve to be investigated, and to the extent that there are criminal activities which can run the gamut from, you know, extortion, from bribery, from whatever else might be going on, improper use of information. TIGTA then refers those to the Justice Department for consideration, and we think that is appropriate.

Chairman ROSKAM. So your conclusion is that the TIGTA referrals, the dozen criminal referrals are not for audit selection; therefore, another bad act; is that right?

Mr. KOSKINEN. That is my understanding from the general information we get from TIGTA. They are careful not to give us details, and we are careful not to ask for details.

But as a general matter, they have said they have not found in those interviews and in those reviews any indication that people improperly were selecting or targeting audits for review.

Chairman ROSKAM. Okay. We have to get to the bottom of that.

Mr. Meehan.

Mr. MEEHAN. Thank you, Mr. Chairman.

And thank you, Commissioner. It is always great to have you here, and I appreciate your candor before our Committee, but this is walking into space. This discussion is perfect for one of the concerns that I have.

Your articulation was that there has been no indication and there is no evidence, and I am not suggesting that I know that there is something contrary, but I have great concerns because one of the reasons that there is no evidence is because the report has indicated that there has been a lack of appropriate documentation with respect to the discretion.

Let me tell you where I come from on this. I think we both realize the most important or one of the great things when you are talking about a million people is the unsettling nature of the fact that I am being audited by the IRS. There is an incredible tension associated with anybody, whether it be an organization or an individual.

And the great power that you and some other governmental agencies have is discretion, the ability to make those decisions and choices, the close calls, the not so clear calls.

One of the checks we have in this system is a mechanism by which there are ways to put checks on the discretion, and there is a series of things that are put in there, including the very manual that governs the organization that the IRS operates under, much like when I was in the Justice Department.

We had the manual that pretty much told you about everything that you needed to do in the course of your exercise of discretion. One of the things that has concerned me has been there are a number of procedural controls and implementations for the selection of decisions and approvals. It is up here on the screen.

The report has found that as many as 25 percent of the cases that they looked at did not have an articulation describing the allegation that the audit decision was based on, and yet that is one of the requirements. This is not something that is just suggested and maybe we do it. In each case there are things like the red things. All questions on input forms should be answered and it has been said that is being ineffectively done.

Imagine the taxpayer who decided that he was going to miss four or five of the different sections in filing their taxes. "I just did not feel like filling it out." If there is ever an agency that ought to be checking every box, it is the IRS.

But I go back to my concern that these things are not just suggestions. They are checks against the abuse of discretion, and when you have things like findings should be explained and documented; lead sheets should be fully completed; classifiers sending cases to committees should have the description of the allegation; political referrals should have justification or priority level; all of these things were found to be concerning, minimally concerning, but they were found to be deficiencies in the way the conduct is done.

This is the way we have a check on abuses of discretion. How are we going to be sure moving forward that we have appropriate descriptions so when an agency comes back and questions the decisionmaking that was done, there is appropriate documentation to assure?

And I guess I will close my commentary by saying: How do you know whether, in fact, there has been any ex parte communications, whether there has been any email traffic or other things outside the scope of your normal communications system, that people are not talking to themselves outside saying, "Hey, this is a religious organization and I do not have to document why I am choosing to do them. I would like you to look into it."

Do you have any ability to know whether there is any extra-curricular communications that are taking place in your agency outside of the IRS database?

Mr. KOSKINEN. First of all, no IRS employee is allowed to do any work, official work on their personal computers or outside of the system.

Second, all—

Mr. MEEHAN. That was Ms. Lerner.

Mr. KOSKINEN. Her references outside were minimal.

Mr. MEEHAN. We do not know what they were.

Mr. KOSKINEN. We monitor that. The people know that is an important process.

We also have a requirement that referrals all go into the official process. As the GAO noted, the employees they met with all, to a person, felt strongly about their responsibility, about the importance of fairness.

But I take your point, which is important, that the procedures and the documentation are an important part of this, and that is why we have no disagreement. We, in fact, welcomed the GAO review when it started for just this reason, just as I say our own review found that there were additional ways we could improve and tighten things down.

We should do that, and then the point that I was trying to make as well is we should not assume that, therefore, it will self-execute forever. We need to continue to monitor to make sure it is done, continue, as I said, to support IG's and GAO reviews because it gives you a third party review of are you actually checking all the boxes. Are people actually paying attention to the details?

And that is important. We need to do whatever we can to continually reemphasize that. The one thing about the directives that is not in our IRM is those are interim changes in procedures and improvements that are part of the IRM, but until it gets officially done, they are outside of it, and so there is a concern of, well, for instance, you cannot make a decision on your own without management approval, which is key to the IRM.

Mr. MEEHAN. Right.

Mr. KOSKINEN. The directives do not repeat everything in the IRM, and the point is well taken. We should, as quickly as we can, officially update the IRM with those directives, and we had already started that, but we have committed that all of the voluminous IRM will be updated with all of those directives because, again, the point is well taken. Employees need to be reminded that as the directives come out, they are part of the IRM, and the other restrictions on the IRM apply.

So I agree with you exactly that we need to make the improvements. We continue to need to be able to improve. We should never assume that it is perfect. And even when we make these improvements, it will be important for us, the IG, GAO, this Committee, to continue to say, "Okay. What have you done? What is the monitoring? How does it look a year later?"

Mr. MEEHAN. Well, so long as there is not ex parte communication, that will be the record that will allow us to check against abuses.

I thank you for your answers, and, Mr. Chairman, I thank you, and I yield back.

Chairman ROSKAM. Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman, and thank both of you for your service to our country.

Commissioner, just to be clear again in your answers to Chairman Roskam, you have taken a look closely at this, and you have found no evidence of bias in the selection process.

Mr. KOSKINEN. That is correct.

Mr. DOGGETT. You have found no evidence that someone was improperly discriminated against in the selection process.

Mr. KOSKINEN. We have found no evidence, and the reviewers that we have had look at it found no evidence.

Mr. DOGGETT. And as I understand your written testimony, it is clear that IRS does have procedures in place to prevent employees from selecting organizations on the basis of politics or religion or any other inappropriate grounds.

Mr. KOSKINEN. That is correct.

Mr. DOGGETT. And the GAO has provided a number of helpful and important refinements to your procedures, and you are willing to see that every single one of those recommendations is fully implemented.

Mr. KOSKINEN. We are. We think those are important recommendations, and we are committed to making sure that they get implemented.

And, Mr. McTigue, as I understand, you basically have suggested, recommended some refinements in the way the Internal Revenue Service has handled these matters.

Mr. MCTIGUE. That is correct. We have ten recommendations aimed at improving their policies, procedures and practices overseeing the control environment.

Mr. DOGGETT. And if I understand correctly, the very first one of those is that the Internal Revenue Service basically takes some practices and procedures that it is following now and puts them into the manual to ensure that they are consistently followed in the future.

Mr. MCTIGUE. That is correct. Putting all of the key procedures and practices in the IRM provides additional control.

Mr. DOGGETT. And that sounds to me like a constructive idea. As best I can determine, some of them are very technical, hyper-technical, but anything we do to prevent taxpayers being unfairly singled out is a good thing to do. It just seems to me that there is the potential of a misimpression that IRS was not already trying to do this and had done a pretty good job of doing this.

I remember some of our first hearings on this, which sounded a little to me like Benghazi, that there was some White House plot of the President and his supporters to take on their political enemies and to use, misuse the Internal Revenue Service in much the same fashion that there was an attempt to misuse it previously in American history years back.

And we have now come to this, that what needs to be done is to take what IRS has been doing and put it into print in the employee manual. And I think that is a good thing to do. It is a long way from where we started, and what we really learned after months of investigation and I might say almost attempts to force and encourage IRS and particularly this division in Cincinnati to not do its job concerning dirty money and politics and the misuse of nonprofit organizations, but it is a long way from where we started because there was nowhere there.

And I appreciate your report. I hope that we can continue to make constructive improvements, and I appreciate, Commissioner, the attitude you bring to this, that even in addition to these recommendations, your job is one to see that perhaps one of our least popular government agencies is continuing to try to refine and improve and serve, despite the fact you have been starved of re-

sources to do your job, but to try to do your job in the way that we expect any government official to be responsive, to be fair and honest in the way that the job is done.

And I thank you both.

I yield back.

Chairman ROSKAM. Let us go to Mr. Smith for purposes of putting a document in the record.

Mr. SMITH OF MISSOURI. Thank you, Mr. Chairman.

Mr. Chairman, based on my prior questioning with the Commissioner on the Review of Operations and Surveillance Program, I would like to submit for the record for the benefit of the Committee Members and also the Commissioner a memorandum that we received from the IRS in regards to the Review of Operations and Surveillance Program.

Chairman ROSKAM. Without objection, so ordered.

Mr. SMITH OF MISSOURI. Thank you.

[The submission of The Honorable Jason Smith follows:]

From: Paz Holly O
Sent: Tuesday, July 19, 2011 9:25 AM
To: Cook Janine
Cc: Marks Nancy J
Subject: RE: Advocacy orgs

Below is some background on what we are seeing:

Background:

- o 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.
- o 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@ezcounsel.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

Chairman ROSKAM. Mrs. Noem.

Mrs. NOEM. Well, thank you, Mr. Commissioner.

While the report identifies some problems with the IRS' audit process, I am concerned that you are not taking the report seriously. In fact, when you talked about the report, you called a lot of the claims in the report hypothetical.

Your direct quote was, "Although the report states that a hypothetical risk exists that returns could be selected unfairly, the draft report did not find any evidence that this has happened."

But my colleagues here today have demonstrated real cases where the Exempt Organizations Unit has targeted people based on their beliefs, and those cases were not hypothetical.

This report shows that the IRS is not documenting its decisions, and how can we tell if the targeting is happening or not if there is no documentation recording those decisions? There is no information to help us decide how decisions are being made at the IRS.

In fact, just in fiscal year 2014, the GAO found that up to 34 percent of referral cases selected for audit were dismissed without a reason being documented. Is it not possible that those cases received preferential treatment if they were dismissed?

And 22 percent of the cases not selected for audit had no manager's signature approving the decision. So how do we know that those decisions were not biased if we have no record as to how they were reviewed?

So this is just over the course of 1 year, and only 2 years after the IRS has admitted to targeting organizations. So you are saying that there is no evidence of wrongdoing, but you are also missing so many records and documents throughout the process that you cannot prove that there was not any targeting being done.

The burden of proof is on you and on the IRS. So, Mr. McTigue, do you agree that lack of documentation means that possible targeting could still occur, before the Commissioner speaks to some of what I have just talked about?

Mr. MCTIGUE. The lack of sufficient internal controls clearly opens the risk for potential abuses. I have said before an effective internal control system provides reasonable assurance that misdeeds will not happen, but it is not possible to create an internal control system that will assure absolute adherence to any policies and procedures.

Mrs. NOEM. Commissioner.

Mr. KOSKINEN. I would just note that we take this report very seriously. I think that is a misrepresentation to say that we are not taking it seriously. What we—

Mrs. NOEM. Well, did you refer to the report as hypothetical?

Mr. KOSKINEN. Hypothetical, yes. At that point there are risks, but the point was, to make it clear, that there has not been a case. After the reviews, nobody found existing bias or found cases. Much of the documentation, as Mr. McTigue said, was in a case file. There is a case file that was moved forward, and some of the documentation is that there were not sign-offs, and we need to make better procedures. We need to get better at this as we go.

So the point is not that we are not taking it seriously. The point is we need to implement these recommendations, and we need to as we go forward continue to monitor and make sure that there is

no, as Congressman Meehan said, as minimal a risk as we can make. Nothing is guaranteed, but we need to make sure that the procedures work.

Again, I would stress when GAO interviewed employees involved in this process, across the board they found employees dedicated to, in fact, fairness, to making sure the system worked well and effectively, and that is my experience in the 14,000 employees I have met with. It is a dedicated workforce doing its best to deliver on the mission and providing taxpayer service and enforcing the Tax Code fairly.

Mrs. NOEM. But 2 years after the targeting scandal occurred, the burden of proof is on the IRS to show that they are not targeting organizations, and that is what disturbs me about the actions of the IRS since those 2 years have occurred, is that there are no processes in place to do that.

I feel as though we are late coming to the party because for 2 years now the focus has been on the IRS, and it appears that you are not taking it seriously because no documentation processes have been put in place.

Mr. KOSKINEN. The full report has several pages describing the existing protocols, procedures and protections. So it is, again, not fair to say there are no rules, no procedures, no way to protect it, no documentation.

The report's findings are important, but part of those findings are that there is a significant process in place with detailed procedure and protocol.

Mrs. NOEM. Including documentation—

Mr. KOSKINEN. Pardon?

Mrs. NOEM [continuing]. That shows how decisions are made.

Mr. KOSKINEN. And in the majority of the cases, the vast majority, there is the appropriate documentation. Where, as Congressman Meehan said, you have not checked the boxes; you have not provided the summaries, as the Congressman said; you have to do that, and we need to do better at it. So I am not saying it is a perfect process. All I am—

Mrs. NOEM. But specifically, when auditing decisions are made, who gets audited, who does not get audited, how those decisions are made, manager's signatures, that has not been done, and will that be done in the future?

Mr. KOSKINEN. Yes. I am saying we have already implemented some of these recommendations. We will implement all of them, but even beyond that, it is important for us here and a lot of places not to then rest on our laurels, as it were. We need to continue to be vigilant.

We need to, in fact, and I am delighted to have GAO on a regular basis as they do and the Inspector General review all of this because it is important for the public to feel that not only do we think we are doing a good job, but outside reviewers coming in have found that, in fact, we are performing as we have said we were going to perform.

So quite to the contrary, we take all of this as an important part of the process. It is why, as I have said, I have been trying to encourage every employee if ever they have a concern that there is something they feel uncomfortable about, something is not going

the way it ought to, there are lines of communication outside of their immediate manager that they should use. They should view themselves as risk managers.

And we will, therefore, whenever there is a problem, my commitment is not that we will not have them. My commitment is we will find them as quickly as we can. We will be transparent about it, and we will fix them quickly.

Mrs. NOEM. I would say, and I know I am over my time, Mr. Chairman, but transparent would mean documenting how the decisions are made because you are accountable not just to Congress and to this Committee, but you are accountable to the taxpayers that you are choosing to audit as well.

Mr. KOSKINEN. I think that is exactly right.

Mrs. NOEM. And I yield back.

Mr. KOSKINEN. We owe it to the taxpayers to be fair and to be clear, and taxpayers have a right if they have a question to ask us about it. If they are concerned, they can go to the Taxpayer Advocate. They can go to the Inspector General if they think that they are somehow being selected for an audit improperly.

As I said, we are going to do a lot of audits. They are going to cover the entire political spectrum. They are going to cover people who go to church, people who do not go to church, people who went to political rallies, people who never do. And the issues taxpayers have to be comfortable with is we are talking to them because of something in their return or something that should have been in their return, and that is the only reason.

Chairman ROSKAM. Commissioner, the President gave an interesting interview where the IRS and the targeting and so forth came up, and it was within the past couple of days, and essentially he said Congress passed a crummy law, and the IRS administered it poorly and stupidly.

The crummy law argument seems weak to me in that the statute is 102 years old, and the regulations have been in place interpreting the statute since 1959. So it is not as if this is all new stuff.

Do you want to comment on the characterization of the IRS employees as poorly and stupidly administering something?

Mr. KOSKINEN. Well, one of the findings and recommendations of the Inspector General in his May 2013 report was that we should provide greater clarity in terms of the definition of what counts as political activity. Right now our regulations, which we are using, basically say you judge it by the facts and circumstances, and almost by definition facts and circumstances is a somewhat unclear definition of what is political and what is not.

So one of the things we had been looking at before I was confirmed, a draft regulation went out that managed to aggravate everybody because a particular determination included everything, including Get Out the Vote Campaign, voter registration, candidate forums, and as we have been reviewing 160,000 comments we have gotten, most of which had suggestions about how to improve that draft, it is clear that there are ways to make it clearer, easier for the people running the organizations or wanting to set one up and easier for the IRS to make determinations with less political oversight, less political involvement by the IRS.

We ought not to be the political monitors of the country. We ought to be actually implementing a statute as clearly as we can.

Obviously the primary standard and the facts and circumstances worked in the 1940s, 1950s, 1960s—it was put in in 1959—without a lot of controversy because there were not a lot of organizations involved in political activity. Right now there are about 1,500 (c)(4)'s. The vast majority of them are Kiwanis Clubs, local garden clubs. The number of organizations has grown significantly in the last 4 or 5 years, but even then there are still less than 10 percent.

So I do think that we could provide clearer guidance, and we should provide clearer guidance. I understand that people think, well, you know, we are going to somehow try to influence the process. Our goal is not to influence the process. That is not our job. Our goal, as one of the people working on this with me said, our goal is not to change the strike zone. It is to dust off home plate and make it clearer what is in and what is out.

Chairman ROSKAM. What we found though at the Committee level in terms of our inquiry, the investigation, the staff work, and so forth, is that it is a false claim to say that there was ambiguity. We did not get that from the interviews that we did.

In fact, we found the targeting took place when Washington came in and Big-Footed the Cincinnati office and said, "Put a stop on those. Put a hold on those." It was not Cincinnati that was having a problem of figuring out how to call the balls and strikes. It was Washington that came in and said, "No, no, no, no, no. We are going to do this differently."

So in your view, you know, to get to Mr. Rangel's question and to get to the question that came up at my meeting in Cincinnati where the IRS employee says, "Enough is enough," in your view what caused the targeting to begin with?

Mr. KOSKINEN. First of all, as I have said and I have tried to make clear from the time I started, it was a situation, a management failure that should never have happened. Selecting organizations for further review just by the name of the organization is just the wrong way to go.

Chairman ROSKAM. But you acknowledge it was a bad motive, right? I mean, it was clearly an agenda on the part of Lois Lerner to come in and to say, and you have seen the emails; I mean, you are familiar with all this?

A commonsense reading of these things and the sequence of them says there was an agenda here, and the agenda was to target people based on a particular philosophy. You agree with that, do you not?

Mr. KOSKINEN. I have said from the start there were six investigations underway when I started. GAO and the IG have added another. So we have had eight investigations. I said at the start we are limited and, in fact, prohibited in many ways from doing our own investigations. So it is one of the reasons I hope that we would get the reports out and get the results out.

My understanding by what I just read in the newspapers as much as anything is that the issue initially was raised in Cincinnati of we have this new influx of organizations. What should we do with them? And they asked Washington for guidance.

Washington took too long to respond, and then the guidance back was as they designed——

Chairman ROSKAM. But they took too long to respond——

Mr. KOSKINEN. My point about it is it is not my role to have done the investigation. I am delighted to have the findings that I understand the Senate Finance Committee in the next 2 or 3 weeks is going to issue its report with its findings.

My position has been our goal is not to do the investigation. There have been enough of those. Our goal is to listen to what the investigators find and, most importantly, listen to what their recommendations are.

We have adopted the recommendations of the IG.

Chairman ROSKAM. I understand.

Mr. KOSKINEN. And if there are more recommendations, we will review those and adopt the ones we can.

Chairman ROSKAM. Mr. Rangel is begging for mercy. He wants the movie to stop, and you can stop the movie. You can be the one that says, "Hey, it is all over. We acknowledge that there was targeting that took place," which is a huge acknowledgement, which the IRS has never done up until this point.

In the subsequent meeting that I had with the leadership in Cincinnati, they were using the word "alleged, alleged, alleged," and I just think that is part of the subtext here. It is like enough already.

So it was late February 2010 a screener in Cincinnati began to flag Tea Party applications for a superior's attention because of possible media interest. So it was not an element of confusion.

But my point is if we want the movie to stop, if we want to move on to the next thing, it is incredibly helpful to acknowledge that there was targeting that took place and the targeting was based on a bad motive, and there was an agenda behind it, and I think that it would just be incredibly helpful for that to be acknowledged.

Would you be willing to acknowledge that today?

Mr. KOSKINEN. We have had this discussion before. We have acknowledged and apologized for the fact that the process as it unfolded took place. Those organizations, first of all, (c)(4)'s do not need a determination. They can go and set up business any time they want, but to the extent they want a determination so that it ratifies what they say they are going to do as being acceptable under (c)(4), they deserve a much prompter answer. They deserve not to be harassed with voluminous questions.

It was a process that was a mistake, and we have apologized for that mistake. The characterization and determination of whether there was a "motive" is a determination that we are not in a position to make. There is no evidence that I have; certainly the IRS was not motivated in that regard.

So we have apologized. I have said that situation should never happen again, but it is not in my realm of information that I have to determine that, well, it was "targeting" or not.

And the reason, if you talk to the employees who were there, the reason they talk about it as alleged is they do not in their own mind think they were targeting anybody. They were simply trying.

The mistake was a serious and significant one. Organizations should not be selected by the nature of their name, the nature of

their political views, the nature of the activities they want to be engaging in.

We have a million and a half tax exempt organizations. They are, as Congressman Lewis said, providing significant public support and activities across a wide range of activities. There are issue advocacy groups out there advocating on positions for and against all sorts of issues including political issues. We should not be involved in that determination.

Chairman ROSKAM. When it comes down to it though, let me just make one other point, and then I have some other questions. I think the disconnect is you are basically saying, "Look. Someone was treated poorly and a process was bad."

What we are saying is someone was treated poorly and a process was bad and it was manipulated by somebody with a motive to cause injury, and it is a classic abuse of power.

So your reluctance to use the word "targeting" and simply act as if, well, look. "These were just people that happened to end up on the wrong end of a bureaucratic stick," it is more than that. They are not just people that ended up, waiting too long, in a line or treated rudely or something at a counter.

These are people and organizations that were asserting a First Amendment right that senior officials at the Internal Revenue Service said, "We are going to manipulate this process to deny you the right to participate in the public square." And that is the scandal of it.

And to Mr. Rangel's point, the reason he is begging for mercy is because he says when is enough enough. He is asking the same question, and what I am suggesting is you are the key to being enough is enough.

Mr. KOSKINEN. I would disagree. The key to that is there were six investigations investigating just that point, and those investigations have spent an innumerable amount of time. We spent \$20 million giving people information about it. We expect the Finance Committee, which has indicated it is going to be bipartisan, will issue a report, and they will make a determination about that based on a review of 1,500,000 pages of documents that I have not reviewed.

It is not my position to preempt them as to whether this was targeting or not, whether it was manipulation, whether it was politically motivated or not. We will hear from people writing those reports.

The Permanent Subcommittee on Investigation issued its report last year, not a bipartisan report, in which the majority said they did not find that there was targeting, and it was politically motivated. The minority said they thought it was.

We will see what the Finance Committee does. I have always felt it is not my role to preempt those investigations and conclude one way or the other. What we can conclude is that the process itself however it was started was a bad process. It should not have happened. People should not have been treated that way. People should be treated fairly no matter who they are. We are committed to that.

We have apologized to the extent that people were not treated that way. Whatever the motivation was, we are committed that it will not happen again.

Chairman ROSKAM. Let us move on. I have just a couple other questions. Since this discussion is on the idea of this being a hypothetical risk, let me pose a hypothetical situation.

Let us say that the person who is the gatekeeper at the IRS who reviews complaints, for example, about faith-based organizations is pro-life and opposes groups that support abortion. If that person at the IRS wanted to make it more difficult for pro-choice groups, could the employee not recommend that those groups be audited?

Mr. KOSKINEN. Any single employee cannot, as you know, and the process is known, by themselves recommend an audit, and if they are going to recommend an audit, someone in the classifiers or in our process of where are the issues, they have to justify and document why they are recommending that audit.

In any high profile issue where it is an issue of advocacy of one kind or another, that would go by definition to a three-party review group that itself would make a determination whether there is a course and a reason for an exam and a basis for that.

Chairman ROSKAM. Okay. Let us break that down. So based on your response, the first thing is they would be able to make a recommendation for an audit to the audit committee. So my original question—

Mr. KOSKINEN. And it goes back to—that was a hypothetical. They could do that.

Chairman ROSKAM. And the answer would be—

Mr. KOSKINEN. The GAO talked to over 40 people and found all of them committed to fairness in the process. So none of those people would fit that hypothetical.

Chairman ROSKAM. Look. If you are being interviewed by the GAO of course you are going to say, “I am committed to fairness in the process.”

So my original question was: Could that person make a referral to the audit committee? And the answer is yes.

Mr. KOSKINEN. An individual could make a referral across the board with a memorandum and a justification as to why there is an audit issue.

Chairman ROSKAM. So to follow up on Mr. Meehan’s inquiry though on the documentation side, up until now with not enough documentation, they can just make a referral under current practice. They could not write down why they have made that referral, and then it is before the audit committee; is that right?

Mr. KOSKINEN. The audit committee, and the audit committee gets a full file as the GAO said, and the fact that there is a summary or not a summary would be noted, and it would be up to the three-part independent group randomly selected now to determine whether there is a basis for an audit.

Chairman ROSKAM. So we are clear, this obviously cuts both ways. So if you are somebody that had a liberal agenda and you are the gatekeeper, you would have the ability to have an influence if somebody has an issue as it relates to gas tax or climate change or this or that. That gatekeeper that is determinative for the audit committee, that is a key person; is that not right?

Mr. KOSKINEN. That is a classifier, I know, and a high profile is one that classifies the thing and refers them for audit selection.

Chairman ROSKAM. I just want to pop up this Lerner email just very quickly. So if we can put that back up, where Lois Lerner says, "I think I need to think about whether to open an exam. I think yes. Let me cogitate on it a bit."

I mean, any fair reading of that is that is an attempt to come in over the top and influence the process.

Mr. KOSKINEN. There is no way in the process she could open an exam. There is no way in the process today anyone by themselves can in that situation open an exam.

Chairman ROSKAM. But her state of mind obviously was that she thought she could.

Mr. KOSKINEN. That could be, but anyway, the process is that no single individual could not, particularly in a high profile case, open an exam.

Chairman ROSKAM. Let me just turn your attention then to one other subject briefly, and that is the hearing that we had on civil forfeiture. You recall that we, as a Subcommittee were like-minded, and you testified about the IRS' activity in the past as it relates to civil forfeitures from seizing of assets from businesses that did not have an underlying illegal activity.

Mr. KOSKINEN. Other than the—

Chairman ROSKAM. The structuring itself.

Mr. KOSKINEN. Other than the structuring, which itself is illegal.

Chairman ROSKAM. Yes. What I thought I said was underlying, but I take your correction.

One of the witnesses was Randy Sowers, and he is currently petitioning the government to return \$29,500 he forfeited to the government in order to get the IRS out of his life.

I wanted to call it to your attention because the Department of Treasury has discretion to return those funds, and I just want to communicate that it is my hope and my expectation that Treasury returns those funds that the IRS seized and also any funds connected to cases that are similarly situated that we had discussed.

Mr. KOSKINEN. I would just make a technical point that when cases are in seizure, the seizure goes through the courts. Once they are in the courts, it is a Department of Justice decision, not an IRS or Treasury decision. So in cases recently where there has been publicity about refunds being made, those are determinations made by the Department of Justice, not the IRS.

Chairman ROSKAM. I take your point. Would you be willing to, to the extent that you have the ability to, to support the petition for the release of those funds?

Mr. KOSKINEN. As I say, as you know, we have changed our policy last year. We no longer seize those funds. To the extent that they were seized and not representing underlying issues, we think that if we would not seize them now, that we do not see any reason you would not return those funds.

Chairman ROSKAM. So moving forward, would you be willing to communicate to the Secretary of the Treasury that you are like-minded on that and you would support the return of those funds?

Mr. KOSKINEN. Again, it is not the Secretary of Treasury who controls this. It is the Department of Justice and the prosecutors who determine what is to be done in those cases.

Chairman ROSKAM. I mean it is a technical point. Does Treasury not have control over them? You are saying it is DOJ?

Mr. KOSKINEN. No, DOJ. Once it goes into the court system, it is the DOJ, U.S. Attorneys and the people prosecuting that case who negotiate with the defendants and make those decisions.

Chairman ROSKAM. Okay. Would you be willing to support or reach out to the Attorney General on that basis?

Mr. KOSKINEN. Again, we do not know the details of each of those cases, but as a general matter, our position has been that at this point even though it is a violation of the law to structure your deposits, we are not seizing and it is our policy no longer to seize those assets unless the underlying funds are derived from criminal activities, whether it is drug running or forfeiture.

Chairman ROSKAM. I understand. Thank you both for your testimony and your time today. I appreciate it.

Mr. KOSKINEN. Thank you, and thank the Members of the Committee.

Chairman ROSKAM. Let us invite up our next witnesses.

We will welcome our second panel of three witnesses:

Michelle Easton, President of the Clare Boothe Luce Policy Institute;

Joseph Metzger, Vice President of Finance at the Leadership Institute; and

Elizabeth Kingsley, partner at the law firm of Harmon, Curran, Spielberg & Eisenberg.

You each have 5 minutes. We have your written statements, and they will be included in the record, and, Ms. Easton, let us start with you.

**STATEMENT OF MICHELLE EASTON,
PRESIDENT, CLARE BOOTHE LUCE POLICY INSTITUTE**

Ms. EASTON. Chairman Roskam, Mr. Lewis, gentlemen and gentlelady, I want to thank you so much for asking me to appear this morning to talk about the IRS audit of the Clare Boothe Luce Policy Institute.

I am the President of the Clare Boothe Luce Policy Institute, a nonprofit, educational, 501(c)(3), tax exempt organization that I founded 22 years ago. Our mission is to promote and prepare conservative women leaders.

I was also a Federal Government official myself for 12 years, winning Senate confirmation from a Democrat-controlled U.S. Senate, and then I served 4 years as a State official in Virginia.

So I know the responsibility of government first hand and that there is a proper role for investigations and audits. I also know it is possible for the government to act inappropriately.

I am also an attorney. I worked my way through law school at night here in town at American University, and we take these continuing legal education courses as attorneys. I did a number of them at Georgetown, nonprofit tax seminars often featuring Lois Lerner, and the IRS and Lois Lerner in these seminars always preached transparency as a part of good nonprofit management.

But in my opinion, transparency is not practiced at the IRS. I have been extraordinarily careful as President of the Institute and as an attorney to follow the IRS rules for exempt organizations, and I have been confident over the years that I have done everything I was supposed to do with great care.

But in January 2011, Happy New Year, I got a call from the IRS saying that we had been selected for an audit, and of course, I asked right away, "Well, why? Can you tell me why or how did this happen?"

"No, no, that is private," she said.

Now, 2008 was the year they selected for the audit of the Institute. It was a year where after many years of working in the tax exempt doing nothing political we had a candidate for Vice President who I admired tremendously. So I worked closely with our corporate counsel. I followed all the rules. I resigned as President. I went off the payroll. I had nothing to do with the Institute during the weeks I was working volunteering to work for Sarah Palin for Vice President.

Every precaution was taken to protect the Institute while still allowing me to exercise my First Amendment rights to do something like this.

I never believed the IRS selected the Institute randomly, but I have never been given access to the information as to how or why they decided to audit the Institute for that 2008 year. Neither the public nor the Congress is privy to all of Mrs. Lerner's emails. So we may never know what was said about the Clare Boothe Luce Policy Institute.

Well, the day the audit started, the two agents arrived at the headquarters, and they were polite. They sat me down. They interviewed me. They asked a series of probing questions like, "What does the Clare Boothe Luce Policy Institute do?"

Then they asked for a tour of the headquarters, and as they walked around my office, the gentleman agent looked into my office and saw a big picture of me and President Reagan, for whom I had the honor of working for for 8 years, and his eyes widened and his jaw dropped in dismay, and I wondered why would an IRS agent be so shocked and dismayed to see a picture of me and a President.

We had seven massive requests for documents, unbelievable stacks and stacks of paper and Xeroxing, and in the first request they asked for all of our donors, all of our supporters at the Institute.

I vigorously objected. We did object to releasing that information. Our donors are tremendous, patriotic Americans, and I knew it was worth the effort to preserve their privacy. We were especially glad afterwards that we did that and we won that point because we know the IRS has leaked information about conservative organization donors, like the National Organization for Marriage, to left-wing advocates who then use it to write slash-and-burn articles about them.

So there were seven massive requests, and you know, the year they did it, 2011, I have heard in this first panel the gentleman saying, oh, you know, no targeting. Well, you tried on that, but you just have to wonder. The year before a national election because it kept us from doing what we do educationally, which is prepare and

promote conservative women leaders, and you wonder what other groups that educate people on conservative ideas were randomly selected in 2011.

It is all a secret. It is all a secret. That is part of the problem, the secretiveness of it. It makes a thoughtful person skeptical.

So thousands of dollars later, so much lost opportunity to work on our mission to prepare and promote conservative women leaders, we were cleared, and in fact, I was right. I had done everything that I should have done properly and correctly.

You know, when Mrs. Lerner made the one admission in May of 2013, she did say their actions with the Tea Party groups was absolutely inappropriate.

And I know that many people want to keep their audits secret, and I understand it. I understand it because here you have supported these nonprofits. You are spending my money to fight the IRS. I understand that, but if I leave you with no other thought, please let it be this. If the great majority of IRS audits are random, as I believe they say they are, the IRS should publish on January 1st a list of all the groups and individuals they plan to do these random audits on. Then it is just, oh, bad luck. You know, you got selected.

But you know, the stigma, the secretiveness of it, the way people are so embarrassed about it, hey, it was just random. Now, this does not talk about the referrals where somebody sees something in a newspaper and sends it in. I mean, that is almost an invitation, is it not, for somebody that disagrees with you?

Oh, here is Michelle Easton. Oh, look. She is taking time to work for Sarah Palin. Oh, let's send this in and suggest she be audited.

Maybe that is what happened. I do not know. I do not know, but I know that citizens lose confidence in government and they are reluctant to cooperate with government enforcement when they see this kind of lack of transparency in governmental agencies.

Chairman ROSKAM. Ms. Easton, we just need to move on to Mr. Metzger, and then we will come back and we will be able to hear more from you as we are able to inquire.

Ms. EASTON. Okay.

[The prepared statement of Ms. Easton follows:]

House Committee on Ways and Means
Subcommittee on Oversight
Oversight Hearing on IRS Audit Selection Process and Internal Controls within the
Tax Exempt and Government Entities Division
July 23, 2015, 10:00AM

Testimony of Michelle Easton
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Thank you Chairman Roskam for inviting me to appear before your Subcommittee this morning to tell you about the IRS audit of the Clare Boothe Luce Policy Institute.

I am president of the Clare Boothe Luce Policy Institute a nonprofit educational Section 501(c)(3) tax exempt organization that I founded 22 years ago, with a mission to prepare and promote conservative women leaders. We work primarily with young women in college, some in high school and some who are post-school.

I was a federal government official myself for 12 years -- winning Senate confirmation from a Democrat-controlled U. S. Senate; then served 4 years as a state official in Virginia. I know the responsibility of government first hand and that there is a proper role for investigation. I also know it is possible for government to act inappropriately.

I became an attorney working my way through night law school at American University, graduating in 1980. As part of my Continuing Legal Education I have attended Georgetown University's Nonprofit Tax Seminars -- which in the past often featured Lois Lerner as a speaker. The IRS and Lois Lerner have preached that transparency is part of good non-profit management. But we have come to learn that transparency isn't practiced at the IRS.

I have been extraordinarily careful both as President of the Institute and as an attorney to follow IRS rules for tax exempt organizations, having heard about the horrors of an IRS audit from several other conservative organizations. I was confident I had done everything I was supposed to do.

Nonetheless, in January 2011 -- Happy New Year -- a woman from the IRS telephoned me to say our Form 990 from the fiscal year 2008 had been "selected for examination." She was telling me that the Clare Boothe Luce Policy Institute was going to be subjected to an IRS audit! The IRS agent who called refused to tell me how or why we were selected -- that was "private" she said. She claimed the IRS just wanted to insure the activities of the Institute were proper under our tax exempt status.

Now in 2008, the fiscal year the IRS selected for auditing the Institute, I temporarily resigned as President of the Institute, left the staff and our Headquarters office, and went off the payroll for several weeks, to volunteer my time to work for Sarah Palin's candidacy for Vice-President. My work for the Palin campaign was undertaken and executed in consultation with our corporate attorney, taking every precaution to protect the Institute while exercising my First Amendment rights as a citizen.

I never believed that the IRS "randomly" selected the Institute for an audit for the 2008 fiscal year. We have never been given access to any information as to how or why the IRS decided to audit the Clare Boothe Luce Policy Institute -- or why the 2008 fiscal year was the focus of our "random" audit. Since neither the public nor Congress has been privy to Lois Lerner's emails, we may never know what she said about the Clare Boothe Luce Policy Institute.

The first part of our audit began with the arrival of two IRS agents at our Virginia Headquarters to conduct an interview of me. The IRS agents asked a series of probing questions like -- what does the Clare Boothe Luce Policy Institute do?

After the interview they asked for a tour of our headquarters. When they came to my office door the male agent spotted a photograph on my office wall of me with President Reagan -- with whom I had the honor of working during the 8 years of his Administration. The agent's eyes widened and his jaw dropped in dismay.

Why would an IRS agent be so shocked and dismayed at a photo of me and a president of the United States?

In the very first of seven separate requests for massive amounts of documents, the IRS asked for a "List of contributors and Amounts."

I would note here that in Lois Lerner's May 2013 admission of wrongdoing, she confessed that the requests to applicants for exempt status for contributor names were not appropriate.

I vigorously objected to releasing to the intrusive IRS auditors the names of our financial supporters. Our donors are such tremendous patriotic Americans, and I knew it was worth the effort to preserve their privacy.

And I am especially glad now that we protected our supporters' privacy since we've learned the IRS leaked information about conservative organizations like the National Organization for Marriage to leftwing advocates, which then used the information to write "slash and burn" stories about conservative supporters of the groups.

To comply with the seven massive document requests from the IRS, the Institute had to provide boxes and boxes and reams of documents. (For example, they made us provide copies of bank statements, list broker statements, check registers, a schedule of accounts payable, a schedule of accounts receivable, credit card statements and on and on.) This took the greater part of 2011 and cost tens of thousands of dollars in attorney, accountant, and staff time to comply with the IRS demands.

And, of course, it kept us doing less of what we exist for -- preparing young women for conservative leadership. I would note that 2011 was, very coincidentally according to the IRS, the year before the country was about to select its national leadership.

What other groups that educate people in conservative ideas were randomly selected for audits in 2011 I wonder? It is all a secret with the IRS and it makes a thoughtful person very skeptical.

The IRS auditors must not have found what they were looking for in our 2008 records, because before they had completed the audit of 2008, the IRS then demanded 2009 records as well.

More paper, more time, more money were spent on a random audit, instead of on our mission of preparing and promoting conservative women leaders.

At the end of all this harassment, the IRS concluded initially that while the

Institute "continues to qualify for exemption from Federal income tax" that the Institute owed taxes from past years and in future years because the IRS claimed we were operating a list rental business. It was a truly bizarre determination as we have a small staff, we use a mailing company to make list rental decisions for our mailings and have nothing to do with approving or processing list rentals.

After additional thousands of dollars more in legal costs to appeal this finding, we were finally, totally, cleared by the IRS.

Tens of thousands of dollars later, with so much lost opportunity to prepare and promote conservative women leaders, I was in fact right; I had done everything that I should have done, properly and correctly.

To add insult to injury, after all this intrusion and diversion of our precious time and money, in December of 2011 the IRS sent a cheery request that we help them improve their service to the public by answering a questionnaire about their audit. Their letter read "...Your name was selected through a scientific random sampling process to receive this survey because IRS recently completed an examination (audit) of your organization. We want to know your opinions regarding that experience and the service you received from IRS. Your responses are critical to the accuracy of this evaluation"

I told our attorney "I want to eliminate the IRS, not help improve their service." Our attorney told me that this was the one communication from the IRS to which I had no obligation to respond.

The May 2013 admission by the IRS was shocking. You may recall Tax Exempt Division Director Lois Lerner had planted a question with her friend -- about IRS handling of Tea Party exemption applications. Lerner admitted publicly that the actions by the IRS against these conservative groups were "absolutely inappropriate." I immediately called our attorney and said I want to go public now to discuss our harassing audit, and he said, "Go right ahead -- someone has to fight back."

Many organizations, however, do not want it known that they have been selected for an audit. Or that they spent tens of thousands of dollars of donor funds defending an audit. Or that the IRS examined not just one year, but two.

Have any of you or your family or business been subject to an IRS audit? -- How did you feel about the audit? Pretty proud about that?

If I leave you with no other thought, please let it be this:

If the great majority of IRS audits are truly random, as the IRS claims, the IRS should publish on January 1 a list of all the groups and individuals that they plan to do these random audits on through the year.

Then, we could see if the audits are truly random, or whether they are focused on those nonprofits which oppose the policies of the incumbent Administration. If Lois Lerner had been required to be transparent, the public would have been able to see much sooner whether her selection of nonprofit organizations to audit was truly random as she claimed – until she finally owned up to her serious “inappropriate” selection criteria.

And, at least, then the stigma would be gone – “hey, it is just my bad luck to be selected for a random audit.” Then the motivation that many nonprofits feel to keep an IRS audit a secret is gone. You don’t need to worry about your supporters thinking you are doing something wrong if they find out about the audit. All those negatives that automatically come with an audit would be gone.

The IRS should be required to publish the list of their random audits to take away the mystery.

These are outrageous abuses of governmental power. Even though Lois Lerner and her apologists are still trying to hide what happened, there is every reason to believe that the IRS has abused its power over nonprofits. As this IRS scandal continues, with the perpetrators still unpunished, citizens lose confidence in their government and are reluctant to cooperate with government enforcement. When you see open hostility and disrespect from a government agent looking at a picture of me and President Reagan, you get the sense they exercise governmental power less like umpires and more like partisans. This is truly corrosive to good governance.

This experience with the IRS illustrates what we at the Clare Boothe Luce Policy Institute have been teaching young people for decades – just how far we have come from the vision of the founding fathers who viewed citizens as the masters, and government workers as their servants.

The Clare Boothe Luce Policy Institute is a growing and influential conservative organization with unique outreach to women through our annual Great American

Conservative Women calendar, our Woman of the Year and other awards for Conservative Women, our campus lecture program, conferences, seminars and our various other programs effectively preparing young conservative women for greater leadership.

Over the past couple of years, hearing of the IRS abuses of other conservative groups, I wanted to share our organization's experience with IRS abuse with you.

But I hope that Members of this Sub-Committee who do not agree with our conservative message would be equally outraged by IRS abuses. If the IRS under the Obama Administration can go after conservative organizations, then the precedent would be established for the IRS to be used to achieve partisan, political objectives under any Administration -- completely ending anything resembling the rule of law at the IRS.

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Chairman ROSKAM. Mr. Metzger.

**STATEMENT OF JOSEPH R. METZGER,
VICE PRESIDENT OF FINANCE, LEADERSHIP INSTITUTE**

Mr. METZGER. Thank you, Chairman Roskam and Members of the Committee.

My name is Joe Metzger. I am the Vice President of Finance of the Leadership Institute, and I am here because in 2011, the Leadership Institute was attacked by the IRS with an audit that consumed \$50,000, countless staff hours, investigated whether or not our free speech was permissible and, worst yet, could have been politically motivated.

By way of background, the Leadership Institute is a 501(c)(3), not-for-profit organization. It was founded in 1979 by Morton Blackwell with a mission to increase the number and effectiveness of conservative activists.

The 2011 audit investigated primarily whether or not our use of the term “conservative” meant Republican. The two terms are, of course, not interchangeable. Conservatism is a philosophy free of partisanship, whereas Republican means partisanship free of philosophy, and the former is permissible under 501(c)(3) regulations, whereas the latter is not.

The Leadership Institute is a conservatively oriented organization, but all training programs have open admissions, and we welcome everybody regardless of party affiliation, and in fact, we would be delighted to have every Member of this Committee attend our training programs regardless of which side of the aisle you sit on. We would even put your photographs on the wall as notable graduates, and we would definitely welcome that.

Unfortunately, though, the question of philosophy versus partisanship is one of the most serious ones a nonprofit group can be asked. An adverse ruling on that point can result in loss of tax status, which is effectively a death sentence, and with that kind of a stake involved, we made sure that every single request for documents or answers from the IRS was scrutinized by our attorneys first.

Everything was reviewed, analyzed, researched at great expense. Because the only thing worse than enduring this kind of an audit would be to lose our tax status because of a typographic error.

Responding to the questions and demands from the IRS cumulatively required the production of over 23,000 pages of documents and \$50,000, hundreds of staff hours or perhaps even more, along with salaries that were spent on activities no donor intended.

These resources were diverted away from training and programmatic activities, the money and time and effort was instead thrown down a rat hole that produced nothing whatsoever of any value except that the organization was not destroyed.

This is not what our donors intended with their contributions, and sadly, we will never know what programmatic activities could have been accomplished consistent with donor intent.

But this was not the worst cost. The worst one was that the audit imposed sheer terror, and what I mean by that is unlike a tax liability audit, which is simply a financial question, this one investigated whether or not our free speech was permissible.

It is a very scary prospect indeed for anybody who values liberty if someone could determine that something you said or wrote would lead to your utter annihilation. Under this veil of terror organizations become very risk averse, much as you would drive slower with a police car behind you even if you are already obeying the speed limit. An organization investigated by the IRS, being scrutinized about everything that they say and do, is going to be very careful about everything it says and does in the future and may limit its future programmatic activities simply out of fear.

In the end after 13 months under a cloud of uncertainty, the Institute received a one page no change letter. The letter essentially said everything was fine. You're doing everything correctly, except that we should have notified them when the board of directors changed the date of the annual meeting from December to February. That was the worst offense that they could come up with.

But everything was not fine. The Leadership Institute lost time. It lost money. It lost potential programs. We never had a chance to challenge whether or not an audit was even justifiable. There was no due process. There was no opportunity to confront our accusers.

This audit, incidentally, was triggered by a referral from some unknown source, and in fact, we would have had more rights to defend ourselves against a \$25 parking ticket than against a \$50,000 audit.

This was bad enough even under the best of circumstances when such an audit could be justified, but it is intolerable if an organization is audited and subject to these kinds of expenses for political purposes.

The IRS must be absolutely beyond reproach when it comes to selecting targets for audit. Even a hint of abuse with this devastating tool undermines the credibility the IRS must maintain to enforce a system of voluntary tax compliance.

To clear the air and restore respect for the IRS, the possibility that the Leadership Institute and others may have been abused for political purposes must be thoroughly investigated. Learning that it was possible today is definitely a step in the right direction, but we need to know for certain whether or not abuse took place. Anything short of that would be a miscarriage of justice, and anyone who is responsible for political abuse must be fined, fired or jailed.

Thank you very much.

[The prepared statement of Mr. Metzger follows:]

**Joseph R. Metzger – Leadership Institute Vice President of Finance
Testimony to Committee on Ways and Means Subcommittee on Oversight
Thursday, July 23, 2015**

The Leadership Institute is a 501c3 non-partisan, non-profit organization founded in 1979 by Morton Blackwell. The mission of the Institute is to increase the number and effectiveness of conservative activists and leaders in the public policy process.

This is accomplished primarily through three programs:

1. Political technology training, which provides schools and workshops teaching people how to become more effective in the public policy process. This includes things such as how to manage a grassroots-oriented campaign, succeed in broadcast media, run successfully for public office, or start independent conservative student publications.
2. A Campus Leadership Program, which helps conservative students learn how to organize independent student groups and succeed in student government.
3. CampusReform.org, a news site exposing bias and abuse on the nation's college campuses.

In June 2011, the Institute received notice from the IRS that it was being audited for tax year 2008.

According to the IRS agent in charge, the audit was triggered by a referral. That is to say, a complaint by someone outside of the IRS that the Leadership Institute was engaged in improper partisan or electioneering activity. Among other things, she wished to investigate whether the Institute's use of the word "conservative," which is philosophy free of partisanship, really meant "Republican," which is partisanship free of philosophy.

The distinction is significant.

While a 501c3 non-profit organization is welcome to have a specific philosophy it prefers, it may not engage in activities for the benefit of any party, nor may it engage in any kind of electioneering activity.

An adverse ruling from the IRS on this topic generally results in loss of tax status. For a non-profit organization, this destroys any possibility of future funding from foundations, and it significantly discourages donations from individuals who would no longer enjoy tax deductibility of their contributions.

Loss of tax status would shrink and fundamentally alter an organization; in many ways, that is equivalent to a death sentence.

The Leadership Institute was not concerned about the possibility of an adverse audit ruling by the IRS.

Institute president Morton Blackwell set a policy many years ago that there should never be a hint of impropriety where non-profit rules are concerned. Staff are forbidden to engage in any kind of partisan activities, except on their own time, and may not use any Institute resources for such activities, including even e-mail, telephones, or a postage stamp.

All schools and training programs are conducted with an open-admissions policy; anyone who wishes to sign up for training may do so, and there are no admission boards or other barriers standing in the way of this policy.

But even knowing that everything was done properly, an investigation under penalty of death is terrifying. The agent in charge of the audit asked many questions and requested many documents. For each question or document request, the Institute had to spend time writing answers and producing documents.

On such a serious matter with such dire consequences, one wouldn't wish for imprecise language or an incomplete answer to mislead the IRS into drawing an erroneous conclusion. Thus, every answer and every document had to go through research and review by the Institute's attorneys.

No amount of staff time and no amount of legal expense is unjustified in trying to get through the audit process unscathed. So, of course, the cost of complying with the audit grows with each request.

In the end, the numerous requests from the IRS resulted in the production of over 23,000 pages of documents. The direct expense involved in this was nearly \$50,000, primarily for legal fees.

That's 1,000 donors, who gave \$50 each who had their money thrown down a rat hole with nothing to show for it. That's \$50,000 taken away from actual, programmatic activities, and it could easily have been much worse.

The IRS agent running the audit was very professional and communicated intelligently. She made it clear numerous times that every document she saw was consistent with the Institute's IRS-approved charitable mission and the law.

Her supervisor and the IRS counsel involved in the audit, on the other hand, put pressure on her to issue additional document requests and questions even after she determined there was nothing amiss. As I mentioned, every question and every document request required very time consuming and expensive answers, and the longer the audit continued, the higher the cost would run.

Fortunately for the Institute, the agent stood her ground on the position that more questions would not alter the outcome of the audit, and she closed the case despite the pressure she was under from above.

I know this both from the conversations the agent had with the Institute's attorneys, and also from the case chronology the IRS produced in response to a Freedom of Information Act request filed by Judicial Watch on behalf of the Institute.

Were it not for the agent's efforts standing up to pressure, the direct cost of this audit could have been dramatically higher. I have no doubt other groups have suffered far more on this front than did the Leadership Institute.

Then there's the indirect cost. Hundreds of staff hours were dedicated to responding to the IRS' inquiries. Perhaps more. Those are staff hours that required salaries to be paid without generating a single one of the programmatic benefits the Institute's donors expected to see.

Certainly I can't point to anything as dramatic as food pulled from the mouths of starving children to feed a ravenous legal beast; the Leadership Institute isn't that kind of charity. But we'll never know what other programs or productive activities could have been undertaken with the time that was forever squandered.

Finally, there's the most insidious cost: The cost of sheer terror.

Unlike an IRS audit of a regular taxpayer, where the lines are fairly clear about what constitutes taxable income and what the mathematical rules are that result in a given tax liability, the audit of a non-profit organization is an audit of free speech restrictions. And whereas the potential penalty in a taxable audit is additional taxes or fines, the potential penalty in a non-profit audit is total destruction of the organization.

I understand that, in exchange for favorable tax status, a non-profit organization agrees to waive certain rights related to electioneering and partisan activity. I understand also that the only way to measure compliance with those requirements is to look at what was said and written.

But that doesn't change the fact that the audit looked at what people said and wrote during that period. A free-speech audit, even if justified, runs counter to the instincts of anyone who values American liberty.

Wondering whether or not you said something you weren't supposed to is pretty scary, especially when the consequence of an error of speech is the potential death of the organization.

And much the same way that you'll drive more slowly when a police car is behind you, the employees of an organization under an IRS audit are going to be *very* cautious about what they say and do in the future.

There could be many legally permissible activities conducted by a non-profit organization that it won't do for fear that the IRS will start asking more questions about why those activities

are legally permissible. The very act of asking questions and requesting research and documentation exerts an enormous financial burden on an organization, even if the eventual outcome is favorable. If the outcome is unfavorable, the consequences can be disastrous.

Often, an organization will find it preferable just to play it safe and scale back the scope of its operations rather than risk additional and costly IRS inquiries.

After enduring this audit for 13 months and living under a cloud of expense and uncertainty, the Leadership Institute received a "no change" letter closing out the audit. Essentially, that letter said, "thanks, everything's fine."

But everything wasn't fine. We lost time, money, and potential programs as a result of the audit. If this kind of dramatic loss were from a penalty related to a parking ticket, the Institute would have had the right to challenge the parking ticket in court and potentially avoid the penalty.

In the case of an audit, though, once you're audited, you've already lost. There is no opportunity to challenge the loss foisted upon you. When the audit is triggered by a referral from some outside person or organization, there's not even an opportunity to challenge your accuser. You lose.

Certainly there are times when audits are appropriate. But an audit is so damaging even with a favorable outcome that the IRS must be absolutely beyond reproach when it comes to selecting audit targets. The process it uses must be judicious and impartial. Any hint of abuse with that destructive tool undermines the credibility necessary for the IRS to administer successfully a tax system involving voluntary compliance.

In the Leadership Institute's case, there were certainly many hints that this audit was not instigated through a judicious and impartial process free of political taint.

- The timeline of the Institute's audit coincided very closely with the timeline related to IRS abuse of the tax-approval process for new non-profit organizations. It's certainly plausible that political abuse at the IRS wasn't confined to just that one division.
- In January 2012, the Hawaii Tea Party, as part of its application for non-profit tax status, was directly asked about its relationship with the Leadership Institute. That certainly makes it plausible that the people reviewing the tax-status applications were communicating with the audit people.
- The agent running the audit investigated, as one of her main areas, whether the Institute's use of the word "conservative" really meant "Republican." That certainly makes it plausible that political targeting was involved.
- The agent in charge was pressured from her superiors to send additional questions and document requests, which would have driven up compliance costs without altering the eventual outcome of the audit. It's certainly plausible audit tactics were dictated from

somewhere higher up at the IRS.

- At least five other conservative organizations, including the Billy Graham Evangelistic Association, the Clare Boothe Luce Policy Institute, the Family Research Council, Samaritan's Purse, and David Horowitz's Freedom Center were audited around the same time. Institute president Morton Blackwell tells me he knows of other organizations also audited in the same period, but who wished to suffer in silence lest they risk alienating their donors. It's certainly plausible this was part of a pattern of abuse in the audit-selection process.

It's impossible for me to know for sure whether or not anyone at the IRS launched politically-motivated audits for the purpose of damaging and cowing out-of-favor organizations. My government-oversight powers are very limited.

But I do know this is a possibility that must be investigated if the IRS is to have any credibility in the future. I know that the damage done by an audit is so severe that adequate controls must be put in place to prevent even the potential for this kind of abuse in the future. And if the audit-selection process was abused for political purposes, someone must be fined, fired, or jailed. Anything short of that would be a miscarriage of justice.

Chairman ROSKAM. Thank you.
Ms. Kingsley.

**STATEMENT OF ELIZABETH J. KINGSLEY,
PARTNER; HARMON, CURRAN, SPIELBERG & EISENBERG, LLP**

Ms. KINGSLEY. Thank you, Mr. Chairman and Members of the Subcommittee. I thank you for the opportunity to appear here today.

My name is Beth Kingsley, and I am an attorney at a law firm that primarily represents nonprofit organizations.

While many of our clients are not politically active and some are consciously non or bipartisan, the politically engaged groups we work with are predominantly progressive. Over the years we have seen variation in the emphasis the IRS Exempt Organizations Division places on the various functions of education and guidance, on the one hand, and enforcement, on the other.

In my two decades of practice, I have seen that pendulum move back and forth several times. For instance, earlier this century the IRS Political Activity Compliance Initiative systematically handled allegations of charities violating the prohibition on intervention in political campaigns. This project generated a noticeable level of audit activity, but then it stopped.

From roughly 2009 to mid-2012, there was little evidence that organizations were being audited even for blatant violations of the campaign intervention prohibition or for other reasons.

At meetings of the ABA Tax Section, colleagues would regularly ask the attendees whether anyone was handling audits regarding improper political activity, and for several years the answer was no. In late 2012 or early 2013, we started to see a change.

At my firm we have handled more audits in the past 5 years than in the preceding 15. Our colleagues at the ABA meetings reported a similar increase in audit activity. In the past few years our firm has seen at least nine audits of organizations that would be considered progressive. These have included both 501(c)(3) and (c)(4) groups ranging from very small to midsized.

The groups selected for audit have included those that lobby, some that advocate for or against political candidates, some that support civic engagement and leadership development at the grass-roots level, and others that conduct data intensive research on technical policy issues.

Some audits have grown out of complaints from ideological opponents, and some have just been selected randomly. I would like to illustrate how this process can play out by telling you about the experience of my client Project Vote.

Project Vote's mission is to build an electorate that accurately represents the diversity of this Nation's citizenry and to ensure that every eligible citizen can register, vote, and cast a ballot that counts. Although Project Vote's activities are scrupulously non-partisan because it seeks to engage historically disenfranchised populations in our Nation's civic life it is often considered politically progressive.

In April 2012, Project Vote received notice that the IRS was going to audit it for the year 2010. We learned that the basis for the audit was not random, but that it was triggered by a complaint

filed by a disgruntled former employee. The first set of documents requested in this audit ran to six pages and generated over one gigabyte of data. That is more than 3,000 pages.

This was followed in August 2012 by another request for eight different types of information. Although the audit was for 2010, in the process Project Vote was asked to agree to extend the statute of limitations for 2008 while the examiner decided whether or not to open an audit of that year as well.

The audit cost Project Vote over \$20,000 in legal and accounting fees, plus untold hours of staff time diverted to handle the matter. It was open for more than 2 years, eventually closing with a letter indicating the organization's exempt status continued, and it was not subject to any excise taxes or other tax liabilities.

Even for the most confident nonprofit, an IRS audit is disruptive and alarming. In contrast to audits of businesses, an examination of a tax exempt organization can be especially intrusive. Financial records are only part of the picture. The auditor must scrutinize the organization's operations to assess whether it still qualifies for exemption.

In my written submission, I provided representative samples of the kind of detailed document requests that are typical for this purpose.

Even the simplest audit will generate thousands of dollars in legal and accounting fees, and that can easily run to tens of thousands of dollars, even when the whole thing goes perfectly smoothly. From beginning to end, the audit will take months and it can take years.

No one enjoys being audited by the IRS, but I can assure you it is not just conservative groups that have been audited in recent years.

Thank you very much.

[The prepared statement of Ms. Kingsley follows:]

Testimony of Elizabeth J. Kingsley
Partner, Harmon, Curran, Spielberg & Eisenberg, LLP

Before the Oversight Subcommittee
Committee on Ways and Means
Hearing On the Internal Revenue Service's Audit Selection Process and Internal Controls Within
the Tax Exempt and Government Entities Division

July 23, 2015

Chairman Roskam, Ranking Member Lewis, and Members of the Subcommittee, thank you for the opportunity to testify here today.

By way of background, I am an attorney with the law firm of Harmon, Curran, Spielberg & Eisenberg, LLP. We are a small firm that is primarily dedicated to representing nonprofit organizations.¹ While many of our clients are not politically active, and some are consciously non- or bi-partisan, the politically engaged groups we work with are predominantly progressive. What I want to talk about today is what I have seen in recent years of these groups' experience with IRS audits.

Overview -- IRS Audit Activity

Over the years, the Exempt Organizations division of the IRS has maintained the functions of education, guidance, compliance and enforcement. However, the emphasis and resources allocated to each of those functions varies. In my two decades of practice, I have seen that pendulum move back and forth several times.²

In the early years of this century, the IRS conducted a "Political Activity Compliance Initiative," to investigate allegations of section 501(c)(3) organizations apparently violating the prohibition on intervention in campaigns on behalf of or in opposition to candidates for public office to which those organizations are subject. This was a systematic attempt to provide a mechanism to handle reports of charities engaging in political campaign intervention on an expedited basis during an election year. In one form or another, this PACI program was in effect for the 2004, 2006, and 2008 federal election years. Reports were issued after each cycle.

¹ While I advise and represent many different clients, I am appearing today solely on my own behalf. Although some client organizations have given me permission to talk about their experiences with IRS audits, in presenting this testimony I am representing only myself.

² To be precise, I have seen the precedential guidance released dwindle to a barely perceptible trickle, but the balance between education and enforcement has shifted.

With the release of the FY 2011 work plan, review of allegations of political campaign intervention was moved “from project to process” and no further reports have been forthcoming. After this transition, there was very little evidence that nonprofits were being audited even for blatant violations of the campaign intervention prohibition. I regularly attend meetings of the ABA Tax Section, and specifically its Exempt Organizations Committee. At breakfast meetings of the Subcommittee on Politics and Lobbying Activities, we would regularly ask the attendees whether anyone was handling or had heard of any audits inquiring into improper political activity. From 2009 into mid-2012, no one reported any indications of such audits occurring. While this was not a scientific survey and cannot be taken as definitive proof, it would be surprising if there had been a substantial political activities audit program under way and none of the examinations had come to the attention of that group of lawyers who specialize in that particular area of tax law.

More recently, the Service has speeded up processing of exemption applications in order to clear a serious backlog. IRS officials have also publicly stated that they plan to devote resources to following up after the exemption determinations are issued to ensure organizations are complying with the constraints imposed by the kind of tax exemption they enjoy. We have certainly seen that at my firm. My assessment indicates that we have handled more audits in the past five years than in the preceding fifteen. Our colleagues at the ABA meetings have reported a similar increase in audit activity, starting in late 2012 or early 2013.

Our Recent Audit Experiences

In the past few years we have seen at least nine audits of organizations that can reasonably be described as progressive. These have included both 501(c)(3) and 501(c)(4) groups. They have ranged from small to mid-sized, with budgets from less than \$100,000 to approximately \$3,000,000. The groups selected for audit have included those that lobby for or otherwise promote progressive policy changes, some that affirmatively advocate for progressive political candidates, some that support civic engagement at the grassroots level, and others that conduct data-intensive research on technical policy issues. Some audits have grown out of complaints from ideological opponents, some we were told have been just selected randomly, and in at least one case we suspect the audit was triggered by specific information in the Form 990 that was filed.

Even for the most well-run organization that is confident of its fundamental tax compliance, an IRS audit is disruptive and alarming. It draws time and energy away from working on the mission. Audits are inherently intrusive and usually expensive. In contrast to audits of individuals or for-profit businesses, an examination of a tax-exempt organization can be especially intrusive. The auditor needs to look not only at whether taxes (such as payroll taxes or unrelated business income tax) have been paid as required, but whether the entity still qualifies for tax-exemption. This entails an in-depth examination of activities to verify that the

organization's operations further the purposes for which it was granted exemption. For a 501(c)(3) organization this means demonstrating that it does not engage in any political campaign intervention and does not exceed the limited amount of lobbying it is allowed to do; for a 501(c)(4) group it means demonstrating that it is primarily operated for qualifying social welfare purposes, and political campaign intervention and other activities do not outstrip those social welfare activities. Financial records are only a part of the picture.

Costs can vary widely. Our firm's clients tend to be small to mid-sized organizations that are very budget-conscious. We have a commitment as a firm to helping these groups receive legal representation that they might not otherwise be able to afford. Consequently we work hard to keep our rates as low as possible, and we try to be flexible in how we provide our advice, and depending on the situation and the organization our involvement in the audit process may be limited in order to keep costs down. However, even the most minimalist approach will generate thousands of dollars in legal and accounting fees, not to mention the costs of staff time devoted to the process. A more typical audit can easily run to tens of thousands of dollars -- and that's when the whole thing goes perfectly smoothly, with only one visit from the auditor, one set of document requests, and no major issues raised that must be addressed.

An audit is typically initiated by a letter accompanied by a list of documents that the auditor wants to see. These can run to many pages, with multiple requests per page. In addition to detailed financial information, requests we have seen include:

- Minutes of meetings of governing body, including committees from January 1, 2010 to present
- All correspondence files of the organization with the IRS
- Copies of pamphlets, brochures, magazines, newsletters, programs, membership application, and other literature printed
- Manual of Standard Operating Procedures
- Contracts, leases, agreements etc. (including contracts for services)
- List of project managers, projects worked on, and compensation paid
- List of consulting agreements entered into, name of consultant, compensation paid, and copies of the consultant's work product
- Conflict of Interest statement
- Provide information on travel reimbursement policy/procedures
- Provide information on all agreements and transactions the organization has had, either directly or indirectly with any substantial contributor, trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated.
- Copy of Grant applications submitted to charities/foundations in which you received funding

- Provide information on grant requirements
- Provide final financial accounting for the grant funds received
- Evaluation and summary of the results obtained from grant funds received

An auditor's first visit can last days and can stretch over several weeks. It is often followed by additional requests for information. Typically these focus on areas the auditor has determined are of particular interest (e.g., one client was asked for details about credit card use), but often they can be burdensome and expensive to comply with.

From beginning to end the process will take months, and can take years. Even when everything goes perfectly smoothly and the auditor does not identify issues or concerns, I seldom see an audit wrap up in much less than a year. Two years is not unheard of. It is common that an auditor requests that the taxpayer agree to extend the statute of limitations in order for them to complete their work. To be sure, the audit is not active for this entire period. Examiners typically have multiple cases open, and can be called away for other purposes such as training. However, for the organization, there is an open IRS audit hanging over their heads for what often seems an excruciatingly long time.

An Illustrative Example -- Project Vote

To illustrate how this process can play out, let me tell you the story of an audit of my client Project Vote. Project Vote is a national, nonpartisan, nonprofit organization founded on the belief that an organized, diverse electorate is the key to a better America. Its mission is to build an electorate that accurately represents the diversity of this nation's citizenry, and to ensure that every eligible citizen can register, vote, and cast a ballot that counts. Since 1994, Project Vote has worked to increase voter registration and participation among historically underrepresented citizens, and has emerged in recent years as a national leader in voting rights.

In 2012, the organization received notice that the IRS was going to audit it for the year 2010. We learned that the basis for the audit was not random but that it was triggered by a complaint filed by a disgruntled former employee. One might expect such a complaint to be discounted when filed by a person with an obvious ax to grind, but in this case it was considered sufficient basis to open an exam.³

The initial audit letter was sent in April, 2012, and our first meeting with the examiner was held in June of that year. Although the audit was for FY 2010, in the process Project Vote was asked to extend the statute of limitations for 2008 while the examiner decided whether or not to open an audit of that year as well. Upon consideration the organization reluctantly agreed, judging it better to allow the auditor the time to realize that such further inquiry would not be a good use of

³ The employee was fired for dishonest conduct --use of a credit card for unauthorized personal expenses.

resources rather than having to make the decision under pressure of looming expiration of the statute of limitations.

The first set of document requests in this audit ran to six pages and generated over 1 GB of data, containing more than three thousand pages. This was followed in August, 2012 by another request for eight different types of information.

The audit was open for more than two years, and cost the organization over \$20,000 in legal and accounting fees, plus untold hours of staff time diverted to handle the matter. It eventually was closed in July, 2014 with a letter indicating that the organization's exempt status continued and it was not subject to any excise taxes or other tax liabilities.

Although Project Vote's activities are scrupulously nonpartisan, because it seeks to engage historically disenfranchised populations in our nation's civic life, it is perceived to be politically progressive. The fact that it, too, was subject to a lengthy, expensive, and intrusive IRS audit provides evidence that the agency is not targeting its audit resources on a politically biased basis.

Chairman ROSKAM. Mr. Chairman.

Mr. Kelly.

Mr. KELLY. Thank you, Chairman, and thank you all for being here.

All of you echo the same issue, and I think this is the important thing, and as the Commissioner just left again, it has always been these alleged happenings. Although it is not alleged for any of you, you actually went through the process, and I loved the way you describe it because I think the American people feel the same way. It is sheer terror when these people come after you.

Now, Ms. Kingsley, I wanted to ask you real quickly, as you go through these audits and you find out that, no, you are fine; there is no problem; we are going to clear it off; do the people that have to go through all of these hours of agony and spend thousands and thousands of dollars ever get reimbursed for those costs if they are found not to be guilty?

Ms. KINGSLEY. No, certainly not the routine costs of an audit, no more than any taxpayer. You know, if I get audited individually, I am probably going to pay my accountant to help me out on that, and the IRS does not reimburse those costs.

Mr. KELLY. So this is a loss of not just the end of innocence, but it is a loss of confidence and faith and trust in your own government or, more importantly, a branch of your government because there is no other branch that strikes more terror in the hearts of American taxpayers than the IRS.

And I think this is the thing that we keep coming back to and the reason that I think the Chairman keeps asking Mr. Koskinen, "Can you not at least apologize for what you did?"

And now as I listen to you, you spent thousands of hours, thousands of dollars, lost night's of sleep, not able to work on what it is that you worked on, Ms. Easton, and it all comes down to because there was an alleged violation, something wrong. We just have to look into it. We have to get under this to really find out what is going on.

You do not recover that. First of all, you will never feel the way you did about our government because of the way you were violated, and I think for all of us once we are violated, we do not go back and say, "You know what? They just made a mistake. I think everything is going to be okay," because it is never okay. It is just never okay.

I cannot imagine what you went through. Your whole life has been dedicated to serving the people and working with the American people in their best interest. Then to go through this process, Ms. Kingsley, this is what bothers me. There is no reimbursement. This is the type of lottery that you do not want to win. This is a poker game that you know you are never going to be able to ante up and sooner or later you are going to have to cash in and say, "This is too expensive for me. I'm out of here. Whatever you have to do, do. Maybe we can work some side agreement."

But I think this is the tragedy of this whole thing, and I think this is the problem, as I see you sit there, Ms. Easton and Mr. Metzger, and as you talk about the terror it strikes through you. This is the whole problem.

My friends can say anything they want about how we are on a wild goose chase, and sure, you can look at the emails, but only the emails that I had in my government account, not my personal ones that I happened to use for the same issue, and it was not just used by the IRS. Other people at different levels of government have also used their own personal ways of communicating on government issued business and then said, "Well, it was mine. I will determine what you get back."

I cannot imagine how you feel right now, sitting before this Committee. You must feel that at least you have an opportunity to air what you went through so that the rest of the world can know. You are very brave to do this, by the way.

I know my son still runs our business back home. He said, "My God, Dad, whatever you do, make sure you stay elected because they are going to come after us some day."

I do not say that laughingly. I say that is the way the American people feel, and I think that is the problem, regaining that faith and trust that the IRS has to have.

Listen. We have to have an agency that collects revenue. We know that, but do they have to be so heavy-handed?

Tell me. Because it is your life, what you have done, will you ever feel the same way again?

Ms. EASTON. You do not trust them. You do not trust them, and when they will not give you any details about it and why did this happen and how, it is the lack of transparency that makes you very, very uncomfortable with it.

No, your life is never the same, and even coming here to speak to you, you think, "Well, what happens next?"

Mr. KELLY. Well, that is what we are here for, and I am talking about all Members, both sides of the aisle. We work for the American people. We are never supposed to work for our government. Our government is supposed to work for us.

Mr. Metzger, really, as I listened to you, I read your testimony, and then as I watched you go through it, again, these are things that will keep you up for years to come, and every time you do something in the future, you are still going to have this haunting memory of how you were targeted and looked at, and nobody can tell you why.

You do not know who your accuser is. You do not know why it is, and they said it was just random. It was not just random.

Mr. METZGER. The Leadership Institute, in fact, filed a Freedom of Information Act request with the IRS to try to find out what those referrals were, and the documents they produced were substantially just things that we gave them and they gave us copies back saying this is what is in our file.

There was no evidence whatsoever of what the initial referral was that triggered things, and that leaves all sorts of questions out there about exactly what it was that we did wrong or who it was that complained that triggered this in the first place.

Mr. KELLY. Yes, and I think, Ms. Kingsley, that maybe you would agree that it is the ambiguity of all this that makes us wonder, as the Chairman says, when is the movie going to end? When we finally find out who wrote the script and why they wrote it. That is when it ends, when we really find out what the plot was.

And the fact that they keep saying, no, this is all a fiction, this is not fiction. This is real life drama, and it is lived out in the hearts and souls of the American people when they get a letter or communication from the IRS.

I do really understand what you are saying because I have been on the other side of it. Do you not wish that you could be as careless as they are with the way they handle their operation? I guarantee you your feet are held to the fire on everything. Theirs are not. They always say, "Hey, our bad. We will try to improve."

But I really thank you for being here and thank you for standing up and speaking out and letting the rest of America know that you have a voice. Your voice will be heard, and this is the House for it to be heard, and this is truly the people's House. That is who we represent.

Thank you.

Chairman ROSKAM. Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman, and thanks to all of our witnesses for your testimony.

Ms. Kingsley, I gather that the groups that you represent in the main would be viewed as progressive or liberal in their political viewpoint.

Ms. KINGSLEY. That is correct, yes.

Mr. DOGGETT. Can you give us an example of some of those?

Ms. KINGSLEY. I am sorry. I did not hear.

Mr. DOGGETT. What is an example of the type of groups?

Ms. KINGSLEY. Some of them advocate for women's reproductive rights. Some of them are environmental organizations, just as an example.

Mr. DOGGETT. And as I read your testimony, you had seen a steady increase before all of this flap over what Ms. Lerner did and the misconduct associated with her and the investigation of it. You saw a steady increase in audits of your progressive groups before any of this ever happened?

Ms. KINGSLEY. That is right. I think it started about mid-2012 that we started seeing the beginning of the uptick.

Mr. DOGGETT. And you are active with the American Bar Association section of lawyers who represent people of all political points of view, and generally the reports you are getting back about the audit activity are in contrast to the way it occurred in prior years.

Ms. KINGSLEY. During the years that PACI was in effect, the Political Activities Compliance Initiative, we had a lot of conversations, and I co-chair a breakfast meeting on political and lobbying activities of that Exempt Organizations Committee. So we had a lot of conversations about the activity people were seeing, and then for several years it just sort of faded away. We did not see much coming out of the 2008 cycle and up until about 2012 regularly all of the government speakers would announce at these events that they were auditing. We were not seeing evidence of it.

And so I do not know what was happening, but we just were not hearing from our colleagues in the field on both sides of the aisle until, again, late 2012. People started to say, "Yeah, I am seeing some audits now."

Mr. DOGGETT. And from your work there as a member of that part of the Bar did you find evidence that these audits were directed more at one political point of view than another?

Ms. KINGSLEY. No, we did not. There was no evidence. I mean, nothing that we heard about or saw directly indicated that.

Mr. DOGGETT. And when one of these audits occur, as my colleague was just saying, it can be expensive, intensive, and a little bit scary for the client.

Ms. KINGSLEY. As with any IRS audit, absolutely.

Mr. DOGGETT. Yes.

Ms. KINGSLEY. There is no question.

Mr. DOGGETT. And I want to ask you also about your work on the Bright Lines Project because, as I indicated in an earlier question, while it is important to protect the rights of each taxpayer whether it is in this area or another, whether it is a person that shares my political point of view or another, it is also important to see that the IRS enforces the law, and I think we have seen a significant increase in the pollution of our political process with unlimited amounts of secret corporate money that is being poured through nonprofit organizations.

Unfortunately, I read, for example, in *The New York Times* headline, "IRS Expected to Stand Aside as Nonprofits Increase Role in 2016 Race." So apparently where there might have been thousands or millions of dollars in the past, we are going to see even more significant amounts of money poured through nonprofits, and if one side is doing it, perhaps the other side decides to do the same thing.

Either way, I believe that it is a perversion of the nonprofit process to do this. Can you tell us a little about the Bright Lines Project and anything that you see that can be done to get clearer lines, brighter lines on the misuse of nonprofit, social welfare organizations for purely political purposes?

Ms. KINGSLEY. Sure. The Bright Lines Project, the drafting committee is a group of practitioners who do the kind of work I do representing nonprofits, and we felt a need for better guidance on what is political under the Tax Code for all organizations, in fact, not just (c)(4)'s, but (c)(3)'s in particular for whom it can be a death sentence if they cross that line by mistake.

And we rolled up our sleeves and came up with a proposal for what we thought was a clear, practical definition that could be implemented that was modeled on the lobbying rules that are in effect for 501(c)(3)'s that have been very effective and very livable.

We do not as a project have a position on how much political activity a (c)(4) should be allowed to engage in either as a matter of the reading of current law or as a policy matter because coming up with the definition of what the rule is was hard enough work for us as it was, but I think it is an important step toward getting fairness because when there are uncertain rules, when it is all the facts and circumstances, that opens the gate for bias, for even unintentional bias. Where there is a clear rule that can be applied across the board, it is just much more likely to be a fair process.

Mr. DOGGETT. Thank you very much.

Thank you, Mr. Chairman.

Chairman ROSKAM. Thank you.

Mr. Metzger, in your written testimony you relay an experience of the pressure from the main office down to the agent that was interacting with you. Could you just take a minute to give some insight as to how that worked out?

Do you follow my question?

Mr. METZGER. Yes, certainly, yes. The agent who was in charge of our audit was a very easy to work with, intelligent and, I think, impartial, fair individual. She was the one sending us questions, reviewing documents, going over the sorts of information that she needed, and we went through several steps of document requests.

At a certain point she indicated that there would be additional document requests, and of course, considering how thorough and careful we need to be on each of those, every document request dramatically increases the cost of complying with the audit.

Her supervisor and the IRS counsel were the ones it turned out who were putting pressure on her to send in those additional requests. These are things that we know both because she told that to our attorneys and also because one thing we got from the Freedom of Information Act request was a case chronology that listed on there where the IRS counsel was preparing additional questions for her to send to us, again, which would create a dramatic compliance cost, very high, very time consuming.

The agent involved though demonstrated her impartiality and was very helpful in that she resisted the pressure from her supervisor and from the counsel to send those extra questions. She told them that additional requests would produce more of the same, which is to say more evidence that the Leadership Institute is in compliance with all tax laws, and there was no point in pursuing that further.

So I applaud her efforts standing up to something that probably did not help her career, but which did definitely protect us as a taxpayer from further injury.

Chairman ROSKAM. Ms. Kingsley, your perspective really helps round out the picture. You know, Ms. Easton and Mr. Metzger are making a claim that resonates with me that they were targeted based on a political philosophy. Your experience is different though. You know, you would not characterize targeting in your experience. You would say, though, a level of unfair scrutiny based on a false claim from a disgruntled employee was the basis for your audit.

So my question for you is: How did you come to know or how did Project Vote come to know that it was a disgruntled employee? Did the IRS disclose that to you or did you come to know it sort of intuitively?

Ms. KINGSLEY. My memory is that the IRS typically, it has been my experience, where there is a referral, a complaint that is the basis, they tell us that, just that it is a referral-based audit.

Chairman ROSKAM. Okay.

Ms. KINGSLEY. And I believe that actually the fact that it was submitted has been publicized, and so we knew that.

Chairman ROSKAM. What do you mean?

Ms. KINGSLEY. Also some of the questions asked made it clear that the concerns were those that had been part of the complaint that was—

Chairman ROSKAM. Oh, I see. Just common sense told you that you knew the source of this, and it was an obvious thing.

Ms. KINGSLEY. Yes.

Chairman ROSKAM. And so for all three of you, just so I'm clear, you all three got a no change letter on the Project Vote, Leadership Institute and Clare Boothe Luce?

Mr. METZGER. That is right.

Ms. EASTON. Initially the finding was that we were a list rental company, and we had to pay tax on list rental. It was just a bizarre, absurd charge. They said you keep your exemption, but here, we found this problem.

We appealed that. That was thousands more in lawyer fees, and then they said, "Oh, no, you are not a list rental company."

So, yes, in the end it was clean, but there was an initial finding that we had to pay taxes on list rentals.

Chairman ROSKAM. Let me just conclude by making one final point. The GAO in its study asserted that one out of five audits are the result prompted from somewhere else, from a referral essentially outside, which is really a daunting thing if you think about the level of vulnerability and the level of exposure, the reputational risk to your point earlier, Ms. Easton, and the chilling effect and the restraining influence that that has.

So we have had a wide ranging discussion today, but it has been very much the caliber of the discussion, and the insight the Committee is able to gain has been greatly enhanced by you three being willing to participate.

And, Ms. Easton, I sense that you are itching to say something.

Ms. EASTON. Yes. Is there no way that we can get a list of the (c)(3)'s that were audited during these years in question? So it is not like, "Oh, trust us, you know, Lois would not have done that."

Can we not just look at a list? Can you not do that even if we do not get to do it?

Chairman ROSKAM. In answer to your question, it is an area of real consternation, and so these things are shrouded in secrecy, and at one level, look, you want a level of confidentiality around this process, which makes sense inherently where this has become a bizarre Catch-22, though the problem is that you are not able to know who it is who made the complaint against you. You are not able to know. Do you know what I mean? You are very, very isolated.

And so there is an interest in trying to revisit some of these things. It is not as easy as I am making it sound. There are a lot of subtleties to it, and it needs to be well debated and well vetted and carefully navigated through, the tension between disclosure and confidentiality.

And my sense is that we are just beginning to get around the edges of this, but the more I am learning about this issue under the taxpayer protections, confidentiality, the irony is that Section 6203, Confidentiality, does not only protect the taxpayer. It protects the bad actor at the IRS, which is so twisted and so messed up I think Charlie Rangel should write that script.

And with that, we will conclude our time today, and I thank you very much.

[Whereupon, at 12:17 p.m., the Subcommittee was adjourned.]

[Submissions for the Record follow:]



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

October 23, 2015

The Honorable Diane Black
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Representative Black:

During the July 23, 2015, Oversight Subcommittee hearing on audit selection criteria for exempt organizations (EO), you asked about our response to the ten EO-related recommendations made by the Government Accountability Office (GAO) in July 2015. We then talked generally about our responsiveness to the many recommendations made by the GAO and the Treasury Inspector General for Tax Administration over the last few years. I committed to update you on our response to the GAO's ten recommendations, and provide a list summarizing the GAO and Inspector General recommendations to which we have not yet completed our response.

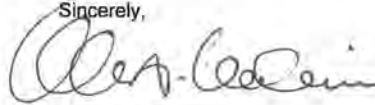
Regarding the status of the ten GAO recommendations, it is important to note that we generally agree with all ten. The EO function has already begun developing action plans to address each recommendation, and it is making progress towards doing so. For example, the GAO recommended that the IRS ensure that referral committee members rotate every 12 months by soliciting volunteers, and suggested the EO function should revise the IRM to require an alternative rotation schedule if 12 months is not appropriate. In July, the EO function released interim guidance, announcing new procedures for the Political Action Referral Committee that is consistent with the GAO recommendations. In response to other GAO recommendations, the EO function has already set FY 2016 target dates for completion of IRM updates and operational reviews. The EO function will continue addressing all ten GAO recommendations, as quickly as it can.

More broadly, as we discussed, the GAO and Inspector General have made more than a thousand recommendations since the beginning of fiscal year 2013. Based on our review across all IRS functions, we completed responsive actions to 1,240 GAO and Inspector General recommendations between October 1, 2012, and September 17, 2015, while 210 responses remain open. Of those 210 open responses, as of September 17, 167 had not yet reached their original due dates for responsive action, while the due dates for the remaining 43 responses had been extended. To further

clarify the status of the open responses, I am enclosing a chart that lists the 210 open responses, their original and extended due dates, and the reasons for the extensions.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff can contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Koskinen". The signature is fluid and cursive, with the first name "John" being the most prominent.

John A. Koskinen

Enclosure

| REPORT | REPORT TITLE | RECOMMENDATION | DUE DATE | ORIGINAL DUE DATE | REASON FOR EXTENSION |
|--------------------|--|---|-----------|-------------------|-----------------------|
| TIGTA 2008-20-178 | THE OFFICE OF RESEARCH, ANALYSIS, AND STATISTICS NEEDS TO ADDRESS COMPUTER SECURITY WEAKNESSES | The Director, Office of Research, Analysis, and Statistics, should ensure that audit and accountability controls are sufficient by requiring audit logs to be maintained a minimum of 6 years and to be periodically reviewed by the security officer. | 30-Sep-15 | 15-Apr-15 | Budget |
| TIGTA 2011-1C-122 | FINAL INCURRED COST PROPOSAL FOR FISCAL YEAR ENDING APRIL 2, 2004 | The contracting officer should use the DCAA report in the administration of the contract and determine whether the questioned costs should be recovered. | 30-Sep-16 | | |
| TIGTA 2011-20-048 | ACCESS CONTROLS FOR THE AUTOMATED INSOLVENCY SYSTEM NEED IMPROVEMENT | RECOMMENDATION NUMBER - 1 of 4 for this finding: The Director of Collection Policy, Filing and Payment, Compliance and Advisory, Insolvency, and Quality Issues: 1) identify incompatible duties and implement policies to segregate incompatible duties; 2) issue a memorandum to insolvency program managers requiring them to adhere to the new policy when assigning duties and approving AIS access privileges; and 3) designate a limited number of employees to perform the User Administrator duties. These employees should have no more capability than necessary to establish a user on the AIS. | 15-Nov-16 | 15-Jan-12 | IT |
| TIGTA 2011-20-059 | THE MAINFRAME DATABASES REVIEWED MET SECURITY REQUIREMENTS; HOWEVER, AUTOMATED SECURITY SCANS WERE NOT PERFORMED | The Chief Technology Officer should ensure the IBM Quantum software application is fully implemented. | 1-Mar-16 | 1-Mar-13 | Resource |
| TIGTA 2011-40-124 | MANY INVESTMENT THEFT LOSS DEDUCTIONS APPEAR TO BE ERRONEOUS | RECOMMENDATION NUMBER: 1 of 2 for this finding: The Commissioner, Wage and Investment Division, should develop a process to capture information that can be used to identify taxpayers claiming an investment theft loss on paper filed tax returns. (RECOMMENDATION NUMBER: 2 of 1) | 15-Jun-16 | | |
| TIGTA 2011-40-124 | MANY INVESTMENT THEFT LOSS DEDUCTIONS APPEAR TO BE ERRONEOUS | RECOMMENDATION NUMBER 2 of 2 for this finding: The Commissioner, Small Business/Self-Employed Division, should develop a process to validate the investment theft loss for partnerships to ensure the associated partners are eligible for the deduction. This process should include capturing box 11 (Other Income (Loss)) information from partner's Schedule K-1 and establishing a process to associate filed Schedules K-1 with individual accounts to validate the investment theft loss. | 15-Dec-15 | | |
| TIGTA 2011-40-124 | MANY INVESTMENT THEFT LOSS DEDUCTIONS APPEAR TO BE ERRONEOUS | RECOMMENDATION NUMBER - 1 of 2 for this finding: The Commissioner, Small Business/Self-Employed Division, should establish a Compliance Initiative Project to resolve non-compliance with the claims of investment theft losses and, based on the results of the project, develop processes to reduce erroneous claims. | 15-Dec-15 | | |
| TIGTA 2011-41-001 | INDIVIDUALS WHO ARE NOT AUTHORIZED TO WORK IN THE UNITED STATES WERE PAID \$4.2 BILLION IN REFUNDABLE CREDITS | The Commissioner, Wage and Investment Division, should implement procedures that are proactive in timely alerting taxpayers when the IRS has become aware that a taxpayer's identity has potentially been stolen. At a minimum, those taxpayers whose names and Social Security Numbers have not been corroborated should be alerted. | 15-Sep-15 | 15-Sep-12 | IT |
| TIGTA 2011-4E-0004 | FOLLOW-UP REVIEW OF CONTROLS OVER RELIGIOUS COMPENSATORY TIME | RECOMMENDATION NUMBER: 2 of 3 for this finding: The IRS Human Capital Officer should modify the IRS RCT procedure to require that all employees (bargaining unit and non-bargaining unit) submit written requests to earn or use RCT, and develop a standard form for requesting, authorizing, and documenting the use of RCT. | 15-Oct-15 | 30-Sep-14 | Continuance |
| TIGTA 2012-1C-005 | CONTRACTOR'S FISCAL YEAR 2007 INCURRED COST PROPOSAL | The contracting officer should use the DCAA report in the administration of the contract and determine whether the questioned costs should be recovered. | 2-Dec-16 | | |
| TIGTA 2012-1C-042 | FINAL INCURRED COST PROPOSAL FOR FISCAL YEAR ENDING APRIL 1, 2005 | The contracting officer should use the Defense Contract Audit Agency report in the administration of the contract and determine whether the questioned costs should be recovered. | 31-Mar-17 | | |
| TIGTA 2012-1C-079 | FISCAL YEAR 2011 COMPLIANCE WITH REQUIREMENTS OF OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-133 APPLICABLE TO RESEARCH AND DEVELOPMENT | The contracting officer should use the DCAA report in administering and closing out contracts. | 7-Aug-17 | | |
| TIGTA 2012-20-115 | USING SMARTID CARDS TO ACCESS COMPUTER SYSTEMS IS TAKING LONGER THAN EXPECTED | The Assistant Chief Information Officer, Cybersecurity, should direct the IAM project manager to select the most feasible method to implement two-factor authentication for administrators and coordinate the activities needed to implement the chosen and approved solutions. | 31-Mar-16 | 1-Jul-14 | IT |
| TIGTA 2012-40-113 | PENALTY ABATEMENT PROCEDURES SHOULD BE APPLIED CONSISTENTLY TO ALL TAXPAYERS AND SHOULD ENCOURAGE VOLUNTARY COMPLIANCE | RECOMMENDATION NUMBER: 1 of 1 for this finding: The Commissioner, Small Business/Self-Employed Division, should develop a process to address the negative impact to taxpayers who qualify for abatement of the Failure to File and Failure to Pay penalties based on reasonable cause, but are given First-Time Abate analysis instead. | 15-Jul-16 | 15-Sep-15 | Research/Analyze Data |
| TIGTA 2013-10-116 | VENDORS HAD MILLIONS OF DOLLARS OF FEDERAL TAX DEBT | The Chief, Agency-Wide Shared Services, and Chief Financial Officer (CFO) should enhance IPS and Integrated Financial System (IFS) functionality (IPS vendor change log and IFS audit trails) to address the system weaknesses identified in tracking changes made to vendor account information. | 15-Nov-16 | | |
| TIGTA 2013-1C-001 | INDEPENDENT AUDIT OF THE CONTRACTOR'S CIVIL INFORMATION TECHNOLOGY FISCAL YEAR ENDED MARCH 31, 2006, FINAL INCURRED COST PROPOSAL | The contracting officer should use the DCAA report in administering and closing out contracts. | 18-Mar-18 | | |
| TIGTA 2013-20-025 | DESKTOP AND LAPTOP SOFTWARE LICENSE MANAGEMENT IS NOT BEING ADEQUATELY PERFORMED | To help ensure that the User and Network Services organization has processes for software license inventories that adhere to Federal requirements and recommended best practices, the Chief Technology Officer should develop an inventory of software licensing data and maintain the inventory with a specialized software license tool designed to discover, track, and manage software license deployment and usage. | 25-Jan-18 | 25-Sep-14 | Resource |
| TIGTA 2013-20-025 | DESKTOP AND LAPTOP SOFTWARE LICENSE MANAGEMENT IS NOT BEING ADEQUATELY PERFORMED | To help ensure that the User and Network Services organization has processes for software license inventories that adhere to Federal requirements and recommended best practices, the Chief Technology Officer should maintain data in the inventory that the IRS can use to more effectively review software licensing agreements, purchases, deployment usage, and other related aspects of licensing to identify additional activities in software licensing. | 25-Jan-18 | 25-Sep-14 | Resource |
| TIGTA 2013-20-025 | DESKTOP AND LAPTOP SOFTWARE LICENSE MANAGEMENT IS NOT BEING ADEQUATELY PERFORMED | To help ensure that the User and Network Services organization has processes for using software license tools which adhere to Federal requirements and recommended best practices, the Chief Technology Officer should implement a specialized software license tool designed to discover, track, and manage software license deployment and usage. | 25-Jan-16 | 25-May-15 | Resource |

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| TIGTA 2013-20-025 | DESKTOP AND LAPTOP SOFTWARE LICENSE MANAGEMENT IS NOT BEING ADEQUATELY PERFORMED | To help ensure that the User and Network Services organization has processes in place to ensure software license tools which adhere to Federal requirements and recommended best practices, the Chief Technology Officer should develop detailed standard operating procedures for using software licensing tools to manage software licenses. | 25-Jan-16 | 25-Mar-14 | Recurse |
| TIGTA 2013-20-089 | WEAKNESSES IN ASSET MANAGEMENT CONTROLS LEAVE INFORMATION TECHNOLOGY ASSETS VULNERABLE TO USE | The Chief Technology Officer should ensure that the switch user log for the KISAM system is reviewed while the Emergency Security Audit Task group works on developing and implementing the full functionality of its automated tools. | 25-Aug-16 | 25-Jun-14 | IT |
| TIGTA 2013-20-098 | WEAKNESSES IN ASSET MANAGEMENT CONTROLS LEAVE INFORMATION TECHNOLOGY ASSETS VULNERABLE TO USE | The Chief Technology Officer should ensure that KISAKAM information is timely updated and maintained. | 25-Sep-15 | | |
| TIGTA 2013-20-107 | AUTOMATED MONITORING IS NEEDED FOR THE VIRTUAL INFRASTRUCTURE TO ENSURE SECURE CONFIGURATIONS | The Chief Technology Officer should ensure that the IRS implements audit log collection and review on hosts and vCenters in accordance with IRS policy, including logging when users access these devices, the login and logoff times, and the activities conducted during access. | 25-Oct-16 | 25-Jun-15 | IT |
| TIGTA 2013-20-106 | AUTOMATED MONITORING IS NEEDED FOR THE VIRTUAL INFRASTRUCTURE TO ENSURE SECURE CONFIGURATIONS | The Chief Technology Officer should ensure that the IRS implements an automated management tool to ensure that host and vCenter settings remain in compliance with configuration standards. | 25-Jan-16 | | |
| TIGTA 2013-20-107 | FULL COMPLIANCE WITH TRUSTED INTERNET CONNECTION REQUIREMENTS IS PROGRESSING; HOWEVER, IMPROVEMENTS WOULD STRENGTHEN SECURITY | The Chief Technology Officer should ensure that the IRS completes implementation of the Sensitive Compartmented Information Facilities at TIC management facilities. | 25-Sep-16 | 25-Sep-14 | IT |
| TIGTA 2013-20-107 | FULL COMPLIANCE WITH TRUSTED INTERNET CONNECTION REQUIREMENTS IS PROGRESSING; HOWEVER, IMPROVEMENTS WOULD STRENGTHEN SECURITY | The Chief Technology Officer should ensure that the IRS obtains Top Secret Sensitive Compartmented Information clearance for IRS operational employees who can receive and react to classified information on a 24/7 basis. | 25-Sep-16 | 25-Sep-14 | IT |
| TIGTA 2013-20-108 | BETTER COST-BENEFIT ANALYSIS AND SECURITY MEASURES ARE NEEDED FOR THE BRING YOUR OWN DEVICE PILOT | The Chief Technology Officer should provide periodic refresher training for BYOD participants that clearly explain the risks associated with personal mobile devices, how these can potentially expose the IRS network to unauthorized access and malware, the consequences of such breaches, and how to prevent or reduce the possibility of causing such a security breach. | 25-Feb-16 | 25-Feb-15 | Budget |
| TIGTA 2013-23-116 | AFFORDABLE CARE ACT IMPROVEMENTS ARE NEEDED TO STRENGTHEN SYSTEMS DEVELOPMENT CONTROLS FOR THE PREMIUM TAX CREDIT PROJECT | The Chief Technology Officer should ensure that the IRM is updated to provide specific guidance on how IRS management is to effectively manage, monitor, and mitigate fraud risk for information technology systems. | 25-Oct-15 | 25-Sep-14 | Research/Analysis/Data |
| TIGTA 2013-40-120 | STOLEN AND FALSELY OBTAINED EMPLOYER IDENTIFICATION NUMBERS ARE USED TO REPORT FALSE INCOME AND WITHHOLDING | The Commissioner, Wage and Investment Division, should update fraud filters to include use of business tax return filing and withholding payment data to identify potentially fraudulent tax returns that use a falsely obtained EIN to report income and withholding. | 15-Jan-16 | | |
| TIGTA 2013-40-120 | STOLEN AND FALSELY OBTAINED EMPLOYER IDENTIFICATION NUMBERS ARE USED TO REPORT FALSE INCOME AND WITHHOLDING | The Commissioner, Wage and Investment Division, should update fraud filters to include use of verification information provided by selective employers during the filing season to identify potentially fraudulent tax returns in which individuals use a stolen EIN to report false income and withholding. | 15-Jan-16 | 15-Jan-15 | IT |
| TIGTA 2013-40-122 | DETECTION HAS IMPROVED, HOWEVER, IDENTITY THEFT CONTINUES TO RESULT IN BILLIONS OF DOLLARS IN POTENTIALLY FRAUDULENT TAX REFUNDS | To reduce the potential for tax filing fraud, the Commissioner, Wage and Investment Division, should implement a process to disavow ITINs assigned to individuals prior to January 1, 2013, who no longer have a six filing requirement. | 15-Jan-17 | | |
| TIGTA 2013-40-123 | THE LAW WHICH PENALIZES ERRONEOUS REFUND AND CREDIT CLAIMS WAS NOT PROPERLY IMPLEMENTED | The Commissioner, Small Business/Self-Employed Division, and the Commissioner, Wage and Investment Division, should develop processes and procedures to enable Campus Operations to assess the erroneous refund penalty for disallowed credit claims that are excessive and do not have a reasonable basis. | 15-Dec-15 | 15-Oct-14 | Conformance |
| TIGTA 2013-IE-0000 | REVIEW OF THE IMPLEMENTATION OF THE TELEWORK ENHANCEMENT ACT OF 2010 | (RECOMMENDATION NUMBER 2 of 2 for this finding) The IRS Human Capital Officer should require that telework agreements include specific language on whether the employee is expected to telework when the office is closed due to an emergency. | 15-Oct-15 | 15-Oct-14 | Conformance |
| TIGTA 2013-IE-0000 | REVIEW OF THE IMPLEMENTATION OF THE TELEWORK ENHANCEMENT ACT OF 2010 | (RECOMMENDATION NUMBER 1 of 2 for this finding) The IRS Human Capital Officer should revise the IRS's telework policy to indicate that a non-bargaining unit employee with an approved telework agreement can be expected to telework outside his or her normal telework schedule in the case of an emergency situation. | 15-Oct-15 | 15-Oct-14 | Conformance |
| TIGTA 2013-IE-0000 | THE INTERNAL REVENUE SERVICE NEEDS TO IMPROVE THE COMPREHENSIVENESS, ACCURACY, RELIABILITY, AND TIMELINESS OF THE TAX GAP ESTIMATE | (RECOMMENDATION NUMBER 1 of 2 for this finding) The Director, Office of RAS, should develop processes and procedures to ensure compliance with applicable OMB standards to improve the overall confidence that can be placed in the accuracy and reliability of the Tax Gap estimate. This includes developing a method to estimate the total costs by performing each Tax Gap estimate and study. The information will assist decision makers in determining the methods and frequency of future studies. | 15-Jan-17 | | |
| TIGTA 2013-IE-0000 | THE INTERNAL REVENUE SERVICE NEEDS TO IMPROVE THE COMPREHENSIVENESS, ACCURACY, RELIABILITY, AND TIMELINESS OF THE TAX GAP ESTIMATE | (RECOMMENDATION NUMBER 2 of 2 for this finding) The Director, Office of RAS, should issue a published report to explain the methods, assumptions, and premises used to develop the estimates. Furthermore, the report should also include comments about the confidence of the reliability and accuracy of the estimates and comparisons with previous estimates. The report should specifically state instances where no estimates have been developed and whether the absence of an estimate could affect the final estimate and the VGR. Finally, the report should be subject to peer review. | 15-Jan-16 | | |
| TIGTA 2014-10-033 | THE TAXPAYER ADVOCATE SERVICE CAN IMPROVE THE PROCESSING OF SYSTEMIC BURDEN CASES | The National Taxpayer Advocate should reissue guidance to TAS personnel explaining the requirement to only contact authorized representatives, when applicable, and emphasize this requirement in future training. | 15-Dec-15 | 15-Dec-14 | Clearance |
| TIGTA 2014-10-033 | THE TAXPAYER ADVOCATE SERVICE CAN IMPROVE THE PROCESSING OF SYSTEMIC BURDEN CASES | The National Taxpayer Advocate should emphasize the importance of ensuring the accuracy of critical primary case notes and relief codes to TAS personnel to improve the accuracy of information used to make managerial decisions and reported to Congress and the public. | 15-Dec-15 | 15-Dec-14 | Resource |
| TIGTA 2014-10-033 | THE TAXPAYER ADVOCATE SERVICE CAN IMPROVE THE PROCESSING OF SYSTEMIC BURDEN CASES | The National Taxpayer Advocate should review the results of sample findings and, where appropriate, incorporate lessons learned into future training for TAS personnel. | 15-Dec-15 | 15-Dec-14 | Clearance |

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| TIGTA 2014-10-073 | CONTROLS OVER OUTSIDE EMPLOYMENT ARE NOT SUFFICIENT TO PREVENT OR DETECT CONFLICTS OF INTEREST. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The IRS Human Capital Officer should, after establishing effective controls to use the OES to request and approve outside employment, require all supervisors to perform a one-time cleanup of the OES to correct outside employment data. | 15-Nov-15 | | |
| TIGTA 2014-10-073 | CONTROLS OVER OUTSIDE EMPLOYMENT ARE NOT SUFFICIENT TO PREVENT OR DETECT CONFLICTS OF INTEREST. | (RECOMMENDATION NUMBER: 1 of 3 for this finding) The IRS Human Capital Officer should update the Internal Revenue Manual and associated outside employment guidance available to IRS employees and supervisors to include the requirements for using the OES to request and approve outside employment requests. | 30-Sep-15 | | |
| TIGTA 2014-10-018 | Independent Audit of the Contractor's Incurred Cost Proposal for Fiscal Year Ending March 31, 2007. | The contracting officer should use the DCAA report in administering and closing out contracts. | 19-Dec-18 | | |
| TIGTA 2014-10-019 | Independent Audit of the Contractor's Asset Management's Incurred Costs for Fiscal Year Ending September 30, 2005. | The contracting officer should use the DCAA report in administering and closing out contracts. | 29-May-13 | | |
| TIGTA 2014-20-002 | THE INTERNAL REVENUE SERVICE SHOULD IMPROVE MAINFRAME SOFTWARE ASSET MANAGEMENT AND REDUCE COSTS. | The Chief Technology Officer should develop detailed standard operating procedures for using mainframe software licensing tools to manage software licenses. | 25-Jan-10 | 25-Sep-14 | Resource |
| TIGTA 2014-20-002 | THE INTERNAL REVENUE SERVICE SHOULD IMPROVE MAINFRAME SOFTWARE ASSET MANAGEMENT AND REDUCE COSTS. | The Chief Technology Officer should migrate data to the inventory system that the IRS can use to more effectively review mainframe software licensing agreements, purchases, deployment, usage, and other related aspects of mainframe licensing to identify additional savings in software spending. | 25-Jan-10 | 25-Sep-14 | Resource |
| TIGTA 2014-20-069 | PROGRESS HAS BEEN MADE, HOWEVER SIGNIFICANT WORK REMAINS TO ACHIEVE FULL IMPLEMENTATION OF HOMELAND SECURITY PRESIDENTIAL DIRECTIVE 12. | The Chief Technology Officer should continue to provide oversight and drive implementation of HSPD-12 requirements while balancing resource demands to meet IRS stakeholder objectives. To ensure full implementation of mandatory BYO card access to the IRS network and information systems, specific requirements, testing, and scheduling should be identified and adequate funding requests to cover these needs, including: - Specific equipment and support needs should be clearly identified, including hardware and software requirements, testing needs, and any contractor expertise needed. - Specific staffing needs should be clearly identified to ensure that not only the requisite number of staff is assigned to HSPD-12, but that staff with the correct skills are assigned to the appropriate activities. - Detailed milestones should be developed and progress on those milestones should be regularly reported to the Chief Technology Officer as part of a detailed plan to implement mandatory login to IRS networks and information systems with BYO cards and resolve key administrative access issues. | 25-Sep-15 | | |
| TIGTA 2014-20-071 | INFORMATION TECHNOLOGY IMPROVEMENTS ARE NEEDED TO SUCCESSFULLY PLAN AND DELIVER THE NEW TAXPAYER ADVOCATE SERVICE INTEGRATED SYSTEM. | The Chief Financial Officer, Chief Technology Officer, and National Taxpayer Advocate should prepare a multi-year budget request and detailed business case to stabilize the funding for this system development activities for TASS. | 15-Feb-16 | 26-Dec-14 | Budget |
| TIGTA 2014-20-071 | INFORMATION TECHNOLOGY IMPROVEMENTS ARE NEEDED TO SUCCESSFULLY PLAN AND DELIVER THE NEW TAXPAYER ADVOCATE SERVICE INTEGRATED SYSTEM. | The Chief Financial Officer, Chief Technology Officer, and National Taxpayer Advocate should ensure adherence to applicable risk management processes for identifying, monitoring, and mitigating TASS risks in accordance with established IRM guidelines. | 15-Feb-16 | 25-Dec-14 | Budget |
| TIGTA 2014-20-071 | INFORMATION TECHNOLOGY IMPROVEMENTS ARE NEEDED TO SUCCESSFULLY PLAN AND DELIVER THE NEW TAXPAYER ADVOCATE SERVICE INTEGRATED SYSTEM. | The Chief Technology Officer and the National Taxpayer Advocate should ensure that critical roles and responsibilities are identified and applied to ensure the long-term success going forward with all new systems development activities for the TAS. | 15-Feb-16 | 25-Dec-14 | Budget |
| TIGTA 2014-20-083 | THE INTERNAL REVENUE SERVICE SHOULD IMPLEMENT AN EFFICIENT INTERNAL INFORMATION SECURITY CONTINUOUS MONITORING PROGRAM THAT MEETS ITS SECURITY NEEDS. | The Chief Technology Officer should select and implement an integrated dashboard of the security scanning tools to allow administrator and decision makers to make well informed risk based decisions. | 28-Jul-16 | | |
| TIGTA 2014-20-085 | INCREASED SUPPORT IS NEEDED TO ENSURE THE EFFECTIVENESS OF THE FINAL INTEGRATION TEST. | To ensure that the FIT program's environment includes the filing season environment as closely as possible, the Chief Technology Officer should implement the environment comparison and synchronization process between the FIT program's environment and the filing season environment. | 29-Sep-18 | | |
| TIGTA 2014-20-097 | WHILE THE DATA LOSS PREVENTION SOLUTION IS BEING DEVELOPED, STRONGER OVERSIGHT AND PROCESS ENHANCEMENTS ARE NEEDED FOR TIMELY IMPLEMENTATION WITHIN BUDGET. | To ensure that the SPIDE Project meets its new DLP solution implementation date and budget requirements, the Chief Technology Officer should ensure that the SPIDE team conducts a risk-based analysis on volume and impact on the system by adding a new control to the DLP solution that includes the key word "TIN." In addition, ensure that the DLP solution is upgraded to the most current version available to identify social security numbers in embedded comments in the Microsoft Office 2007 application files, especially in the Excel spreadsheets. | 25-Jul-16 | | |
| TIGTA 2014-20-087 | WHILE THE DATA LOSS PREVENTION SOLUTION IS BEING DEVELOPED, STRONGER OVERSIGHT AND PROCESS ENHANCEMENTS ARE NEEDED FOR TIMELY IMPLEMENTATION WITHIN BUDGET. | To enhance the processes and procedures over the DLP solution, the Chief Technology Officer should incorporate a process to forward subsonic encrypted e-mail traffic with PI from licensed tax preparer/taxpayer representatives to the DPR through the business unit liaison into the current policy and procedures. After the Data-in-Motion component of the DLP is deployed and operational, conduct a risk based analysis to determine the feasibility on the monitoring and identifying of unencrypted (inbound e-mail traffic with PI from these licensed tax practitioners to route to the DPR). | 26-Nov-15 | 26-Dec-14 | Budget |
| TIGTA 2014-20-097 | WHILE THE DATA LOSS PREVENTION SOLUTION IS BEING DEVELOPED, STRONGER OVERSIGHT AND PROCESS ENHANCEMENTS ARE NEEDED FOR TIMELY IMPLEMENTATION WITHIN BUDGET. | To enhance the processes and procedures over the DLP solution, the Chief Technology Officer should change the forwarding procedures to refer all unencrypted e-mail containing PI to the Office of Privacy, Governmental Liaison and Disclosure office first and then to the business unit liaison to ensure that all potential PI disclosure incidents are timely reported to the Treasury Computer Security Incident Response Center. | 25-Nov-15 | 25-Dec-14 | Budget |
| TIGTA 2014-20-088 | THE INFORMATION REPORTING AND DOCUMENT MATCHING CASE MANAGEMENT SYSTEM COULD NOT BE DEPLOYED. | The Chief Technology Officer should ensure that the IRDMCM System requirements are completely identified. | 28-Mar-17 | | |
| TIGTA 2014-20-088 | THE INFORMATION REPORTING AND DOCUMENT MATCHING CASE MANAGEMENT SYSTEM COULD NOT BE DEPLOYED. | The Chief Technology Officer should ensure that case management capabilities of Enrollnet, or its replacement solution, are thoroughly assessed to ensure that it satisfies the IRDMCM System requirements and meets stated business needs. IRS IT acquisition officials should also act promptly to implement an IRDM case management application to avoid losing significant tax assessment revenues to the future. | 25-Oct-15 | | |

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| TIGTA 2014-25-022 | AFFORDABLE CARE ACT IMPROVEMENTS ARE NEEDED TO STRENGTHEN SECURITY AND TESTING CONTROLS FOR THE AFFORDABLE CARE ACT INFORMATION RETURNS PROJECT | The Chief Technology Officer should ensure that ACA security patch updates, including the ATR system's, are timely installed within the required time frames in accordance with IRS guidelines. | 25-Oct-15 | | |
| TIGTA 2014-30-034 | TRUST FUND RECOVERY PENALTY ACTIONS WERE NOT ALWAYS TIMELY OR ADEQUATE | (RECOMMENDATION NUMBER: 1 of 4 for this finding) The Director, Field Collection, SBESE Division, should emphasize to group managers their report duties to: 1. Use Automated Trust Fund Recovery (ATFR) system reports at least monthly to promote timely TFR investigations and actions by their revenue officers. Also, determine why group managers are not using the ATFR system reports and take appropriate actions to address the issues identified. 2. Document the Integrated Collection System (ICS) case history with the circumstances that warrant additional time when revenue officers do not fulfill the Forms 4183 timely. | 15-Nov-15 | | |
| TIGTA 2014-30-051 | ADDITIONAL ACTIONS ARE NEEDED TO HELP ENSURE TAXPAYER COMPLIANCE WITH THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT | (RECOMMENDATION NUMBER: 1 of 3 for this finding) The Commissioner, Large Business and International Division, should coordinate with the Commissioner, Wage and Investment Division, to develop procedures to reduce the risk that potential buyer identifying information that would allow the IRS to effectively enforce compliance with the current law. | 15-Jan-16 | | |
| TIGTA 2014-30-051 | ADDITIONAL ACTIONS ARE NEEDED TO HELP ENSURE TAXPAYER COMPLIANCE WITH THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT | (RECOMMENDATION NUMBER: 2 of 3 for this finding) The Commissioner, Large Business and International Division, should coordinate with the Commissioner, Wage and Investment Division, to develop procedures to reduce the risk that erroneous balance due notices are sent to buyers that timely filed the Form 5299 and received the FIRPTA withholding. | 15-Sep-15 | 15-Jun-15 | Research/Analysis Data |
| TIGTA 2014-20-053 | FISCAL YEAR 2014 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Collection Policy, Small Business/Self-Employed Division, should include an instruction in the IRM that requires the Property Appraisal and Liquidation Specialist to retain a file copy of all print advertisements, a copy of any Internet advertisements and mail-in bid forms, and a text copy of information provided in any radio and television advertisements of seizure sales. | 15-Feb-16 | | |
| TIGTA 2014-30-054 | THE INTERNAL REVENUE SERVICE NEEDS TO ENHANCE ITS INTERNATIONAL COLLECTION EFFORTS | (RECOMMENDATION NUMBER: 1 of 4 for this finding) The Commissioner, Small Business/Self-Employed Division, should develop a formal International Collection Strategic Plan that includes customer-related strategic goals, a description of how the agency intends to achieve those goals, and an action plan with a timeline for implementation. | 15-Nov-15 | | |
| TIGTA 2014-30-079 | FISCAL YEAR 2014 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Exam Policy, SBESE Division, should ensure that consistent guidance is provided in the SBESE Examination section of the IRM, detailing the procedures for allowing taxpayers adequate time to ensure representation before taking any follow-up action and documenting the reasons for taking follow-up action within 10 business days of the taxpayer's request. | 15-Mar-16 | | |
| TIGTA 2014-30-051 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT THE SEARCH AND SEIZURE WARRANT PROCESS IS ADEQUATELY DOCUMENTED AND THAT EVIDENCE IS PROPERLY SECURED | (RECOMMENDATION NUMBER: 2 of 3 for this finding) The Chief, Criminal Investigation should conduct a study to determine if each CI office has sufficient and proper storage space in which to maintain evidence in its possession. If a CI office does not have adequate storage space, coordinate with Agency-Wide Shared Services, Real Estate and Facilities Management function to develop and implement an action plan to resolve this issue. | 15-Nov-15 | | |
| TIGTA 2014-30-082 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT PROCEDURES ARE FOLLOWED DURING PARTNERSHIP AUDITS SUBJECT TO THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 | (RECOMMENDATION NUMBER: 3 of 5 for this finding) The Commissioner, Large Business and International Division, and the Commissioner, Small Business/Self-Employed Division, should ensure that the required job aids are timely reviewed by the first-line managers and the review results are documented and used to provide examiners feedback regarding their compliance with the TEFRA procedures. | 15-Jun-16 | | |
| TIGTA 2014-30-082 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT PROCEDURES ARE FOLLOWED DURING PARTNERSHIP AUDITS SUBJECT TO THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 | (RECOMMENDATION NUMBER: 2 of 5 for this finding) The Commissioner, Large Business and International Division, and the Commissioner, Small Business/Self-Employed Division, should ensure that the additional control procedure implemented to monitor whether examiners submitted control documents needed for establishing TEFRA audits on the Partnership Control System (PCS) are working as intended and will effectively address the issues TIGTA identified in this report. | 15-Sep-16 | | |
| TIGTA 2014-30-082 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT PROCEDURES ARE FOLLOWED DURING PARTNERSHIP AUDITS SUBJECT TO THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 | (RECOMMENDATION NUMBER: 3 of 5 for this finding) The Commissioner, Large Business and International Division, and the Commissioner, Small Business/Self-Employed Division, should ensure that the required job aids are timely reviewed by the first-line managers and the review results are documented and used to provide examiners feedback regarding their compliance with the TEFRA procedures. | 15-Sep-16 | | |
| TIGTA 2014-30-082 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT PROCEDURES ARE FOLLOWED DURING PARTNERSHIP AUDITS SUBJECT TO THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 | (RECOMMENDATION NUMBER: 4 of 5 for this finding) The Commissioner, Large Business and International Division, and the Commissioner, Small Business/Self-Employed Division, should ensure that the required job aids are timely reviewed by the first-line managers and the review results are documented and used to provide examiners feedback regarding their compliance with the TEFRA procedures. | 15-Sep-16 | | |
| TIGTA 2014-30-082 | IMPROVEMENTS ARE NEEDED TO ENSURE THAT PROCEDURES ARE FOLLOWED DURING PARTNERSHIP AUDITS SUBJECT TO THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 | (RECOMMENDATION NUMBER: 5 of 5 for this finding) The Commissioner, Large Business and International Division, and the Commissioner, Small Business/Self-Employed Division, should take steps to hold first-line managers accountable for ensuring that TEFRA audits are conducted in accordance with all TEFRA procedures. | 15-Mar-16 | | |
| TIGTA 2014-30-089 | FURTHER ACTIONS ARE NEEDED TO RESOLVE MILLIONS OF DOLLARS OF FROZEN CREDITS IN TAXPAYER ACCOUNTS | (RECOMMENDATION NUMBER: 9 of 10 for this finding) The Commissioner, Wage and Investment Division, should work with the Chief Technology Officer to evaluate the AM11 transcript programming and ensure that all file modules meeting the criteria will have this transcript generated for review. | 15-Apr-16 | | |
| TIGTA 2014-30-089 | FURTHER ACTIONS ARE NEEDED TO RESOLVE MILLIONS OF DOLLARS OF FROZEN CREDITS IN TAXPAYER ACCOUNTS | (RECOMMENDATION NUMBER: 9 of 10 for this finding) The Commissioner, Wage and Investment Division, should evaluate the AM11 transcript criteria for changes that will alert employees to aging frozen credits resulting from the Automated Underreporter program. | 15-Apr-16 | | |
| TIGTA 2014-40-011 | PROCESSES FOR ENSURING COMPLIANCE WITH QUALIFYING ADVANCED ENERGY PROJECT CREDIT REQUIREMENTS CAN BE STRENGTHENED | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Large Business and International Division, should ensure a process to identify and verify that individual taxpayer tax returns claiming Advanced Energy Credits are valid. | 15-Mar-16 | | |

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| TIGTA 2014-40-041 | PROCESSES WERE NOT ESTABLISHED TO VERIFY ELIGIBILITY FOR WORK OPPORTUNITY TAX CREDITS. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) If legislation to extend the WOTC is enacted, the Commissioners, Large Business and International Division and Small Business/Self-Employed Division, should revise instructions for Form 5884 and Form 8850 to clearly and accurately advise employers of where to submit Form 8850 and that an approved certification must be received to be eligible to claim an individual for the WOTC. | 15-Oct-10 | | |
| TIGTA 2014-40-058 | PROCESSES ARE NEEDED TO MORE EFFECTIVELY ADDRESS POTENTIALLY ERRONEOUS EXCESS SOCIAL SECURITY TAX CREDIT CLAIMS. | The Commissioner, Wage and Investment Division, should develop a process to verify e-filed tax returns at the time of filing when the taxpayer claims the Excess Social Security Tax Credit and the Social Security tax withholding amount reported on the tax return equals or exceeds the amount of taxable Social Security wages. | 15-Feb-16 | | |
| TIGTA 2014-40-059 | PROCESSES ARE NEEDED TO MORE EFFECTIVELY ADDRESS POTENTIALLY ERRONEOUS EXCESS SOCIAL SECURITY TAX CREDIT CLAIMS. | The Commissioner, Wage and Investment Division, should develop a process to verify e-filed tax returns at the time of filing when the taxpayer claims the Excess Social Security Tax Credit and the taxpayer provides information related to only one employer. | 15-Feb-16 | | |
| TIGTA 2014-40-054 | A SERVICE-WIDE STRATEGY IS NEEDED TO INCREASE BUSINESS TAX RETURN ELECTRONIC FILING. | The Commissioner, Wage and Investment Division, should evaluate the feasibility of providing business filers with the option of Free F-File Forms. | 15-Jan-16 | | |
| TIGTA 2014-40-054 | A SERVICE-WIDE STRATEGY IS NEEDED TO INCREASE BUSINESS TAX RETURN ELECTRONIC FILING. | The Commissioner, Wage and Investment Division, should develop a Service-wide strategy that outlines specific efforts the IRS will make to advance the e-filing rate of business tax returns. | 15-Jan-16 | | |
| TIGTA 2014-40-064 | A SERVICE-WIDE STRATEGY IS NEEDED TO INCREASE BUSINESS TAX RETURN ELECTRONIC FILING. | The Deputy Commissioner for Services and Enforcement should work with the Department of the Treasury Office of Tax Policy to consider a legislative proposal to revise current requirements and/or create new requirements for e-filing of business tax returns that would increase the overall e-filing rate. | 15-Oct-15 | | |
| TIGTA 2014-40-054 | A SERVICE-WIDE STRATEGY IS NEEDED TO INCREASE BUSINESS TAX RETURN ELECTRONIC FILING. | The Commissioner, Wage and Investment Division, should develop a less burdensome electronic signature process for businesses e-filing employment tax returns using the IMF system. | 15-Jan-17 | | |
| TIGTA 2014-43-043 | THE AFFORDABLE CARE ACT-AN IMPROVED STRATEGY IS NEEDED TO ENSURE ACCURATE REPORTING AND PAYMENT OF THE MEDICAL DEVICE EXCISE TAX. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, Small Business/Self-Employed Division, should continue refining its compliance strategy to include actions that can be taken to identify noncompliant manufacturers. This should include an assessment of the benefit of issuing notices to potential nonfilers of the medical device excise tax identified from the manufacturers reviewed with the FDA. | 15-Dec-15 | | |
| TIGTA 2014-43-043 | THE AFFORDABLE CARE ACT-AN IMPROVED STRATEGY IS NEEDED TO ENSURE ACCURATE REPORTING AND PAYMENT OF THE MEDICAL DEVICE EXCISE TAX. | (RECOMMENDATION NUMBER: 2 of 3 for this finding) The Commissioner, Wage and Investment Division, should establish a process for paper-filed Forms 720 to math verify the accuracy of the medical device excise tax amount and correspond with taxpayers on the corrected taxable amount. | 15-Feb-16 | | |
| TIGTA 2014-43-043 | THE AFFORDABLE CARE ACT-AN IMPROVED STRATEGY IS NEEDED TO ENSURE ACCURATE REPORTING AND PAYMENT OF THE MEDICAL DEVICE EXCISE TAX. | (RECOMMENDATION NUMBER: 3 of 3 for this finding) The Commissioner, Wage and Investment Division, should initiate a process to correspond with taxpayers to obtain missing taxable sales or tax amounts during the processing of short-lead Forms 720 reporting the medical device excise tax. | 15-Feb-16 | | |
| TIGTA 2015-10-001 | ADDITIONAL MEASURES ARE NEEDED TO IMPROVE THE PHYSICAL SECURITY RISK ASSESSMENT PROGRAM. | The Director, FMSS, should determine if the conditions identified during the TIGTA site visits still exist, and where applicable, ensure that appropriate corrective actions are taken to mitigate the security vulnerabilities or document how alternative countermeasures mitigated the vulnerabilities. • Document instances in which the appropriate corrective actions cannot be implemented and management has agreed to accept the risk in accordance with ISC requirements. • Ensure that future risk assessments disclose these findings and the status of corrective actions. | 15-Jan-16 | | |
| TIGTA 2015-10-001 | ADDITIONAL MEASURES ARE NEEDED TO IMPROVE THE PHYSICAL SECURITY RISK ASSESSMENT PROGRAM. | The Director, FMSS should update the Internal Revenue Manual (IRM) to: • Include detailed guidance describing ISC requirements for conducting risk assessments and reinforce to employees that all ISC standards should be addressed. • Require that risk assessments include a detailed explanation showing what the prior findings and recommendations were and the status of corrective actions. | 15-Jun-16 | | |
| TIGTA 2015-10-001 | ADDITIONAL MEASURES ARE NEEDED TO IMPROVE THE PHYSICAL SECURITY RISK ASSESSMENT PROGRAM. | The Director, FMSS should update the Internal Revenue Manual (IRM) to: • Include detailed guidance describing ISC requirements for conducting risk assessments and reinforce to employees that all ISC standards should be addressed. • Require that risk assessments include a detailed explanation showing what the prior findings and recommendations were and the status of corrective actions. | 15-Jun-16 | | |
| TIGTA 2015-10-002 | REVIEW OF THE INTERNAL REVENUE SERVICE'S PROCESS TO ADDRESS VIOLATIONS OF TAX LAW BY ITS OWN EMPLOYEES. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The IRS Commissioner should amend existing policy on how Section 1309 cases are to be handled to include a requirement to document the analysis of evidence and basis for the decision on whether or not to mitigate penalties to something less than termination. | 15-Nov-15 | | |
| TIGTA 2015-10-011 | EXISTING PROCUREMENT PRACTICES ALLOWED CORPORATIONS WITH FEDERAL TAX DEBT TO OBTAIN CONTRACT AWARDS. | The Chief Financial Officer, in consultation with IRS Counsel and the Small Business and Self-Employed Division, should develop procedures to determine what constitutes an unpaid Federal tax liability that is consistent with the definition outlined in the Act. Once a determination of what constitutes an unpaid Federal tax liability has been developed, provide such information to the contracting officers to use in the conduct of comprehensive tax checks and to the Department of the Treasury Suspension and Debarment official for the purpose of making contract award decisions that are in compliance with the Act. | 30-Sep-16 | | |
| TIGTA 2015-10-020 | ACTIONS CAN BE TAKEN TO FURTHER IMPROVE THE STRATEGY FOR ADDRESSING EXCESS CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ARRANGEMENTS. | When evaluating future efforts related to the IRA strategy, the Commissioner, Wage and Investment Division, should consider identifying a more complete and accurate universe of individuals who potentially made excess contributions from which to select potentially productive cases. | 15-Oct-16 | | |
| TIGTA 2015-10-025 | STATUS OF ACTIONS TAKEN TO IMPROVE THE PROCESSING OF TAX-EXEMPT APPLICATIONS INVOLVING POLITICAL CAMPAIGN INTERVENTION. | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Tax Exempt and Government Entities Division, should assess the timing and execution of training on political activities and incorporate any "lessons learned" into future training plans. The review should include, but not be limited to: • Comparing training on political activities earlier in the election cycle so employees can effectively apply it. • Reviewing the methodology used to determine training attendance and requiring employees who miss more than the allotted time to retake the missed segments. • Evaluating all phases of the political campaign intervention training as outlined in IRS policy to gather credible data to improve training, which should in turn lead to improved job performance. | 16-Mar-16 | | |

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| TIGTA 2015-10-025 | STATUS OF ACTIONS TAKEN TO IMPROVE THE PROCESSING OF TAX-EXEMPT APPLICATIONS INVOLVING POLITICAL CAMPAIGN INTERVENTION | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Tax Exempt and Government Entities Division, should assess the timing and execution of training on political activities and incorporate any "lessons learned" into future training plans. The review should include, but not be limited to: - Completing training on political activities earlier in the election cycle so employees can effectively apply it. - Reviewing the methodology used to determine training attendance and requiring employees who miss more than the allotted time to retake the missed segments. - Evaluating all phases of the political campaign intervention training as outlined in IRS policy to gather credible data to improve training, which should in turn lead to improved job performance. | 15-Mar-16 | | |
| TIGTA 2015-10-025 | STATUS OF ACTIONS TAKEN TO IMPROVE THE PROCESSING OF TAX-EXEMPT APPLICATIONS INVOLVING POLITICAL CAMPAIGN INTERVENTION | (RECOMMENDATION NUMBER: 2 of 2 for this finding) If the Optional Expedited Process for L.F.C. § 501(c)(4) organizations becomes a permanent process, the Director, Exempt Organizations should consider providing the option to additional organizations with similar political campaign intervention matters. | 15-Jan-17 | | |
| TIGTA 2015-10-025 | STATUS OF ACTIONS TAKEN TO IMPROVE THE PROCESSING OF TAX-EXEMPT APPLICATIONS INVOLVING POLITICAL CAMPAIGN INTERVENTION | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Tax Exempt and Government Entities Division, should assess the timing and execution of training on political activities and incorporate any "lessons learned" into future training plans. The review should include, but not be limited to: - Completing training on political activities earlier in the election cycle so employees can effectively apply it. - Reviewing the methodology used to determine training attendance and requiring employees who miss more than the allotted time to retake the missed segments. - Evaluating all phases of the political campaign intervention training as outlined in IRS policy to gather credible data to improve training, which should in turn lead to improved job performance. | 15-Mar-18 | | |
| TIGTA 2015-10-059 | ADDITIONAL DOCUMENTATION IS NEEDED TO SUPPORT OFFICE OF APPEALS PENALTY ABATEMENT DECISIONS | The Chief, Appeals, should review the delegated settlement authority to Appeals Officers and Settlement Officers to address the risk associated with allowing unlimited abatements without managerial review for some Appeals staff. | 15-Sep-18 | | |
| TIGTA 2015-10-059 | ADDITIONAL DOCUMENTATION IS NEEDED TO SUPPORT OFFICE OF APPEALS PENALTY ABATEMENT DECISIONS | The Chief, Appeals, should provide training to Appeals personnel on the requirements instructing them to clearly document the reasons for abatement decisions, including justification for partial abatement percentages and specific records of litigation associated with an abatement case. | 15-Jul-16 | | |
| TIGTA 2015-10-065 | THE INTERNAL REVENUE SERVICE HAS EXTENDED ITS ESTIMATED FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT REMEDIATION DATE TO NOVEMBER 2016 | The Chief Financial Officer should include in remediation plans required detailed cost estimates information associated with each specific corrective action and risk each action to GAO recommendations. | 20-Nov-15 | | |
| TIGTA 2015-10-068 | REVIEW OF THE OFFICE OF APPEALS COLLECTION DUE PROCESS PROGRAM | The Chief, Appeals, should review and correct the 19 taxpayer accounts that were identified with CSED errors. | 15-Nov-15 | | |
| TIGTA 2015-10-074 | REVIEW OF CONTROLS OVER HEALTH BENEFIT ELECTIONS | The Chief, Agency-Wide Shared Services, and the IRS Human Capital Office should establish procedures documenting the process between the Ogden Payroll Center and the IRS Human Capital Office for requesting assistance on policy issues. At a minimum, these procedures should include the format and information required to be included in requests, a method to track and monitor requests, and time standards for responding to requests. | 15-Dec-15 | | |
| TIGTA 2015-10-074 | REVIEW OF CONTROLS OVER HEALTH BENEFIT ELECTIONS | The Chief, Agency-Wide Shared Services, and the IRS Human Capital Office should establish procedures documenting the process between the Ogden Payroll Center and the IRS Human Capital Office for requesting assistance on policy issues. At a minimum, these procedures should include the format and information required to be included in requests, a method to track and monitor requests, and time standards for responding to requests. | 15-Dec-15 | | |
| TIGTA 2015-1C-035 | Proposed Amounts on Unsettled Flexibly Priced Contracts for Fiscal Year 2016 | The contracting officer should use the DCAA report in administering and closing out contracts. | 15-Feb-18 | | |
| TIGTA 2015-1C-045 | Proposed Amounts on Unsettled Flexibly Priced Contracts for Fiscal Year 2016 | The contracting officer should use the DCAA report in administering and closing out contracts. | 11-Feb-16 | | |
| TIGTA 2015-20-031 | PLANNING DECISIONS FOR CUSTOMER ACCOUNT DATA ENGINE 2 TRANSITION STATE 2 SHOULD BE EFFECTIVELY LINKED TO ACTIONS NEEDED TO ADDRESS THE INTERNAL REVENUE SERVICE'S FINANCIAL MATERIAL WEAKNESS | The CTO should ensure that cost estimates are developed for planned TSE activities to effectively: (1) align the information technology and business strategies; (2) strengthen internal control over unpaid tax assessments for individual taxpayer accounts; and, (3) address the IRS's financial material weakness requirements. | 25-Sep-15 | | |
| TIGTA 2015-30-050 | THE RETURN REVIEW PROGRAM ENHANCES THE IDENTIFICATION OF FRAUD, HOWEVER, SYSTEM SECURITY NEEDS IMPROVEMENT | The Chief Technology Officer should ensure that all critical and high risk RFP vulnerabilities are resolved regardless of whether the system is part of the VHSI pilot. Once all of the highest risk issues are resolved, the IRS should work on resolving the remaining issues. | 15-Nov-15 | | |
| TIGTA 2015-20-060 | THE RETURN REVIEW PROGRAM ENHANCES THE IDENTIFICATION OF FRAUD, HOWEVER, SYSTEM SECURITY NEEDS IMPROVEMENT | The Chief Technology Officer should ensure that IRS personnel completing FISMA system classifications are familiar with the FISMA requirements for each level of classification. | 15-Jun-16 | | |
| TIGTA 2015-23-041 | AFFORDABLE CARE ACT COVERAGE DATA REPOSITORY: RISKS WITH SYSTEM DEVELOPMENT AND DEPLOYMENT | The Chief Technology Officer should ensure that the CFR Application Audit Plan and related system component audit plans are completed, approved, sufficiently tested, and implemented. | 15-Jan-16 | 15-Sep-15 | Continues |
| TIGTA 2015-23-062 | AFFORDABLE CARE ACT INFORMATION SHARING AND REPORTING PROJECT | The Chief Technology Officer should ensure that the IS&R Project Risk Management Plan (RMP) is updated to clearly reflect its high priority and high impact risk and issue mitigation process. | 15-Nov-15 | | |
| TIGTA 2015-23-062 | AFFORDABLE CARE ACT INFORMATION SHARING AND REPORTING PROJECT | The Chief Technology Officer should ensure that written procedures to track and control functional and nonfunctional requirements throughout the development process at the IS&R Project and release levels are implemented for future releases. | 15-Jan-16 | | |
| TIGTA 2015-23-062 | AFFORDABLE CARE ACT INFORMATION SHARING AND REPORTING PROJECT | The Chief Technology Officer should ensure that the IS&R Project Risk Management Plan (RMP) is updated to establish time frames to effectively identify and monitor risks and issues. | 15-Nov-15 | | |
| TIGTA 2015-30-004 | ADDITIONAL IMPROVEMENTS ARE NEEDED TO MEASURE THE SUCCESS AND PRODUCTIVITY OF THE PARTNERSHIP AUDIT PROCESS | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, L&A Division, and the Commissioner, B&SE Division, should coordinate with the Department of the Treasury's Office of Tax Policy and the IRS Office of Research, Analysis, and Statistics (RAS) to analyze the impact that the proposed law changes related to Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) audit would have on the IRS's partnership audit process. | 15-Mar-16 | | |

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| TIGTA 2015-30-004 | ADDITIONAL IMPROVEMENTS ARE NEEDED TO MEASURE THE SUCCESS AND PRODUCTIVITY OF THE PARTNERSHIP AUDIT PROCESS. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, IRM Division, and the Commissioner, SB/SE Division, should coordinate with the Department of the Treasury's Office of Tax Policy and the IRS Office of Research, Analysis, and Statistics (RAS) to analyze the impact that the proposed tax law changes related to Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) audits would have on the IRS's partnership audit process. | 15-Mar-16 | | |
| TIGTA 2015-30-004 | ADDITIONAL IMPROVEMENTS ARE NEEDED TO MEASURE THE SUCCESS AND PRODUCTIVITY OF THE PARTNERSHIP AUDIT PROCESS. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, IRM Division, and the Commissioner, SB/SE Division, should coordinate with the Department of the Treasury's Office of Tax Policy and the IRS Office of Research, Analysis, and Statistics (RAS) to analyze the impact that the proposed tax law changes related to Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) audits would have on the IRS's partnership audit process. | 15-Mar-16 | | |
| TIGTA 2015-30-003 | THE FRESH START INITIATIVES HAVE BENEFITED MANY TAXPAYERS, BUT ADDITIONAL MONITORING AND EVALUATION IS NEEDED. | (RECOMMENDATION NUMBER: 2 of 3) The Director, Collection Policy, Small Business/Self-Employed Division, should establish controls to ensure that new NFTLs are filed on taxpayers who default on their Direct Debt Installment Agreements. | 15-Nov-15 | | |
| TIGTA 2015-30-005 | THE FRESH START INITIATIVES HAVE BENEFITED MANY TAXPAYERS, BUT ADDITIONAL MONITORING AND EVALUATION IS NEEDED. | (RECOMMENDATION NUMBER: 1 of 3) The Director, Collection Policy, Small Business/Self-Employed Division, should ensure that new NFTLs are filed for the 524 taxpayers who defaulted on their Direct Debt Installment Agreements after their NFTLs were withdrawn. | 15-Nov-15 | | |
| TIGTA 2015-30-005 | THE FRESH START INITIATIVES HAVE BENEFITED MANY TAXPAYERS, BUT ADDITIONAL MONITORING AND EVALUATION IS NEEDED. | (RECOMMENDATION NUMBER: 3 of 3 for this finding) The Director, Collection Policy, Small Business/Self-Employed Division, should assess the long-term revenue protection impact of the Fresh Start initiative that increased the minimum dollar threshold for NFTL determinations in Field Collection. | 15-Nov-15 | | |
| TIGTA 2015-30-038 | REDUCED BUDGETS AND COLLECTION RESOURCES HAVE RESULTED IN DECLINES IN TAXPAYER SERVICE, CASE CLOSURES AND DOLLARS COLLECTED. | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Director, Collection, Small Business/Self-Employed Division, should ensure that revenue officer inventory levels are maintained at or close to full capacity while ensuring the inventory levels are commensurate with the complexity of the cases. | 15-Apr-16 | | |
| TIGTA 2015-30-035 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 1 of 2 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should require the PALS to consistently prepare a detailed sale plan copy custody of the seized property has been accepted and update the IRM to include the required details of the sale plan. This could include information such as asset protection, storage options, moving and towing costs, advertising strategy, where the notice of sale will be posted, a list of sale expenses, actions to take if the minimum bid is not reached (secure the sale, release the property to the taxpayer, or bid in for the Government), and whether a contractor should be considered. | 15-Dec-15 | | |
| TIGTA 2015-30-035 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 2 of 3 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should update the Internal Revenue Manual (IRM) to require that employees take necessary actions to protect taxpayer Personally Identifiable Information when seized vehicles come equipped with navigation, garage door, or other similar installed systems to reset them to the original factory settings. | 15-Nov-15 | | |
| TIGTA 2015-30-035 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 1 of 3 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should establish controls to ensure that employees properly use the Form 2434 to document returning all personal items from seized vehicles to the taxpayer. | 15-Dec-15 | | |
| TIGTA 2015-30-035 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 3 of 3 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should update the Form 2434 template to include a link to the IRS Auction website and add the IRS Auction website link on the IRS.gov website. | 15-Dec-15 | | |
| TIGTA 2015-30-036 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 2 of 3 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should pursue additional strategies to increase the number of bidders attending IRS auctions including evaluating the best methods to attract bidders based on the advertising used, the timing of the sale, and the use of contractors. | 15-Dec-15 | | |
| TIGTA 2015-30-036 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should ensure that the PALS follow the IRM requirements for conducting a sale judgement and resetting the minimum bid. During a sale judgement, any adjustments to the fair market value and minimum bid should be supported by the facts of the situation and properly documented. | 15-Dec-16 | | |
| TIGTA 2015-30-035 | SEIZURE SALE PROCEDURES WERE NOT ALWAYS FOLLOWED AND CAN BE IMPROVED. | (RECOMMENDATION NUMBER: 3 of 3 for this finding) DESCRIPTION: The Director, Collection, Small Business/Self-Employed Division, should update the Internal Revenue Manual (IRM) to require that employees take necessary actions to protect taxpayer Personally Identifiable Information when seized vehicles come equipped with navigation, garage door, or other similar installed systems to reset them to the original factory settings. | 15-Nov-15 | | |
| TIGTA 2015-30-027 | AUTOMATED UNDERREPORTER PROGRAM TAX ASSESSMENTS HAVE INCREASED SIGNIFICANTLY; HOWEVER, ACCURACY-RELATED PENALTIES WERE NOT ALWAYS ASSESSED WHEN WARRANTED. | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Exam/UR Policy, Small Business/Self-Employed Division, should evaluate the effectiveness of the revisions to the CP-2000 Notice and the potential impact it has had on taxpayer satisfaction and compliance. | 15-Mar-16 | | |
| TIGTA 2015-30-037 | AUTOMATED UNDERREPORTER PROGRAM TAX ASSESSMENTS HAVE INCREASED SIGNIFICANTLY; HOWEVER, ACCURACY-RELATED PENALTIES WERE NOT ALWAYS ASSESSED WHEN WARRANTED. | (RECOMMENDATION NUMBER: 3 of 4 for this finding) The Director, Exam/UR Policy, Small Business/Self-Employed Division, should continue to research the cases that TIGTA identified as having potentially inaccrued accuracy-related penalty amounts (or negligence and substantial understatement of tax liability) and, as needed, take the necessary corrective actions if the statute of limitations date has not yet expired. | 15-Mar-16 | | |
| TIGTA 2015-30-040 | FISCAL YEAR 2015 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Collection, Small Business/Self-Employed Division, should review IRM Exhibit 5.10-4.6 (newspaper advertisement notification template) to clarify that the seizure details need to be changed to match the details on the Form 2434 or Form 2434 A that was issued to the taxpayer. | 15-Jul-16 | | |

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| TIGTA 2015-30-045 | FISCAL YEAR 2015 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Collection Small Business/Self-Employed Division, should ensure that any revisions to the fair market value affecting minimum bids made during the secure sale process include the revenue officer's group manager's documented concurrence in the Integrated Collection System (ICS) history. | 15-Dec-15 | | |
| TIGTA 2015-30-048 | FISCAL YEAR 2015 REVIEW OF COMPLIANCE WITH LEGAL GUIDELINES WHEN CONDUCTING SEIZURES OF TAXPAYERS' PROPERTY | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Director, Collection Small Business/Self-Employed Division, should ensure that any revisions to the fair market value affecting minimum bids made during the secure sale process include the revenue officer's group manager's documented concurrence in the Integrated Collection System (ICS) history. | 15-Dec-15 | | |
| TIGTA 2015-30-055 | FISCAL YEAR 2015 STATUTORY REVIEW OF COMPLIANCE WITH NOTICE OF FEDERAL TAX LIEN DUE PROCESS PROCEDURES | (Recommendation 1 of 1) The Director, Collection, Small Business/Self-Employed Division, should update Internal Revenue Manual (IRM) procedures to clearly research taxpayer accounts if the envelopes of returned lien notices are marked with multiple reasons for return and ensure that the lien notice was mailed to the taxpayer's last known address. | 15-Jan-17 | | |
| TIGTA 2015-30-067 | FISCAL YEAR 2015 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS | The Chief, Appeals, should emphasize to all Appeals employees the importance of compliance with the Restructuring and Protections Act of 1990 (RPA) Section 3707 and reinforce that taxpayers are not to be referred to as Illegal Tax Protesters or any other similar designations. This may include, but is not limited to, updating Appeals procedures, issuing a memorandum, and/or adding a module to an existing training course. | 15-Nov-15 | | |
| TIGTA 2015-33-018 | THE AFFORDABLE CARE ACT PROCESSES HAVE BEEN IMPLEMENTED TO ADMINISTER THE PATIENT-CENTERED OUTCOMES RESEARCH FEE, BUT CONTROLS NEED IMPROVEMENT TO ENSURE FILING COMPLIANCE. | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Wage and Investment Division should issue alerts during the third quarter of each fiscal year to remind Submission Processing location employees, when processing the Form 720 with a FICOR file, to use caution when transcribing the average number of lives covered to avoid inadvertently recording the digits after decimal places. | 15-Oct-15 | | |
| TIGTA 2015-33-018 | THE AFFORDABLE CARE ACT PROCESSES HAVE BEEN IMPLEMENTED TO ADMINISTER THE PATIENT-CENTERED OUTCOMES RESEARCH FEE, BUT CONTROLS NEED IMPROVEMENT TO ENSURE FILING COMPLIANCE. | (RECOMMENDATION NUMBER: 2 of 2 for this finding) The Commissioner, Small Business/Self-Employed Division should based on the TASC and DCL database analysis results, identify a population of Form 720 PCOR file carriers to send notices. Based on the response to these notices, determine if additional enforcement actions are required for those potential Form 720 carriers. | 15-Nov-16 | | |
| TIGTA 2015-40-007 | IMPROVEMENTS ARE NEEDED TO BETTER IDENTIFY FALSE INCOME DOCUMENTS SUBMITTED TO COMMIT TAX FRAUD | The Commissioner, Wage and Investment Division, should coordinate with the SSA to identify information that the two agencies could share to help facilitate partner, update database of individuals who submit false income documents. | 15-Nov-15 | | |
| TIGTA 2015-40-012 | PROCESSES DO NOT ENSURE THAT CORPORATIONS ACCURATELY CLAIM CARRYFORWARD GENERAL BUSINESS CREDITS | (RECOMMENDATION NUMBER: 1 of 2 for this finding) The Commissioner, Small Business/Self-Employed Division, should verify whether the 1,385 corporate files TIGTA identified as having a questionable carryforward amount are entitled to claim the carryforward amount. | 15-Jun-16 | | |
| TIGTA 2015-40-012 | PROCESSES DO NOT ENSURE THAT CORPORATIONS ACCURATELY CLAIM CARRYFORWARD GENERAL BUSINESS CREDITS | (RECOMMENDATION NUMBER: 2 of 2 for this finding) The Commissioner, Small Business/Self-Employed Division, should verify whether the 1,385 corporate files TIGTA identified as having a questionable carryforward amount are entitled to claim the carryforward amount. | 15-Jun-16 | | |
| TIGTA 2015-40-012 | PROCESSES DO NOT ENSURE THAT CORPORATIONS ACCURATELY CLAIM CARRYFORWARD GENERAL BUSINESS CREDITS | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, Small Business/Self-Employed Division, should verify whether fees were affected for the 1,411 corporate files TIGTA identified as having an incorrect Eligible Small Business designation. | 15-Jun-16 | | |
| TIGTA 2015-40-012 | PROCESSES DO NOT ENSURE THAT CORPORATIONS ACCURATELY CLAIM CARRYFORWARD GENERAL BUSINESS CREDITS | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, Small Business/Self-Employed Division, should verify whether fees were affected for the 1,411 corporate files TIGTA identified as having an incorrect Eligible Small Business designation. | 15-Jun-16 | | |
| TIGTA 2015-46-023 | PROCESSES ARE NEEDED TO LINK THIRDPARTY PAYERS AND EMPLOYERS TO REDUCE RISKS RELATING TO EMPLOYMENT TAX FRAUD | (RECOMMENDATION NUMBER: 1 of 1 for this finding) The Commissioner, Wage and Investment Division, should develop processes and procedures to ensure that Form 8655 authorization information captured in the IRS's systems is accurate and correct the errors associated with the 11 Forms 8655 TIGTA identified. | 15-Apr-16 | | |
| TIGTA 2015-40-024 | VICTIMS OF IDENTITY THEFT CONTINUE TO EXPERIENCE DELAYS AND ERRORS IN RECEIVING REFUNDS | The Commissioner, Wage and Investment Division, should develop processes and procedures to accurately calculate the average time it takes to fully resolve taxpayer accounts affected by identity theft. This time should be based on the average period between the date the IRS receives the taxpayer's tax returns and the date the tax refunds are issued. | 15-Nov-15 | | |
| TIGTA 2015-40-024 | VICTIMS OF IDENTITY THEFT CONTINUE TO EXPERIENCE DELAYS AND ERRORS IN RECEIVING REFUNDS | The Commissioner, Wage and Investment Division, should complete an analysis of identity theft case assignments and review inventory management processes to reduce the number of times cases are reestablished. | 15-Oct-15 | | |
| TIGTA 2015-40-028 | EFFORTS ARE RESULTING IN THE IMPROVED IDENTIFICATION OF FRAUDULENT TAX RETURNS INVOLVING IDENTITY THEFT | The Commissioner, Wage and Investment Division, should expand identity theft files to address the Schedule C score flag patterns that may indicate that a tax return is related to identity theft. | 15-Feb-16 | | |
| TIGTA 2015-40-030 | EFFORTS ARE RESULTING IN THE IMPROVED IDENTIFICATION OF FRAUDULENT TAX RETURNS INVOLVING IDENTITY THEFT | The Commissioner, Wage and Investment Division, should include tax returns with foreign addresses in identity theft file identification processes. | 15-Feb-16 | | |
| TIGTA 2015-40-035 | TAX EXAMINERS DO NOT HAVE THE TOOLS OR EXPERTISE TO AUTHENTICATE DOCUMENTS CERTIFIED BY A FOREIGN ISSUING AGENCY | The Commissioner, Wage and Investment Division, should provide tax examiners with reference materials that have valid examples of stamps and seals from various countries that can be used to verify the authenticity of copies of documents certified by a foreign issuing agency. | 15-Dec-15 | | |
| TIGTA 2015-40-080 | RESULTS OF THE 2015 FILING SEASON | The Commissioner, Wage and Investment Division, should ensure that all needed computer programming revisions are made prior to the 2016 Filing Season to correctly identify all direct deposit accounts to which more than three direct deposit requests are made so that no more than three direct deposits will be made to a single account. | 19-Oct-16 | | |
| TIGTA 2015-43-040 | AFFORDABLE CARE ACT ASSESSMENT OF INTERNAL REVENUE SERVICE PREPARATION FOR PROCESSING PREMIUM TAX CREDIT CLAIMS | The Director, Affordable Care Act Office, should work with the Exchanges to establish procedures to ensure that the IRS receives notification when an individual is determined to be ineligible subsequent to enrollment. | 15-Jan-16 | | |

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| GAO-09-239 | TAX GAP: IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements | To gauge the extent of 1099-MISC payer noncompliance and its contribution to the tax gap, we recommend that the Commissioner of Internal Revenue as part of future research should develop an estimate of 1099-MISC payer noncompliance. | 15-Dec-15 | | |
| GAO-09-238 | TAX GAP: IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements | To gauge the extent of 1099-MISC payer noncompliance and its contribution to the tax gap, we recommend that the Commissioner of Internal Revenue as part of future research should determine the nature and characteristics of those payers that do not comply with 1099-MISC reporting requirements so that this information can be factored into an IRS-wide strategy for increasing 1099-MISC payer compliance. | 15-Dec-15 | | |
| GAO-13-292SU | INFORMATION SECURITY: IRS Needs to Further Enhance Internal Control over Financial Reporting and Taxpayer Data | Implement an automated mechanism to monitor user activities within the Oracle SOBI system. (F) | 25-Nov-15 | 1-Dec-13 | IT |
| GAO-13-349SU | INFORMATION SECURITY: IRS Has Improved Controls but Needs to Resolve Weaknesses | Restrict access to execute Structured Query Language command statements from the user interface of the Electronic Federal Payment Posting System. | 15-Oct-18 | 1-Sep-18 | Budget |
| GAO-13-348SU | INFORMATION SECURITY: IRS Has Improved Controls but Needs to Resolve Weaknesses | Configure audit trails on the Oracle database supporting the Enterprise File Transfer Utility to properly reconstruct specific actions. | 30-Sep-15 | | |
| GAO-13-349SU | INFORMATION SECURITY: IRS Has Improved Controls but Needs to Resolve Weaknesses | Configure audit trails on Oracle databases supporting Account Management Services to properly reconstruct specific actions. | 30-Sep-15 | | |
| GAO-13-348SU | INFORMATION SECURITY: IRS Has Improved Controls but Needs to Resolve Weaknesses | Configure audit trails on the Oracle database supporting Automated Trust Fund Recovery to properly reconstruct specific actions. | 30-Sep-15 | | |
| GAO-13-401 | INFORMATION TECHNOLOGY: Consistently Applying Best Practices Could Help IRS Improve the Reliability of Reported Cost and Schedule Information | To improve the reliability of reported cost and schedule variance information for the seven major investments we reviewed, we recommend that the Acting Commissioner of IRS direct the Chief Technology Officer to: improve the extent to which schedules are well-constructed and controlled by addressing the weaknesses we identified in this report so that each investment at least substantially meets each of the characteristics of a reliable cost estimate. | 15-Sep-15 | 25-Jan-14 | Clearinghouse |
| GAO-13-401 | INFORMATION TECHNOLOGY: Consistently Applying Best Practices Could Help IRS Improve the Reliability of Reported Cost and Schedule Information | To improve the reliability of reported cost and schedule variance information for the seven major investments we reviewed, we recommend that the Acting Commissioner of IRS direct the Chief Technology Officer to: improve the reliability of cost estimates by addressing the weaknesses we identified in this report so that each investment at least substantially meets each of the characteristics of a reliable cost estimate. | 25-Sep-15 | 25-Jan-14 | Research/Analyse Data |
| GAO-13-401 | INFORMATION TECHNOLOGY: Consistently Applying Best Practices Could Help IRS Improve the Reliability of Reported Cost and Schedule Information | To improve the reliability of reported cost and schedule variance information for the seven major investments we reviewed, we recommend that the Acting Commissioner of IRS direct the Chief Technology Officer to: improve the reliability of cost estimates by addressing the weaknesses we identified in this report so that each investment at least substantially meets each of the characteristics of a reliable cost estimate. | 15-Sep-15 | 25-Jan-14 | Clearinghouse |
| GAO-13-400R | Management Report Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls | We recommend that you direct the appropriate IRS officials to take the following actions: • Establish procedures to implement the updated IRM, including required steps to follow to prevent (1) surveillance perfection techniques and (2) all other employee groups that handle hard-copy taxpayer records and related sensitive information as part of their job responsibilities from gaining access to computer codes not required as part of their designated job duties. | 16-Jan-16 | | |
| GAO-13-400R | Management Report Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls | We recommend that you direct the appropriate IRS officials to take the following actions: • Based on the results of the risk assessment, update the IRM accordingly to specify the appropriate level of IDRS access that should be allowed for (1) surveillance perfection techniques and (2) all other employee groups with IDRS access that handle hard-copy taxpayer receipts and related sensitive information as part of their job responsibilities. | 15-Jan-16 | | |
| GAO-13-435 | IRS WEBSITE: Long-Term Strategy Needed to Improve Involutive Services | We recommend that IRS: Establish a numerical or other measurable goal to improve taxpayer satisfaction and a timeframe for achieving it. | 15-Feb-16 | 15-Feb-14 | Research/Analyse Data |
| GAO-13-480 | TAX ADMINISTRATION: IRS Could Improve Transparency by Adopting Certain Reliability Program Practices | (Recommendation 1 of 4) Transcribe data from paper-filed Form 1040 Schedules C and E that are not currently transcribed and make that data available to SBSE examiners for classification. If IRG has evidence that the costs related to transcribing all such data on Schedules C and E exceed the benefits or are otherwise prohibitive, IRS could transcribe less data by transcribing only the relevant data for selected line items, such as certain large expense line items, and/or develop a budget proposal to fund an initiative for transcribing the Schedules C and E data. | 15-Nov-15 | | |
| GAO-14-132 | 2013 Tax Filing Season: IRS Needs to Do More to Address the Growing Imbalance Between the Demand for Services and Resources | The Commissioner of Internal Revenue should develop a set of standardized account entries and eliminate unnecessary redundancy when entering installment agreement data into accounts. | 15-Oct-16 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Configure the Quest Authentication Services to use FIPS 140-2 compliant Kerberos tickets. | 25-Mar-18 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Document requests and approvals for changes to the mainframe production system. | 25-Sep-16 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Configure all mainframe service accounts to require password expiration within 305 days. | 25-Sep-17 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Enforce FIPS 140-2-compliant Kerberos tickets in Windows Active Directory group policies. | 31-Dec-18 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Review authorized access lists at the Enterprise Computing Center in Memphis to ensure that only those employees who have a request and continuing business need to access a sensitive area are permitted to do so. | 26-Apr-16 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Configure the web servers supporting IBM Integrated Management Module Terminal Clienting System environment to use encryption. | 25-Apr-16 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Assign expiration dates of contractor passwords consistent with the end of the contract period. | 25-Sep-15 | | |
| GAO-14-401SU | INFORMATION SECURITY: IRS Needs to Address Control Weaknesses That Place Financial and Taxpayer Data at Risk | Use FIPS-compliant encryption algorithms for Active Directory servers supporting Account Management Services, Automated Trust Fund Recovery, Active Role Service, Electronic File Transfer Utility, Microsoft Exchange, Microsoft Active Directory, and Transaction Processing Facility Operations Server. | 25-Mar-18 | | |

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| GAO-14-405 | Information Security: IRS Needs to Address Critical Weaknesses That Place Financial and Taxpayer Data at Risk | To effectively implement key components of the IRS information security program, the Commissioner of Internal Revenue should update access request policies and procedures to ensure that they contain sufficiently detailed information of access requests and access assignments to facilitate effective review and verification of appropriate access requests. | 25-Sep-17 | | |
| GAO-14-405 | Information Security: IRS Needs to Address Critical Weaknesses That Place Financial and Taxpayer Data at Risk | To effectively implement key components of the IRS information security program, the Commissioner of Internal Revenue should update procedures to specify the information required to be recorded in the internal system documentation for important mainframe system processes. | 29-Sep-16 | | |
| GAO-14-433R | MANAGEMENT REPORT: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls | We recommend that the Commissioner of Internal Revenue direct the appropriate IRS officials to take the following action: Establish and implement policies and procedures that require monitoring to reasonably assure that accounts related to deceased taxpayers that have been reopened are timely closed after contacting the relative. | 15-Oct-16 | | |
| GAO-14-433R | MANAGEMENT REPORT: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls | We recommend that the Commissioner of Internal Revenue direct the appropriate IRS officials to take the following action: Establish and implement policies and procedures requiring a review process to reasonably assure that the accounts related to deceased taxpayers are only reopened for valid refunds. | 15-Oct-16 | | |
| GAO-14-433R | MANAGEMENT REPORT: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Controls | To improve the effectiveness of its monitoring of internal control over external service organizations' operating information systems material to IRS's financial reporting, we recommend the Commissioner of Internal Revenue direct the appropriate IRS officials to: For each service organization that is significant to IRS's financial reporting and related internal control and for which a current SSAE No. 10 report has not been prepared, establish a memorandum of understanding or agreement with the organization that requires (1) both parties to perform procedures that are consistent with the most current requirements of OMB Circular No. A-123 and (2) the service organization to provide IRS access to the organization's personnel, documents, facilities, or combination of these necessary to allow IRS to timely and effectively conduct its own review procedures to review and validate the reliability of monitoring documentation prepared by organization management, as appropriate. | 15-Jun-15 | | |
| GAO-14-453 | PARTNERSHIPS AND S CORPORATIONS: IRS Needs to Improve Information to Address Tax Noncompliance | (Recommendation 2 of 3) We recommend that the Commissioner of Internal Revenue take the following steps: Use the better information on noncompliance and program effectiveness to determine (1) whether the differences in examination rates across different types of business entities are justified, and (2) whether an improved tool for selecting partnerships for examination, such as an updated partnership DIF, should be developed. | 15-Sep-17 | | |
| GAO-14-453 | PARTNERSHIPS AND S CORPORATIONS: IRS Needs to Improve Information to Address Tax Noncompliance | (Recommendation 2 of 3) We recommend that the Commissioner of Internal Revenue take the following steps: Use the better information on noncompliance and program effectiveness to determine (1) whether the differences in examination rates across different types of business entities are justified, and (2) whether an improved tool for selecting partnerships for examination, such as an updated partnership DIF, should be developed. | 15-Sep-17 | | |
| GAO-14-479 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 4 of 4): To better ensure an effective investment of resources in the CEAP efforts, • Clearly document the intended benefits of ongoing efforts to address identified problems, and the process for measuring and tracking actual benefits. • Develop a plan and timeline for implementing the CEAP contractor's recommendations on possible ways to improve the (a) selection of correspondence audit workload and (b) allocation of resources between providing telephone assistance and reviewing taxpayer correspondence to resolve audits or develop justifications for not implementing the recommendations. | 15-Jun-16 | | |
| GAO-14-479 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 3 of 4): To better inform decisions being made about the correspondence audit program, document how the decisions are to be made using the performance information (including criteria and measures used). IRS should also track and use other program data that has not been used to provide more complete performance information. Examples of data that could be tracked and used include: •How much of the recommended tax amounts is collected over time •Other costs beyond the direct audit bills, such as the costs to answer taxpayer calls per audit, assess the recommended tax, and collect those tax assessments. •Taxpayer burden and experience such as how often audits are resolved in one contact, how often taxpayers correspond or call, and how long taxpayers wait for IRS to respond to their documents and for the audit to close. | 15-Mar-16 | | |
| GAO-14-479 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 2 of 4): To clarify the desired results of the correspondence audit program and its linkages to IRS-wide activities, establish formal program objectives. •Ensure that the program measures reflect those objectives. •Clearly link those measures with strategic IRS-wide goals on ensuring compliance in a cost-effective way while minimizing taxpayer burden. | 15-Mar-16 | | |
| GAO-14-479 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 3 of 4): To better inform decisions being made about the correspondence audit program, document how the decisions are to be made using the performance information (including criteria and measures used). IRS should also track and use other program data that has not been used to provide more complete performance information. Examples of data that could be tracked and used include: •How much of the recommended tax amounts is collected over time •Other costs beyond the direct audit bills, such as the costs to answer taxpayer calls per audit, assess the recommended tax, and collect those tax assessments. •Taxpayer burden and experience such as how often audits are resolved in one contact, how often taxpayers correspond or call, and how long taxpayers wait for IRS to respond to their documents and for the audit to close. | 15-Mar-16 | | |
| GAO-14-479 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 4 of 4): To better ensure an effective investment of resources in the CEAP efforts, • Clearly document the intended benefits of ongoing efforts to address identified problems, and the process for measuring and tracking actual benefits. • Develop a plan and timeline for implementing the CEAP contractor's recommendations on possible ways to improve the (a) selection of correspondence audit workload and (b) allocation of resources between providing telephone assistance and reviewing taxpayer correspondence to resolve audits or develop justifications for not implementing the recommendations. | 15-Jun-16 | | |

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| GAO-14-476 | IRS Correspondence Audit: Better Management Could Improve Tax Compliance and Reduce Taxpayer Burden | (Recommendation 2 of 4): To clarify the desired results of the correspondence audit program and its linkages to IRS-wide activities, establish formal program objectives, ensure that the program measures reflect those objectives, clearly link those measures with strategic IRS-wide goals in ensuring compliance in a cost-effective way while minimizing taxpayer burden. | 15-Mar-10 | | |
| GAO-14-633 | IDENTITY THEFT - Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud | We recommend that the Commissioner of Internal Revenue take the following two actions to provide timely, accurate, and actionable feedback to all relevant, lead-generating third parties: provide aggregated information on (1) the success of external party leads in identifying suspicious returns and (2) emerging trends (pursuant to section 6103 restrictions); and develop a set of metrics to track external leads by the submitting third party. | 15-Apr-15 | | |
| GAO-14-633 | IDENTITY THEFT - Additional Actions Could Help IRS Combat the Large, Evolving Threat of Refund Fraud | We recommend the Commissioner of Internal Revenue fully assess the costs and benefits of accelerating W-2 deadlines and provide information to Congress on the IRS systems and work processes that will need to be adjusted to accommodate earlier, pre-refund matching of W-2s and then identify alternatives for when these changes could be made; potential impacts on taxpayers, IRS, ISA, and third parties; and what other changes will be needed (such as delaying the start of the filing season or delaying refunds) to ensure IRS can match tax returns to W-2 data before issuing refunds. | 30-Sep-10 | 15-Jul-15 | Complete |
| GAO-14-722 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 7 of 8) Develop and implement large partnership actions in line with the five leading principles for project planning and track the results to identify whether the efforts worked as intended. | 15-Sep-16 | 15-Oct-15 | Research/Analyze Data |
| GAO-14-132 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 8 of 8) Make and document a determination about how large partnerships are to be incorporated into the Enterprise Risk Management process. | 15-Oct-15 | | |
| GAO-14-732 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 1 of 8) Track the results of large partnership audits: (a) define a large partnership based on asset size and number of partners; (b) reevaluate activity codes to align with IRS large partnership definition; and (c) separately account for field audits and campus audits. | 15-Sep-10 | 15-Oct-15 | Research/Analyze Data |
| GAO-14-732 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 3 of 8) Use existing authority to promptly designate the TMP under the largest profits interest rule or some other criterion. | 15-Oct-15 | | |
| GAO-14-722 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 5 of 8) Help field auditors for large partnership audits receive the support they request from central staff, TEFRA coordinators, and IRS specialists: (a) track the number of requests and time taken to respond; (b) clarify when responses to their requests should be expected; and (c) use the tracked and clarified information when planning the number and scope of large partnership audits. | 15-Oct-15 | | |
| GAO-14-732 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 5 of 8) Help field auditors for large partnership audits receive the support they request from central staff, TEFRA coordinators, and IRS specialists: (a) track the number of requests and time taken to respond; (b) clarify when responses to their requests should be expected; and (c) use the tracked and clarified information when planning the number and scope of large partnership audits. | 15-Oct-16 | | |
| GAO-14-732 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 2 of 8) Analyze the audit results by these activity codes and types of audits to identify opportunities to better plan and use IRS resources in auditing large partnerships. | 15-Oct-16 | | |
| GAO-14-732 | LARGE PARTNERSHIPS: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency | (Recommendation 4 of 8) Extend the 45-day rule to give field audit teams more flexibility on when to withdraw an audit notice. | 15-Oct-15 | | |
| GAO-14-92 | Private Pensions: Clarity of Required Reports and Disclosures Could Be Improved | (Recommendation 2 of 3) To assess the burden on plan sponsors, enhance compliance, and help ensure that disclosures to participants are written in a manner that can be understood by the average participant, Labor, IRS, and PBGC should work together to: Define criteria for complying with the readability provisions in ERISA and the IRC; and apply the criteria to identify potential model notices as well as those developed by plan sponsors. As part of these criteria consider requiring clear, simple, brief highlights at the beginning of disclosures, reflecting federal plain language guidelines. | 15-Oct-15 | | |
| GAO-15-119 | IDENTITY THEFT AND TAX FRAUD: Enhanced Authentication Could Combat Refund Fraud, but IRS Lacks an Estimate of Costs, Benefits and Risks | To improve the reliability of Taxonomy estimates for future filing seasons, the Commissioner of Internal Revenue should follow relevant best practices outlined in the GAO Cost Guide by taking the following two actions: Documenting the underlying analysis justifying cost-influencing assumptions; and Reporting the inherent imprecision and uncertainty of the estimates. For example, IRS could provide a range of values for its Taxonomy estimates. | 15-Oct-16 | | |
| GAO-15-119 | IDENTITY THEFT AND TAX FRAUD: Enhanced Authentication Could Combat Refund Fraud, but IRS Lacks an Estimate of Costs, Benefits and Risks | To ensure relevant information is available to decision makers, we recommend that the Commissioner of Internal Revenue estimate and document the costs, benefits, and risks of possible options for taxpayer authentication, in accordance with OMB and NIST guidance. | 15-Nov-15 | | |
| GAO-15-16 | INDIVIDUAL RETIREMENT ACCOUNTS: IRS Could Bolster Enforcement on Multimillion Dollar Accounts, but More Direction from Congress is Needed | (Recommendation 4 of 5) To help taxpayers better understand compliance risks associated with certain IRA activities and improve compliance, we recommend that the Commissioner of Revenue: Build on research data on IRAs holding nonpublic assets, identify options to provide outreach targeting taxpayers with nonpublic IRA assets and their custodians, such as reminder notices that engaging in prohibited transactions can result in loss of the IRA's tax-favored status. | 15-Jun-16 | | |
| GAO-15-16 | INDIVIDUAL RETIREMENT ACCOUNTS: IRS Could Bolster Enforcement on Multimillion Dollar Accounts, but More Direction from Congress is Needed | (Recommendation 2 of 5) To improve IRS's ability to detect and pursue noncompliance associated with undiversified asset sheltered in IRAs and prohibited transactions, we recommend that the Commissioner of Internal Revenue: Conduct research using the new Form 5498 data to identify IRAs holding nonpublic asset types, such as profits interests in private equity firms and hedge funds, and use that information for an IRS-wide strategy to target enforcement of efforts. | 15-Sep-16 | | |
| GAO-15-16 | INDIVIDUAL RETIREMENT ACCOUNTS: IRS Could Bolster Enforcement on Multimillion Dollar Accounts, but More Direction from Congress is Needed | (Recommendation 1 of 5) To improve IRS's ability to detect and pursue noncompliance associated with undiversified asset sheltered in IRAs and prohibited transactions, we recommend that the Commissioner of Internal Revenue: Approve plans to fully compile and digitize the new data from electronic and paper-based Form 5498a to ensure the efficient use of the information on nonpublic interest IRA assets. | 15-Jun-16 | | |
| GAO-15-163 | Tax Filing Season, 2014 Performance Highlights the Need to Better Manage Taxpayer Service and Future Risks | The Commissioner of the Internal Revenue should direct the appropriate officials to take the following action: Develop outcomes that are measurable and plans to analyze service changes that allow valid conclusions to be drawn so that information can be conveyed to Congress, IRS management, and other about the effectiveness of IRS's service changes and impact on taxpayers. | 15-Nov-15 | | |

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| GAO-15-164 | TAX-EXEMPT ORGANIZATIONS: Better Compliance Indicators and Data, and More Collaboration with State Regulators Would Strengthen Oversight of Charitable Organizations | (Recommendation 1 of 2) To improve oversight of charitable organizations, we recommend that the Commissioner of Internal Revenue take the following steps: Direct EO to develop quantitative, results-oriented compliance goals and additional performance measures and indicators that can be used to assess impact of events and other enforcement activities on compliance. | 30-Sep-16 | | |
| GAO-15-336SU | INFORMATION SECURITY - IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | Ensure Automated Trust Fund Recovery Credit database accounts are disabled or deleted in a timely manner when requested from CL5081. | 15-Oct-15 | | |
| GAO-15-336SU | INFORMATION SECURITY - IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | Upgrade the IBM WebSphere Application Server that supports the enforcement system to a version supported by the vendor. | 15-Dec-16 | | |
| GAO-15-336SU | INFORMATION SECURITY - IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | Enhance the procedure used for reviewing visitor access lists to restricted areas within the Memphis center to include reviewing accuracy of the visitor data. | 15-Dec-15 | | |
| GAO-15-337 | Information Security: IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | We recommend that the Commissioner of Internal Revenue take the following action to effectively implement key elements of the IRS information security program: Ensure that control testing methodology and results fully meet the intent of the control objectives being tested. | 15-Mar-16 | | |
| GAO-15-337 | Information Security: IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | We recommend that the Commissioner of Internal Revenue take the following action to effectively implement key elements of the IRS information security program: Update the remedial action verification process to ensure actions are fully implemented. | 10-Jan-16 | 15-Sep-15 | Resource |
| GAO-15-337 | Information Security: IRS Needs to Continue Improving Controls over Financial and Taxpayer Data | We recommend that the Commissioner of Internal Revenue take the following action to effectively implement key elements of the IRS information security program: Ensure contractors receive security awareness training within 5 business days of being granted access to an IRS information system. | 15-Nov-15 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to determine why staff did not consistently comply with IRS's existing requirements for the final handling of receipts at SCCs and mailbox banks, including logging remittances found during final handling on the final handling log at the time of discovery, safeguarding the remittances at the time of discovery, transferring the remittances to the deposit unit promptly, and packing out envelopes at a time over the right source, and based on this determination, establish a process to better enforce compliance with these requirements. | 15-Nov-15 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to take the following action: Update the IRM to specify that unauthorized access awareness training requirements apply to non-IRS contractors who have unsecured physical access to IRS facilities. | 15-Apr-16 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to take the following action: Do not establish a process to ensure that the requirements for unauthorized access awareness training is explicitly communicated to non-IRS contractors who have unsecured access to IRS facilities. | 15-Jun-16 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to take the following action: Update the IRM to require managers to reconcile transmittal forms with the Follow-Up Review Log to reasonably assure that personnel are properly relieving transmittal forms and the log and are appropriately documenting follow up on unacknowledged transmittals of taxpayer receipts and information. | 15-May-16 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to take the following action: Determine the reasons why TAC managers and personnel did not consistently comply with existing IRM requirements that TAC managers and personnel (1) perform and document reviews of the Follow-Up Review Log by the last day of the following month, (2) maintain control copies of transmittal forms, and (3) ship taxpayer receipts and information via traceable overnight mail and, based on this determination, establish a process to better enforce compliance with these requirements. | 15-Dec-15 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to take the following action: Establish procedures to monitor whether non-IRS contractors with unsecured physical access to IRS facilities are receiving unauthorized access awareness training. | 15-Apr-16 | | |
| GAO-15-400R | Management Report: Improvements Are Needed to Enhance the Internal Revenue Service's Internal Control over Financial Reporting | We recommend that you direct the appropriate IRS officials to develop and implement agency-wide procedures to routinely monitor the accuracy of penalties recorded in taxpayer accounts to timely detect and correct errors. | 16-Apr-17 | | |



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

July 31, 2015

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

Dear Mr. Chairman:

Thank you for the opportunity to testify at the Subcommittee's July 23, 2015, hearing regarding the Government Accountability Office's (GAO) report about our exempt organizations audit processes. As I testified, this is a very important issue, and we welcome the GAO's findings and recommendations. We are implementing these recommendations, so that we can ultimately serve the American taxpayers better.

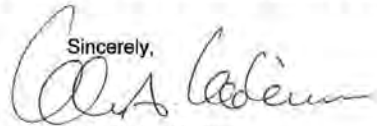
I write to clarify a matter discussed at the hearing. In particular, you asked me about 102 investigations conducted by the Treasury Inspector General for Tax Administration (TIGTA) concerning allegations of improper audit selection. Twelve of these investigations resulted in communications between TIGTA and the Department of Justice (DOJ), or "referrals," to use TIGTA's terminology, concerning IRS employees. I was not certain about the nature of these referrals, though I told the Subcommittee what TIGTA had advised me on numerous occasions: In none of these investigations did TIGTA find that IRS personnel discriminated against any taxpayer based on his or her political beliefs or otherwise inappropriately selected a case for examination.

We followed up with TIGTA to determine the exact nature of these 12 referrals. TIGTA confirmed that none of the referrals involved any finding of criminal activity or other improprieties by IRS employees involved in audits, nor were any of these referrals prompted by a failure to cooperate with TIGTA's investigations. Instead, these communications with the DOJ were routine administrative consultations, which reflected TIGTA's standard operating procedures for investigations concerning certain types of IRS employees and certain investigative methods. Although there are legal limitations on what we can discuss in public regarding TIGTA investigations, we have provided additional details on these particular cases to the Committee's staff, and we are happy to discuss them further if that would be helpful.

Again, I am gratified that neither the GAO nor the Inspector General identified instances of discrimination or improper selection by IRS auditors. However, I agree we must act proactively to ensure that such abuses do not occur in the future, and, as I have stated, it is in this manner that we are undertaking to improve our audit controls.

Thank you for the opportunity to clarify this matter. I respectfully request that this letter be added to the record of the July 23, 2015 hearing.

I hope this information is helpful. If you have any questions, please contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

John A. Koskinen

cc: The Honorable John Lewis, Ranking Member



[Questions for the Record follow:]

**QFR regarding 180 day limitation on allocations for issuance of
Tribal Economic Development Bonds under IRC § 7871(f)**

This responds to questions for the record submitted after a congressional hearing in July 2015. The questions were sent to the IRS office of Tax Exempt Bonds on November 5, 2015. The questions are:

1. What is the IRS doing to ensure that the TED Bond rules are applied in a manner that provides appropriate protections and guidelines for prompt issuance yet ensures that tribes will be able to more efficiently access these bonds to spur new on-reservation development?
2. Further, is the IRS looking at ways to ensure that its timing rules take into account the type of loans typically utilized by tribes in conjunction with their allocation?

RESPONSE: IRS NOTICE 2015-83 PERMITS USE OF ADDITIONAL FINANCING STRUCTURES:

1. In response to concerns raised by Indian tribal governments, the IRS recently modified the issue date requirements for Tribal Economic Development Bonds issued as "draw-down" bonds. Specifically, on December 4, 2015, we released Notice 2015-83, which provides flexible rules that allow tribes up to three years to issue these bonds upon meeting certain eligibility and timing requirements. This guidance is publicly available at <https://www.irs.gov/pub/lrs-drop/n-15-83.pdf>.

Prior to the issuance of Notice, 2015-83, the general guidance on allocation of volume cap for Tribal Economic Development Bonds was set forth in Notice 2012-48. One requirement under Notice 2012-48 is that bonds be issued within 180 days of the date the IRS allocated volume cap to the issuer. Any allocation for bonds not issued within that time is forfeited. Indian tribal governments commented that "draw-down" bonds often are a preferred method of financing for economic development in private financing arrangements and may offer more potential access to capital for Indian tribal governments than the public bond market. Further, Indian tribal governments indicated that they had difficulty meeting the 180-day issuance requirement in these draw-down bond structures. Bonds associated with each "draw" have a separate issue date, and therefore draws occurring after the 180 day period ends are not issued within the required period. We appreciated the difficulties tribes experienced with the 180-day requirement and we worked with the Treasury Department to modify Notice 2012-48 by issuing Notice 2015-83 to better accommodate draw-down bonds.

2. Recently, as discussed in our response to Question 1 above, we issued Notice 2015-83 to provide additional public guidance and give Indian tribal governments more flexibility to issue Tribal Economic Development Bonds using draw-down bond structures. Moreover, the IRS and the Treasury Department developed the bond volume cap allocation and issuance requirements for Tribal Economic Development Bonds in Notice 2012-48, including the 180-day requirement, after consultation with Indian tribal governments. If a similar concern regarding other particular finance structures is brought to our attention in the future, we again will consider whether modifications can be made to accommodate that financing structure while ensuring full use of the Tribal Economic Development Bond volume cap.

